# SENATE—*Tuesday, April 14, 1970*

The Senate met at 10:30 o'clock a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

O Thou Creator Spirit, we thank Thee for this world which Thou hast given us for our home. For the glory and wonder of springtime we thank Thee. For gentle rains, for the calm warmth of the sun, for buds and blossoms, and lush meadows, for cascading streams and bounding waves, for starlit nights and high sailing clouds, for the lyric notes of birds—for all that reminds us of resurrection and new life.

Help us, O Father, to lift our eyes of faith that we may worship Thee in the holiness of beauty and serve Thee in the beauty of holiness. As we turn to waiting tasks we ask Thee to make us channels of Thy grace and wisdom for the betterment of the people of this Nation and the welfare of all mankind.

In the name of Him who is the way, the truth, and the life. Amen.

## DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., April 14, 1970.*

*To the Senate:*

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

RICHARD B. RUSSELL,
*President pro tempore.*

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

## COMMITTEE MEETINGS DURING SENATE SESSION

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

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

## THE JOURNAL

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, April 13, 1970, be dispensed with.

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

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the Senator from New York (Mr. JAVITS) for not to exceed 1 hour.

Mr. KENNEDY. Mr. President, will the Senator be kind enough to yield briefly?

Mr. JAVITS. I yield.

## MERRIMAN SMITH

Mr. KENNEDY. Mr. President, I think all of us join this morning in our sorrow at the tragic death of a good friend, Merriman Smith.

"Smitty" was a great journalist, and a unique figure on the American political scene. He carried his skills to the top of his profession. He set a standard of wire service coverage which will stand as an example to generations of reporters in the future.

And his death takes from us as well the personal qualities which made Merriman Smith a legend in his time.

I know the great fondness and respect that President Kennedy had for Merriman Smith. And I remember, too, that my father enjoyed and cherished his friendship.

On behalf of myself and the members of the Kennedy family I would like to express my sincere regret at his passing.

Mr. JAVITS. Mr. President, I join the deputy majority leader in expressing my sympathy to the family of Merriman Smith, whom I knew well for many years, who was a newspaperman's newspaperman, one of the best among his fellows, and a splendid servant for the people of the United States, who have the right to know.

With many, many persons throughout the Nation, I mourn his loss.

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

Mr. JAVITS. I yield to the minority leader.

Mr. SCOTT. Mr. President, all of us here knew and admired the late Merriman Smith. His face and his voice were known to all Americans as the man who was the dean of the White House press corps, the man who concluded interviews with many Presidents with the well-known phrase, "Thank you, Mr. President."

We thank the whole corps of journalism for having produced such a man as Merriman Smith. We join his family, his loved ones, his friends, in grieving over his sad passing. Our hearts go out to them. Our sympathies are extended on behalf of the whole Senate, and, of course, our press corps and our Senate staff.

## THE APOLLO 13 FLIGHT

Mr. SCOTT. Mr. President, the entire world is holding its breath today, praying that the breath of life may continue to be supplied to the astronauts who are confronted with one of those unexpected dangers which Americans have always feared might at some time happen in our search through outer space for new knowledge and new achievement. We will all be praying for their successful return.

The aborting of a moon project is of the least possible importance in comparison with the saving of the lives of brave, gallant, courageous, and venturesome men. We will hope, as all the world hopes; we will wait, as all the world waits; we will abide the will of God, as all the world must abide the will of God; and we will look to the end of this mission and trust that it may end safely and successfully in the only true meaning of the word "success," and that is with the return of these men in their full vigor.

Later today I believe the Senator from California (Mr. MURPHY) will have something to say on this subject and will perhaps have a proposal to make. I shall not go into it at this time, until the Senator from California is ready to do so, but I know what he has in mind, and I would be, indeed, most anxious to support him in his suggestion.

Mr. GOLDWATER. Mr. President, I join my colleague from Pennsylvania relative to the concern about the Apollo mission, although I only learned about it this morning. I was flying last night and did not have the news radio turned on.

I have contacted Houston. The thing that impresses me and gives me the greatest confidence is the sureness of the men in Houston working on this problem. I was in Houston when the Apollo 12 liftoff lost communication, and I was very much impressed with the thoroughness, the quickness, the competency, and the complete calmness with which these men proceeded. This has happened again. This has been a very serious happening. It could have been disastrous.

But I think with the successful firing of the LEM engine and the continued concern about the men in the module relative to being careful about the use of their oxygen, and the help of the people on the ground in NASA, they will be returned safely, and I would not be surprised if it is a little bit earlier than the Friday date. They possibly could splash down sometime Thursday, because they have discovered that they had more power in the LEM motor than they thought.

I wanted to give assurance to my friends in the Senate on this matter. I think that they will return. I do not think it will affect the Apollo missions. I do not think it ought to. I think we should continue with the rest of them. The hardware is there, all bought and paid for, and, contrary to what many people say, that we have only collected some vials of dust, I hope that within the coming months of this session, I shall be able to lay before my colleagues in the Senate a list of spinoffs from the $28 billion expenditure, which will show that we have received more than value in return for the money spent, and that the American people will live a better life because of the courage, daring, and willingness of the men of the Apollo program.

Mr. SCOTT. I thank the Senator from Arizona.

Mr. JAVITS. Mr. President, I now yield 3 minutes to the Senator from California.

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## SENATE RESOLUTION 388—SUBMISSION OF A RESOLUTION RELATIVE TO THE MISSION AND SAFETY OF THE APOLLO 13 ASTRONAUTS

Mr. MURPHY. Mr. President, I concur in the statements of the distinguished minority leader and the distinguished Senator from Arizona. I have prepared a resolution, which I shall read in a moment. It urges all businesses and communications operations, all the media, to pause briefly at 9 o'clock this evening, local time, to permit persons who may wish to do so to join in prayers for the safe return of the Apollo 13 astronauts.

I, like my distinguished friend from Arizona, have the greatest confidence in the capabilities of the scientists in charge, but I also was taught, when I was very young, that when you are in serious trouble, you not only look around for help, but sometimes it is good to look up.

I had intended to ask unanimous consent that following the completion of the reading of the resolution, the resolution be considered at the end of the morning hour. I have been advised that this is a relatively unusual course of action. I submit, Mr. President, that the situation which is on all of our minds is itself an unusual situation, to which it would not be inappropriate for us to respond through extraordinary action.

I have been informed by the distinguished minority leader that it is not necessary to wait until the end of the morning hour, but that the resolution may be taken up immediately.

I ask unanimous consent that at the end of the reading of the resolution, it be left open for cosponsors, and I now ask unanimous consent to add the names of the Senator from Pennsylvania (Mr. SCOTT), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Michigan (Mr. GRIFFIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. HANSEN), the Senator from West Virginia (Mr. BYRD), and the Senator from Alabama (Mr. ALLEN).

The ACTING PRESIDENT pro tempore (Mr. ALLEN). Without objection, it is so ordered.

Mr. MURPHY. I submit the resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Will the Senator send his resolution to the desk, to be read by the clerk?

The legislative clerk read the resolution, as follows:

S. RES. 388

*Resolved,* that the Senate of the United States commends the Apollo 13 astronauts—James Lovell, John L. Swigert, Jr., and Fred W. Haise, Jr.—for their fortitude and courage; extends its support to their families, their friends and all who are involved in their mission; and urges all businesses, commercial operations, communications media, and others who wish to and can comply to pause at 9 p.m. today, April 14, 1970, in order that all persons who so desire may join in asking the help of Almighty God in assuring the safe return of the astronauts.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

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

Mr. SCOTT. Mr. President, I do not wish to delay action on the resolution. I would simply say that the matter is in the hands of the astronauts and their great skill and training, and it is also in the hands of the Great Architect of the Universe.

Mr. BYRD of West Virginia. Mr. President, I was saddened to learn last night of the misfortune of Apollo 13. The world will be witness as the command craft Odyssey makes its way back to earth after losing the majority of its electrical power.

I am certain that I reflect the thoughts of all Senators, the citizens of my State of West Virginia, and the people of our great country, when I wish America's three brave astronauts James Lovell, Fred Haise, and John Swigert a safe return to earth. It is courageous men like these three, who have made America great.

Mr. President, it is my sincere hope that all Americans, and the peoples throughout the world, will put aside their everyday hostilities and differences, and join together in prayer, for these three great men traveled not only for America, but for all mankind.

Mr. KENNEDY. Mr. President, I think it is appropriate to take note, as we transact Senate business today, that the thoughts of all of us, and of all Americans, are turned toward the drama which is taking place in outer space.

The latest word from Houston is that Apollo 13, despite the severe accident it suffered last night, is continuing on a course which will bring our astronauts safely back to earth.

There is, of course, much disappointment that this mission will not accomplish its objective of a lunar landing. But this disappointment is nothing in comparison with our great concern for the three men aboard the spacecraft. The success of all of our space expeditions has always been far secondary to the safety of the brave men we send on these missions. Today, more than ever, this is true.

Astronauts James Lovell, Fred Haise, and John Swigert are facing their unprecedented ordeal with courage and calm. We should all take pause and consider their extraordinary bravery. America can be very proud of them.

Our hearts are with them, and their families, as these three astronauts continue on their perilous adventure. We pray for their safe return.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 388) was unanimously agreed to.

Mr. MURPHY. Mr. President, I thank the Senator from New York for yielding this time.

Mr. JAVITS. Mr. President, I compliment the Senator from California (Mr. MURPHY) on what he has done. I think it is a matter of solace to all of us.

Mr. MURPHY subsequently said: Mr. President, this morning I submitted a resolution, which was immediately passed by the Senate, asking all businesses and communications operations to pause briefly at 9 o'clock local time this evening to permit persons who wish to do so so to join in prayers for the safe return of the Apollo 13 astronauts.

Those Senators who were on the floor at the time joined me as cosponsors and their names have already been recorded with the resolution.

Other Senators subsequently asked that they be listed as cosponsors of the measure and I would now like to read their names into the RECORD.

They are:

Senator ALLOTT, Senator BAKER, Senator BENNETT, Senator BOGGS, Senator BURDICK, Senator CHURCH, Senator COOPER, Senator COTTON, Senator DODD, Senator DOMINICK, Senator EASTLAND, Senator ERVIN, Senator FONG.

Senator ANDERSON, Senator BAYH, Senator BIBLE, Senator BROOKE, Senator CASE, Senator COOK, Senator WILLIAMS of New Jersey, Senator CURTIS, Senator DOLE, Senator EAGLETON, Senator ELLENDER, Senator FANNIN, Senator GOODELL.

Senator GORE, Senator GURNEY, Senator HARRIS, Senator HOLLINGS, Senator INOUYE, Senator JORDAN of Idaho, Senator JORDAN of North Carolina, Senator MANSFIELD, Senator MCGEE, Senator MATHIAS, Senator METCALF, Senator MILLER, Senator MOSS, Senator NELSON, Senator PACKWOOD, Senator PEARSON, Senator PERCY, Senator PROXMIRE, Senator RIBICOFF, Senator SAXBE, Senator SMITH of Illinois, Senator SMITH of Maine, Senator STENNIS, Senator TALMADGE, Senator THURMOND, Senator TYDINGS, Senator YOUNG of North Dakota, Senator YOUNG of Ohio.

Senator GRAVEL, Senator HARTKE, Senator HATFIELD, Senator HRUSKA, Senator JACKSON, Senator LONG, Senator MCCLELLAN, Senator MCGOVERN, Senator MONTOYA, Senator MUSKIE, Senator PASTORE, Senator PROUTY, Senator RANDOLPH, Senator RUSSELL, Senator SCHWEIKER, Senator SPARKMAN, Senator STEVENS, Senator TOWER, Senator WILLIAMS of Delaware, and Senator YARBOROUGH.

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## S. 3711—INTRODUCTION OF A BILL TO ESTABLISH A SYSTEM OF NATIONAL HEALTH INSURANCE

Mr. JAVITS. Mr. President, I rise this morning to introduce the National Health Insurance and Health Improvements Act of 1970. I send to the desk the bill, together with a section-by-section analysis of the bill and a separate statement of the level of benefits which would result from its enactment.

Mr. President, in cooperation with many technical experts and distinguished people interested in the field throughout the country, I have had his measure in preparation for months. It represents the culmination of an enormous amount of effort. I introduce it as my own contribution to what I am confident will be a significant debate and, in my judgment, within a year or two, at the most, will result in the successful adoption of a national health program which will assure high quality health care to every American, whatever may be his economic need.

This is one of the really basic reforms of our time, standing on a level with social security, unemployment compensation, the tremendous Civil Rights Act

of 1964, the war on poverty, the Economic Opportunity Act, and other recognitions by our country of the great social needs of our people, which have developed over the decades. This bill is my own way of meeting that need.

A number of other bills have been and will be introduced. I hope very much the administration will come forward with its program. I believe that, as we did with medicare and medicaid, where I worked so closely with the most distinguished and beloved Senator from New Mexico (Mr. ANDERSON), we may all soon see the fruition of the day when high level medical care will be truly available to every American.

Mr. President, the establishment of the system I urge, which I shall describe in the next half hour or so, would initiate the process of change in the organization and delivery of health services which is essential if the promise of adequate health care for all Americans is to become a reality.

Almost 40 years ago President Herbert Hoover equated the right to public health with public education. In his inaugural address he said:

> Public health service should be as fully organized and as universally incorporated into our governmental system as is public education. The returns are a thousand-fold in economic benefits, and infinitely more in reduction of suffering and promotion of huhuman happiness.

I quote President Herbert Hoover, Mr. President, because he was no wild-eyed radical. It is a conservative point of view, which he always espoused and of which he was very proud; and this is a conservative bill.

It is self-financed in the main, and insofar as it is not self-financed, but requires a resort to the general revenues, it involves an enormous contribution to the health of the country, and therefore to an increase in its resources, as well as its tax take, because of the millions of people whom it will enable to do more and better work.

In addition, my bill draws very heavily on the private enterprise system. This has always characterized the health measures that I have worked on. The major one, notably, with the Senator from New Mexico (Mr. ANDERSON), was essentially premised on the utilization of the private enterprise system of the United States, as is my present bill.

Today, Mr. President, despite the enormous growth of governmental programs and private health insurance plans; despite the $38 billion in private expenditures by Americans for health care; despite the $60 billion health industry—the fastest growing unsuccessful big business in America—that goal remains illusory.

My relationship to this problem goes back a very long time. Twenty-one years ago, in 1949, I introduced H.R. 4919 in the 81st Congress, a bill for a system of national health insurance. One of its cosponsors, was then Congressman, now President, Richard M. Nixon, and others included the late very distinguished Secretary of State, Christian Hereter, and former National Republican Chairman, Thruston Morton, who served with such distinction in this body.

Since then, along with many Members of the Senate, I have been actively engaged in the long struggle to provide health insurance to the aged. The landmark medicare legislation, finally enacted in 1965, was the culmination of an effort in which I had been engaged from the time I entered Congress. However, neither title XVIII—medicare program—nor the then little-noticed title XIX enacted at the same time—medicaid—has proven adequate to meet an exploding demand for quality health care or—and this is critically important—to control a rapid and inflationary escalation of health care costs.

The situation is much the same for private health insurance. Although about 85 percent of the American people have some form of private health insurance, such insurance covers only a third of their health-care expenditures. In contrast, the bill I introduce today, when fully effective—and it will take a period of years to make it fully effective—will cover approximately 80 pecent of the cost of personal health services.

Perhaps most serious of all, there is no Federal program and almost no system of private prepaid care to change the dangerously haphazard organization of health care in America. Thus, even as additional Americans have obtained the financial ability to "purchase" health care, there has been insufficient expansion of, or new allocation of, medical resources.

In mid-1969, President Nixon, Secretary Finch, and the Assistant Secretary for Health and Scientific Affairs, Dr. Roger Egeberg, met at the White House to tell the Nation that it "faces a breakdown in the delivery of health care. Expansion of private and public financing for health services has created a demand for services far in excess of the capacity of our health system to respond." They continued:

> Our overtaxed health resources are being wastefully utilized, and we are not adding to them fast enough to keep pace with rising demand. Our health priorities are critically out of balance.

I call the health industry in the United States today a "cottage industry," because it is so incredibly wasteful in terms of economics and productivity. We are dealing with the lives and welfare of all Americans, and the issue of adequate and accessible health care, therefore, has become an imperative of social justice.

Almost 1 year ago I pledged myself to the introduction of a national health insurance bill. Since then, public awareness of and support for this concept have grown dramatically. It is now clear that some form of mandatory prepaid health care for all Americans is an idea whose time has arrived. The bill which I introduce today is intended as a contribution to what will, I believe, be an extensive examination of this subject. I have no doubt that in the next few years such a program will be enacted.

Like the oft-embattled hospital—the public symbol of modern medicine—national health insurance legislation will soon find itself the subject of much controversy and debate. However, I am confident that this national health insurance bill will come to be a part of our Nation's new commitment to solve the great and complex problems of providing health care rationally and effectively for all.

OUTLINE OF BILL

My bill includes the following provisions:

First. Eligibility for basic benefits under title XVIII of the Social Security Act would be available without limitation to all resident citizens of the United States, without regard to age.

In recognition of the fact that such a massive expansion of health insurance coverage cannot be imposed immediately upon our present health-care system, these benefits would not be extended to all Americans until July 1, 1973. It may be necessary to defer even that for a year or perhaps two. This would give the care system time to "gear-up" for the greatly increased demand and to allow the vast reorganization which other parts of this bill would stimulate. I am hopeful that in the interim—that is, beginning now and in the course of the next 2 to 4 years—the disabled, the unemployed, and the poor may be phased into the system sooner, if the system cannot be extended to all Americans by the date specified—to wit, July 1, 1973.

Second. Before health insurance is extended to all, the following improvements would be made in the present medicare system: Merger of parts A and B of that system; a single tax would provide for both hospital and physicians' benefits for the elderly; and extension of these benefits to the disabled under age 65. These changes would become effective July 1, 1971.

Third. At the same time health insurance is extended to all Americans, a new benefit would be added to the package: the financing of a limited prescription drug benefit. This would be available, with a $1 copayment per prescription, for long-term maintenance drugs. The Secretary also would be authorized to conduct studies relating to maintenance drug utilization, efficacy and cost, and to establish a committee to assist with the drug program.

This is an enormous problem, and it involves the whole question of the cost of generic and trademark drugs, and it should be part of the package of health insurance which we propose to the American people.

Fourth. One year after the effective date of extending medicare benefits to the disabled under 65, two new benefits would be added—and it may very well be that we could not add these benefits until we have actually expanded the system by 1973 or 1974 to include all Americans: Dental care for children under 8 years of age restricted to examination and diagnosis, oral prophylaxis and the filling and removal of teeth; and a diagnostic benefit, providing for annual physical checkups, and eye and ear examinations. There is, of course, the risk of abuse of this benefit, but so crucial is its role in preventing more serious and

costly illnesses and hospitalization, that it should be included in the benefit package. A recent national conference on multiphasic screening noted that technology has not caught up with our need to identify the most serious symptoms of illness. Thus, there is a problem of unnecessary tests and skyrocketing costs. However, I believe that the incentives in this bill which seek to move the system to greater comprehensiveness and coordination in care, as well as new powers it would afford the Secretary of Health, Education, and Welfare in cost and utilization review and reimbursement modes, would counteract the possibility of abuse in extending the physical checkup benefits to all.

Fifth. Continuation of a separate trust fund for the elderly and a new trust fund for those under 65. Thus, the soundness of the medicare trust fund would be protected. To simplify administration, however, both trust funds would be financed from a basic payroll tax split between the employer and the employee. The Secretary of Health, Education, and Welfare would be authorized to apportion revenues between the two trust funds.

Sixth. Health insurance would be financed by a tax on employers, employees, and the self-employed. The earnings base would be increased to $15,000 for all employees and self-employed. Public assistance recipients and the unemployed would receive full health benefits, the cost of which would be underwritten by Government subsidy. The contribution rates from all—as set forth in the actuarial cost estimates developed by the Social Security Administration for my bill—would be, with respect to wages paid during the calendar year 1971, 0.7 percent; 1972, 0.9 percent; 1973, 2 percent; 1974, 3.1 percent; and 1975 and thereafter, 3.3 percent. I believe a contributory health insurance system is far preferable to the financing of all health services out of general public revenues. Beneficiaries make a direct financial contribution to the system and, consequently, have a personal stake in its fiscal health. Extremely important in the scheme of my bill is the exclusion from the imposition of the tax of groups which have contracted with the Secretary of Health, Education, and Welfare to provide health services equivalent to the benefits provided under the bill and to encourage rational organization of health care services. That is a very important point and ties in the bill directly to the working private enterprise system.

Seventh. Significant changes would be established in the administration of health insurance financing. These changes would seek, at the same time, to preserve the pluralistic strength of the present health care system and to provide significant incentives and leverage to move that system to greater cohesiveness and coordination.

Eighth. The rational organization of health care would be encouraged by the Secretary of Health, Education, and Welfare by entering into a variety of administrative arrangements with comprehensive health service systems—that is, prepaid group practice, one or more providers of health services, health insurance carriers, or a combination thereof—private, profit or nonprofit—for comprehensive health insurance benefits. Such organization would receive reimbursement for costs and incentive payment to bring about a reduction of costs without impairment of services. This incentive payment would depend on the suppliers achieving an average cost for services which is less than the average cost for services for which payment is made, to comparable population groups under comparable circumstances in the local regional area. So that the incentives would represent the actual saving which lower costs produce.

Ninth. The Secretary would be mandated to undertake a comprehensive study of compensation methodologies for providers of services, soliciting the widest possible expression of views from interested persons and organizations, including health insurance carriers. He then would present a proposed regulation, no later than December 1, 1972, regarding modification of methods of compensation.

Let me add that a late addition to the bill is an interesting one, especially, I believe, to those who have been students in this field. I propose to require the Secretary to study methods of compensation designed to encourage responsibility by the medical associations, which are largely regional in character, in regard to this question of methodology, compensation, and the rationalization with which services should be provided to improve—through peer review and otherwise—the quality of health care. I believe that this is an entirely legitimate responsibility which the Government has a right to impose upon State and local medical societies, which are legally recognized professional organizations, and which exercise very great leadership and authority. This is a public responsibility which they should share. I consider this to be a very important point.

Tenth. "Reasonable" charges as presently called for by title XVIII would be modified to provide that wherever that phrase appears, it would be subject to the modification of "appropriate." The reason for that modification is that the charges should be what the service is really worth when efficiently delivered, in view of the fact that the bill carries so many incentives, including a broad division of the actuarial risks, to rationalize and improve materially the health service which is rendered.

Eleventh. The Secretary of Health, Education, and Welfare would be authorized in his discretion to require physicians providing services under this bill to meet standards of continuing professional education; national minimum standards of licensure, if licensed after standards promulgated, and certain professional specialty board standards of qualification for the performance of major surgery or certain other specialty services.

Twelfth. To the extent practicable and consistent with good medical practice, the Secretary of HEW would encourage the training and employment of allied health personnel and other subprofessionals in the rendering of comprehensive health services. I would explain that I have waged almost a single-handed campaign to bring medical corpsmen, 30,000, as released from the Armed Forces every year, in an important way into the provisions of health services. This is a critically important question, as we are dreadfully short in health manpower, and medical corpsmen, given proper and added training, and the inducement of good compensation, represent an enormously effective pool of already almost fully trained men for this particular purpose.

Thirteenth. The Secretary of Health, Education, and Welfare would be authorized to make loans and grants and to provide technical assistance to contracting comprehensive health service systems to help them develop the capability to administer the program. These systems would include such comprehensive health services as can be established in given communities with Federal aid which do not have them now. Enrollment would be open to all residents of a "primary" service area, so that the members, for a fixed annual capitation fee, are assured continuity of care and provided comprehensive health service.

This is especially applicable to group practice units, established by a medical school, a hospital medical staff, or a medical center, or similar arrangement among providers of services, which are uniquely adaptable to this kind of comprehensive health care.

Fourteenth. The Secretary of Health, Education, and Welfare is authorized to establish a National Health Insurance Corporation, either a corporation or corporations. This is a very, very important point to me because there must be a recognition of something that took place in respect to medicare which I deplore very greatly.

When the Senator from New Mexico (Mr. ANDERSON) and I first joined in the development of the legislation which led to medicare, Mr. President, we relied very heavily upon the fact that the insurance carriers of the country, recognizing the great public interest involved, would support the administration of services and need not establish a Government bureaucracy. We thought that they had the machinery and the expertise and could do it most efficiently and economically.

To our dismay, the testimony before the House Ways and Means Committee revealed that the insurance companies would not perform. It was a very black day, indeed, for them and for the country.

Much as I regret it, we may face the same situation in national health insurance, which is coming as sure as day follows night. To provide against that contingency, either nationally or regionally, my bill provides for an autonomous Government corporation which can, in a given area—I hope it will not be necessary nationally—function if the insurance carriers will not do so.

Mr. President, I wish to point out that when it came to the matter of health insurance for Government employees, we had a different situation. To the great credit of the insurance companies, they

accepted it and, by the way, did very well with it. It may be an inspiration to other companies. We did find private enterprise willing to pitch in in that instance.

I hope very much that wiser counsel and judgment will prevail and that the insurance companies will, as they should, undertake this great public responsibility and great public opportunity which will be opened by the national health insurance bill—whether it is my bill, someone else's bill, or, as perhaps will be the case, some amalgam of many different ideas, some of which are contained in my bill.

Mr. President, I emphasize that because all plans must be carefully examined. We think it is a great hardship for the Government to meet and I think it is critically important that private enterprise assume this additional responsibility. They have a great responsibility to our Nation which they should perform. This would give them an ideal framework within which to perform it.

Mr. President, I introduce this bill to help arouse the conscience of the Nation to the urgent need for the development of a better system of health care—more readily accessible, more economical and more equitably distributed—and to stir the Congress to action in the enactment of legislation that takes a comprehensive and rational approach to the problems of health care. It not only must increase purchasing power and thereby equalize access, but it must also bring about significant change in the health care system.

It must be emphasized that no system of universal health insurance which does not take into consideration the inadequacies of the present "nonsystem" of health care and which does not seek to bring some order into it can truly increase the availability of quality health care.

A new system of national health insurance should not serve merely as a conduit for funds which reinforces existing inadequacies. That is one of the big things that I am pointing out about too many plans. All they are doing is making the supply shorter and complicating the already inefficient system. We cannot simply pay doctor bills and reimburse hospital costs. Quite the contrary, those funds and the power of reimbursement should be used to improve the delivery and availability of health care.

The health-insurance industry should undertake to foster better organization of health care and to reshape financing mechanisms to facilitate progressive change. It cannot stand aside and reap profits as conduits. The Nation needs their management talents, expertise and experience to make a national health insurance system work.

Mr. President, I wish to emphasize that I am all for profit based on service and efficiency. I think that the companies, if they get into this plan, will find that many of us feel that way. There is no doctrinaire effort not to understand that an efficiently functioning business deserves to make a profit, because if it is a profit enterprise, profit is equally important to have the ability to supply additional resources for the plowback which profits produce.

Furthermore, I feel Congress, in legislating such a program, should not be in the business of putting an established industry out of business. But this is what would happen if we bypassed the insurance carriers in establishing a national health insurance system. I hope very much they will not allow it to happen, but will do their part in the effort and do the job that I am confident they are capable of doing.

Let me emphasize at the same time that from a practical standpoint I believe a national health insurance program is far more likely to emerge from Congress if we utilize the existing health insurance industry. However, should hearings on national health insurance legislation indicate that the health insurance industry is not prepared to cooperate, then I will consider bypassing the carriers with the alternative of the establishment of an autonomous Federal corporation or corporations to administer the program, as authorized by title 5 of my bill.

This bill is designed to establish a system of national health insurance offering every American the means to purchase adequate health care and providing the best way to guarantee the accessibility of that care to him. Funds going into the health care system from the Government and from private third-party payers—properly directed—can be a force of change. That is the very essence of my bill.

We must seek to stem the inflationary cost spiral which most Americans view as the heart of the health crisis and which is a big factor in overall price inflation. There has been a fantastic increase in the cost of health services. While the general cost of living index rose 70 percent between 1946 and 1967, medical care costs increased almost twice as much—123 percent. The average cost of a day in a hospital in New York State, for example, went up from $10.72 in 1950 to $21 in 1960 to $58 in 1967. In 1968, 1 day of care in a hospital increased more than 12 percent over the 1967 figure. The average cost nationally now stands, according to the American Hospital Association, at $65.27 to treat a patient in a community hospital. In many hospitals in New York City the daily charge is now well in excess of $100 a day, with one hospital which is State approved for medicare reimbursement in excess of $150 a day. Costs of hospital care are still rising at 13 percent per year—more than twice the rate of other parts of the BLS cost of living price index.

Although we spend more money than any other country in the world on health care, the quality of care remains uneven—and for many—particularly the poor—it is abysmally low, if not nonexistent.

The United States leads the world in many branches of medical science. Yet a national disparity in health services between rich and poor is mirrored by New York City figures. In 1964, Bedford-Stuyvesant contained 9 percent of Brooklyn's population but produced 24 percent of its tuberculosis deaths and 22 percent of its infant deaths. However, only four new physicians located in that area between 1960 and 1966. In 1964, a New York City child from a family earning less than $4,000 a year was half as likely to have had a polio immunization as a child from a family earning over $6,000. A former New York City health commissioner has rated poverty as the third leading cause of deaths in that city.

The health profession personnel and facilities are not presently adequate to meet the demand which would be established if these benefits were immediately made available to all Americans. Accordingly, my bill proposes that the level of benefits previously discussed, be phased-in to the system, with a priority to the aged, the disabled, the unemployed and the poor. In the interim, we should allocate sufficient resources—provided for by my bill and through other Federal legislation—to seek to remedy the deficiencies in health personnel and facilities. I do not believe we in the Congress should make a promise which cannot be fulfilled. We must allocate sufficient resources to establish a Federal commitment to assist in the development of the newest and safest in quality health care, treatment, personnel and facilities.

In the event we determine it is not possible for our health industry, either because of a shortage of manpower or facilities, to deliver the total health benefit package, I believe we should consider authorizing the Secretary of HEW to curtail the package of health services.

If there are children who die whose lives can be saved; if there are adults who are handicapped when medicine has the capacity to heal; if the life expectancy of a nonwhite American is 7 years less than his white counterpart; if infant mortality rates are twice as great for nonwhites as for whites; if nonwhite maternal mortality is four times as great as the rate for whites—then it is clear that we are in a health care crisis. It is a crisis that merits our making a start at the establishment of an organized, coordinated and total health care system—a system which emphasizes delivery and accessibility to every American in need.

I believe that there is a growing willingness within the medical profession, particularly among medical students and young doctors, to establish and participate in such a system. Increasingly, leading medical schools have begun to emphasize community health and the delivery of health services, and several of them have initiated demonstration programs of prepaid comprehensive health care. And there seems to be a renewed interest among both private and public leaders in making this commitment to health care. There have been an increasing number of hearings in both Houses of the Congress on this subject and favorable statements from political leaders, businessmen, insurance companies and labor leaders.

We have talked about these issues for decades. We have made great progress, but that progress has been largely in the quality of available health care. This exceedingly high quality is a great tribute

to the medical profession and to the hospitals and medical schools of this country. However, the sad fact remains that to many, many Americans, quality health care—indeed almost any health care—is still unavailable.

The eminent British statesman, Benjamin Disraeli, said:

The health of the people is really the foundation upon which all their happiness, and all their powers as the state, depend.

If we are to begin to build upon a strong foundation—and I am convinced our country is by no means through; there is initiative, vitality, conviction, faith, tremendous energy, and capability in the American society—I am convinced that this is the year we must begin to move to enact national health insurance legislation as the means of improving and preserving quality health care and organizing a health care system which will benefit all Americans.

Mr. President, I wish to make a few additional observations. I would like to read to the Senate a telegram I have received from Gov. Nelson Rockefeller of my State, who has been one of the leading apostles of the "universal" health plan—that is his word for it—in this country. The telegram reads:

TEXT OF TELEGRAM SENT BY GOV. NELSON A. ROCKEFELLER TO SENATOR JACOB K. JAVITS

We have shared a concern that the right to basic health care services become a reality for all Americans. This requires that we eliminate economic barriers which prevent an individual or family from receiving basic health services. At the same time, it requires encouragement of innovation to improve the delivery of these services. It is also important that the strengths and achievements of the private insurance industry be utilized.

I am very pleased that you are introducing legislation to achieve these desirable objectives. I wish to congratulate you for your leadership in introducing the National Health Insurance Act of 1970 which would extend expanded Medicare benefits to virtually the entire population and would allow the utilization of the valuable skills of the private insurance industry.

I have long advocated that the Federal government establish a university health insurance program which would put the financing of health care on a sound contributory fiscal basis. Such a program would then enable Medicaid to become a second line of defense against catastrophic illness costs not otherwise covered.

Your bill also provides for developing improvements in the manner of providing comprehensive health services by encouraging preventative, diagnostic, ambulatory and rehabilitative services. In addition, it would stimulate group practice and other more efficient systems among physicians, hospitals and other providers.

We can both be heartened that the national dialogue on universal health insurance is now earnestly under way and I congratulate you for introducing pioneering health insurance legislation.

With warm regards,

Sincerely,

GOV. NELSON A. ROCKEFELLER.

Mr. President, I also ask unanimous consent to have printed in the RECORD a telegram from former Secretary of Health, Education, and Welfare, the Honorable Wilbur J. Cohen, with whom I have worked closely in this field. The telegram comments upon the contribution which this bill would make.



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

TEXT OF TELEGRAM SENT BY HONORABLE WILBUR J. COHEN TO SENATOR JACOB K. JAVITS

Congratulations on introduction of your National Health Insurance bill. The bill is an important contribution to Congressional and public consideration. Your bill will do much to advance the dialogue of this important public policy issue. I hope it will be possible to have early and full hearings on the bill with a view to finding ways and means to bring insurance coverage to all persons in the United States with assurance of high quality medical care and access to services. Your leadership in this matter is appreciated.

WILBUR J. COHEN.

Mr. JAVITS. Mr. President, I deeply appreciate the very generous assistance and advice of Governor Rockefeller and his staff, which were given most freely to me, as well as the assistance received from the Honorable Wilbur J. Cohen, who is such an eminent authority in this field, and his associates who helped us with this bill. Neither Governor Rockefeller nor Mr. Cohen are parties to the bill, but they have been of enormous assistance and I am grateful.

Finally, I have received some cost estimates respecting the bill I have introduced, because I think the Senate should have an idea of the cost involved. I wish to point out that the cost estimates do not take into account savings in medicare and medicaid which would result from national health insurance. I extrapolate and estimate these savings at something in the area of $4 billion to $4½ billion minimum when the program is in full operation, which very materially reduces the cost. The Social Security Administration cost estimates accept present cost, without reference to the diminutions which will occur from the tremendous increase in the number of people participating because we will have universal coverage.

Second, and very importantly, it fails to take into account the factor of the economy which will arise from the rational organization and delivery of health care, which will be provided by this bill.

Nonetheless, I wish the Senate to have these estimates and I submit them for the RECORD.

[In billions]

| | |
|---|---|
| 1971 | $3.5 |
| 1972 | 5.2 |
| 1973 | 10.2 |
| 1974 | 19.2 |
| 1975 | 22.7 |

Mr. President, I ask unanimous consent that a section-by-section analysis prepared by the Legislative Reference Service of the Library of Congress, a description of the level of benefits of the act which I have introduced, and the text of the bill itself may all be made a part of my remarks.

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

The bill (S. 3711) to provide a national health insurance program by extending the benefits, enlarging the coverage, expanding the role of private carriers, and otherwise improving the health insurance program established by title XVIII of the Social Security Act, and by establishing a new title XX to such act to provide comparable health insurance benefits to individuals not covered therefor under the program established by such title XVIII, by providing Federal assistance to develop local comprehensive health service systems, and authorizing the establishment of federally chartered national health insurance corporations, introduced by Mr. JAVITS, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 3711

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

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "National Health Insurance and Health Services Improvement Act of 1970".

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Sec. 501. TITLE V—FEDERALLY CHARTERED HEALTH INSURANCE CORPORATIONS.

FINDINGS AND DECLARATIONS OF PURPOSE

SEC. 2. The Congress hereby finds and declares that:

(1) the ability to deliver basic health protection is impaired as the result of the inadequate allocation of health resources and less than optimum management and rapidly escalating health care costs. An anachronistic national health care system often operates to provide priority to patients on the basis of ability to pay rather than most pressing need for services. The inequities and hardships which result from such a system are further aggravated by duplication, waste, overlap, and poor coordination in the system

at a time when health manpower and resources are in short supply.

(2) the right to quality health care has become a national objective and a right for all Americans. The removal of financial barriers to health care services, and improvement of the present system of delivery of health services, are matters of vital concern affecting the public health, safety, and welfare.

(3) every American regardless of economic status, should be enabled to obtain basic health benefits and a national system should be established which will allocate sufficient resources to bring about the needed changes in the system of health care.

(4) we should develop a system of health insurance benefits which will be financed by employer-employee contributions and from general revenues, and which will provide benefits to all Americans including the aged, the indigent, the disabled, and the unemployed.

(5) we should encourage the development of a system of health care under Federal standard which utilizes a wide diversity of care and benefit mechanisms, including the valuable management skills of the commercial and nonprofit insurance industry, the nonprofit health care community and cooperative agencies and group practice units, and which maximizes consumer choice between such competing mechanisms.

(6) we should encourage the development of system of continuing and comprehensive health care which emphasize preventive, diagnostic, ambulatory, and rehabilitative services, as well as physicians' and hospital care, and which stimulate physicians and providers to enter into group practice and other arrangements and into relationships with other providers, under which the delivery of quality health care will be facilitated.

TITLE I—AMENDMENTS RELATING TO HEALTH INSURANCE PROVIDED BY TITLE XVIII OF THE SOCIAL SECURITY ACT

PART A—COVERAGE OF ALL AGED AND DISABLED; EXTENSION, WITHOUT PREMIUM, OF SUPPLEMENTARY BENEFITS TO ALL COVERED INDIVIDUALS

SEC. 101. (a) Section 226(a) of the Social Security Act is amended to read as follows:

"(a)(1) Every individual who—

"(A) has attained age 65, and

"(B) is—

"(i)(I) entitled to monthly insurance benefits under section 202, or (II) a qualified railroad retirement beneficiary, or

"(ii) a resident of the United States (as defined in section 210(i)) and—

"(I) a citizen of the United States (as so defined), or

"(II) an alien lawfully admitted for permanent residence who, after being so admitted, has resided in the United States (as so defined) continuously for a period of not less than 5 years,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the conditions specified in subparagraph (B), beginning with the first month after June 1971 for which he meets the conditions specified in subparagraphs (A) and (B).

"(2) Every individual who—

"(A) has not attained age 65, but

"(B)(i) is entitled to disability insurance benefits under section 223, or (ii) has attained the age of 18 and is entitled to child's insurance benefits under section 202(d) and is under a disability (as defined in section 223(d)) which began before he attained age 18, or (iii) has not attained age 60 and is entitled to widow's insurance benefits, or (iv) has not attained age 62 and is entitled to widower's insurance benefits, or (v) is a qualified railroad retirement beneficiary, shall be entitled to hospital insurance benefits under part A of title XVIII for each month beginning with the later of (I) July 1971 or (II) the first month he satisfies the applicable conditions of subparagraph (B), and ending with the second month after the first month in which he ceases to meet the applicable conditions of subparagraph (B) or, if earlier, with the month before the month in which he attains age 65.

"(3) Notwithstanding clauses (iii) and (iv) of subparagraph (B) of paragraph (2)—

"(A) a widow or surviving divorced wife who has attained age 60 shall be deemed to have satisfied the applicable conditions of such subparagraph (B) in any month in which (i) she is entitled to benefits under section 202(e) (or would be entitled to benefits under section 202(e) but for paragraph (1)(E) thereof, and (ii) she would be entitled to such benefits without regard to such paragraph (1)(E) and section 202(e)(1)(B)(i)) had the period specified in section 202 (e)(5) ended in the month in which she attains age 65 instead of in the month in which she attains age 60, and had the reference to age 60 in section 202(e)(1)(B)(ii) been a reference to age 65; and the first month in which she shall be deemed not to have satisfied such applicable conditions shall be the second month following the first month in which such benefits would have been terminated on the basis of the occurrence of an event specified in section 202(e)(1); and

"(B) a widower who has attained age 62 shall be deemed to have satisfied the applicable conditions of such subparagraph (B) in any month in which (i) he is entitled to benefits under section 202(f) (or would be entitled to benefits under section 202(f) but for paragraph (1)(E) thereof, and (ii) he would be entitled to such benefits without regard to such paragraph (1)(E) and section 202(f)(1)(B)(i)) had the period specified in section 202(f)(6) ended in the month in which he attains age 62, and had the reference to age 62 in section 202(f)(1)(B)(ii) been a reference to age 65; and the first month in which he shall be deemed not to have satisfied such applicable conditions shall be the second month following the first month in which such benefit would have been terminated on the basis of the occurrence of an event specified in section 202(f)(1)."

(b)(1) Section 226(b)(1) of such Act is amended to read as follows:

"(1) entitlement of an individual to hospital insurance benefits for a month shall consist of entitlement to the benefits provided under part A of title XVIII (subject to the limitations, conditions, and procedures provided in such title for the provision of such services) furnished to him in the United States (or outside the United States in the case of inpatient hospital services furnished under the conditions described in section 1814 (f)) during such month; and".

(2) Section 226(b)(2) of such Act is amended by striking out "under section 202" and inserting in lieu thereof "under section 202 or 223".

(c) Section 226(d) of such Act is hereby repealed.

(d) Section 103 of the Social Security Amendments of 1965 is hereby repealed.

SEC. 102. (a) The heading of title XVIII of the Social Security Act is amended by striikng out "FOR THE AGED".

(b) The heading of part A of title XVIII of such Act is amended by striking out "FOR THE AGED".

(c) Section 1811 of such Act is amended by inserting immediately before the period at the end thereof the following: ", and for individuals who are disabled and are entitled to benefits based on disability under title II of this Act or under such system".

SEC. 103. (a) The heading of part B of title XVIII of the Social Security Act is amended by striking out "FOR THE AGED".

(b)(1) Section 1831 of such Act is amended to read as follows:

"SEC. 1831. There is hereby established an insurance program to provide medical insurance benefits in accordance with the provisions of this part for individuals who are entitled to the hospital insurance benefits provided by part A."

(2) The heading for section 1831 of such Act is amended to read as follows: "ESTABLISHMENT OF SUPPLEMENTARY MEDICAL INSURANCE PROGRAM".

(c)(1) Section 1836 of such Act is amended to read as follows:

"SEC. 1836. Every individual who is entitled to hospital insurance benefits under part A shall be entitled to the benefits provided by the insurance program established by this part."

(2) The heading to section 1836 of such Act is amended to read as follows: "ENTITLEMENT TO BENEFITS".

(d) Sections 1837, 1838, 1839, 1840, 1841, 1843, and 1844 of such Act are repealed.

(e) Section 1815 of such Act is amended by striking out "Hospital" and inserting in lieu thereof "Health".

(f)(1) The heading to section 1817 of such Act is amended by striking out "HOSPITAL" and inserting in lieu thereof "HEALTH".

(2) Section 1817(a) of such Act is amended by striking out, in the second sentence thereof, "part" and inserting in lieu thereof "title".

(3) Section 1817(h) of such Act is amendend by inserting "and part B" immediately after "this part".

(4) Section 1817 of such Act is further amended by adding at the end thereof the following new subsection:

"(i) On July 1, 1971, there shall be transferred to the Trust Fund all of the assets and liabilities of the Federal Supplementary Medical Insurance Trust Fund."

(g) The Last sentence of section 1861(v)(1) of such Act is amended by striking out "Hospital" and inserting in lieu thereof "Health".

(h) Section 1864(b) of such act is amended by striking out "Hospital" and inserting in lieu thereof "Health".

(i) Section 201(g)(1)(A) of such Act is amended—

(1) by striking out "Hospital" and inserting in lieu thereof "Health", and

(2) by striking out "and the Federal Supplementary Medical Insurance Trust Fund".

(j) Section 1875(a) of such Act is amended by striking out "health care of the aged" and inserting in lieu thereof "health care of the aged and disabled".

(k) Section 1902(a)(10) of such Act is amended by striking out "the making available of supplementary medical insurance benefits under part B of title XVIII to individuals eligible therefor (either pursuant to an agreement entered into under section 1843 or by reason of the payment of premiums under such title by the State agency on behalf of such individuals), or".

(l) Section 1902(a)(15) of such Act is amended by striking out "either or both of".

(m) Section 1903(b)(2) of such Act is repealed.

SEC. 104. (a)(1) Section 21(a) of the Railroad Retirement Act of 1937 is amended by striking out "consisting of inpatient hospital services, posthospital extended care services, posthospital home health services, and outpatient hospital diagnostic services (all hereinafter referred to as 'services')" and inserting in lieu thereof "and other benefits and services (such benefits and services hereinafter being referred to as 'services')".

(b)(1) Section 21(d) of the Railroad Retirement Act of 1937 is amended by striking out "and sections 1840, 1843, and 1870" and inserting in lieu thereof "and section 1870".

(2) Section 21(e) of such Act is amended

by striking out "Hospital" and inserting in lieu thereof "Health".

(c) The Railroad Retirement Act of 1937 is amended by adding after section 21 the following new section:

"HEALTH INSURANCE BENEFITS FOR THE DISABLED

"SEC. 22. Individuals under age sixty-five who are entitled to annuities under paragraph 4 or 5 of section 2(a) or are entitled to annuities under section 5(c) (or who have been or would be considered in applying the provisions of section 3(e)) and have attained the age of eighteen and have a disability (within the meaning of section (5)(1)(ii)) and who are in a 'period of disability' (as this term is described in section 3(e)) and, with respect to individuals entitled to annuities under paragraph 4 or 5 of section 2(a) are not in a 'waiting period' (as defined in section 223(c)(2) of the Social Security Act) shall be certified by the Board under section 21 in the same manner, for the same purposes, and subject to the same conditions, restrictions, and other provisions as individuals specifically described in such section 21, and also subject to the same conditions, restrictions, and other provisions as are disability beneficiaries under title II of the Social Security Act in connection with their eligibility for hospital insurance benefits and medical insurance benefits under title XVIII of such Act; and for the purposes of this Act and title XVIII of the Social Security Act, individuals certified as provided in this section shall be considered individuals described in and certified under such section 21."

SEC. 105. The amendments made by this part shall take effect July 1, 1971.

PART B—COVERAGE OF DRUGS

SEC. 110. (a)(1) Section 1861 of the Social Security Act is amended by adding after subsection (y) the following new subsection:

"(z)(1) The term 'maintenance drugs' means those drugs appearing on the list specified in paragraph (2) of this subsection.

"(2)(A) Subject to the provisions of subparagraph (C), the Secretary shall establish and publish a list of those legend and nonlegend drugs for which payment may be made subject to the conditions of section 1812(a)(4) under part A of this title. The Secretary shall distribute such list on a current basis to practitioners licensed by law to prescribe and administer drugs or to dispense drugs and shall make such other distribution as in his judgment will promote the purposes of this title. He shall from time to time (but at least once a year) review such list, and shall revise it or issue supplements thereto, as he may find necessary, so as to maintain insofar as practicable currency in the contents thereof and shall publish and distribute such revisions in accordance with the preceding sentence.

"(B) Each drug appearing on the list established under subparagraph (A) shall be designated by its established name and with respect to each such drug, the Secretary may include such other information (including trade names of such drug) as he finds necessary or appropriate in the administration of this title.

"(C) A drug shall not appear on the list established under subparagraph (A) unless—

"(i) such drug is lawfully available in interstate commerce for dispensing or administration to humans;

"(ii) it is determined by the Secretary that such drug is appropriate for the treatment of diabetes or of chronic cardiovascular diseases, kidney conditions or respiratory conditions;

"(iii) such drug is usually used for treatment extending over a period of 90 days or more (but not necessarily consecutive); and

"(iv) (in the case of a nonlegend drug) it is a life-saving drug, or a drug the withdrawal of which would be seriously harmful to the health of the individual, or a drug which the Secretary determines (under such standards and criteria as he may prescribe) is a satisfactory substitute for a legend drug appearing on the list.

"(D) For purposes of this subsection—

"(i) the term 'drug' means a drug as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (including those specified in section 351 of the Public Health Service Act);

"(ii) the term 'legend drug' refers to a drug specified in section 503(b) of the Federal Food, Drug, and Cosmetic Act; and

"(iii) the term 'established name' shall have the meaning assigned to such term by section 502(e)(2) of the Federal Food, Drug, and Cosmetic Act."

(2) Section 1861(t) of such Act is amended by inserting after subsection "(m)(5)" the following: "or subsection (z)".

(b) Section 1812(a) of such Act is amended by—

(1) striking out "and" at the end of paragraph (2);

(2) striking out the period at the end and inserting in lieu thereof:"; and"; and

(3) adding at the end the following new paragraph:

"(4) maintenance drugs furnished to such individual while he is not an inpatient in a hospital."

(c) Section 1813 of such Act is amended by adding at the end the following subsection:

"(c)(1) The amount payable for a maintenance drug furnished an individual shall be reduced by an amount equal to the copayment determined under paragraph (2) or, if less, the charges imposed with respect to such individual for such maintenance drug.

"(2) The copayment specified in paragraph (1) shall be $1 during the period ending December 31, 1973, and such amount as may be determined pursuant to paragraph (3) of this subsection during any period thereafter.

"(3) The Secretary shall, between July 1 and October 1 of 1973, and of each year thereafter, determine and promulgate the copayment for purposes of the preceding paragraphs of this subsection and such co-payment shall be in effect for purposes of such paragraphs for the calendar year succeeding the year in which such co-payment is promulgated. Such co-payment shall be equal to $1 multipled by the ratio of (A) the average per capita costs for maintenance drugs for the calendar year preceding the year in which the determination is made to (B) the average per capita costs for such maintenance drugs for the calendar year 1970. Any amount so determined, which is not a multiple of $0.10, shall be rounded to the nearest multiple of $0.10 (or, if it is midway between two multiples of $0.10, to the next higher multiple of $0.10)."

(d) Title XVIII of the Social Security Act is amended by adding after section 1817 of such Act the following new sections:

"PAYMENTS FOR MAINTENANCE DRUGS; CONDITIONS AND LIMITATIONS ON SUCH PAYMENT

"SEC. 1818. (a)(1) The amount paid to any provider of drugs with respect to maintenance drugs for which payment may be made under this part shall, subject to the provisions of this section and section 1813(c), be the reasonable drug charge with respect to such drugs.

"(2)(A) The 'reasonable drug charge' for a maintenance drug shall be the acquisition allowance plus a dispensing allowance.

"(B) The Secretary shall by regulations establish the method or methods for determining the acquisition allowance of a maintenance drug, giving consideration to the cost to providers of drugs of acquiring the drug by its established name. If the source from which any maintenance drug is available charges different prices therefor to different classes or types of providers, or if a class of providers may reasonably obtain such drug from only certain types of sources, the Secretary may, in establishing the acquisition allowance, take into account these differences.

"(C) The Secretary shall by regulations establish the methods for determining a dispensing allowance for a maintenance drug, giving consideration to such factors as cost of overhead, professional services, and a fair profit. He may provide different dispensing allowances for different classes of providers.

"(b) Payment for maintenance drugs furnished to an individual may be made only to a dispenser of drugs eligible therefor under subsection (c) and only if—

"(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner, within such time, and by such person or persons as the Secretary may by regulation prescribe; and

"(2) (in the case of a legend drug) a written prescription, signed by a physician, was filed with such provider of drugs, or (in the case of a nonlegend drug) a physician has certified that the covered drug furnished the individual was medically required by such individual;

except that (pursuant to such regulations as the Secretary may prescribe) no payment may be made for a maintenance drug—

"(3) to the extent that the quantity of such drug furnished an individual exceeds the quantity of such drug needed for the treatment of such individual for 90 days; or

"(4) if it fails to meet such requirements as to quality and standards of manufacture as the Secretary may prescribe; or

"(5) it fails to meet such specifications as to dosage form as the Secretary may require.

"(c) For purposes of subsection (a), a provider of drugs shall be eligible for payment if—

"(1) he is licensed or authorized to compound and dispense drugs to humans pursuant to State law;

"(2) he agrees to comply with such rules and regulations as the Secretary may issue with respect to—

"(A) submission of bills at such frequency and on such forms as may be prescribed in such rules and regulations;

"(B) availability for audit of his records relating to drugs and prescriptions;

"(C) the maintenance and retention of such records relating to the cost of drugs as may be specified in such rules and regulations;

"(3) he meets such other conditions relating to health and safety as the Secretary may find necessary;

"(4) he agrees not to charge any individual for a drug for which such individual is entitled to have payment made under this section and section 1861(z) an amount in excess of the amount which, when added to the amount of payment made under this section and section 1813(c) for such drug, exceeds the customary charge at which such dispenser of drugs sells or offers such drug to the public at the time such drug is furnished to such individual.

"USE OF ORGANIZATIONS IN ADMINISTRATION OF PROGRAM FOR FURNISHING MAINTENANCE DRUGS TO ELIGIBLE INDIVIDUALS

"SEC. 1819. (a) The Secretary is authorized to enter into contracts with organizations to perform such functions as he may find appropriate in administering a maintenance drug benefit if he finds that the utilization of one or more of such organizations will promote the effective and efficient administration of the program provided under this part for the furnishing of maintenance drugs to eligible individuals.

"(b) Contracts with organizations under subsection (a) may be entered into without

regard to section 3709 of the revised statutes or any other provision of law requiring competitive bidding.

"(c) For purposes of this section, the term 'organization' means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, prescription drugs under group insurance policies or contracts, medical or hospital service agreements, memberships, or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the organization, including a health benefits plan duly sponsored or underwritten by an employee organization.

"STUDY OF DRUG UTILIZATION

"SEC. 1820. The Secretary is authorized to conduct and publish studies relating to the utilization, efficiency, and costs of maintenance drugs for which payment may be made under this part in order to encourage the proper use of such drugs."

(e) Title XVIII of the Social Security Act is further amended by adding after section 1867 of such Act the following new section:

"EXPERT COMMITTEE ON DRUG COVERAGE

"SEC. 1868. (a) There is hereby created an Expert Committee on Drug Coverage which shall consist of five persons, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Secretary shall from time to time appoint one of the members to serve as Chairman. The members shall include persons who are outstanding in the fields of pharmacology, geriatrics, and other branches of medicine. Members of the Expert Committee, while attending meetings or conferences thereof or otherwise serving on business of the Expert Committee shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Expert Committee shall meet as frequently as the Secretary deems necessary.

"(b) It shall be the function of the Expert Committee to advise the Secretary on matters of general policy in the administration of the program provided under this title for furnishing maintenance drugs to eligible individuals. The Expert Committee shall also make recommendations to the Secretary as to what drugs should be included in the list established under section 1861(z)(2) and what drugs should be deleted from such list. In making any such recommendation the Expert Committee shall submit in such detail as the Secretary may request the information and data the Expert Committee considered in making such recommendation. In carrying out its work, the Expert Committee shall consult with organizations representing the aged, pharmacists, the pharmaceutical industry, and with such other organizations or individuals as the Expert Committee finds appropriate. The Expert Committee shall make an annual report to the Secretary on the performance of its function, including any recommendations it may have with respect thereto, and such report shall be transmitted promptly by the Secretary to the Congress.

"(c) The Expert Committee is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Expert Committee such secretarial, clerical, and other assistance and such pertinent data obtained and prepared by the Department of Health, Education, and Welfare as the Expert Committee may require to carry out its functions."

(f) The heading of part A of title XVIII of such Act (as amended by section 102(b) of this Act) is further amended by striking out "INSURANCE" and inserting in lieu thereof "INSURANCE AND DRUG".

(g) Section 1811 of such Act (as amended by section 102(c)(3) of this Act) is further amended by inserting after "services" the following: "and the cost of maintenance drugs".

(h) Section 1814(c) of such Act is amended by—

(1) adding at the end of the heading the following "or Federal Provider of Drugs";

(2) inserting "(1)" after "(c)"; and

(3) adding at the end the following new paragraph:

"(2) No payment may be made under this part to any Federal provider of drugs (as provided for in section 1818), except a provider of drugs which the Secretary determines is dispensing drugs to the public generally as a community institution or agency; and no such payment may be made to any provider of drugs for any drug which such provider is obligated by a law of, or a contract with, the United States to render at public expense."

(i) Section 1815 of such Act is amended by—

(1) adding at the end of the heading the following "and Provider of Drugs";

(2) adding after "provider of services with respect to the services furnished by it": ", and each provider of drugs with respect to drugs,";

(3) inserting after "provider of services" the second time it appears "and the provider of drugs, as the case may be,".

(j) Section 1861(r)(3) of such Act is amended by adding at the end before the period the following: "and, for purposes of section 1818, only with respect to drugs he is legally authorized to prescribe by the State in which he prescribes such drugs".

(k) Section 1869(c) of such Act is amended by inserting after "provider of services" the following: "or any person dissatisfied with any determination by the Secretary that he is not a provider of drugs eligible for payment under this title,".

(l)(1) Section 1870(a) of such Act is amended by—

(A) inserting ", provider of drugs," after "provider of services"; and

(B) inserting "or drugs" after "items or services".

(2) Section 1870(b) of such Act is amended by—

(A) inserting ", or provider of drugs," after "provider of services" each time it appears;

(B) inserting "or drugs" after "items or services; and

(C) adding at the end of paragraph (2) the following: "or any payment has been made under section 1818 to a provider of drugs for drugs furnished an individual,".

(3) Section 1870(d) of such Act is amended by inserting ", or provider of drugs," after "provider of services".

(m)(1) The heading of section 226 of such Act is amended by striking out "INSURANCE" and inserting in lieu thereof "INSURANCE AND DRUG".

(2) Section 226(a) of such Act (as amended by section 101(a) of this Act) is further amended by inserting, in paragraphs (1) and (2), "and drug" immediately after "hospital insurance".

(3) Section 226(b)(1) of such Act (as amended by section 101(b)(1) of this Act) is further amended by inserting "and drug" immediately after "hospital insurance".

SEC. 111. Section 21(e) of the Railroad Retirement Act of 1937 (as amended by section 104(b)(2) of this Act) is further amended by inserting "(other than maintenance drugs)" immediately after "services" the first place it appears therein.

SEC. 112. The amendments made by this part shall be effective with respect to drugs dispensed after June 30, 1973.

PART C—ANNUAL PHYSICAL CHECKUPS

SEC. 120. (a) Section 1861 of the Social Security Act is amended by adding after subsection (z) (added by section 110(a) of this Act) the following new subsection:

"Physical Checkup

"(z-1) The term 'physical checkup' means eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, procedures performed (during the course of any eye examination) to determine the refractive state of the eyes, examinations of the ears for the purpose of determining the need for hearing aids, and such diagnostic X-ray tests, diagnostic laboratory tests, and other diagnostic tests, as the Secretary may by regulations specify as being the type and kind of tests which are the most likely to reveal defects, diseases, or conditions which are susceptible to effective treatment or control. Such regulations may specify different tests, as may be appropriate, for individuals on the basis of their age or sex. Such terms shall also include such physicians' services as may be appropriate for the interpretation, evaluation, and analysis of such tests."

(b) Section 1861(s)(3) of such Act is amended (1) by inserting "(A)" immediately after "(3)", and (2) by inserting before the semicolon at the end thereof the following: ", and (B) physicians' services and diagnostic tests included within a physical checkup (as defined in subsection (z-1))".

(c) Section 1862(a)(1) of such Act is amended by inserting immediately before the semicolon the following: "(except physical checkups (as defined in section 1861(z-1))".

(d) Section 1862(a)(7) of such Act is amended by striking out all after "checkups" and inserting in lieu thereof the following: "(other than physical checkups as defined in section 1861(z-1))".

(e) Section 1833 of such Act is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provisions of this part, with respect to expenses incurred by an individual in any calendar year for a physical checkup (as defined in section 1861 (z-1))—

"(1) the provisions of subsection (a) shall be applied without regard to the provisions of subsection (b);

"(2) such expenses shall be regarded as incurred expenses for purposes of subsection (a) only if such individual has not, previously during such year, incurred expenses for a physical checkup (as so defined);

"(3) such expenses shall not be taken into account for purposes of subsection (b);

"(4) there shall be considered as incurred expenses for purposes of subsection (a) only whichever of the following amounts is the smaller—

"(A) $75, or

"(B) the amount determined by the Secretary to be equal to the charge which would be imposed for such physical checkup if it had been provided by the most efficient provider of high quality physical checkups in the area wherein such physical checkup was conducted."

(f) The amendments made by the preceding provisions of this section shall apply only in the case of physical checkups performed after June 30, 1974.

PART D—DENTAL SERVICES

SEC. 130. (a) Section 1861(r)(2) of the Social Security Act is amended (1) by striking out "or" at the end of clause (A), and by inserting at the end thereof the following: "(C) dental services for children (as defined in subsection (z-2))".

(b) Section 1861 of such Act is amended by adding after section (z-1) (added by section 120(a) of this Act) the following new subsection:

"Dental Services for Children

"(z-2) The term 'dental services for children' means professional services rendered to children under 8 years of age by or under the direction of a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function; such term shall include oral examinations and diagnosis, oral prophylaxis, filling, and removal of teeth, but shall not include the provision of braces or prosthetic devices."

(c) Section 1862(a)(12) of such Act is amended by inserting "(unless such services consist of dental services for children, as defined in section 1861(z-2))" immediately after "supporting teeth."

(d) Section 1833 of such Act is amended by adding after subsection (g) (added by section 120(e) of this Act) the following new subsection:

"(h) With respect to expenses incurred by an individual for dental services for children as defined in section 1861 (z-2)), the provisions of subsection (a) shall be applied without application of the provisions of subsection (b)."

(e) The amendments made by the preceding provisions of this section shall apply only in the case of dental services for children performed after June 30, 1974.

PART E—LIMITATIONS OF CERTAIN CHARGES FOR SERVICES; PHYSICIANS' QUALIFICATIONS

SEC. 140. Section 1833(a)(1) of the Social Security Act is amended, effective January 1, 1971, by striking out "reasonable charges" each place it appears therein and inserting in lieu thereof "appropriate and reasonable charges."

SEC. 141. Section 1861(r) of the Social Security Act is amended—

(1) by striking out "The" and inserting in lieu thereof "Subject to subsection (r-1), the"; and

(2) by adding immediately thereafter the following new subsection:

"(r-1)(1) Taking into consideration standards approved by appropriate professional organizations, and upon recommendation of the Health Insurance Benefits Advisory Council, the Secretary may, after public hearings, prescribe for physicians (as defined in subsection (r)) providing services under this title—

"(A) standards of continuing professional education,

"(B) national minimum standards of licensure, applicable to any individual first licensed as a physician after the effective date of such standards, or

"(C) standards of qualification for the performance of major surgery or of other specialty services designated by the Secretary.

"(2) After the effective date of standards issued under clause (A) or (B) of paragraph (1), an individual who fails to meet such standards shall not be deemed to be a physician for purposes of this title; except that a failure to meet standards issued under clause (A) of paragraph (1) shall not be found until the Secretary has notified the individual involved of the deficiency and afforded him a reasonable opportunity to correct it. After the effective date of standards issued under clause (C) of paragraph (1), an individual who fails to meet such standards shall not be deemed, for purposes of this title, to be a physician in connection with any services to which such standards are applicable.

"(3) The provisions of section 553 of title 5, United States Code, shall be applicable to the promulgation of standards under this subsection.

PART F—AGREEMENTS WITH STATES FOR ADMINISTRATION

SEC. 150. Section 1874 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) The Secretary may enter into an agreement with any State under which such State will administer, on behalf of the Secretary, the health insurance programs established by this title (or such part thereof as may be specified in the agreement) with respect to individuals in such State. The costs of carrying out any such agreement shall be paid to the State by the Secretary in advance or by way of reimbursement and in such installments as may be agreed upon."

PART G—IMPROVEMENTS IN ORGANIZATION OF HEALTH CARE

SEC. 160. Title XVIII of the Social Security Act is amended by adding after part C thereof the following new parts:

"PART D—IMPROVEMENTS IN ORGANIZATION OF HEALTH CARE

"PURPOSE

"SEC. 1881. The purpose of this part is (a) to encourage the rational organization of health care services and facilities so as to provide greater continuity and comprehensiveness of care of the individual, to provide greater consumer education and participation, and to emphasize preventive, diagnostic, and early therapeutic services, (b) to control the costs of services paid for under this title, and (c) to stimulate diversity and innovation in the provision of health insurance protection.

"USE OF CARRIERS AND OTHER AGENCIES AND ORGANIZATIONS

"SEC. 1882. No agreement or contract shall be entered into under section 1816 or section 1842, or continued in force after the effective date of this section, unless the agency, organization, or carrier agrees to use its best effort to carry out the purposes of section 1881(a), and agrees—

"(a) to make (alone or in conjunction with other appropriate public or private agencies) a continuing study of the organization and methods of delivery of health services in the geographic area in which it operates, and of potential improvement of such organization and methods with a view to the effectuation of those purposes;

"(b) to review periodically patterns of utilization of the services paid for under this title and the effectiveness of existing procedures for the control of unnecessary utilization, to develop programs for the strengthening of such procedures, and to perform the functions specified in section 1816(b)(1)(B) or section 1842(a)(2), as the case may be; and

"(c) to take such action within its own authority and to recommend such action by the Secretary authorized by part E (or by section 402 of the Social Security Act Amendments of 1967), as it finds calculated to further the objectives of section 1881(a) and to strengthen the control of unnecessary utilization.

"CONTRACTS WITH COMPREHENSIVE HEALTH SERVICE SYSTEMS

"SEC. 1883. (a) The Secretary is authorized to contract with a comprehensive health service system which meets the conditions set forth in subsection (b), for the provision, to the members of the system, of all services for which payment may be made under this title. In lieu of payment otherwise prescribed by this title, he shall pay to such system, at its election, either (1) the reasonable cost of all such services, or (2) a periodically predetermined capitation amount for each member, equal to the estimated average reasonable cost of such services per member; and if he finds (A) that the average cost of such services in any fiscal year is less than the average cost of services (for which payment is made under this title) to comparable population groups under comparable circumstances, and (B) that services provided by the system have been of high quality and adequate to the needs of its members, he may in addition make an incentive payment to the system equal to not more than two-thirds of such difference of cost per member. The amount of an incentive payment may be used by the system for any of its purposes, including application to the cost of services for which payment is not made under this title, whether or not such services are otherwise provided by the system. Expenditure of funds received as an incentive payment, for whatever purpose, shall not be deemed a cost of services under the contract.

"(b) No contract shall be made under this section with a comprehensive health service system unless—

"(1) such system assures the provision of health services to all its members by a contract or contracts with the Secretary, or by such a contract and subcontracts, entered into by one or more providers of services and other persons furnishing health services, or by a health insurance carrier or nonprofit prepayment plan, or by a combination of the foregoing;

"(2) such system is designed, to the maximum extent feasible, to make all health services readily accessible to persons residing in a specified primary service area and will pay for transportation where reasonable accessibility to persons in that area cannot otherwise be assured;

"(3) all persons, whether or not residing within the primary service area, are eligible to become members of such system, except that (A) the number of members may be limited, with or without giving preference to persons living within the primary service area, to avoid overtaxing the resources of the system, and (B) such restrictions upon enrollment may be imposed as are approved by the Secretary as necessary to prevent undue adverse selection; and the system is so designed and operated as to encourage enrollment from as broad as practicable a range of income and social groups;

"(4) all health services are provided by providers or other persons who meet the standards imposed by or pursuant to this title for the respective services;

"(5) such system encourages increased health education of its members and the development and use of preventive health services, and provides for a group of physicians (such as a committee of a medical school faculty, of a hospital medical staff, or of a group practice organization), approved by the Secretary for this purpose, which group shall consult periodically with representatives of the membership, fix the professional policies of the system, oversee the professional aspects of the delivery of services, and review the utilization of all health services, drugs and supplies;

"(6) such system, to the extent practicable and consistent with good medical practice, trains and employs allied health personnel and subprofessional and lay persons in the rendering of services;

"(7) any participating extended care facility under such system is affiliated with a hospital or with a group practice or similar organization, and the medical staff of the hospital or the group practice organization assumes responsibility for rendering or supervising professional services in the facility;

"(8) premiums charged by such system for services not paid for under this title are reasonable; and

"(9) the establishment of such system is

consistent with any comprehensive State health plan developed pursuant to section 314(a) of the Public Health Service Act, as amended, and has been approved by the State planning agency designated or established pursuant to that section, and, where appropriate, is in accord with area-wide health planning carried out pursuant to section 314 (b) of that Act.

"(c) In administering this section the Secretary shall emphasize consumer and community involvement in the operation of comprehensive health service systems, and shall seek to insure prompt response to local initiative and maximum flexibility in such operation.

"(d) For the purposes of this section, 'comprehensive health service system' means a system of providing health care to an identified population in a primary service area and its environs, enrolled as members, on the basis of contractual arrangements (which embody group practice, or similar arrangements established by a medical school, a hospital medical staff or a medical center) among participating providers of services and other persons so as (1) to assure continuity of care and ready referral and transfer of patients where medically appropriate, and (2) to provide comprehensive health services, which shall include at least all services for which payment may be made under this title (such services to be provided, except as authorized by the Secretary without deductibles, coinsurance, or copayment), drugs prescribed for ambulatory patients, one hundred days of extended care services (which are not post-hospital extended care services) in any spell of illness, and necessary immunizations, and may include other health services approved by the Secretary as appropriate to the particular comprehensive health service system.

"CONTRACTS FOR EQUIVALENT HEALTH INSURANCE PROTECTION

"SEC. 1884. The Secretary is authorized to contract with any carrier (as defined in section 1842(f)(1)) to provide, to individuals electing insurance by such carrier in lieu of other rights under this title, health benefits equivalent to those for which payment would be made under this title. No such contract shall be made unless the Secretary is satisfied (a) that the carrier will make such insurance available to all individuals (or to all individuals who reside in a specified area), subject to such restrictions on enrollment as he has approved as necessary to avoid undue adverse selection, (b) that the benefits to be provided by the carrier under the contract will furnish health protection which the Secretary determines (under national standards prescribed by him) to be equivalent to, and at no greater cost than, the protection furnished by the benefits for which payment is made under this title, and (c) that premiums for any health insurance to be sold by the carrier to supplement the benefits provided under the contract will be reasonable. A contract under this section shall require the carrier to perform such of the functions specified in section 1882 as the Secretary finds appropriate.

"PROVISIONS RELATING TO CONTRACTS FOR ALTERNATIVE HEALTH SERVICE PLANS

"SEC. 1885. (a) The Secretary shall by regulation prescribe the manner of making an election (including the manner in which an election may be made on behalf of a legally incompetent individual) to become a member of a comprehensive health service system with which the Secretary has contracted under section 1883, or an election to be insured by a carrier with which the Secretary has contracted under section 1884; the manner in which the election may be revoked; and the frequency with which election and revocation may be made.

"(b) Notwithstanding other provisions of this title, an individual with respect to whom an election made in accordance with subsection (a) is in effect shall not, except in such cases and to such extent as may be provided in regulations, be entitled to have payment made to him or on his behalf for services other than those provided, or to be paid for, in accordance with such election.

"(c) Contracts under section 1883 or section 1884 may be entered into by the Secretary without regard to section 3709 of the Revised Statutes or any other provision of law requiring competitive bidding.

"(d) Each such contract shall provide that the comprehensive health service system or the carrier, as the case may be, shall—

"(1) establish and maintain procedures pursuant to which an individual, with respect to whom an election in accordance with subsection (a) is in effect, will be granted an opportunity for a fair hearing by the system or carrier when any claim by or on account of such individual is denied (in whole or in part) or not acted upon with reasonable promptness;

"(2) will furnish the Secretary such timely information and reports as he may find necessary in performing his functions under this title; and

"(3) will maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such information and reports and otherwise to carry out the purposes of this title;

and shall contain such other terms and conditions (including, in the case of contracts entered into pursuant to section 1884 or this section, provisions relating to the methods of payment to be used in paying for health services provided under any such contract) not inconsistent with this section as the Secretary may find necessary, appropriate, and practicable.

"(e) Each such contract shall be for a term of at least one year, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the system or carrier involved as he may provide in regulations) if he finds that the system or carrier has failed substantially to carry out the contract.

"EMPLOYER-EMPLOYEE HEALTH PLAN OPTION

"SEC. 1886. (a) The Secretary may authorize under appropriate regulations promulgated by him agreements or arrangements with any employer who, in agreement with his employees or their representatives, provides for his employees health care benefits under a qualified plan (as specified in subsection (b)) in lieu of the benefits provided under other provisions of this title.

"(b) For purposes of subsection (a), a qualified plan is a health benefits plan—

"(1) which is provided through or in conjunction with an insurance carrier or similar organization or a union-management health or health and welfare plan;

"(2) not less than 75 per centum of the cost of which is paid by the employer offering such plan;

"(3) covers the employees of the employer offering such plan, and the dependents of such employees;

"(4) provides benefits of a type and level which, in terms of actuarial and health care considerations, is superior to the health benefits provided under other provisions of this title;

"(5) which contains provision for a fair hearing to any individual covered thereunder who is dissatisfied with the disposition of any claim he may have for benefits provided thereunder; and

"(6) which employs methods of payment determined by the Secretary to carry out the objectives of part E.

"(c) Any agreement entered into under this section with an employer shall provide that the employer shall supply to the Secretary such information and data as may be necessary to keep the Secretary currently advised as to the identification of the particular employees covered by such plan as well as such other information and data as the Secretary may reasonably require in carrying out the purposes of this title.

"(d) Any agreement entered into pursuant to this section shall be for a term of at least one year, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such agreement at any time (after such reasonable notice and opportunity for hearing to the employer involved as he may provide in regulations), if he finds that the employer has substantially failed to carry out the agreement, or that the agreement is not carrying out the purposes of this title.

"(e) The Secretary shall provide to the Secretary of the Treasury such information regarding employees covered by qualified plans covered under agreements under this section as may be necessary or appropriate to enable the Secretary properly to administer the provisions of chapter 21 of the Internal Revenue Code of 1954.

"PART E—METHODS OF COMPENSATION FOR HEALTH SERVICES

"MODIFICATION OF METHODS OF COMPENSATION FOR HEALTH SERVICES

"SEC. 1891. (a) The Secretary, with the approval of the President, is authorized in accordance with this section to modify, effective July 1, 1973, the methods prescribed in this title for determining the amounts of payments to providers of services and other persons furnishing services to individuals entitled to benefits under this title. If any such action requires modification of the provisions of section 1813 or section 1833 relating to deductibles, coinsurance, and copayment, it shall contain provisions imposing equivalent requirements as nearly as may be.

"(b) The Secretary shall forthwith undertake a comprehensive study of methods of determining and paying compensation to providers of services and other persons furnishing health services, with a view to ascertaining what methods are, for the purposes of this title, best calculated to further the following objectives:

"(1) to control the cost of services paid for under this title, to reduce costs wherever possible, and to assure that costs will not in any event increase more rapidly than average wage levels;

"(2) to control the utilization of services paid for under this title, so that to the greatest extent possible unnecessary utilization will be eliminated;

"(3) to improve the organization of health services and the manner of their delivery, in order (A) to increase their accessibility to all individuals wherever resident in the United States (B) to provide continuous and comprehensive care, and (C) to emphasize the maintenance of health as well as the treatment of illness; and

"(4) to assure, through improved organization and methods of delivery, that control of the aggregate cost of health services will not deprive providers of services and other persons furnishing health services of fair and reasonable compensation therefor.

"(c) Such study shall include (1) alternative methods of compensating hospitals and other providers of services (such as negotiated charges, capitation payments, or annual budgets), (2) alternative methods of compensating professional practitioners (such as fee schedules or unit value scales with or without proration, capitation payments, or salaries or per session allowances) (3) alternative methods of paying for drugs and

other supplies (4) the use of specific financial incentives and disincentives as means to further the objectives set forth in subsection (b), and (5) methods of compensation designed to encourage assumption of responsibility, by local or State medical societies or other professional organizations or organizations of providers of services, for maintaining and improving (through peer review and otherwise) the quality and efficiency of care provided by their members, for the avoidance of unnecessary utilization and for the continuing education of professional and paramedical personnel.

"(d) In making such study the Secretary shall solicit the widest possible expression of views from interested organizations and their members and from the public. To this end he shall appoint such advisory committees, hold such conferences and hearings, and publish such proposals, as he finds appropriate to obtain the views of providers of services and other persons furnishing health services, of health insurance carriers of qualified students of the health care system, and of users of health services.

"(e) Not later than December 1, 1972, the Secretary, with the approval of the President, shall publish in the Federal Register a proposed regulation prescribing the methods of payment for services for which payment may be made under this title. Such proposed regulation shall be subject to the provisions of title 5, section 553, United States Code.

"(f) Not later than March 1, 1973, the Secretary, with the approval of the President, shall issue and publish in the Federal Register his final regulation. Such regulation shall be effective on and after July 1, 1973, and shall supersede all inconsistent provisions of this title.

"(g) The regulations of the Secretary under this part with respect to the methods of payment for services for which payment may be made under this title may be amended or modified by the Secretary, with the approval of the President, from time to time, in accordance with the provisions of section 553 of title 5, United States Code.

"STATE AND LOCAL ADVISORY COMMITTEES

"SEC. 1892. (a) The Secretary, in carrying out the provisions of this part, shall consult with and seek the advice of the State committees, representative of consumers and professional health personnel, and such local committees of like character as he may deem appropriate.

"(b) If in any State, or in any local area in which he decides to utilize such a committee, there is not in existence an appropriate State or local consumer-physician committee, the Secretary is authorized to encourage and assist in the establishment of such a committee, or appoint such a committee."

PROCEDURES REQUIRED OF SECRETARY IN ESTABLISHING STANDARDS

SEC. 161. Standards promulgated by the Secretary with respect to qualifications of institutional providers of service under section 1861(e)(8), section 1861(f)(3) and (4), section 1861(g)(3) and (4), section 1861(j)(10), section 1861(p)(4)(A)(v) and (B) shall be promulgated in accordance with the provisions of section 553 of title 5, United States Code.

EFFECTIVE DATE

SEC. 162. That part of the amendments made by section 160 which added new sections 1881 through 1885 to title XVIII of the Social Security Act shall take effect July 1, 1971.

TITLE II—HEALTH BENEFITS FOR THE GENERAL PUBLIC

SEC. 201. (a) The Social Security Act, as amended by the preceding provisions of this Act, is further amended by adding after title XIX the following new title:

"TITLE XX—HEALTH BENEFITS FOR THE GENERAL PUBLIC

"PURPOSE

"SEC. 2001. It is the purpose of this title to secure to every individual who—

"(1) is a resident of the United States, and

"(2) is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States,

coverage for all the benefits provided under parts A and B of title XVIII of this Act.

"ENTITLEMENT TO BENEFITS

"SEC. 2002. (a) Every individual who—

"(1) is not entitled or deemed to be entitled (and upon the filing of appropriate application or applications could not become entitled or deemed to be entitled) under section 226 to hospital insurance benefits under part A of title XVIII;

"(2) is a resident of the United States (as defined in section 210(i));

"(3) is (i) a citizen of the United States, or (ii) an alien lawfully admitted for permanent residence; and

"(4) has filed application under this section in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary,

shall be entitled to hospital insurance benefits under part A of title XVIII (and consequently to the benefits provided by part B thereof) for each month that he meets the conditions specified in paragraphs (1) through (3), beginning with the first month after June 1973 for which he has filed application for such benefits and meets the conditions specified in paragraphs (1) through (3). An individual met the conditions specified in paragraphs (1) through (3) for any month shall be deemed to be entitled to such benefits for such month if he files application in accordance with the requirements imposed pursuant to paragraph (4) prior to the end of the twelfth month following such month.

"(b) Except as otherwise provided in this title or by regulations of the Secretary, individuals entitled to hospital insurance benefits under part A of title XVIII by reason of the provisions of this title shall receive such benefits in like manner and under the same conditions as obtained in the case of individuals who are entitled to such benefits by reason of the provisions of section 226.

"TRUST FUND ACCOUNT FOR PERSONS COVERED UNDER TITLE XX

"SEC. 2003. (a) There is hereby established in the Federal Health Insurance Trust Fund a special account to be known as the 'Special Account for Persons Covered Under Title XX' (hereinafter in this section referred to as the 'Special Account').

"(b) Notwithstanding any provision of title XVIII, all benefits to which individuals are entitled under such title by reason of the provisions of this title, and all administrative expenses attributable to the providing of such benefits, shall be paid from and only from the Special Account.

"(c) Moneys in the Federal Health Insurance Trust Fund which are not transferred to the Special Account shall be regarded as being held in the General Account of such Fund and moneys in such General Account shall be available for the purposes for which moneys in such Fund were available prior to the establishment of the Special Account.

"(d)(1) The Secretary shall prior to each fiscal year, estimate the total amounts which will be necessary—

"(A) to pay the total of the benefits payable from the General Account for such fiscal year, together with the administrative expenses attributable to the payment of such benefits, and

"(B) to pay the total of the benefits payable from the Special Account for such fiscal year, together with the administrative expenses attributable to the payment of such benefits.

"(2) The Board of Trustees of the Federal Health Insurance Trust Fund, shall, on the basis of estimates of the Secretary with respect to any fiscal year, apportion moneys which will be appropriated to the Trust Fund for such year between the General Account and the Special Account; except that, if, on the basis of estimates of the Secretary of the Treasury as to the total amounts which will be so appropriated, such total amounts will be less than the aggregate of the estimates of the Secretary for the General Account and for the Special Account, there shall be apportioned to the General Account the full amount estimated under paragraph (1) for the General Account and the balance shall be apportioned to the Special Account."

TITLE III—FINANCING OF HEALTH INSURANCE

SEC. 301. (a)(1) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(r) WAGE BASE FOR PURPOSES OF HEALTH INSURANCE.—For purposes of the tax imposed by section 3101(b) only, the term 'wages' (as defined in subsection (a)) shall have the same meaning as that set forth in such subsection, except that the amount '$7,800', wherever it appears therein, shall be deemed to be '$15,000'; and, for purposes of the tax imposed by section 3111(b) only, the term 'wages' (as defined in subsection (a)) shall have the same meaning as that set forth in such subsection, except that the provisions of paragraph (1) of such subsection shall be deemed to be inapplicable."

(2) The second sentence of section 3122 of such Code (relating to Federal service) is amended by striking out "section 3111" wherever it appears therein and inserting in lieu thereof "section 3111(a)".

(3) Section 3125 of such Code (relating to returns in case of Governmental employees in Guam, American Samoa, and the District of Columbia) is amended—

(A) by striking out (in the second sentence of subsection (a) thereof) "section 3111" and inserting in lieu thereof "section 3111(a)";

(B) by striking out (in the second sentence of subsection (b) thereof) "section 3111" and inserting in lieu thereof "section 3111(a)"; and

(C) by striking out (in the second sentence of subsection (c) thereof) "section 3111" and inserting in lieu thereof "section 3111(a)".

(4) Section 6413(c)(1)(D) of such Code (relating to special refunds) is amended—

(A) by inserting "(ii)" immediately after "(D";

(B) by striking out "section 3101" and inserting in lieu thereof "section 3101(a)"; and

(C) by inserting immediately before the period at the end thereof the following: "; and (ii) during any calendar year after the calendar year 1970, the wages received by him during such year exceed $15,000, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101(b) and deducted from the employee's wages (whether not not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $15,000 of such wages received in such calendar year".

(5) The amendment made by paragraph (1) shall be effective only with respect to remuneration paid after December 1970; the amendments made by paragraph (2) and (3) shall be effective only with respect to taxes imposed by chapter 21 of the Internal Reve-

nue Code of 1954 with respect to service performed after December 1970; and the amendments made by paragraph (4) shall be effective only in the case of wages received during calendar years after the calendar year 1970.

(b) (1) Section 1402 of the Internal Revenue Code of 1954 (relating to definition for purposes of the Self-Employment Contributions Act of 1954) is amended by adding at the end thereof the following new subsection:

"(1) SELF-EMPLOYMENT INCOME BASE FOR PURPOSES OF HEALTH INSURANCE—For purposes of the tax imposed by section 1401(b) only, the term 'self-employment income' (as defined in subsection (b)) shall have same meaning as that set forth in such subsection, except that the amount '$7,800' contained in paragraph (1)(E) thereof shall be deemed to be '$15,000'."

(2) The amendment made by paragraph (1) shall be effective only with respect to taxable years ending after December 1970.

SEC. 302. (a) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions for purposes of the Federal Insurance Contributions Act), as amended by section 301 (a)(1) of this Act, is further amended by adding after subsection (r) thereof (as added by such section 301(a)(1)) the following new subsection:

"(s) EMPLOYMENT FOR PURPOSES OF HEALTH INSURANCE.—For purposes of the tax imposed by section 3101(b) only, the term 'employment' (as defined in subsection (b)) shall have the same meaning as that set forth in such subsection except that the provisions of paragraphs (3), (5), (6), (7), (8), (9), (10), and (17) of such subsection shall be deemed to be inapplicable; and, for purposes of the tax imposed by section 3111(b) only, the term 'employment' (as defined in subsection (b)) shall have the same meaning as that set forth in such section, except that the provisions of paragraph (3), (5), (6), (9), (10), and (17) of such subsecion shall be deemed to be inapplicable."

(b)(1)(A) Section 218(e)(1)(A) of the Social Security Act is amended by striking out "sections 3101 and 3111 of the Internal Revenue Code of 1954" and inserting in lieu thereof "sections 3101(a) and 3111(a) of the Internal Revenue Code of 1954".

(B) Section 218(e) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of any agreement entered into under this section prior to January 1, 1971, no State shall be required to pay or be under any obligation to pay to the Secretary of the Treasury, with respect to service covered under the agreement and performed after December 31, 1970, amounts equivalent to the taxes which would have been imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 if such service constituted employment as defined in section 3121 of such Code."

(2) Section 218(h)(1) of such Act is amended—

(A) by striking out "and the Federal Hospital Insurance Trust Fund", and

(B) by striking out "subsection (a)(3) of section 201, subsection (b)(1) of such section, and subsection (a)(1) of section 1817, respectively" and inserting in lieu thereof "subsection (a)(3) and (b)(1) of section 201".

(c) The amendment made by subsections (a) and (b)(2) of this section shall be applicable only with respect to service performed after December 31, 1970; and the amendment made by subsection (b)(1)(A) shall apply with respect to agreements under section 218 of the Social Security Act which are entered into after December 31, 1970, or which are entered into prior to such date but which first become effective on or after January 1, 1971.

SEC. 303. Section 3121 of the Internal Revenue Code of 1954 (relating to definitions for purposes of the Federal Insurance Contributions Act), as amended by sections 301 (a)(1) and 302(a) of this Act, is further amended by adding after subsection (s) thereof (as added by such section 302(a)) the following new subsection:

"(t) EXCLUSION FROM EMPLOYMENT OF CERTAIN SERVICES FOR PURPOSES OF HEALTH INSURANCE.—For purposes of the taxes imposed by sections 3101(b) and 3111(b) only, the term 'employment' shall not include performance of service by an employee of an employer who has in effect an agreement entered into between such employer and the Secretary of Health, Education, and Welfare pursuant to section 1886 of the Social Security Act for the provision of health care benefits for the employees of such employer, if such employee is, at the time such service is performed, entitled to the health care benefits provided pursuant to such contract."

SEC. 304. (a)(1) Section 3101(b) of the Internal Revenue Code of 1954 (relating to rate of tax on employees) is amended by striking out paragraphs (1) through (5) and inserting in lieu thereof the following:

"(1) with respect to wages paid during the calendar year 1971, the rate shall be 0.7 percent;

"(2) with respect to wages paid during the calendar year 1972, the rate shall be 0.9 percent;

"(3) with respect to wages paid during the calendar year 1973, the rate shall be 2.0 percent;

"(4) with respect to wages paid during the calendar year 1974, the rate shall be 3.1 percent; and

"(5) with respect to wages paid during the calendar year 1975, or any calendar year thereafter, the rate shall be 3.3 percent."

(2) The amendment made by paragraph (1) shall be effective only with respect to remuneration paid after December 31, 1970.

(b)(1) Section 3111(b) of such Code (relating to tax on employers) is amended by striking out paragraphs (1) through (5) and inserting in lieu thereof the following:

"(1) with respect to wages paid during the calendar 1971, the rate shall be 0.7 percent;

"(2) with respect to wages paid during the calendar year 1972, the rate shall be 0.9 percent;

"(3) with respect to wages paid during the calendar year 1973, the rate shall be 2.0 percent;

"(4) with respect to wages paid during the calendar year 1974, the rate shall be 3.1 percent; and

"(5) with respect to wages paid during the calendar year 1975, or any calendar year thereafter, the rate shall be 3.3 percent."

(2) The amendment made by paragraph (1) shall be effective only with respect to remuneration paid after December 31, 1970.

(c)(1) Section 1401(b) of such Code (relating to rate of tax on self-employment income) is amended by striking out paragraphs (1) through (5) and inserting in lieu thereof the following:

"(1) in the case of any taxable year beginning after December 31, 1970 and before January 1, 1972, the tax shall be equal to 0.7 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1971 and before January 1, 1973, the tax shall be equal to 0.9 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1972 and before January 1, 1974, the tax shall be equal to 2.0 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1973 and before January 1, 1975, the tax shall be equal to 3.1 percent of the amount of the self-employment income for such taxable year; and

"(5) in the case of any taxable year beginning after December 31, 1974, the tax shall be equal to 3.3 percent of the self-employment income for such taxable year."

(2) The amendment made by paragraph (1) shall apply only with respect to taxable years beginning after December 31, 1970.

SEC. 305. Section 1817 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) In addition to the funds appropriated for each fiscal year to the Federal Health Insurance Fund pursuant to subsection (a), there is authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1972, an amount which is equal to 50 per centum of the amount appropriated to such Fund for such year pursuant to such subsection," and such additional amount as the Secretary estimates would have been so appropriated if he had not entered into any agreements pursuant to section 1886.

## TITLE IV—FEDERAL AID TO ESTABLISH LOCAL COMPREHENSIVE HEALTH SERVICE SYSTEMS

### FINDINGS AND DECLARATION OF PURPOSE

SEC. 401. (a)(1) The Congress hereby finds and declares that improving the provision and the delivery of health care is of critical importance and of the highest national priority and that present programs of health services do not provide for continuing, efficient and comprehensive health care, and lead to an unnecessary duplication of facilities, equipment, and personnel.

(2) The Congress further finds and declares that the establishment of a system of health insurance for every American must not only increase purchasing power and equalize access to quality health care but must also bring about significant changes in the health care system.

(b) It is the purpose of this title to provide financial and technical assistance through loans, grants, supplementary financing and otherwise to health service institutions and organizations which will stimulate and enable such institutions and organizations to plan, develop and implement comprehensive systems for the delivery and provision of health care.

### BASIC AUTHORITY

SEC. 402. The Secretary of Health, Education, and Welfare (hereinafter in this title referred to as the "Secretary") is authorized to make loans and grants and to provide technical assistance, as provided by this title, to enable comprehensive health service systems (as defined in section 407) to plan and develop comprehensive health care programs in accordance with the purpose of this title, and to assist them to become self-supporting.

### ELIGIBILITY FOR ASSISTANCE

SEC. 403. (a) A comprehensive health service system (as defined in section 407 of this title) is eligible for assistance under section 405 of this title if—

(1) such system assures the provision of health services to all its members by a contract or contracts with the Secretary, or by such a contract and subcontracts, entered into by one or more providers of services (as defined in section 1861(u) of the Social Security Act) and other persons furnishing health services, or by a health insurance carrier or nonprofit prepayment plan, or by a combination of the foregoing;

(2) such system is designed, to the maximum extent feasible, to make all health services readily accessible to persons residing in the specified primary service area and will pay for transportation where reasonable accessibility to persons in that area cannot otherwise be assured;

(3) all persons, whether or not residing within the primary service area, are eligible to become members of such system, except that (A) the number of members may be

limited, with or without giving preference to persons living within the primary service area, to avoid overtaxing the resources of the system, and (B) such restrictions upon enrollment may be imposed as are approved by the Secretary as necessary to prevent undue adverse selection: and the system is so designed and operated as to encourage enrollment from as broad as practicable a range of income and social groups;

(4) all health services are provided by providers or other persons who met the standards imposed by or pursuant to title XVIII of the Social Security Act for the respective services;

(5) such system encourages increased health education of its members and the development and use of preventive health services, and provides for a group of physicians (such as a committee of medical school faculty, of a hospital medical staff, or of a group practice organization), approved by the Secretary for this purpose, consulting periodically with representatives of the membership, to fix the professional policies of the system, to oversee the professional aspects of the delivery of services, and to review the utilization of all health services, drugs and supplies;

(6) such system shall, to the extent practicable and consistent with good medical practice, train and employ allied health personnel and subprofessional and lay persons in the rendering of services;

(7) any participating extended care facility is affiliated with a hospital or with a group practice or similar organization and the medical staff of the hospital or the group practice organization assumes responsibility for rendering or supervising professional services in the facility;

(8) premiums charged by such system for services not paid for under title XVIII of the Social Security Act are reasonable; and

(9) the establishment of such system shall be consistent with any comprehensive State health plan developed pursuant to section 314(a) of the Public Health Service Act, as amended, and shall be approved by the State planning agency designated or established pursuant to that section, and, where appropriate, shall be in accord with areawide health planning carried out pursuant to section 314(b) of that Act;

(b) In administering this title, the Secretary shall emphasize local initiative and consumer and community involvement in the planning, development and operation of such comprehensive health service systems, and shall seek to insure prompt response to local initiative, and maximum flexibility in the planning, development and operation of such systems. Appropriate Federal departments and agencies shall provide maximum coordination of other Federal assistance with the operation of this title.

FINANCIAL AND TECHNICAL ASSISTANCE FOR PLANNING COMPREHENSIVE HEALTH SYSTEMS

SEC. 404. (a) The Secretary is authorized to make grants to, and to contract with, any public or nonprofit hospital, or any medical school or other institution of higher education, or any insurance carrier or nonprofit prepayment plan providing health coverage, or any nonprofit community organization, or any community group organized for this purpose in a geographically defined primary service area and representing a broad range of income and social groups, or any combination of two or more such entities, to pay 80 percent of the cost of planning and developing a plan for a comprehensive health service system (as defined in section 407) which will meet the requirements of section 403. The Secretary is also authorized to undertake such activities as he determines to be desirable to provide, either directly or by contracts or other arrangements, technical assistance to such entities for the development of plans for such comprehensive health service systems.

(b) Financial and technical assistance for planning such a system will be provided under this section only if the application for such assistance has been approved by the State health planning agency designated or established pursuant to section 314(a) of the Public Health Service Act, as amended.

FINANCIAL AND TECHNICAL ASSISTANCE FOR THE OPERATION OF APPROVED COMPREHENSIVE HEALTH SERVICE SYSTEMS

SEC. 405. (a) The Secretary is authorized to approve a plan for a comprehensive health service system (as defined in section 407) if, after review of the plan, he determines that such plan satisfies the criteria set forth in section 403.

(b) The Secretary is authorized to contract, in accordance with section 403(a)(1), with a comprehensive health service system, if he has approved the plan for such system, to pay so much of the administrative operating, and maintenance costs of such system as exceed its income for the first five years of operation after approval under this section. Any such contract shall require the system to make all reasonable efforts to enroll members, to control costs and the utilization of services, facilities, and supplies, and otherwise to maximize its income and minimize its costs. If at any time the Secretary finds that the system in not making reasonable progress toward becoming self-supporting, he may, after hearing, terminate the contract on not less than six months' notice.

(c) To assist a comprehensive health service system to carry out programs of capital development which the Secretary finds necessary for the purposes of this title, the Secretary is authorized to make a grant to such system of not to exceed 80 percent of the amount of non-Federal contribution otherwise required for the construction or modernization of hospitals and other medical facilities assisted under title VI of the Public Health Service Act, as amended: *Provided*, That such project has been approved by the State agency under that title and is consistent with the approved State plan, other than the provisions thereof respecting priorities.

(d) In connection with any project of an approved comprehensive health service system for the modernization, rehabilitation, or construction of ambulatory care facilities which the Secretary finds necessary for the purposes of this title, the Secretary is authorized, in lieu of assistance under any other Federal program or under subsection (c) of this section, to make a grant for up to 50 percent of the cost of such project and to make a loan, on such terms as he shall prescribe, except that the rate shall not exceed 3 percent per annum, for the remaining cost of the project.

(e) The Secretary is authorized to contract to make periodic interest reduction payments on behalf of any group practice or other ambulatory care facility, nonprofit hospital or nursing home which is operated or to be operated as part of an approved comprehensive health service system, such interest reduction to be accomplished through payments to the holder of a mortgage insured under Title XI, or Section 232, or Section 242, of the National Housing Act. Interest reduction payments with respect to a facility shall be made during such time as the facility is operated as part of the approved comprehensive health service system. The interest reduction payments shall be in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the owner of the facility is obligated to pay under the mortgage, and the monthly payment for such purposes which the owner would be obligated to pay if the mortgage bore interest at the rate of 1 percent per annum.

(f) Of the sums appropriated pursuant to section 406 for any fiscal year, 2 per centum shall be available for grants by the Secretary to pay 100 per centum of the costs (but in no case to exceed $100,000) of projects, in areas designated by the Secretary as urban or rural poverty areas, for assessing local needs for comprehensive health service systems, obtaining local financial and professional assistance and support for local comprehensive health service systems, or for comprehensive health service system projects which, in his judgment, are of national significance because they will assist in meeting the needs of the disadvantaged for comprehensive health services systems or demonstrate new or particularly effective or efficient methods of delivery of health care through comprehensive health service systems.

APPROPRIATIONS

SEC. 406. There are authorized to be appropriated for the purposes of this title $——— for the fiscal year ending June 30, 1970, $——— for the fiscal years ending June 30, 1971 and June 30, 1972, $——— for each of the three fiscal years thereafter, and for succeeding fiscal years sums sufficient to carry out contracts entered into pursuant to this title.

DEFINITIONS

SEC. 407. As used in this title, the term "comprehensive service system" means a system providing health care to an identified population group in a primary service area and its environs enrolled as members, on the basis of contractual arrangements (which embody group practice, are established by a medical school, a hospital medical staff or a medical center, or similar arrangements) among participating providers of service and other persons organized so as to—

(1) assure continuiny of care and the ready referral and transfer of patients where medically appropriate;

(2) provide comprehensive health services, which shall include at least all services specified in title XVIII of the Social Security Act, as amended by this Act (such services to be provided except as authorized by the Secretary, without deductibles, coinsurance, or copayment), drugs prescribed for ambulatory patients, one hundred days of extended care services (which are not post-hospital extended care services) in any spell of illness, and necessary immunization, and may include other health services which are approved by the Secretary as appropriate to the particular comprehensive health service system.

TITLE V—FEDERALLY CHARTERED HEALTH INSURANCE CORPORATIONS

SEC. 501. Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"SEC. 708. In order to assure maximum availability of a variety of techniques for the administration of benefits and services under title XVIII, the Secretary of Health, Education and Welfare is hereby authorized to organize and establish one or more national health insurance corporations, each of which shall be an agency of the United States under the policy guidance of the Secretary, and shall have such organization and such powers as the Secretary finds necessary for the effectuation of title XVIII.

"SEC. 709. The Secretary shall be authorized to contract with, or enter into arrangements with, the corporation or corporations organized and established under section 708 to the same extent as he is authorized to contract with carriers and other agencies and organizations under Part G of title XVIII and to enter into agreements with States under Part F of such title."

The material presented by Mr. JAVITS is as follows:

THE LIBRARY OF CONGRESS,
*Washington, D.C., April 13, 1970.*

To. Hon. JACOB JAVITS.

From: Education and Public Welfare Division.

Subject: Review of the major provisions of your proposed National health insurance plan.

This is in reply to your recent request asking for a review and description of the major provisions of your proposed program of National health insurance for the United States. The description of the provisions of the bill, which is outlined below, is intended only to summarize the principal features of the legislation and in no way is it intended to constitute a comprehensive analysis of any single provision in the legislation. Because of the time requirements imposed on us by this request, we are unable to touch upon every aspect of the proposal. We have, therefore, confined this discussion to capsule statements summarizing the principal features of each part of the proposal. In the event you would like us to examine the bill in greater detail, please let us know.

PURPOSE AND ORGANIZATION OF THE LEGISLATION

The proposed "National Health Insurance and Health Services Improvement Act of 1970" would create a National health insurance program for the United States by extending the benefits, enlarging the scope of coverage, and by otherwise revising the existing program of health insurance for the aged, commonly known as medicare (title 18 of the Social Security Act), and provide Federal assistance for the development of local comprehensive health care.

According to the findings outlined in the draft bill, Congress finds that the existing health care system in the Nation cannot guarantee the right to quality health care for every citizen regardless of economic status. The legislation states that the Government has, therefore, an obligation to encourage the development of systems of care which would eliminate economic and organizational barriers to health care for every American, including the aged, the indigent, the disabled and the unemployed.

Specifically, the draft legislation would seek to meet these objectives by means of five titles.

First, the existing Title 18 program would be revised, both as to its coverage of certain insured individuals and to the benefits provided by the program. Basic hospital insurance benefits (Part A of the existing Title 18 program) would be available under the bill not only to all older people but to the disabled, widows, and widowers as well. The supplementary benefits program (Part B of the existing Title 18 program) would be provided to such covered individuals without separate premium costs. Title I of the bill would also add, among the services covered by the newly expanded Title 18 program, the costs of certain maintenance drugs, annual physical checkups, and certain dental health services for children under 8 years of age. Other provisions provide for limitations on certain charges for services, for administration of the program and for means of stimulating improvements in the organization of health care in the United States.

Title II of the proposed legislation establishes a health benefits program for all persons not otherwise protected under the revised title 18 program. The benefit package provided for under this new title (a proposed title 20 of the Social Security Act) is identical with those benefits provided to the aged and disabled under the revised title 18 program.

Title III of the proposal provides for the financing of the National health insurance program by expanding upon the current payroll tax mechanism used to finance retirement, survivors, disability and hospital insurance benefits in the present Social Security Act. Changes in the tax rates and earnings base, to which such rates are applied, are provided for in the legislation. In addition to the wage-related financing provisions authorized by the bill, however, a separate source of income for the program is authorized by requiring the Government to meet one-third of the total costs of National health insurance out of general revenue funds.

Title IV of the proposal provides for financial and technical assistance through programs of loans, grants, and supplementary financing to institutions and to other organizations for the purpose of stimulating and developing improved comprehensive systems delivering and providing health care to the public.

Title V of the proposed Act calls for the establishment of national health insurance corporations which would be federally chartered and operate as agencies of the U.S. under the guidance of the Secretary of Health, Education and Welfare. Such federal health insurance corporations would operate under contract with the Secretary in a manner similar to contract agreements entered into between the Secretary and various private health insurance carriers, non-profit organizations, etc.

SELECTIONS OF THE DRAFT PROPOSAL

*Title I—Amendments relating to the present title 18 of health insurance program*

Title I of the proposed legislation contains seven parts designed to revise the scope of coverage of the title 18 program to groups of persons in addition to those now covered by law, to expand the scope of benefit coverage provided by the existing program, and to provide for improved health care administration in connection with a National health insurance program.

Part A

Sec. 101—*Changes in Entitlement to Health Insurance:* revises Sec. 226 of the present Social Security Act, relating to who is entitled to hospital insurance benefits under medicare (title 18, Part A), by including all persons aged 65 and older (including those not presently insured) and all others receiving benefits based upon their disability (including those 18 and over with childhood disabilities). In addition, entitlement is established for widows aged 60 and over and for widowers aged 62 and over. The existing provisions relating to entitlement for certain uninsured persons are repealed by the bill.

Sec. 102—*Changes in the Name of the Title 18 Program:* the present Health Insurance Program for the Aged is renamed the "Health Insurance Program," and the program description is changed to refer to the disabled as well as to the aged. The phrase "for the Aged" is dropped from the names of the present Hospital and Supplemental Medical Insurance Programs.

Sec. 103—*New Supplementary Medical Insurance Program:* deletes reference of this program solely for the aged and makes entitlement to supplemental benefits solely a matter of entitlement to the Part A, or hospital insurance program. Repeals certain provisions of the present supplementary program and transfers to a Federal Health Insurance Fund the assets and liabilities of the Supplementary Medical Insurance Trust Fund now used to finance current Part B benefits. Eliminates reference in the present medicaid law (title 19) to the present Part B, or supplementary program.

SEC. 104—*Coordination with the Railroad Retirement Act:* Coordinates provisions of the Railroad Retirement Act with the expanded title 18 program and includes the disabled railroad retirement employees among those entitled to health insurance benefits, in a manner similar to those disabled covered under the Social Security Act.

SEC. 105—*Effective Date:* The effective date of the Part A provisions would be July 1, 1971.

Part B

Sec. 110—*Coverage of Drugs under the New Health Insurance Program:* expands the benefit coverage under the new title 18 program to include protection against the costs of certain maintenance drugs appropriate to the treatment of certain long-term conditions. Provides for the cost-sharing by beneficiaries for such maintenance drugs available on an outpatient basis. Establishes the conditions for which drugs are to included, how drug costs are to be paid, and other standards for administering and supervising a drug benefit under the program. The inclusion of a maintenance drug benefit would be effective with respect to drugs dispensed after June 30, 1973.

Part C

Sec. 120—*Coverage of Physical Examination:* adds a new benefit to the revised title 18 program by covering the costs of physical checkups to include eye examinations, ear examinations, and such other diagnostic tests or examinations which would be likely to reveal defects, diseases or conditions susceptible to effective treatment and control. Checkup services would also include the costs of physicians' service appropriate for the interpretation, evaluation or analysis of these tests. The deductible provision, now applicable to the Part B program, would not apply in the case of expenses incurred for checkups, except that limits are placed upon the maximum charges which would constitute incurred charges for checkups. These additional benefits would become available after June 30, 1974.

Part D

Sec. 130—*Dental Services for Children:* amends the new health insurance program to provide for routine dental care for children under 8 years of age. As in the case of physical checkups, the deductible provisions of the present Part B program would not apply. These benefits would become available after June 30, 1974.

Part E

Sec. 140—*Limitations on Certain Charges for Services:* amends effective January 1, 1971 the current "reasonable charges" section of the present Part B program and substitutes the phrase "appropriate and reasonable charges."

Sec. 141—*Physicians' Qualifications:* Revises under Title 18 of the Social Security Act the definition of the term "physician" by imposing certain qualifications for physicians providing services under the health insurance program. Such qualifications would be related to standards for 1) continuous professional education 2) national minimum licensure requirements 3) performance of various specialty services. Any physician or specialist failing to meet such standards would not be recognized as a "physician" for purposes of the program, although the Secretary of HEW would be required to notify the physician of any deficiency and allow for a "reasonable opportunity" to correct it.

Part F

Sec. 150—*Agreements with States for Administration:* amends Title 18 of the Social Security Act to allow the Secretary of HEW to arrange for State administration of the health insurance programs established pursuant to Title 18 of the Act. Reimbursement to the States for costs of carrying out such agreements would be made by the Secretary of HEW.

Part G

Sec. 160—*Improvement in the Organization of Health Care:* Amends Title 18 of the Social Security Act (the revised medicare pro-

gram) by adding a new "Part D" to the program. The purpose of this part is to encourage the rational organization of health care services and facilities so as to provide greater continuity and comprehensiveness of care of the individual, to provide greater consumer education and participation, and to emphasize preventive, diagnostic, and early therapeutic services, to control the costs of services paid for under the title and to stimulate diversity and innovation in the provision of health insurance protection.

Part D would authorize the Secretary to develop, by means of contracts and by other methods, the growth of "comprehensive health service systems." Such systems would agree to provide the basic benefits provided for in the revised health insurance program and also agree to carry out appropriate utilization and cost control responsibilities in connection with the provision of benefits. Such systems would have to be consistent with comprehensive health plans developed by each State. The Secretary would be authorized to use various means of reimbursement (other than a reasonable cost system) to pay for benefits provided by comprehensive health service systems, and could develop special incentive provisions for these systems if their costs were generally less than costs otherwise experienced by the health insurance program. A special employer-employee health plan option is authorized where employers provide for their employees' health care benefits under a qualified plan in lieu of benefits otherwise provided by the new program. The effective date for the new Part G program would be July 1, 1971.

*Title II—Amendments relating to health benefits for the general public*

Title II of the proposed legislation would add a new title 20 to the Social Security Act to provide for the entitlement to benefits of the revised title 18 program for all persons not otherwise so entitled by reasons of other provisions in the law. The new title 20 is composed of two sections:

Sec. 2001—*Entitlement to Benefits for the Uninsured:* provides that any person, who is a resident and a citizen (or an alien lawfully admitted for permanent residence), not otherwise entitled to the revised title 18 program (by reason of Sec. 226 of the Act) would be entitled to the same benefits of that program on July 1, 1973. Special provisions would govern the manner and period during which such entitlement would be established.

Sec. 2002—*Trust Fund Account for the Uninsured:* creates within the new Federal Health Insurance Trust Fund a special account known as the "Special Account for the Uninsured." Benefits provided for the persons entitled under title 20 would be paid from, and only from, this Special Account. This section also specifies the manner in which funds are to be appropriated to the Special Account within the Health Insurance Trust Fund.

*Title III—Financing of health insurance*

Title III of the proposed legislation is divided into five parts which identifiy and explain the taxing mechanism devised to provide the financial resources with which the national health insurance program will operate. The new title includes amendments to the Internal Revenue Code relating to payroll deductions for the purposes of health insurance:

Sec. 301—*Wage and Income Bases for Purposes of Health Insurance:* amends those sections of the Internal Revenue Code of 1954 (relating to definitions for the purposes of Federal Insurance Contributions) by adding new subsections setting forth definitions of wage and self-employment income bases for purposes of health insurance. The wage and income bases on which taxes are imposed in connection with the financing of health insurance benefits provided under the proposed Act would be set at $15,000 rather than $7800 per annum with respect to the tax paid by employees of the self-employed. No ceilings are placed on the wages with respect to taxes paid by the employer. The bill indicates that the effective date of the tax change and wage base would begin with taxable years ending after December, 1970.

Sec. 302—*Definition of the Term "Employment" for the Purposes of Health Insurance:* amends Internal Revenue Code so as to include only within the framework of the revised taxing mechanism, certain additional categories of employees and employers formerly excluded from taxing provisions used to finance benefits under Title 18 Social Security Act. Additional categories of employees to be included for taxing purposes are: individuals engaged in family employment; federal, state and local government employees; ministers; railroad employees, individuals in employ of tax-exempt organizations; individuals in employ of registered subversive organizations. Employers of these individuals in above-mentioned categories would also be included in the taxing mechanism for health insurance with the exception of employers falling into the categories of state and local governments and churches and religious orders. Effective date of this section will be 12/70.

Sec. 303—*Exception of Certain Employment for Health Insurance Taxing Purposes:* provides that employment which includes the performance of service by an employee for an employer, who has in effect a contract with the Government relating to a comprehensive health service system, is excluded for purposes of health insurance taxation.

Sec. 304—*Rate of Tax for Health Insurance Purposes on Employees, Employers, and Self-Employed Individuals:* amends Internal Revenue Code by establishing new tax rate schedules for health insurance purposes applicable equally to employers, employees, and self-employed individuals as follows:

[In percent]

| Calendar years | Employers | Employees | Self-employed |
|---|---|---|---|
| 1971 | 0.7 | 0.7 | 0.7 |
| 1972 | .9 | .9 | .9 |
| 1973 | 2.0 | 2.0 | 2.0 |
| 1974 | 3.1 | 3.1 | 3.1 |
| 1975 and thereafter | 3.3 | 3.3 | 3.3 |

Sec. 304—*Appropriations to Federal Health Insurance Fund:* provides that in addition to funds appropriated to Federal Health Insurance Fund through taxing mechanism described above, there shall also be appropriated from general revenues an amount equal to 50% of the amount deposited in the Health Insurance Fund collected by means of the payroll tax mechanism and any additional amounts that would have been appropriated if no agreements had been authorized for employer-employee health plan options (as provided for in Part C, Title I of this bill).

*Title I—Federal aid to establish local comprehensive health service systems*

Title IV is composed of seven sections which emphasize the need for a reorganization of the present health care system and provisions of Federal financial and technical assistance to affect the desired changes:

Sec. 401—*Findings and Declaration of Purpose:* in keeping with its findings that present programs of health services fail to provide for continuous, efficient, and comprehensive health care, Congress declares that a system of national health insurance must be established in a way that will increase purchasing power, equalize access to quality care, and affect a change in the health care system. Declares that the purpose of this title is the provision of financial and technical assistance through the awarding of grants and loans to health service institutions and organizations in order to stimulate the planning, development, and implementation of comprehensive health service systems.

Sec. 402—*Basic Authority:* authorizes the Secretary of Health, Education, and Welfare to make such loans, grants, etc. as are provided for under this title.

Sec. 403—*Systems Eligible for Financial and Technical Assistance:* establishes the criteria for systems wishing to receive financial and technical assistance from the Government for the purposes of developing comprehensive health service systems. Such systems must, among other things, enter into an agreement with the Secretary to provide or arrange to provide services authorized by medicare. In addition to certain requirements concerning enrollment of beneficiaries in such systems, comprehensive health service systems must develop preventive health care programs, train and employ allied health personnel, and be organized in a manner consistent with the State's overall comprehensive health care plan.

Sec. 404—*Financial and Technical Assistance for Planning Comprehensive Health Service Systems:* authorizes Sec. of HEW to make grants to public or non-profit hospitals, medical schools, any insurance carriers or non-profit prepayment plans, etc. to pay 80% of the cost of planning and development of comprehensive health service systems. Applications for assistance under this title must be approved by a State health planning agency.

Sec. 405—*Financial and Technical Assistance for Operation of Approved Comprehensive Health Service Systems:* authorizes Secretary to contract with approved comprehensive health service system to pay so much of administrative, operating, and maintenance costs of such system as exceed its income for the first five years after approval. The contract shall require the system to make efforts to enroll members, control costs and utilization of services, and otherwise maximize income and minimize costs. Secretary may see fit to terminate contract after giving 6 months notice. Secretary is authorized to make grants to system for programs of capital development in an amount not to exceed 80% of non-Federal contributions otherwise required for construction and modernization of hospital, etc., under Title 6 of Pulic Health Service Act. The awarding of such a grant depends upon approval of the proposed project by the resonsible State health planning agency.

Sec. 406—*Appropriations:* authorizes appropriations to carry out contracts pursuant to Title IV.

Sec. 407—*Definitions:* the term "comprehensive health service systems" is intended to identify a system providing health care to an identified population group in a primary service area on basis of contractual arrangements which embody group practice, are established by a medical school, a hospital medical staff or medical center or similar arrangements among the participating providers of services. Describes comprehensive health service systems as those which provide at least all services specified in Title 18 of the Social Security Act as amended by this Act.

*Title V—Federally chartered health insurance corporations*

Title V of the proposed Act is composed of one section which amends the Social Security Act by adding new sections authorizing the Secretary of HEW to establish various national health insurance corporations which will operate under the guidance of the Secretary.

Sec. 501—National Health Insurance Cor-

porations: Authorizes the Secretary of Health, Education, and Welfare to establish and contract with one or more Federally chartered health insurance corporations for provision of health benefits under Title 18 of the Social Security Act. Health Insurance corporations so organized will act as agents of the U.S. Government under the guidance of the Secretary of HEW.

LEVEL OF BENEFITS—NATIONAL HEALTH INSURANCE AND HEALTH SERVICES IMPROVEMENT ACT OF 1970

The benefits provided to all citizens of the United States under my national health insurance bill—subject to existing coinsurance and deductibles—shall consist of no less than the following (effective for over 65 and disabled, July 1, 1971; for general public, effective July 1, 1973):

1. Up to 90 days—with a lifetime reserve of 60 additional hospital days—of bed patient care in any participating general care, tuberculosis or psychiatric hospital. When a bed patient in a hospital, some of the services paid for include:

Bed in semiprivate room (2–4 beds in a room) and all meals, including special diets;

Operating room charges;

Regular nursing services (including intensive care nursing);

Drugs furnished by the hospital;

Laboratory tests;

X-ray and other radiology services;

Medical supplies such as splints and casts;

Use of appliances and equipment furnished by the hospital such as wheelchairs, crutches, braces, etc.; and

Medical social services.

2. When the patient no longer needs the intensive care which hospitals provide, but still needs full-time skilled nursing care, he may be transferred—for up to 100 days—to an extended care facility—a specially qualified facility, staffed and equipped to furnish full-time skilled nursing care and related health services, which include:

Bed in a semiprivate room (2–4 beds in a room) and all meals, including special diets;

Regular nursing services;

Drugs furnished by the extended care facility;

Physical, occupational, and speech therapy;

Medical supplies such as splints and casts;

Use of appliances and equipment furnished by the facility such as wheelchairs, crutches, braces, etc., and

Medical social services.

3. After a stay in a hospital (or in an extended care facility after a hospital stay) if the physician determines continued care can be best given at home through a home health agency, the individual will be covered for as many as 100 home health visits for further treatment of the condition for which he received services as a bedpatient in hospital or extended care facility. The home health services include:

Part time nursing care;

Physical, occupational, or speech therapy;

Part-time services of home health aides;

Medical social services;

Medical supplies furnished by the agency; and

Use of medical appliances.

4. Doctor's services no matter where he treats the patient—in a hospital, his office, an extended care facility, home, a group practice or other clinic—and included are:

Medical and surgical services by a doctor of medicine or osteopathy;

Certain medical and surgical services by a doctor of dental medicine or a doctor of dental surgery;

Services by podiatrists which they are legally authorized to perform by the State in which they practice; and

Other services which are ordinarily furnished in the doctor's office and included in his bill, such as:

Diagnostic tests and procedures;

Medical supplies;

Services of his office nurse; and

Drugs and biologicals which cannot be self-administered.

5. Ambulance service to a hospital when (a) ambulance services are medically necessary to protect the health of the patient, (b) transportation by other means could endanger the patient's health, and

(c) the patient is taken to the nearest hospital that is equipped to take care of him (or to one in the same locality).

6. Outpatient hospital benefits which include:

Laboratory services such as blood tests and electrocardiograms;

X-ray and other radiology services;

Emergency room services; and

Medical supplies such as splints and casts.

7. In addition to "3" above, home health benefits—up to 100 home health visits each calendar year—even if the individual was not first hospitalized, if confined to home, a doctor determines home health care needed and periodically reviews the home health care plan. It would include:

Part-time nursing care;

Physical, occupational, or speech therapy;

Part-time services of home health aides;

Medical social services;

Medical supplies furnished by the agency; and

Use of medical appliances.

8. Other medical services and supplies for the treatment of illness or injury—furnished by a doctor as part of his treatment, or by the outpatient department of a hospital, or a medical clinic in connection with treatment, includes:

Diagnostic tests such as X-rays and laboratory tests;

Radiation therapy;

Portable diagnostic X-ray services furnished in your home under a doctor's supervision;

Surgical dressings, splints, casts, and similar devices;

Rental or purchase of durable medical equipment prescribed by a doctor to be used at home; for example, a wheelchair, hospital bed, or oxygen equipment, and

Devices (other than dental) to replace all or part of an internal body organ. This includes corrective lenses after a cataract operation.

9. Payment for maintenance drugs, a drug used for treatment extending over a period of 90 days or more and the withdrawal of which would be seriously harmful to the individual's health. The copayment shall be $1 until January 1974 and thereafter, an amount to be determined by the Secretary pursuant to the formula set up in the bill, effective July 1, 1973.

10. Payment of up to $75 for annual physical checkups, which include eye examinations for the purpose of prescribing, fitting, or changing eyeglasses; ear examinations for the purpose of determining the need for hearing aids; and such diagnostic X-ray, laboratory and other tests as are likely to reveal defects, diseases or conditions susceptible to effective treatment or control; including physician's services appropriate for interpretation, evaluation and analysis of such tests, for all over and under 65, effective July 1974.

11. Dental services for children under 8 years of age, including oral examinations and diagnosis, oral prophylaxis, fillings and removal of teeth, effective July 1, 1974.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, pursuant to a previous order, the Chair recognizes the Senator from Kansas (Mr. DOLE) for not to exceed 20 minutes.

## HANDICAPPED AMERICANS—1970

Mr. DOLE. Mr. President, April 14 marks two anniversaries in my life. One year ago I made my maiden speech to this body. Of course, that was a memorable occasion for a freshman Senator; however, the date for those remarks was itself chosen to mark another event. Twenty-five years ago on an April 14 in World War II, I became a member of an often misunderstood, frequently underestimated, and wholly involuntary minority group: the handicapped.

### TASK FORCES

Membership in this minority has meant many things to me. However, one point of special significance to me has been an appreciation of the immense potential for contribution to our society which the handicapped possess. Along with this great potential there is also a great need, a need for understanding—of the problems which the handicapped face—of the assistance they require to fulfill their potential—and of priorities for the limited resources available to attain this goal. As a step toward achieving this understanding, in my remarks last year I proposed the creation of a presidential task force on the handicapped. It was suggested that such a body review efforts in both the public and private sectors on a broad basis and furnish suggestions and observations on the most critical areas of concern to the handicapped.

I was highly gratified when President Nixon appointed two task forces to study the physically and mentally handicapped. The task force on the physically handicapped, composed of 13 highly dedicated and widely experienced individuals from State governments, industry and private organizations, was appointed in October and met during the fall and early winter. The task force on the mentally handicapped was appointed in December, and its distinguished members completed their meetings only last week.

The reports of these task forces should be uniquely valuable to both the administration and to the Congress in the formulation and administration of future programs to aid the handicapped. The focus of the task forces' effort within the areas of physical and mental disabilities will afford a perspective which to date has been unavailable to concerned agencies, organizations, and individuals.

### THE NEXT STEP

I would hope, however, that study of the handicapped will be carried one step further. To obtain the most comprehensive viewpoint of the entire area, it seems appropriate that an effort be made to synthesize and combine the work of the two task forces and the President's Committee on Mental Retardation. Each of these three groups has concentrated its efforts on major, broad segments of a general field. We now need to draw together all the elements and components of the problems of the handicapped.

Our current status reminds me of the fable of the three blind men who discovered an elephant. One encountered the trunk; another, the tail; and the other an ear. Although these three

groups are not by any measure blind, we now stand as did each blind man, with an accurate, but imcomplete understanding of the entire animal. We must now combine the knowledge and understanding which each task force and the committee have accumulated. We need to put the ear and the tail and the trunk together and construct the whole elephant.

The urgency of this need would not be so great if handicapped individuals neatly fell into one category or another and if the ramifications of developments in one field did not extend to other areas. But individuals frequently suffer combination or multiple handicaps. They are also affected emotionally by physical disabilities and have physical reactions to emotional handicaps. We cannot achieve optimum results in one area if we do not fully understand the whole field.

I sincerely hope the President will take the next step in fulfilling the commitment demonstrated by the creation of the task forces and the committee. A general committee or task force on the handicapped would cement the new foundation this administration has laid for progress and greater understanding in this field.

DIFFICULT AND UNIQUE PROBLEMS

In my remarks last year, I called attention to several projects of life in which the handicapped encounter particularly difficult and frequently unique problems.

Of course, employment is almost universally recognized as an area in which the handicapped are underutilized and often unjustifiably restricted. Numerous organizations and programs have sought to stimulate employment of handicapped workers and to open greater opportunities for them in the mainstream of life.

The economic problems which a handicap often generates are to a certain degree understood by the general public, but the impact on the lives of the afflicted and their families is frequently unappreciated. Some resources and financial benefits are available both through governmental and private channels, but often they are difficult to obtain or of only token significance.

The availability and access of needed health care facilities and personnel looms large in the lives of the handicapped. This is a matter which usually receives scant attention from the great mass of people because they have no comparable needs in their lives.

In a similar sense, rehabilitation services can be tremendously significant to the handicapped and disabled, but the public is largely unaware of the critical nature of this need.

Also, in the field of education the handicapped pose special difficulties in requirements of methodology, facilities and curricula. Slight attention and publicity have been given these matters outside fairly narrow corridors of concern and involvement.

A COMMON PROBLEM—INFORMATION

Common to each of these areas of difficulty is the problem of information. It appears that the greater the availability and coordination of knowledge, the more progress the handicapped have made toward achieving meaningful solutions and progress.

As an illustration of the general problem which affects the entire area, take the matter of architectural barriers to the handicapped.

ILLUSTRATION—ARCHITECTURAL BARRIERS

During the past decade, the pressures to create a more livable environment for disabled people have mounted. Not only the handicapped but all Americans are demanding environmental improvement—a respite from foul air, spoiled rivers, dying lakes, and squalid slums.

A vital part of the improvement that is required must take into account the special needs of the physically handicapped and the elderly in our population.

TWO FACTS UNDERSCORE THE NEED

The American Institute of Architects says that more buildings will be built in the United States between now and the year 2000 than were built here in the nearly five centuries since Columbus discovered America.

Due to medical and rehabilitation advances, the number of crippled children, disabled adults, and old people in the active population is steadily increasing and fewer of them are housebound.

Inevitably, there will be more handicapped people, and they will need more buildings and parks and transportation facilities to use in common with everyone. Therefore, it is now time to plan for, to design, and to control the construction of buildings, recreational areas, and equipment that will be used in the years ahead.

With so many customers for barrier-free environment, one might think that all architects, engineers, planners, and financiers of community facilities would automatically make it easy for the physically disabled to utilize them. But such is not the case. A continuing effort must be made to educate new architects and engineers to design with the needs of all Americans in mind—the disabled as well as the able bodied. We can, and we are, orienting the architects in general practice to the needs of the disabled and some of the design solutions to problems of making buildings more easily entered by handicapped people. Simple things which are built into the design of a structure can accomplish this. Examples are: one-ground-level entrance to each building; elevators in addition to stairs; ample door widths to permit entry of wheelchairs and people on crutches; toilets that can be used with privacy; some of the water fountains and phones lowered, so they can be reached by children and people in wheelchairs.

Much has been done through the great voluntary agencies of the country to sensitize the public to the architectural needs of the handicapped. In cooperation with Federal agencies, they have made great inroads into this problem. Most State legislatures and the Federal Government have passed laws or modified codes to take the architectural needs of the handicapped into account. The examples of good work and measurable achievement are many. But, the job is larger than can be accomplished with the present uncoordinated and fragmented attack on the problem.

NO CENTRAL SOURCE

This lack of coordination and centrally available information is not restricted to the subject of architectural barriers.

No one source exists where the handicapped can turn for information on colleges with special programs and facilities for them. The materials that are available are often incomplete and out of date when published and received.

Data on rehabilitation facilities and services, even on a regional basis, is woefully incomplete, and that which is compiled often can be found only through professional channels.

Much the same can be said for information on employment opportunities, health care facilities, and economic aid programs.

There is a great void in the efforts now underway. There is no central place, in or out of Government, where the handicapped, or their families or people who want to work on these and other problems, can get the information they need: The examples of what other communities, organizations, and institutions have done; copies of laws, standards and plans; and available funds and opportunities. Many people now try to keep in touch with what is going on by writing to the Department of Health, Education, and Welfare for information in connection with schools, or rehabilitation centers or aid programs. They contact the General Services Administration concerning design specifications for post offices and other Federal Government buildings. They call on the Department of Housing and Urban Development when they need assistance in building housing for the handicapped, or ideas on how to change local and State building codes to get a better system of private facilities developed. They also spend considerable effort in tracking down often groundless reports of new funds, programs and facilities for themselves and members of their families.

In other words, the knowledge about resources, research findings, technical assistance, reports, and information about what other governmental units, communities, businesses and colleges have done to accommodate handicapped people is diffused and completely lacking in centralization or coordination.

A NATIONAL RESOURCE AND INFORMATION CENTER

It is time that the Congress provided for the establishment of a National Information and Resource Center that would be a point of contact for individual citizens, private organizations, professional groups, and city and State officials, who seek information or direction. In such a center, the information would be stored for all to use. A small staff would be available to direct inquiries to specialized contacts, either universities, individuals or organizations, which have special knowledge or have successfully worked on aspects of these problems. Here it would be possible for interest groups and individuals to pool their knowledge with others. In the interchange of their experiences, we would see develop new ways to utilize our expanding technology in providing better living conditions, expanded personal opportunities, and more complete realization for the handicapped.

This information center will not be an end in itself. It is, however, an answer

to a specific and well-defined need, and it will meet this need at modest cost.

ANNUAL EVENT

Mr. President, this is the second floor speech I have given on the needs and problems of the handicapped. I plan to make it an annual event with the hope that each year I can offer some specific positive suggestions for action. I know that many of my distinguished colleagues are well known for their longstanding concern for the handicapped, and I solicit their comments and suggestions for possible initiatives. This field truly knows no partisanship or ideology, and working together we in the Senate, as well as all other interested individuals or organizations, can do much to secure meaningful and productive lives for the handicapped.

50TH YEAR FOR REHABILITATION

This is the 50th year for the State-Federal rehabilitation program. In this half-century the program has grown from one serving 523 people on a budget of $285,000 to one serving more than a quarter million disabled and handicapped individuals on a budget of more than $500 million. The services provided have broadened from strictly physical rehabilitation to encompass programs for those with emotional and behavioral disorders.

A most fitting mark for the beginning of the Federal Government's second half-century of active concern for and service to the handicapped would be the establishment of this center.

Mr. President, I shall soon introduce legislation to establish the national resource and information center for the handicapped. I urge and solicit the cosponsorship and support of my colleagues.

The 42 million Americans who belong to the handicapped minority will be the immediate beneficiaries of the center's services. America and the 160 million majority will be the ultimate beneficiaries, through the increased contribution, well-being and personal fulfillment of the handicapped.

## TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Senate will proceed to the transaction of routine morning business.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

## SENATOR SYMINGTON STRESSES NEED FOR WATER RESOURCE PROGRAM

Mr. RANDOLPH. Mr. President, over the years my distinguished colleague from Missouri, Senator SYMINGTON, and I have shared a common concern in the full development of our Nation's water resources.

Water is as vital to the citizens of West Virginia as it is to the citizens of Missouri, and indeed the future of our Nation and the very life of our people will depend in large part on the degree to which our water resource programs move ahead.

I bring to the attention of the Senate an excellent speech by the able Senator, made recently before the Mark Twain Lake and Clarence Cannon Dam Area Reservoir Association in Monroe City, Mo.

I ask unanimous consent that this speech be printed in the RECORD at this point.

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

LIFE FROM WATER

Perhaps no other Federal project in the United States pays tribute to two such illustrious Americans as the Clarence Cannon Dam and the Mark Twain Lake; and therefore, it gives me special pleasure to be with you and to acknowledge with gratitude the tremendous role that this organization and its leadership have played over the years in bringing this dam to reality.

Although there still remains much to be done, this year's Budget request of $5,225,000 is recognition of the Government's commitment to move ahead now in bringing flood control, power and recreation to this great area of our State. That is the second highest sum earmarked for any single project in Missouri. Incidentally, at a time when Missouri projects are being funded at an average of only 60 percent of capability, the request for Cannon is 80 percent of capability.

Progress is being made, and one day, we hope soon, Cannon Dam will be the jewel of Northeast Missouri.

Tonight I would talk to you about the vital need to take stock of our water; to conserve, wherever possible, clean fresh water; because if we are unsuccessful in that aim, neither this community nor this country can survive.

Water, it has often been noted, is perhaps the most dynamic force of change on earth. It is a tool that can be well utilized to reduce poverty and hunger, to make the arid lands bloom, and to bring hope where previously there was little hope.

Perhaps the best recognition of water lies in the motto of the town of Brits in South Africa: "Life from Water."

One has only to read history to realize the impact of water on the development of man. Slender threads of perhaps our first civilization can be traced along the fertile river valleys of the Tigris and Euphrates in Mesopotamia, the Nile in Egypt and the Lo River in China.

Thousands of years later the Missouri and the Mississippi served as highways to the pioneers who opened this continent; and we know that many of our greatest cities have grown up along their banks. Always the patterns of human settlement are linked to an accessible supply of fresh water.

Man cannot live without water. Even if he could live "by bread alone," it takes some 300 gallons of water a day to grow enough wheat to make a subsistence amount of bread.

Despite its great importance, although we are not running out of water per se, we are rapidly depleting our usable water supply.

Let me present what I mean by usable supply.

If the total amount of water in the world could be visualized as one barrel—55 gallons—the ocean would be represented as a tub containing 50 gallons. The ice caps and glaciers would be a small block of ice equivalent to about one gallon of water. All the remaining water in the world—representing the water in the atmosphere, lakes, and inland seas, rivers, ground water reservoirs, and soil moisture—would fill a four gallon bucket.

Of this four gallons, the total amount of usable water in the world would barely fill a tablespoon; and would represent all water flowing annually in the rivers of the world, the annually recoverable ground water, and the annual precipitation of all water on the land.

Even this "tablespoon" of water would be enough to meet man's basic needs of this planet if it were not for its unequal distribution. Some areas have far too little, others far too much. This was illustrated right here in Missouri last summer, because while much of the north and central part of the State was suffering from excessive rains and flooding, at the same time serious drought conditions prevailed in much of southern Missouri.

A Department of Agriculture official in Washington has observed that it was the first time in his memory disaster assistance had been requested for both drought and rain damage, at the same time, by a single state.

Because of this unequal distribution, more than half of the earth's people inhabit regions handicapped by water shortages; and this of course has had a profound effect on their standard of living.

As a whole, the United States has been blessed with abundant water supplies; but within the borders of our country we have been forced to undertake a program first to impound and store water, then to transport it to areas where it has been badly needed.

Several problems peculiar to the 20th century have seriously affected our usable water supply. Water pollution, for instance, has left very large amounts of water unsuitable for either consumption or industrial needs. Moreover, it is clear the burgeoning world population can only create dangerous additional water shortages in the future.

The late Senator from Oklahoma, Robert S. Kerr, once observed in 1960:

"Very few communities in this nation have enough water to sustain even their present population on the basis of demands expected twenty years from now."

In order to insure an adequate supply, and so that we might further the continued expansion of our economy, it is essential to initiate, now, a broad and vigorous program of water resource development.

Senator Allen J. Ellender, another great Senate expert in this field, observed recently:

"Unless a well-planned and aggressive program for water resource development is carried forward, our children won't have the opportunity to enjoy the many advantages you and I take for granted."

Nevertheless it is sad but true that at a time when we should be accelerating water resource development, the whole program is being hamstrung because of lack of funds, partly because many project benefits receive only passing consideration when evaluated. I am confident that if all project benefits were measured and their positive contribution to our national goals demonstrated, water resource programs would certainly be accorded greater priority in our national budget.

Today projects are largely justified in terms of their "primary" benefits, which means benefits that result directly from the project in question. Most commonly these are flood control, production of hydroelectric power, local water supplies, and navigation.

"Secondary" benefits, "human benefits" such as raising the standard of living, recreation; i.e., improving the quality of life,

along with the subsequent indirect increase in the value of goods and services, are given little consideration. Experience proves, however, that these "indirect" benefits can be potentially greater or more significant than the direct benefits.

Public works projects, especially reserviors, can be of inestimable benefit in promoting development in rural areas. Automatically reservoirs give many small towns and communities a new lease on life. It is a fact that such impoundments have proved excellent tools in stemming the flow of youth from the farming communities because they bring economic development, employment, and recreation to those communities.

This can be no better illustrated than that of the Table Rock Reservoir in southwest Missouri. In nine short years, from 1958 when Table Rock was completed, to 1967, the assessed valuation of the five-county Table Rock area has climbed from $53 million to over $87 million; and soon it is expected to go over the $100 million mark.

The value of non-residential construction was negligible in this five-county area in 1958. In 1967 alone, however, almost $5 million was invested in new business construction.

Based on Corps of Engineers estimates, during the 1958–1967 period, a total of over $45 million worth of new homes and motels were also constructed; whereas nine years before, the assessed valuation of home sites had been minimal.

In light of these facts, it is my firm conviction that all beneficial effects of a project should be measured. Certainly secondary benefits should no longer be regarded as secondary considerations in justifying a project.

In addition to the low significance attached to secondary benefits, a number of benefits have been consistently underestimated or regarded as incidental to such purposes as flood control and navigation. In this category the most notable would be recreation.

This is unfortunate because the availability of water-oriented recreation, today the most popular form of recreation among Americans, not only stimulates economic development and enhances the attractiveness of living in a state or locality, but also plays an important role in the promotion of tourism; and tourism in our State is now second only to agriculture, with over 20 million out-of-state visitors spending their money with us last year.

In 1969, 6½ million visitors traveled to seven reservoirs in the Kansas City Corps of Engineers District. This is 2½ times as many as we had in 1963, an 18 percent increase over 1968. (Pomme de Terre Reservoir showed the greatest increase in visitation—28 percent.)

Since more than one million people live within a radius of 100 miles, Cannon Dam, right here in the heart of the Mark Twain Region, will draw thousands upon thousands of tourists and millions of dollars in revenue, every year, to Monroe and surrounding counties.

Obviously, therefore, we should give far greater emphasis to recreation benefits, particularly to those that can bring recreation nearer to the inhabitants of our already over-crowded cities.

Also, in recognition of the great and growing interest in preserving and enhancing the quality of our environment, more emphasis should be given to environmental objectives, particularly water quality control, in the justification of public works and other comparable water resource projects.

In the fiscal year 1971, out of a Federal budget in excess of $200 billion, only 62 cents out of every $100 is proposed for the Corps of Engineers to enable better water control and comparable wise development programs in the United States.

So as to put this into perspective, that amount is less than two weeks cost of the war in Vietnam.

At the current level, the cost over-runs alone on 27 major weapons systems currently being developed by the Defense Department would fund the entire civil works program of the Corps of Engineers for the next 12 years.

The problem, as Bob Kerr used to say, is as near as the glass of water on your table; and it is high time for us to realize that a continued supply of fresh clean water is as vital to our overall security, more vital to our prosperity, than, for example, the Space Program.

It is popular among some of our youth to talk about the "Age of Aquarius"—a time of universal love and brotherhood.

From ancient mythology, however, Aquarius has also come down through the ages as a symbol of the importance of water.

Tonight let us all join together in making this "Age of Aquarius" a time for enterprise and initiative in the development of the priceless water resources of this nation.

## THE GREAT CAMPUS FALLACY

Mr. RANDOLPH. Mr. President, I know all of us are concerned with the threats and coercion that are coming to our college and university campuses. In many of these situations the faculty is beginning to respond as I think faculties should; and from the standpoint of the more militant actions which take the category of terror and violence, there is an awakening that I think must be a very realistic one.

It is extremely gratifying to me to ask unanimous consent to place in the Record an editorial from yesterday morning's New York Times which is titled "The Great Campus Fallacy," which goes into this matter in what I believe to be a very constructive way.

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

[From the New York Times, Apr. 13, 1970]

THE GREAT CAMPUS FALLACY

After the present rash of disruptive and destructive incidents on the university campuses have run their course, will there be the predictable post-mortem rationalizations? It will be said once again, with a condescending indulgence which honest members of the student generation ought to resent, that because legitimate grievances had existed, the lawlessness was a necessary prelude to reform.

The question too rarely asked is—what has been the cost? As the gains for each uprising are extolled, the losses are ignored. Who speaks for the rights of those students and faculty members at Hunter College who, though anxious to negotiate for reform, did not want to be locked out of their classes? Who defends the views of those members of the Columbia University community who do not want to see the buildings invaded or windows smashed? Are those who object to rampaging and book-burning at Cornell, even when it is in response to suspected arson of the Black Studies Center, simply to be put down as callous reactionaries?

What is being lost in the process is not merely the campus as a non-violent enclave, though that is serious enough. There is no comfort for anyone in the prospect of safety and order maintained by curfews and security guards. But even worse than the physical restrictions is the loss of rationality in what ought to be the proving ground of reason.

When a list of non-negotiable demands simultaneously calls, as it does at Hunter, for items which would greatly increase the costs of education and for the abolition of all fees; when a radical at Columbia asks that windows be smashed in order to make it more expensive for the university to exist, while others clamor to be admitted without charge, when legitimate demands are inflated by dreams of revolution—then there is little hope for rational settlement and even less for a subsequent, rational discourse.

The ultimate fallacy is the notion that, after a coerced settlement of grievances, the university will have been transformed into a tranquil—or tranquilized—institution which need no longer fear the threat of coercion. In reality, every surrender, even if it brings with it some reform, leaves the institution and each of its members more vulnerable to blackmail than before.

Some will argue that the university, in following this trend, is merely adjusting to the ways of society. They fail to see that for a university to adopt the unreason of its environment means to have lost not only its way, but the chance to seek and show the way to the future. This is an unacceptable surrender. The leaders of Columbia's faculty, by pledging not to submit to threats and coercion, have pointed to the only proper course designed to protect the campus from within and from such appalling outside repression as is currently threatened by the State Legislature.

## ADDRESS BY VICE PRESIDENT AGNEW AT REPUBLICAN STATEWIDE FUNDRAISING DINNER

Mr. HANSEN. Mr. President, last night, in Des Moines, Iowa, the Vice President of the United States addressed the Republican statewide fundraising dinner. Because he chose to speak on the subject of higher education and because I find his remarks particularly noteworthy, I would like to call to the attention of Senators what he said.

He said:

From the light of experiences in the last decade, it would seem to me that Professor Sidney Hook hit the nail on the head in his recent book, *Academic Freedom and Academic Anarchy*. He stated:

"There are no compensating advantages in the risks incurred when students are given the power of educational decision.

"That is why with respect to the . . . demand for student rights, we must say: 'Consultation, yes—decision, no.' "

Later the Vice President called attention to what Prof. Gardner Ackley, the economics professor who served as Chairman of President's Johnson's Council of Economic Advisers, according to the Ann Arbor News, told a faculty meeting:

This has been a very tragic year . . . which has seen the beginning of the destruction of this University as a center of learning . . . It is being destroyed by its own faculty and administration.

The University's administration, he said, is "unwilling or unable to resist the destroyers . . . However ridiculous or worthy the cause, it will win it, proportion to the willingness of its supporters to disrupt the life of the University.

University facilities are now available for . . . promoting any cause, no matter how obscene or revolting.

There is no reason. There is only power.

The Vice President called attention to a statement that has been made by the

President of the United States. The President's words were:

No *qualified* student who wants to go to college should be barred by lack of money. That has long been a great American goal: I propose that we achieve it now.

Then the Vice President continues to point out:

We must also recognize the needs of the unprepared and underachieving child and of those who do not begin to show promise academically until later in high school. Where necessary—and it is often critically necessary—substantial programs of compensatory education must be developed. Extra summers of study, extra years of academic preparation must be provided at public expense. For there can be no doubt that we must compensate for the deprived environment.

Rather than lower the standards of higher education, we must raise the level of the student's preparation and achievement, so that he may not only one day take his place in the colleges and universities of this nation, but successfully hold that place in active, healthy competition with other students.

Mr. President, because I find the statement of the Vice President to be most noteworthy, I ask unanimous consent that the entire speech may be included in the RECORD.

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

ADDRESS BY THE VICE PRESIDENT

Five months to the day have passed since I visited Des Moines to present a few thoughts about the network news. It is a pleasure to be back—I enjoy visiting famous battlefields, especially when the outcome of the conflict was decisive and served a useful purpose.

Tonight I hope to cover more completely a subject touched upon in my Lincoln Day remarks in Chicago—the disturbing trends in administrative and admissions policies of America's colleges and universities.

With regard to the determination of curricula and the hiring and firing of college professors, I stated in Chicago that the desires of students should not be the controlling factor. However, it cannot be validly argued that students' views on these matters are of no value in making educational judgments. Students, the consumers of knowledge, are in a unique position to assess the effectiveness of educational policies. Therefore, their views should be considered and be an ingredient of final decisions by the educational establishment.

From the light of experiences in the last decade, it would seem to me that Professor Sidney Hook hit the nail on the head in his recent book, *Academic Freedom and Academic Anarchy*. He stated:

"There are no compensating advantages in the risks incurred when students are given the power of educational decision.

"That is why with respect to the . . . demand for student rights, we must say: 'Consultation, yes—decision, no.' "

Tonight I want to give you my views in greater particularity on the subject of college admissions, and this time I come armed with supportive quotations from distinguished administrators who are equally concerned about this problem.

The American system of colleges and universities, ladies and gentlemen, is the envy of mankind. It belongs not just to the professional educational community, but to all of us. When decisions begin to represent a definite trend that may drastically depreciate those national assets, then all of us have an interest at stake; all of us have a right to be heard—indeed, a duty to speak.

When one looks back across the history of the last decade—at the smoking ruins of a score of college buildings, at the outbreaks of illegal and violent protests and disorders on hundreds of college campuses, at the regular harassment and interruption and shouting down of speakers, at the totalitarian spirit evident among thousands of students and hundreds of faculty members, at the decline of genuine academic freedom to speak and teach and learn—that record hardly warrants a roaring vote of confidence in the academic community that presided over the disaster.

We in public life who criticize, however, should make that criticism constructive. This I intend to do. I feel as much as anyone that there should be expanded educational opportunities for deprived, but able, young people in our society. The difference is that I favor better preparing them—with additional governmental assistance—in some form of prep school rather than tossing them into a four-year college or university curriculum that they are not equipped to handle. And I do not feel that our traditional four-year institutions should lower their sights or their standards for the sole purpose of opening their doors wider.

Now, there are two methods by which unqualified students are being swept into college on the wave of the new socialism. One is called a quota system, and the other an open admissions policy. Each is implemented by lessening admission requirements. They may be equally bad.

Under a quota system, a specific percentage of the student body must consist of minority or disadvantaged students regardless of whether they can meet the existing standards for enrollment. If they do not apply, they must be recruited.

Under an open admissions policy, a college deliberately opens its doors and expands its enrollment despite the inability of many of the applicants to meet minimum standards.

There are distinguished, even brilliant, men with grave reservations about the wisdom of either of these policies. The Historian, Daniel Boorstin is one of them. Speaking in Tulsa last June, he carved his views in sentences more emphatic than my own.

"In the university all men are not equal. Those better endowed or better equipped intellectually must be preferred in admission, and preferred in recognition. . . . If we give in to the armed demands of militants to admit persons to the university because of their race, their poverty, their illiteracy, or any other non-intellectual distinctions, our universities can no longer serve all of us—or any of us."

Professor Boorstin argues his case on behalf of the integrity of the university, but there are also other arguments against racial quotas, not the least of which is that of simple justice.

For each youth unprepared for a college curriculum who is brought in under a quota system, some better prepared student is denied entrance. Admitting the obligation to compensate for past deprivation and discrimination, it just does not make sense to atone by discriminating against and depriving someone else.

Another argument against easy admissions was summed up in the testimony of Dr. Clark Kerr of the prestigious Carnegie Foundation's Commission for the Advancement of Teaching in testimony before the House Education Committee. He said:

"Some institutions have brought in students too far below the admissions standards with the result that it ended up in frustration for the student . . . It's bad policy to start someone on a path when you know he can't reach the end of the road."

Is it understandable that I wonder why the remarks of Kerr and Boorstin were greeted with respectful editorial silence by the same tribe that came looking for my scalp after Chicago?

We can see the visible results of weak and insufficiently defined educational policy in the growing militancy of increasing numbers of students who confuse social ideals with educational opportunities. John Roche, a former Special Consultant to President Johnson, a syndicated columnist and a professor at Brandeis, observed the phenomenon on his own campus. In my opinion, he analyzed it correctly. Last year he wrote as follows about the violence emanating from black student militancy:

"Sociologists and others have had a field day explaining the sources of this behavior, but I do not believe the problem at Brandeis, San Francisco, Swarthmore or wherever trouble has erupted is terribly complex. We created our own difficulties the day we (and I mean the liberal academicians) decided that a college or university should double as a settlement house. Once the decision was made that Negro or 'culturally underprivileged' youngsters should be admitted to first class colleges, without the usual prerequisites, the escalation began . . .

"All this special Black admission business has, of course, been conducted with a brass band, as college and university administrators and faculties congratulate themselves on their radicalism, on their willingness to rise above white racism. In fact, what has happened in most instances that have come to my attention is sheerly cosmetic: nobody has actually worried about the anguish of the poor Negro kids who have been dumped into a competitive situation, have been thrown with inadequate preparation into water well beyond their capacity to swim."

In criticizing my views on racial quotas following my speech in Chicago, the *Cleveland Plain Dealer* said:

"In the prestigious Ivy League, the schools admitted freshman classes last September that were 10 per cent Negro . . ." and it added approvingly, "This represented a huge increase in black enrollment."

But, is this a really good thing—and if ten per cent is good, would twelve or fifteen per cent be better?

President Clifford Lord of Hofstra, in a speech last December, aired his own doubts about a policy of "open admissions."

"This can be a very expensive process for the private institution, financially and academically," he noted. ". . . There is the additional and critical question of the educational desirability of mixing those who are qualified by modern standards for work in a particular institution and those who came in under an open enrollment program."

A Ford Foundation education expert, Mr. Fred Crossland, registers more than just doubts; he thinks this 10 per cent quota today is impossible to attain.

According to the Office of Education, though blacks constitute about twelve per cent of our college age population, they account for only six per cent of all high school graduates. Mr. Crossland adds that only about half of this six per cent is capable of handling a college curriculum. Where does this leave the *Plain Dealer's* ten per cent? Says Mr. Crossland:

"Given present standards, it's preposterous and statistically impossible to talk about boosting black enrollment to ten per cent even over the next five years."

What makes Mr. Crossland's unequivocal statement so timely is that just two weeks ago—after twelve days of heat from striking

black militant students at the University of Michigan—President Robben W. Fleming agreed to nearly all their major demands—the first of which was for a ten per cent black enrollment by 1973.

Now let me read you what a distinguished member of the Michigan faculty said about the President's action. He is Gardner Ackley, the economics professor who served as Chairman of President Johnson's Council of Economic Advisors. According to the *Ann Arbor News*, this is what Professor Ackley told a faculty meeting:

"This has been a very tragic year . . . which has seen the beginning of the destruction of this University as a center of learning . . . It is being destroyed by its own faculty and administration.

The University's administration, he said, is "unwilling or unable to resist the destroyers . . . However ridiculous or worthy the cause, it will win in proportion to the willingness of its supporters to disrupt the life of the University.

"University facilities are now available for . . . promoting any cause, no matter how obscene or revolting.

"There is no reason. There is only power."

According to the *Ann Arbor News*, Professor Ackley received a standing ovation; and there were shouts of "Bravo" from his colleagues.

The surrender at Ann Arbor is not dissimilar to the tragic surrender of Italian academic and political leadership to the demands of rebellious students two years ago for open admissions to the universities of all high school graduates.

The results have been instructive, to say the least. Measured in diplomas granted annually—the number has jumped, in just a few years, from 28,000 to 40,000—the reform is a success. But these are bargain basement diplomas—and today Italian employers advertising for college graduates are careful to specify that the degree must date back to 1967.

In a few years' time perhaps—thanks to the University of Michigan's callow retreat from reality—America will give the diplomas from Michigan the same fish eye that Italians now give diplomas from the University of Rome.

President Lord of Hofstra, who, as I stated earlier, expressed his serious reservations about mixing "open enrollment" students and academically qualified students, feels nevertheless that this might be a good policy—for institutions other than Hofstra. Is it with tongue in cheek that he said:

"It seems to me that the wholly or largely tax-supported institutions such as the State University or the City University have got to pick up his ball and carry it . . ."

One gets the distinct impression that Hofstra will not be picking up the ball and carrying it any time soon.

But the public institutions are not without impassioned defenders—like Irving Kristol—who believe it a major tragedy to impose upon quality institutions of higher learning, such as the city colleges of New York, a social burden of assimilation and uplift that they are neither designed nor equipped to shoulder.

Writing in the *Public Interest* last November, he warned:

". . . black militants are demanding that many more (and eventually all) black students who are graduated from high school be admitted automatically to the city colleges regardless of grades or aptitude, or whatever and (New York's Upper East Side and Suburban Elite) which in any case sends its youngsters out of town, thinks it is being 'constructive' when it meets this demand at least part way—i.e., when it grants to poor black youngsters a college diploma in lieu of a college education. . .

"The city colleges," continues Professor Kristol, "are one of the most valuable—perhaps the most valuable—patrimonies of New York. The Jews took them over from the WASPS and used them to great advantage; the Irish and Italians are now participating and benefitting; the Negroes and Puerto Ricans will very soon be in a position to inherit this remarkable system of higher education. But as things are going now, their inheritance will be worthless."

These institutions—the widening avenue of advancement for the young natural leaders in New York's community—are, in his words:

". . . being transformed—degraded is not too strong a term—with the approval and consent of the elite, into four-year community colleges, with all academic distinction being remorselessly extinguished."

If these quality colleges are degraded, it would be a permanent and tragic loss to the poor and middle class of New York, who cannot afford to establish their sons and daughters on the Charles River or Cayuga Lake. New York will have traded away one of the intellectual assets of the Western world for a four-year community college and a hundred thousand devalued diplomas.

The central mission of higher education is intellectual, argues Dr. Lincoln Gordon of Johns Hopkins.

To the extent universities deviate from that objective, we are devaluating a national asset that many foreign leaders believe has given America a unique advantage over the nations of the world.

I agree with Dr. Gordon. Any attempt to subordinate the great universities of this country to social goals for which they are ill-designed and ill-equipped can only result in tragic losses to both these institutions and the nation.

Perhaps the country has already marched too far under the banners of the slogan, "Every Man A College Graduate," to abandon it now. But maybe not. Perhaps there remains a "via media," a middle way, that will both preserve the integrity and quality of America's colleges—and advance the cause of minorities and the disadvantaged.

Assuredly, the first step along such a road was taken a few weeks ago by President Nixon when he called on the nation to make an historic commitment:

"No *qualified* student who wants to go to college should be barred by lack of money. That has long been a great American goal: I propose that we achieve it now."

Certainly, no young man or woman with ability and talent should be denied by the ancient and traditional barrier of poverty, the opportunity to advance to the limits of his capacity. Not in this wealthy country in 1970. To allow that to happen is to tolerate an unnecessary individual tragedy which, when multiplied, amounts to a national tragedy.

Nor can we let talent go unnoticed. A perpetual national search should be conducted to locate within every community every child of ability and promise. When located, they should be given special attention—to advance them to limits of their potential and to prepare them for leadership in their communities and in society.

We must also recognize the needs of the unprepared and underachieving child and of those who do not begin to show promise academically until later in high school. Where necessary—and it is often critically necessary—substantial programs of compensatory education must be developed. Extra summers of study, extra years of academic preparation must be provided at public expense. For there can be no doubt that we must compensate for the deprived environment.

For these students I believe we must have more community colleges and special preparatory schools, to insure to the late-blooming, the underprepared and the underachieving student every educational opportunity.

But I make this distinction: preparatory and compensatory education do not belong in the university. Students needing special educational services—who do not meet the standards and requirements of institutions of higher education—should not be encouraged to apply—in the first instance—to such institutions.

Rather than lower the standards of higher education, we must raise the level of the student's preparation and achievement, so that he may not only one day take his place in the colleges and universities of this nation, but successfully hold that place in active, healthy competition with other students.

This, I believe, is the kind of commitment that can and must be made to balance the scales and insure full equality of educational opportunity.

But, a firm commitment to equality of opportunity must not result in the dilution of that opportunity. For colleges and universities to deliberately draw into a high academic environment students who are unqualified intellectually or whom the primary and secondary schools have conspicuously failed to prepare is to create hopes which are doomed to disappointment.

Moreover, the cluttering of our universities, already too large in many cases, through the insertion of high school level semesters for the accommodation of those unqualified for the traditional curriculum is a major cause of campus inefficiency and unrest. The number of students on college campuses has increased by 400 per cent in three decades and is expected to reach nearly ten million within five years. In 1940 only two universities in the country had more than twenty thousand students; today, sixty universities can claim that dubious distinction.

Rising student enrollments have been forced to exaggerated heights by a combination of underlying social pressures. Within the awesome statistics of bigness lie the heart of the justified complaints of many college students today—complaints about absentee professors—about the plastic facelessness on campus—about the decline and disappearance of the personal teacher-student relationship—about ill-equipped graduate students teaching courses for which undergraduates have paid $60, $70, and even $80 a credit—about being matriculated, administrated, graded and graduated by computer.

I do not accept the proposition that every American boy and girl should go to a four-year college. Even now, with nearly eight million students on the campuses of this country, there are tens of thousands there who did not come for the learning experience and who are restless, purposeless, bored and rebellious.

College, at one time considered a privilege, is considered to be a right today—and is valued less because of that. Concentrations of disoriented students create an immense potential for disorder.

The Chairman of the Sociology Department of Columbia University, Professor Amitai Etzioni, recognizes the phenomenon, deplores its inevitable and undesirable by-products—the depersonalization of the campus and the threat to academic quality because of massive enrollments—but sees no certain solution.

Writing recently in the *Wall Street Journal*, he contends that the lowering of admission standards results in the presence on campus of pressure groups with—and I quote:

"a social ideology and a political organization to further demands for easy promotion and guaranteed graduation.

"If one tries to enforce select admission or academic standards, he risks being labeled a racist, and he lays himself open to campus-wide attacks . . .

"The goal of college education for everyone is now too widely endorsed both by white middle class Americans and minorities to stop the high-schoolization of colleges simply by trying to uphold the old standards . . .

"If we can no longer keep the floodgates closed at the admissions office, it at least seems wise to channel the general flow away from four-year colleges and toward two-year extensions of high school in the junior and community colleges."

And, of course, that is what should be done.

Consistent with this philosophy, I favor the sort of procedures in high school that screen out the best students and make greater demands upon their greater talents.

In some areas, such ideas have been discarded as reactionary. But if we accept Jefferson's concept of a "natural aristocracy" among peoples—then that is as true for every race and community of man. It should be our objective to find, to nurture and to advance that natural aristocracy through the rigorous demands of intellectual competition.

To require a student of genuine ability to sit for hours in a classroom with those neither able nor prepared, and to permit him to be intellectually stalled at the level of the slowest, is a cruel waste of his God-given talents.

In Washington today there is a single black high school—Dunbar—which once trained this natural aristocracy with unrivaled success. Two decades ago, eighty per cent of its graduates went on to college, a higher percentage than any other school in the District of Columbia. That high school numbers among its graduates federal, district and appellate judges, the first black General in the American Army, and a United States Senator.

After the Supreme Court decision of 1954, however, this school under prevailing educational nostrums was allowed to become just another school in the inner city. Today, it ranks at the bottom of District of Columbia schools in the percentage of graduates going on to college.

In my opinion, Dunbar High School was sacrificed by the levelers and the ideologists on the alter of educational egalitarianism—and I canot believe that the black people of the capital or the nation are better for the loss.

My remarks here tonight have been extended—I am sure they will also strike some of my critics as pure heresy. As soon as they come clacking off the news wires into the horrified city rooms of the East, my friends on the editorial pages will start sharpening their knives and dancing around the typewriters. I ask no favors—but make one recommendation. Read my remarks through, just once at least, before turning to the keyboard. Sometimes, that can improve the editorial.

Thank you and good night.

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## GIVE LIGHT AND THE PEOPLE WILL FIND THEIR OWN WAY

Mr. YOUNG of Ohio. Mr. President, Americans are entitled to know the truth about Mylai incident. There is a slogan at the masthead of Scripps-Howard newspapers, "Give light and the people will find their own way." President Nixon and our military leaders have a responsibility to disclose completely the facts surrounding the Mylai massacre. Surely the American people are entitled to know the facts of a war crime perpetrated more than 2 years ago.

I urge the Secretary of Defense to make public the complete report of the investigation conducted by Lt. Gen. W. R. Peers and Robert MacCrate. Their inquiry into the events surrounding the Mylai massacre was thorough and extensive. General Peers and those who assisted him deserve the gratitude of all Americans for their diligence and courage in unearthing the truth of the horrible events that transpired at Mylai in March 1968, and then reporting the whole truth in detail. The facts they have uncovered would, if released, provide a new perspective on the meaning of American involvement in that immoral, brutal, undeclared war in Vietnam.

Secretary Laird should release the full Peers-MacCrate report, with only the names of persons involved deleted. It is an abominable situation for the Defense Department to term as classified any information that the top officials of the Pentagon do not wish the American people to have. Release of the full Peers-MacCrate report would in no way prejudice the rights of the accused to receive a fair trial. It would once and for all dispel conflicting rumors, conjecture and misinformation given out by some top ranking military officers that has confused Americans and caused them further to distrust the leaders of the Military Establishment. It is well recognized by the American people that every effort was made from the top down to whitewash what actually happened there.

It appears that the real reason why the Secretary of Defense has refused to date to release the Peers-MacCrate report is that a complete disclosure of the facts of the Mylai massacre would clearly reveal we are waging a cruel and barbaric war against the Vietnamese people and that a massacre on a large scale of Vietnamese women, children, babies, and old men was perpetrated on command of officers of our troops "to destroy the village and everything in it."

The American people have been the innocent victims of a chain of lies about our involvement in South Vietnam dating back to the misrepresentation of facts surrounding the infamous Gulf of Tonkin incident in August 1964. President Johnson used this alleged incident to obtain authority from Congress to send hundreds of thousands of men to Vietnam and escalate our involvement into a major ground war in Southeast Asia. Then, for 4 years former Secretary of State Rusk attempted to deceive Americans regarding our so-called commitment in Vietnam—an obligation that in fact never existed. The people of the United States should know the truth about our alleged commitment to wage war in Southeast Asia and in Vietnam, and they would find that there was no such commitment.

Mr. President, I have read the transcript of the report submitted by General Peers. I have read it carefully and thoroughly. Of course, I cannot reveal what I read. But, very definitely, from reading that report and from my personal talks with Ohio GI's who were in that little village on that March day, I know that the Mylai incident was murder in cold blood of old men, women, children, and babies on order of officers who should, in my opinion, be placed on trial. I assert that officers and men of our Armed Forces in Mylai hamlet perpetrated a war crime of tremendous magnitude without parallel in the history of our Republic.

There is no valid reason whatever for keeping the facts of this horrible incident secret. The truth should be reported to the people.

Mr. President, Mary McGrory, one of the few great journalists and political commentators in the Nation, recently wrote an outstanding interpretive report entitled "More on Victory That Was a Tragedy" which appeared in the Washington Star of April 13, 1970. With her usual incisiveness and clarity of thought, Miss McGrory points out the fact that the Mylai atrocity constituted one of the worst pages in our history. Her report on this everlasting stain on our national conscience should be read by all Americans. I ask unanimous consent that the article be printed in the RECORD at this point.

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

### MORE ON VICTORY THAT WAS A TRAGEDY

(By Mary McGrory)

My Lai was chronicled as a "victory" in the New York Times, and Gen. William C. Westmoreland, then commanding general of U.S. forces in Vietnam, sent a routine message of congratulations to Charlie Company for "outstanding action."

What it was, in actuality, was the worst page in a bad war, and it is back today with publication in Harper's magazine of a 30,000-word excerpt from the forthcoming book by Seymour Hersh, the 33-year-old Washington reporter who rocked the country in November with revelations about a morning the Army finally called "a tragedy of major proportions."

Michael Bernhardt, one of 50 men in C Company interviewed by Hersh, described the "pincer movement" of Army reports on March 16, 1968, this way: "We met no resistance and I only saw three captured weapons. We had no casualties. . . ."

The official body count was 128, but between 450 and 500 Vietnamese villagers—old men, women and children—lay dead.

Hersh, a fair-haired, fast-taking whirlwind, traveled 50,000 miles and peeked at Army files to get the story the Army tried to cover up. He expects accusations that his detailed and harrowing account will prevent a fair trial for Lt. William F. Calley Jr. who is charged with murder of "106 Oriental human beings."

"It took the Army 20 months to tell the public anything about My Lai," Hersh counters. "Besides, I don't say Calley is guilty. If the Army had told him to pick up every blade of grass in Southeast Asia, he would have done it. I just ask who is guilty. I raise a lot of questions."

#### QUESTION IS NOT WHY

The central question is not why it happened. Hersh explains that the men of Charlie Company were both green and weary.

To them, the South Vietnamese were "gooks" whom they saw their officers ravage without restraint and whom they abused with impunity. They were in a "free-fire zone," which meant everyone was the enemy. The standard of success was the body count.

One of the men was killed the night before, and in the funeral oration by their captain, some of them thought they heard a command for vengeful slaughter.

The big question Hersh puts is: "Why and how the deliberate murder of hundreds of civilians remained a secret for so long is difficult to understand, especially because so

many knew about it—and so many participated in it."

The most bizarre minor fact reported by Hersh is that the whole day's doings—the frantic protests of the valiant helicopter pilot, Hugh Thompson, the commands, the screams of the wounded and dying, the crackle of the blazing huts—are on tape.

A recording buff at battalion headquarters attached his tape to the central radio network. The tape was heard by dozens of officers, none of whom thought of reporting "the turkey shoot" of Charlie Company to the authorities.

GENERAL KOSTER'S ROLE

Hersh tells about Gen. Samuel W. Koster, former superintendent of West Point and commanding general of the Americal Division at the time. Koster is the highest ranking officer to be charged with "failure to obey regulations and dereliction of duty."

On the night of the bloody day, Charlie Company's commanding officer, Capt. Ernest L. Medina, who now faces a court-martial on a murder charge, objected to an order from a major to go back for a more accurate body count. Over the radio of his command helicopter, Koster sided with Medina, saying there was no need for him "to go back into all that mess."

Koster subsequently ordered Col. Oran K. Henderson to make a formal inquiry into stories of "promiscuous" killing. Henderson reported back that talks with the men had yielded negative replies. Nothing happened.

Bernhardt told his GI buddies he thought he should write to his congressman. Medina, on hearing of his intention, according to an Army investigation begun a year later, had not really threatened Bernhardt, merely "encouraged" him "not to write any letters."

The first serious investigation was prompted by a now famous letter written in May 1969 to a score of Washington officials by 23-year-old Ronald Ridenhour of Phoenix, who heard about the action from one of the dispersed members of C Company.

PHOTOS IN DYING COLOR

One official photographer did not bother to develop some of his films, knowing headquarters would never approve. Another photographer showed pictures of the carnage in dying color to an Ohio Rotary Club. Nobody believed them.

A South Vietnamese province chief who received a report from a district chief put it away. It would provide the enemy with propaganda and "he also had doubts the Americans could commit such a crime." President Thieu knew, Hersh writes, but was said to have believed disclosure "would only increase the anti-American feeling in Vietnam."

It was eventually the GIs who came through, who talked to Army investigators and told or sold their stories to the press. No commissioned officer ever cracked.

But Herbert Carter, a black GI who shot himself in the foot because he couldn't "take no more," told Hersh maybe war itself was to blame: "The people didn't know what they were dying for, and the guys didn't know why they were shooting them."

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## THE ACTION OF THE SENATE ON THE NOMINATION OF JUDGE CARSWELL

Mr. HOLLAND. Mr. President, on yesterday, April 13, I remarked that many editorials on the subject of the action of the Senate on Judge Harrold Carswell's nomination to the Supreme Court had appeared in the newspapers of Florida—that the great majority of them had indicated disappointment and frustration and had in some respects been quite bitter. I placed, however, in yesterday's RECORD, at pag 11431, some of the editorials from Florida papers which I regarded as objective and which I thought would have a constructive meaning for the Senate. I have now selected from the large number of Florida editorials on Judge Carswell, most of which strongly support his nomination and express deep regret at the fact that he was not confirmed a few others which I think should appear in the CONGRESSIONAL RECORD.

I first ask unanimous consent, therefore, that an editorial from the Tampa Tribune dated April 9, entitled, "No. 3 Must Have a Speckless Record," be printed in the RECORD.

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

NO. 3 MUST HAVE A SPECKLESS RECORD

No southerner appointed to the Supreme Court will be confirmed by the present Senate unless—

1. He is a card-carrying liberal whose credentials are acceptable to the civil rights zealots and labor union bosses, OR

2. His record is free of any statement or action, dating back to his childhood, which could be distorted into a scar on his character.

Judge Harrold Carswell, no liberal, fell victim to the distortion tactic yesterday, just as Judge Clement Haynsworth had earlier.

In Haynsworth's case, opponents magnified technical conflicts of interest in stock dealings; in the case of Carswell, they converted a 1948 political speech into a confession of enduring bigotry.

There was another charge against Judge Carswell, of course. He lacked brilliance; he was "mediocre." The awful proof of this was pointed out in the percentage of his decisions reversed by appellate courts.

Considering the fuzzy opinions and unpredictable switches of position by the Supreme Court in recent years, especially in civil rights cases, a District Judge's reversal rate is a poor indicator of his competence.

No matter. The mediocrity charge was merely an excuse for a negative vote. The real reason for the sustained campaign to defeat Judge Carswell, as for that against Judge Haynsworth, was his conservative philosophy.

Liberals now dominate the Senate, and they don't want a Justice so old-fashioned as to try to follow Constitutional principles; they want one who believes his mission is to change the established order by judicial decree.

While we think Judge Carswell has the essential qualifications to sit on the Supreme Court, he proved vulnerable to the liberal attack.

If the Justice Department had done a proper job of checking his record, it would have turned up the white supremacy speech he made when running for the Georgia Legislature 22 years ago and advised President Nixon. With this knowledge, the President probably would have chosen another nominee. There's no point in giving your enemies an open target.

Now, President Nixon must make a third choice for the seat vacated by Abe Fortas—whom most of the liberals were ready to accept as Chief Justice despite his serious violations of ethics.

The President should, and we're quite certain he will, nominate another conservative, or "strict constructionist" of the Constitution.

It would be pleasing to have one from the South, one who would take to the Court an understanding of the practical aspects of integration issues which now seems sadly lacking there.

But the home of the new Justice is of less importance than his qualifications.

From our viewpoint, he should have experience as an appellate judge in Federal or state courts, so that both his philosophy and his legal scholarship would be a matter of record. Preferably, he should be less than 60 years of age, in order to have some years of useful service on the high court. And his record as a man and a judge should contain no speck which vindictive opponents could enlarge into a smear.

It's not easy to find such a man. But no task before President Nixon is more urgent than this search. The composition of the Supreme Court can alter the course of government and the structure of our society. To realize the consequences of a single appointment, consider that William O. Douglas has been helping smash precedents and remake laws for 31 years—and grows more radical by the year.

To Judge Carswell, our regrets; to President Nixon, good hunting.

Mr. HOLLAND. Mr. President, after discussing the importance of a speedy choice by President Nixon of a third nominee to succeed resigned Justice Abe Fortas, and expressing a strong viewpoint as to the type of man who should be chosen, this editorial continues as follows:

It's not easy to find such a man. But no task before President Nixon is more urgent than this search. The composition of the Supreme Court can alter the course of government and the structure of our society. To realize the consequences of a single appointment, consider that William O. Douglas has been helping smash precedents and remake laws for 31 years—and grows more radical by the year.

To Judge Carswell, our regrets; to President Nixon, good hunting.

I next ask unanimous consent that an editorial from the Tallahassee Democrat of April 9 entitled, "Discredit Not on Carswell But on Tactics of His Foes" be printed in the RECORD.

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

DISCREDIT NOT ON CARSWELL BUT ON TACTICS OF HIS FOES

There is keen disappointment here in Judge Harrold Carswell's hometown over the Senate's rejection of his nomination to the U.S. Supreme Court—disappointment, some bitterness, and some anger impelled by issues beyond personal friendship.

The judge himself accepts the Senate's action with a composure which testifies to the judicial temperament some opponents tried to besmirch.

We who know him best can vow with all sincerity that we see no bigotry in this judge.

We know that, instead of being mediocre, he has served the federal judiciary with distinction longer than any member of the Supreme Court had served when he was appointed. Not one of them had a better record as a judge, nor the vital experience he has in conducting trials and as a criminal prosecutor. That record was distorted, but it was not destroyed in the wanton attacks on him. It will be amplified as he continues his service on the U.S. Fifth Circuit Court of Appeals.

History will reflect no black marks against Judge Carswell.

Rather, it will reflect discredit on those Senators who allowed themselves to be bullied and deluded by the delays and duplic-

ity of a coalition of activist press, labor and racial organizations determined to retain a system which makes the federal judiciary a shortcut route for objectives which cannot win ready passage through the constitutionally prescribed processes of representative law-making. That was the issue here, as in the Haynsworth case before. It will continue to be the issue as President Nixon seeks to carry out his campaign pledge (and the mandate thereby given through his election) to balance the court with some judges who will be guided by the words of the Constitution—not their own political leanings.

There should be no question of the right of the Senators to scrutinize the competence, character and background of a nominee to the Supreme Court. We only wish they had started it 25 years ago instead of rubber-stamping presidential appointments. Not many of the present justices could have stood the ordeals of Haynsworth and Carswell. Some of them would wither now, if the Senate should follow through and assert its authority to examine the "good behavior" which is the constitutional qualification for tenure of federal judges.

But this right of Senators to probe deeply into the conduct of a proposed judge doesn't give them the right, either as Senators or as humans, to distort and exaggerate and minimize in a hypocritical effort to cover their simple desire to reject because of his political philosophy.

The long-drawn campaign of calculated calumny and insult which produced rejection of Judges Haynsworth and Carswell raises a question of when the President again will be able to convince a clean and qualified man to run that gamut. Indeed, it may be that he cannot get through this Senate any man from the South who doesn't hop at the finger-snap of the pressures groups which have tormented his last two nominees.

Mr. HOLLAND. Mr. President, I next ask unanimous consent that an editorial from the Pensacola Journal of April 11 entitled "Nixon Should Act Soon on High Court Choice" be printed in the RECORD.

I quote the last three paragraphs of that editorial as follows:

The twin victory achieved by the liberal heirarchy could turn out to be its nemesis.

Hopefully, President Nixon will lose no time in making another selection from the ranks of jurists who are constitutional constructionists in defiance of those making a power play to maintain a Supreme Court subservient to the liberal establishment.

There must be no compromise when the stakes are so high.

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

NIXON SHOULD ACT SOON ON HIGH COURT CHOICE

It is significant that almost to a man the Senate bloc which opposed confirmation of Judge G. Harrold Carswell for a seat on the United States Supreme Court immediately rushed to a microphone or into print to rationalize the vote.

To paraphrase a line from Shakespeare we think "they do protest too much."

For the most part their explanations were lame and, on the face of it, farfetched, ranging from charges that he is a "racist" as evidenced by a statement attributed to him nearly a quarter of a century ago to an allegation of "mediocrity."

Anyone with an ounce of political acumen knows full well that it was a sordid exhibition of knuckling under to pressure applied by organized labor, the far left, and civil rights activists intolerant of anyone with a conservative background south of the Mason-Dixon Line.

The offensive mounted by opponents was unprecedented.

Literally thousands of protest letters flooded the Senate.

A veritable army of lobbyists representing loud mouthed minority groups intent on preserving the leftist bent of the Supreme Court converged on Capitol Hill.

When the vote was announced they broke into wild cheering from Senate galleries, celebrating two victories in a row for the cause of liberalism on the high bench.

Astute political observers regard it for what it is: a showdown between pseudo liberals who would endow the Court with legislative powers and strict constructionists who maintain it is the constitutional duty of jurists to confine themselves solely to interpretation of laws and the intent of Congress.

The outcome moved Sen. Hugh Scott of Pennsylvania to suggest that the double defeat of the administration—the impasse between the Senate and the White House with regard to confirmation of nominees—calls for a change in procedure.

What Scott failed to recognize was the fact that the fault did not lie with the system of checks and balances as between executive and legislative branches of government, but the craven retreat of lawmakers in the upper house when challenged by blatant minorities which seek to destroy the division of power principle as enunciated in the Constitution.

The need is not revision of confirmation procedure, but rather a Senate with integrity and the courage to face up its responsibilities to the people and the Constitution it is sworn to defend.

There is little reason for rejoicement in the Senate over the rejection of Judge Carswell on flimsy charges dredged up by his opponents.

The silent majority—that great segment of Middle America which speaks its piece at the polls instead of public forums—is yet to be heard.

Come the next general election their "voice" might well change the whole complexion of the Senate.

The twin victory achieved by the liberal heirarchy could turn out to be its nemesis.

Hopefully, President Nixon will lose no time in making another selection from the ranks of jurists who are constitutional constructionists in defiance of those making a power play to maintain a Supreme Court subservient to the liberal establishment.

There must be no compromise when the stakes are so high.

Mr. HOLLAND. Mr. President, next, I ask unanimous consent that a column entitled "A Southerner Can't Make It" from the able pen of Malcolm Johnson, the dean of Florida political columnists, be printed in the RECORD.

Speaking of the President's search for a third nominee, Mr. Johnson, in his column, states as follows:

So, for now at least, he is right in looking northward and westward from Washington for his strict constructionist judge.

He shouldn't delay until after the elections in November. The Court has been without a ninth judge for nearly a year now; and scuttlebutt has it that numerous cases are hanging 4–4 awaiting a deciding vote. (The risk that Carswell or Haynsworth would cast that vote on the conservative side probably was at the bottom of the desperate opposition to them.)

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

[From the Tallahassee (Fla.) Democrat, Apr. 10, 1970]

A SOUTHERNER CAN'T MAKE IT

(By Malcolm Johnson)

The President is right in looking outside the South for a Supreme Court Justice who will read the Constitution as it is instead of as he thinks it should be.

The Southern majority is more interested in having that kind of a "strict constructionist," or constitutional conservative, on the court than it is in having a Carswell, or a Haynsworth, or any Southerner.

Naturally, we have enough regional pride to prefer one of our own in whose judgment we have confidence to sit in that seat of the mighty; but we must acknowledge that such a Southerner can't get through the Senate under present conditions and its lineup.

It will be hard to find a more honorable man, with more genuine hard-working federal judicial experience, still at a vigorous age, than Judge Harrold Carswell; and it is illusory to say, now, that he was rejected because of his "mediocrity."

That word got him, it's true. But "mediocrity" was a specious issue raised against him in the latter stages of a deliberately delayed campaign after the minor offenses of his past life failed to sustain the automatic opposition of the instant-integration, pro-labor, anti-Southern bloc.

Those people wouldn't have liked Carswell's philosophy if he had been from Alaska, but none can deny that it was his white Southern heritage that really made him persona non grata to Senators who dance to the tune of those who recognize nothing in the Constitution but the 14th amendment.

Oh, there is a great chorus rising now among them that the Senate surely would accept a "qualified" Southerner on the Court. Then they reel off a list of names which demonstrates that a "qualified" Southerner is an activist Southerner.

Most of them now sit or have sat on the U.S. Fifth Circuit Court of Appeals which during all the integration litigation has seemed anxious to keep one step ahead of the Supreme Court. Carswell, as a district judge and lately as a member of that Circuit Court, has been more disposed to follow the Supreme Court dictum (doesn't it make the law of the land?) instead of hunting new ground to plow with expansive opinions to be quoted with admiration in the liberal journals.

The political fact is that the President couldn't get support from the Southern Senators for almost any of those Southern judges acceptable to the opposition.

He probably couldn't get most of them through the Judiciary Committee; and if he did he would lose floor support of his own northern Republican conservatives. He can't operate in the Senate at all without that coalition of conservative Southern Democrats and Northern Republicans.

So, for now at least, he is right in looking northward and westward from Washington for his strict constructionist judge.

He shouldn't delay until after the elections in November. The Court has been without a ninth judge for nearly a year now; and scuttlebutt has it that numerous cases are hanging 4–4 awaiting a deciding vote. (The risk that Carswell or Haynsworth would cast that vote on the conservative side probably was at the bottom of the desperate opposition to them.)

Senator Bayh and his cohorts are hooting that the President's decision to look outside the South next time is acknowledgement that the Carswell and Haynsworth nominations

were part of a "Southern strategy" for Republican gains in Dixie.

Well, so what? Of course the President wants his party to gain strength in the South. Of course he wants to carry it again, as he did in 1968. And of course he recognizes that it was in large part his open commitment to put a Southern strict constructionist on the court which elected him.

Is this commitment, revealed to the nation and repeated in his campaign speeches, any more reprehensible than the commitment Senator Bayh gave organized labor for the $80,000 it donated to his campaign for the Senate?

Lord knows what that commitment was; but it would not be straining to assume it included an obligation to fight a Haynsworth or a Carswell with every kind of smear and besmirch tactic required to keep him off the Supreme Court.

Mr. HOLLAND. Mr. President, I next ask unanimous consent that an editorial appearing in the Orlando Sentinal of April 9 entitled "The Senate And Carswell" be printed in the RECORD.

I note with interest the following quotation from that editorial:

The liberals regard the Supreme Court lineup as a death struggle, as indeed it may be.

They cannot face the prospect of a conservative Supreme Court, for that would return some sanity to the country.

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

THE SENATE AND CARSWELL

We have said it all before.

The liberal United States Senate—made that way in the landslide election of Lyndon Johnson—got another pound of flesh from the conservatives in rejecting President Nixon's nomination of Judge Carswell for the Supreme Court.

The liberals regard the Supreme Court lineup as a death struggle, as indeed it may be.

They cannot face the prospect of a conservative Supreme Court, for that would return some sanity to the country.

Despite President Nixon's pledge to the nation in his 1968 election campaign to restore balance to the high court, the liberals will not give up their seat of power willingly, as we have seen.

Those liberals elected in 1964 must face the voters again this year. Perhaps the spectacles of the pillorying of two fine judges will cause the voters to send them to the same fate that the liberal senators decreed for Haynsworth and Carswell.

At this point we can only hope so.

Mr. HOLLAND. Mr. President, I next ask unanimous consent that an editorial from the Fort Lauderdale News be printed in the RECORD.

I quote the last paragraph of that editorial as follows:

To date, however, he has encountered all kinds of trouble in getting the liberal-minded Senate to approve his nominations. We have seen more political nitpicking, more absurd arguments and more outright hypocritical issues raised in the Senate in recent months over the Haynsworth and Carswell nominations than anybody can shake a stick at, and in essence they all boil down to the fact that the liberals just don't want to see any judge appointed to the Supreme Court who doesn't conform to their own way of thinking.

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

[From the Fort Lauderdale (Fla.) News, Apr. 2, 1970]

HOW LONG WILL IT TAKE FOR PRESIDENT TO SEAT NEW HIGH COURT JUSTICE?

(By Jack W. Gore)

While nobody, certainly, can question the right or the responsibility of the members of the U.S. Senate to dig deeply into the qualifications of certain presidential appointees to high-ranking governmental jobs, one has to wonder these days just how long it is going to take for President Richard Nixon to get a judge of his choosing to fill the present vacancy on the U.S. Supreme Court.

One also has to wonder in view of some of the character assassination tactics employed by certain members of the Senate against the last two men Mr. Nixon has nominated to the vacant court seat, just how many jurists we have left in the nation who would subject themselves to this kind of scrutiny for whatever honor or glory that is still associated with serving on the country's highest tribunal.

It might well be true that President Nixon, in first selecting Judge Clement F. Haynsworth and then picking Judge Harrold Carswell as his nominees, could have exercised somewhat better judgment and chosen men whose backgrounds bore no blemish whatsoever.

But where does one find a judge today who has come up through our political appointee judgeship system and whose record on the bench and whose personal life and conduct have been so crystal pure that nobody can find the first stone to cast against him?

Could any of the present judges serving on the Supreme Court have passed the scrutiny the Senate has given Judges Haynsworth and Carswell? Justice Hugo Black, for instance, is an admitted former member of the Ku Klux Klan. Former Chief Justice Earl Warren held the dubious distinction when he was appointed of never having even presided over a court case. Justice William O. Douglas' personal life and writings at the moment are both so controversial that his name couldn't even get by the Senate Judiciary Committee, much less be debated on the floor of the Senate.

Few, if any, members of the present court were given much more than casual scrutiny by the U.S. Senate when their names were proposed. Yet now we are expected to believe that no jurist, particularly if he is a southerner or has a judicial record of being somewhat of a strict constructionist as far as the U.S. Constitution is concerned, should be permitted to serve on the court unless he is such a lily-white character as to have done absolutely nothing and said absolutely nothing in his past life that could remotely be held against him.

If the voters of this nation scrutinized the records and the personal lives and activities of the members of the Congress in the fashion the Senate has gone after Judges Haynsworth and Carswell, we doubt there would be very many congressmen who could survive such a scrutiny.

How many congressmen are there, for instance, who haven't said things and done things in the past 20 years that would make them appear as fools if they were brought up against them today. Times change, standards change and men change and for anybody to label a person as a confirmed bigot for something he said 20 years ago or for something he did, which at the time was common practice, is not only a bit ridiculous but hypocritical as all getout.

Obviously, this nation needs the best men it can get to serve on the U.S. Supreme Court. But just as obviously the political system under which this country has operated al these years seldom produces outstanding candidates for the Supreme Court anymore than it produces outstanding candidates for any public office from the President right on down the line.

President Nixon happens to think, as do many concerned citizens of this country, that it is time to restore some balance to the Supreme Court. Under that philosophy he has selected men who have gained a reputation on the bench of interpreting laws as they have been written rather than how they or others might think these laws should have been written.

Many of this country's present problems stem from the very fact that too many present members of the Supreme Court are addicted to legislating new law rather than interpreting the law as written by others having that responsibility.

This is what President Nixon has wanted to change and this is why he deliberately sought the kind of judges who could help bring about such a change.

To date, however, he has encountered all kinds of trouble in getting the liberal-minded Senate to approve his nominations. We have seen more political nitpicking, more absurd arguments and more outright hypocritical issues raised in the Senate in recent months over the Haynsworth and Carswell nominations than anybody can shake a stick at, and in essence they all boil down to the fact that the liberals just don't want to see any judge appointed to the Supreme Court who doesn't conform to their own way of thinking.

Mr. HOLLAND. Mr. President, lastly, I ask unanimous consent that an editorial from the Pompano Beach Sun-Sentinel of April 10 entitled "People Were Real Losers When Court Lost Carswell" be printed in the RECORD.

I quote with approval a paragraph out of that editorial as follows:

No, Mr. Nixon might be embarrassed by losing two Supreme Court nominees in a row, but it was the people he represents and those who are subject to the edicts of the court who were the losers.

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

PEOPLE WERE REAL LOSERS WHEN COURT LOST CARSWELL

(By William A. Mullen)

Newspaper critics and political foes of Richard M. Nixon were quick to crow that the rejection of Judge G. Harrold Carswell as a nominee for associate justice of the U.S. Supreme Court was a bitter defeat for the President.

We wonder if the outcome of the Senate vote Wednesday was not more of a defeat for the average American—denied full representation in the land's highest court; victimized by sectionalism; hoodwinked by "public opinion," and refused a wanted voice for common sense and conservatism.

Mr. Nixon was elected in 1968 during a change of mood that wanted the nation to move away from the reign of permissiveness and the wave of crime that sorely perturbed the electorate. These were not the sole issues, but they had a part in the change that saw Republicans and conservatives gain seats in the Congress and in the legislatures, and a majority of the governorships.

Part of the mood was dismay with the Supreme Court under the chief justiceship of Earl Warren, blamed for coddling the criminal, giving latitude to violent dissent, and writing law with a liberal slant.

A more conservative court was anticipated, especially after the chief justiceship was left waiting for Mr. Nixon after Lyndon Johnson's choice, Associate Abe Fortas, resigned under threat of impeachment.

Mr. Nixon had little difficulty in filling the chief justiceship with Warren Earl Bur-

ger, approved with only hard core liberals McCarthy of Minnesota, Nelson of Wisconsin and Young of Ohio opposing.

But the liberals dug in for a battle for control of the court when the President nominated his first southerner, Clement F. Haynsworth. His approval could swing the court toward conservatism. Thus, he became a target of character assassination and his nomination was defeated.

The story was repeated for Judge Carswell, except basis for opposition was flimsier. This did not, however, deter the liberals from weaving gossamer into sackcloth with the aid of liberal and anti-administration segments of the mass communications media, of academe, and among the political hatchet men.

These cadres, eager to forgive the criminal, to excuse the rioter, to debase the courts and to spare their own pounced upon a Carswell speech of two decades ago in which as a Georgia legislative candidate he favored White supremacy.

Although he renounced that speech, the always-forgiving liberals were intractable. A murderer, rapist or subversive is capable of mending his ways; a church-going, clean-living member of the judiciary is not.

"Public opinion," it was said, opposed Carswell. That public opinion was made by the National Assn. for the Advancement of Colored People (NAACP), by the AFL-CIO, which regarded Judge Carswell as anti-labor because in exercising his wisdom and judgment he was not 100 percent blindly pro-labor, and by the liberal members of campus faculties.

"Public opinion," was represented by the labor lobbyists who flocked to Washington in the closing hours before the Carswell vote, by the professional civil rightists, and by the members of the Senate who appeal to minorities and who cater to big labor.

"Public opinion," was not represented in force in Washington by Mr. Nixon's "silent majority," by the middle American, by the advocates of the Constitution who provided the vote to place Mr. Nixon in office where he might exercise presidential prerogatives, including choosing members of the Supreme Court of the United States.

No, Mr. Nixon might be embarrassed by losing two Supreme Court nominees in a row, but it was the people he represents and those who are subject to the edicts of the court who were the losers.

And the victors were the coterie who have found a winning combination in unified opposition, looseness with fact, and manipulated "public opinion," a combination that is a portent of danger for representative government.

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## TODAY'S BRUTAL AND FASCIST GREEK GOVERNMENT

Mr. YOUNG of Ohio. Mr. President, last week, a court in Athens sentenced five newspapermen and a former government minister to prison terms of up to 4½ years in addition to stiff fines. Their crime consisted of publishing an interview in which an appeal was made for restoration of democracy in Greece. Yesterday, another Athens tribunal handed out sentences of imprisonment ranging up to life imprisonment to 27 persons accused of plotting to overthrow the Greek Government. Several defendants in retracting their confessions stated in court that they were obtained under torture during their months of pretrial imprisonment. These are only the most recent in a series of events revealing the brutal and barbaric dictatorship of the Fascist colonels who now tyrannize Greece.

"Democracy" is a Greek word and a form of government created by the genius of ancient Greece. However, "tyranny," "despotism," and "anarchy" are also Greek words, and those who now govern there are giving these words new meaning.

The ruling military junta has destroyed free institutions, abolished representative government, prevented free elections, established control over press and radio, throttled freedom of speech, put an end to all guarantees of individual liberty, conducted a reign of terror against dissenters, and tortured political prisoners. These Fascist colonels govern by decree the same as Communist dictators. The fact is that since a small group of Fascist army officers seized power on April 21, 1967, the people of Greece have been living under a dictatorship little different from that of Nazi Germany.

Mr. President, thousands of political prisoners in Greece, both men and women, have suffered tortures almost beyond belief. Reports of such torture on the part of the military regime have been filtering out of Greece for 3 years. Many of these reports were so horrifying and grotesque that they lacked credibility. However, in a new book, "Barbarism in Greece," an American lawyer, James Becket, has carefully documented the systematic use of terror and violence by the ruling junta against its political opponents. Mr. Becket devoted several years to his inquiry, conducting hundreds of personal interviews. He lists by name 438 Greeks who have been subjected to the most vicious and inhumane tortures. Reading Mr. Becket's account, I found it difficult to understand how men and women could undergo such brutality and survive.

One can only guess how many additional thousands of political prisoners have been tortured and brutalized. Without doubt the most horrifying thing in the world for one who has been tortured and survived is the fear of being again tortured.

It is clear from Mr. Becket's book that facism is dominant in Greece. The colonels have given free reign to the sadists and torture specialists to practice their trade in the dungeons of Greek jails. The horrors of Dachau, Auschwitz, Buchenwald, and the Gestapo basements of Nazi Germany are being relived in the dark cells of Athens' Bouboulinas Street prison.

The United States can no longer afford to ignore the brutality that is being perpetrated by the Fascist colonels and their underlings. These are the same colonels who were trained by American military missions and they used American weapons in their overthrow of the constitutional government in Athens, the cradle of democracy. The terror continues unabated with every passing day. Purges take place mercilessly in the military, the church, and throughout Greek society as the Fascist dictatorship tightens its grip on every aspect of Greek life.

Mr. President, our State Department made a serious mistake in extending diplomatic recognition to the military junta in Athens. That mistake has been compounded by the continuation of military assistance to that terrorist regime. Since the brutal Fascists took power 3 years ago, the United States has given $234 million of American taxpayers' money in military assistance to help maintain these Fascist colonels in power.

Today the Greek people are being crushed by a regime as tyrannical as any in the world. Meanwhile, our State Department does nothing more than pay lipservice toward restoring freedom to Greece. We continually express our concern but take no real steps toward ousting the junta.

Despite the claims of State Department officials that the United States is without power to affect significantly the state of affairs in Greece today, it is obvious that there is much we could do.

The United States should sever diplomatic relations with the Greek dictatorship, withdraw our Ambassador, and close our Embassy, leaving only a custodial group; and thereby indicate our disapproval of the regime in such a way that the Greek people could not be mistaken about it.

We should suspend completely the delivery of all military and economic assistance to Greece.

Our Government has available a wide-range of economic powers that it could exercise to apply pressure on the Greek Government to end the torturing of political prisoners and to restore civil liberties to the Greek people.

The United States should join forces with its friends in the Council of Europe to isolate the military junta politically and economically as various Western European governments are prepared to do.

Finally, we have the ultimate sanction of moving to expel Greece from NATO.

None of these steps has been taken and the suffering in the torture chambers of Bouboulinas Street continues. The freedom-loving people of Greece are looking for a sign from the United States—a genuine sign that will assist them in regaining their freedom. The eight million liberty-loving Greek people regard our aid to their oppressors as the most powerful factor in keeping them in power.

Mr. President, for Americans the saddest part of the unfolding tragedy in Greece is the fact that our own Government has, through diplomatic recognition and military assistance, condoned the tyranny and brutality of the colonels. In the eyes of free people everywhere we have been the accomplices of tyranny.

Officials of our State Department and Defense Department should stop using our prestige and valuable resources in behalf of these Fascist tyrants. Our efforts must be directed at revitalizing democracy in Greece and restoring power to the downtrodden Greek people. It is clearly not in our best interest that tyrannical rule—whether in Greece, Brazil, Haiti or elsewhere—be aided and abetted by the United States.

In that connection, John Gunther in his great work "Inside Europe Today" wrote:

> One lesson that may well be drawn from all this is that it is always dangerous for a democracy, like the United States, to become too closely involved with a dictator or

semi-dictator, no matter how convenient this may seem to be. It is the people who count in the long run, and no regime is worth supporting if it keeps citizens down—if only for the simple reason that they will kick it out in time.

## ONE-WAY PRESS

Mr. DOLE. Mr. President, when I returned from Kansas on Sunday, I scanned the Saturday issue of the Washington Post.

There was a two-column head which said "Senators Counter President's Attack."

For 12 full inches we were told about the Senators who had questioned the President's motives in deciding not to nominate at this time another southern appellate judge to the Supreme Court. Almost every Senator who spoke against the President was named and quoted.

It was not until we turned to the continuation of the story that we learned that the President had been defended at all.

Two defenders were cited by the author of this column. The other five were not mentioned.

Mr. President, this, frankly, is misrepresenting the facts. The thousands of persons who daily depend on the Post for their information deserve something better. They must believe, after reading the Post, that the Senate overwhelmingly opposed the President's statement. From Mr. Rich's story they have a right to think so. But it is not so and I stand here today to tell them it is not so, knowing, of course, this statement is unlikely to make Mr. Rich's next story.

Mr. President, I call the attention of my colleagues who may not have been present on Friday to the RECORD of that date. The facts are there. They are not in the Post.

Neither, Mr. President, are they in the New York Times.

The Times went on for 27 inches of type, not counting heads, before it bothered to mention that there was some support for the President in the Senate. Then it was brushed off in one short paragraph. The author of this was John W. Finney.

But let me hasten to add that the Times to which I refer is the city edition which we see here in Washington. The Times editors have a habit of running one version in an edition no one in Washington sees, then pointing to it when there is a complaint about the version that appears in the Washington edition.

At any event, Mr. President, we have two of the Nation's largest newspapers failing to report what the people have the right to know.

Mr. President, I have no desire to censure the press, but I would like to occasionally see fair and objective reporting of the news.

It would be shocking but refreshing.

## MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on April 11, 1970 the President had approved and signed the act (S. 227) to provide for loans to Indian tribes and tribal corporations, and for other purposes.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HOLLINGS) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Labor and Public Welfare.

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

## 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 the following bills, in which it requested the concurrence of the Senate:

H.R. 16900. An act making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1971, and for other purposes; and

H.R. 16915. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1971, and for other purposes.

## HOUSE BILLS REFERRED

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

H.R. 16900. An act making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies, for the fiscal year ending June 30, 1971, and for other purposes; and

H.R. 16915. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1971, and for other purposes.

## PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A concurrent resolution of the Legislature of the State of Kansas; to the Committee on Commerce:

"HOUSE CONCURRENT RESOLUTION NO. 1084

"A CONCURRENT RESOLUTION MEMORALIZING THE CONGRESS OF THE UNITED STATES TO AMEND THE UNIFORM TIME ACT OF 1966

*"Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the Legislature of the state of Kansas respectfully petitions the Congress of the United States to amend the Uniform Time Act of 1966 to provide that observance to daylight saving time in the United States shall be limited to the period in each year between Memorial Day and Labor Day of such year.

*"Be it further resolved:* That a duly attested copy of this resolution be immediately transmitted by the Secretary of State to the Secretary of the Senate of the United States, the clerk of the House of Representatives of the United States and to each member of the Congress from this state.

"I hereby certify that the above Concurrent Resolution originated in the House, and was adopted by that body February 25, 1970

"CALVIN A. STRAWIG,
*"Speaker of the House.*
"L. O. HAZEN,
*"Chief Clerk of the House."*

A concurrent resolution of the Legislature of the State of Kansas; to the Committee on Foreign Relations:

"HOUSE CONCURRENT RESOLUTION NO. 1111

"A Concurrent Resolution memorializing the Congress of the United States to direct the Department of State to undertake a more determined effort to obtain the release of names of prisoners now held; to effect the immediate release of sick and wounded prisoners; to achieve impartial inspections of prisoner of war facilities; to assure proper treatment of all prisoners; to facilitate the regular flow of mail; to obtain the release and freedom from captivity of those American men of this "undeclared" war with North Vietnam

"Whereas, Article VI of the United States Constitution specifically states that provisions of treaties ratified by the United States Government become the 'supreme law of the land'; and

"Whereas, Notwithstanding solemn promises ratified at the international conference at Geneva that all prisoners of war captured would be given the respect of humane treatment; that Article 2 of the convention provides that it 'shall apply to all cases of declared war or any other armed conflict which may arise between two or more of the High Contracting parties, even if the state of war is not recognized by one of them'; and

"Whereas, The government of North Vietnam acceded to the convention on June 28, 1957, and the government of South Vietnam acceded to the convention on November 14, 1953, and the government of the United States acceded to the convention on August 2, 1955; no pretense of compliance has been advanced by North Vietnam or the National Liberation Front (Viet Cong) despite the reminder to do so on June 11, 1965, by M. Jacques Freymond, Vice President of the International Committee of the Red Cross; and

"Whereas, Repeated appeals on the part of wives, parents, relatives, and dependents of those unfortunate victims of Communist violence have proven ineffective through the United States Department of State; Now, therefore,

*"Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the Congress of the United States of America direct the Department of State to undertake a more determined effort to obtain the release of names of prisoners now held; to effect the immediate release of sick and wounded prisoners; to achieve impartial inspections of prisoner of war facilities; to assure proper treatment of all prisoners; to facilitate the regular flow of mail; and most importantly, to obtain the release and freedom from captivity of those American men of this 'undeclared war' with North Vietnam.

*"Be it further resolved:* That a duly attested copy of this resolution be immediately transmitted by the Secretary of State to the Honorable Richard M. Nixon, President of the United States, the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, each member of the Congress from this state.

"I hereby certify that the above Concurrent Resolution originated in the HOUSE, and was adopted by that body March 9, 1970.

"House concurred in Senate amendments March 14, 1970.

"CALVIN A. STRAWIG,
*"Speaker of the House.*
"L. O. HAZEN,
*"Chief Clerk of the House."*

A concurrent resolution of the Legislature of the State of Kansas; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 1081

"A Concurrent Resolution rescinding the action of the legislature of the state of Kansas memorializing congress to call conventions for the purpose of proposing amendments to the Constitution of the United States

"Whereas, The legislature in adopting senate concurrent resolution No. 4 on January 31, 1963, memorialized congress to call a convention for the purpose of amending the Constitution of the United States in regard to restricting or limiting any state in the apportionment of representation in its legislature and in regard to the prevention of the judicial power of the United States extending to any suit in law or equity to any controversy relating to apportionment of representation in the state legislature, and such resolution is now moot in that the house of representatives and senate of the legislature of the state of Kansas have already been apportioned since the adoption of such resolution, and the senate and house of representatives of the legislature of the state of Kansas are preparing to reapportion in the 1971 legislative session; and

"Whereas, The legislature of the state of Kansas in adopting senate concurrent resolution No. 3 on January 31, 1963, memorialized Congress to call a convention for the purpose of amending the Constitution of the United States to provide a change in the procedure for amending said Constitution and such amendment to the Constitution of the United States may be proposed without the necessity of calling a constitutional convention which might relegate to itself the power to rewrite the Constitution of the United States; and

"Whereas, The legislature of the state of Kansas in adopting senate concurrent resolution No. 23 on April 1, 1963, petitioned Congress to call a convention for proposing an amendment to the Constitution of the United States to provide for the election of the president and vice-president in a manner fair and just to the people of the United States, and such amendment to the United States Constitution could be proposed without the necessity of calling a constitutional convention which might relegate to itself the power to rewrite the United States Constitution, and

"Whereas, The legislature of the state of Kansas in adopting senate concurrent resolution No. 1 on January 27, 1965, applied to Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States in regard to allowing states which have a bicameral legislature to apportion the membership of one house of such legislature on factors other than population, and removing any restrictions or limitations on a state in its determination of how membership of governing bodies of its subordinate units shall be apportioned, and such amendment to the United States Constitution could be proposed without the necessity of calling a constitutional convention which might relegate to itself the power to rewrite the United States constitution: Now, therefore,

*"Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the legislature rescind its action on January 31, 1963, by which it adopted senate concurrent resolutions Nos. 3 and 4, and rescind its action of April 1, 1963, by which it adopted senate concurrent resolution No. 23 and rescind its action of January 27, 1965, by which it adopted senate concurrent resolution No. 1, and

*"Be it further resolved,* That duly attested copies of this resolution be immediately transmitted by the Secretary of State to the Secretary of the Senate of the United States, to the Clerk of the House of Representatives of the United States, to each member of the congress from this state, and to the legislatures of all other states of the United States.

"I hereby certify that the above Concurrent Resolution originated in the House, and was adopted by that body February 10, 1970.

"House concurred in Senate amendments March 12, 1970.

"CALVIN A. STRAWIG,
*"Speaker of the House.*
"L. O. HAZEN,
*"Chief Clerk of the House."*

A joint resolution of the General Assembly of the Commonwealth of Virginia; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION No. 81

"Memorializing the Congress to submit to the states an amendment to the Constitution of the United States.

"Whereas, taxes by the United States Government on the interest on evidences of indebtedness of states, their political subdivisions, and the agencies and instrumentalities thereof, impose a burden on the sovereign power of the states, and their political subdivision, agencies and instrumentalities to borrow money for essential state and local purposes; and

"Whereas, the constantly recurring attempts of Congress and the Treasury Department of the United States to tax the interest on such evidences of indebtedness has severely damaged the ability of the states and their political subdivisions, agencies and instrumentalities to borrow money, and has substantially increased the cost of such borrowings to the detriment of the taxpayers of the states and their political subdivisions, agencies and instrumentalities; and

"Whereas such recurring attempts to tax the interest on such evidences of indebtedness flout the Constitutional principle of reciprocal inter-governmental tax immunity first enunciated by the Supreme Court of the United States in McCulloch v. Maryland (4 Wheat 316) in the year 1819 and more specifically applied by that Court in Pollack v. Farmers' Loan & Trust Co. (157 U.S. 429) and later cases; and

"Whereas, it is advisable and in the best interest of the states to prevent future attempts to tax the interest on such evidences of indebtedness by amending the Constitution of the United States to unequivocally state the principle of reciprocal inter-governmental tax immunity in respect of taxes on the interest on such evidences of indebtedness and thereby restore investor confidence to the market for such evidences of indebtedness and, consequently, reduce the cost of borrowing by the states and their political subdivisions, agencies and instrumentalities; now, therefore, be it

"Resolved, by the House of Delegates, the Senate concurring, That the Congress of the United States is hereby memorialized to submit to the legislatures of the states an amendment to the Constitution of the United States in the following form, which amendment is hereby ratified as an amendment to the Constitution of the United States on behalf of the State of Virginia, by this Joint Resolution, to wit:

" 'Without the consent of a state, Congress shall have no power to lay and collect any tax, direct or indirect, upon the income derived from interest paid on evidences of indebtedness of such state, or of any political subdivision, agency or instrumentality thereof, nor shall any state have power, without the consent of Congress, to lay and collect any tax, direct or indirect, upon the income derived from interest paid on obligations of the United States or of any agency or instrumentality thereof'; and be it further

"Resolved, That a duly attested copy of this Joint Resolution shall be immediately transmitted by the Clerk of the House of Delegates to both the President and Secretary of the Senate of the United States and to the Speaker and Clerk of the House of Representatives of the United States.

"Agreed to by the House of Delegates March 9, 1970.

"GEORGE R. RICH,
*"Clerk.*
"Agreed to by the Senate March 14, 1970.
"BEN D. LACY,
*"Clerk."*

## REPORT OF A COMMITTEE

The following report of a committee was submitted:

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

S. 3544. A bill to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations and provide for the uniform compensation of Assistant Directors (Rept. No. 91–766).

## BILLS INTRODUCED

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

By Mr. JAVITS:

S. 3711. A bill to provide a national health insurance program by extending the benefits, enlarging the coverage, expanding the role of private carriers, and otherwise improving the health insurance program established by title XVIII of the Social Security Act, and by establishing a new title XX to such act to provide comparable health insurance benefits to individuals not covered therefor under the program established by such title XVIII, by providing Federal assistance to develop local comprehensive health service systems, and authorizing the establishment of federally chartered national health insurance corporations; to the Committee on Finance.

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

By Mr. MATHIAS:

S. 3712. A bill for the relief of the city of Frederick, Md.; to the Committee on the Judiciary.

S. 3713. A bill to authorize the District of Columbia Government to undertake the planning, construction and operation of a supplemental water-supply intake in the fresh-water tidal estuary of the Potomac River, and for other purposes; to the Committee on the District of Columbia.

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

By Mr. CRANSTON:

S. 3714. A bill for the relief of Cindeline Dawn Dillon; to the Committee on the Judiciary.

By Mr. BROOKE:

S. 3715. A bill to authorize the President, subject to congressional disapproval, to raise or lower income tax rates by not more than 10 percent; to the Committee on Finance.

S. 3716. A bill for the relief of Bridget Hanna; to the Committee on the Judiciary.

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

By Mr. BURDICK:

S. 3717. A bill to amend the Internal Revenue Code of 1954 to provide for the continuation of the investment tax credit for small businesses, and for other purposes; to the Committee on Finance.

## S. 3713—INTRODUCTION OF A BILL RELATING TO A SUPPLEMENTAL WATER-SUPPLY INTAKE IN THE FRESH-WATER TIDAL ESTUARY OF THE POTOMAC RIVER

Mr. MATHIAS. Mr. President, today I am introducing S. 3713, to authorize the planning, construction, and operation of a supplemental water supply intake in the fresh water tidal estuary of the Potomac River.

Enactment of this legislation now is important to insure that the District of Columbia has an adequate supply of water during those summer periods when the flow of the Potomac is low.

Last summer we faced a water shortage that would have been critical had the July rains not descended upon us. In anticipation of that emergency, the Army Corps of Engineers was preparing to float barges up the Potomac River to a point just below Little Falls to pump water out of the estuary into the city's water supply system.

The bill I am introducing today would forestall such makeshift responses to critical situations by enabling the District of Columbia to construct a permanent intake facility. There would then be no more water crises in times of low flow.

Last year both the Committee on the District of Columbia and the Committee on Public Works of the Senate examined the Washington water situation very carefully. At that time we received abundant testimony from all quarters that the upper estuary could be used as a source of supplemental water supply for the District. The only disagreement was on how much water could be taken out during periods of low flow in the river without drawing on water of unreliable quality. The most conservative estimate, presented by the Corps of Engineers, was 50 millions gallons a day for 60 days—more than would be required to meet anticipated shortages for years to come. Other competent witnesses testified that the potable water resources of the estuary are unlimited. Several extensive studies are now being conducted which will give us hard information about the safe limits of estuarial use.

The performance of the Blue Plains treatment plant is a critical factor in improving the quality of the water in the upper estuary. I am very encouraged by the research now under way by the Federal Water Pollution Control Administration and the District of Columbia Government at Blue Plains, and by the plans recently announced for dramatic upgrading of Blue Plains. This will be an expensive task but its rapid completion is essential.

In testimony before the Committee on Public Works, I urged that several steps be taken promptly to cope effectively with the immediate and long-range water situation confronting Washington. This legislation today is designed to implement one of those steps: Immediate completion of the emergency pumping facilities proposed by the corps for taking limited amounts of fresh water from the upper Potomac estuary near Chain Bridge.

Mr. President, construction of a permanent intake facility is the appropriate way to solve Washington's seasonal water shortage problem.

It is the most inexpensive way to solve the problem. By 1968 prices, construction of a two-unit intake facility—each unit with a capacity of 200 million gallons a day—was estimated to cost $5 million. This facility would be enough to provide a safe margin of water supply until 1990, when another two-unit facility could be constructed.

It is also the way to insure that the Potomac Basin is kept in its natural state, unimpaired by Army Corps of Engineer dams on the main stem of the river. For, in the last analysis, the major rationale for a large number of Army-type dams is to increase the flow of the water down the Potomac River in order to increase the water available for consumption in the Washington area.

It has been asserted that all the purported advantages of the Army dams can be accomplished much more efficiently in other ways:

Washington's water supply can be assured by the estuarial intake.

Local water supply needs can be assured by the construction of small headwater, Soil Conservation Service type dams which do not mean big drawdowns during midsummer, high recreation use months.

Water recreation for residents of the Washington area can be provided by cleaning up the estuary and making it usable for both swimming and boating. Water recreation for residents in other parts of the basin can be provided in connection with the headwater dams or on the flatwater sections of the Potomac River.

Improved water quality can ultimately be assured by elimination of pollution at its source, upstream and downstream. The old time method of flushing pollution downstream and out to sea is—everyone agrees now—no longer acceptable.

Any problem of flooding can be adequately handled by the construction of small headwater dams and other local impoundment structures in areas where flooding is a problem. Flooding is not a serious problem in all parts of the basin.

These arguments must be fully considered. I intend to work with Federal, State, and local officials in the basin to examine such alternatives and develop ways to meet the region's needs at lowest cost and with the least environmental damage.

Perhaps the most telling argument for construction of the estuarial intake facility is money.

The corps estimated last summer that it would cost $1 million to install and operate the emergency barge intake system to cope with last summer's drought. For an estimated $5 million we could construct a facility that would be available year in and year out to meet water shortage crises—and it would not take a last minute rush to get it set up. Furthermore, the corps estimates of the cost of constructing enough dams on the Potomac and its tributaries to meet future needs without using any other tools range between $300 and $500 million. The several hundred million dollars that could be saved in the long run by relying on the estuary for Washington's supplemental water supply needs could be put to great advantage in helping to improve the quality of the water in the estuary.

We are approaching the day when the total recycling of water will be a common practice in this country. It is already feasible and used in some areas. While success in using the estuary as a supplemental source of water for Washington is not dependent upon a system of recycling water, it would certainly be compatible with such a system should it be developed for this area. Construction of upstream Army-type dams would not be. Thus, the investment in the program I am proposing today is an investment that looks toward the future while meeting present-day needs.

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

The bill (S. 3713) to authorize the District of Columbia government to undertake the planning, construction and operation of a supplemental water supply intake in the fresh water tidal estuary of the Potomac River, and for other purposes; introduced by Mr. MATHIAS, was received, read twice by its title, and referred to the Committee on the District of Columbia.

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## S. 3715—INTRODUCTION OF FLEXIBLE FISCAL POLICY ACT

Mr. BROOKE. Mr. President, the severe strains on the Nation's economy have lingered now for many months. The administrations' commendable efforts to curb inflation and to bring the country back to economic stability have encountered great difficulty. It is not yet clear how soon or how effectively the stern economic medicine of recent months will succeed in this essential task.

Yet one thing is all too clear. The United States has fought the war against inflation with primitive and inadequate weapons. The measures to cool the economy came much too late; every reputable economist agrees now—and agreed years ago—that efforts to head off inflation should have begun no later than 1965 or 1966, when the vast expansion of the Vietnam war fueled the damaging surge through which we are still passing. The tragic consequences of the failure to maintain stability while it was still possible to do so will be compounded if the Nation and the Congress do not reap the central lesson of this bitter experience. It is not possible to undo all the damage that has been done. But it is imperative, I submit, that such an episode not be repeated.

It is my conviction, stated many times before, that one of our most severe handicaps in combating inflationary or deflationary impulses is the rigidity of our tax structure. The long and complex procedures for changing tax rates have virtually removed from our fiscal arsenal the option of rational and timely tax adjustments as a means of regulating

dangerous economic trends. Certainly expenditure control is vital and monetary policy has a crucial role to play, but without a more adaptable tax policy those important instruments bear an inordinate burden. Under such circumstances they engender grave distortions of their own, as we have seen in the current disaster which afflicts the Nation's housing market. There is no reason to persist in this error.

A variety of methods might be considered to remedy this serious defect in our economic machinery. It should be evident that any plan should fully respect the constitutional requirement vesting in the Congress responsibility and authority to raise revenue.

I am today introducing the Flexible Fiscal Policy Act which meets this test and which will also serve the vital interest which I have described. The simple purpose of this legislation, recognizing that economic stability and optimal employment levels require improved procedures for timely adjustments in tax rates, is to mesh executive and legislative responsibilities more constructively.

Under this proposal, when the President determines that inflationary or deflationary trends threaten the economy, he may submit to the Congress a tax adjustment plan proposing that income tax rates be raised or lowered by up to 10 percent. Such a plan would take effect only if neither House of Congress passes a resolution disapproving it within 60 days. This concept is quite similar to that followed in the case of reorganization plans. Any such resolution of disapproval would be highly privileged and there would be clear opportunity for the Congress to reject any tax adjustment plan which did not meet with the approval of both Houses. Furthermore, the bill retains full legislative authority to terminate any such plan at any time.

This bill provides a straightforward mechanism for prompt and rational changes in fiscal policy. It will equip the Nation's policymakers with an option which could have forestalled the disastrous inflation we are currently experiencing. We all recall the tardiness with which the recent surtax was recommended and the unfortunate delays in final enactment of the temporary tax change.

We may argue endlessly about the exact effects of the surcharge finally adopted, but few can disagree that it would have been far more effective if implemented much earlier. In my opinion, the President should have followed the advice of the Joint Economic Committee to seek authority for such an increase months before he finally acted. However, it is understandable that the Chief Executive may have been intimidated both by the political implications of requesting a tax increase and by the formidable obstacles to achieving congressional concurrence.

I believe that had the system proposed in the Flexible Fiscal Policy Act existed in 1965 it would have facilitated more responsible action by both the executive and legislative branches. The President might have been encouraged to act on sound economic principles by recommending a tax increase to cover the increased costs of the Vietnam war and the Congress would have been enabled to consider this crucial proposal in an accelerated manner.

Similarly, in periods of recession, both the President and the Congress would be enabled to cut taxes quickly if that were determined to be a helpful means of stimulating demand in the private sector. This modest device is not a panacea for the troubles of our complicated economy. It is merely one tool for improving our capacity to harness that economy in the interests of all our people.

American citizens have a right to expect that our political leaders will find means of making our Constitution responsive to the requirements of modern times. I believe this proposal contributes to that goal. Integrated with appropriate expenditure controls and adaptive monetary policy, more vigorous and flexible application of the revenue power will advance the cause of rational management of our free-enterprise system.

I hope that this proposal will generate a wide consensus in the Congress and in the country. With such a consensus I am confident we can devise the innovations which will insure greater economic security for every American.

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

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

The bill (S. 3715) to authorize the President, subject to congressional disapproval, to raise or lower income tax rates by not more than 10 percent, introduced by Mr. BROOKE, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 3715

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flexible Fiscal Policy Act."

SEC. 2. ADJUSTMENT OF INCOME TAX RATES.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VII—TAX ADJUSTMENT PLANS

"Sec. 59a. Findings and policy.
"Sec. 59b. Tax adjustment plans.
"Sec. 59c. Contents and duration of tax adjustment plan.
"Sec. 59d. Miscellaneous provisions.

"SEC. 59a. FINDINGS AND POLICY.

"(a) FINDINGS.—The Congress finds that the achievement of reasonable economic stability and optimal levels of employment requires a flexible fiscal policy responsive to changing conditions. The Congress further finds that, within the limitations and for the purposes set forth in this part, such a policy requires an improved procedure to make timely adjustments in the rates of income taxes.

"(b) POLICY.—The President shall exercise the authority conferred by this part solely for the purpose of stabilizing the national economy in order (1) to achieve the policy set forth in section 2 of the Employment Act of 1946, (2) to maintain the purchasing power of the dollar, or (3) to maintain the stability of the monetary system.

"SEC. 59b. TAX ADJUSTMENT PLANS.

"(a) PREPARATION AND SUBMISSION TO CONGRESS.—When the President determines that an adjustment in the rates of the taxes imposed by this chapter is necessary to accomplish one or more of the purposes stated in section 59a, he shall prepare a tax adjustment plan and transmit the plan (bearing an identification number) to the Congress.

"(b) HOW SUBMITTED.—The President shall have a tax adjustment plan delivered to both Houses on the same day and to each House while it is in session. In his message transmitting a tax adjustment plan, the President shall specify the reasons for submitting the plan to the Congress.

"(c) DISAPPROVAL BY EITHER HOUSE OF THE CONGRESS.—A tax adjustment plan shall take effect at the end of sixty calendar days after the date on which the plan is transmitted to the Congress unless, between the date of transmittal and the end of the sixty-day period, either House of the Congress passes a resolution stating in substance that such House disapproves the tax adjustment plan.

"(d) PUBLICATION.—Any proposed tax adjustment plan shall be printed in the Federal Register, and any tax adjustment plan which takes effect shall be printed in the Statutes at Large in the same volume as the public laws.

"SEC. 59c. CONTENTS AND DURATION OF TAX ADJUSTMENT PLAN.

"(a) IN GENERAL.—A tax adjustment plan submitted to the Congress under section 59b shall—

"(1) specify a plus or minus tax adjustment percentage,

"(2) specify its effective date (which may be on, or after the date on which the plan is submitted to the Congress),

"(3) specify the termination date for the change in tax rates or provide that the change made by the plan shall remain in effect until a termination date is provided by law or by later tax adjustment plan,

"(4) prescribe tables which shall apply, in lieu of the tables contained in section 3402 (relating to income tax collected at source), with respect to wages paid during the period specified in the plan, and

"(5) contain such other provisions as the President determines are necessary to carry out the purposes of this part of the plan.

"(b) SPECIAL PROVISIONS.—A tax adjustment plan may—

"(1) provide tables specifying the amount of additional tax imposed within specified adjusted tax brackets,

"(2) exempt taxpayers whose adjusted tax does not exceed the amount specified in the plan from any increase in tax provided by the plan,

"(3) provide that any decrease in tax provided by the plan shall not apply in the case of taxpayers whose adjusted tax exceeds the amount specified in the plan, and

"(4) specify different tax adjustment percentages (plus or minus) for different taxable years or other periods specified in the plan.

"(c) DURATION.—A tax adjustment plan which has taken effect shall continue in effect until:

"(1) The date (if any) specified in the plan for its termination;

"(2) The date specified in a new tax adjustment plan which takes effect as provided by section 59b; or

"(3) The date provided by law enacted after the date on which the plan was submitted to the Congress.

"(d) DEFINITIONS.—For purposes of this section—

"(1) Tax adjustment percentage.—The term 'tax adjustment percentage' means the

percentage, not greater than 10 percent, specified in a tax adjustment plan as the percentage by which the adjusted tax for any taxable year is to be increased or decreased under the plan.

"(2) ADJUSTED TAX.—The term 'adjusted tax' means, with respect to any taxable year, the tax imposed by this chapter for such taxable year, determined without regard to—

"(A) the taxes imposed by this part, section 56 (relating to minimum tax), section 871 (a) (relating to tax on nonresident alien individuals), and section 881 (relating to tax on income of foreign corporations not connected with United States business); and

"(B) any increases in tax under section 47 (a) (relating to certain dispositions, etc., of section 38 property) or section 614 (c) (4) (C) (relating to increase in tax for deductions under section 615 (a) prior to aggregation).

and reduced by an amount equal to the amount of any credit which would be allowable under section 37 (relating to retirement income) if no tax were imposed by this section for such taxable year.

"SEC. 59d. MISCELLANEOUS PROVISIONS.

"(a) SPECIAL RULE.—For purposes of this title, to the extent the tax imposed by this section is attributable (under regulations prescribed by the Secretary or his delegate) to a tax imposed by another section of this chapter, such tax shall be deemed to be imposed by such other section.

"(b) WESTERN HEMISPHERE TRADE CORPORATIONS AND DIVIDENDS ON CERTAIN PREFERRED STOCK.—In computing, for a taxable year of a corporation, the fraction described in—

"(1) section 244(a)(2), relating to deduction with respect to dividends received on the preferred stock of a public utility.

"(2) section 247(a)(2), relating to deduction with respect to certain dividends paid by a public utility, or

"(3) section 922(2), relating to special deduction for Western Hemisphere trade corporations,

the denominator shall, under regulations prescribed by the Secretary or his delegate, be increased or decreased to reflect the tax adjustment percentage.

"(c) SHAREHOLDERS OF REGULATED INVESTMENT COMPANIES.—In computing the amount of tax deemed paid under section 852(b)(3)(D)(ii) and the adjustment to basis described in section 852(b)(3)(D)(iii), the percentages set forth therein shall be adjusted under regulations prescribed by the Secretary or his delegate to reflect the tax adjustment percentage."

(b) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Section 21(a) of the Internal Revenue Code of 1954 (relating to effect of changes in tax rates during taxable year) is amended by adding immediately below paragraph (2) thereof the following new sentence: "If the amount of tax imposed by this chapter is increased or decreased under part VII (relating to tax adjustment plans) such increase or decrease shall be deemed a change in the rate of tax of such tax for purposes of this subsection."

(2) The table of parts for subchapter A of chapter 1 of such Code is amended by adding below the last item thereof the following:

"Part VII. Tax adjustment plans."

SEC. 3. EXERCISE OF CONGRESSIONAL RULE-MAKING POWER

(a) The following subsections of this section are enacted by the Congress:

(1) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in subsection (b); and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) With full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) As used in this section, the term "resolution" means only a resolution of either of the two Houses of Congress, the matter after the resolving clause of which is as follows:

"That the _____ disapproves the Tax Adjustment Plan transmitted to the Congress by the President on _____, 19____.",

the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled.

(c) All resolutions with respect to a tax adjustment plan introduced in the Senate shall be referred by the President of the Senate to the Committee on Finance, and all resolutions with respect to a tax adjustment plan introduced in the House of Representatives shall be referred by the Speaker of the House to the Committee on Ways and Means.

(d) (1) If the committee to which has been referred a resolution with respect to a tax adjustment plan has not reported it before the expiration of ten calendar days after its introduction, it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such tax adjustment plan which has been referred to the committee.

(2) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same tax adjustment plan), and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same tax adjustment plan.

(e) (1) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a tax adjustment plan, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(2) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(f) (1) All motions to postpone, made with respect to the discharge from committee or the consideration of a resolution with respect to a tax adjustment plan, and all motions to proceed to the consideration of other business, shall be decided without debate.

(2) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a tax adjustment plan shall be decided without debate.

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## SENATE CONCURRENT RESOLUTION 60—SUBMISSION OF A CONCURRENT RESOLUTION COMMEMORATING THE 100TH ANNIVERSARY OF THE OHIO STATE UNIVERSITY

Mr. SAXBE. Mr. President, in 1862, President Lincoln signed the Land-Grant Act which opened the door of educational opportunity to young men and women from all walks of life.

In 1970, the centennial year of the Ohio State University, the people of Ohio salute with pride their land-grant university for the many contributions it has made to the lives of people during its first 100 years.

Under the leadership of Dr. Novice G. Fawcett, president since 1956, the university has become one of the major centers of higher education in the world. In partnership with trustees, faculty, governmental officials, alumni, and friends of the university, President Fawcett has been instrumental in the development of Ohio State's comprehensive program of teaching, research, and public service.

Ohio State's program attracts students from every county in Ohio, every State in the Nation, and from 87 countries of the world. Enrollment in this centennial year will reach 50,000 students. The number of living graduates will reach 150,000 as Ohio State annually adds new alumni to serve in all the major fields of business and professional endeavor.

The university is a major resource for the future progress and well being of the people of Ohio and of the Nation. To help insure that the full benefits of this great resource are available to the people, Ohio State has undertaken a centennial development fund. The fund is designed to make possible, through private gifts, the extra measure of financial support which can open the way to a new century of unprecedented service.

For its record of accomplishment during its first century; for its great potential for future contributions; for its able faculty and staff and its distinguished president, Dr. Novice G. Fawcett, the Ohio State University merits the commendation and support of the people of Ohio and of the Nation.

I submit a concurrent resolution commemorating the 100th anniversary of the Ohio State University.

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

The concurrent resolution (S. Con. Res. 60), which reads as follows, was referred to the Committee on the Judiciary:

S. CON. RES. 60

*Resolved by the Senate (the House of Representatives concurring)*, That the Congress send congratulations and greetings to the Ohio State University on the occasion of the one hundredth anniversary of its founding, and extends the hope of the people of the

United States that the State University will continue to grow and prosper in centuries yet to come.

## SENATE RESOLUTION 388—SUBMISSION OF A RESOLUTION RELATIVE TO THE MISSION AND SAFETY OF THE APOLLO 13 ASTRONAUTS

Mr. MURPHY (for himself and other Senators) submitted a resolution (S. Res. 388) relative to the mission and safety of the Apollo 13 astronauts, which was considered and, by unaninous consent, agreed to.

(The remarks of Mr. MURPHY when he submitted the resolution, and the ensuing debate, appear earlier in the RECORD under the appropriate heading.)

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, April 14, 1970, he presented to the President of the United States the enrolled bill (S. 3690) to increase the pay of Federal employees.

## NOTICE OF HEARINGS ON DRUGS

Mr. NELSON. Mr. President, on behalf of the senior Senator from Texas (Mr. YARBOROUGH), I wish to announce that the Health Subcommittee of the Senate Committee on Labor and Public Welfare will hold 2 days of hearings on April 28 and 29, 1970, on the following bills: S. 3096 and S. 3297, regarding prescription drug identification programs; S. 3651, regarding the inspection of firms manufacturing prescription drugs; and S. 3652, regarding the labeling of prescription drug containers.

## ADDITIONAL STATEMENTS OF SENATORS

## DEFENSE DEPARTMENT INVADES THOUGHTS AND PRIVACY OF ITS CIVIL SERVANTS

Mr. ERVIN. Mr. President, in addition to keeping files on the way in which other American citizens exercise their first amendment rights, the Defense Department frequently undertakes to monitor the thoughts, habits, and personal lives of the people who work for it.

The Constitutional Rights Subcommittee studies over the last 9 years show that some, or all, of the Defense agencies attempt to obtain such information through privacy-invading interviews, questionnaires, lie detectors, and personality tests. Other management techniques have been used to stifle free expression of the individual's opinions and to intimidate him beyond the bounds of the employer-employee relation. Telephone monitoring, better known as wiretapping, psychiatric evaluations, and suspension of security clearances are such techniques. Other Federal agencies share in this indictment, though perhaps to a lesser degree.

It was for this reason that I introduced S. 782, a bill of rights for employees of the executive branch. The bill now has 56 cosponsors, an impressive showing of the determination of Senators on both sides of the aisle that they mean to put an end to violations of the constitutional rights of Federal employees. It passed the Senate in the last Congress with the approval of 90 Senators. Although it then died in the House committee, I believe its prospects for passage are now much more favorable.

While it will not cure all the maladies in the executive departments and agencies, this proposal will halt some of the tyrannies practiced by Federal agencies and prevent some of the follies to which many Americans are subjected simply because they work for Government and thus are a captive audience.

Two of the latest examples of what these citizens must endure recently came to the attention of the Constitutional Rights Subcommittee. The first is a questionnaire to determine the political attitudes of civil servants. Distributed by an Army deputy civilian personnel officer, this form asks such questions as the following:

How old are you?

What is your race?

When did you last vote in a local election?

When did you last vote in a presidential election?

Are you a registered member of any political party?

With the views of which party do you most usually agree? American Independent? Democratic? Republican? Other? No party?

Have you ever actively campaigned for any candidate or worked for a political party?

Have you ever contributed money to a political party or candidate?

I think the best form of city government is: City manager/council. Strong mayor/council. No opinion.

I feel that local school boards ought to be: Politically responsive. Above politics.

I believe that elections for offices such as city councilman ought to be: Partisan. Nonpartisan. It makes no difference.

I believe the political rights of civil servants ought to be: Limited. The same as any citizen.

In order to have the best chances for advancement, I believe the career military officer should: Become involved in party politics. Get a politician to "sponsor" him, but avoid political commitment himself. Keep out of any political involvement.

Civil servants know more about the real world of politics than do military officers.

Military officers are at a disadvantage in dealing with civil servants because the latter understand politics better.

Foreign service officers are more politically sophisticated than civil servants.

"Block" voting by members of minority groups is a thing of the past.

"Pressure groups" perform no legitimate function.

Recipients honored with this 50-question form are reassured that their reply is anonymous. The project is, they are told, conducted in the Army staff as part of a larger research project encompassing several military installations. In addition, the results will be part of the basic research required for an advanced degree of a former Army staff officer. The civilian personnel officer then continues, "I urge you to complete and mail the questionnaire ASAP," which we presume means "as soon as possible."

Nowhere is the recipient accorded the courtesy of being informed that his participation is voluntary, that he is under no obligation to reply. Rather, since this comes from his personnel officer who holds a life-death power over his job and who "urges" him to respond, the employee must assume he has little choice unless he wants to get on a blacklist. This former Army staff officer is most likely to report a lack of cooperation.

Mr. President, I submit that it is very probable that the Chief Executive and his political appointees are interested in the past and present political beliefs and activities of civil servants. Indeed, it is to the interest of the administration to support any research at any level which might predict how Federal employees will vote in any election, and how they feel about their boss.

I venture a guess that, if the military continue to support this sort of research, they will be given a vivid demonstration of employee political "attitudes" at the ballot boxes.

Mr. John Cramer, writing about this survey in his Washington Daily News column, offers the following sound advice to employees:

> Mail the questionnaire as directed. Just don't bother to fill it out.

I offer some advice to managers and personnel officers faced with decisions involving research on the personalities or the persons of their employees:

> Forget it. You have more immediate duties at hand: Managing the U.S. Government, while maintaining the morale and respecting the right of employees who work for you.

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

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

> The inclosed survey is being conducted in the Army Staff as part of a larger research project encompassing several military organizations. The results will become part of the basic research required for an advanced degree of a former Army Staff officer.
>
> You have been selected to complete the questionnaire because you represent part of the desired cross section of grade and functional specialty. You will note anonymity is desired. I urge you to complete and mail the questionnaire ASAP.
>
> To mail simply fold top to bottom and staple. Address and stamp are then in the appropriate position for handling by U.S. Postal Personnel.
>
> ROBERT L. MOUSEL,
> *Deputy Civilian Personnel Officer.*

SURVEY

> You are being asked to complete this questionnaire as part of a study being conducted of group attitudes and opinions on certain political matters. Three distinct and separate groups are being surveyed. Your group is part of one of the larger groups.
>
> The questionnaire is divided into six parts; it contains a total of 50 questions. Please

read the directions at the beginning of each part. As you complete each part go directly to the next part. Please answer all questions. There is no time limit.

*Please do not put your name anywhere on the survey form.*

Now, please turn the page and begin.

PART 1.—The questions in this part are designed to gather statistical data about the people who complete this questionnaire. Please circle the letter in front of the word or phrase which most nearly answers the question as it pertains to you.

1. How old are you? A. Less than 25. B. 25 to 30. C. 30 to 35. D. 35 to 40. E. Over 40.

2. What is your education? A. Less than high school. B. High school graduate. C. Two years college. D. Bachelors Degree. E. Masters Degree. F. Doctors Degree.

3. What is your race? A. Caucasian, B. Malayan. C. Negroid. D. Oriental. E. Other.

4. What is your yearly income? A. Less than $10,000. B. $10,000 to $14,000. C. $14,000 to $18,000. D. More than $18,000.

5. How would you classify the place in which you grew up? A. Rural. B. Small town. C. Small city. D. Medium city. E. Large city.

6. What do you consider to be your geographical background? A. Eastern. B. Southern. C. Midwestern. D. Western. E. Pacific Coast.

7. Are you a registered voter? A. Yes. B. No.

8. Are you a registered member of any political party? A. Yes. B. No.

9. When did you last vote in a local election? A. 1969. B. 1968. C. 1967. D. Other. E. Never.

10. When did you last vote in a Presidential election? A. 1968. B. 1964. C. 1960. D. Other. E. Never.

11. With the views of which party do you most usually agree? A. American Independent. B. Democratic. C. Republican. D. Other. E. No party.

12. Have you ever contributed money to a political party or candidate? A. Yes. B. No.

13. Have you ever actively campaigned for any candidate or worked for a political party? A. Yes. B. No.

14. Have you ever run for public office? A. Yes. B. No.

PART II.—The questions in this part are also designed to get statistical information, but require you to write a one-or-two word response. Please fill in the blanks below. If you do not know the answer, or if none is appropriate, please write "unknown" or "none."

15. What do you do for a living?

---

16. In what congressional district do you now live?

---

17. What is the name of the congressman from that district?

---

18. What is your state of legal residence?

---

19. What is your congressman's name?

---

20. What is the name of the Attorney General of your home state?

---

PART III.—The questions in this part are designed to obtain some information about your opinions on certain political matters. Please circle the letter in front of the word or phrase which most nearly answers the question as it pertains to you.

21. Of the three alternatives, I believe it is most important for government to be: A. Responsive. B. Efficient. C. Fair.

22. I think the best form of city government is: A. City manager/council. B. Strong mayor/council. C. No opinion.

23. The major defect of the city manager/council form of local administration is: A. It puts too much power in the hands of an individual not elected by the voters. B. Dynamic leadership, progress, and innovation occur less than in other forms: the city tends to stagnate. C. The city manager may step beyond the limits of administration and enter the area of policy. D. An incompetent manager is hard to fire.

24. County governments tend to provide better services to residents when: A. Department heads are professional public administrators who are hired. B. Department heads are elected directly by the voters. C. Department heads are appointed by elected officials. D. It doesn't matter.

25. I feel that local school boards ought to be: A. Politically responsive. B. Above politics.

26. I feel that elections for mayor and similar positions ought to be: A. Partisan. B. Non-partisan. C. It makes no difference.

27. I believe that elections for offices such as city councilman ought to be: A. Partisan. B. Non-partisan. C. It makes no difference.

28. I believe the political rights of civil servants ought to be: A. Limited. B. The same as any citizen.

29. I believe the political rights of military officers ought to be: A. Limited. B. The same as any citizen.

30. In order to have the best chances for advancement, I believe the career military officer should: A. Become involved in party politics. B. Get a politician to "sponsor" him, but avoid political commitment himself. C. Keep out of any political involvement.

PART IV.—The questions in this part are designed to survey your opinions about some matters related to politics. Please indicate whether you agree or disagree with each of the following statements by circling the letter "A" for agree, or "D" for disagree to the right of each statement.

31. Civil servants perform more effectively at higher management positions than do politically appointed officers (A) (D).

32. Civil servants know more about the real world of politics than do career military officers (A) (D).

33. Military officers are at a disadvantage in dealing with civil servants because the latter understand politics better (A) (D).

34. Politicians often dupe or use career military officers because the latter are politically naive (A) (D).

35. Civil servants are more politically sophisticated than career military officers (A) (D).

36. Foreign service officers are more politically sophisticated than civil servants (A) (D).

37. Foreign service officers are more politically sophisticated than career military officers (A) (D).

38. Career military officers are too open and honest to deal effectively with politicians (A) (D).

PART V.—The next two questions are designed to learn what you think you would do under certain circumstances. Each question contains a hypothetical situation. Please indicate which alternative you feel you would take by circling the letter in front of the phrase which most nearly describes what you feel your actions would be in the situation described.

39. One of your hometown friends is elected to the Congress. You are assigned to the Washington, D.C. area. Would you: A. Tell your friend that because of his position and yours, the two of you should have no contact, in order to avoid even the appearance of political influence? B. See your friend socially. Introduce him to your friends, and introduce him to your supervisor? C. See your friend, but keep your friendship very, very quiet? D. Report the situation to your supervisor?

40. You have final authority to make a personal management decision affecting one of your subordinates. You haven't made up your mind, and your decision could go either way. You receive a telephone call personally from a member of Congress who says he would appreciate it if you would approve the action. Would you: A. Approve it? B. Disapprove it? C. Ask your supervisor what to do? D. Tell the Congressman politely that you would decide the case on its merits?

PART VI.—The questions in this part are designed to test your knowledge of the workings of our political system. Please indicate whether each statement is true or false by circling the letter "T" for true, or the letter "F" for false to the right of each statement.

41. Third or minor parties rarely affect National policy (T) (F)

42. All primary elections are partisan? (T) (F)

42. Membership in American political parties is based mainly upon social and economic class? (T) (F)

44. "Block" voting by members of minority groups is a thing of the past? (T) (F)

45. A member of the Congress who achieves great national prominence can likely do more for his home state or district than a relatively obscure member who has a committee chairmanship? (T) (F)

46. "Pressure groups" perform no legitimate functions? (T) (F)

47. In the operations of our National Government, the separation of executive, judicial, and legislative powers is carefully adhered to? (T) (F)

48. Centralization of party control is a distinguishing feature of American political parties? (T) (F)

49. The aims, policies, and directions of some bureaus of the Federal Government are set solely by the applicable committees of the Congress? (T) (F)

50. The open primary is the most common form of primary?(T) (F)

Mr. ERVIN. Mr. President, the second questionnaire, also sent to Army employees is a little closer to having a management purpose. This is to measure the effectiveness of certain aspects of the Department of the Army's sick leave provisions. It is not clear to me, however, how this management purpose will be achieved by asking an employee to state truthfully whether he would like to fire his boss.

Nor can it be expected that any sensible employee, informed by the commanding officer that he has been selected as part of the group to be surveyed, will provide frank and honest answers to such questions as these. At least, assurances of anonymity would not suffice to encourage my responses were I in their places.

In my job, I am paid: More than the work I am doing is really worth; about what the work I am doing is worth; less than the work I am doing is really worth.

In my office: We all think very highly of the boss; most of us respect the boss; most of us do not respect the boss; none of us think too much of the boss.

Off the job, I socialize: Mostly with people I know from work; about as much with people I know from work as with people I know from other places; mostly with people I know from places other than work.

Compared with other places you know about, is your office a good place to work: I would rather work here than any place else I know; I think it is about average; It is just average; I think it is below average.

Check the statement which best applies to you: I believe that, sooner or later, I am going to be promoted; I think I have a good chance of being promoted; I do not think I have much chance of

being promoted; I am sure that I am not going to be promoted.

In dealing with me, my boss is: Always very fair; he plays it straight; usually fair; he always means well, anyway; sometimes unfair; in a pinch, he does what is good for him; usually unfair; he is out to get me if he can.

Pity the office with one respondent who dares to indicate that he thinks his boss is really a figurehead who only thinks he is in charge.

Again, the recipient was not told that this form was voluntary, and he was free to ignore it or not, as he saw fit:

As Mr. Cramer appropriately writes:

It's an amateurish questionnaire which will measure little and produce less . . . an imposition on employees who have been asked (not ordered) to fill it out . . . and almost certainly a waste of whatever tax dollars the finance office spent in distributing and collecting.

Yet this form, although purportedly helpful to the Army, like the first, was apparently basically for the personal research needs of another Army officer engaged in graduate study.

Mr. President, I recognize the need for research to produce better management techniques. However, at a time when the strains on the Federal service are many, there is also a real need for creative thinking to produce management theories which rely on more than frivolous personality studies and behavior questionnaires.

I can perceive no reason why the Defense Department or any other agency should support governmental or private research which invades the privacy which employees possess as citizens. Certainly the need for the research and the relevancy of the questions to the purpose should be carefully reviewed at the highest level.

The least we can expect of Federal managers, whether civilian or military, is that they will demonstrate the basic commonsense as well as the courage to veto such obviously questionable research projects.

Mr. President, I ask unanimous consent that the text of the questionnaire, the perceptive articles on this subject, written by John Cramer, and published in the Washington Daily News of April 3 and 7, 1970; and my letter to the Secretary of Defense be printed at this point in the RECORD.

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

DEPARTMENT OF THE ARMY,
*Washington, D.C., March 25, 1970.*

Subject: Sick Leave.

1. References: a. CPC 2 dated 24 April 1969; b. CPP 60 dated July 1960.

2. In accordance with the above references, the attached questionnaire is designed to measure the effectiveness of certain aspects of the Department of the Army's sick leave provisions to determine what improvements in application are needed.

3. You have been selected as part of the group to be surveyed. Your frank and honest answers will contribute to the success of the task. Your answers will remain anonymous. Do not place your name on the questionnaire.

4. Instructions:

a. Fill in items 1–6 as indicated.

b. Questions 1–18 inclusive should be answered by placing an "X" in the appropriate blanks. Only one answer should be given for each question.

c. Questions 19, 20 and 21 may be answered in any way you choose.

d. Please complete and return the questionnaire by 6 April 1970. Tear off this letter before you forward the questionnaire so that your answers will remain anonymous.

M. E. RICHMOND,
*Colonel, FC, Commanding.*

SICK LEAVE QUESTIONNAIRE

To: CIVILIAN PERSONNEL OFFICE,
*Room 302 Headquarters Bldg*
*Fort Lesley J. McNair.*

Paygrade:_____ Time in Grade:_____
Male:_____ Female:_____
Length of employment with this organization:_____
Length of civil service employment:_____

1. Check the statement that best applies to you:
----(a) I'm the breadwinner in the family and I make enough money at this job to support us and enjoy most of the luxury items we want as well.
----(b) As breadwinner, I make enough money to support myself (or my family) with a little left over for luxuries.
----(c) As breadwinner, I don't make quite enough money to support myself (or my family) in this job.
----(d) As breadwinner, I cannot support myself (or my family) on what I make in this job.
----(e) I am not the principal breadwinner in our family but I have to work to help support us.
----(f) I am not the principal breadwinner in our family and I do not really have to work to support us.

2. Check the statement which best applies to you:
----(a) I am sure my boss cares about me.
----(b) I think my boss cares about me.
----(c) I don't think my boss cares about me.
----(d) I am sure my boss doesn't care about me.

3. In my job, I am paid:
----(a) More than the work I am doing is really worth.
----(b) About what the work I am doing is worth.
----(c) Less than the work I am doing is really worth.

4. In my office:
----(a) We all think very highly of the boss.
----(b) Most of us respect the boss.
----(c) Most of us do not respect the boss.
----(d) None of us think too much of the boss.

5. The people I work with:
----(a) Are congenial; we get along very well together.
----(b) Are all right; we get along about as well as could be expected.
----(c) Are only so-so; sometimes we don't get along too well.
----(d) Aren't much good; we don't get along at all.

6. Check the statement that best applies to you:
----(a) I do not hesitate to discuss job-related problems freely with my boss.
----(b) I usually hesitate a bit before bringing job-related problems to the attention of my boss.
----(c) I do not bring job-related problems to the attention of my boss unless I have to.
----(d) I never bring job-related problems to the attention of my boss under any circumstances.

7. Off the job, I socialize:
----(a) Mostly with people I know from work.
----(b) About as much with people I know from work as with people I know from other places.
----(c) Mostly with people I know from places other than work.

8. Check the statement which best applies to you:
----(a) My boss keeps me well-informed about what is going on in our organization without my having to ask.
----(b) My boss usually keeps me informed about what is going on in our organization; if I want to know something special, I can find out by asking him.
----(c) My boss seldom tells me what is going on in our organization; he doesn't like me to ask questions.
----(d) My boss never tells me what is going on in our organization; he won't answer questions if he can help it.

9. Check the statement which best applies to you:
----(a) I would never take on a second job.
----(b) I might take on a second job.
----(c) I am looking for a second job.
----(d) I have a second job now.

10. Compared with other places you know about, is your office a good place to work?
----(a) I would rather work here than anyplace else I know.
----(b) I think it is about average.
----(c) It is just average.
----(d) I think it is below average.

11. Check the statement which best applies to you:
----(a) I believe that, sooner or later, I am going to be promoted.
----(b) I think I have a good chance of being promoted.
----(c) I do not think I have much chance of being promoted.
----(d) I am sure that I am not going to be promoted.

12. In dealing with me, my boss is:
----(a) Always very fair; he plays it straight.
----(b) Usually fair; he always means well, anyway.
----(c) Sometimes unfair; in a pinch, he does what is good for him.
----(d) Usually unfair; he is out to get me if he can.

13. The work I am doing:
----(a) Is very interesting and satisfying.
----(b) Is fairly interesting and satisfying.
----(c) Is pretty dull and boring.
----(d) Is a waste of my time.

14. If I could, I:
----(a) Would promote my boss.
----(b) Would not promote my boss, but I would keep him on the job.
----(c) Would demote my boss.
----(d) Would fire my boss.

15. Choose the statement that best applies to you:
----(a) I know I could handle a bigger job than the one I have now.
----(b) I think I could probably handle a bigger job than I have now.
----(c) I am not sure I could handle a bigger job than the one I have now.
----(d) I know I could not handle a job any bigger than the one I have now.

16. Check the statement which best applies to you:
----(a) I always know where I stand with my boss.
----(b) I am pretty sure I know where I stand with my boss.
----(c) I am not so sure I really know where I stand with my boss.
----(d) I have no idea where I stand with my boss.

17. On the whole, I would say that:
----(a) My boss leaves no doubt that he is in charge; he runs a "taut ship".
----(b) My boss generally keeps control of what is going on; at least he keeps tabs on important things.

____(c) My boss exercises only loose control over what is going on; he doesn't influence as many activities as he likes to believe.
____(d) My boss is really a figurehead; he only thinks he is in charge.

18. Do you have a transportation problem getting to and from work?
____(a) I drive my own car.
____(b) I am in a car pool or ride with someone else.
____(c) I take the bus and have no difficulty.
____(d) I take the bus and have great difficulty.
____(e) I walk to and from work.

19. Please write below any comments you have about your office which you feel are especially good.

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20. Please comment on any practices which you feel are especially bad.

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21. If you had the power to do so, what would you do to improve employment conditions?

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APRIL 8, 1970.

Hon. MELVIN R. LAIRD,
*Secretary of Defense,*
*The Pentagon,*
*Washington, D.C.*

DEAR MR. SECRETARY: In the course of the Constitutional Rights Subcommittee's study of governmental invasion of the privacy of federal employees, it has come to my attention that Defense Department employees are being asked to complete questionnaires about their social and political beliefs, attitudes and activities, and about their personal thoughts and beliefs about people in their offices.

One example of these questionnaires is enclosed with this letter. As you will see, it is distributed to selected employees by a Deputy Civilian Personnel Officer with the comment, "I urge you to complete and mail the questionnaire ASAP." The directions state that the "survey is being conducted in the Army Staff as part of a larger research project encompassing several military organizations, and that the results will become part of the basic research required for an advanced degree of a former Army Staff officer."

Among the questions which this questionnaire asks employees are the following:

How old are you?

What is your race?

When did you last vote in a local election?

When did you last vote in a Presidential election?

Are you a registered member of any political party?

With the views of which party do you most usually agree?

A. American Independent.
B. Democratic.
C. Republican.
D. Other.
E. No party.

Have you ever actively campaigned for any candidate or worked for a political party?

Have you ever contributed money to a political party or candidate?

I think the best form of city government is:

A. City manager/council.
B. Strong mayor/council.
C. No opinion.

I feel that local school boards ought to be:

A. Politically responsive.
B. Above politics.

I believe that elections for offices such as city councilman ought to be:

A. Partisan.
B. Non-partisan.
C. It makes no difference.

I believe the political rights of civil servants ought to be:

A. Limited.
B. The same as any citizen.

In order to have the best chances for advancement, I believe the career military officer should:

A. Become involved in party politics.
B. Get a politician to "sponsor" him, but avoid political commitment himself.
C. Keep out of any political involvement.

Civil servants know more about the real world of politics than do career military officers.

Military officers are at a disadvantage in dealing with civil servants because the latter understand politics better.

Foreign service officers are more politically sophisticated than civil servants.

"Block" voting by members of minority groups is a thing of the past.

"Pressure groups" perform no legitimate functions.

A member of the Congress who achieves great national prominence can likely do more for his home state or district than a relatively obscure member who has a committee chairmanship?

I think you would agree with me that the answers to these questions clearly are none of this student Army officer's business, nor are they the business of the Army. The fact that this reply is supposed to be anonymous is irrelevant.

As an old infantry drill regulation states, a request from a superior is equivalent to a command, and no citizen should be commanded to supply such information, regardless of the purpose.

I strongly urge that this and any similar surveys be cancelled and that procedures be established in all of the services to assure an adequate review at a high level of such research, whether it be private or governmental.

The second questionnaire is apparently also for private research by an Army officer, although ostensibly designed to aid in management of sick leave programs. Again, employees are not told this survey is voluntary, but rather, the Commanding Officer tells them to "please complete and return the form by April 6." Although it is noted that the replies of this "selected" group are "anonymous," recipients are told by the Commanding Officer to send questionnaires back to the Civilian Personnel Office which supposedly selected them in the first place.

I know it will perplex you as much as it does me why the Army sees fit to spend taxpayers' money asking employees "frank and honest" answers to questions such as:

I am sure my boss does not care for me.

In my job, I am paid more than the work I am doing is really worth.

In my office, none of us think too much of the boss.

I am sure that I am not going to be promoted.

In dealing with me, my boss is usually unfair; he is out to get me if he can.

If I could, I would fire my boss.

On the whole, I would say that my boss is really a figurehead; he only thinks he is in charge.

In my opinion, the only worthwhile question is the last, which is "If you had the power to do so, what would you do to improve employment conditions?"

It would be most useful to have, for each of the armed services and the Defense agencies, copies of all similar statistical research questionnaires asking civil servants to report on their thoughts, habits, beliefs and personal lives.

In the interest of employee morale and protection of individual privacy, I urge you to give serious consideration to issuance of a Department-wide directive:

(1) Requiring that every governmental or private research questionnaire sent to civil servants in the Defense Department state on the first page that response is voluntary, and that the recipient is under no compulsion to reply;

(2) Requiring a high level clearance for all such questionnaires;

(3) Banning all such forms asking about an individual's political, economic, and social beliefs which have nothing to do with his employment.

With all kind wishes, I am

Sincerely yours,

SAM J. ERVIN, Jr.,
*Chairman, Subcommittee on Constitutional Rights.*

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[From the Washington Daily News, Apr. 3, 1970]

RARE AND RANK

(By John Cramer)

Today we have rare, rank bit of bureaucratic abuse—an Army personnel guy using his official muscle to pressure Army employees into helping an Army officer get a graduate degree.

Specifically, he asked them (in terms which could be construed as an order) to fill out a six-page questionnaire of 50 questions on their "political attitudes."

The personnel guy is Robert L. Mousel, deputy civilian personnel officer for the Office of the Army Chief of Staff. Perhaps he's merely a victim of the system.

The controversial questionnaire was distributed over his signature with a note which read:

"The enclosed survey is being conducted in the Army staff as part of a larger research project encompassing several military organizations. The results will become part of the basic research required for an advanced degree of a former Army staff officer.

"You have been selected to complete the questionnaire because you represent part of the desired cross section of grade and functional specialty. You will note anonymity is desired. I urge you to complete and mail the questionnaire ASAP."

The employes were "urged" to complete the questionnaire . . . were not told they were free to ignore it. Unquestionably, subtle pressure to "cooperate" was there.

Mr. Mousel said the research project, designed to analyze differences in political attitudes between civilian and military personnel, was the work of a lieutenant colonel whom the Army has assigned to George Washington University while he pursues a master's degree in political science.

He also said:

That the colonel's planned course of study, including his research project, had been approved in advance by the Army.

That civilians who received the questionnaire were 250 GS-12s, 13s, and 14s, selected at random by a "small computer run."

That the questionnaires were distributed to the 250 thru the Pentagon mail system.

That the Army frequently performs similar services for other researchers.

The questionnaire came with a cover sheet bearing the colonel's home address and a stamp. Employes were told: "To mail simply fold top to bottom and staple. Address and stamp then are in the appropriate position."

My suggestion to employes: mail the questionnaire, as directed. Just don't bother to fill it out.

This won't help the colonel get his degree. It may, however, ennoble his future career by pointing out to him one dominant "political attitude" of Army civilians.

They dislike being shoved around.

MORE BRASS USING CIVILIANS FOR RESEARCH
[The Washington Daily News, Tuesday, Apr. 7, 1970]

(By John Cramer)

Apparently it's common practice in Army—the business of letting its civilian employes be used as semi-captive guinea pigs for the research projects of Army officers assigned to graduate schools.

Last week, there was mention here of a six-page questionnaire recently distributed by the Office of the Army Chief of Staff to 250 employes at the GS-12-14 level.

It was the work of a lieutenant colonel studying differences in "political attitudes" of Army civilian and military personnel as a research project required for an advanced degree at George Washington University.

ANOTHER QUESTIONNAIRE

Now we have a different lieutenant colonel, also at GWU, with a different questionnaire—this one a mere four pages.

It purports to "measure the effectiveness of certain aspects of the Department of Army's sick leave provisions."

And the captive guinea pigs for this one are employes of the Army's Finance and Accounts Office here.

Actually, this second questionnaire in no way deals with "sick leave provisions." Instead, it apparently seeks to discover relationships between sick leave use and such things as employe earning . . . their rapport with co-workers . . . attitude toward their bosses . . . chances of promotions . . . etc.

But it's an amateurish sort of questionnaire which will measure little and produce less . . . an imposition on employes who have been asked (not ordered) to fill it out . . . and almost certainly a waste of whatever tax dollars the Finance Office spent in distributing and collecting it.

BLAME ARMY

In the long run, it will be of value only to the lieutenant colonel who foisted it off on the Finance Office. But don't blame him. Blame the Army for letting him get away with it.

The best that can be said for his project is that it makes more sense than the Office of Chief of Staff research on "political attitudes."

The Finance Office questionnaire was authorized by Col. M. E. Richmond, new commander of the office, who explains himself so decently that I'm almost inclined to forgive him.

He said he has a sick leave "problem" in the Office . . . that he hopes to correct it by providing better motivation . . . that he thinks the questionnaire might point the way.

But I can't quite see spending taxpayer dough, and imposing on employes with questions such as No. 5 in the questionnaire:

"The people I work with:

"(a) Are congenial; we get along very well together.

"(b) Are all right; we get along about as well as could be expected.

"(c) Are only so-so; sometimes we don't get along too well.

"(d) Aren't much good; we don't get along at all."

"Check the statement that best applies to you:

Or No. 7—

"Off the job, I socialize:

"(a) Mostly with people I know from work.

"(b) About as much with people I know from work as with people I know from other places.

"(c) Mostly with people I know from places other than work."

Sen. Sam Ervin, D-N.C., and others have made the point that we already have an excess of professionals licensed to practice their psychological tests, attitude surveys, and other assorted sorceries on federal workers.

So spare us, please, the Army's student-type amateurs with their one-time ventures into the sticky world of attitude testing.

## FILING DATES FOR PERSONAL FINANCIAL REPORTS

Mr. STENNIS. Mr. President, recent inquiries to the Select Committee on Standards and Conduct suggest that not all Senators and employees are familiar with the filing deadlines for personal disclosure and outside employment reports required by the Senate rules of conduct. Senators, candidates for Senator, and officers and employees of the Senate are reminded that personal financial statements must be filed before May 15 and that reports of outside employment must be filed on May 15.

The Select Committee on Standards and Conduct has prepared forms for these reports whose use is recommended but not mandatory. The committee also has issued instructions for preparing the reports, which state among other things when and where to file.

Copies of the forms and the instructions may be picked up in the committee offices in room 1417 of the New Senate Office Building or may be requested by telephone on extension 2981. The staff of the committee will assist anyone who requests help in preparing reports.

## LET REASON PREVAIL IN OUR TRADE POLICIES

Mr. BYRD of West Virginia. Mr. President, on October 13 of last year my distinguished colleague and fellow West Virginian (Mr. RANDOLPH) and I, introduced S. 3022, the Trade Expansion Act of 1969. Since that date, due in part to the subsequent supporting debate on this floor, the fog shrouding the issues confronted by the bill has lifted enough to reinforce my belief that it has immediate merit.

The fundamental reason for my support of the bill is my conviction that in the currently expanding world economy the rate of growth of industrial production must be subject to a modicum of order. The present structure tends towards overproduction in some industrial fields, with seriously disruptive consequences to parts of the American economy.

The fact that the United States is the largest market, and the major open market in the world economy, does not vitiate my argument. On the contrary, it makes it more relevant and timely. Hardly a week passes by without reports of difficult or unsuccessful meetings and official negotiations dealing with the problem of mounting imports in fact of a relative decline in our exports. Generally, statements from all parties concerned are more self-seeking than self-evident. But there is also noticeable a change in mood and a stiffening of national positions. The seriousness of this situation is underscored by the very fact that meaningful international relations, both political and economic, must be based on a give-and-take formula. I find that we have been doing most of the giving and little of the taking. In fact, we have been giving so long that our trade partners have frozen in their position of taking to such an extent that they seem now to consider it the natural state of affairs.

Mr. President, I think that the time has come for Congress to do what it can to correct this situation. Our Government's dealings with the Japanese Government on the matter of textile imports have been marked by intransigence. The high point of this was reached by the statement of the powerful Japanese Minister of International Trade and Industry who in February was quoted saying:

There can be no way of pushing ahead talks unless the United States accepts Japan's basic thinking.

Only recently, the chairman of the Japan Textile Federation warned the Japanese Government that the federation would not honor any agreement between the United States and Japan on the textile issue if unreasonable concessions were made to the Americans. The chairman implied that there was no need for such concessions since critical voices in Washington could be counted upon to prevent the passage of protectionist legislation by Congress.

In an unprecedented move, the United States presented to Japan, in late January of this year, detailed economic data to show that the U.S. textile firms and apparel industries are being injured by imports. On March 10 a report from Tokyo described the current United States-Japan export curb talks as fruitless. A dead end has been reached, the report said, in the year-long search for an agreement on textile imports to the United States when our "final offer" was made. This, however, was followed by a flying visit to Washington by a high Japanese diplomat who reportedly envisaged Japanese voluntary restraints only after Japanese exports to this country exceeded a 50-percent rise over any preceding year. Is this a realistic and reasonable approach in trying to solve a problem on a mutuality of interests? The same report also noted that the Japanese public opinion is increasingly marked by a new awareness of national self-confidence which, according to their culture, requires them to "stand up" to American "pressures."

Japan will have to learn that the inordinate expansion of its trade and financial exchanges with the rest of the world, but especially with the United States, is no longer consistent with its restrictive practices and policies. Measures that made some sense when Japan was rebuilding its war-ravaged economy and trying to create industries that could stand on their own in international competition have no shred of justification now.

Of course, the problem does not lie with textiles alone, nor is it confined to Japan. Other major industrial products are affected by mounting imports, among them glass, hardware, steel, and electronic products.

Assistant Secretary of Commerce Kenneth N. Davis, Jr., bluntly cautioned Western Europe and Japan in March that they must give fairer treatment to American exports sold in their markets and that both trading areas should not underestimate the American administra-

tion's determination to achieve an equitable solution.

Mr. Davis said:

For the benefit of all the world's trade, it is time for Japan and Europe to respond more fairly than heretofore to 20 years of U.S. leadership in expansionist world trade policy!

Subsequently, Mr. Davis mentioned that a series of missions of U.S. business leaders will visit other nations in the interest of fairer trade relations. Moreover, it is reported that Commerce Secretary Maurice Stans is considering calling to Washington leaders of American industry and trade associations to map an all-out drive on unfair restrictions against U.S. business activities by some of the major industrial nations.

But is our Government pressing the issue strongly enough? The lack of results and the seeming widening policy of restrictionism of the various nations involved would indicate that this is not the case. Extended consultations and talks across the Atlantic have yielded, at best, accusations and counteraccusations. Mr. Davis termed troublesome the attitude of the Europeans and their lack in understanding that serious differences exist between the two trading areas. True, it may not be within the spirit and the letter of the General Agreement on Tariffs and Trade for the United States to retain the American selling price provision in our trade with GATT members. But for the Europeans to insist on our repeal of ASP while they are about to erect new barriers discriminating against American electronic components is an unreasonable and untenable position. The French-German-British accord may well be considered by its members as nondiscriminatory, but it is aimed at what the Electronic Industries Association estimates to be about 35 percent of the U.S. shipments of electronic components to Europe.

A visit here in February by a trade representative of the European Economic Commission in the wake of U.S. criticism of the Common Market was preceded by a salvo of criticism from Europeans warning about the danger to world trade by the protectionist measures advocated in the U.S. Congress. The European Commission also maintained that the common American notion that the U.S. complaints of the European Community by far outweigh in number and importance their complaints of the American system is unfounded. They cited U.S. import restrictions in the agricultural and mechanical industries, but failed to mention the severity of their barriers in agriculture, which surpass any rationality. If the European Commission is publicly expressing anxieties about import restrictions pending in Congress, then they ought to publicly or privately consider the issues in terms of their merits and in line with their avowed extremely liberal policy toward trade, instead of contributing to the atmosphere of criticism and suspicion of intentions.

Quite contrary to many of its pronouncements, the European Community has been busy in protective action lately. The Common Market has been signing preferential trade agreements with a variety of African and Mediterranean countries. These trade pacts often violate the spirit if not the letter of the GATT principles.

The process is fast becoming a mockery of the most-favored-nation principle which, in international trade, requires that the extension of preferential treatment to one trade partner be extended to all partners. This principle is fast becoming something to invoke in one case and to disregard in another while in hot pursuit of national self-interest.

The initial beneficiaries of the preferential trade pacts of the Common Market were Greece and Turkey and the former French and Belgian colonies, now independent states. In the past several years the list expanded to include Yugoslavia, Tunisia, and Morocco. Lately, the European Community has been quietly creating a network of preferential trade pacts with Mediterranean countries. This area has been buying about $1.3 billion worth of goods from the United States. Two nations particularly involved are Israel and Spain which alone imported more than 1 billion of these American exports. This trade is bound to be affected not because of improved competition, but because new barriers will be erected discriminating against our goods. Meantime, waiting in the wings are Eygpt and Lebanon, Libya and Algeria, and little Malta, all lining up for preferential trade accords with the Common Market.

No doubt there may be economic justifications for such a policy and the European continental powers are frank about their main goal in these arrangements. They seek political influence if not dominance. While the United States should perhaps not complain on the latter aspect, we have the right to examine the methods used as they would seem not only contrary to existing agreements but directly injurious to our national interests. At stake are the welfare of our business firms and our workers' jobs in the years ahead.

The proliferation of preferential trade ties can only lead to a growing polarization of regional interests with the eventual emergence of large rival trading blocs.

It is interesting to note that privately the Common Market has been saying that the basic circumstances of international trade have been altered since the industrial tariffs were reduced almost 40 percent in the Kennedy round. This is exactly the point that I have been expounding. If GATT principles within which the Kennedy round have been conducted and, so far, partly implemented are no longer viable, then it is high time for this Congress to establish new guidelines consonant with our current national interest and policy. It may well be that the Common Market does not want a division of the world in economic blocs. Nor, would this I believe, be in the interest of the United States. But we cannot sit here just watching events as they unfold. Furthermore, it does not help us that the European Common Market officials are ready and willing to swear that their intentions are to preserve the GATT, while at the same time their actions indicate a different course of events. Some of the Europeans have successfully blocked the current initiative of GATT in its attempt of starting negotiations later this year on agricultural trade and nontariff barriers. Morevover, the total direction of current efforts crossing the Atlantic and the Pacific would indicate a return toward erecting new nontariff barriers so that the major GATT members can consolidate their negotiating positions for the next bout.

I am not in favor of either political war or economic war. I believe that reason can prevail. But now is the time to use reason and bring our house in order. We cannot wish our problems away. We have a responsibility toward our citizens and our Nation's economy. We cannot allow the present unsettled situation to rule us or to continue unchecked. If the administration is unable to achieve its stated goal within the existing framework of international trade agreements, we in Congress have the duty to do it here and now. I am not proposing major surgery. But I am convinced that preventive medicine is far preferable to the treatment of an organism in an advanced state of decay. Every doctor will also tell you that in the long run such an approach is both more effetcive and more economical.

Mr. President, the bill that I support is not repressive or protectionist in nature. It would only assure us and our trading partners full participation of a fair share of an orderly growth of our markets. This I do in the face of growing direct subsidies of foreign exports undercutting our efforts to sell our goods abroad, while at the same time U.S. manufacturers are being asked by the same governments to transfer production and jobs out of the United States.

What it finally comes down to is the preservation of American workers' jobs—the preservation of West Virginia jobs and jobs in every State where our magnanimous trade policies are resulting in loss to our own citizens.

The bill of which I am a cosponsor would apply to imports of flat glass, glassware, steel, footwear, manmade fibers, and electronic products. Other commodities, of course, can be included in instances where economic loss is occurring.

In my own State, 30,000 jobs, in round figures, are represented by the industries to which the bill applies. That is a very substantial number in our work force.

Too many people tend to think of unemployment in terms of statistics when they should be thinking of it in human terms. Being unemployed, being without a job and the means to support oneself or one's family is a cruel and degrading experience. We simply cannot afford, Mr. President, for the overliberal import policies of government to be the cause of joblessness and misery among our own people.

Theory and practicality have historically collided in America's foreign trade experience. Too often have we erred on the side of theory. Wishful thinking about the intentions of others has too often blinded us to the fact that in the real

world in which we live and do business, there are always those who are waiting for the opportunity to take advantage of situations most favorable to them.

It is time for us to make quite clear to Japan and the European Common Market that we are not going to stand idly by while they maintain trade restrictions against us. They must give fairer, more competitive treatment to American products sold in Japanese and European markets. Favorable action on S. 3022 could be a means of showing our determination to protect our own interests.

I am not advocating a return to a policy of all-out protectionism. But I think we can accept no less than reciprocity. World trade must be a two-way street. Anyone who is not disturbed at the mounting shipments of foreign-made goods at our ports of entry is blind and deaf to reality.

I repeat what I have said before: Congress has an obligation to conduct a complete review of our trade program, and the sooner we get at it in these unsettling economic times, the better it will be for all concerned.

American workers, American businessmen, and American consumers are waiting for us to act.

FAIR COMPETITION IN WORLD TRADE

Mr. HANSEN. Mr. President, I wish to compliment my good friend the distinguished Senator from Arizona (Mr. FANNIN) on his very excellent appraisal yesterday of our problems in international trade. I was happy to join the able Senator a few weeks back when he spoke in the Senate on the same subject, and I am glad now to join him again in proposing that the President use the authority he now has for the purpose of equalizing the advantages many foreign competitors now have over their American counterparts.

The Senator has made a very good analysis of the problem, a problem that has been of major concern to many of the so-called producing States, such as Arizona and Wyoming, and is becoming more and more of a problem for manufacturing States, as well.

Recent remarks in the Senate by New England and Southern Senators attest to the seriousness of the mounting volume of textile and footwear imports. News articles have pointed up the unemployment problem brought on by imports in the electronic field—color TV sets, radios, and the like—and these are only samples.

We who insist on some better ground rules for true reciprocity are branded as protectionists when we object to a continuation or worsening of trade policies that are disrupting entire industries under the deceptive umbrella of the liberal trade policies of recent years, policies which, if pursued to their logical ends, could cause massive unemployment and a dangerous dependence on foreign products that could prove critical to U.S. national security—minerals, oil, steel, and others.

Those who insist on using many of these imports as a lever to force domestic prices down even at the expense of disrupting American industries should consider the effects on their own industries and the dependence of the more vital ones to not only the Nation's prosperity but its security as well.

Mr. President, in answer to an editorial entitled "Polishing Up Protectionism," I recently wrote a letter to the editor of the Wall Street Journal about the particular problem the able Senator

RON LINTON'S "TERRACIDE"

unanimous consent that my letter be printed in the RECORD. With him, I ask that unfair foreign barriers to our exports and unfair competition in our domestic markets be corrected so that we may have truly fair competition between all countries.

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

APRIL 4, 1970.

VERMONT ROYSTER,
*Editor, the Wall Street Journal,*
*New York, N.Y.*

DEAR MR. ROYSTER: Your April 2 editorial, "Polishing Up Protectionism," expressing the free trade philosophy, says the problem stems from the fact that the nations' resources are finite and in some way or other it has to allocate them to accomplish the greatest good for the greatest number.

If all people would renounce war and insist on living in peace, if all people would be equally as concerned for every other human as for themselves, if all people would reject greed and cupidity there is no question but that free trade would best serve humanity.

But unfortunately this is not the world we live in.

I happen to think Americans are not the world's worst people. We've been reasonably generous in rebuilding the countries torn by World War II. We've tried to help developing nations—we've shed some blood to insure freedom and self-determination for other peoples.

But the fact is that most of these objectives—goals often not reached—could not have been pursued at all if we had not been a strong nation.

There can be no doubt that our unchallenged access to energy has been one of our most important sources of strength.

About one-fifth of all the oil we use is imported. But I agree with the President: limits must be defined which will assure the adequacy of domestically produced oil and gas necessary to guarantee our national security.

Further our total strength will reflect the industry, the jobs, and the services we are capable of sustaining in the United States. America proved long ago that power is the result of brains and energy applied to natural resources.

One final thought—the competition American business is subjected to is not fair. Wages, standards of living, social responsibility (taxes) all place a most unequal burden on us. Free trade and fair trade should go hand in hand.

Sincerely,

CLIFFORD P. HANSEN,
*U.S. Senate.*

## RON LINTON'S "TERRACIDE"

Mr. MOSS. Mr. President, if it is possible to say anything new under the sun about our environment problems, Ron Linton has done it in his new book, "Terracide," which has just been published. Even his title is original—earth murder. He has equated environmental problems with human problems—making some frightening predictions as to how pollution, and noise, and crowds, and the deterioration of our environment generally, if not controlled, could affect the quality of life in America. He has, if this is possible, "humanized smog."

Mr. Linton was the staff director of the Committee on Public Works, on which I served, during the years when the committee was writing much of the air and water pollution control legislation which is now the basis for the effort to check and reverse pollution which some of us saw then as crucial and which has now become everybody's crusade. In his chapter entitled "The Congress Acts," Mr. Linton tells the story of Federal action—and failure to act—and relates how, during the years 1963–66, Congress at last took a firm and leading role in combating environmental decay and improving the quality of life in the United States.

The final chapter of the book, "The Challenge," might well be the call to arms for the forthcoming "Earth Day" observance, April 22.

The Linton book has scope and depth, is popular in style, and some of its examples and anecdotes are new and fresh and dramatic, and should help greatly in promoting popular understanding of the immensity of our environmental crisis. I hope it will be widely read.

## PLIGHT OF THE PRISONERS

Mr. GOLDWATER. Mr. President, today I wish to emphasize once again a matter which distresses me very much personally and which I have, with a number of my colleagues, attempted to do something about in the past. It is a question of public attention—publicity, if you like—for an extremely worthy cause.

I am sure I do not have to emphasize here the amount of television coverage, radio attention, and newspaper coverage which is given to the plight of almost any group of needy people—whether they be starving Biafrans in faraway Nigeria or the inhabitants of our city ghettos and our poor sections of Appalachia.

The attention given to these and similar causes by the Nation's communication media is glaringly apparent with each passing day.

I am not in any way objecting to public attention given to these situations. Let me make that very clear. However, I want to point out that I am not at all happy with the attention given to the plight of our American prisoners of war. I am speaking now primarily about the 1,300 Americans who are being held prisoners by the North Vietnamese and over whose treatment at the hands of our Communist enemy grave questions have been raised. I am also speaking of those Americans who are listed as missing in action in Vietnam and whose whereabouts and conditions are unknown.

Because I feel so strongly that more concentrated American attention should be given to the plight of these men and to the suffering and anxiety which is being borne by the families and friends of these captive and missing Americans, I

have joined with several Senators in sponsoring a special day for bringing this situation, more dramatically to the attention of the American people.

As a result of our efforts, May 1, 1970, has been designated "International Appeal for Justice Day," with ceremonies scheduled to be held at 8 p.m. in Constitution Hall.

Mr. President, some 4,000 people are expected to attend this rally. We hope to have speakers of the caliber of Actor John Wayne, who recently won an Academy Award for his acting in the picture entitled "True Grit." The American Legion and the Veterans of Foreign Wars are participating as sponsors of this occasion along with Senators and Representatives.

Our purpose is candidly one of press agentry. We want to pay tribute to American POW's for the great sacrifices they have made and are making in the cause of freedom, but even more than that, we should like to mobilize public opinion behind the objective of obtaining the release of these POW's in such an overwhelming fashion that the North Vietnamese will be bound to pay attention.

Perhaps it will not work. However, I for one would not feel that I had performed my patriotic duty as a citizen and an American grateful for the service which these men are rendering to our country if I did not make every possible attempt to lend a hand.

Mr. President, I might say that it saddens me when I see more publicity being given to persons who burn their draft cards or who go AWOL from our services to take up comfortable exile in Sweden than to those brave men who have been taken prisoners and placed at the questionable mercy of the North Vietnamese, or who are missing in action in that conflict.

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## THE PEOPLE TESTIFY AGAINST THE DISTRICT OF COLUMBIA CRIME BILL

Mr. ERVIN. Mr. President, on March 24, when the Senate received the House-passed District of Columbia crime bill, I denounced it in this Chamber as an affront to the Bill of Rights, to principles of wise legislation, and to the normal procedures which should govern the actions of the U.S. Congress. Among other things, I called it a garbage pail of unconstitutional and repressive legislation. I now have had the opportunity to examine the bill in greater detail, and I have found additional ill-conceived and repressive features buried away in it. I now fear that my initial description was far too charitable.

Despite the arduous nature of the task, I encourage each Senator to study and analyze this 439-page monstrosity passed by the House at the urging of the Justice Department.

Examine the hidden preventive detention provision which would imprison people without conviction or trial.

Consider the unbridled authority for "no-knock" searches and the unlimited power to bug and wiretap even the most intimate and confidential private conversations.

Let every Senator judge for himself the foolish and vindictive mandatory sentence provisions which would eliminate all judicial discretion on the sentencing process in many cases. Those provisions reach the incredible extreme of requiring life imprisonment with no parole for 20 years and no suspension or probation at all for conviction of three crimes such as purse snatching or assault.

Heed the ominous attempt to return to stale and archaic juvenile procedures of a bygone era. A hallmark of this regression is the proposed lowering of the legal standard of proof of guilt in juvenile proceedings to a level which the U.S. Supreme Court declared unconstitutional in the case of in re Winship just last week.

Bring these unjust measures from the hidden recesses of the bill and expose them to the light of day. Look candidly at the bill and see it for what it truly is—the villainous wolf of police statism dressed up in the political finery of "law and order."

Because of the legislative legerdemain practiced at the urging of the Department of Justice, the people have had no chance to speak out on the issues presented by this bill. In truth, they were flagrantly deprived of their rightful opportunity to speak out. Few realized what the Department of Justice proposed to do to our liberties until it was almost too late. I trust that the Senate will not be fooled or outmaneuvered and that we will never see liberty betrayed by sleight of hand.

I am happy to report that the people of America are now beginning to recognize this bill as a threat to freedom and to speak out against it. I have received dozens of letters opposing the bill in recent days. They demonstrate that the love of liberty is alive and well and living in the hearts of Americans all across the land.

These letters attest admirably to the people's desire for liberty and justice. They constitute an eloquent plea for the Senate District of Columbia Committee conferees and the rest of us in the Senate to stand fast against this unwise and unwarranted attack on the Constitution.

The fact that the bill is ostensibly directed at the District of Columbia has not fooled the many Americans who have written me in opposition to it. I am particularly encouraged by the sensible and perceptive comments from many fellow North Carolinians.

These Americans recognize that the liberties lost today by the citizens of this city, will be lost tomorrow by all citizens. They recognize that the experiments with our liberties conducted by the Department of Justice in Washington will tomorrow be applied throughout the entire land.

It would be a grave error for the Senate to treat lightly this attack on the Constitution, just because it is directed against one city alone. For if this bill passes in its present form, there may not be another opportunity to halt the anti-constitutional philosophy it represents.

I ask unanimous consent that the letters be printed in the RECORD.

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

OXFORD, N.C.

Hon. SAM J. ERVIN, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR ERVIN: I have been following with interest your review and examination of the Nixon D.C. Crime Bill. Please continue your efforts to exert sound and reasonable thinking upon these absurd and dangerous proposals. While I, as almost everyone, want to see crime decrease, we must never undermine the values of our basic human and individual rights.

Again, thank you for reminding us again of these important values.

Sincerely,

DAN F. FINCH,

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CHAPEL HILL, N.C.,
*March 25, 1970.*

Hon. SAM J. ERVIN, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR ERVIN: Just a note to commend you for your continued vigilance against encroachment on individual rights and freedoms. Speaking out on the implications of proposed legislation is not easy, especially when the objectives are popular, and appear sound and justified in terms of "getting the job done." I refer to the various "search and seizure" bills designed to assist the police, as well as the data bank compiled by the Army on individuals participating in various civil "disturbances."

I am sure that you derive great satisfaction in representing our State so well in such matters. The issues are not simple and clear. Your services are much appreciated.

With best wishes.

Very truly yours,

EDGAR A. PARSONS.

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WASHINGTON, D.C.,
*March 25, 1970.*

Hon. SAM J. ERVIN, Jr.,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR ERVIN: Thank you for your talk on television describing the District of Columbia crime bill the way it really is. For the past few days I had sunk into the depths of despair, knowing that its passage intact with provisions like "preventive detention" and the "no-knock provision" was a strong first step toward forming a police-state in America. This despair was aggravated by the ignorance and apathy of many of my friends.

However, your talk gave me renewed courage. I know now that there must be many leaders such as you who will speak out against such a poorly disguised evil.

The House Bill, even with its unconstitutional provisions cannot help the crime situation and may make it worse.

I am enclosing a xerox copy of a letter of mine which appeared in the Washington Post and which summarizes my feeling in a few words.

Sincerely yours and thank you,

JOSEPH C. DAVIS.

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ST. ANDREWS PRESBYTERIAN COLLEGE,
*Laurinburg, N.C.*

Hon. SAM J. ERVIN,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR ERVIN: Before I moved to North Carolina, two years ago, I admired your record from afar, as an Oregonian. Now

that I am a citizen of North Carolina, and I might add a very happy one, I want you to know that that admiration has increased proportionately.

Your strict constitutionalist approach to individual rights deserves the strongest support and commendation, and although I am a registered Republican, I want you to know that I heartily concur in your battle against such repressive measures as those which would allow, as you put it, "repeal of the Fourth, Fifth, Sixth and Eighth amendments to the Constitution," apparently favored by powerful members of the present Administration.

Sincerely,

RONALD H. BAYES,
*Writer in Residence.*

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HEWLETT, N.Y.,
*March 29, 1970.*

Hon. SAM ERVIN,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR ERVIN: I just finished reading Tom Wicker's column in the N.Y. Times which praises you for leading the fight against the so-called Anti-Crime bill which provides for preventive detention.

I'm a high school Social Studies Teacher who's often taught about the virtues of our Bill of Rights. I have also had to try to explain to my students why we incarcerated Nisei in concentration camps during World War II. Your fight against the "prevention detention" measure, Sen. Ervin, shows you are a true devotee of constitutional rights.

I am sending a copy of this to my Senator, Sen. Javits, hoping he joins you in the fight if he hasn't already done so.

Very truly yours,

SAUL SCHINDLER.

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WESTERN CAROLINA UNIVERSITY,
*Cullowhee, N.C., March 30, 1970.*

DEAR SENATOR: I have been following your argument against the administration's Washington, D.C. crime bill with interest and admiration. I approve of your stand wholeheartedly both as a constituent and as professor of American constitutional history.

I have only recently moved to North Carolina and had some serious doubts concerning my ability to find anyone I could enthusiastically support in politics. My review of your career convinces me that, in spite of some differences, you are, in fact, a politician and a man after my own heart.

Should you need any assistance I can give in your future campaigns, please call on me. In the meantime, I intend to use you as a sterling example of the good legislator in all of my classes here at the University.

Sincerely,

VICTOR SAPIO.

P.S.—I couldn't change your mind on Carswell, could I?

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BRIGHTWATERS, N.Y.,
*March 30, 1970.*

Senator SAM ERVIN,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR ERVIN: Permit me to congratulate you on your vigilant stand against all the various encroachments on the Constitution and the civil liberties granted therein that have been presented to the Congress in the past few months. It is good and encouraging to see a Southern Senator in the ranks of those who have recently stood behind the Bill of Rights.

The silence of other Southern Senators betrays the long southern tradition of respect for the freedoms this nation grants to individuals. It is gratifying indeed to see that some men of the South still adhere to this tradition. I wish you every success in your fight against those who promulgate these noxious doctrines. By taking up this struggle you bring credit both to the nation and the state you represent.

EDWARD B. FUREY, Jr.

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JACKSON HILL, N.C.,
*March 31, 1970.*

DEAR SENATOR ERVIN: Enclosed are two articles from Sunday's Greensboro Daily News—March 29.

Please continue the fight—what applies in one area will spread to another. It appears to me that there is a trend towards the right—not a healthy right—but towards a police state.

Do not give one inch—our future is in your hands.

Yours respectfully,

CHARLES LOFTIN.

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[From the Greensboro (N.C.) Daily News Mar. 29, 1970]

ERVIN SEES POLICE STATE BLUEPRINT IN CRIME BILL

(By Larry Cheek)

WASHINGTON.—There is now before the Congress a bill which citizens of the 50 states might think irrelevant and unimportant, since it deals only (yawn) with the District of Columbia. But wait, and be warned, all of you scattered throughout this country. Your civil liberties could be in danger.

Sam Ervin, North Carolina's constitutional watchdog, is one who thinks so. Last week, after thoroughly studying the offending bill, the good senator became so enraged his howls of indignation fairly shook the capitol.

POLICE STATE BLUEPRINT

The bill in question is a 439-page omnibus crime and court reorganization package designed to bring law and order to the streets of Washington, D.C., but—and this is very important but—it is also designed as a prototype for national crime legislation.

Today, the district. Tomorrow, the nation. This apparently is the Nixon administration's goal. And the fear of Sam Ervin.

"What we have here is a blueprint for a police state," Ervin told his Senate colleagues last week. "We must stem the eagerness of aspiring politicians in the executive branch who are charged with fulfilling election promises to fight crime, and who in their zeal, seize upon unconstitutional means to gain temporary political advantages."

Ervin called the bill a "garbage pail of some of the most repressive, near-sighted intolerant, unfair and vindictive legislation that the Senate has ever been presented," and accused the Justice Department of pulling a "fast shuffle with the Bill of Rights."

The bill contains several provisions which Ervin feels are odious. Among them: broad and general wiretap authority, uncontrolled and extremely permissive authority for no-knock searches, harsh juvenile offender procedures, mandatory sentencing for offenders of up to 20 years in some instances and preventive detention.

It is particularly preventive detention and the Justice Department's legislative tactics that anger Ervin.

Originally, Justice had preventive detention introduced as a separate piece of legislation, saying that it was a proposal so important that it should be considered as an amendment to federal law, and made applicable uniformly in all federal courts.

After introduction in July, preventive detention was referred to the judiciary committees of both houses, to await hearings which were to be held after the results of an intensive study into the concept were compiled.

The purpose of the study was to gather available information on the operation of the criminal justice system and the bail reform act, to ascertain the amount of pretrial crime actually committed, to develop reliable predictive devices, if possible, upon which to base preventive detention, and to search out ways to prevent and control pretrial crime short of preventive detention.

The study, which is being conducted by the Law Enforcement Assistance Administration and the National Bureau of Standards, is to be completed March 31 . . . and that's why Ervin feels Justice is trying to slip preventive detention through swiftly, with no hearings, camouflaged in the middle of a massive, omnibus bill.

FALSE COLORS

"They're afraid to await the results of their own commissioned study," Ervin said. "They're afraid the study will refute much of the frantic rhetoric the department has issued about the need for preventive detention. That's why the preventive detention bill is hidden under false colors. Perhaps, too, that is why it travels under the nom de plume of 'Codification of Title 23' rather than announcing itself unashamedly as 'preventive detention.'"

Ervin pointed out that if Justice wishes preventive detention, "then let it keep to its original position. Let it complete its computer study, analyze the data and present the proper congressional committees with its conclusions and its position. Then let us consider this legislation carefully, deliberately and on its merits, uncluttered by 400 other pages of legislation."

There is the smell of danger about the bill, which was toughened considerably by the House after initial Senate approval. It reeks of overreaction. It seeks to protect one segment of the population by persecuting another.

You may wonder just what preventive detention is. Oversimplified, it means you can jail a man without a trial if you think he's likely to commit a crime if released on bail. Think about it.

Or what's no-knock authority, you may ask. That means your home can be invaded by police officers on the slightest of pretexts. Or wiretapping? That means police could bug lawyers talking with clients or doctors with patients.

And there's another dandy buried in the bill of great symbolic importance. If any citizen of D.C. should sue a policeman for unlawful arrest and win his suit by showing that the police officer did indeed violate the law, the innocent citizen must nevertheless pay the law-breaking policeman's attorney fees. Figure that one out.

HIDDEN THREAT

Surely, crime in the streets can be controlled without infringing upon the constitutionally guaranteed rights of any citizen. Surely, the Congress can recognize the threat of repression to any democracy.

Sen. Ervin said it best at the conclusion of his address to the Senate:

"I recognize full well that 'law and order' has become a great political issue. But, in this year of our Lord 1970, and in future election years, it behooves the members of this body to be chary of broad grants of power to those who control the machinery of federal justice. I yield to no man in my desire to deal effectively with the crime crisis we face. Yet this crisis cannot justify the passage of bills such as this."

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[From the Greensboro (N.C.) Daily News, Mar. 29, 1970]

A CONSTITUTIONAL AFFRONT

Senator Sam J. Ervin Jr. thinks the Justice Department is trying to pull a fast one by pushing preventive detention in the omnibus crime bill for the District of Columbia, now before the Senate, while a national version of the same thing is pending before Mr. Ervin's Constitutional Rights Subcommittee.

The senator, who is the author of the 1966 Bail Reform Act, is probably right in his suspicions, judging by the Justice Department's performance under Attorney General John Mitchell.

The District of Columbia crime bill, already passed by the House, gives judges the power to jail for up to 60 days before trial certain defendants considered dangerous. This would amend the Bail Reform Act, which was designed in part to prevent holding indigent defendants in jail for long periods while awaiting trial.

But the preventive detention clause is only one of the provisions that moved Mr. Ervin to refer to the omnibus crime bill as an "affront to the Bill of Rights." It also provides for local wiretapping authority, mandatory adult trials for 16-year-olds charged with committing violent crimes, mandatory sentences for certain crimes, and the use of "no-knock warrants by the police.

"This is a garbage pail of some of the most repressive, near-sighted, intolerant, unfair and vindictive legislation that the Senate has ever been presented," Mr. Ervin said. "This bill might better be entitled, 'A bill to repeal the fourth, fifth, sixth and eighth amendments to the Constitution.'"

Mr. Ervin is against the national crime bill now in his committee. But the district crime bill is in the hands of the Senate District Committee, some of whose members are less concerned with the Bill of Rights than Mr. Ervin is.

The senator has promised to fight the district crime bill if it gets to the Senate floor. We wish him luck. It has to be remembered, however, that the Senate passed, over Mr. Ervin's objection, the narcotics crackdown bill empowering government agents to break into and search private homes without warrants. The House is now considering that particular "no-knock" measure.

All of these bills, the district omnibus bill, the national crime bill and the narcotics bill contain provisions that directly repudiate the constitutional traditions of this country. But none is yet the law. Americans concerned with keeping their individual rights still have time to let their senators and congressmen know they expect the Senate to eliminate the obnoxious provisions of the House-passed district crime bill and the House to do the same for the Senate narcotics bill.

WASHINGTON, D.C.,
*March 23, 1970.*

Senator SAM ERVIN,
*U.S. Senate,*
*Washington, D.C.*

SIR: Thank you for your eloquently expressed disgust with the D.C. Omnibus Crime Bill.

I have, besides writing to some Congressmen, also written to the President of the C&P Telephone Company to disconnect my phone should that bill become law.

I hope that there are more Congressmen who feel as you do. I am appalled at intelligent people even thinking of such legislation.

Thank you again. Let's fight against the Fascist tendencies of this Administration.

Yours truly,

Miss ROSE WEINSTEIN.

## THE PRESIDENT AND THE SENATE

Mr. FULBRIGHT. Mr. President, the editorial entitled "The President and the Senate," published in the Washington Post of Saturday, April 11, is extremely well written and a perceptive analysis of the significance of recent actions in the Senate. I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Post, Apr. 11, 1970]

THE PRESIDENT AND THE SENATE

Setting to one side for the time being the political implications and the divisive nature of President Nixon's outburst against the Senate, it seems appropriate now simply to express regret that the President chose to respond to the defeat of Judge Carswell's nomination with an argument that is not supported by the facts. The burden of that argument, moreover, defamed the one section of the country he was trying to please—the South.

The fact is that the nominations of Judges Haynsworth and Carswell were not rejected because the two men were Southerners or conservatives. They were rejected because a decisive number of senators—many of them members of the President's own party—believed that one of the nominees was too insensitive to ethical considerations and that the other was inadequate for the job on top of being insensitive on racial issues.

It may be true that there are some votes in the Senate against confirmation of any Southerner. In the past there have been some votes there against confirmation of any Northerner. There were, after all, 17 votes cast against the nomination of Potter Stewart in 1958—all by Southerners—and 10 votes cast against the nomination of Thurgood Marshall in 1967—all by Southerners. But the truth is that there are not enough biased Northerners, Southerners or any other kind of -ers in the Senate to deny confirmation to a fully qualified man.

A few facts ought to set the record straight. Six of the 51 votes against confirmation of Judge Carswell came from senators from Southern or border states—Virginia, Kentucky, Tennessee, Arkansas, Oklahoma and Texas. Four of the votes against confirmation of Judge Haynsworth came from these same states. Are the men who cast these votes biased against their own states? Twenty of the 43 Republicans in the Senate voted against one or the other or both of the nominations. Are almost half of the Senate Republicans biased against the South? It boggles the mind. And so, for that matter, does the proposition that Judge Carswell was a proper model of what the South has to offer. We noted with interest what the Greensboro (N.C.) Record had to say a few days ago about this nomination:

"It is reasonable, of course, that delegates from Dixie should want one of their own elevated to the Supreme Court. It is reasonable that they give weight to pride of region. But it is unreasonable, and a disservice to a proud region, that they should stand with a politicking President to chorus, G. Harrold is the best the South has to offer."

The President may be right when he said that he could not appoint "any federal appellate judge from the South who believes as I do in . . . strict construction." It just happens there aren't very many young Republicans on the federal appellate bench there. But there are other places to look in the South for Republicans who are strict constructionists. It is insulting to leave the impression that Judges Haynsworth and Carswell are the absolute cream of conservative Southern jurisprudence.

While we're at it, we would like to set the record straight on two other points. During most of the 15 years of so-called "liberal construction" about which Mr. Nixon complains, the South had two justices on the court—Black of Alabama and Clark of Texas. In one sense, it now has two since Chief Justice Burger was appointed—and confirmed by *this* Senate, one should add—from Virginia where he has lived for more than 15 years. Beyond this, however, a majority of the justices during 5 of those 15 years were selected by an administration in which Mr. Nixon was Vice President and four of the present eight justices were selected by a Republican President. It is a bit much to listen endlessly to the President's complaints about a court on which his greatest political benefactor, President Eisenhower, placed so many members.

And it is an affront to the simple facts of the matter for Mr. Nixon to complain that this Senate would never confirm a conservative, "strict constructionist" from the South; as anyone who was in the slightest touch with the Senate after the defeat of Judge Haynsworth will tell you, the disposition was powerful at that time to confirm almost any reasonably qualified candidate the President might have chosen; there was no stomach for a second fight and it developed slowly, reluctantly, and only in the face of overwhelming evidence that Judge Carswell did not meet even the most minimum standards that a conscientious senator could set. That was precisely the problem: the Attorney General and the President chose, for their own reasons, to abuse what was in fact a readiness on the part of most senators to be remarkably uncritical. They pushed their luck too far and in a way which was insulting to the Senate as well as the Supreme Court. It only adds insult to injury for them now to try to explain away their performance and their own predilections by accusing the Senate of regional prejudice.

## SUPREME COURT NOMINEES NEED CLOSER STUDY

Mr. MOSS. Mr. President, the Deseret News, the evening newspaper in Salt Lake City, has long been considered a thoughtful voice of conservatism in Utah. This Pulitzer Prize-winning journal has spoken editorially in support of President Nixon many times and advocated a great many of the administration's policies. It has also objected to several positions when it thought a better road could be followed in the United States. Although I have not necessarily agreed with all of the positions taken by the paper, in nearly every instance the editorial stand of the newspaper has been a logical, objective analysis of the situation and a sincere commentary on the particular problem at hand.

The Deseret News editorial dated April 9, 1970, entitled "High Court Nominees Need Closer Study," is a sensible account of the controversy surrounding Judge G. Harrold Carswell and comes from a newspaper known to be in support of the administration's attempt to find a so-called strict constructionist for the Supreme Court. 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:

HIGH COURT NOMINEES NEED CLOSER STUDY

With the rejection of Judge G. Harrold Carswell, Richard Nixon has become the fourth President to have the Senate refuse to confirm two of his nominees to the U.S. Supreme Court.

This unpleasantness could have been avoided if Mr. Nixon had followed through on his campaign promise to appoint men like Justices Cardozo and Oliver Wendell Holmes to the Supreme Court.

Indeed, it could have been avoided if Attorney General John Mitchell had done a better job of checking on the records of Carswell and of Judge Clement Haynsworth before him.

As it was, the Senate was presented with a nominee who in a 1948 speech pledged eternal loyalty to white supremacy . . . who played a role in turning his hometown's public golf course over to a private group to avoid integrating it . . . and who has had 59 per cent of his decisions reversed, a record

that is 300 per cent higher than the national average of all federal judges.

Confronted with this record, hundreds of lawyers and law school deans, the bar associations of Philadelphia and San Francisco, and law school faculties across the nation, including the South, expressed serious misgivings about elevating Carswell to the nation's highest court.

Though Judge Carswell was found to be qualified and competent before he was confirmed a year ago to the Fifth U.S. Circuit Court of Appeals in New Orleans, a higher set of standards should be used to assess nominations to the Supreme Court.

While less able men have been appointed to the Supreme Court previously, that was a pretty weak argument for naming Judge Carswell.

Moreover, to bring a better balance to the high court, there are still plenty of judges with Carswell's "strict constructionist" views on the Constitution but without his drawbacks—though it seems harder to find them in the South than elsewhere.

As President Nixon casts about for another nominee, he should carefully weigh some of the criticisms of his selection process so as to avoid another Haynsworth or Carswell debacle.

One such criticism is that too much reponsibility for screening and evaluating candidates has been placed on one man, the Attorney General. Since Mr. Mitchell was Richard Nixon's campaign manager and is the administration's chief political strategist, this undermines the President's professed desire to keep Supreme Court nominations out of politics.

Moreover, the White House might have less trouble winning confirmation if it would consult leading senators in advance on potential Supreme Court nominees.

Certainly a wider range of advisers, inside and outside the government, would broaden the President's perspective and help him double-check the information he receives from the Justice Department on the next nominee to the Supreme Court.

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## ECONOMIC CONVERSION AND DIVIERSIFICATION

Mr. CRANSTON. Mr. President, the subject of economic conversion and diversification is of vital interest to me. Clearly, as we move away from our involvement in Vietnam, we must plan and prepare the economy to convert from its overwhelming military dependence to mounting a meaningful attack on the critical problems which confront us at home.

The issue is of particular importance to the State of California, which relies heavily on defense and aerospace contracts.

Recently, Mr. Henry Lacayo, president of Local 887 of the United Aerospace Workers, testified on this important topic before the California Joint Legislative Committee on Economic Conversion. Some of his comments are controversial but his remarks should be of real interest to the Senate. For this reason, I ask unanimous consent that the statement be printed in the RECORD.

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

STATEMENT OF HENRY L. LACAYO

Mr. Chairman, Members of the Committee, my name is Henry Lacayo. I appear before you as a rank and file union member who is privileged to serve as president of a local union: Local 887, United Aerospace Workers. Our members work at all divisions of North American Rockwell Corporation in Los Angeles and Orange Counties.

Those serving on our union's Executive Board, present here today, join me in commending you for providing an official public forum—long needed in California—on the pervasive issue of economic conversion. Economic conversion has particular meaning in this state which, in fiscal 1967, had nearly 18% of the Defense Department's military prime contract awards of $10,000 or more.

In bread and butter terms, we commend you for your concern about the economic and human plight of the unemployed. While economists haggle over cold, impersonal statistics to prove or disprove the existence of a "recession," we have thousands of members on layoff . . . members who, without other employment possibilities, are experiencing a "depression." To give you the depth of the dilemma, layoffs include members with 20 years or more of credited service at North American Rockwell.

During the period from January 1964 to the end of 1969 over 16,000 workers in the bargaining unit have been laid off. In January 1964 over 29,000 were employed . . . in December of last year less than 12,500 were at work. This represents an obviously major reduction in the North American workforce and doesn't take into account those laidoff outside the bargaining unit—that is, managerial personnel. And as of today, there is no promise of an appreciable employment upswing.

We come before you not as arm chair social critics but as those who live with day-to-day realities. Therefore, we profoundly hope that what we say in behalf of Local 887 members will be accepted in this light.

The layoffs at North American Rockwell and elsewhere merit more attention than a mere entry on unemployment statistical records and charts. And certainly merit more insight than presently reflected in policy-making attitudes and decisions that unemployment is a way to ease inflation, especially at a time when high interest rates, housing shortages and population rise help to assure a continuation of inflationary pressures, not to mention Vietnam.

We at Local 887 are not economists. But we simply cannot comprehend how an abundance of unemployment coupled with a scarcity of products and services is the way to manage our national economic health. This is a defeatist approach. . . it is a damaging approach . . . it is a disastrous approach.

An America demonstrably capable of producing in quantity should stress high employment *and* abundance. In short, our choice is unemployment *and* scarcity or employment *and* abundance. Sheer common sense, if not compassion for wage earners, should dictate national choice.

Therefore, we must vigorously fault the direction the national executive leadership has chosen. We must also fault those corporations for failure to diversify more rapidly, realistically and with greater dedication.

A case in point is the recent loss of the F–15 contract by North American Rockwell. Additional layoffs followed. Should not a company have options? Does not a company plan just in case an existing government contract is cancelled? Is not a loss of a contract bid tantamount to cancellation?

While North American Rockwell is seeking and is already in some areas of commercial or civilian production, the fact of the matter is that up to now, it is not an in-depth, all-out effort that will assure a high, stable work force. This brings us to the subject of corporate responsibility about which we want to speak at a subsequent point in our testimony.

For the moment, we want to preclude any misinterpretation of our position regarding space and defense programs per se. We are on record in the Halls of Congress in an official 1967 statement, for example. We said, and I quote:

"When America's fighting forces during World War II needed a highly maneuverable, high speed, dependable fighter plane, North American Aviation and its workers responded with the venerable P–51 Mustang, one of the greatest planes of its types in the entire history of manned flight.

"And when the need during the same war became apparent for a medium sized bomber with long range capabilities, North American and its workers answered the call with the Majestic B–25 which, even today, is being used by American fighting forces in Vietnam . . ."

This 1967 statement of intent, made following the Apollo tragedy in which 3 astronauts lost their lives, also said:

"We know these are difficult times for North American with their managerial and engineering problems. And it is because of this we offer our cooperation in any way possible to help ensure the ultimate success of the Apollo Space Project. North American workers have performed in this spirit both in time of war and in time of peace, and they have done a superior job in time of war and in time of peace."

Mr. Chairman, I have quoted at some length to develop two fundamental positions which we take:

First, while we are opponents of unbridled military spending, and particularly of military waste, which costs the American taxpayer between $20 and $30 billion a year, we are not suggesting that we are opposed to military preparedness and planning for our "national security." What we are saying is that "national security" includes much more than a military definition. We are convinced that meeting human needs creates healthy, sustained economic growth. We are convinced that meeting civilian requirements assures a more stable, secure employment market. We are convinced that a civilian-oriented economy would assure aerospace workers with a greater continuity of employment. Indeed, all workers.

Second, the cooperative hand we offered to North American Rockwell when its future and reputation were on the firing line should now be met by this corporation's cooperative hand in sitting across the table with us in planning future employment possibilities. Further, it is our hope that North American and similar industrial giants that have benefited, in great measure, from public funds will participate in public discussions and decision-making efforts such as this committee offers.

Our union is officially on record in urging the "formation within the aerospace community of a labor-management committee" to help formulate civilian-oriented projects and programs. Our thinking leading up to this specific proposal is found in our policy statement called "National Priorities and National Security—A Call to Conscience and Action by Aerospace Workers." A copy is attached to our testimony which is before you. (Exhibit A) We respectfully urge your readership and particularly draw your attention to page 5 in which we offer specific suggestions as to the type of civilian work North American Rockwell is set up to handle. We have no hesitancy in saying that our members are capable of performing the task.

For more than two decades the UAW has spoken out in favor of economic conversion, of economic diversification, often being accused of "pie-in-the-sky" thinking. The discussions that are taking place in this country today are testimony to the practicality of the UAW position.

For far too long we have been lulled into a feeling of security because our Gross National Product increases yearly. While there are arguments as to whether the rate of growth is fast enough, the real focus should

be centered on the *quality* of growth. Are we really making progress, for instance, if chemists are in the laboratories of cosmetic firms discovering a new, better tasting lipstick, rather than the medical or hospital labs? Are we really making progress when scientists devote their vast talents to chemical and biological warfare rather than disease prevention?

So, the subject of economic conversion is not new to us. After World War II the UAW recognized the need to produce for the common good . . . to produce for a growing domestic consumer demand . . . to produce for peacetime living . . . to erase from our economic life the attitude that workers are "expendable."

Permit me to offer a bit of UAW history to make this point more meaningful.

Nearly 25 years ago—on May 4, 1945—the Army and Navy Departments and the Ford Motor Company summoned thousands of workers at the Willow Run Bomber plant to a meeting on the plant grounds. The occasion was the presentation to the workers and company of the Navy-Army "E" for excellence in production. A heavy bomber had been rolling from the plant every hour for more than a year. Mr. Henry Ford II took the occasion of this celebration to inform the Willow Run workers that they were no longer needed. The plant was to be abandoned. The word he applied to the plant was "expendable."

At that time, the UAW took issue with Ford on behalf of the workers of Willow Run, including 11,000 who at that time were in the Armed Forces. UAW challenged the contention that this powerful $90 million war-time unit of destruction could now also be used as an effective peace-time producer of the goods of plenty. Specifically, the UAW documented its case by pointing to the need for more housing and for updating the railroads.

We have come full circle. Housing needs are yet to be met. The plight of the railroads is on record. And today we find workers—and we might add, including many in management—who have contributed to both space and defense programs, but are now "expendable." Expendable at a time when technology, managerial know-how and a labor source of semi-skilled and skilled workers are available to do battle to meet domestic needs of our citizens. What a waste of human resources! What a waste of gigantic public investment that has made possible both the physical plants and profits enjoyed by aerospace and defense industries!

It is to the last point we wish to address ourselves. Long overdue is the need to acknowledge openly the myth that companies such as North American Rockwell, Lockheed, McDonnell-Douglas, etc., are *private corporations* in the traditional capitalistic meaning of the term. This just isn't so. No one has better stated the proposition than Harvard economist John Kenneth Galbraith who said in testimony last year before a joint Senate-House economic subcommittee, and we quote:

"We must, as a grownup people, abandon now the myth that the big defense contractors are something separate from the public bureaucracy. They must be recognized for what they are—a part of the public establishment."

The facts support this view. In 1968, large defense contractors were using an estimated $13.3 billion worth of already nationalized plant and equipment and in June 1969 were using $9.5 billion of public working capital in the form of progress payments on contracts, the payments depending, broadly speaking, on the need for capital, not the progress toward completion of the contract.

To state the matter in another way: "Typically, aerospace companies do not spend their own money to build plants; they lease factories constructed by the Government. . . . Much of the elaborate equipment in aerospace factories is also government-financed. . . . Defense contracts . . . provide liberal allowances is the cost of a weapons system exceeds the estimate price—and it usually does—by a substantial margin. . . . Finally, the Government finances the production line itself." These are not our words but those of the *Washington Post* reporter Bernard D. Nossiter, taken from his two award-winning reports last December.

Once we, including the corporations, become grownup enough to admit this national condition of economic life, then it logically follows that these corporations—and even smaller companies that have benefited from public spending in space and defense—have a public responsibility to perform in behalf of domestic consumer needs. Consumer needs should be defined more broadly than in products alone. It should include a consideration of environmental needs, health needs, educational needs, etc. What a breath of fresh air would blow over this nation when companies are bidding on HEW contracts, on public health contracts, on transportation contracts, and the like.

While we see some movement in the right direction, to date the net result is shallow when lined up against need. Sure, it's encouraging to read the *Los Angeles Times* headline "Aerospace Men See Peace Profits" and to see in the text of the reporter's story that "Aerospace companies also see a big future market in the applications of the systems approach and electronic capabilities, which it acquired from Government contracts, to solving urban problems. The industry believes that aerospace technology has markets in air and water pollution abatement, crime control, marine sciences and urban transportation." (January 15, 1970)

This still puts things in the future. We need to act here and now. Walter Reuther, President of our International Union, has pinpointed the hard reality that the large industrial combines will only be motivated by the pocketbook nerve. Hence his proposal, the full content of which is at your disposal, makes sense. Since this proposal has already been publicly aired, I shall not burden you with a repetition, but would urge most strongly that you give his suggestions your full and careful consideration.

We find a paradox in the aerospace/defense establishment. Undoubtedly, profit has come to space-oriented, defense-oriented firms. Yet, the data at hand shows that those companies that have diversified are making more profit on civilian goods than military.

An overview of defense spending shows that the highly specialized aerospace and electronic firms, though still important defense contractors, have found their shares of defense business declining. In fiscal 1968 the 10 firms with the largest amount of defense contracts received 29.9% of the total awards—this was down from their pre-Vietnam share of 32.2%. Interestingly, 9 of these 10 giants of the military market are aerospace and electronic firms. The 10 firms are: North American Rockwell, General Dynamics, Lockheed, General Electric, United Aircraft, McDonnell-Douglas, AT & T, Boeing, Ling-Temco-Vought and General Motors.

Rather than reciting to you a detailed account of profit data and a related explanation, we have appended to our remarks an article titled "The Myth of War Profiteering" which appeared in the December 20, 1969 issue of *The New Republic*. (Exhibit B.) However, we would like to take note of a reference to North American Rockwell. It is written and we quote " . . . Value Line Investment service in appraising North American Rockwell on July 25, 1969, notes that the company's commercial business was expected to reach 40 percent of its gross revenues in 1969, while accounting for over 50 percent of profits."

Also we wish to point out that the business-oriented magazine *Forbes* ranked the top 500 corporations in terms of revenues, assets, profits, etc. North American Rockwell was listed among the top ten war suppliers. Its rank based on total revenue was 6; however, its rank based on total profit was 94.

All of this by way of substantiating our contention that civilian business is more profitable than military. This notwithstanding, we do find an inertia on the part of corporate enterprise. Herein lies the paradox. Only public policy, democratically arrived at, can displace pockets of corporate inertia with active corporate participation in the mainstream of economic growth.

We cannot drift into peace. We must have a *delivery system* that will meet the urban crises, that will meet our 1946 national policy goal of full employment, that will halt spoilage of our environment, that will meet our educational needs in plant, teachers and curricula, that will meet the total spectrum of human needs that involve the quality of life.

It is not an easy task. But we are optimistic in believing that our advanced technology, know-how and skills in this age of electronic revolution can produce for and can serve domestic and peaceful purposes. We in the UAW, in a time of supreme national peril, were the ones who said, "yes, we auto workers can produce 500 planes a day." The auto industrialists said it couldn't be done. They were 100% wrong. We did it. There is no reason we can't reverse the coin and push as steadily and devotedly for goods and services geared to constructive, rather than destructive, purpose.

We laymen and elected officials should not be intimidated by our electronic age. We should not be intimidated by our technology. We should not be intimidated into thinking that electronic and technological advances can best be applied to tools of war or to conquer outer space. A professor of history has said that "it is recognition that technology and science are, and always have been, integral to the human adventure, and not things curiously alien from the concerns of our race."

It has been said that following the ceremonies dedicating the great telescope on Mt. Palomar, somebody remarked to an astronomer: "Modern astronomy certainly makes man look insignificant, doesn't it?" To which the astronomer replied, "But man is the astronomer!"

When Ralph Nader was here in Los Angeles under the sponsorship of our union he spoke to this point when he said we have had an "aristocratic" application of our technology, and that it is high time we applied it to the needs of working Americans.

Now bringing the issue closer to home: that of employment of our members and indeed all working men and women. What we are attempting to say is that we must view a healthy employment picture in terms of building a *democratic culture*.

While our reaching out for a democratic culture is national in scope, you and other elected officials have a singular opportunity to bring the State of California into a pace-setting role. We do not take lightly our policy position, set forth in our Joint Council's statement to which I have previously referred, that there should be a "push or state government contracts to aerospace industries to research and develop answers to environmental pollution. . . . A state contract to look into the feasibility of the automobile steam engine is a case in point." As you know, the previous administration made a start in this direction, but the impact has been a scratch on the surface of the problems. More money and more State official push is mandated.

And we can bring the issue even closer to home for members of Local 887. We have said and I quote: "We are convinced that the

aerospace industry can make a meaningful long-range contribution in pre-fabricated housing field, especially in the electrical, water and air cooling systems for such homes. . . . aerospace managment and workers who can build 30 engines for Apollo 11 most certainly have the work experience and required skills to move in the direction of providing a new power source for automobiles . . . a power source that is cheap, effective and clean. And certainly a team that can 'house' astronauts can come up with a mass rapid transit vehicle to 'house' commuters, especially for those who lack job opportunities because of no serviceable public transportation."

We are attempting to say that we must view a healthy employment picture in terms of a balanced, diversified economy, recognizing that national security is an all encompassing concept. We must bring balance and reason into economic growth . . . we must bring enlightenment and imagination into our policy decisions.

Perhaps a young 17th Century French philosopher and mathematician said it all when he observed: "We do not display greatness by going to one extreme, but in touching both at once, and filling all the intervening space."

Mr. Chairman and members of the committee, we appreciate your kind attention to our remarks and again wish to commend you for holding hearings on the most vital issue of the day.

Thank you.

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## LAOS—NEXT STEP IN THE BIG MUDDY

Mr. EAGLETON. Mr. President, I invite attention to an excellent article on Laos, written by the Senator from California (Mr. CRANSTON) which was published in the Nation on March 30, 1970.

The article, subtitled "Next Step in the Big Muddy," lucidly sets forth the hazards of the Laos situation and the danger that the United States might be drawn into a wider war in Southeast Asia. I ask unanimous consent that Senator CRANSTON's article be printed in the RECORD.

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

LAOS: NEXT STEP IN THE BIG MUDDY

(By Senator ALAN CRANSTON)

WASHINGTON.—The people spoke in 1968, and they spoke against the war in Vietnam. But now it is 1970, and American men are still fighting and dying there. Some troops have been withdrawn, but the Nixon Administration has never made it plain that it intends to get all our fighting men out of Vietnam, this year, next year, or any year. It, like the administration before it, seems either unable or unwilling to muster the courage to change our course.

Now there looms the danger of a new Vietnam in Laos. The war in Laos and the war in Vietnam are separate parts of the same conflict.

The Administration, it seems to me, is pursuing a double-risk policy that could keep American troops in Southeast Asia for years. On the one hand, there is convincing evidence that U.S. military involvement in Laos is being escalated in much the same way that we escalated in Vietnam in 1964. On the other hand, Vietnamization is beginning to look more and more like a convenient way for us to create an army of South Vietnamese mercenaries to continue a conflict that is neither in our national interests nor in those of the Vietnamese people.

The war between Communist and other factions in Laos had been sputtering along in a sleepy fashion for years, both sides taking pains to avoid each other whenever possible. Sometimes one side would win, sometimes the other; it depended on the season of the year and the zeal of the local commanders.

In recent years, however, there have been alarming changes in the situation. The United States has created a secret mercenary army of Meo tribesmen. It is commanded by Laotian officers, but its men are recruited, paid, armed, trained and advised by the CIA, and by U.S. military officers. The regular Laotian army seems to have been replaced on the battle lines by these Meo mercenaries. Thai, Nationalist Chinese and Filipino troops also are reported in Laos.

Last summer, the Meo went on the offensive and overran North Vietnamese and Pathet Lao positions on the Plain of Jars. The Meo displayed more initiative and determination than is generally seen in Laos. Predictably, the offensive alarmed the other side. A counterattack was launched and during the last few weeks, our badly extended mercenaries were pushed back. So the violence on the ground has increased, in part because of American involvement in the war.

While U.S. efforts were helping to escalate the ground war in Laos, American planes were stepping up the air war at an incredible rate. American air activity there jumped from 4,500 sorties a month when the United States was still bombing North Vietnam, to between 12,500 and 15,000 a month today. Much of the increase is our response to expanded use of the Ho Chi Minh Trail by the North Vietnamese, but American bombing missions into other parts of Laos are also significant factors.

The exact nature of the bombing is not known because, like the other aspects of our involvement in Laos, the operations are shrouded in secrecy. In almost every way, the war in Laos has been a secret war. The Administration has kept it that way because the United States signed a treaty declaring we would keep our military personnel out of Laos.

Specifically, the Geneva Accords, signed by the United States and thirteen other countries in 1962, state that "the introduction of foreign regular and irregular troops, foreign para-military formations and foreign military personnel into Laos is prohibited." The treaty defines foreign military personnel to include "members of foreign military missions, foreign military advisors, experts, instructors, consultants, technicians, observers and any other foreign military persons . . ."

In short, the United States is violating the Geneva Accords and has been violating them for many years. So the Administration has tried to keep the press at bay and to avoid testifying publicly on the real nature of our involvement in Laos.

The Communists, of course, know what we are doing. It's no military secret to them that we bomb them or that our mercenaries attack them. The Communists are violating the Geneva Accords—and won't admit it. The United States is violating the Accords—and won't admit it.

"Civilian" pilots hired by the CIA and AID fly our mercenaries and their supplies around the country, and the government covers the whole thing up as a relief operation to provide supplies for refugees. When the planes are shot down, the embassy in Vientiane simply attributes their loss to bad weather conditions. The Administration conveniently forgets how this practice distorts and perverts the whole concept of foreign assistance.

Meanwhile, our military planes blast away from the air with a considerable degree of immunity. There are those who seem really not to care if the same friendly village is hit three times—as actually happened in Laos—or if women and children in unfriendly villages are burned to death. Money for the secret army and the disguished air flights is buried in CIA and AID budgets, hidden from the people and their elected representatives.

A congenial host perpetuates this sham by piously repeating from time to time that "there are no foreign troops in Laos except North Vietnamese." Souvanna Phouma knows perfectly well that his statement is nonsense. Enterprising reporters have proved it nonsense. Senators and Representatives know it is nonsense—and are asking the Administration to set the record straight.

President Nixon has responded by issuing what he calls a precise description of American activities in Laos. He reported, among other things, that "no American stationed in Laos has ever been killed in ground combat operations." A day later, the *Los Angeles Times* disclosed that Capt. Joseph K. Bush, Jr., an American military adviser, was killed in ground combat at Muong Soui, on the western edge of the Plain of Jars, on February 11, 1969. The White House acknowledged that Captain Bush had been killed by hostile fire, and stated that the President had not been told of his death. He, like the American public, learned about it from an American press which, fortunately, has refused to be intimiated by the Administration's efforts to soften or silence its reporting of the wars in Southeast Asia.

The White House then went on to argue that Captain Bush was not killed in Laotian "ground combat operations." However, he was awarded a Silver Star posthumously, and the citation says that he killed two enemy soldiers before he fell while defending a compound at Muong Soui.

It is impossible, perhaps, to define "ground combat," there being so many ways to interpret the mission of men who, in fact, engage in ground combat. But there is a second nicety of definition in Mr. Nixon's statement that we must not gloss over. The three key words are "stationed in Laos."

I have asked the President how many men not "stationed in Laos" have been killed there. The question needs answering because I have talked with young Americans who were stationed in Vietnam and who tell me they were sent across the border into Laos. They say they were armed, and on military missions. They say they were under orders that, if captured, they were to tell the enemy that they had become lost, misread their maps, and strayed into Laos. They were to say that they thought all along that they were inside Vietnam.

One former GI tells me has was sent with others to pick up American dead in Laos and to bring them back to Vietnam. The slain would then be counted as casualties in Vietnam, not casualties in Laos.

The President's statement on Laos also sought to persuade us that most of the intervention on the ground in Laos is by North Vietnam, not by the United States. He declared that 67,000 North Vietnamese troops are in Laos, and compared this to what he declared to be a total of 1,040 Americans directly employed by the U.S. Government in Laos, or employed on contract by our government, or by government contractors, in Laos. But Mr. Nixon made no reference to our army of Meo mercenaries. They change the comparison considerably. Estimates of Meo troop strength run as high as 40,000 men. I have asked the President to divulge the maximum number of Meo tribesmen that have been on the American payroll during the Johnson administration, and during his own Administration.

There are those in the present Administration who seem determined to make another bad little war into another bad big war. But it won't be as easy to embroil the nation as deeply in Laos as it has become embroiled in Vietnam. The U.S. Senate has made it more difficult for this Administration—or any administration—to send full battalions and divisions of American troops into Laos. Congress adopted an amendment to the Armed Services Appropriations bill,

offered by Sen. Frank Church of Idaho, stipulating that none of its funds could be used to introduce ground combat troops into Laos or Thailand without prior consent of Congress.

But even with the Senate amendment, even with the strong concern and criticism in Congress, and the accurate and determined reporting by the press, we're already knee-deep in a new Big Muddy.

Meanwhile, the old Big Muddy oozes along, sucking up lives and dollars at a steady rate. There is a great danger that the Nixon Administration still seeks victory in Vietnam; at the least, it is obviously planning to use American artillerymen, airmen and support troops to prolong the conflict.

Under Richard Nixon, Vietnamization has become just another way of paying foreign troops to fight a war the Administration wants to wage. In Laos we hire mercenaries; in Vietnam a more sophisticated method is used. The Saigon generals forcibly conscript Vietnamese boys into their army. We pay their salaries indirectly through foreign assistance; we provide their arms, equipment and training directly. Then these youngsters go out and do the dirty work for us and for the repressive dictatorship which most of them dislike and distrust. The dirty work, of course, is to kill other Vietnamese.

The President's form of Vietnamization will not end the war. It will prolong it. His form of Vietnamization does not mean that we are going to pull all our troops out. Some—including combat troops—will be in Vietnam indefinitely. A secret timetable is not a timetable at all; it is a device whereby an administration attempts to claim credit for the things it does, meanwhile hiding all that it isn't doing or could be doing faster. It is as if a railroad announced that all its trains were running on time—but refused to publish a timetable.

President Nixon's form of Vietnamization means we shall continue to prop up the Thieu-Ky clique—as repressive and unrepresentative today as it has ever been. I would support a policy of providing a truly representative government in South Vietnam with enough assistance to match the outside assistance given to insurgents who seek its overthrow. But the sad fact is that there is no representative government in Saigon, nor any sign that one will emerge in the future. The sad fact is that, instead of moving toward peace in Vietnam, we are simply moving toward another kind of war—a war that resembles on a much larger scale the conflict in Laos.

Unlike the war in Laos, the war in Vietnam is no secret. The American people are aware of it, hate it, and want us to get out of it. After a grace period for the Nixon Administration that lasted ten months, Americans and their elected officials renewed their demands for an end to that war.

Reacting to this pressure, the Administration began the gradual withdrawal of front-line American combat troops—while our air and support troops remain the same. Fewer American lives are being lost, the number of troops in Vietnam is going down instead of up, and the immediacy of the war begins to fade from public concern.

To keep it fading, the Administration has attacked the mass media—which has reported the war to the American people as its reporters have seen it. At the same time, reporters in Laos who tried to tell the story found that they had thereby forfeited some of their rights to protection as American citizens.

On February 24, the press reported that one plane per minute was leaving the secret American-run base at Long Cheng in Laos. It also revealed that many armed Americans in civilian clothes were active in the battle then sputtering on the Plain of Jars. The plucky reporters who filed that story were arrested by Laotians. And the American ambassador in Laos promptly declared: "The American Mission has lost any interest in the press whatsoever because of what happened this afternoon."

I was under the illusion that embassies overseas were supposed to protect American citizens, not to wash their hands of them. But the secrecy of this dirty little war has probably given Ambassador Godley the illusion that he is a Roman proconsul. It's no wonder then that he speaks more like Pontius Pilate than like an American official. It is the kind of mentality that got us into the Southeast Asian quagmire in the first place.

The American press continues to report on American activities in Laos and Vietnam. But it will take more than journalism to keep Laos from becoming another Vietnam, and to keep Vietnam from turning into a giant Laos. Specific steps must be taken:

All our fighting men must be withdrawn from both countries.

The withdrawal must be on a timetable announced in advance.

If a true representative government should come to power in South Vietnam, the United States should provide enough assistance to match the outside assistance given to insurgents seeking its overthrow.

It may be more hygienic for us at home to know that our tax dollars, which pay for bombs and napalm and foreign mercenaries, are responsible for more and more of the killing in Vietnam, and American foot soldiers for less and less. I submit that to the Vietnamese girl who is raped, it makes little difference whether Americans or South Vietnamese assault her. And it makes little difference to the people of a Vietnamese or Laotian village whether the American weapons that kill them are handled by American citizens or American mercenaries. They are dead: we helped kill them. Surely that is all that counts to those who may survive.

And it is all that should count for us. No matter how you slice it, or paper it over, or patch it up, this is an unjust, immoral and unnecessary war. I am truly sorry for the people of Southeast Asia who bear the burden of it. They deserve better leadership than either side in the conflict can give them. But we cannot select their governments for them, and we cannot order their societies for them. That is their responsibility, not ours.

Our first responsibility is to peace. The Nixon policy will not bring peace—it will only bring more war and more killing. As long as we continue to support an unpopular government in Saigon and as long as we refuse to send a top-level negotiator to Paris, there will be no peace in Vietnam.

Our second responsibility is to ourselves. And we cannot begin to meet that responsibility until we get our troops all the way out of Southeast Asia. The issue is not whether Americans fight the war or Vietnamese fight the war. The issue is the war itself. The issue cannot be diffused. It will not go away.

It will haunt the dreams of a generation of Americans for years to come. We shall not be whole again until it is ended. We must at last be true to the best of our heritage, not to the worst.

## THIRTIETH ANNIVERSARY OF THE KATYN FOREST MASSACRE

Mr. GURNEY. Mr. President, in April 1940, the Soviet Union cruelly and ruthlessly murdered more than 15,000 Polish officers. These young men were completely defenseless, having been captured during the Stalin-Hitler rape of Poland which began in September 1939. The site of this infamous deed is a name which still brings shudders of revulsion to free men: The mass graves were located in the Katyn Forest in eastern Poland.

Invading German armies discovered the mass graves at Katyn containing more than 4,000 corpses. The International Red Cross was summoned and investigated, fixing the blame on the Russians. The Reds made an effort to lay this vicious massacre at the feet of the German armies, but subsequent investigations, including one by Congress, leave little doubt that the Soviets were responsible. We also learned that the Russians loaded more than 11,000 bodies of these young patriots on barges, sailed them into the White Sea, and sank them by shelling them.

Mr. President, on the 30th anniversary of this melancholy event, it is well for Congress to remember this tragedy and pay tribute to the brave young men who fought and died defending Polish liberty.

When we sit down to negotiate with the Soviet Union at Vienna and elsewhere, we should remember that we are dealing with a regime which countenanced mass murder and used mass murder as an instrument of its national policy.

World War II began, as we know, in defense of Polish freedom. It ended in the subjugation of Poland. The Russian masters of Poland doubtless had an easier time setting up their puppet regime because of Katyn. Had these young, vigorous, talented, and freedom-loving officers survived the war, they doubtless would have opposed the tyranny of a Stalin puppet regime in 1945, just as they fought a Hitler-Stalin takeover of Poland in 1939.

## WOMEN AND THE LAW

Mr. TYDINGS. Mr. President, equal justice under law is one of the fundamental principles on which our Nation was founded. The legal realities, unfortunately, sometimes fall short of this principle.

I am speaking of legal discrimination against women.

In a most interesting article, entitled "Women and the Law," in the March issue of the Atlantic, Diane Schulder, a New York attorney, discusses flagrant injustices in the areas of employment, civil rights, welfare law, criminal law, and abortion law.

It is time to stop treating women as second-class citizens. To all persons concerned with injustice in American society, I commend this thoughtful article. I ask unanimous consent that it be printed in the RECORD.

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

WOMEN AND THE LAW

(By Diane Schulder)

The United States Constitution once blatantly described the black man as three fifths of a man and the Supreme Court decided that black people did not qualify as "citizens." Women in our legal history have not been treated much better. Most sex-discriminating laws have been explained as "protective" of women; women's innate inferiority has been assumed. The Supreme Court made this clear in 1908:

. . . history discloses the fact that woman

has always been dependent upon man . . . looking at it from the viewpoint of the effort to maintain an independent position in life, she is not upon an equality . . . she is properly placed in a class by herself.

EMPLOYMENT

Professional women have come a bit of a way since the United States Supreme Court (in *Bradwell* v. *Illinois*, 1872) upheld a state law barring women from the practice of law, stating:

Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life.

But statistics on earnings still reveal appalling discrepancies between (in descending order) the salaries of white men, black men, white women, and black women. Hour- and weight-limitation laws and minimum-wage laws for women are, even today, defended by trade union representatives. But bigotry and sexism, reinforced through business, government, and trade union delinquency, are being challenged. Women's groups are demanding enforcement of Title VII of the Civil Rights Act of 1964 (as many as half the complaints to the Equal Employment Opportunity Commission in hiring discrimination are coming from women), and of the Equal Pay Act of 1965. Both pieces of legislation were hotly contested in Congress. A 1969 U.S. Court of Appeals decision in the Colgate-Palmolive case ruled that employers may not exclude women from jobs requiring the lifting of thirty-five pounds or more. (These laws have been on the books for years, although any woman can tell you that her two-year-old child generally weighs more.)

As close to our own time as 1948, the Supreme Court reaffirmed its protective approach in not allowing a woman to be a bartender unless she was "the wife or daughter of the male owner." The Court explained:

The fact that women may now have achieved the virtues that men have long claimed as their prerogatives and now indulge in vices that men have long practiced, does not preclude the States from drawing a sharp line between the sexes, certainly in such matters as the regulation of liquor traffic. *The Constitution does not require legislatures to reflect sociological insight, or shifting social standards, any more than it requires them to keep abreast of the latest scientific standards.*

CIVIL RIGHTS

English common law provided that juries were to be composed of twelve good *men*. To the present day, the U.S. Supreme Court (contrary to its ruling regarding black people) has not ruled it unconstitutional for women to be excluded from a jury, although a recent lower federal court (in *White* v. *Crook*, 1966) has so held.

Women are not covered in the public accommodations section of the Civil Rights Act, nor does the law currently protect them from being discriminated against by schools or universities. A group of women law students at New York University Law School, as recently as 1969, had to petition their school to open the Root-Tilden scholarships, $3500 yearly stipends which had formerly been restricted to "young men who give promise of becoming outstanding lawyers." Dorms, of course, are often still segregated, and colleges pretend to be able to exercise much more authority over their women than their men students. Needless to say, women did not secure the right to vote until the Nineteenth Amendment in 1920, fifty years after it had been granted to men of any race.

MARITAL RELATIONSHIP

Under the English law of "coverture," the husband and wife were "one." And, as Justice Black said (*U.S.* v. *Yazell*, 1966), "the one is the husband." According to the doctrine of coverture, the woman lost her legal existence upon marriage. Not only did she lose her name and become known by her husband's name, but she also lost her right to sue in a court, to sign a binding contract, to manage her property. (She was treated by the courts together with children and insane people.) She had to live at the domicile of her husband, who had control of where it should be. In many areas, the laws of coverture have been wiped off the books, but their legacy in practice remains.

Alimony is looked upon as an advantage the woman has, and perhaps an unfair advantage. Some feminists do not like the idea of alimony, and some, such as Betty Friedan, suggest, instead, a form of severance pay upon divorce. Other substitute ideas are (1) payment, perhaps $75 a week, to the spouse who does the housework, (2) unemployment money for a wife and mother who gets divorced, (3) marriage insurance. Other feminists, such as Flo Kennedy, refuse to give up the concept of alimony, saying that women should not give up the little they have before they secure equality in all other ways.

WELFARE LAW

One of the most flagrant abuses in recent years has been the searching of homes to find out if a welfare mother is having a sexual relationship, and, if she is, then cutting her off welfare. Welfare investigators conduct "night raids," "bed checks," and "operation week-end" searches, sometimes at the home of a single welfare recipient, often as a mass nighttime operation. The stated purpose is to determine whether there is an unreported man in the home of a woman receiving welfare or aid to dependent children. The effect is clearly to discourage a permanent relationship for a woman with children who needs welfare.

The raids, which sometimes involve two welfare investigators blocking exits, then searching beds, children's rooms, attics, and medicine chests for evidence of a man's presence in the home, can result in denial of further welfare payments or lay a basis for charging the woman with welfare fraud.

In *King* v. *Smith*, the case in which the U.S. Supreme Court finally discredited the "substitute father" rule, a lawyer representing a welfare mother questioned a casework supervisor. It was developed that even if a woman cohabited outside the home with the same man once in two months with an intention to continue the relationship, welfare aid could be stopped. Lawyers had thought that the "man-in-the-house" rule had been laid to rest. But the case of *Lewis* v. *Stark*, under consideration by the Supreme Court, threatens to revive the rule.

CRIMINAL LAW

We see sex discrimination in the very definition of crimes. Legislation and case law still exist in some parts of the United States, permitting the "passion shooting" of a wife by a husband; the reverse, of course, is known as homicide. The U.S. Supreme Court recently considered the case of a girl imprisoned for "lascivious carriage" under a 1905 Connecticut law authorizing imprisonment of young women if they are "in manifest danger of falling into habits of vice or leading a vicious life." Laws also exist providing for longer jail sentences for the same crime. A Pennsylvania court, in *Commonwealth* v. *Daniels* (1968), has recently held such unequal sentences to be unconstitutional.

One of the areas where the criminal law operates most discriminately is prostitution. Despite the fact that a recent New York law makes the "John," or customer, guilty as well as the prostitute, the New York District Attorney's office sees fit not to prosecute the male customer but only the woman he exploits.

REPRODUCTION

In many states, dispensing birth-control information is a crime. William Baird faces five years in jail in Massachusetts for handing someone a can of contraceptive foam. Over two hundred women sued in October, 1969, to have the New York State abortion laws declared unconstitutional. The laws provide that a legal abortion may be performed only when necessary to preserve the life of the woman. In California (The *Belous* case) and in Washington, D.C. (the *Gezell* case), similar laws have been declared unconstitutional.

Women are now demanding the right to control their own bodies, and themselves to make the decision whether to bear a child. These abortion laws were passed by predominantly male legislatures in the days when women did not have the right to vote. Lawsuits can also be used as an organizing tool. The abortion law suits, in addition to being effective in the courts, have unearthed organizing potential; and people who had never before realized their common oppression are now struggling together.

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## DALLAS GARDEN CLUB CALLS FOR 100,000-ACRE BIG THICKET NATIONAL PARK

Mr. YARBOROUGH. Mr. President, concerned conservationists in Texas and throughout the Nation are urging prompt action to preserve the great natural beauty of the Big Thicket by establishing a national park.

The Big Thicket has been aptly termed the "Biological Crossroads of North America." No other region of comparable botanical diversity exists in the United States. Alongside yucca, mesquite, and cactus grow cypress, tupelo, live-oak, and all the other trees of the Southeastern lowlands.

The Big Thicket is one of the major resting places along the gulf coast for migratory birds. It is a great natural bird sanctuary and over 300 species reside there permanently, with hundreds of others migrating through it. It is the last known habitat of the rare ivory-billed woodpecker, thought to be extinct, until some were sighted in the Big Thicket a few years ago.

The Big Thicket also has immense scientific value. Every major American university has sent representatives there to do research. Botanists, zoologists, geneticists, entomologists, taxonomists, and environmentalists all have much to lose if the Big Thicket is destroyed.

Mr. President, for all these reasons, and many more, the people of my State and the Nation are asking that the Big Thicket National Park be made a reality. I ask unanimous consent that the resolution of the Dallas Garden Club be printed in the RECORD.

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

RESOLUTION OF DALLAS GARDEN CLUB ON THE BIG THICKET NATIONAL AREA

The Dallas Garden Club does hereby adopt the Policy Statement on The Big Thicket National Area, a copy of which is attached hereto and made a part hereof for all purposes, and urges the President of the United States, the Congress, the Department of the Interior, the U.S. Corps of Engineers (as to Dam B), and the appropriate state agencies (as to supplemental state and historic parks)

to take appropriate action to implement this policy as soon as possible.

Mrs. MAURICE E. MOORE,
*President.*

POLICY STATEMENT ON BIG THICKET NATIONAL AREA

We favor a Big Thicket National Park or area which would include not only the minimum of 35,500 acres proposed in the Preliminary Report by the National Park Service study team, but also the following modifications and additions:

1. Extend the Pine Island Bayou section southward and eastward down both sides of Pine Island Bayou to its confluence with the Neches River.

2. Extend the Neches Bottom Unit to cover a strip, a maximum of three miles, but not less than four hundred feet, wide on both sides of the Neches River from Highway 1746, just below Dam B, down to the confluence of Pine Island Bayou.

3. Extend the Beaumont Unit northward to include all the area between the LNVA Canal and the Neches.

4. Incorporate a Village Creek Unit, comprising a strip up to one mile wide where feasible, and no less than 400 feet wide on each side of Big Sandy-Village Creek from the proposed Profile Unit down to the Neches confluence. Wherever residences have already been constructed, an effort should be made to reach agreement with the owners for scenic easements, limiting further development on such tracts and preserving the natural environment. Pioneer architecture within these areas should also be preserved.

5. Incorporate a squarish area of at least 20,000 acres so that larger species such as black bear, puma and red wolf may survive there. An ideal area for this purpose would be the area southeast of Saratoga, surrounded by Highways 770, 326 and 105. Although there are pipeline crossings in this area, they do not destroy the ecosystem; therefore the National Park Service should revise its standards pertaining to such incumbrances, in this case, leaving them under scenic easement rules instead of acquiring them.

6. Connect the major units with corridors at least one-half mile wide, with a hiking trail along each corridor but without new public roads cutting any forest. A portion of Menard Creek would be good for one such corridor. The entire watershed of Rush Creek would be excellent for another.

Such additions would form a connected two-looped green belt of about 100,000 acres (there are more than 3 million acres in the overall Big Thicket area) through which wildlife and people could move along a continuous circle of more than 100 miles.

We recommend that the headquarters be in or near the line of the Profile Unit.

We are absolutely opposed to any trading or cession of any National Forest areas in the formation of the Big Thicket National Park or Monument.

In addition, but not as a part of the Big Thicket National Monument, we recommend: (a) the establishment of a National Wildlife Refuge comprising the lands of the U.S. Corps of Engineers around Dam B, (b) a state historical area encompassing communities of typical pioneer dwellings, farms, etc., such as that between Beach and Theuvenins Creeks off Road 1943 in Tyler County, and (c) other state parks to supplement the national reserve.

## AIR POLLUTION AND THE AUTOMOBILE

Mr. EAGLETON. Mr. President, the Progressive magazine has devoted its entire April issue to the theme "Crisis of Survival." Indeed, we have reached a point in history when our very survival as a species is threatened by a continuing deterioration of the environment.

Mr. William Steif, in an article entitled "Why the Birds Cough," discusses the automobile as an air polluter and provides pertinent data on the nature, extent, and adverse effects of auto emissions.

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:

WHY THE BIRDS COUGH

(By William Steif)

On the hot, muggy evening of August 28 last year, 30,000 people, mostly young, crowded onto the Boston Common, the big center city park, to hear a rock group named the Chamber Brothers. Many came in automobiles, which they parked beneath the Common in a three-tier, 1,500-car municipal garage built a few years ago.

In all, 1,300 cars were in the garage when the show was over. Much of the audience descended into the garage and, almost simultaneously, drivers turned on their motors and headed for the three toll-booth exits.

Within minutes youngsters began staggering out of the garage on foot, gasping and choking. Others passed out in their cars. Police carried at least twenty unconscious persons out of the garage. Ambulances took twenty-five persons to two hospitals, while oxygen was given to many other young people on the grounds of the Common. Fortunately, a quick-witted city official saw what was happening and ordered the toll-takers to stop taking tolls so that the garage could be cleared swiftly. Everyone recovered soon and went home. Twenty-four hours later the incident was nearly forgotten.

Yet the near-disaster at the Boston Common is an index to how air pollution from the auto has created a crisis in the nation.

There are other indices, some almost unnoticed.

Los Angeles—"where the birds cough"—is notorious for its auto-produced smog. Indeed, wealthy Angelenos used to drive down to Palm Springs, a desert resort 110 miles away, to escape the Los Angeles smog. But last summer, for the first time, long fingers of tear-producing, yellow-gray smog appeared over Palm Springs.

Or consider the experience of the twenty-two men working the toll booths at either end of the Brooklyn Battery Tunnel—all but one in their twenties and thirties. More than half were found to have dizzy spells from a higher-than-average concentration of carbon monoxide in their lungs. Over the one-month period in which the twenty-two were studied, five of the men had blackouts.

The death rate from bronchitis and emphysema in the United States today is nine times as high as it was twenty years ago. At the present rate of increase 180,000 Americans will die of these lung ailments in 1983.

The extent to which the nation's automobiles can be blamed for its polluted air has been known for years, but only in recent months have American political leaders, from President Nixon on down, been willing to listen to their scientific advisers and point the finger directly at the manufacturers in Detroit. In his state of the Union message at the end of January, the President said: "The automobile is our worst polluter of the air. Adequate control requires further advances in engine design and fuel composition. We shall intensify our research, set increasingly strict standards, and strengthen enforcement procedures—and we shall do it now."

Senator Edmund S. Muskie, Maine Democrat, welcomed this "rhetoric of concern" and promptly offered a detailed $975 million air pollution program which he hoped Mr. Nixon would support. Another leading environmentalist, Senator Gaylord Nelson, Wisconsin Democrat, went even further and suggested that the auto's internal combustion engine should be phased out starting this year unless the auto manufacturers develop pollution-free exhausts. The Democratic leadership in both House and Senate challenged the President to increase funding greatly for clean air programs.

In California, which pioneered in smog control legislation, and in some other states, politicians are vying with one another to produce tougher proposals aimed at the internal combustion engine. And in mid-February, as part of a thirty-seven-point program to rescue the environment, President Nixon issued strict new regulations for auto exhausts in the mid-1970s, proposed encouraging development of a "virtually pollution-free" car by spending $9 million a year on research, and asked for power to phase out the lead in gasoline.

The implications of the increasing clamor have not been lost on Detroit, where a $100 billion-a-year business is at stake.

Henry Ford II, chairman of the Ford Motor Company, in December called environmental pollution "by far the most important problem" facing the auto industry in the 1970s and pledged $31 million for vehicle pollution control in 1970. Only a few weeks later, General Motors President Edward N. Cole told the Society of Automotive Engineers' convention in Detroit that an essentially pollution-free auto could be built by 1980, and added: "We must be highly aggressive in taking action and, equally important, in getting credit for our accomplishments." GM, Ford, and Chrysler each put on major anti-pollution displays for the automotive engineers.

The companies' top executives, who a few years ago scoffed publicly at California's problems (with such wisecracks as, "What Los Angeles needs is filter-tipped people"), are quite circumspect today. GM's Cole even was willing to kick an old ally, the oil business, so as to make the point that lead in gasoline is dangerous and should be removed. Once President Nixon had spoken out against leaded gasoline, GM (followed closely by Ford) swiftly passed the word that it was redesigning the engines on most of its 1971 models so that they would operate on lead-free gasoline.

To understand why Detroit is on the defensive, it is necessary to understand the automobile's role in polluting the air.

The air is ambient—that is, all encompassing. It forms an envelope around the earth to a height of nineteen or twenty miles. Four-fifths of it is in the first seven miles above earth. Man used to consider the air infinite, but it actually is finite, amounting to between five and six quadrillion tons. That amount would seem to suffice for eternity, but many scientists now worry that we are expelling so many poisons into the air so quickly that we are in danger of changing its nature—in which case, "filter-tipped people" may become a necessity.

The draft of a national emissions standards study made for Congress by the National Air Pollution Control Administration (NAPCA) last year said:

"It has been suggested by eminent scientists that the net increase of pollutants such as particulate matter and carbon dioxide in the atmosphere since the beginning of the industrial revolution has affected the weather. Since 1860, fossil fuel burning has increased the atmospheric content of carbon dioxide about fourteen per cent.

"Some scientists fear that increases in carbon dioxide will prevent the earth's heat from escaping into space, melt the polar ice caps, raise oceans as much as 400 feet,

and drown many cities. Other scientists predict a cooler earth as the sunlight is blocked by increases in particulates. The results could be more rain and hail and even a possible decrease in the food supply."

Almost four-fifths of the air is nitrogen, almost one-fifth oxygen, the rest other gases and water vapor.

About thirty per cent of the oxygen inhaled by a person goes to the brain. Without it, the brain is fatally damaged within six minutes. The highly specialized tissue of human lungs—an evolution of millions of years—acts as a one-way screen, holding back the blood on one side but permitting the air's oxygen to make its way to the blood, where millions of red cells transport it to other body tissues and exchange the fresh oxygen for carbon dioxide, a waste which is conveyed back to the lungs and exhaled.

Almost everyone knows not to shut his garage doors when his auto's motor is running, but not many people know why.

The reason is that the auto's internal combustion engine emits great quantities of carbon monoxide, a poison which has an affinity for the blood's hemoglobin—the red cells transporting oxygen—about 210 times greater than oxygen. Thus, relatively small concentrations of carbon monoxide can deprive vital body functions of an oxygen supply. The result, as recent studies have confirmed, can be headaches, loss of visual acuity, decreased muscular coordination, loss of energy, blackouts, damage to the central nervous system, and reduced chance of survival from heart attacks.

Fresh air contains less than one-tenth of one part carbon monoxide for each million parts of air. The air in large American cities contains 100 times that amount of carbon monoxide. The bulk of it comes from the internal combustion engines of automobiles.

The best estimates available are that the United States puts about 188.8 million tons of pollutants into the air yearly. The "big five" in pollutants are:

Carbon monoxide, tasteless, colorless, odorless, and lethal. About ninety-four million tons a year go into U.S. air, three-quarters of that from motor vehicles.

Sulfur oxides, which in combination with the moist membranes of the lungs form sulfur acid, a poison. Some 30.4 million tons are expelled into the air yearly, two-thirds from burning coal.

Hydrocarbons, organic compounds which are vital to the photochemical process by which smog is produced. Some 25.9 million tons go into the air annually, more than half from motor vehicles.

Particulates, tiny bits of matter which become deadly irritants when combined with other pollutants. Some 21.5 million tons go into U.S. air, mostly from smokestacks.

Nitrogen oxides, another vital ingredient of smog. About seventeen million tons are expelled into the air each year, slightly less than half from vehicles.

Obviously, automobiles are the chief villains when it comes to carbon monoxide, hydrocarbons, and nitrogen oxides, though they are not wholly blameless in the other two categories. (For instance, autos spew out 200,000 tons of lead particulates annually, as a result of the almost universal practice of selling leaded gasolines to reduce engine knock.)

Even relatively low concentrations of carbon monoxide affect drivers, and peak-hour traffic jams in Los Angeles and Detroit have built up concentrations as high as 150 parts per million or even higher.

Hydrocarbons, on the other hand, seem to have little direct effect on health by themselves. High concentrations of nitrogen oxides may produce lung damage, but this is still only a tentative conclusion.

What is not tentative is the effect of "marrying" hydrocarbons and nitrogen oxides in sunlight: A whole new family of secondary products called oxidants results—irritating eyes, ears, nose, throat, and respiratory system, reducing visibility, damaging plants and materials, impairing lung function in victims of emphysema, even interfering with athletic performance of teenagers. There is also growing suspicion that oxidants have carcinogenic effects.

In Los Angeles, the smog is so bad that doctors advise 10,000 persons a year to leave the area. Eighty per cent of all metropolitan Los Angeles's air pollution is caused by automobiles. The same is true of Washington, D.C., where the number of cars per square mile is one and a half times as great as in Los Angeles.

The internal combustion engine is responsible for the smog, the carbon monoxide, and Detroit's vast business enterprises. The trouble with the internal combustion engine is that it is so popular. In the United States alone, there are ninety million autos and fifteen million trucks and buses on the highways. All but a handful use the internal combustion engine.

The engine burns its fuel within itself. Its carburetor mixes air with gasoline. The mixture is forced into combustion chambers (cylinders), where sparks explode the mixture intermittently, driving pistons. The power produced is transmitted to the wheels.

The problem is the intermittent explosion of the fuel—a process in which the fuel is never completely burned. A briefing paper prepared last August for Dr. Lee DuBridge, head of the White House Office of Science and Technology, reported: "There is strong evidence that the use of Federal standards geared to controlling the internal combustion engine will not result in the drastic inroads on the problem needed to safeguard public health. At best, the effect of present Federal standards will be to postpone in time the upward growth of pollution levels rather than to reverse the trend. . . . These controls [are] far less than adequate to cope with a problem already well out of hand. . . . There is no guarantee that the degree of control that is possible with the internal combustion engine will be adequate. . . . The problem is already beyond reasonable bounds."

Despite such warnings, it appears that the Nixon Administration, under benevolent guidance from the auto makers, is still placing its bets on modification of the internal combustion engine and its fuel. This, at least, was the gist of testimony from Assistant Secretary of Health, Education, and Welfare Creed Black to the Senate Commerce Committee last winter during a hearing on a bill introduced by Muskie and the two Democratic Senators from Washington, Warren G. Magnuson and Henry Jackson, to encourage development of a low-emission auto by permitting the Government to pay up to twenty-five per cent above normal prices if the auto proved pollution-free.

GM and Ford, with Chrysler and American Motors trailing far behind, seem to have convinced the White House, HEW, and NAPCA that the internal combustion engine can and should be salvaged. The companies are now willing to invest $80 million to $100 million a year in research, and they are now taking this research seriously.

The odd thing is that the industry has been on notice since the mid-1950s that it would have to do something. By that time Los Angeles County, plagued with smog since World War II, had forced the shutdown of 1.5 million backyard incinerators and, when that failed to clear up the smog, had prosecuted oil refineries, steel mills, and 40,000 other industrial offenders. Nothing worked, the smog got worse, and the automobile was pinpointed as the culprit.

In the late 1950s the auto industry fought California state legislation, but in 1960 the first state law finally passed, requiring only a few simple adjustments in the auto's crankcase. Gradually the state tightened up its requirements and by 1965 the industry could no longer hold off Federal legislation; the 1968 models were the first affected, and all that was required, again, was a fairly simple cutback on carbon monoxide and hydrocarbon emissions.

More stringent Federal controls have been placed on 1970 and 1971 models, and as a result carbon monoxide and hydrocarbon emissions in the 1971 models will be reduced about three quarters from the emissions of those two gases in the pre-1968 models. But the new standards laid down in mid-February 1969 for nitrogen oxides do not go into effect until the 1973 model year, though California—with its stricter controls—is demanding reductions in nitrogen oxides in the 1972 models.

Farther away, in the 1975 model year, the Nixon Administration is demanding its first reduction in emissions of particulates (to a third of the present emissions); further reduction in nitrogen oxides (to a seventh of the present emissions); further reduction in carbon monoxide (to less than half the present standard); and further reduction in hydrocarbons (to less than a quarter of the present standard). The Administration's goals reportedly call for another fifty per cent reduction of the 1975 emissions levels in all categories by 1980.

Achievement of those goals would solve the problem, but there is strong reason to doubt that the goals can be achieved with the internal combustion engine. So far, the chief anti-pollution improvements on the internal combustion engine have taken two forms: Injecting air into the still-hot mixture going out the exhaust system, thus creating more thorough combustion, or regulating the carburetor jet or nozzle that mixes gasoline with air more precisely, so that less fuel goes into the mixture.

The latter method is used on about eighty per cent of new American cars because the former method requires an air pump and is more expensive. Using these two methods—and including the 1971 model year—total air pollution from automobiles will diminish somewhat in the 1970s, but by 1980, NAPCA says, it will be on the increase again because of the growing number of autos on the highways.

The auto makers have dragged their feet for fifteen years. For example, Chrysler has done a considerable amount of research on a turbine engine but maintains a total commitment to internal combustion. One of the big companies developed a catalytic converter in 1964—a device which would go a long way toward more complete combustion of gasoline if gasoline were unleaded—but simply laid it on the shelf; no one wanted to upset a symbiotic relationship with the oil industry. As late as May 1968, Henry Ford II was telling a magazine interviewer that he preferred a cooperative "research and development" program with several oil companies in the fight against pollution.

As for tests with such non-polluting vehicles as the electric car, Ford said: "We have tremendous investments in facilities for engines, transmissions, and axles, and I can't see throwing these away just because the electric car doesn't emit fumes." And when asked what his company's greatest problem was, Ford replied, "That's easy, making more money."

Only eighteen months later, Ford's attitude seemed to have changed radically. What may have helped him along was the Federal anti-trust suit filed ten days before President Nixon took office. The suit accused four big auto companies of conspiring to retard development and use of devices to control auto-produced air pollution. Under a consent agreement, the auto makers—without admitting their guilt—said they would not

obstruct development of anti-smog devices and would make available, without fees, licenses of anti-pollution inventions to firms desiring them.

Detroit's new sincerity is verbalized this way by Chrysler's research director, George J. Huebner, Jr.: "There are no holds barred [on the anti-pollution effort]. This is an all-out effort. Maybe people are waiting to see if we will fall on our face. But we are not going to. . . ."

To cut pollution Detroit can install catalytic converters, which it has ruled out because of the gasoline problem, or get a replacement for the internal combustion engine, which it refuses to do for economic reasons, or develop an exhaust manifold reactor, in which exhaust gases are mixed with air and "after-burned" in large, insulated, stainless steel manifolds at high temperatures. Such manifolds will require large amounts of fairly exotic metals, cost $200 to $300 (to be passed on to the car buyer), and require more maintenance than most drivers give their cars. But the afterburners also could represent a huge new market for the auto makers.

There are alternatives to afterburners on the internal combustion engine. One is to reform the engine by direct injection of the fuel into each cylinder, metering the gasoline precisely, eliminating the carburetor, increasing horsepower and economy—and reducing emissions. Volkswagen, Mercedes-Benz, Porsche, and Alfa-Romeo already have begun to build their engines in Europe this way, and there are hints that American manufacturers are working on the same principle.

A more radical alternative is to do away with the internal combustion engine entirely. A number of experimenters and small companies are working to perfect an external combustion or "steam" engine; others are pushing hard to make a practical and economical electric car.

The external combustion engine converts fuel energy into thermal energy of a working fluid. The engine has the singular advantage of burning its fuel much more completely than the internal combustion engine (since the burning is continuous) under lower temperatures and pressures. The quantity of carbon monoxide and hydrocarbons emitted from the steam engine is about one-twentieth of the amount emitted from an uncontrolled internal combustion engine. Steam turbines produced so far have shown variable nitrogen oxide emission rates, but most engineers believe there is no inherent barrier to the development of turbines with low nitrogen oxide emissions.

The silent steam engine does not need as much horsepower as the internal combustion engine because it does not lose as much power. Technically it is further advanced than the electric-powered car. But the steam engine has its drawbacks, too. More expensive metals and more precise tooling (for a closed system) are needed. Some believe the external combustion engine is overweight and accelerates too slowly. But possibly the biggest drawback has nothing to do with the engine itself; it is simply that the auto makers, who have the expertise and large amounts of necessary capital needed to solve the steam engine's remaining problems, also have the greatest vested interest in perpetuating the internal combustion engine.

Nevertheless, the steam engine appears to be the best of the far-out candidates to replace the internal combustion engine, and companies in California, Massachusetts, and Nevada—the last headed by retired millionaire William Lear, who made the business jet a great success—have experimental models in various stages of testing.

Another alternative—even farther out, most experts think—is the electric engine.

Development of a practical battery is still highly problematical, but there is another difficulty: If the nation's automobiles converted to electricity on anything like the present scale of use, demand for power to charge the batteries would soar. That, in turn, would mean building many more coal and oil-fired utility plants—and these are among the worst American industrial polluters.

Both GM and Ford have experimented with, and are continuing to work with, electric engines, the only sure way of getting zero emissions of pollutants from autos. General Dynamics, Gulton Industries, Allis-Chalmers, and Westinghouse have all done work in this specialty, and some smaller firms actually have marketed a few dozen electric cars. But no one is especially sanguine about ending air pollution with electric cars.

A final alternative that is beginning to look much more feasible is use of a different fuel in the internal combustion engine. Either compressed natural gas or liquefied petroleum gas can be burned easily in present motors with relatively simple and inexpensive ($200 to $300) modifications. Mileage is better; so is economy. But again, there are problems.

Though such fuels cut pollution greatly (because the fuels burn much more completely), they must be used under pressure. That means a sealed system which, if ruptured in a mere fender-bender accident, could leak, catch fire, or explode.

The vendors of natural gas and petroleum gas deny that their wares are any less safe than gasoline, and they may be right. The Federal General Services Administration is testing a dozen vehicles on natural gas in Los Angeles and several dozen more in Houston and Mississippi, and has had encouraging experiences so far. Petroleum gas has been used in the municipal fleet of Tampa, Florida, for several years and in Chicago's bus system for more than a decade with success. Indeed, more than 200,000 vehicles, mostly trucks and specialized vehicles such as forklifts, have operated for some years on petroleum gas.

But problems of supply and distribution make it likely that these two fuels will be confined to fleets of trucks, buses, taxis, and possibly short-run rental cars.

All of which puts the problem of our fouled ambient air on the Nixon Administration's back again. Within NAPCA only a couple of million dollars yearly have gone to research—most of the agency's $60 million-a-year budget has been spent for establishing a bureaucracy that could set up air quality standards for fifty-seven metropolitan areas and promulgate those standards. Within the Department of Transportation, less than $1 million a year has gone to research, mostly to run a couple of smog-free bus experiments.

GM says it has been spending about $45 million a year on anti-pollution research and development, and Ford has been spending $28 million.

The man most angry about the record is Senator Muskie, who pioneered the early Federal legislation. He believes the Nixon Administration's approach—setting goals for industry which seem fairly distant in time—is exactly wrong. He believes that the only way to achieve results is through "a steady tightening of standards, on a regular and frequent basis, until an emission-free vehicle comes off the assembly line." He predicts that the short-changing of research, both by the Federal executive branch and by industry, will haunt the nation in future years.

Oddly enough, the Republican Governor of California, Ronald Reagan, seems to agree with Muskie. But then, he has heard the birds cough.

## TAXATION OF RELATED BUSINESS INCOME FROM CONTROLLED SUBSIDIARIES OF EXEMPT FOUNDATIONS

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to me by the chairman of the Committee on Finance, the distinguished Senator from Louisiana (Mr. LONG).

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

Hon. HARRY F. BYRD, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR HARRY: This refers to your inquiry as to the action of the Conference Committee on the Tax Reform Act with respect to the taxation of related business income from controlled subsidiaries of exempt foundations, such as Colonial Williamsburg, Incorporated.

As you will recall, Section 121(b) of the Tax Reform Act of 1969, as passed by the House of Representatives, added paragraph (15) to section 512(b) of the Internal Revenue Code of 1954. That paragraph provided, without exception, that amounts of interest, annuities, royalties and rents derived from a corporation controlled by an exempt organization shall be included as an item of gross income for purposes of the tax on unrelated business taxable income.

After you pointed out the inequity of this provision in situations where the business activities of the subsidiary are related to the purposes of the exempt organization, the Senate Finance Committee added an exception to the rule of section 512(b)(15), as passed by the House. This exception provided that interest, rent, royalties and annuities received by an exempt organization from a controlled corporation would not constitute unrelated business taxable income to the extent that the business operation carried on by the controlled subsidiary corporation was "functionally related" to the purposes of the exempt organization.

In the Conference Committee, the language of this exception was changed somewhat. The final version of section 512(b)(15), as so changed, provided that interest, annuities, royalties and rent derived by an exempt organization from a controlled corporation would not constitute unrelated business taxable income to the exempt organization to the extent that the income from the operations of the controlled corporation would not constitute unrelated business taxable income if such operations were conducted directly by the exempt organization.

As you can see, the provision as finally enacted seems to retreat from the provision in the Senate bill which requires only that the activity be "functionally related" to be exempt, to a requirement that the maintenance of the facilities operated for the accommodation of the general public visiting Williamsburg not be an "unrelated" trade or business. I understand this was felt necessary because the language used in the Senate version was so broad it would have allowed an exempt organization to operate an unrelated business through a controlled corporation indirectly—an activity it could not engage in directly.

In any event, it was certainly not my understanding that the Conference Committee modification of the language of section 512(b)(15) was intended to change the substantive application of the Senate amendment as it applies to the Williamsburg problem. There was no discussion of any intention to make such a change. This is borne out by the Statement of the Managers on the Part

of the House indicating that the Senate amendment made only minor and technical modifications in the House bill with respect to section 512(b)(15), and that the Conference Committee generally followed the Senate amendment.

With every good wish, I am

Sincerely,

RUSSELL LONG,
*Chairman.*

## GOVERNMENT INTRUSION ON PRIVACY

Mr. INOUYE. Mr. President, just as has every other Senator, I, in recent weeks, have received a good deal of mail from concerned constituents relative to the intrusion on their privacy which they feel is a part of our census procedure. Despite good and sound reasons for the collection of such factual information and denials of any interest on the part of the Government in any individual's living circumstances, this feeling persists.

I wish to raise, however, how much more reprehensible the action of this administration is in fostering increasing invasions on the rights of privacy by governmental agents in a number of other areas. Where such powers are granted to political agents of the President, we approach a situation which should cause every thinking American to call for an immediate halt.

Mr. President, I believe the case is expressed with clarity and insight in a column by the noted writer, Tom Wicker, published in today's New York Times. I ask unanimous consent that the column be printed in the RECORD.

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

IN THE NATION: THE REAL MESS IN WASHINGTON

(By Tom Wicker)

WASHINGTON, April 13.—It is too bad that the Democratic and Republican national chairmen have fired away at each other as to whether Clark Mollenhoff, a White House assistant, should have the right to inspect individual income tax returns. Since Democratic Chairman L. F. O'Brien raised the question and Republican Chairman Rogers Morton responded that the Democrats were "unduly sensitive to investigation," it may indeed look as if Mr. O'Brien's party has something to hide.

But whether it does or not, that is not the reason Mr. Mollenhoff has no business with such a privilege. In fact, it would be remarkable if after eight years in power the Democrats were not in some ways vulnerable to investigation; on the other hand, until Mr. Morton charged it, few had been aware that the Democrats under Presidents Kennedy and Johnson had created the kind of "mess in Washington" that studying their tax returns might reveal.

Actually, if the shoe were on the other foot and the Democrats had taken power and started checking income tax returns, the practice would be just as reprehensible, although perhaps as rewarding. Two former Commissioners of Internal Revenue have said that Mr. Mollenhoff's access to these documents is illegal; it certainly should be, but it doesn't necessarily settle the matter if it is since no doubt he could follow the practice secretly or at least put up all sorts of legal arguments for White House privilege, immunity, special needs, etc.

The real issue is one of propriety, privacy and procedure. No politician like Clark Mollenhoff has any right to see such sensitive material because it gives him power that he has no right to exercise, over the innocent as well as the guilty. Moreover—to propound the oldest truism in the whole field of human liberty—once this sort of thing gets started, and no matter for what apparently useful reason, there is no telling where, if at all, it can be stopped.

QUESTIONABLE PRIVILEGE

Mr. Morton argued, for instance, that there was no reason to "tie the hands of authorized investigators probing officials corruption." Who made Clark Mollenhoff an "authorized investigator"? Since when has he been a member of the F.B.I. or any other authorized investigating agency? He is, rather, a political appointee to the personal staff of the President, a far different thing.

Would Mr. Morton suggest that in that political role Mr. Mollenhoff ought to have subpoena powers as, say, a Congressional committee or a special Presidential commission would have? Yet, even such groups as that have no privilege of examining income tax returns. If that privilege is to be extended to Mr. Mollenhoff, why not to Murray Chotiner or Harry Dent or anyone else on the President's staff?

The White House, of course, has replied that Mr. Mollenhoff sees tax returns only to investigate "wrongdoing by Government officials or those close to the Government." Does this mean the White House is checking the returns of its own Administration officials, as well as former officials? That ought to make for a happy ship, if so. Who checks on who Mr. Mollenhoff is checking on? And how "close to the Government" do you have to be before White House underlings run through your tax returns? Does Clark Mollenhoff decide *that*, or does the President? And even if the whole operation is as rigorously fair and as antiseptically controlled as brain surgery (which can go wrong, too), once the Nixon Administration establishes the practice, who can say how the next Administration might extend it?

But it is obviously vain to put this kind of consideration up to this Administration; if Mr. Nixon and his circle were sensitive to such matters, Mr. Mollenhoff would never have got his hands on anybody's tax return in the first place; Attorney General Mitchell would never have claimed the right to tap and bug, without a shred of court approval, anybody he suspected of threatening national security; the preventive detention of those who might commit crimes in the future would never have been proposed, nor would a whole bag of other legislation offensive to the Bill of Rights.

SECURITY SYNDROME

But among Mr. Nixon's policy-makers, the end justifies the means with a vengeance. A story in The New York Times Sunday detailed how the Administration, dismissing what one aide called "hangups about snooping," was planning greater surveillance of "extreme radicals" by more wiretapping, undercover agents, and even Federal grants through the Law Enforcement Assistance Administration to help states and cities develop such intelligence techniques for themselves.

But when we have been saved from the radicals, who will save us from the security agents?

## KILL A COMMIE FOR CHRIST

Mr. FULBRIGHT. Mr. President, the Daily Texan is the student newspaper at the University of Texas, in Austin, one of the largest and most important institutions in the country. On April 7, that newspaper published an editorial entitled "Kill a Commie for Christ," and on April 10, it carried a letter to the editor from Mr. Fagan Dixon. I ask unanimous consent that both items be printed in the RECORD.

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

[From the Daily Texan, Apr. 7, 1970]

KILL A COMMIE FOR CHRIST

(By Dave Helfert)

At the "March for Victory" held in Washington on Saturday several of our less-illustrious government leaders expressed their feelings on the war in Vietnam.

"A people with the intelligence, the skills, the financial resources to place astronauts on the moon—not once but repeatedly—is surely capable of achieving military victory over a minor, backward, disorganized, fourth-rate dictatorship," said Rep. John R. Rarick, D-La.

This is such an accurate, if not diplomatic, description of the Thieu regime, it's obvious this is who he is referring to. It is the first time an official has publicly announced who the enemy in Vietnam is.

"We're going to turn it around for God," said Rev. Carl McIntire, a fundamentalist radio preacher who has remarked before that the North Vietnamese and Viet Cong are the sword of evil and the United States is the sword of righteousness.

This to our knowledge is the first campaign for God predicated by national lies and international deceit. In fact, our entire involvement in Vietnam is almost as valid as the Silver Star medal LBJ won for gallantry in action.

If this is a religious war, it sure simplifies things. It's a fight between their religion, Buddhism, Catholicism, etc. and our religion, money and power.

There's no doubt that God's on our side. My Lai? Just like in the Bible with the Pharaoh's soldiers. Gulf of Tonkin incident? Ghosts and spirits attacking us. Napalm? One of the plagues sent by God to wipe out our enemies.

So it's just another Crusade. God wants America to wipe out all the commies in the world. What could be more saintly or just for the chosen people?

[From the Daily Texan, Apr. 10, 1970]

To the EDITOR:

The editorial by Mr. Dave Helfert in your April 7 issue entitled, "Kill a Commie for Christ," comes painfully close to the truth. Rev. Carl McIntire, the fundamentalist minister who led the "March for Victory" in Washington April 4 was voicing accepted Christian doctrine when he said, "We are going to turn it around for God." Rev. Billy Graham has said, "There is not only a war in Vietnam, but there is a world war, a spiritual war between good and evil."

When President Johnson took the 21 Latin American ambassadors to church in San Antonio on April 3, 1967, the Right Rev. Archbishop Robert E. Lucey said in his sermon, "Such intervention (Vietnam) is not merely allowed and lawful, it is a sad and heavy obligation imposed by the mandate of love. We must defend the blessings of our Creator so that peace and freedom may survive."

President Kennedy said, "But in today's world, freedom can be lost without a shot being fired, by ballots as well as bullets. We in this country, in this generation, are by destiny, rather than choice, the watchman on the wall of freedom."

This pretty rhetoric clearly implies that ballots of a democratic government are not adequate to deal with this new evil; that men can no longer be counted on to govern themselves and that there is a higher law than the law of the nation which must be enforced by military might.

"The law of the nation" in this country is the Constitution which declares itself to be "the Supreme Law of the Land." (Const.

Art. VI, cl. 2) According to the Supreme Court, "The First Amendment mandates government neutrality between religion and non-religion."

But when a great nation like ours mistakenly follows a foreign policy based on political messianism in the longest war in our history, and loses 41,000 men, suffers 250,000 casualties and spends over $125 billion, it is painful to have George Wallace ask, "Was it all in vain?" Even though the marchers in Washington were authentic representations of President Nixon's "great silent majority," he chose to slip away to Camp David rather than stay and explain the "no win" policy in Vietnam.

FAGAN DICKSON,
*Austin Attorney.*

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## HOSPITAL CONSTRUCTION AND MODERNIZATION

Mr. GOODELL. Mr. President, last week the Senate passed the extension of the Hill-Burton Act. Although I could not be here to vote for the legislation, I indicated my position in favor of final passage.

I congratulate the distinguished chairman of the Labor and Public Welfare Committee, the ranking member, and the other members of the committee for their tireless efforts to report a bill which will adequately meet the needs for the hospital construction and modernization needs of this country.

One of the most significant changes in the bill is the revision in the funding formula for the allocation of Hill-Burton funds. The new formula will more effectively apportion funds where health needs are now the greatest—in our Nation's metropolitan areas.

As the Members of this body know, the Hill-Burton Act, passed in 1946, provides for the much needed construction and modernization of hospitals and health facilities. At the time it was originally enacted, a grave need for health facilities existed in poor, rural States. Many families lived hours away from lifesaving health care. These States, because of limited financial resources, were unable to provide acceptable and accessible care for the rural population.

Congress recognized the imbalance that existed between the medical needs of the richest and poorest States. A statement of legislative intent was included in the program which provided rural priority in funding. The funding formula based upon per capita income squared in lieu of any more precise measuring instrument of need, also favored the poorer States.

I believe the rural emphasis was a necessary ingredient in that legislation of 1946. Congress clearly recognized and responded to those areas where health needs were greatest.

The "squaring formula," as it is known, has balanced the number of existing medical facilities among States. In 1948, the eight wealthiest States had 3.92 beds per 1,000 population compared to a figure of 2.61 for the eight poorest States. In 1966, the figure for both was at 3.92 beds per 1,000 population. Clearly, the Hill-Burton formula has been successful in achieving its stated purpose.

Over the last 20 years, great changes have occurred in the medical needs of our country. The plain fact is that the balance has changed. Today our cities are faced with enormous problems relating to the supply and delivery of social and health services to the middle class as well as to the disadvantaged ghetto dweller. Greater and greater demands have been placed on our hospitals and health facilities in metropolitan areas.

Over the last 20 years, we have achieved a greater sophistication in statistical measuring. This knowledge has given us more effective standards and tools for measuring the medical needs of this country.

The needs have shifted to the cities and urban areas but the existing Hill-Burton program, with its rural oriented formula, has not responded to this shift. Since July 1, 1964, 68.8 percent of all Hill-Burton funded projects have been built in communities of under 50,000 while 78 percent of our population is centered in 12 major urban areas with populations well over that figure.

Specific examples of the application of the rural formula dramatize the issue.

In Soda Springs, Idaho, $800,000 of Federal aid was received to help build a new and bigger county hospital to replace an old one that was one-third full.

No Federal aid has been spent in the last 20 years to enlarge or improve New York's overcrowded and ill-equipped Harlem Hospital.

Mr. President, this is not an issue of rural State versus urban State. Nor is it a sectional or regional issue. The issue is whether we will provide the apparatus necessary to attack and meet medical needs where they arise.

The existing Hill-Burton funding formula, with the per capita income factor, has penalized large, populous States as their medical demands have increased. With the influx of people to metropolitan areas, the inequities in the law have become apparent and more severe. More people need more medical service—yet more money has not been forthcoming.

The Senate voted in favor of a revised funding formula which includes a new factor in allocation—the need for hospital construction. Twenty years ago, a statement of need in the law was not necessary; the squaring formula directed funds to the needy areas. The formula, as passed by the Senate represents an awareness of new and more accurate methods of measuring need. It will be responsive to those States that must have financial assistance to provide adequate health care to its residents.

I wrote to the distinguished chairman of the committee urging that the funding formula be revised to reflect this equality. I ask unanimous consent that the letter be printed at this point in the RECORD. Although the squaring factor remains in the Senate-passed formula, I was gratified that the committee agreed to a new approach.

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

U.S. SENATE,
COMMITTEE ON BANKING
AND CURRENCY,
*Washington, D.C., June 27, 1969.*

Hon. RALPH YARBOROUGH,
*Senate Committee on Labor and Public Welfare, New Senate Office Building, Washington, D.C.*

DEAR SENATOR: I regret that I was unable to testify at the recent hearings concerning the Hill-Burton Hospital construction and modernization program which were held by your Subcommittee on Health.

The State of New York is now experiencing a severe emergency in the availability of facilities for medical care, and I am very concerned with finding ways to alleviate this problem.

At the time of the passage of the original Hill-Burton legislation, a great imbalance existed between the medical needs of the richest and poorest states. In 1948 the eight wealthiest states had 3.92 beds per 1000 population compared to a figure of 2.61 for the eight poorest states. The Hill-Burton Act endeavored to change this condition and consequently, and I believe properly, contained a rural emphasis. It is significant, however, that by 1966 the figure for both groups was at 3.92 beds per 1000 population.

It is now time that we recognize the great changes which have occurred in America in the last twenty-three years and that we adjust our priorities accordingly. Our cities are immensely troubled now by poverty and turmoil and we must begin to direct our attention to their problems. It is indicative of misplaced emphasis that since July 1, 1964, we have built 68.8% of all Hill-Burton funded projects in communities of under 50,000 at a time when 78% of our population is centered in twelve major urban areas.

Two months ago in New York City, Harlem Hospital was compelled to suspend all non-emergency care and postpone all non-essential operations because of budget cuts and overcrowdedness. This hospital is a vital part of that distressed community, yet it has not received any federal aid for construction for over twenty years. A new hospital, funded solely by the state and city and originally scheduled to open five years ago, is now slated to open in the near future. This fact is in stark contrast to the existence of more than 150 hospitals built or expanded with federal aid which are standing half empty in rural areas.

I believe that we must now give urban areas equality in the allotment of federal funds. This can be accomplished by eliminating the squaring factor from the allocation formula and adopting a formula based on population, financial need and extent of the need for modernization or construction of the respective states.

Ian T. Loudon, Assistant Commissioner of Health for the Division of Hospital Review and Planning in New York, testified before your subcommittee that by 1972 New York State will need 240 additional health facilities and 502 modernized health facilities at a total cost today of around three billion dollars. Under the House passed formula, New York State will receive $17,426,689, a contribution which falls far short of meeting present needs.

We can afford to wait no longer in taking steps to alleviate the hospital crisis which has struck our cities and states. The first step is to eliminate the squaring factor from the allocation formula. I urge the adoption of such a measure in the bill reported out by your committee.

Sincerely,

CHARLES E. GOODELL.

Mr. GOODELL. Mr. President, in 1946, the health needs of rural State demanded funding priority. In 1970, the needs have shifted where the people have shifted—to the metropolitan areas.

The Senate has responded to this need for change. It has approved a formula which recognizes the changes that have occurred in health needs and in our methods of measuring need. By placing a new emphasis on the medical needs of the States, the program will have the apparatus to begin to meet those needs.

Undersecretary John Veneman of the Department of Health, Education, and Welfare stated in hearings on the revision:

> This change will direct today's fund toward today's needs just as the original formula did for the needs of 20 years ago.

As health needs shift, so must our resources. I commend Senators for their action on the revised funding formula, and I am hopeful that it will prevail in conference. Without it, we will not be able to respond to the health care crisis that exists in our Nation today.

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## HEALTH MANPOWER: SCOPE OF THE PROBLEM; DR. LEONARD D. FENNINGER DELINEATES NEED

Mr. YARBOROUGH. Mr. President, the Annals of the New York Academy of Science for December 31, 1969, contain a series of papers given at a conference on education in the health-related professions held by the New York Academy of Science on March 27–29, 1969. The entire issue of the Annals should be of interest to anyone concerned with the health status of the Nation. One article, however, is of such general interest that I think it well to bring it to the attention of the Senate.

Dr. Leonard D. Fenninger, who at the time of the conference was Director of the Bureau of Health Professions, Education, and Manpower Training at the National Institutes of Health, spoke on the subject "Health Manpower: Scope of the Problem." In his talk, Dr. Fenninger touched on the special significance which health has acquired in our society. He states, for example, that "the public increasingly supports demands for systems of health care that will be responsive to the health needs of the individuals who make up our society."

Dr. Fenninger pointed out that the Nation today has a critical need for health manpower. By this he means adequate numbers of able people possessing many skills and using them in the right places. Dr. Fenninger believes that the fundamental issue facing us is the disparity between need and expectation on the one hand, and available resources on the other.

Dr. Fenninger's talk also touched on the health care delivery system, the creation of new categories of skill, new knowledge, and new technology. He then devotes the rest of his talk to the allied health professions. In this connection, he states that a critical review of the preparation of allied health workers is much needed. He called for curriculum experimentation, equivalency examinations, lateral mobility, experimentation with new teaching techniques, programs of continuing education, broadened recruitment efforts, and the distribution of health manpower. He closed by stating that the "health service needs of tomorrow must shape the education of today."

Mr. President, I share the views expresed by Dr. Fenninger. Inasmuch as the Senate will soon be considering the extension of and improvement to the Allied Health Professions Personnel Training Act of 1966, as amended, I heartily commend his talk to Senators and 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:

HEALTH MANPOWER: SCOPE OF THE PROBLEM

(By Leonard D. Fenninger, M.D.)

Health has acquired a special significance in our society. This is attested to by increasing expenditures for health services, by the great public and private investment in research related to the problems of health, and by the increasing public concern with both the successes and limitations of health care, as well as the maintenance of health. This concern is reflected daily in the press, in legislation, and in the extraordinary growth that is taking place in all health activities in the United States and throughout the world.

It is particularly fitting that The New York Academy of Sciences is devoting a full morning of this conference to some of the most important problems of health manpower. We have gradually come to recognize that health services, which include the care and cure of individuals who have become ill, the maintenance of health, the prevention of illness and the preservation of the environment depend ultimately on the men and women who provide the skills and services that are needed in the health and health-related fields. The public increasingly supports demands for systems of health care that will be responsive to the health needs of the individuals who make up our society.

The remarkable progress in health and medicine can be measured in terms of growth in scientific capability and in changes in social philosophy related to health. The scientific advances have been widely heralded. By comparison, the dramatic changes that are taking place in our social thought and action with respect to health have received much less notice.

There exists today a critical need for health manpower, i.e., adequate numbers of able people possessing many skills and using them in the right places. Our need for all kinds of health workers exceeds the supply and our present educational capacity. The fundamental issue facing us is the disparity between need and expectation on the one hand, and the available resources on the other. The problems inherent in this situation have become a matter of deep concern to the public as well as to those who are concerned with education and practice in the fields related to health.

The numbers of people involved in providing health services and the types of skills that they possess have increased tremendously in the last 50 years, the greatest increase taking place in the last decade. The factors which have resulted in this increase are numerous and complex. You are familiar with many of them and are aware that the shortages of skilled people in our society are not limited to the health field.

Of special significance in the greater demand for better health care is the continuing increase in our population, with its changes in geographic and age distribution. This better educated and increasingly urban population is demanding access to more and better health services. We, in turn, are increasingly concerned about the quality and availability of health services. We believe that access to care should be available to all who seek it. The extraordinary increase in medical knowledge and technology that has taken place in the last 20 years has made it impossible for the range of medical knowledge and technology to be applied except in organized settings. Only in organized settings can effective use be made of specialized skills and of special equipment.

The inevitable consequence of the expansion of medical knowledge and its application has been specialization. At the turn of the century, the practicing physician could encompass much of the medical knowledge that was available and could apply it himself to the patients who sought his care. However, this has not been possible for some time. Therefore, it becomes increasingly important to develop relationships among the many people who can be prepared and who are currently participating in the provision of health services, so that their efforts may combine to improve the health of the individuals whom they are serving. It is incumbent on all those engaged in the provision of health services to organize themselves in a coordinated manner that does not require the patient or the family to integrate the many specialists and services of which they have need. When one looks at the ways in which much of our health care is provided at present, one is often impressed with the burden that the patient carries in trying to get the services he needs. These burdens should be borne instead by the providers of the services.

Since the number of health workers needed far exceeds the national training capacity, two avenues of action are available. First, if we are to provide good care for as many people as possible today, we will have to do it with existing resources and with people who can be prepared in a short period of time, working under the leadership of those more experienced and more generally prepared. This simply means making the best possible use of the skills of existing personnel.

Secondly, we must increase our efforts in the analysis and synthesis of health service functions, in the development of more technicians and assistants who can perform effectively and safely in providing health services, and in the development of recruitment and training programs that will prepare more people for the constantly expanding field we call the allied health professions.

The more clearly recognized and longer established health professions of medicine, dentistry, and nursing have received attention for many years, and goals for educational progress and expansion of educational capacity have been fairly well defined despite the many difficulties and complex variables involved in such a definition. We have made major investments to try to reach these goals and will have to make greater investments in the future.

The significance of the other professional and technical functions essential to all types of health services has only recently begun to be recognized. These functions are just beginning to receive the general attention of educators, of medical and dental practitioners, and of the individuals who make up the public to be served. This group of occupations, which we designate as the allied health occupations, include a very broad range of endeavor for which special training or education is required.

The creation of new categories of skills has been an inevitable accompaniment of new knowledge and technology that has resulted in new problems. We find ourselves faced now with several problems: identifying these new health workers, defining their roles, determining the education required to prepare them for their tasks, and bringing together the varied settings in which education and training should take place.

When one adds to this the variety of people

receiving care, the changes in the cities, the increasing concentration of the poor in the cities and in remote rural areas—all of which result in great disparities in the availability of health services—there is little wonder that feelings of confusion and dissatisfaction exist in the public and health workers alike.

In 1900, there were less than 2 people involved in medical care for every physician. In 1967, an estimated 3.4 million persons were employed in all health occupations, the ratio of health workers to physicians having reached more than 10:1. Allied health workers accounted for about 654,000, or 19%, of this total. However, in the same year, the estimated shortage of allied health manpower was nearly 200,000—110,000 in occupations related to medicine, 29,000 in occupations allied to dental health, and 60,000 in functions related to environmental health. Predictions of future shortages are difficult because of the absence of standards and data regarding adequate training of allied health personnel. However, we can anticipate that deficits will continue into 1975 at least.

The problem of definition adds to the difficulties in the occupations allied to health. The allied health professions and occupations categories are not well defined, and the definition of some of the functions within them are undergoing rapid changes. Students in the allied health professions and occupations are prepared in a wide variety of settings. There is insufficient information about the numbers of people serving in the professions related to personal health services, their distribution, their education and training, the ways in which their skills are used. In environmental health services the dearth of information is even greater, and the services related to the environment are in a state of flux.

The origins of the health-related professions and occupations were largely in settings where care was provided—particularly in general hospitals and in health agencies. Since many programs evolved to meet a local need and because the needs were constantly undergoing change, the education and training of people entering the allied health professions and occupations have only recently become more formal. Even now there is partial agreement about education and training in only a limited number of the disciplines in the allied health professions and occupations. The Allied Health Professions Personnel Training Act of 1966, established in response to the recognition of the need for more and better trained people to provide the services to which certain members of the Nation were entitled under Medicare and Medicaid, has helped us to focus more sharply on the problems associated with education and training and the utilization of the skills of people other than physicians, dentists, and nurses. These health-related or allied health personnel are assuming an increasingly important role in providing health services.

Experience gained in the first two years since the passage of the Act has given us some information of significance about the education and training of allied health personnel, and for developing future plans. There has been increasing awareness of the necessity to develop linkages among educational, training, and service institutions and the various professional groups so that good educational programs can be offered that will attract able students and prepare them for satisfying careers. The development of schools of the allied health professions within universities and the concurrent developing interrelationships between these schools and the schools of the health professions are good examples.

The Act has accelerated awareness of the need to expand educational and training efforts, an awareness that began to develop in institutions more than a decade ago. Communities have also begun to recognize the importance of assessing their needs for health workers and of developing programs in community colleges and other institutions of higher education, as well as in institutions providing health services, to create opportunities for the education and training of people who wish to enter the health field.

We have become increasingly aware of the necessity for students to acquire sound backgrounds that will enable them to develop their careers in the allied health field. In view of the rapid changes taking place, rote training for a single task is not enough. Opportunities for further education and training for those already engaged in allied health careers must also be provided. More specifically, the Act has encouraged the recognition of the importance of the allied health professions. It has enabled junior colleges, and universities with established training programs in the eligible allied health professions to acquire additional faculty and equipment to improve the quality of the programs offered.

For several years the paucity of well-prepared teachers, supervisors and administrators in the health professions and occupations has been recognized as perhaps the most serious limiting factor in the number of well-prepared, skillful people entering the health field. The Allied Health Professions Personnel Training Act has provided limited opportunities for allied health personnel to prepare for positions as teachers, supervisors, administrators, and specialists in their disciplines. Together with a number of significant forces in educational and service institutions it has stimulated innovative thinking in the areas of curriculum development, teaching methods, and the development of new types of health presonnel to fill unmet needs.

To no one's surprise, the implementation of the Allied Health Professions Personnel Training Act also revealed a lack of information and data about allied health personnel: where they work, what they do, how they are educated, and whether their education and training prepares them for their responsibilities. The need to study and experiment in the areas of education and manpower utilization, to develop local plans to assess allied health manpower requirements, and to develop programs to meet those requirements becomes increasingly evident as the limitations of our abilities to deliver health services are revealed.

The educational system for allied health personnel has lacked a planned development. Training programs have developed slowly in response to demands for specific types of manpower to provide health services. The pressure of demands for health services and the complexities of the new technologies have given rise to a division of labor that has created a multitude of health occupations. New ones are bound to arise.

Although the entire training of many allied health workers continues to be provided in hospitals, which were the sites of the early development of the allied health occupations and which continue to be a principal source of allied manpower, formal education in an educational institution has become increasingly the pattern for the preparation of many allied health workers.

This is a particularly significant development not only because an ever increasing number of young people choose to continue their formal education beyond high school, but also because a more formal educational setting prepares people to adapt more readily to rapid changes in technology and practice. The hospital, the clinic, and other health care institutions are essential elements in the education of all people in the health professions and occupations, since clinical experience is an integral part of such education. However, the opportunities for sound education provided by junior and senior colleges and universities are essential to the development of allied health workers of high quality. This means that sound links must be built between education and service, between the school and the hospital or other health service agencies in which clinical training is given.

The emergence of the junior and the community college as a major educational resource has been particularly important for the education and training of allied health personnel. Associate degree curricula for many allied health occupations are being offered by these institutions in affiliation with hospitals and other health care facilities.

More recently schools of allied health professions have developed to provide baccalaureate and more advanced education in the allied health occupations. These are schools that offer curricula for several allied health professions, and are parts of universities. About 50 universities now have programs in various stages of development. This surge of interest and activity in the education for allied health occupations resulted in the establishment of the Association of Schools of Allied Health Professions in April 1967, to provide a forum for the development and improvement of education for the allied health professions, a significant development for the future.

Others who are participating in this conference will speak more specifically of particular programs and efforts that have been undertaken to provide the skilled and dedicated people essential to extend and improve health services. I shall, therefore, outline what I consider to be matters with which we should concern ourselves over the next few years.

A critical review of the preparation of allied health workers is much needed. Curriculum experimentation, including appropriate levels of education for the assumption of different kinds of responsibility, content and grouping of courses, settings in which the curriculum is offered, and the relationship among educational and service institutions, is essential. Educational programs for allied health personnel must be designed so that advancement from functions of a restricted technical nature to those requiring additional knowledge, skills, and greater capacities for making judgments are possible. Experimentation in curriculum design and the development of courses are essential to bridge the gaps which exist between the levels of competence required for jobs in the allied health occupational fields. Functions are changing rapidly; therefore, curricula should be developed that will be responsive to these changing functions, so that existing and future health service delivery systems may be of high quality and accessible to those who need them.

Parallel to studies and experiments necessary for curriculum development is the need for experimentation with new teaching methods that advances in educational technology have made possible. Experimentation in this area should have a significant effect on the expansion and improvement of educational opportunities for allied health personnel.

Equivalency examinations have far-reaching implications for the health occupations. Educational concepts and settings are changing from the traditional classroom-textbook-teacher situation to a perspective that recognizes the value of knowledge and skills acquired from a variety of sources. Methods need to be developed to determine whether knowledge and skills acquired in elements in the education of all people in the health professions and occupations other than formal academic settings are equivalent to the measure of satisfactory performance established in recognized educational institutions.

We have done too little in all fields of education to devise ways of recognizing that the experience of living and working often prepares people for more responsibility and a

change of function. We should be concerned with the capacity of a person to perform his tasks well, to assume responsibility and to exert good judgment—not with the number of certificates or diplomas he has gained or the class hours he has put in. This is particularly important in the field related to health at a time when the demand for services exceeds the supply of those who can render them.

All health personnel need to update their knowledge and improve their skills periodically. This can be accomplished on the job to a considerable extent, if the need is recognized and the job is done in a setting that stimulates the person holding it to continue to learn. However, it is frequently necessary to provide programs for education either in separate settings or as scheduled activities during the work day in the setting in which the allied health worker is doing his job.

Recruitment efforts must be broadened and enlarged. Any significant increase in the number of allied health personnel available for employment is almost entirely dependent on planned recruitment efforts. Young people are a primary source but certainly not the only one. New and continuous incentives to attract people, including the unskilled and underprivileged, must be developed and directed to a variety of potential manpower pools. Private agencies and associations in the health professions should be encouraged to embark on effective recruiting campaigns. We should reach into all economic strata to augment the health manpower pool, design our education and training in such a way to fill in gaps which may exist in their prior education, and make the jobs for which they are preparing rewarding in every sense.

We need to examine critically our current patterns of distribution of health manpower, both in terms of regions and in terms of urban neighborhoods and suburban complexes. Will today's trends simplify or complicate tomorrow's task of meeting health needs? If the distribution trends appear undesirable, how can we influence them? No matter how many people enter the allied health occupations, no matter how good their education, if they are not distributed in such a way that those in need have access to their skills and services, we will continue to have many people who do not receive the care that they need. The question of distribution of services which people have come to expect or need for their sense of well-being and dignity—education, health, legal counsel, music and the arts, to name a few—is one of the most difficult that our country faces. There are no magical solutions, and we should not pretend there are. We should, however, be aware of the importance of more equitable distribution of these services and should strive to extend them.

We shall have to develop better methods of assessing abilities and contributions made by those who are working in the fields of health, and make full use of the skills they possess. Narrow interests of specialized groups will have to give way to the needs and expectations of the public for health care. Recognition of the fact that all health services exist because people need them, and not for the convenience of those who render them, and generosity of one group toward another are essential if we are to provide access to adequate health care for all who need it.

If these necessary changes are to be realized, faculties of the schools of health professions, those who administer institutions, organizations that provide health care, and those who practice the professions related to health will have to undergo changes in attitude and understanding. The contributions made by all those who provide services related to health will have to be recognized and respected. Responsibilities are inevitably shared. People in the health fields must, therefore, become accustomed to sharing them, with the needs of the individual to be served the determining factor in the relationships among those who render the services.

All of us who have a hand in shaping education for those who choose one of the health professions are aware that the education we provide today is perhaps the most influential factor in the shape of the health care patterns of tomorrow. The corollary is just as true: health service needs of tomorrow must shape the education of today.

## SYSTEM OF COASTAL ZONE MANAGEMENT

Mr. COOPER. Mr. President, last week S. 3183 was rereferred from the Committee on Public Works to the Committee on Commerce.

I discussed this decision with the Senator from Delaware (Mr. BOGGS) and the Senator from West Virginia (Mr. RANDOLPH) and I wholeheartedly concurred. The bill which I cosponsored is an administration proposal to establish a system of coastal zone management. In view of the fact that the Committee on Commerce, Subcommittee on Oceanography, has already initiated hearings on similar legislation and the fact that the Subcommittee on Air and Water Pollution of the Committee on Public Works is deeply engaged in legislation dealing with air pollution, water pollution, and resources recovery involving, in fact, six of the seven proposals accompanying the President's environmental message, a rereferral will enable consideration of S. 3183 at the earliest possible date.

It should be noted that the Committee on Public Works and the Committee on Commerce have often worked closely on environmental matters of mutual interest. Also, since any coastal zone legislation reported by the Committee on Commerce will be referred to the Committee on Public Works, the expertise and experience of both committees will be applied to this important coastal zone legislation.

## SECRETARY HICKEL ADDRESSES NEBRASKA FOUNDERS DAY

Mr. HRUSKA. Mr. President, it was my privilege to introduce the Honorable Walter J. Hickel, Secretary of the Interior, as the principal speaker at the Nebraska Republican Founders Day observance in Lincoln on April 4.

Founders Day is the occasion each spring when Nebraska Republicans get together to celebrate the founding of our State, to discuss intraparty matters, and to hear reports from our elected representatives.

Mr. Richard W. Smith, of Lincoln, the day's senior vice president, and his excellent committee organized a stimulating program, and Secretary Hickel's straightforward talk on pollution and other national problems provided an impressive climax to the day's activities.

Secretary Hickel is a native of our neighboring State of Kansas, and having lived in the rural Midwest and then Alaska, both areas which are increasingly cherished for their freedom from the air and water pollution which, more and more, infest our cities, he is listened to closely when he takes the pollution message from Washington out across our great land.

Mr. Hickel has demonstrated another great attribute which will be invaluable to our Nation's war against pollution. He has demonstrated that he is a first-class battler for causes in which he believes and, Mr. President, it is going to take a strong, persevering battler to reverse the devastating pollution trend which is engulfing us.

A proven winner of his battles, going back even to the day when as a high school boy in Claflin, Kans., he won the State Golden Gloves welterweight championship, Walter Hickel is the man to lead us to victory in this pollution battle, which is a fight we cannot afford to lose.

I ask unanimous consent that Mr. Smith's remarks, my introduction of Secretary Hickel, and Secretary Hickel's speech to the Nebraska Republican Founders Day be printed in the RECORD.

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

### INTRODUCTION OF ROMAN L. HRUSKA BY DICK SMITH

Ladies and Gentlemen, the Republican Party in Nebraska has been successful over the years for a variety of reasons, but primarily because it has found among our citizens those very few who possess the special genius of leadership.

The function is a difficult one at best; it requires those who represent us to at once know and reflect the wishes of Nebraskans, and to help lead the nation into paths of progress and prosperity, under law.

Roman Hruska is such a man. He does not always take the road which is most fashionable at the moment, because integrity requires him to do what is right rather than what is popular. He is often in the limelight on the national scene because his special relationship with the President on Judiciary and similar matters requires him to be where the action is.

Our Senator has always commanded the respect of his colleagues for his hard work and dedication to duty, and his experience and ability has now placed him in positions of great responsibility in the Senate.

As ranking Republican on the powerful Judiciary Committee, and as a member of the influential Appropriations Committee, Roman Hruska is at the center of important activity. He is in a real sense the President's lawyer in his committee and on the floor of the Senate. The great fight for adequate defenses against organized crime and drug abuse, for example, were led by our Senior Senator. Throughout the years when the Senate has been tempted toward profligacy in its appropriations, Roman Hruska has always stood for fiscal sanity, supporting with vigor those programs that truly benefit the people and rejecting those of little merit.

But, even when the Senator is intimately engaged in matters of critical importance to the nation, he never forgets where his home and his roots are. His attitude towards his public service career is best summed up, I think, in something he said in his filing statement, which I would like to quote. On that occasion, he said:

"I view my responsibilities as being: First, to insure that the federal government serves the people of my state: and, second, to insure that national policies reflect the beliefs and attitudes of the people I represent."

Ladies and Gentlemen, it gives me the greatest pleasure to introduce to you at this time, our man of action, the Senator for Nebraska, for all Nebraska, Roman L. Hruska!

SENATOR HRUSKA'S INTRODUCTION OF SECRETARY HICKEL

Thank you, Dick, for those generous words. For the record, I am honored to be involved with the important national issues, and I look forward to being in the fight for the President's program for several years to come.

Speaking of fights, we have a real battler with us today. To paraphrase Shakespeare, some people are born fighting, some go around looking for fights, and others have fights thrust upon them. I'm not sure which of these fit Secretary Hickel, but looking over his background it seems more than just a coincidence that wherever he is some sort of a battle is going on.

The first formal record we have of this is that he was cleaning up opponents in high school boxing, down in Claflin, Kansas. Then he followed this up by winning the Kansas Golden Gloves Welterweight Championship in 1938. Later on we find him fighting for—and winning—statehood for his adopted state of Alaska.

Today we find him in the most important fight of all—the fight to save our country—and in a larger sense the whole world—from committing suicide by poisoning our air and water. We can take a great deal of comfort from the fact that Wally Hickel is in the battle. This is one fight we cannot afford to lose, and he is a proven winner!

Our guest was serving as Governor of Alaska when he was designated by President Nixon to be the 38th Secretary of the U.S. Department of the Interior. Since taking charge of the Department and its diverse national programs, Secretary Hickel has traveled widely for first-hand inspections of areas demanding attention. He has visited Micronesia, in the far Pacific, to push for political and economic development. He has gone into the coal mines in the interest of improved health and safety conditions. He traveled to the Florida Everglades to fight alligator poaching and to protest a major jetport proposed for that general area. He studied the Santa Barbara oil spill and oil developments on Alaska's North Slope, and with the past few weeks, has been down looking over the disastrous oil situation off the Louisiana coast.

He has interceded to prevent commercialization of scenic areas and is strongly advocating a multi-million dollar program for urban parks. He has promised American Indians a full share of responsibility in developing and operating their own programs and has urged early and equitable settlement of Alaska native land claims.

Under his administration, stringent policies have been placed in effect to minimize the chances of pollution from offshore gas exploration and operation. He has also promised to prosecute those who pollute the nation's waters and to safeguard the nation's fast-dwindling natural estuarine areas so vital for recreation and fishery resources.

This outstanding performance has placed Secretary Hickel in the public eye, and in the forefront of the President's wide-ranging efforts to solve the awesome problems which confront us all.

When the President introduced the Cabinet to the American people, he characterized them as remarkable generalists, and explained that in his search for Cabinet members he was looking for "... an extra dimension which is the difference between good leadership and superior or even great leadership."

Secretary Hickel meets the President's demanding criteria. A man of vigor, vision and vigilance, he has been a sturdy advocate for the many resources and programs for which he has responsibility, and a formidable opponent to those who would frustrate the President's forward thrust on the environmental problems of the day.

Ladies and Gentlemen, the Secretary of the Interior, the Honorable Walter J. Hickel.

REMARKS OF SECRETARY OF THE INTERIOR WALTER J. HICKEL, FOUNDERS DAY BANQUET, LINCOLN, NEBR., APRIL 4, 1970

Whenever I get to Nebraska I feel I'm almost home—Northern Kansas, where I was born and raised on a farm.

Nebraska and Kansas were settled by pretty much the same kind of people, so it is no surprise that they are very much alike in most ways today, a century later.

These are people who have lived close to the land for generations.

They know that our natural resources—the soil, water, and air that make up most of our environment—are precious to human life.

So I feel at home in Nebraska as well as being closely linked to you through my responsibilities in Washington.

The Interior Department and the State of Nebraska have been in close partnership from the very earliest days, and that partnership is a healthy one today.

Two Nebraskans have served in top Interior Department positions—former Secretary Fred Seaton, and Lincoln's own Clarence A. Davis, who served both as Solicitor and later as Under Secretary.

As you well know, our Assistant Secretary for Water and Power is an outstanding Nebraskan, James R. Smith of Omaha. I rely very heavily on Jim Smith and Nebraska has every right to be proud of him and the work he is doing.

Senator Hruska, my good friend, is one of the Nixon Administration's stalwarts in the United States Congress.

The respect that he commands on both sides of the aisle, make it imperative that the people of Nebraska return him to Washington for another term this year.

In Roman Hruska and Carl Curtis, Nebraska has one of the most effective delegations in the United States Senate. Let's keep that team intact for many more years, for President Nixon and our country.

I want to talk to you today about the challenge and opportunity the environmental crisis offers to each one of you.

The issue of our decade is how to make this country a better place to live . . . to win the fight to save and improve our environment.

Talk of permanent destruction to the ecology of our earth is not the idle threat of an alarmist.

It will become fact if we don't start anticipating problems, instead of just reacting to them.

Smog is no longer a phenomenon peculiar to California.

Polluted water is no longer just a hazard on the Hudson or the Chesapeake.

Mankind is plunging headlong into an environmental emergency.

And yet, many people still refuse to face it.

It is not always easy to recognize the warning signals.

They are as subtle in some places as cancer symptoms—but they are no less deadly.

It's a terrible paradox—air and water and land—the very elements which attracted our ancestors from the east—are being threatened by our efforts to build a vigorous society.

We are beginning to realize that the best things in life are not free. If we don't pay the costs of protecting them, we shall lose them.

A spreading blanket of toxic air is encircling the globe. And scientists have found both smog and DDT in the snow layers of Antarctica.

Our rivers, the life system of the land, are becoming a death system for the oceans.

Millions of tons of pollutants and pesticides are being poured into the sea, threatening to destroy man's greatest source for future food and oxygen.

Lincoln, Nebraska, is a long way from the ocean.

But even here, we must become far more concerned about the quality of this essential element of the life system.

I hope that you will remember my warning that pollution is not just something politically popular to talk about.

It is a world wide threat of the highest magnitude.

The question before us is this: "Can we remold our mental attitudes and retool our industry fast enough to do something about it?"

I believe we can.

Many of our most outstanding scholars and respected public figures have joined the battle.

And millions of the people of this country have risen to the moment.

They are challenging the very foundations of our value system.

They are talking about the "environmental ethic"—the right of plants and animals to continue to exist in ecological balance.

These are serious questions. And I am serious about trying to answer them.

A few years ago when we talked about the environment we were usually talking about the pleasant surroundings at a beach resort.

Or we were arguing about which was more important—"heredity" or "environment."

One fundamental change has been that our concern is no longer just to preserve and protect what we have—that is no longer enough.

We need to restore what we have lost.

As President Nixon has said, we have to go beyond conservation to embrace restoration.

The President has proposed a far-reaching program to achieve this restoration.

He is providing dynamic leadership to see that our rivers and air are cleaned up . . . and the beauty of our land is protected.

Each of us has a job to do in leading the fight to assure Congress approves the President's program . . . and to assure it is carried out vigorously.

There are many opportunities to participate in this effort because the task is so great.

Let me cite just a few of them for you.

First, there is the job of educating the American people as to what lies ahead.

We are not going to clean up our environment with a few slogans.

It is going to cost money.

It is going to require that industry and business include as part of the cost of doing business the installation of the procedures, the devices, the techniques needed to eliminate or minimize pollution.

The average citizen must first learn that his actions may degrade the environment and he may be required to alter them.

Second, he must be willing to share the costs of environmental improvement.

The task of education is one in which we can all join.

Those of us in government must also recognize the challenge in developing the rules and regulations under which our anti-pollution fight is to be waged.

We need to devise fair rules for dividing the cost of our pollution effort . . . so it is fair for everyone.

We also need to do some hard thinking about the basic problem . . . that if man is to survive . . . if he is going to continually try to live a better, fuller life . . . there is no way he can avoid the increased production of waste products.

There are no simple solutions . . . we can't just stop our civilization—we can't just stop the growth of our society.

But we can control and direct our growth.

And we can develop procedures to ensure that harmful waste products are converted into harmless forms before they are discharged back into the environment.

We can learn better ways of disposing of the dirt, the smoke, and junk our society produces . . . so it does not deface our land or dirty our air or water.

And we can impose stricter and wiser rules to make sure that the products we use—our

dish-water detergents, our insecticides, our food additives—are not harmful to us or to the chain of life of which we are a part.

These tasks are going to be increasingly facing public officials at every level of government.

A few weeks ago I spoke at a Republican dinner in Idaho.

I stressed that while this is not a narrow partisan issue, I am sure that the party that recognizes the environment as one of the big issues of the 1970's, and writes the best record, is going to be the party that wins the most elections.

I'll stand on that prediction. With your help, and the help of your families, friends, and neighbors, we can make sure that will be *our* Party.

It won't be easy. It will involve balancing our needs and assigning priorities.

People are asking how this Administration has succeeded with the people.

By his actions—his integrity—and his spirit, President Nixon has rallied the American people to his side. . . .

. . . He has shown that peace is not a slogan, but a goal to be reached.

He has asked for the only kind of war that is creative—instead of destructive: A war against crime.

He has sent to Congress more than a dozen pieces of legislation dealing with organized crime . . . street crime . . . pornography and narcotics.

He has limited federal spending by more than seven billion dollars.

He has shown that he understands that inflation directly hurts everyone.

And how have the people responded?

—A Gallup Poll showed a 68 percent "positive" rating for President Nixon.

He has pledged to win the war against crime—to win the victory for law.

It is up to us to help him win—by reminding our lawmakers that the best way to fight lawlessness is to enforce laws—and to have laws that are enforceable.

This is an important year for us.

President Nixon has sensed that the country is tired—sick and tired—of the old gimmick of promising the moon and delivering a pittance.

He has put our country on the right track . . . the track of solid day-to-day performance.

He has provided our people with something they have desperately wanted and needed: A sense of security . . . a confidence that our nation's problems are being met and managed soundly and wisely.

The President—with his leadership—has provided for all Republicans a great opportunity in this election year.

We can give to the President a Republican Senate and we can shift the balance in the Congress.

It won't be an easy fight.

But as I have gone about our country in the past few months I have become convinced it is a fight we can win.

We have made some amazing gains since 1964. We are just seven short of controlling the Senate and we need 31 seats to control the House.

We now have 32 Republican Governors . . . we control 20 State Legislatures.

This is a crucial decade—and 1970 may well be the crucial year, politically, of this decade.

It is going to take a lot of work, a lot of dedication.

I know the President is counting on the help of everyone of you here tonight to help him make this a Republican year—a Republican decade.

I believe this is the best way to provide the responsible leadership America so urgently needs.

With such leadership I look forward to a new age in which all the needs of our people are considered with fairness and wisdom, including the primary, vital need for an environment which ensures the health of our people, and stimulates them toward great thinking and living.

It is a privilege to be part of such a cause. I urge you all to join in.

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## DISTRICT OF COLUMBIA CRIME

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to have printed in the RECORD a list of crimes committed within the District yesterday as reported by the Washington Post. Whether this list grows longer or shorter depends on Congress.

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

### SILVER SPRING BANK ROBBED, SOUTHEAST SUSPECT, 23, HELD

A 23-year-old man was arrested in Northeast Washington yesterday morning and charged with the theft, an hour earlier, of $1,216 from a Silver Spring bank, Silver Spring police reported.

Police said a man armed with a .22-caliber revolver entered the rear door of the University National Bank, 8515 Grubb Rd., at 8:45 a.m. The gunman forced the branch manager to give him the money, then escaped from the bank in a car, police said.

The suspect, John Francis Holly, of 3221 15th Pl SE, was arrested at 10 a.m. near New York and West Virginia Avenues NE in what police describe as the get-away car.

The arresting officers said some of the money was recovered. They charged Holly with bank robbery.

Police said the same bank was robbed of $1,700 last week.

In other serious crimes reported by area police up to 6 p.m. yesterday.

#### ASSAULTED

Leroy Drummond, of Washington, was treated at Hadley Hospital for injuries he suffered when a man wielding a heavy chain attacked him in the 2700 block of Nichols Avenue SE about 1:30 a.m. Sunday. A man grabbed him from the rear and said, "I got you now." After striking Drummond with the chain, the assailant fled.

John Wesley Randolph, of Washington, was treated at D.C. General Hospital after he was shot by one of three men who approached him about 4:15 a.m. Sunday at the corner of 46th Street and Sheriff Road NE. When they asked Randolph if he had a cigarette or some change, he replied no and began running. One of the men then fired five shots, two of them striking Randolph.

Gola Lee Coleman, of Washington, was treated at D.C. General Hospital for a gunshot wound in the forehead. A man grabbed her by the arm about 1 a.m. in the 1900 block of West Virginia Avenue NE then fired one shot at her.

#### FIRES SET

A fire classified as arson was reported about 5:55 p.m. Saturday at the rear of an abandoned warehouse at 16th and Okie Streets NE. The blaze caused major damage, but no injuries, fire officials said.

#### ROBBED

Osley Silas, of 5812 Eads St. NE, was held up about 2:20 a.m. Sunday in front of his home by two armed men. Pointing a pistol at his head, one of the men threatened, "Give me all the money or I'll kill you." Forcing Silas to surrender his wallet and lie on the ground, the pair took his wallet and watch, struck him over the head with their guns and fled.

Alexander Frederick Williams, of Chapel Oaks, Md., an ice cream vendor, was held up about 5:30 p.m. Sunday while he was selling at the corner of 16th Street and Morris Road SE. A young man brandishing a revolver demanded, "Bring the money to me." Taking the bills from Williams, the gunman fled north on 16th Street.

William F. Reese, of Washington, was treated at Rogers Memorial Hospital for injuries he suffered when he was beaten and robbed about 12:35 p.m. Saturday near his home. A youth beat him to the ground and escaped with the money from his pocket.

Guy Bowan, of Washington, was held up about 8:40 p.m. Saturday by two youths, one concealing a gun in his pocket, who confronted him in one of the parking lots at D.C. Stadium. The pair forced Bowan to hand over his bills and change, then fled on foot.

Louise Hall, of Washington, was held up about 12:20 a.m. Sunday while she was a waiting for a bus at Stanton Road and Congress Place SE. Five boys surrounded her and one of them pointed a gun at her warning, "This is a stickup." Taking her money, the boys ran south on Stanton Road SE.

Snack bar at 925 25th St. NW was held up by two young men who approached the attendant, Hattie Garrett, as she was sitting in the storage room about 1:30 p.m. Sunday. Indicating the gun in his pocket, one of the men warned, "We won't hurt you sister. Give me the money." The other man then placed her jacket over her head and told her, "Don't move." The pair removed the money from the cash box and escaped.

Stephen Berko, of Pennsylvania, was held up about 11:15 p.m. Sunday while he was walking in the 1900 block of Columbia Road NW. Two youths approached him from behind and one of them pulled out a gun. Forcing Berko to give them his cash, the pair fled on foot.

Margaret E. Evans, of Washington, was robbed of a large amount of money shortly after noon Saturday as she was standing in front of a supermarket near her home in the 5100 block of Deane Avenue NE. Two boys grabbed her pocketbook containing the bills and personal papers, then ran behind the store

Richard Perry Ayzcue, of 1158 16th St. NE, was held up about 3:30 a.m. by a man and a woman he discovered in his home when he went downstairs to investigate some noises. One of the intruders drew a gun, forced Ayzcue to hand over his money and ran from the front door.

Cheve Marsh, of 1612 15th St. NW, was held up about 8:30 p.m. Sunday as he was getting into his car in front of his home by two men, one wielding a handgun. While the gunman held Marsh at bay, the other men removed his wallet from his pocket. Then the pair entered Marsh's car and drove east in the 1400 block of Corcoran Street.

High's Dairy Products store, 5002 1st St. NW, was held up about 9:15 p.m. Sunday by a youth who entered the store and asked for a pack of gum. The youth then drew a pistol and told the clerk to give him the cash. Taking the bills and change from the register, the gunman fled on foot.

Laura Gale, of Washington, was held up about 3:30 p.m. Saturday by a youth who confronted her in the 400 block of L Street NW. "Give me your purse or I'll kill you," demanded the youth as he placed a knife at her back. When Miss Gale began screaming, he grabbed her pocketbook containing money and papers and fled into an alley.

John Hayes and his wife Roberta, both of Washington, were held up about 8:15 p.m. Saturday by two youths who approached them from the rear as they were walking in the 1900 block of G Street NW. Pointing revolvers at the couple, the gunmen told Mrs. Hayes, "Give me your pocketbook," and

snatched the bag from her arm. Turning to her husband, the youths said, "Hand over the money," and took his cash. Firing a shot that caused no injuries, the pair ran east on G Street.

Robert Towns, of Washington, was robbed and beaten about 1 a.m. Sunday as he got off a bus at 14th and Q Streets NW. Three young men surrounded him and one asked for a cigarette. The trio then attacked Towns, beating him on the head. They took the bills from his coat pocket and fled on foot.

East Capitol Esso station, 4525 East Capitol St. SE, was held up about 3:05 a.m. by two youths, one displaying a sawed-off shotgun, who drove into the station in a white car. "Give me the money," the gunmen told the attendant and took his change carrier.

Hill Ottoway, of 57 O St. NW, was held up in the first-floor hallway of his apartment building by a young man wielding a shiny object. The man demanded Ottoway's money, reached into his pockets and removed the change, then fled from the building.

Esso service station, 3825 Pennsylvania Ave. SE, was held up by three men who entered the station about 2:05 a.m. Pointing a handgun at the attendant, one of them ordered, "Give me all your money or I will blow your brains out." Taking the cash from his pockets, the trio drove from the station.

STABBED

Willie Faison, of Washington, was treated at Freedmen's Hospital for injuries he suffered during an attempted robbery about 6:30 p.m. Sunday. Faison was approached by two men in the 1700 block of Marion Place NW who demanded his money. When Faison told them he had none, one of the men stabbed him in shoulder.

Edward Arrington, of Washington, was treated for stab wounds in the back that he suffered when he was attacked in the 600 block of Condon Terrace SE. Five young men beat him on the head and body, stabbed him and fled.

Betty Maloy, of Washington, was cut in the eye about 2:05 p.m. Sunday during a fight with a young man brandishing a knife at 14th and Corcoran Streets NW.

STOLEN

A gold bracelet, a silver bracelet, a gold pin, two pair of pearl and gold earrings, a $500 camera, assorted women's clothing and cosmetics and several credit cards, with a total value of $935, were stolen between 3:15 and 4:15 p.m. Sunday from a car belonging to Ilmari Kintikka, of Plainfield, N.J., while it was parked in the 1400 block of K Street NW.

A total of $1,000 in cash was stolen between 2:25 and 4 p.m. Thursday from a rear bedroom at the home of Prince Williams, 633 Orleans Pl. NE, when a glass door at the rear of his home was broken.

Two sable boa skins, valued at $325, a $1,295 tip dyed sable stole, and two black and white mink coats worth $2,500 each, were stolen between 5:35 p.m. April 7 and 9:30 a.m. Friday from Erlebacher Inc., 1133 Connecticut Ave., NW.

An undetermined amount of cash was stolen between 5 p.m. Saturday and 12:50 a.m. Sunday from two cash boxes, three cigar boxes and a safe inside Drugs Inc., 801 15th St. NW, after the locks were forced from the safe and the front door.

Two television sets and a stereo console were stolen between Friday and noon Sunday from Seaton Elementary School, 10th Street and Rhode Island Avenue NW.

A ring, $45 in cash, and several bottles of liquor, with a total value of $629, were stolen between 10 a.m. and 1:30 p.m. from the home of Lucius Starr, 336 Allison St. NW. The burglars entered by breaking through a glass door and ransacked the entire house.

Hess gas station, 4909 Marlboro Pike, Coral Hills, was held up at 3:15 a.m. by two men wearing stocking masks. One of them pointed a sawed-off shotgun at the lone attendant, forced him to hand over the money, and drove from the station in a black-and-white car.

Charles Funk, of Seabrook, a driver for Thompson Dairy, was held up about 9 a.m. while he was driving his delivery truck in the 4500 block of Quarles Street NE. Two youths approached Funk and asked if he had any chocolate milk. Then one of them pulled out a gun, placed it at Funk's side and ordered, "Throw everything in the floor of the truck." Scooping up the bills, the pair fled west on 45th Street.

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## NEW REGULATIONS FROM INTERIOR ON GRANT CONDITIONS FOR WASTE TREATMENT PLANT CONSTRUCTION

Mr. COOPER. Mr. President, on March 29, the Secretary of the Interior issued a notice of proposed rulemaking relating to the regulations which govern approval of grants for the construction of waste treatment plants. The Secretary noted in his comments about the new rules, that President Nixon proposed that administrative actions be taken to assure that the $10 billion he suggested be spent on waste treatment plant construction be used efficiently and wisely.

The new regulations would require that grants be made only for projects which are included in first, basinwide programs of pollution abatement and second, in a metropolitan or regional plan for pollution abatement. Third, no grants could be awarded for projects which would become part of a system designed to handle industrial wastes rather than wastes of the entire community, metropolitan area or region, unless the industrial wastes are pretreated so as not to impair the efficient working of the plant and the plant will operate under an equitable system of cost recovery with industry assessed in a manner proportional to the type, load, and expense of treatment of its waste. Two additional new regulations would provide for annual inspection of new plants for the first 3 years of operation and intermittently after that time, and conformity with design requirements issued by the Commissioner of the Federal Water Pollution Control Administration.

Mr. President, I believe that this kind of energetic action by the Secretary of the Interior and the Federal Water Pollution Control Administration is admirable. It seems to me that the Secretary's proposed regulations are consistent with congressional intention that Federal resources be used in a manner to assure that the quality of our Nation's waterways is improved and new resources of pollution are not allowed to proliferate. Local consolidation of community and industrial wastes ought to secure more efficient use of Federal funds. Requirements for design and operation should result in the construction of plants which will in fact achieve the efficient treatment of wastes.

Mr. President, in order that they receive the widest possible comment I ask unanimous consent that the text of the proposed amendments to subpart B, of the regulations governing grants for construction of treatment works, be printed in the RECORD.

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

SECRETARY HICKEL PROPOSES NEW POLLUTION CONTROL RULES IMPLEMENTING PRESIDENT NIXON'S ENVIRONMET 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.

Secretary 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.

"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.

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GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Notice is hereby given that the Secretary of the Interior pursuant to the authority in sec. 6, 70 Stat. 502, as amended; 33 U.S.C. 466e, proposes to amend Subpart B of Part 601 by adding five new sections to that Subpart, and by amending one of the sections in that Subpart.

The proposed amendments are intended to provide greater assurance that treatment works for which Federal financial assistance is provided under this Subpart will more effectively enhance and improve the quality of the water into which such treatment works will discharge. To achieve this greater assurance, the Commissioner proposes to require: that treatment works be included in a basin-wide plan for pollution abatement; that the treatment works be included in a metropolitan or regional plan for pollution abatement; and that the treatment works be operated in conformance with requirements relating to the treatment of industrial waste; and that such treatment works be designed and periodically inspected so as to achieve efficiency, economy, and effectiveness.

Interested persons may submit, in triplicate, written data, views or arguments in regard to the proposed regulations to the Secretary of the Interior, Washington, D.C. 20240. All relevant material received not later than 45 days after publication of this notice will be considered.

Subpart B would be amended by adding the following new sections, as follows:

SECTION 601.32—BASIN CONTROL

a) No grant shall be made unless the Commissioner determines, based on information the State, or where appropriate, the interstate agency, for the areas within their respective jurisdictions, furnishes to him pursuant to subsection (b) that a project is included in an effective basin-wide program for pollution abatement.

b) In reaching such determination, the Commissioner may require information in such manner as he prescribes concerning the total basin program, or portion thereof, as he deems adequate to evaluate the effectiveness of the project. Such information shall be furnished within one year of the date of the Commissioner's request for such information. The Commissioner may extend this period for proper cause. For this purpose, the affected river basin waters shall be deemed not to include any waters outside the state in which the project is located but shall include waters in another state if an interstate agency has jurisdiction of the additional affected basin waters.

1) Sources of pollution. An identification list of all significant waste discharges; municipal, industrial, agricultural and others.

2) Volume of discharge. The average daily volume of discharge produced by each waste discharger. Cooling water, or cooling water which is contaminated by industrial waste or sewage shall be reported separately. Storm water and run-off and mixed storm water and sewage shall be identified and reported separately.

3) Character of effluent. The major characteristics of each such waste discharge together with a measurement of their relative strength or concentrations, including but not limited to:

| | |
|---|---|
| BOD 5 | mg/1. |
| Color | Platinum Cobalt Scale. |
| Turbidity | Jackson Candle Scale. |
| Solids | mg/1. |
| Toxic Substances | |
| Metal Ions | mg/1. |
| Fluorides | mg/1. |
| Dissolved Substances | ppm. |
| Temperature | C. |
| pH | |
| Radioactivity | Cc/1. |
| Chlorides | mg/1. |
| Nutrients | mg/1. |

4) Present treatment. A brief description of the type of treatment being given by each discharger, together with a statement of the degree of treatment currently being achieved.

5) Water quality effect. A brief description of the the effect of discharges and abatement practices upon the quality of the water in the basin, and the anticipated effectiveness of the proposed project in improving the quality of the water.

6) Detailed abatement program. Identify all waste discharges for which present treatment is less than required by standards, or which will degrade water quality below standards. For each such discharger so identified, furnish an abatement schedule containing the following:

i. Level of treatment to be required expressed in percentage of reduction of BOD and any other significant parameters required pursuant to applicable Federal, State and interstate laws, regulations and orders.

ii. Volume of flow for which waste treatment facilities will be designed.

iii. Estimated completion dates for preliminary plans, for final design, for construction, and for operation of waste treatment facilities.

iv. Estimated cost of design and construction if available.

c) If the proposed project is not included in an effective basin-wide program for pollution abatement, and the Commissioner determines that such project will nevertheless effectively contribute to the improvement of the quality of the water in the basin, he may waive the limitation of subsection (a). In making his determination the Commissioner may require all or a part of the information identified in subsection (b).

d) The Commissioner's discretion in determining the desirablity of any project shall not be limited by any provision of any basin-wide abatement program pursuant to this section.

SECTION 601.33—REGIONAL AND METROPOLITAN PLAN

a) A grant for a project shall not be made unless the Commissioner determines that such project is included in an effective metropolitan or regional plan developed or in the process of development, and certified by the Governor as being the official pollution abatement plan developed or in the process of development for the metropolitan area or region within which the project is proposed to be constructed.

b) In reaching such determination the Commissioner shall consider whether such plan adequately takes into account: anticipated growth of population and economic activity with reference to time and location; present and future use and value of the waters within the planning area for water supplies, propagation of fish and wildlife, recreational purposes, agricultural, industrial and other legitimate uses; adequacy of the waste collection systems in the planning area with reference to operation, maintenance and expansion of such systems; combination or integration of waste treatment facilities into a waste treatment system so as to achieve efficiency and economy of such treatment; practicality and feasibility of treating domestic and industrial waste in a combined waste treatment facility or integrated waste treatment system; need for and capacity to deal with waste from sewers which carry storm water or both storm water and sewage or other wastes; waste discharges presently in, or anticipated for the planning area; effect of the proposed waste treatment facility upon the quality of the water within the planning area with reference to other waste discharges and to applicable water quality standards.

c) If the proposed project is not included in an effective metropolitan or regional plan for pollution abatement, and the Commissioner determines that such project will nevertheless effectively contribute to the improvement of the quality of the water in the metropolitan area or region, he may waive the limitation of subsection (a). In making his determination the Commissioner may require all or a part of the information identified in subsection (a).

d) The Commissioner's discretion in determining the desirability of any project shall not be limited by any provision of any metropolitan or regional plan pursuant to this section.

SECTION 601.34—INDUSTRIAL WASTE TREATMENT

a) No grant shall be made for any project if such project is included in a waste treatment system, determined by the Commissioner to be intended to treat industrial waste, rather than the wastes of the entire community, metropolitan area, or region concerned. For purposes of this section "waste treatment system" means one or more treatment works which provide intergrated waste disposal for a community, metropolitan area or region.

b) If industrial waste is to be included in the waste treated by the proposed project, the applicant shall assure the Commissioner that such applicant will require pretreatment of industrial waste, which would if untreated be detrimental to the treatment works or its proper and efficient operation and maintenance, or will otherwise prevent the entry of such waste into the treatment plant.

c) Where industrial wastes are to be treated by the proposed project the applicant shall assure the Commissioner that it has, or will have in effect when the project will be operated, an equitable system of cost recovery. Such system of cost recovery may include user charges, connection fees or such other techniques as may be available under State and local law. Such system shall provide for an equitable assessment of costs whereby such assessments upon dischargers of industrial wastes correspond to the cost of the waste treatment, taking into account the volume and strength of the industrial, domestic, commercial wastes and all other waste discharges treated, and techniques of treatment required. Such cost recovery system shall produce revenues, in proportion to the percentage of industrial wastes, proportionately, relative to the total waste load to be treated by the project, for the operation and maintenance of the treatment works, for the amortization of the applicant's indebtedness for the cost of such treatment works, and for such additional costs as may be necessary to assure adequate waste treatment on a continuing basis. For purposes of this section "industrial waste" shall mean the waste discharges (other than domestic sewage) of industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category "Division D—Manufacturing," and such other wastes as the Commissioner deems appropriate for purposes of this section.

SECTION 601.35—INSPECTIONS

No grant shall be made for any project unless the applicant assures the Commissioner that the State Water Pollution Control Agency will inspect the treatment works not less frequently than annually for the three years after such treatment works are constructed and periodically thereafter to determine whether such treatment works are operated and maintained in an efficient, economic and effective manner, and in accordance with such requirements as the Commissioner from time to time may publish concerning methods, techniques and practices for economic, efficient and effective operation and maintenance of treatment works.

SECTION 601.36—DESIGN

No grant shall be made for any project unless the Commissioner determines that the proposed treatment works are designed so as to achieve economy, efficiency and effectiveness in improving the quality of the water into which such treatment works will discharge; and that the applicant will meet such requirements as the Commissioner may publish from time to time concerning treatment works design so as to achieve efficiency, economy and effectiveness in waste treatment.

Subpart B would be further amended by adding to subsection (c) of section 601.25 a new subparagraph (3) as follows:

(3) Such project is included in a basin-wide program for pollution control in accordance with section 601.32 of this Subpart, and such project is included in a metropolitan or regional plan for pollution abatement in accordance with section 601.33 of this Subpart.

Subpart B would be further amended by renumbering subparagraph (3) of subsection 601.25 (c) as subparagraph (4); and by changing the reference to subparagraph (3) in the proviso following such subparagraph (3) to subparagraph (4).

WALTER J. HICKEL,
*Secretary of the Interior.*

## TRIBUTES TO REV. RALPH E. WHITE

Mr. MATHIAS. Mr. President, with the recent death of Rev. Ralph E. White, the people of Frederick, Md., lost a real friend, leader, and counselor. In tribute to Dr. White's life and contributions to his community, fitting memorials are being established by two of the local service organizations to which he gave so much of his time, interest, and inspiration.

I ask unanimous consent to have printed in the RECORD letters to Mrs. White from the board of directors of the Monocacy Goodwill Industries and the board of Counseling Services, Inc., of Frederick, describing Dr. White's contributions to these two organizations and the memorials which they plan to establish.

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

GOODWILL INDUSTRIES, INC.
*Frederick, Md., December 22, 1969.*

Mrs. RALPH E. WHITE,
*Frederick, Md.*

DEAR MRS. WHITE: The Board of Directors of the Monocacy Goodwill Industries extends its deepest sympathy to you and your family upon the death of your husband, Rev. Ralph E. White.

As Chairman of our Board of Directors, he brought to our organization the inspiration and guidance which has led to the creation of an independent agency.

Rev. White loved all men—particularly the handicapped and the weak who needed a friend to hold out a supporting hand. His kindness touched many known only to himself because in his love for all men he never betrayed a confidence.

As a fitting tribute to your husband, the members of the Board of the Monocacy Goodwill desires to establish a memorial to be called.

The Rev. Ralph E. White Chapel Meeting Room in the proposed new Goodwill Building. A special fund will be raised and set aside for this purpose.

Sincerely yours,
Edward H. Henkler, Carl V. Weakley, Walter W. Kirk, Jr., Paul E. Henninger, Sr., Mrs. H. Albert Dean, Mrs. Donald C. Fish (Aux. pres.), Norman W. Todd, Rev. Gordon L. Wilson, Richard T. Hammons, J. R. Ramsbury, Jr., Melvin H. Zimmerman, W. Jerome Offutt, Jay D. Kline.

COUNSELING SERVICES, INC.,
*Frederick, Md., March 3, 1970.*

Mrs. RALPH E. WHITE,
*Frederick, Md.*

DEAR MRS. WHITE: It is my privilege as a member of the Board of Directors of Counseling Services, Inc., to share with you its action taken in establishing a memorial to your late husband, our beloved and interested friend, Dr. Ralph E. White. Following are excerpts from a recommendation adopted unanimously on February 2:

"Our loss of Dr. Ralph E. White takes from our board one of the staunchest supporters that Counseling Services, Inc., has had since its inception. Throughout the first ten years of its growth, Dr. White was always faithfully involved in providing for this community a resource of counseling help which he believed many people needed.

As a Christian minister he certainly was not unmindful of what the church has to offer in counseling; as a citizen active in public affairs (government and otherwise) he saw the responsibility of government to provide service such as that given by our local Mental Health clinic. However, he saw, too, the need for a community based service that would fill in the gap between these two.

As board member, president, and sometimes as the acting counselor himself, he sought to promote this service.

Widely loved in the community, he left an influence that need not be entirely lost to us or the public, and which we as his friends and co-workers may be instrumental in continuing.

It is with all this in mind that the Board of Counseling Services, Inc., hereby establishes the Ralph E. White Memorial Library: a collection of books in the counseling field, both practical and inspirational, to be kept in the office of Counseling Services, Inc."

In publicizing this action we plan to make it known to the public that this is a memorial to which individuals or groups may contribute and one from which individuals and groups may borrow and benefit. It is our intention that books in this library will be made available to schools, Sunday School classes, church and civic organizations. We feel that this would be an ongoing living memorial.

We hope that you agree with the board that this action is definitely in keeping with Dr. White's own personality and interests.

Sincerely,
KAY YOUNG MACKLEY
(Mrs. Meredith H. Mackley),
*Library Committee Chairman.*

## SKIN TEST IS GUIDE TO SURVIVAL IN CERTAIN FORMS OF CANCER

Mr. YARBOROUGH. Mr. President, we all know that many different researchers are making significant headway in their search for a cancer cure. But there seems to be no coordinated effort to look into all of this research to see precisely where we are in the solution to the cancer riddle and what more needs to be done to conquer this dreaded disease. The lack of answers to these questions is precisely what prompted me and 46 of my Senate colleagues to sponsor Senate Resolution 376 to study research activities to ascertain the causes of cancer and develop a cure for it.

Fortunately, we have made some progress in this area. In recent weeks I have read with much interest that the time, money, and effort devoted to the war on cancer is beginning to pay off. For instance, the prognosis is good for a cancer vaccine by 1973. And there are encouraging signs that leukemia is in retreat.

Just last week I read an article written by Lawrence K. Altman and published in the New York Times of March 24 to the effect that two research doctors at the National Cancer Institute have reported that a cancer patient's reaction to an experimental skin test correlated closely with his ability to survive some forms of malignancy. The result of such a test might well be used in conjunction with other tests to determine whether surgery is necessary to treating a cancer patient. The results of this study strengthen the supposition that an individual's immunologic protection system is very important in the control of cancer.

Mr. President, I feel certain that Mr Altman's article would be of interest to every Senator. I ask unanimous consent that it be printed in the RECORD.

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

SKIN TEST GUIDE IN CANCER CASES—REACTION HINTS CORRELATION WITH FACTOR OF SURVIVAL

(By Lawrence K. Altman)

SAN ANTONIO, TEX., March 23.—Two National Cancer Institute research doctors reported here today that a cancer patient's reaction to an experimental skin test correlated closely with his ability to survive some forms of malignancy.

Dr. Frederick R. Eilber and Dr. Donald L. Morton presented their findings at the American Cancer Society's 12th science writers seminar.

The test, which does not diagnose cancer, is one of many that doctors are trying to develop to better understand and then control cancer.

At some future date, Dr. Eilber said in an interview, the test, pending further study, may help guide physicians' recommendations for surgery on a cancer patient. In making such therapeutic decisions, however, doctors do not rely on any single test.

Results of the skin test study, done at the Cancer Institute in Bethesda, Md., the doctors said, strengthens the supposition that an individual's immunologic protection system is "very important in the control of malignancy." This avenue of research has been of increasing interest to scientists in the last 15 years.

CUTANEOUS SENSITIVITY

Doctors have long known that skin tests can disclose a phenomenon called delayed cutaneous sensitivity. This principle, for example, is applied in the skin test often used to detect tuberculosis.

The researchers said that their study, however, represented the first time that this type of test had been done prospectively, that is before and after, a patient had surgery.

Normally, an individual responds to the injection of a foreign material, or antigen, with a protective, or immunologic, reaction. Lack of such an immunologic reaction is called anergy.

The researchers tested such anergic patients with several types of cancer. These included squamous cell carcinomas of the head, neck and cervix: skin tumors, called malignant melanomas; and bone and muscle tumors, called sarcomas.

CORRELATION WITH TEST

Such anergic patients, the researchers found, had "an extremely poor prognosis" from their cancer. The exception, for unknown reasons, were the patients with sarcomas.

The researchers had placed a measured dose of 2-4 dinitro chlorobenzene (DNCB), waited two weeks, and reapplied a smaller amount of the same chemical. Then they examined for the presence or absence of a red skin reaction.

They found that 95 per cent of normal persons used for control purposes had responded with a red reaction. Seventy of 110 cancer patients for whom surgery had been recommened, or 65 per cent, had a positive test. At surgery, 63 of these 70, or 90 per cent, remained free of detectable cancer for at least six months.

In contrast, 39 of the 40 persons who had negative skin reactions either had tumors so extensive that they were unremovable or their cancers recurred shortly thereafter.

"Whether the immunologic deficit—anergy—preceded and possibly facilitated the spread of tumor," the researchers said, "or whether the anergy is the result of the metastases [spread of cancer] is unknown."

The anergy test described at this seminar is but one of several that doctors will investigate for several years to answer such questions and to solve the riddles of cancer.

## SUSAN BUSSE WINS MARYLAND'S VFW VOICE OF DEMOCRACY CONTEST

Mr. MATHIAS. Mr. President, at the annual national conference of the Veterans of Foreign Wars, recognition was given to the State winners of the VFW's 23d annual Voice of Democracy contest. Maryland was very capably represented by the State winner, Miss Susan Busse, of Bowie, who had been sponsored in the contest by VFW Post 381 of Bowie.

I extend my congratulations to Susan and all of the other young Americans who participated in this constructive contest. I ask unanimous consent to have printed in the RECORD the text of Susan's speech and an article on the contest, written by Mrs. Phyllis O'Neil, of the County News of Lanham, Md.

There being no objection, the article was ordered to be printed in the RECORD.

VFW WINNERS TOUR DISTRICT OF COLUMBIA: SUSAN "BROKE UP" WHEN NIXON SHOOK HER HAND

(By Phyllis O'Neil)

"Your attitude toward life is really what makes life", says Susan Busse, 15, of 4008 Woodrow Lane in Bowie. "I knew what it was to exercise friendliness, but I honestly didn't realize," she continued, "how important it was."

Susan and 52 other young people, one from each state, the District of Columbia and the Pacific Area, have just had an experience that will be a warm memory for them for the rest of their lives.

A sophomore at Bowie High School, Susan won the 23rd Annual Voice of Democracy contest sponsored by the Veterans of Foreign Wars last month and represented Maryland in the national contest. While representing the state, she was treated to an expense paid trip to Washington, D.C.

The five national winners were named during the 5-day Veterans of Foreign Wars Conference and although Susan wasn't one of the top victors and her trip took her only a few miles from her home town, the young Bowie lass was impressed and wouldn't have traded a minute of it.

Last week Susan met with the senators from her state, Sen. Charles McC. Mathias, R-Md., and Sen. Joseph D. Tydings, D-Md. She also "broke-up" at meeting President Richard M. Nixon.

Noting that she is a little embarrassed at the whole thing, Susan described meeting the President.

A Congressional dinner was held at the Sheraton-Park Hotel where contestants and members of the VFW Posts throughout the country had taken 1100 rooms.

The guest of honor for the dinner, which hosted a couple thousand guests, was the President and he greeted each state Voice of Democracy winner. When he got to Susan and he told her he knew where Bowie was, she recalls smiling and then crying uncontrollably. She explains that she knew she couldn't ask for the President's autograph and realized that she had asked no one to take her picture at the precise moment when he shook her hand.

"There must have been a thousand pictures snapped", she squealed, "and I forgot my camera."

A new philosophy of life has been learned through her experiences of the past few months. Susan reveals a new awareness of people and the sensitivity involved.

This dedicated young American will be going to Dallas in June, compliments of Bowie VFW Post 381 which sponsored her in the contest.

During the trip to Texas, Susan and other young people like her will meet with 50 prominent Americans in different fields.

With almost no fanfare at all, this young Bowie sophomore and the other 52 dedicated young Americans like her have gone back to their homes and their schools. For posterity is her speech which won her the right to represent the state of Maryland. The text follows:

"FREEDOM'S CHALLENGE

"Today, more than ever, the words 'Freedom's Challenge' have a significant meaning. Perhaps at no time in history has the challenge been so great!

"In America, as well as in other parts of the world, people are crying out for their own freedoms: freedom to live without discrimination, freedom to speak out, freedom to resist the draft, freedom to protest—either for or against the government—and so on.

"American citizens, in particular, are extremely concerned with their rights of freedom. We are proud that we have our freedoms, guaranteed by the Bill of Rights and enforced by the law. Both the 'dissentor' and the 'patriot' have a common ground: they each want their own freedom—the right to do as they please.

"The 'patriot' fears communism or fascism. These very words make him tense and filled with hate or fear—fear that through these forces he may lose his right of freedom.

"The 'dissenter' feels that he will lose his rights of freedom too, but perhaps his fears are not so much for communism or fascism but rather that he is losing his freedom to do as he pleases, perhaps not to fight if he desires.

"I believe that we should fear division of our own people more than the outside forces such as communism or fascism. For, if we are united, we will not fall to these forces, but we will overcome them—together.

"Part of the great division in our country today is caused by large numbers of people acting in protest, while the silent majority are apathetic. We want our rights; we value our freedoms; but, some of us are not willing to sacrifice or speak out for them.

"It is easy to condemn others—easy to say that others are doing nothing—but how about you?

"Have you ever caught yourself merely reciting the Pledge of Allegiance without thinking of what you are saying? Or have you ever checked a box in front of a candidate's name—without being well versed concerning this man's view on controversial issues—and then even dismiss the action by saying, 'One vote's not that important anyway.' This is apathy. You see, it's not only other people.

"We must overcome our apathetic feelings and replace them with enthusiasm. It is true that we have these rights of freedom now, but if we don't take the necessary precautions, we won't have them for long.

"It is our generation's responsibility to retain our national heritage—to protect it. We must meet this challenge with determination and courage—the kind that is only developed when each individual searches his own soul for answers, then shares his answers with others.

"This, in my opinion, is freedom's challenge. The challenge of uniting to cherish and protect the very freedoms we now enjoy."

## ECONOMIC INACTION—PATH TO DISASTER

Mr. WILLIAMS of New Jersey. Mr. President, last week the Labor Department announced that the rate of unemployment continued to rise during March and now stands at 4.4 percent.

This is the highest level in 4½ years. The increase in unemployment during the first 4 months of this year was nearly 1 percent, the greatest quarterly increase since 1960.

These statistics, combined with other discouraging economic indicators, should stand as a clear warning that the economic path being followed by President Nixon and his advisers could lead to disaster.

Since Mr. Nixon took office the rate of unemployment has increased more than 1 percent. The total number of people unemployed has increased more than 1 million. This means that 700,000 adult men, 280,000 adult women, and 69,000 teenagers who could have found jobs when Mr. Nixon took office are now unable to find work.

Every economic signpost told us this situation was developing. Statistics for manufacturing, retail sales, and housing starts pointed toward a recession.

In February, industrial production declined for the 7th month in a row. Housing starts that month were more than 18 percent below the level of February 1969. In real figures, our gross national product declined during the last quarter of 1969. When the figures for the first quarter of this year are released, they will almost certainly show a further decline.

Some economists would then say that the country is in a recession, at least in the most technical sense of the word.

If the downward trend would stop there, if unemployment would not get any worse, then perhaps there would be no impelling cause for great alarm. But

I am afraid that, with continued inaction by the administration, this will not be the case.

The President's top economic adviser, Paul McCracken, has already predicted unemployment will increase to around 5 percent by next fall. Some observers foresee an increase to 6 percent by the end of the year.

If these predictions are allowed to come true it would be a very real and very great tragedy for thousands upon thousands of Americans. It would be a tragedy for the men who could not support their families. It would be a tragedy for working mothers who could not buy food for their children. It would be a tragedy for the teenagers who are left to idle their time away on the streets.

Adding to this concern is the fact that, while the opportunities to earn a living are decreasing, the cost of living continues to increase. Despite blithe statements about inflation having been defeated, the fact is that inflation continues to grow. Since Mr. Nixon took office the rate of increase in the cost of living has doubled, and the Consumer Price Index has gone up more than 8 percent.

The grim prospect of simultaneous recession and inflation will very shortly be a reality if Mr. Nixon continues to follow the ruinous policy of economic inaction. I urge the President to act positively to meet these problems so that thousands of Americans will not have to pay the price of his inaction.

## VA CONTACT CENTERS—THE BALTIMORE OFFICE

Mr. MATHIAS. Mr. President, this past month, President Nixon signed into law the Veterans Education and Training Assistance Amendments Act of 1970. The act recognizes the special problems faced by the young man reentering civilian life today. It begins to face the need for specialized education programs. Moreover, it seeks to expand the outreach service program of the Veterans' Administration.

But, our efforts on behalf of the veteran will fail if the returnee is not made aware of his opportunities under the law and if he is not encouraged to participate.

The recent report of the President's Committee on the Vietnam Veteran recognized both our special obligation to aid those who have served and our need to improve that assistance. Many of their recommendations were included in the recent bill. Many have been introduced in recent days.

In Baltimore, an officer in charge of the Veterans Assistance Center, a division of the VA Contact Center, has done much on his own to reach the soldier soon to be discharged. Mr. Samuel R. Maggio spent 4 months in Vietnam in an effort to stress to the GI well before his separation the services available to a veteran. The work of Mr. Maggio at his Baltimore office has been translated into a national program.

I recommend a feature article from the Evening Sun of Baltimore, Md., citing the procedures of the VA Contact Center as well as Mr. Maggio's own work.

I ask unanimous consent that the article of April 3, 1970, be printed in the RECORD.

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

"A GRATEFUL NATION WANTS TO DO ALL IT CAN": BALTIMOREAN'S EFFORTS TO AID VIETNAM VETERANS DEVELOP INTO NATIONAL ASSISTANCE PROGRAM

(By Frederick A. Judd)

Thanks to the initial efforts of a Baltimorean, a plan to help the returning Vietnam veteran has become a national program.

He is Samuel R. Maggio, officer in charge of the Veterans Assistance Center, a division of the Veterans Administration Contact Center here.

Mr. Maggio was one of two members of the Veterans Administration sent to Vietnam to speak to GI's ending tours of duty and soon to be discharged from service.

The program was an all-out effort by the United States to stress to GI's well before their time of separation from the service that, as Mr. Maggio put it, "a grateful nation wants to do what it can for the returning veteran."

Other VA agents later carried the same message to the veteran separation centers around the United States.

FOUR-MONTH ASSIGNMENT

Mr. Maggio, now back at his desk in the Federal Building, spent four months at his Vietnam assignment, often flying by helicopter or other aircraft to talk to military units.

Emphasis was put on those youths who had not gained a high school diploma because they are the ones who have the most trouble getting jobs, Mr. Maggio said.

Now there are 100 departure points and about a dozen VA representatives to give orientation talks to the forces in Vietnam.

Mr. Maggio said he talked to a total of 33,000 men in 1967. These were in groups of as few as 10 to 12 to as many as 450.

PERSONAL COUNSELING

In a visit to an evacuation hospital near Hue, Mr. Maggio talked to hundreds of servicemen as he toured the wards, giving personal counseling as well as orientation talks.

Since that time, Mr. Maggio said, the VA has talked to more than a half-million GI's in Vietnam.

Sometimes the talks were interrupted, Mr. Maggio recalled.

"One day a VA agent and a GI were sitting on stools in a native hut when the military unit in the village came under heavy attack," he said. "The concussion knocked both of them off their stools. After reseating themselves, they resumed their conversation."

Mr. Maggio recalls many amusing anecdotes.

"A top sergeant introduced me to his men like a prize-fight announcer," Mr. Maggio said. "The sergeant, who was a real tough guy himself, said: "All right, you guys, now I want you to pay attention to this man here, Battling Sam Maggio, 155 pounds of fighting fury from the Veterans Administration in Baltimore.'

"This really brought a roar of laughter from the boys," Mr. Maggio said.

GREETED WITH PUZZLEMENT

Often Mr. Maggio's appearance was greeted with puzzlement, he recalled. "Many of them couldn't understand why I would come all the way over to Vietnam," he said.

" 'What are you trying to run away from, anyway,' " one GI asked.

" 'You mean you volunteered to come over to this place?' " was another question posed by a GI.

Back in the states, an all-out effort to aid the returning serviceman goes on.

"For years the Veterans Administration sat back and waited for people to come to them," Mr. Maggio said. Then during the Johnson administration, the creation of contact centers was a first step.

"On March 18, 1968, a contact center was opened here in Baltimore, 1 of only 20 at that time," Mr. Maggio said. "It was a pilot program then," he added. "Now there are more than 70 such centers."

To facilitate the new concept of going out to reach the veteran, the Defense Department arranged for the VA to get a copy of every veteran's separation document, including his home address.

A national center at Austin, Texas, gets the separation paper copies. The center then sends each veterans literature on VA benefits available as well as job opportunities.

This literature goes out along with a letter welcoming the veteran home and providing him with the address of his local VA office and telephone number.

FOLLOWUP LETTER

Three weeks later, Mr. Maggio said, the same material is sent out again, saying "glad that you're home" and again pointing out that VA help is available.

Also processed at the center in Austin and gathered for distribution to area VA contact centers are those veterans classified as "educationally disadvantaged"—servicemen who have not finished high school.

Each contact center gets a separate card listing each such serviceman in his area.

When the system first went into effect, home visits were made as soon as a card was received, Mr. Maggio said. But that approach has since been curtailed, he said.

SETS UP APPOINTMENT

Now a serviceman is sent a letter setting up an appointment time at the contact center. Two weeks later, if the appointment is not kept, a second letter offering another appointment—at the contact office, at the serviceman's home or at his place of employment—is mailed by the contact office.

Mr. Maggio and Edward D. Green, a veterans benefits specialist attached to the contacts office, also have put together their own job bank.

"We started it," Mr. Maggio said, "after many employers began calling to offer jobs to returning veterans."

Mr. Maggio cited a recent example of a job bank success story.

"A tile-laying firm called, asking for a supervisor to keep a check on several simultaneous jobs," Mr. Maggio said.

SERGEANT GETS JOB

"A few days after the firm called, a former master sergeant walked into our office. We sent him over. They were very pleased. He was hired. And since then, we've sent him 8 or 10 men. He's doing his own hiring now."

A disabled veteran who can't do his former job or who would have difficulty getting other employment is eligible for special vocational training.

The vocational counseling and training adjustment section of the VA takes care of such men, Mr. Maggio said.

Have the orientation talks in Vietman helped VA agents in their job in this country?

Mr. Maggio is convinced that the trips by VA agents to South Vietnam "do a lot of good, both for our agents and for the servicemen.

"The men serving in Vietnam are affected by and definitely benefit from the amount of attention paid to them," he said.

"In fact," Mr. Maggio added, "I plan to volunteer for another tour myself."

## CABINET-LEVEL DEPARTMENT OF CONSERVATION AND THE ENVIRONMENT

Mr. CASE. Mr. President, within the next few days, the President's Advisory

Council on Executive Organization is expected to present to the President its recommendations for a major reorganization of Federal agencies dealing with the Nation's environment.

While I have no advance knowledge what the Council will recommend, it is my understanding that one of the alternatives it has seriously considered is a plan to create a new, Cabinet-level department that would have specific responsibility for protecting our environment.

This plan, as I understand it, would follow closely the proposal I put forth in introducing S. 2312, almost a year ago.

My bill has two main features:

First. It would create a new Department of Conservation and the Environment and place in it the responsibilities relating to the environment now scattered throughout the Government;

Second. It would give the new Department power to hold up, pending congressional review, any Federal or federally assisted projects which the Secretary found would adversely affect the environment, including neighborhoods or communities;

An article in the New York Times a short time ago indicated that the Council agreed with my view that creation of a department to deal specifically with problems relating to the environment would be the best approach.

The article indicated that a major drawback to this approach was felt to be that it would require congressional action whereas a transfer of existing governmental function could be accomplished more quickly through Executive action. But a mere transfer of governmental functions by Executive action could not give the new agency the vital power to delay, pending congressional review, activities potentially harmful to the environment.

In my view, the protection of our environment is too important to accept a second-best solution merely because the best approach is more difficult to accomplish. I hope the Council recommends creation of the new Department with the full power my bill would provide. I urge, further, that hearings be held on my bill in the near future so that Congress will be in a position to exercise its proper role in dealing with these problems.

Merely reorganizing our governmental struction would not, by itself, begin to meet the problems we face in connection with an environment. The Government needs strong additional authority to deal with these problems.

Under my bill, the authority of the new Department to delay activities which may adversely affect the environment would extend to any proposed, planned or ongoing projects and programs and to the expansion or renovation of construction projects already underway as well as to all new projects.

Exceptions would be made for national security activities, but in those instances the President must certify to Congress that any delay "would have an immediate and serious effect with respect to the national security."

Under the delay provision in the bill, the Secretary would have 120 days to review any potentially "offending" project. During that period he would be required to decide whether to give the project a green light, or make an adverse report to the President and the Congress.

If the Secretary made an adverse report, the project would be delayed up to an additional 120 days while Congress decided whether further action was required.

This is a strong provision, to be sure. But the environment cannot be protected by halfway measures. And the successful experience of the State of Montana with similar legislation shows how effective the provision can be.

I ask unanimous consent that a March 24 article in the New York Times, describing the results achieved in Montana, and a March 29 article from the same newspaper in regard to the activities of the Ash Council, to which I referred earlier in my remarks, be printed in the RECORD.

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

[From the New York Times, Mar. 26, 1970]

MONTANA IN ACCORD ON CONSERVATION

(By Gladwin Hill)

CHICAGO.—The state of Montana has found a way to reconcile environmental values with some of the demands for "progress," a conference here was told today.

As a result, a long-standing "cold war" between highway builders and trout stream defenders has been transformed into profitable collaboration.

Striking success, over a six-year period, in an unusual system of negotiation and arbitration was reported to the 35th annual Wildlife and Natural Resources Conference by John C. Peters of the Montana Fish and Game Department.

The system grew out of a clash in 1960 between state conservation officials and state highway engineers over alteration of river channels in the process of highway routing.

Around 2,000 such alterations had changed one-third of the mileage of some of the state's principal streams. The altered stretches produced only 20 per cent as many fish as natural channels, and the fish were undersized.

A LAW OBTAINED

After much haggling with the engineers, Mr. Peters, the department's habitat biologist, related, "it became painfully clear that they would listen but could not implement major proposals for minimizing damage."

The fish and game officials made extensive surveys to document their case, won support from citizen groups, and in 1963 went to the legislature.

They obtained a law, limited originally to a two-year trial, requiring state, county and city highway building agencies to submit engineering plans for review at least 60 days before the start of construction. The fish and game people have a month to study the plans and recommend alterations.

If the two groups cannot agree, the law calls for issues to go to a three-man arbitration panel. The original law provided for the panel to consist of one representative of each side and a neutral.

The two-year trial worked so well that although the original law had barely squeaked through the legislature, it was re-enacted in 1965 by an almost unanimous vote. The only major change was a provision that arbitration panels be appointed by the District Court.

"From 1963 to June, 1969, we reviewed 259 projects," Mr. Peters reported. "Of these, we asked for special considerations on 88 projects."

The arbitration device has never had to be invoked, but its presence in the law is considered valuable.

CHANGES PUT THROUGH

Summarizing construction changes achieved through negotiation, Mr. Peters said:

"Proposed road alignments were moved to avoid encroaching on the Madison Big Hole, Missouri and Blackfoot rivers. Meanders were designed and built in Prickly Creek, the St. Regis River and the Clark Fork River so that the channel was as long after construction as before.

"Extra bridges to preserve natural meanders were built on the Beaverhead and Missouri Rivers and are planned for the Blackfoot River.

"Brush flood plain vegetation which was removed to facilitate construction has been replaced. Channel excavation has been limited to those times of the year when trout are not spawning. An elevated alignment has been proposed and designed to preserve the St. Regis River and its scenic canyon."

Written agreements have been reached with the principal Federal construction, land and conservation agencies for similar collaboration.

THE DESIGN STAGE

Experience has enabled the colloborating state agencies in practice to improve on the law's situation. Since as much as 15 per cent of the cost of a highway project is design, the Fish and Game Department is being brought into consultation in the design stage rather than just before construction starts, with resultant economies.

Other dividends have accrued. The Highway Department sometimes can plan road embankments to serve also as dams for recreation lakes being developed by the Fish and Game Department. Tracts of land isolated by highway construction and used as sources of fill are being landscaped to fit in attractively with the state's wildfowl sanctuary program.

Our effort up to now only enables us to keep between two-thirds and three-fourths of the stream environmental problems in our management grasp," Mr. Peters observed. "To improve our ability to preserve the entire stream environment on a day-to-day basis during the construction phase of road building.

"But the myth that the Stream Preservation Law would scuttle the road-building program has vanished," he added. "The law has shown the public that a construction agency and a conservation agency can work together, given the necessary legal framework."

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[From the New York Times, Mar. 30, 1970]

REVISED HANDLING OF ECOLOGY SEEN—PANEL PLANS TO URGE NIXON TO RESHUFFLE AGENCIES

(By James M. Naughton)

WASHINGTON, March 29.—A White House panel is preparing to recommend to President Nixon that he seek a major reorganization of agencies dealing with the nation's environment.

The final recommendation, of the President's Advisory Council on Executive Organization, still being drafted, will be presented to Mr. Nixon by April 15.

Officials close to the council made it clear in interviews over the last few days, however, that the panel believes the only alternatives to the present disjointed Federal approach to the environment involve large-scale reshuffling of Government agencies.

Among options the council is weighing is

a plan to create a new, Cabinet-level department that would oversee protection of the air and water, regulation of the nation's energy and mineral resources and control of "renewable resources" such as rivers and forests. These functions are now among a variety of departments and independent agencies.

REORDERING IS ESSENTIAL

"Some type of reordering, to achieve results, is essential," said one source.

He listed the following alternatives to a new, all-encompassing "department of resources":

Reorganization of an existing department—most likely Interior—to give it a broader mandate and transfer it to functions now carried out in other departments. For example, the Interior Department supervises water pollution control agencies, but the Department of Health, Education and Welfare has jurisdiction over pollution problems.

Creation of a new independent agency that would have responsibility for enforcement activities research and administrative functions in the cabinet departments. This is similar to a proposal by Senator Edmund S. Muskie, Democrat of Maine.

Combining agencies such as the Atomic Energy Commission, Federal Power Commission and Bureau of Mines into a new independent agency that would regulate all types of energy and mineral resources.

Some combination of alternatives that would stop short of creating a new department. One difficulty the council foresees in creation of a department is the long process of Congressional action. Mr. Nixon could move more rapidly if he reshuffled departmental lines in a reorganization plan that would go into effect, unless Congress objected, within 60 days.

COUNCIL'S OBJECTIVE

The council's objective is to provide a mechanism for decision-making at some level below that of the White House. Its members consider it illogical for decisions to be laid before the President each time there is a conflict between the competing interests of conservationists and those seeking to develop natural resources.

Ideally, a department in which these interests would compete under a Cabinet officer would be, organizationally at least, the best arrangement.

But any change would have serious political ramifications. The council is said to be aware that there are dangers as well as benefits in a tightly knit organizational structure.

"If you gave a Cabinet secretary all that power and he leaned, say, toward resource development and against conservation, there would be problems," said one of the experts engaged in the council's studies.

Others suspect that President Nixon might find it politically enticing to reshape the environmental agencies around the Interior Department. That could mean that legislative action in the Senate would focus on the Interior Committee, whose chairman, Senator Henry M. Jackson, Democrat of Washington, has been less nettlesome to the Administration on pollution issues than Senator Muskie, chairman of the Air and Water Pollution Subcommittee of the Public Works Committee.

## SENATE RATIFICATION OF THE PROTOCOL ON REFUGEES: AN IMPORTANT PRECEDENT FOR FURTHER U.S. ACTION ON HUMAN RIGHTS CONVENTIONS

Mr. PROXMIRE. Mr. President, in 1948 the United Nations General Assembly unanimously adopted the Universal Declaration of Human Rights. For the first time, delegates representing the majority of the world's population agreed upon a broad definition of universal rights and freedoms. The designers of the universal declaration clearly understood that measures were sorely needed to prevent a reoccurrence of the atrocities committed against human beings in World War II.

One of the articles in the declaration applied specifically to the fights and freedoms of refugees. Article 14 stated:

Everyone has the right to seek and to enjoy in other countries asylum from persecution.

Acting on these premises, the United Nations in 1967 opened for accession the Protocol on Refugees. This protocol enumerated the rights of refugees, providing for freedom of religion, access to courts, employment, public education, and social security.

In 1968, the U.S. Senate ratified the Protocol on Refugees. The speed with which this country ratified this measure is remarkable when we realize that the United States had accomplished more for international human rights in that 1 year than it had in the preceeding 20 years.

This notable accomplishment leads me to believe that the United States can and will exercise responsible leadership in the ratification of other Human Rights Conventions. It is my sincere hope that the Senate will display this type of moral responsibility through ratification of other Human Rights Conventions, such as those on Genocide, Women's Rights, and Forced Labor.

## THE THREE SISTERS BRIDGE

Mr. COOPER. Mr. President, I wish to speak briefly on a matter on which I have spoken several times during the last 2 years—the construction of the Interstate System of Highways in the District of Columbia. I do not need to remind Senators in detail of the controversial portions of the Federal-Aid Highway Act of 1968, written by the House of Representatives in response to a successful citizen's suit to halt construction of certain routes, the tempering of those provisions by the Senate-House conference committee, the near Presidential veto of that legislation because of those provisions, and the subsequent events since enactment of that law—planning by the government of the District of Columbia, release of rapid transit funds, demonstrations of protest at the site of the Three Sisters Bridge. This last project has become a symbol of the controversy between defenders of the current procedure required for urban highway planning and those who are critical of proper procedures, which they believe do not provide effective solutions of urban transportation problems in the District of Columbia. Too often they ignore or slight social and environmental consequences of urban highway construction.

When the government of the District proceeded to the construction phase of the Three Sisters Bridge, its action was challenged by a coalition of civic associations which maintained that the city had not complied with the provisions of title 23, the major statutory authority for Federal-aid highways, in moving to the construction of the bridge. In January the district court refused injunctive relief to the civic associations, rendered a judgment holding that the government of the District had responded to the provisions of the Federal-Aid Highway Act in a proper manner. Yesterday, the court of appeals rendered a decision reversing the decision of the lower court. It interpreted the provisions of the 1968 act as requiring that the construction of the bridge be carried out in compliance with all applicable provisions of title 23, including all planning provisions.

Mr. President, this is an important decision for the residents of the District of Columbia and all citizens of the Nation. Congress has been quite specific in its intention that citizens participate in the selection, planning, and designing of major public works and other projects and programs which have significant impact on their communities and involve substantial expenditures of public funds. I then opposed the decision reached in conference, upon substantially the same grounds found by the court. I then voted against the adoption of the Conference Report on the Highway Act of 1968 because I feared that the provisions relating to the highways of the District of Columbia represented a dangerous precedent which could be interpreted to override local self-determination and citizen participation. I am pleased with the interpretation of the court of appeals of section 23 of the 1968 act, for it seems to me that the court's interpretation is based on the one safeguard, which we were able to secure in conference, that citizen rights would be preserved through the application of the provisions of title 23 which were written to protect those rights.

Mr. President, I ask unanimous consent that the opinion of the court of appeals be printed in the RECORD. I recommend its reading to Senators.

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

[U.S. Court of Appeals for the District of Columbia Circuit, No. 23, 870]

D.C. FEDERATION OF CIVIC ASSOCIATIONS, INC. ET AL., APPELLANTS, V. JOHN A. VOLPE, ET AL.

(Appeal from the U.S. District Court for the District of Columbia decided April 16, 1970)

Mr. Roberts B. Owen, with whom Mr. Gerald P. Norton was on the brief, for appellants.

Mr. Thomas L. McKevitt, Attorney, Department of Justice, with whom Messrs. Thomas A. Flannery, United States Attorney, Joseph M. Hannon, Assistant United States Attorney, and Edmund B. Clark, Attorney, Department of Justice, were on the brief, for federal appellees.

Mr. John R. Hess, Assistant Corporation Counsel for the District of Columbia, with whom Messrs. Charles T. Duncan, Corporation Counsel, Hubert B. Pair, Principal Assistant Corporation Counsel, and Richard W. Barton, Assistant Corporation Counsel, were on the brief, for District of Columbia appellees.

Messrs. Bruce L. Montgomery and Richard J. Wertheimer filed a statement on behalf of Sierra Club, et al., as amici curiae.

Before Bazelon, Chief Judge, and Wright and MacKinnon, Circuit Judges.

Wright, Circuit Judge: This suit concerns the interpretation of Section 23 of the Federal-Aid Highway Act of 1968.[1] In that section Congress directed the District of Columbia government and the Secretary of Transportation to construct certain of the remaining portions of the Interstate Highway System in the District. Among the projects mentioned in the Act was the Three Sisters Bridge, a proposed span across the Potomac River upstream from Key Bridge crossing from Spout Run in Virginia to the Georgetown section of Washington.

The Act became law with the signature of the President on August 23, 1968. In September of 1969 the District let the first contracts for building the Three Sisters Bridge. Taxpayers and civic associations in the District brought this suit in October of 1969 for a declaratory judgment and for injunctive relief. Appellants alleged that the Secretary of Transportation and the District government were building the Bridge in violation of several provisions of Title 23 of the United States Code.

After an expedited hearing the District Court refused to grant the injunction and granted summary judgment for appellees. The court concluded that appellants' allegations of violations of Title 23 would not be considered because "Congress intended [by enacting Section 23] that the District of Columbia commence construction on the Bridge project as soon as possible, and that no further planning or hearing requirements of title 23 need be complied with."[2] Because we do not find that Congress intended to deny the residents of the District of Columbia the protections accorded all United States citizens by Title 23, we reverse the decision of the District Court and remand the cause for hearings to determine whether there has been compliance with Title 23 in this case.

I

Section 23 of the Federal-Aid Highway Act of 1968 provides as follows:

"DISTRICT OF COLUMBIA

"SEC. 23. (a) Notwithstanding any other provision of law, or any court decision or administrative action to the contrary, the Secretary of Transportation and the government of the District of Columbia shall, in addition to those routes already under construction, construct all routes on the Interstate System within the District of Columbia as set forth in the document entitled '1968 Estimate of the Cost of Completion of the National System of Interstate and Defense Highways in the District of Columbia' submitted to Congress by the Secretary of Transportation with, and as a part of, 'The 1968 Interstate System Cost Estimate' printed as House Document Numbered 199, Ninetieth Congress. Such construction shall be undertaken as soon as possible after the date of enactment of this Act, except as otherwise provided in this section, and shall be carried out in accordance with all applicable provisions of title 23 of the United States Code.

"(b) Not later than 30 days after the date of enactment of this section the government of the District of Columbia shall commence work on the following projects:

"(1) Three Sisters Bridge, I-266 (Section B1 to B2).

"(2) Potomac River Freeway, I-266 (Section B2 to B4).

"(3) Center Leg of the Inner Loop, I-95 (Section A6 to C4), terminating at New York Avenue.

"(4) East Leg of the Inner Loop, I-295 (Section C1 to C4), terminating at Bladensburg Road.[3]

Appellees argue strenuously that Section 23 was intended to eliminate the necessity for compliance with the "pre-construction" provisions of Title 23 of the United States Code in building the Three Sisters Bridge. Specifically, appellees urge that, despite the explicit statement in Section 23 that "all applicable provisions" of Title 23 are to govern the project, the following sections of Title 23, while applicable to similar projects throughout the country, are inapplicable to the Three Sisters Bridge project[4]: (1) 23 U.S.C. § 128 (a) (Supp. IV, 1965–1968), which requires any state[5] building a federally financed road to hold public hearings as to design and location of any proposed highway or bridge, and to consider the "economic and social effects of such location, its impact on the environment, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community";[6] (2) 23 U.S.C. § 134 (1964), which requires the Secretary of Transportation to withhold approval of new highway projects unless and until he has made an explicit finding that "such projects are based on a continuing comprehensive transportation planning process carried on cooperatively by States and local communities in conformance with the objectives stated in this section"; and (3) 23 U.S.C. § 138 (Supp. IV, 1965–1968), which requires the Secretary of Transportation to withhold approval of projects involving the use of park land "unless there is no feasible and prudent alternative to the use of such land, and * * * such program includes all possible planning to minimize harm to such park * * * resulting from such use."

If we were to accept appellees' interpretation of Section 23, we would be confronted with difficulties, possibly of constitutional magnitude. The provisions listed above are the essential safeguards which Congress has established, on a nationwide basis, to ensure that massive freeway projects are not constructed unless there has been a good faith effort on the part of the state and local planners to take community needs and resources into consideration. Congress has directed the planners to design projects consistent with growth and development patterns, to refrain from any unnecessary destruction of valuable state or local parkland, and, most importantly, to accord area residents a full and fair hearing. The Secretary of Transportation is charged with overseeing the planning and may not approve road projects, thus allowing them to be built with federal funds, until he finds that all these considerations have been properly taken into account.

The net effect of Section 23, construed as appellees insist it must be, is to divide citizens of the United States affected by road projects into two classes. One small group of citizens, the residents of the District of Columbia who will be affected by the Three Sisters Bridge, is deprived of these important rights to participate in planning the future of the community. The other class, consisting of all residents of the 50 states, still retains these federally guaranteed rights to influence all federally assisted road building. On its face, therefore, appellees' interpretation of Section 23 would result in discrimination between the District residents affected by the Bridge and all other residents of the United States affected by highway projects in their localities.

The finding of such a discrimination, however, must be only the starting point of our inquiry. In the constitutional sense, many discriminations are simply benign. The question remains whether this discrimination is based on an invidious classification between groups of citizens which rises to the level of a violation of the equal protection clause of the Constitution.[7] We find that appellees' interpretation of Section 23 would endanger its constitutionality. We reject that interpretation to save the statute.

We start our analysis by explicitly recognizing, as the Supreme Court has announced on many occasions, that it is not every legislative discrimination between similarly situated groups which is violative of equal protection guarantees.[8] The legislative branches of government, state and federal, must be given great freedom in choosing how to overcome a designated evil. The latitude given the legislature in enacting schemes of economic regulation has been especially broad.[9]

But while eschewing a close review of economic regulation, the Court has explicitly stated that it will apply "strict scrutiny,"[10] a much more searching standard of review, when "individual and personal"[11] or "fundamental"[12] rights are involved. As the Court recently explained, in economic regulation cases "the Court has merely asked whether there is any rational foundation for the discrimination, and has deferred to the wisdom of the state legislatures."[13] When fundamental and personal rights are at stake, however, the statute can only be sustained by meeting "the very heavy burden of justification."[14] In at least some of these cases the discrimination "must be shown to be *necessary* to the accomplishment of some permissible state objectives"[15] (emphasis added) if the statute is to pass constitutional muster.[16] We think that the interpretation of Section 23 which appellees urge would unnecessarily deny District residents important personal rights granted by Title 23 to citizens elsewhere in the United States.

All provisions of Title 23 discussed above were enacted primarily for the benefit of the local residents whose homes and lives may be affected by a national highway construction project. These provisions were designed to keep federally assisted highways from encroaching on local parks, from being located except in accordance with an inter-community scheme of comprehensive planning, and to make sure that state planning officials are apprised of the nature and depth of local residents' feelings about the wisdom of a particular project. The legislative history of the hearing provision as it was originally enacted 20 years ago shows that Congress was concerned lest state and federal planners, thinking only of the needs of an efficient and fast nationwide highway network, fail to consider the specific particularized needs of the local communities affected by the projects.[17] As a result Congress required each state to hold public hearing at which the affected residents could demonstrate, in an orderly, regularized procedure, the community's particular requirements which the planners ought to take into account.

This hearing requirement applied to all federally aided highways. Just recently, as part of the Federal-Aid Highway Act of 1968, Congress again explicitly broadened the scope of the required hearing.[18] The present statute,[19] as interpreted by the Secretary's regulations,[20] now requires the states to hold both location and design hearings. Furthermore, the statute requires the states to have "considered the economic and social effects of such a location, its impact on the environment, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community."[21] This history shows a long-standing and ever increasing congressional concern that highway planners be directly and publicly confronted with opposing views, to ensure that the planners take close account of the objections and desires of individual citizens affected by the proposed projects during the planning process.

Given this expression of legislative intent, we cannot say that this right of citizen participation in the highway planning process is an unimportant right, easily to be discarded. Those who are concerned with and most immediately affected by federal highway projects have been accorded an opportunity to both commend and criticize planned highway construction projects, projects which are inherently disruptive of the status quo in any community. According to appellees, however, Congress, while broaden-

Footnotes at end of article.

ing (in the Highway Act of 1968) this federally enforced right to a hearing, has at the same time deprived one small group, the citizens of the District of Columbia, of this right to be heard.

These provisions of Title 23 are the only form of direct citizen participation in decisions about the construction of massive freeways, decisions which may well have more direct impact on the lives of residents than almost any other governmental action. Public hearings are the forum ordained by Congress in which citizens, particularly the citizens of the District of Columbia, participate in highway planning decisions. The Supreme Court has made it clear in a series of cases that the right of effective participation in the political process "is the essence of a democratic society, and any restrictions on that right strike at the heart of representative government."[22] These rights, according to the Court, are "individual and personal,"[23] they touch a "sensitive and important area of human rights,"[24] and they involve the "basic civil and political rights"[25] of citizens. Any classifications which "might invade or restrain" these "fundamental rights and liberties * * * must be closely scrutinized and carefully confined."[26]

We think these Supreme Court decisions must guide our analysis of the language of Section 23. The preservation of a democratic form of government requires all concerned to protect the right of each citizen to influence the decisions made by his government. Since this case involves the right of citizens to participate in the political process as it relates to federal highway projects, we subject this statute to the same scrutiny we would apply to any legislative effort to preclude some, but not all, citizens' participation in decision making.[27]

We of course recognize that the right to participate in a highway hearing is not the exact equivalent of the right to vote on the project. However, the similarities between voting and the public hearing are strong. The purposes and the effect of a hearing may be the same as those of a vote. Both are designed to elicit the wishes of the "electorate." Furthermore, we take judicial notice of the fact that public hearings have oftentimes resulted in the abandonment or redesign of ill conceived projects.

Presumably Congress could have given citizens affected by federal highway projects the right to vote thereon.[28] Instead Congress has sought to channel the comments and criticisms of individual citizens concerning road projects into a public hearing. This formal, regularized procedure, with due notice to all concerned, subjects officials to the differing views of competing interest groups and forces them to take account of prevailing views while the project plans are still being formulated.[29] Clearly Congress would not have insisted on such a procedure unless it intended to expose the road builders closely to the direct participation of citizens in the formulation of their decisions, in accord with the theory of our democratic process. Since these road projects may irreparably affect or destroy basic rights—for example, the basic right of a citizen to live in his home—we must carefully and meticulously scrutinize any proposal which would deny to some their federally created right to influence the course of a highway in their neighborhood to determine whether this discrimination is "necessary to the accomplishment" of the congressional objective—a federally financed interstate highway system.

Appellees argue that Congress intended by enacting Section 23 to bypass the hearing process because hearings would only expose community sentiment adverse to the construction of the Bridge, and that Congress intended that the Bridge be built irrespective of the wishes of the citizens of the District of Columbia. Appellees further argue that to allow a public hearing would cause the local authorities to delay the Bridge, and that Congress meant to preclude hearings for this reason as well.

Such a reading of the statute would condemn it as unconstitutional. A legislature may not constitutionally disenfranchise a group of citizens because of their expected views: "'Fencing out' from the franchise a sector of the population because of the way they may vote is constitutionally impermissible. '[T]he exercise of rights so vital to the maintenance of democratic institutions' * * * cannot constitutionally be obliterated because of a fear of the political views of a particular group of bona fide residents." *Carrington* v. *Rash*, 380 U.S. 89, 94 (1965).

In addition to giving closer review to classifications involving individual rights, the Court has also imposed a higher burden of justification on some forms of classification which are "constitutionally suspect"[30] or "traditionally disfavored."[31] If we were to accept appellees' reading and interpretation of Section 23, Congress would have excluded from the statutory protection only one group, a totally unrepresented and voiceless minority of citizens. Any legislative classification which singles out for invidious treatment a small group of citizens totally excluded from the political process does not meet the usual deference from this court. The usual deference which courts accord legislative and administrative judgments stems from the confidence which courts have that these judgments are just resolutions of competing interests.[32] In the *Carolene Products* case, the Supreme Court pointedly raised the question whether prejudice against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities, and which may call for a correspondingly more searching judicial inquiry."[33]

Because the resulting classification would deprive only an already voiceless minority of its important personal right to contest disruptive highway projects enjoyed by citizens generally, we conclude that we would be hard pressed to find on this record reasons adequate to sustain the "heavy burden of justification" necessary to support the discrimination which would result from appellees' interpretation of Section 23. Appellees argue that "justification" in this case stems from Congress' desire to have the Bridge built as soon as practicable. However, if this were found to be the intent of Congress, we would have to consider whether a less burdensome alternative path to the same end might have been possible.[34] For example, Congress might have obtained speedy construction, and preserved the rights of citizen participation and comment, simply by requiring that all hearings and Title 23 determinations be concluded with reasonable promptness. Other possible "justifications" may be dredged up from the legislative history of the statute in an attempt to balance off the invidiousness of the discrimination for which appellees contend. We do not stop to search them out because we are convinced that appellees' position that Congress intended such discrimination is unsupported by the language and history of the statute.

II

Considering the statute as it was written, we do not read Section 23 as foreclosing the orderly procedures prescribed by Title 23. Appellees' primary argument to the contrary is that the statute directs "construction" of all the Interstate projects in the District. On the four projects mentioned in Section 23(b), including the Three Sisters Bridge, "work" was to commence within 30 days. Appellees attempt to draw a negative inference from Congress' assurance that "construction" was to be carried out in accordance with "all applicable provisions" of Title 23. Since, appellees argue, Congress only said that "construction" was to be in accordance with Title 23, it must have meant that all "pre-construction" provisions of Title 23 were somehow repealed as to these projects in the District of Columbia. We cannot agree. To our mind, any repeal of the provisions of Title 23 would have to be supported by more substantial evidence. Moreover, our interpretation conforms with the language of the statute read in the light of title 23 which shows that "construction" includes planning.[35] We hold that Title 23 applies to all phases of the Three Sisters Bridge project.

The authoritative legislative history supports our interpretation.[36] The Senate and House reports do not indicate that any provisions of Title 23 are not to apply.[37] (The Conference Report contains no analysis of the bill as passed.[38]) We fully recognize that it is not without risk to rely on the remarks of individual members of Congress for legislative history.[39] Nevertheless, we think it noteworthy that we have been able to find no statement during the floor debate by a proponent[40] of Section 23 indicating that any or all provisions of Title 23 were not to be applied in planning and building the Bridge. Indeed, the only discussions of the issue clearly indicate support of our interpretation from those supporting Section 23. For example, Representative Cramer, a leading proponent of Section 23, explicitly stated that the City Council could hold further hearings to determine route locations and designs, within the broad "corridors" established by Congress.[41] Senator Randolph gave his word to the Senate that Section 317 of Title 23 would be in effect for a specific project mentioned in Section 23(d) of the Act.[42] We also take note of the fact that when the bill was passed the Secretary of Transportation also interpreted Section 23 as we do today.[43] The contemporaneous construction of a statue by one charged with its enforcement is entitled to great weight from this court.[44]

Appellees have urged that it would be futile to hold hearings or to require the Secretary to make the determinations called for by the statute in light of the finality of the location and design plans which Congress is said to have prescribed for the District. Congress, however, only directed construction of the routes "as set forth" in certain cost estimates. These cost estimates by their own terms did not constitute final route placements.[45] They only located a "corridor" within which roads were proposed.[46] The preface to the cost estimates document carefully explained that the routes were laid out only for the purpose of approximating cost, and that the cost figures there presented were based on the "least costly" of "several feasible alternatives which will serve the function of the designated route."[47] Therefore, we find no indication in the record before us that, as appellees contend, a public hearing or Title 23-required action by the Secretary would serve no useful purpose.

Congress has directed that a bridge be built over the Potomac following the general configurations laid out in the cost estimates. But there are still many variations of bridge design and location (particularly in relation to the placement of the access ramps) which could be adopted and still be consistent with the congressional mandate. Given the forum of a public hearing, citizens may well be able to offer constructive alternatives to the final proposals produced by the District officials, alternatives which more effectively minimize dislocation in the historically important Georgetown area.[48] In like manner, the Secretary, when required to make the determinations called for by Title 23, may well find that other feasible routes, or a tunnel, destroy fewer acres of valuable park land.

Footnotes at end of article.

Appellees contend that construing the statute as we do to allow flexibility to federal and District officials in formulating the final plans does violence to the "[n]otwithstanding * * *" language of the statute. We disagree. Several years ago a suit was brought by some of the plaintiffs in this action to block construction of the Three Sisters Bridge and other highway projects because the District had not complied with District and federal highway laws governing the planning and construction of the projects. This court, in *D.C. Federation of Civil Associations* v. *Airis*,[49] held that the District could not construct any future freeways without complying with the relevant provisions of the District of Columbia Code. Our decision did not prevent the District from participating in interstate construction projects. The District government was free to build the freeways simply by holding the required hearings and complying with the other provisions of the law. However, instead of moving forward with the Three Sisters Bridge, the District government apparently decided to abandon the project altogether. The City Council took no further action in relation to the Bridge; the National Capital Planning Commission disapproved of the project; and finally the Secretary of Transportation deleted the Bridge from his comprehensive maps of the Interstate System for the District.

Congress reacted to the District government's inaction on highway construction by ordering a bridge to be built [n]otwithstanding any other provision of law, or any court decision or administrative action to the contrary."[50] There can be little doubt that it was Congress' intent to countermand the District government's "administrative action" which had stopped further interstate construction. But nothing in the statute indicates that Congress intended the Bridge to be built contrary to its own laws. In essence, then, Section 23 amounts to a direction from Congress to the relevant District and federal officials to continue with the bridge and highway plans they had been formulating prior to the *Airis* decision.

We hold that Section 23 requires that both the planning and the building of the Three Sisters Bridge comply with all applicable provisions of Title 23. Since the District Court ruled otherwise, we remand the case to the District Court for an expedited evidentiary hearing to determine whether appellees have in fact complied with the provisions of Title 23.

In aid of the remand we feel it appropriate to comment on the meaning of the hearing requirement of 23 U.S.C. § 128. Of course, it will be for the District Court to determine, after hearing all the evidence, whether the six-year-old hearings alluded to in the papers before us satisfy the requirements of Title 23. However, it should be made clear that the Secretary's regulations[51] implementing Section 128 apply to this Bridge project. The basic requirement is that both a location hearing (held "before the State highway department is committed to a specific proposal") and a design hearing (held "after the route location has been approved, but before the State highway department is committed to a specific design proposal") must be scheduled.[52] The regulations make specific provision for projects like this one on which some hearings have been held before the effective date of the regulation.[53] Since the regulations apply by their terms and since in promulgating the regulations the Secretary made reasonable provisions for those projects which had been the subject of hearings before the effective date of the regulations, we see no reason not to apply these regulations to this case.[54]

*Reversed and remanded for proceedings consistent with this opinion.*

FOOTNOTES

[1] Pub. L. No. 90–495, 82 Stat. 827–828 (1968).

[2] *D.C. Federation of Civic Associations* v. *Volpe*, Civil Action No. 2821–69, Memorandum and Order (Jan. 12, 1970).

[3] The rest of the section reads as follows:

(c) The government of the District of Columbia and the Secretary of Transportation shall study these projects on the Interstate System set forth in "The 1968 Interstate System Cost Estimate", House Document Numbered 199, Ninetieth Congress, within the District of Columbia which are not specified in subsection (b) and shall report to Congress not later than 18 months after the date of enactment of this section their recommendations with respect to such projects including any recommended alternative routes or plans, and if no such recommendations are submitted within such 18-month period then the Secretary of Transportation and the government of the District of Columbia shall construct such routes, as soon as possible thereafter, as required by subsection (a) of this section.

(d) For the purpose of enabling the District of Columbia to have its Federal-aid highway projects approved under section 106 or 117 of title 23, United States Code, the Commissioner of the District of Columbia may, in connection with the acquisition of real property in the District of Columbia for any Federal-aid highway project, provide the payments and services described in sections 505, 506, 507, and 508 of title 23, United States Code.

(e) The Commissioner of the District of Columbia is authorized to acquire by purchase, donation, condemnation or otherwise, real property for transfer to the Secretary of the Interior in exchange or as replacement for park, parkway, and playground lands transferred to the District of Columbia for a public purpose pursuant to section 1 of the Act of May 20, 1932 (47 Stat. 161; D.C. Code, sec. 8–115) and the Commissioner is further authorized to transfer to the United States title to property so acquired.

(f) Payments are authorized to be made by the Commissioner, and received by the Secretary of the Interior, in lieu of property transferred pursuant to subsection (e) of this section. The amount of such payment shall represent the cost to the Secretary of the Interior of acquiring real property suitable for replacement of the property so transferred as agreed upon between the Commissioner and the head of said agency and shall be available for the acquiring of the replacement property.

[4] Appellants have also argued that other sections of Title 23, for example, § 317, also apply. In text we discuss only three sections for the sake of clarity. But our holding applies to all of Title 23.

[5] For purposes of Title 23, the District of Columbia is considered to be a "state." 23 U.S.C. § 101 (1964).

[6] The statute requires the states to hold "public hearings"; the regulations specify separate location and design hearing. 23 C.F.R. Part 1, Appendix A (1970). For a discussion of the applicability of these regulations to this project, *see* pp. 24–25 *infra*.

[7] *See Shapiro* v. *Thompson*, 394 U.S. 618, 641–642 (1969); *Bolling* v. *Sharpe*, 347 U.S. 497 (1954).

[8] *See, e.g., Williamson* v. *Lee Optical Co.*, 348 U.S. 483 (1955).

[9] With reference to economic legislation, the Supreme Court has said that "[a] statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it." *McGowan* v. *Maryland*, 366 U.S. 420, 426 (1961). In overseeing economic legislation, where the ways of reaching a particular goal for the legislature are almost countless, and where close judicial examination of the means chosen by the legislature can only result in a resurgency of the second guessing of the legislature inherent in the concept of "substantive due process," the judiciary must of necessity avoid close scrutiny of these schemes lest it become only a super-legislature. *See Developments in the Law—Equal Protection*, 82 HARV. L. REV. 1065, 1128, 1131–1132 (1969).

[10] *Skinner* v. *Oklahoma ex rel. Williamson*, 316 U.S. 535, 541 (1962).

[11] *Reynolds* v. *Sims*, 377 U.S. 533, 561 (1964).

[12] *Harper* v. *Virginia Board of Elections*, 383 U.S. 663, 667 (1966), quoting *Yick Wo* v. *Hopkins*, 118 U.S. 356, 370 (1886).

[13] *Loving* v. *Virginia*, 388 U.S. 1, 9 (1967); *see McLaughlin* v. *Florida*, 379 U.S. 184 (1964).

[14] *Loving* v. *Virginia, supra* Note 13, at 9. Professor Cox has written that these modern equal protection cases "appear to rest upon two largely subjective judgments * * * the relative invidiousness of the particular differentiation, * * * [and] the relative importance of the subject with respect to which equality is required." Cox, *Forward: Constitutional Adjudication and Promotion of Human Rights*, 80 HARV. L. REV. 91, 95 (1966).

[15] *Loving* v. *Virginia, supra* Note 13, at 11; *see Carrington* v. *Rash*, 380 U.S. 89 (1965).

[16] A commentary has summarized the recent cases as follows: "Thus, the cases indicate that when a fundamental interest is impaired or a suspect distinction drawn, the Court will demand a convincing demonstration that the classification is well tailored to achieve the statutory objective. How well tailored the classification must be remains somewhat obscure. The state must show at least that this classification is more than just one of several reasonable ways of achieving its goal." *Developments in the Law—Equal Protection*, 82 HARV. L. REV. 1065, 1122 (1969).

[17] *See* S. Rep. No. 2044, 81st Cong. 2d Sess. 8 (1950).

[18] *See* Federal-Aid Highway Act of 1968 § 24, Pub. L. No. 90–495, 82 STAT. 828 (1968).

[19] 23 U.S.C. § 128 (Supp. IV 1965–1968).

[20] 23 C.F.R. Part 1, Appendix A (1970).

[21] 23 U.S.C. § 128.

[22] *Reynolds* v. *Sims, supra* Note 11, at 555.

[23] *Id.* at 561.

[24] *Id.* at 561, quoting *Skinner* v. *Oklahoma ex rel. Williamson, supra* Note 10, at 536.

[25] *Reynolds* v. *Sims, supra* Note 11, at 562.

[26] *Harper* v. *Virginia Board of Elections, supra* Note 12, at 670.

[27] This close analysis is not unavailable because the rights in this case are derived only from statutes. In *Harper* v. *Virginia Board of Elections, supra* Note 12, the Supreme Court proceeded on the explicit assumption that the state had no constitutional duty to allow its citizens to vote, but had allowed some to vote as a matter of legislative grace. In holding such action violative of equal protection, the Court stated: "For it is enough to say that once the franchise is granted to the electorate, lines may not be drawn which are inconsistent with the Equal Protection Clause * * *." 383 U.S. at 665. It is settled law that "the state, having made [a procedural right] generally available on this issue, may not, consistent with the Equal Protection Clause of the Fourteenth Amendment, arbitrarily withhold it from some." *Baxstrom* v. *Herold*, 383 U.S. 107, 111 (1966). *See Goldberg* v. *Kelly*, —— U.S. ——, 38 U.S. L. WEEK, 4223 (March 23, 1970).

[28] There is, of course, no constitutional right of citizens of the United States to vote on federally supported highway projects. Nor do District citizens have a constitutional right to vote generally. *See Carliner* v. *Board of Commissioners of the District of Columbia*, D. D.C., 265 F.Supp. 736

(1967), *affirmed.* —U.S. App. D.C. —, 412 F.2d 1090 (1969). The point here is that Congress, having by statute accorded all citizens the right to participate in the determination of highway projects, may not deny District citizens alone that right without adequate justification for this discrimination. *See* Note 27, *supra.*

[29] *Compare Office of Communication of United Church of Christ* v. *F.C.C.*, 123 U.S. App.D.C. 328, 359 F.2d 994 (1966). There we allowed listeners to intervene as parties in F.C.C. hearings in order to ensure that the F.C.C. fulfilled its duty to take the public interest into account. Rights of full and active participation in the hearings were deemed essential by the court:

"We cannot believe that the Congressional mandate of public participation which the Commission says it seeks to fulfill was meant to be limited to writing letters to the Commission, to inspection of records, to the Commission's grace in considering listener claims, or to mere non-participating appearance at hearings. We cannot fail to note that the long history of complaints against WLBT beginning in 1955 had left the Commission virtually unmoved * * *. Such beneficial contribution as these Appellants, or some of them, can make must not be left to the grace of the Commission."

123 U.S. App.D.C. at 338, 359 F.2d at 1004. (Footnotes omitted.)

[30] *McLaughlin* v. *Florida, supra* Note 13, at 192, quoting *Bolling* v. *Sharpe, supra* Note 7, at 499. *See Thompson* v. *Sharpiro,* D. Conn., 270 F.Supp. 331, 337, *Affirmed,* 394 U.S. 618 (1969).

[31] *Harper* v. *Virginia Board of Elections, supra* Note 12, at 668.

[32] *Hobson* v. *Hansen,* D. D.C., 269 F. Supp. 401, 507 (1967), *affirmed sub nom. Smuck* v. *Hobson,* 132 U.S. App. D.C. 372, 408 F. 2d 175 (1969).

[33] *Carolene Products Co.* v. *United States,* 304 U.S. 144, 153 n.4 (1938).

[34] *See Carrington* v. *Rash, supra* Note 15.

[35] Expenses of "construction" include "all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping * * *, [and] costs of rights of way." 23 U.S.C. § 101. Engineering costs, and the expenses of other activities, such as public hearings, which clearly take place long before what the statute defines as "actual building" (23 U.S.C. § 101), also qualify as "construction" costs. *See* 23 U.S.C. § 121(d) (1964); 23 C.F.R. Part 1, Appendix A, § 12 (1970).

[36] We find no support in that history for appellees' argument that hearings were precluded because they would take too much time. There was some talk in Congress of the need to move ahead with the project. But it does not follow, as appellees insist it does, that a congressional concern with completing the Bridge *soon* requires that certain time-consuming procedures, such as hearings, be waived, while other equally time-consuming practices also required by Title 23, such as advertising for sealed bids, are to be followed. A statute would have to be much more specific if it is to eliminate certain, but not all, "time-consuming" procedures.

[37] *See* H.R. Rep. No. 1584, 90th Cong., 2d Sess., 17–19 (1968). The Senate Report, No. 1340, 90th Cong., 2d Sess. (1968), sheds no light on § 23 because there was no similar provision in the Senate version of the bill.

[38] H.R. Rep. No. 1799, 90th Cong., 2d Sess. (1968). The "Statement of the Managers on the Part of the House" was only appended to the Conference Report. It did not represent the will of the Senate conferees and can only be said to represent the personal opinions of those who signed it. The chairman of the Senate managers, Senator Randolph, agreed that the specifics in the House Managers' Statement were "dictum" and not the "intent of the Senate." See CONGRESSIONAL RECORD, vol. 114, pt. 18, p. 24035 (remarks of Senators Mansfield and Randolph). *See also id.* at 24028 (remarks of Senator Cooper): "I was amazed when I read the report of the managers to discover what they had written out in their managers' report." But even the House Managers' Statement contains no indication that any of the provisions of Title 23 were to be inapplicable.

[39] *United States* v. *Matthews,* —— U.S. App. D.C. ——, —— n.9, 419 F. 2d 1177, 1182 n.9, (1969): "* * * [T]he isolated remark of one Congressman does not constitute any authority for the proposition that Congress as a whole intended [the particular result]."

[40] The statements of proponents are much more likely to portray an accurate representation of Congress' intent than are the views of the opponents. "[W]e have often cautioned against the danger, when interpreting a statute, of reliance upon the views of legislative opponents. In their zeal to defeat a bill, they understandably tend to overstate its reach. * * * 'It is the sponsors that we look to when the meaning of the statutory words is in doubt.' *Schwegmann Bros.* v. *Calvert Distillers Corp.,* 341 U.S. 384, 394–395 * * *." *N.L.R.B.* v. *Fruit & Vegetable Packers & Warehousemen,* 377 U.S. 58, 66 (1964).

[41] CONGRESSIONAL RECORD, vol. 114, pt. 15, p. 19923 (Mr. Cramer):

"There still can be changes in that route within the traffic corridor. At the same time there can be hearings. * * * [T]he language in the bill does not preclude hearings. As far as I am concerned, let the City Council hold hearings, let them decide which location within the traffic corridor should be finally approved pursuant to the section of the bill.

* * * * *

"The term 'routes' as used in [§ 23] * * * refers to the traffic corridors * * * and is not intended to prescribe a specific location for any of the interstate highways to be constructed."

[42] CONGRESSIONAL RECORD, vol. 114, pt. 18, p. 24003 (Mr. Randolph).

[43] *See* Transcript of News Conference of the Secretary of Transportation, August 24, 1968. *See also* Statement of President Johnson, CONGRESSIONAL RECORD, vol. 114, pt. 24, pp. 30958–30959 (Secretary of Transportation to approve projects named in § 23 only when they are "shown to be appropriate links in a comprehensive transportation plan for the District").

The incumbent Secretary has recently recommended further planning on at least one project mentioned in § 23(b). *See* Letter from Secretary of Transportation to Spiro T. Agnew and John W. McCormack, February 22, 1970, enclosure 4.

[44] *Udall* v. *Tallman,* 380 U.S. 1, 16–18 (1965). "'Particularly is this respect due when the administrative practice at stake "involves a contemporaneous construction of a statute by the men charged with setting its machinery in motion, of making the parts work efficiently and smoothly while they are untried and new."' *Power Reactor Co.* v. *Electricians,* 367 U.S. 396, 408." *Id.* at 16.

[45] In any case we would hesitate to construe § 23 as precluding *any* further planning by local officials in view of Congress' long-standing practice not to make such precise decisions. *See* H.R. Rep. No. 1584, 90th Cong., 2d Sess. 53 (1968) (additional views): A rule of the House Committee on Public Works provides "* * * it shall not be in order for any bill providing for general legislation in relation to roads to contain any provision for any specific road." *See also* S. Rep. No. 1965, 84th Cong., 2d Sess. 4 (1955) (interstate system to be locally planned; routes not to be dictated by federal government); 23 U.S.C. § 103(d)(1) (Supp. IV 1965–1968): "The routes of this System, to the greatest extent possible, shall be selected by joint action of the State highway departments of each State and the adjoining States, subject to approval by the Secretary * * *."

[46] *See* remarks of Congressman Cramer, *supra* Note 41.

[47] 1968 Estimate of the Cost of Completing the National System of Interstate and Defense Highways in the District of Columbia, Preface (1967).

[48] *Cf.* Secretary's letter, *supra* Note 43, recommending further planning and thought about a route mentioned in § 23(b) and detailed in cost estimates.

[49] 129 U.S. App. D.C. 125, 391 F. 2d 478 (1968).

[50] Presumably the "court decision" language refers to our decision in *Airis,* but the reference is mistaken since that decision was not "to the contrary."

[51] 23 C.F.R. Part 1, Appendix A (1970).

[52] *Id.* at §§ 4(a), 4(b).

[53] *Id.* at § 6(d).

[54] These regulations apply to all projects which had not received both location and design approval from the Department of Transportation before the effective date of the regulations. Appellees assert that approval of the final location of the Bridge was obtained before that date. The accuracy of that assertion will be for the District Court to determine. However, appellees concede in their briefs that there has been no design hearing on the Bridge and that approval of the final design was not obtained before the regulations became effective. The regulations provide in § 6(d)(2)(b):

"If design approval is requested within 3 years after the date of the hearing, compliance with the design hearing requirements is nevertheless required unless the division engineer finds that the hearing adequately dealt with design issues relating to major design features."

It may be that design approval was not requested before the end of the three-year period (*see* 23 C.F.R. Part 1, Appendix A, § 6(d)(2)(a)), or that, as appellees concede, the division engineer has not made the finding required by the regulation quoted above, or that even if the division engineer has made the required finding, the record will not support that finding. In any such case of noncompliance, the Bridge cannot proceed until design hearings which conform to the regulations have been held.

We have discussed the requirements of the hearing regulations with specificity because that issue has been clearly raised by the parties. We do not, however, confine the scope of the remand hearing to the question of compliance with those regulations. If the District Court finds that appellees have not complied with any provision of Title 23 (including the regulations contained in 23 C.F.R. Part 1, Appendix A), the District Court should enjoin further action on the Bridge project until appellees have complied with all such provisions.

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CONCURRING OPINION OF CHIEF JUDGE, BAZELON

I join in Part II of Judge Wright's opinion. I agree that the planning provisions of Title 23 apply to the Three Sisters Bridge project, and that the case must be remanded to determine whether there has been compliance. Because that conclusion is compelled in my view by an analysis of the statutory language and the legislative history, I find it unnecessary to reach the constitutional questions, and therefore I express no opinion on the matters discussed in Part I.

The legislative history of the Federal Highway Act of 1968 reveals a fundamental conflict over the procedures to be followed in commencing work on the Three Sisters Bridge Project. Undoubtedly some legislators thought that a statute ordering immediate

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Footnotes at end of article.

construction of the Bridge would eliminate the necessity for at least some preliminary procedures.[1] Others contemplated that the statute would simply reverse the District government's inaction and compel the government to recommence work on the Bridge in compliance with the procedures of Title 23.[2] This conflict produced an ambiguous statute, compelling the court to resolve the disagreement.

The plain language of the statute directs the District of Columbia to construct the Bridge in accordance with all applicable provisions of Title 23, and to commence work on it within 30 days. If the legislators had reached agreement on the suspension of hearings and other planning procedures, they could have expressly suspended particular provisions of Title 23. We cannot read into the reference to "applicable" provisions of Title 23 a suspension of particular provisions as inapplicable, without explicit criteria for the distinction in the language of the statute itself. The Statement of the House Managers is of course entitled to respect in determining the legislative intent.[3] It cannot, however, supply the specificity necessary to make fine distinctions since no basis for those distinctions can be found in the language chosen by the legislative conferees.

Our construction of Section 23 of the Highway Act is the one adopted by the Secretary of Transportation at the time the statute was enacted. The Secretary's interpretation may well have been based in part on the failure of Congress to distinguish between applicable and inapplicable provisions with the specificity necessary for effective administration.

Finally, our interpretation is further fortified by the fact that it avoids treating District residents less favorably than all other citizens with respect to the federal highway system. The court has no occasion to consider at this time the impact of any particular Bridge location or design on the public interest. It is precisely these issues which appellants seek to ventilate. Apart from constitutional considerations, we should not lightly presume that Congress has deprived District residents of an opportunity afforded to all other citizens, at least in the absence of the clearest legislative mandate, which is lacking here.

FOOTNOTES

[1] *See, e.g.*, Statement of the Managers of the Part of the House, H.R. Rep. No. 1799, 90th Cong., 2d Sess. (1968).

[2] CONGRESSIONAL RECORD, vol. 114, pt. 18, p. 24033 (Mr. Randolph).

[3] It is not, however, entitled to the weight of a conference report, since it was not signed by a majority of the Senate conferees. *See* 79 Cong. Rec. 12237–39 (1935) (ruling by the Speaker of the House).

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DISSENTING OPINION OF CIRCUIT JUDGE MACKINNON

The panel opinion, with which I cannot agree, holds in effect that Congress did not intend to direct that the Three Sisters Bridge be built until there were further hearings. It arrives at this conclusion by refusing to consider some of the most reliable indicia of legislative intent and while it asserts reliance upon the "authoritative legislative history," it only does go to a limited extent. Consideration of *all* the legislative history including the most important Statement of the House Managers in my opinion indicates that Congress clearly directed that the Three Sisters Bridge be built immediately and I do not find that such direction was improper or invalid.

I

In interpreting any statute the language of the act itself is the most important element. Next come the written reports of the Committees and Conference Managers. Here we are concerned with section 23 of the Federal Aid Highway Act of 1968, which is previously quoted in the panel opinion. This section was drafted in the congressional Conference Committee. The bill originated in the Senate but it contained no provision on highways for the District of Columbia. When the bill reached the House of Representatives it was amended to require "the construction, as soon as possible, of *all routes* in the interstate system within the District of Columbia as set forth in" the 1968 Estimate of the Cost of Completion of the National System of Interstate and Defense Highways in the District of Columbia.[1] The House of Representatives was thus the moving force with respect to the District of Columbia highway program in this bill. With the bill in this posture it was referred to a Conference Committee to consider the disagreements between the two houses including the difference on the District of Columbia highway program. In Conference, the managers for both houses agreed upon the language contained in section 23[2] which we are interpreting in this case. It reduced somewhat the projects that were directed to proceed immediately.

The panel opinion seeks some support for its construction of section 23 from the Senate debates and attempts to make a point of the fact that only the statement of the Managers on the part of the House was appended to the Conference Report. In this way it attempts to work around the Statement of the Managers on the part of the House. It is necessary for the panel opinion to evade a confrontation with this vital document, because the decision it announces cannot be squared with the Statement of the Managers for the House where the bill originated. In thus seeking some legislative backing for its construction of section 23, it refers to the remarks of Senator Cooper,[3] but it is significant that Senator Cooper was substantially in the minority on this matter; and on the final passage of the bill in the Senate his views were rejected by the entire Senate and the bill was passed 67 to 6. Senator Cooper was one of the six who voted against the bill. It is elementary that legislative intent is not reflected by floor speeches of Senators having that relationship to a bill and to the Senate's vote thereon. It is also obvious that in such circumstances, when one tries to work around the Statement of the Managers who drafted the section and replace their views with those of one Senator who opposed the section, voted against the bill and whose views on this and other portions of the bill were voted down 67 to 6, that you hardly come up with a reliable interpretation of the section. The views of the minority of a house do not indicate the intent of the majority and the panel opinion cannot make them do so.

The Senate rules do not provide for the Managers on the part of the Senate to file statements of their views as a part of Conference Committee Reports. The House Rules do provide for their Managers filing Reports.[4] It is thus of no significance that the Senate Conferees on this highway bill did not file a statement.

In this case since section 23 of the bill largely originated in the House the Statement of the House Managers is all-important. They were the proponents of section 23 and it was agreed to along with the rest of the bill by the overwhelming majority of the Senate. At this point it is conducive to an understanding of the Senate action to refer to the significant remarks of Senator Randolph of West Virginia, the Chairman of the Senate Committee on Public Works that handled the bill. His remarks appear in the CONGRESSIONAL RECORD, vol. 114, pt. 18, p. 24030[5] as follows:

"One of the most difficult issues before the conference was that involving the District of Columbia interstate highway program. The language of the House bill required immediate construction of those highways in the District of Columbia as contained in the 1968 cost estimate. The Senate bill had no comparable language.

"The Senate conferees approached this matter with reluctance and reservation. We did not believe that this was a matter that should be handled in a national highway act. However, in the interest of comity and with the desire to bring a bill out of conference, we proposed certain changes in the House language and in the give-and-take which ensued, the language of section 23 of the conference report was developed.

"Under the terms of this section, the District of Columbia government and the Secretary of Transportation are directed to proceed with four projects: The completion of the center leg to New York Avenue; the *construction* of the east leg; the Potomac River Freeway, and the Three Sisters Bridge. It is our belief that three of these four projects are relatively noncontroversial and can be accomplished with a minimum of disruption and dislocation to the citizens of the District of Columbia.

"The fourth project, the Three Sisters Bridge, is a matter of controversy, but it is also vital to the development of proper access to Dulles International Airport and the question of the bridge had to be answered if the State of Virginia is to be able to proceed with its development and construction of Interstate Route 66. Those who took part in the conference agreed that the Three Sisters Bridge is to be built in such a way that it will not now or in the future result in any encroachment on Glover-Archibold Park. This is a matter on which we all agree and we insist that everything be done to protect that area of the District of Columbia from any kind of highway construction. *With this understanding a majority of the Senate conferees agreed to this part of the District of Columbia highway program.*" (Emphasis added).

These remarks speak for themselves and indicate agreement with section 23. His statement that a majority of the Senate conferees have agreed to "*construction*" of the Three Sisters part of the District of Columbia highway program is most significant.

To obtain an accurate interpretation of the law as it was finally drafted it is also necessary to correct several other inaccuracies that appear in the panel opinion with respect to the Senate and House debates.

Further as to Senator Randolph, regardless as to how the panel opinion seeks to characterize the attitude of the Senate and Senator Randolph upon the statement of the House Managers on the Three Sisters Bridge, the fact is that Senator Randolph adopted the last paragraph of it (by reading it to the Senate) which refers to relinquishing the right of way through Glover Archibold Park in support of his statement that "we are not allowing it [building of a freeway through the park]." Cong. Rec. p. 24035. In so doing he also read the sentence which reads: "The *design of the bridge* does not require intrusion on the park. . . ." (Emphasis added).

Does this sound as though the "design of the bridge" was still an open question? Obviously, it was not and Senator Randolph so recognized.

The panel opinion in footnote 38 also seeks to make some use of a comment on the Senate floor that the specifics in the statement of the House Managers were "dictum" and not "the intent of the Senate." (Cong. Rec. 24035). However these remarks (Cong. Rec. 24035) were directed at the "Notwithstanding" direction of the *bill* which was allegedly carried out by the Glover Archibold provision in the statement of the House Managers.[6] I do not read the remarks of Senator Randolph as stultifying section 23 of the bill as enacted, and obviously Senators and Representatives by their individual remarks on the floor cannot au-

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thoritatively speak for the "intent" of either body contrary to the provisions that Congress enacts. What is important is not the intent of individual Senators, or even the intent of the House or Senate, but the intent of *Congress* as evidenced by the bill and the entire legislative history where that needs to be referred to. It is the intent of Congress that is prevailing. Statements of individual members of Congress cannot alter what Congress enacts.

No disclaimers by individual Senators or Representatives can affect what the two houses did collectively by adopting the bill *with* the D.C. highway provisions.

Senator Tydings also noted immediately following final approval of the bill that it requires the District Government to proceed with ". . . the *construction* of . . . the Three Sisters Bridge." (Emphasis added). (Cong. Rec. 24038)

Further, Senator Jackson stated he *understood* "the *freeway* would go under the existing C. & O. Canal." (114 Cong. Rec., Part 18, p. 24033). Such *understanding* is consistent with interpreting the legislation as recognizing that there was no question as to the *location* of that project. He was also assured by Senator Randolph that the bill would not take away from the Secretary of the Interior "an opportunity to go over the final design" of the *Potomac River Freeway* (which involved the freeway going under the C. & O. Canal). The panel opinion attempts to turn this to support additional design hearings and approval with respect to the *Three Sisters Bridge*, but it cannot be so twisted. The Potomac River Freeway project and the Three Sisters Bridge project are different projects and in different stages of planning. As the statement of the House Managers states with respect to the Potomac River Freeway and to which Senator Jackson referred (Cong. Rec. 24033): "The District of Columbia Department of Highways shall immediately upon enactment of this legislation proceed to design this entire facility . . ." (emphasis added).

With the Potomac River Freeway Project in that stage of development it is perfectly obvious that subsequent *design* provisions of Title 23 might be applicable (according to their tenor) but that is no basis for saying that the same thing is true of the Three Sisters Bridge which had an approved design and which was considered as a separate project, not part of the Potomac River Freeway Project, and which was in a more advanced stage of planning and approvals—as the statement of the House Managers stated at page 34 of the Report. Neither Senator Jackson nor Senator Randolph in this colloquy were talking about the Three Sisters Bridge and their remarks cannot be twisted to that end. Moreover, Senator Randolph did not give his word that Title 23 "would be in effect for specific projects mentioned in Section 23(b) of the Act." See pp. 19–20 of panel opinion. His remarks were directed *solely* to Senator Jackson's inquiry as to *the Potomac River Freeway* and the power of the Secretary of Interior thereto. To the extent that the panel opinion seeks to convey the impression that Senator Randolph represented that *all* provisions of Title 23 would be applicable to *all* the projects mentioned in section 23(b), the opinion is incorrect. It also flies into the fact of the specific provision of section 23 that only the "*applicable* provisions of Title 23" would apply.

The panel opinion quotes Senator Cooper as being "amazed" at the House statement. This remark is of no significance here. His objection was to legislating on the District of Columbia highways in a national highway act, to directing the District of Columbia and the Department of Transportation in connection with "the *construction*" of the D.C. roads, and to laying down "directions almost like a construction company, how to proceed with the construction." Cong. Rec. Vol. 114, part 18, pp. 24028, 24035. He never said or inferred that the statement of the House Managers was *incorrect* in any respect but only that it was too specific and out of place in a national highway act. His objection also went to the specific directions in the *bill* as to the D.C. highway program.[7] He was apparently unfamiliar with the manner that Congress has traditionally dealt with many D.C. street and highway matters. None of this furnishes any basis to challenge the *correctness* of the statement of the House Managers. Senator Cooper was also in some error about the entire D.C. highway project and he was corrected by Senator Randolph (Cong. Rec. 24034–24035). To summarize, Senator Cooper was opposed to the bill. He was opposed to the Senate's position on the bill. His views on the bill accordingly have no persuasive weight in interpreting the bill.

Floor remarks of Congressman Cramer are also misinterpreted by the panel opinion (Cong. Rec., Part 15, p. 19923). In the House debates on the bill, Congressman Cramer said in effect that the D.C. City Council could still hold hearings as to location within the corridors of the *interstate highways* to be constructed. His remarks were directed generally to the House bill *at that time* which directed that "all routes" of the Interstate Highway System in the District be constructed—not just the four projects now contained in section 23.[8] His remarks were directed primarily at the highways. The question he was answering was a general question on highways and not a specific question on the Three Sisters Bridge. To illustrate, he was certainly not indicating that there could be hearings on the unfinished portion of the Center Leg that is under construction. His remarks were not directed to section 23 as it passed nor to the statement of the House Managers of which he was one. Neither the statement of the House Managers nor section 23 as it presently exists had then been drafted. His remarks are thus not applicable to section 23 as it now exists.

But even more significant than these views of a few Senators and Congressmen is the statement of the Managers on the part of the House with respect to the Three Sisters Bridge. This is the document that the panel opinion seeks to ignore. *It never refers to its provisions.* True legislative intent cannot be determined by consideration of only a part of the legislative history any more than it could by considering only a part of the bill. The statement of the House Managers (hereafter the statement) is contained in the Conference Report to accompany S. 3418, House of Representatives, 90th Cong., 2d Sess., Report No. 1799, p. 34. The portion thereof dealing first with the Three Sisters Bridge reads as follows:

"The House amendment contained a provision requiring that all routes on the Interstate System in the District of Columbia set forth in 'The 1968 Interstate System Cost Estimate,' House Document 199, 90th Congress, be constructed as soon as possible.

"The Senate bill contained no comparable provision.

"The proposed conference substitute requires that, notwithstanding any other provision of law, or any court decision or administrative action to the contrary, the Secretary of Transportation and the government of the District of Columbia shall, in addition to those routes already under construction, not later than 30 days after enactment, commence work on the following projects:

"1. *Three Sisters Bridge, I–266*

"In early 1966 an agreement was reached among all affected parties as to the location of the Three Sisters Bridge. Consultant engineers have completed a type-size-and-location report on the bridge.

"The specific design for the bridge was approved by the Fine Arts Commission on September 20, 1967. In writing to the Department of Highways and Traffic granting its approval, Mr. William Walton, Chairman of the Fine Arts Commission, stated in part: 'We felt your designer had performed brilliantly in creating a design for one of the most important scenic sites around the Capital. Its simplicity and its daring both are very commendable characteristics.'

"The decision of the Fine Arts Commission in this respect safeguards the aesthetic values of concern to so many and preserves the beauty and recreational characteristics of the Potomac River. The design approved by the Fine Arts Commission shall be carried out precisely as approved with respect to materials and architecture.

"The National Capital Planning Commission approved the general alinement of the bridge on September 15, 1966, and the geometrics on May 2, 1967, subject to certain reviews by the Department of Transportation. The Department of Transportation by letter to the National Capital Planning Commission in February of 1968 returned the decision to local prerogatives. The bridge location and geometrics shall therefore proceed as presented to the National Capital Planning Commission in September of 1966 and May of 1967 with no further actions required by that or any other body.

"With respect to the scheduling of construction, the Congress directs that the first substructure contracts be advertised for construction within 90 days of the enactment of this legislation.

"Immediately upon completion of construction of the bridge, the District of Columbia shall relinquish to the National Park Service the right-of-way through Glover Archbold Park that it presently holds. The design of the bridge does not require intrusion on the park and the Congress directs that no intrusion of the park take place."

If the panel opinion had also considered this language they would have noted the direction that construction of the Three Sisters Bridge begin with no further action required by the National Capital Planning Commission or any other body. The next provision of the statement is also very significant; it states:

"* * * the Congress directs that the first substructure contracts be advertised for construction within 90 days of the enactment of this legislation."

A mere reading of this directive makes it obvious that they were not in the same breath ordering that extensive hearings be held on location and design. Hearings on location and design were pre-construction requirement preliminaries which had already been satisfied as the statement observed. The statement also states that:

"In early 1966 an agreement was reached among all affected parties as to the *location* of the Three Sisters Bridge. Consultant engineers have completed a type-size-and-*location* report on the bridge." (Emphasis added).

It next states:

"The specific *design* for the bridge was approved by the Fine Arts Commission on September 20, 1967." (Emphasis added).

Does this sound as though they were directing that additional hearings be held on location and design? Obviously not. To suggest that the Conference Report in one breath directed:

"Such construction shall be undertaken as soon as possible after the date of the enactment of this Act . . . Not later than 30 days after the date of enactment of his section the government of the District of Columbia shall commence work on the following projects:

"(1) Three Sisters Bridge; I–266 (Sections B1 to B2). * * * (and from the statement, all such shall be) . . . with no further action re-

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quired by that or any other body. * * * [T]he Congress directs that the first substructure contracts be advertised *for construction* within 90 days of the enactment of this legislation. (Emphasis added.)

And in the same breath directed that *new hearings* be begun on location and design, is to suggest that Congress directed an absurdity.

So it is perfectly obvious when the statement of the House Managers is read, as it must be read to truly determine the intention of Congress, that the bill clearly directs the construction of the Three Sisters Bridge with no further action required by the National Capital Planning Commission or any other body.

Some of the confusion in the panel opinion also results in my opinion from its inability to fathom section 23 which provides in part:

"Such construction shall be undertaken as soon as possible after the date of enactment of this act except as otherwise provided in this section and shall be carried out in accordance with all *applicable* provisions of Title 23 of the United States Code." (Emphasis added).

In trying to interpret this provision the panel opinion obtains some false comfort from the negative fact that they were unable to find any statement during the congressional floor debates indicating that any or all of the provisions of Title 23 were not to be applied in the planning and building of the bridge. The panel's difficulty in this respect stems from the fact that it attempts to give a wooden interpretation of section 23.

This results from its failure to come to grips with the statement. Had they done so they would have noted that the Congress intended the Title 23 provision of section 23 to be given a *flexible* application to the four projects (and the 18 month projects) depending upon the extent to which each of the projects had progressed when the act was passed. Having failed to consider the statement of the House Managers the panel opinion thus was apparently not aware of the full import of the Title 23 provision and how it would necessarily apply differently to each project.

The Title 23 provision in the law was not only applicable to the Three Sisters Bridge but it was also applicable to three other projects (and to the 19 month projects). And if the panel opinion had considered the statement with respect to all the projects it would have noted that each project was in a different stage with reference to being ready for construction and that Congress was not directing the same action with respect to each project:

1. With respect to the *Three Sisters Bridge* they were directing work within 30 days and "that the first substructure contracts be advertised for construction within 90 days of the enactment of this legislaion."

2. With respect to the *Potomac River Freeway* the direction of Congress was that "The District of Columbia Department of Highways shall immediately upon enactment of this legislation *proceed to design* this entire facility by use of consultants or otherwise, to begin no later than 60 days from the enactment of this legislation. Construction shall commence in a logical sequence as soon as designs have been prepared."

3. With respect to the *Center Leg of the Interloop* the direction in the Conference Report emanating from the Managers on the part of the House stated:

"The center leg is *already under construction*, in various stages. It shall be completed to New York Avenue, where it will terminate until plans are completed for its continuation and connection with other parts of the system to be approved at a later date."

4. With respect to the *East Leg of the Interloop*, the direction in the report was more varied. Following are some of the excerpts:

"Interchange C is in various stages of design and construction from Sixth Street SE to and including Barney Circle. It is the essential connecting link to the east leg of the inner loop, and its construction shall proceed under the current schedule until completion.

"The east leg of the inner loop, etxending from Barney Circle to Bladensburg Road as a part of Interstate Route I-295, shall proceed immediately as described herein.

"The design of the terminus at Bladensburg Road will take into account the possibility of extension of this project as a tunnel under Mount Olivet Road.

"A design consultant has already proceeded with much of the design between Barney Circle and Benning Road. The District shall direct him to resume work, with the first construction contract to be advertised within 90 days of enactment of this legislation.

With respect to the portion from Benning Road to Bladensburg Road, the District of Columbia shall immediately upon enactment of this legislation commence negotiations for a design contract, said contract to start within 60 days of enactment of this legislation. Construction on this part of the project shall commence as soon as plans have been prepared. The alinement for this portion of the route shall be as presented at a public hearing in January of 1967 and subsequently approved by the National Capital Planning Commission on February 9, 1967, and the District of Columbia Board of Commissioners on March 9, 1967.

"The plan here described already has the approval of all the agencies concerned, including the Park Service, the National Capital Planning Commission, and to the extent required, the Fine Arts Commission.

"With respect to those parts of the Interstate System included in the 1968 cost estimate and not specifically dealth with above, the government of the District of Columbia and the Secretary of Transportation are directed to study those projects and report to the Congress within 18 months from the date of enactment their recommendations with respect to such projects, including any recommended alternative routes or plans, so that the remainder of the Interstate System within the District of Columbia may be appropriately authorized."

From the foregoing it is apparent that each of these four projects were in different stages:

The Three Sisters Bridge had already been approved as to location and design.

The Potomac River Freeway had to proceed into the final stage to the right of way acquisition. The direction was to proceed to design this entire facility with construction to commence in a logical sequence as soon as designs have been prepared.

The Center Leg is already "under construction."

The East Leg still had some design problems. And the 18 months projects were an entirely different matter.

Now it is perfectly obvious from this factual situation that nobody in Congress was going to designate what provisions of Title 23 did not apply to any particular project because *all provisions applied to some of the projects.*

So Congress met the problem by stating in Title 23 section that only the "*applicable* provisions of title 23" would apply.[9] If Congress had intended all provisions to Title 23 to apply they would have said the projects were to "be carried out in accordance with . . . title 23" and thus have deleted "*all applicable provisions of.*" But by including the "all applicable provisions" phrase they have indicated that some provisions are *not* to be "applicable."[10] This is a perfectly reasonable standard and the provision that are not to be applicable are the provisions of Title 23 that do not apply in "logical sequence" to the individual projects because of the progress such projects had already made in planning, designing, approving, locating and contracting (constructing). In other words, I would not interpret Congress' action as directing that the project be backed up and that steps be taken that had already been satisfied and which the statement found had already been taken.[11] If such a flexible interpretation of the Title 23 provision is to be supplanted by a rigid interpretation that applies *all* the provisions of Title 23 to *all* the D.C. projects (as the panel opinion seeks), additional hearings could also be required on the *unfinished portion* of the Center Leg. This is one of the four projects referred to in section 23 and it is "under construction." Such would be an absurdity and hence the rigid application of *all* Title 23 provisions to *all* the projects must be rejected as unreasonable and obviously not intended.

It is likewise absurd to construe the Title 23 provision as indicating that Congress was directing location and design hearings on the Three Sisters Bridge since the "location" had been agreed to and the design had been approved. The panel opinion disregards the rule of reason in this legislation and overlooks the use of the word "applicable" in the congressional direction contained in the Title 23 provision.

The fact that Congress indicated that construction should comply with the *applicable* provisions indicated that there might be some provisions that were not applicable and I submit that the obvious conclusion from all the facts, the legislative history and the background, is that the direction to construct the Three Sisters Bridge "with no further action required by that or any other body" and the direction that the first substructure contracts be advertised for construction within 90 days of the enactment of the legislation is a clear indication that Congress was not directing that hearings be held on location and design of the Three Sisters Bridge.

The location and design provisions of Title 23 could well have some application to some of the other projects but they obviously were not intended to have any effect on the project that is already under construction (that is the Center Leg of the Interloop). And once it is recognized that the section 23 has to yield to such an interpretation with respect to the project that is "under construction" because only "applicable" provisions can apply and that it would not be a reasonable construction to require *duplication* of work, then *a fortiori*, the location and design provisions of Title 23 would not be applicable to the Three Sisters Bridge because its *location* and *design* had already been approved under procedures in effect at the time these features came up in logical sequence.

So it must be concluded, that the statement of the House Managers does not conflict with any provision of section 23, and in fact fills in the blanks of misunderstanding and misinterpretation that exist in the panel opinion. This is the usual function of such a statement which is one of the most reliable indices to legislative intent that exists in our national Congress. The House statement here is particularly important because section 23 originated in the House and it was the House Conferees that were pressing it. A person who drafts a particular provision is usually a reliable source as to what was intended by the language used.

The action directed by section 23 is well within the powers of Congress in dealing with the District of Columbia. *District of Columbia* v. *Thompson Co.*, 346 U.S. 100, 108 (1953):

"The power of Congress over the District of Columbia relates not only to 'national power' but to 'all the powers of legislation

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which may be exercised by a state in dealing with its affairs.' "

To the same effect is *Atlantic Cleaners & Dyers* v. *United States*, 286 U.S. 427, 434 (1932). Congress actually has power to legislate with respect to the District of Columbia in practically the same manner that a city council legislates with respect to the streets and alleys of a city. And it frequently does so. For example, see Chapter 502, Act of August 9, 1935, relating to the Union Railroad Station in the District of Columbia. 49 Stat. 568. *See also* Chapter 354, Act of May 29, 1930 (46 Stat. 482) for the acquisition, establishment and development of the George Washington Memorial Parkway along the Potomac from Mt. Vernon and Fort Washington to the Great Falls for an example of congressional legislation dealing with local public highways.

III

For the time being I pass over any questions under those sections of Title 23 that were in effect when the *Airis* action was brought in 1966. Only one action existed at that time for alleged failure to comply with applicable statutes. Each separate statute does not create a separate cause of action. Plaintiffs here, who must be considered the same as in *Airis*, cannot split their cause of action and now bring a second action on grounds they failed to include in *Airis*. *Bienville Water Supply Co.* v. *Mobile*, 186 U.S. 212, 216 (1902); *U.S.* v. *California and Ore. Land Co.*, 192 U.S. 355, 358 (1904); *Baltimore, S.S. Co.* v. *Phillips*, 274 U.S. 316, 319–320 (1927); *Hatchitt* v *United States*, 158 F. 2d 754, 756 (9th Cir. 1946). The bar is not absolute, but a strong public policy exists against vexatious and multiple actions and the court would do well to ignore plaintiffs' alleged grounds for relief to the extent that they existed in November 1966 when *Airis* was filed.

There are strong reasons here to invoke this rule because the panel opinion in its decision, for the second time, is frustrating a congressional directive. Following this court's first decision in *Airis*, Congress enacted section 23 to supply the congressional directive to the projects that the court had found to be absent in the first case. So to permit the same plaintiffs, with the court's concurrence, to obstruct the second congressional directive on grounds they failed to allege in their first action, and to do so under the guise of carrying out the intent of Congress,[12] is not a result that commends itself to sound judicial administration.

This however brings us to § 128 which was amended in 1968 so as to provide that:

"Any State highway department which submits plans for a Federal-aid highway project . . . shall certify to the Secretary [of Transportation] that it has had public hearings, or has afforded the opportunity for such hearings, and has considered the economic *and social* effects of such a location, *its impact on the environment, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community.*" Pub. L. 90–495, § 24, August 23, 1968, 82 STAT. 828. (Matter in italics was added by 1968 amendment.)

With respect to compliance with section 128 the Deputy Director of Public Records, Federal Highway Administration, Department of Transportation, Edgar H. Swick, by affidavit of October 16, 1969 which is substantially uncontroverted swears:

"Title 23, U.S.C. § 128 was complied with, public hearings held on the subject project on November 22, 1961 and November 24, 1964 and the District of Columbia requested approval of the project on September 21, 1966, within three years of the hearings."

The affidavit also states that prior submissions to the Federal Higway Administration by the District of Columbia government and the Metropolitan Washington Council of Governments had certified and demonstrated that "the social, economic and environmental effects of the bridge project and its consistency with goals and objectives of urban planning promulgated by the community were fully *considered*." This indicates that section 128 as it presently exists has been substantially complied with. Obviously it does not mean that *new* hearings have been held. A mere reading indicates that *new hearings are not required by the amended section*. The amendments of 1968 only required certification that certain local and environmental factors had been "considered." So no question exists as to proper compliance with section 128. It is also significant that appellants' affidavit on the hearing question does not deny that on November 24, 1964 certain hearings were held by the Commissioners of the District of Columbia with respect to the Three Sisters Bridge project.[13] In *D.C. Federation of Civic Associations, Inc.* v. *Airis*, 129 U.S.App.D.C. 125, 127, 391 F.2d 478, 480, (1968), at note 8, the court also indicates that a hearing in which specific evidence was introduced was also conducted by the Department of Highways and Traffic of the District of Columbia, citing a story in the Washington Star appearing on February 4, 1965, section A, page 1. With the record in this state there is no basis for sending the case back for section 128 compliance hearings. Full compliance shows from the record.

IV

Provisions dealing with the preservation of parklands were added to Title 23 (Highways) by congressional amendments in 1966 and 1968. These provided that after the effective dates of the Federal-Aid Highway Act of 1968, the Secretary of Transportation shall not approve any program or project which requires the use of certain publicly owned lands, such as park land, historic sites, etc., except after compliance with certain prescribed standards. With respect to these provisions of section 138 the Swick affidavit indicates compliance with the statute by the Secretary of Transportation when he approved the Three Sisters Bridge project on August 12, 1969[14] and determined at that time that there was no prudent or feasible alternative to the use of park land, recreation areas and historic areas and that all possible planning was performed to minimize harm to these areas. In doing so the prescribed standards were complied with and the memorandum of the Secretary of Transportation recites the facts with respect thereto. This disposes of this portion of appellants' complaint.

V

The Swick affidavit thus indicates that sections 128 and 138 have been complied with. If we were to consider the other principal claims of appellants which are rejected as barred because they could have been alleged in 1966. We note they are also answered by the Swick affidavit as follows:

"Title 23 U.S.C. § 103 was complied with (for the second time after prior approval had been rescinded) when the District of Columbia City Council voted on August 9, 1969 to comply with section 23. Appellants in an affidavit and seek to lessen the effect of this action but the Council action does put the project in compliance with section 103.

"Under Title 23 U.S.C. § 134 it was determined that the Three Sisters Bridge project was based on a continuous comprehensive transportation planning process carried on cooperatively by the District of Columbia, Virginia, Maryland and the various local communities with the objective of developing long range highway plans and coordinated programs for improvement in other forms of transportation. The Metropolitan Washington Council of Governments approved the project by letter dated December 29, 1967.

"Under Title 23 U.S.C. § 317, the Department of the Interior was fully informed of the use of park land for the bridge project and concurred in its use in the District of Columbia. The land on the Virginia side on August 25, 1969 was subject to a final agreement on certain matters."

In all three of these sections of Title 23 present compliance occurred subsequent to November 1966, though the City Council had previously approved and then rescinded.

VI

What then of the location and design hearings that the panel opinion directs? The decision in this respect flies into the face of the act which directs the government of the District of Columbia to commence *work* on the Three Sisters Bridge "not later than 30 days after the date of enactment of" section 23 and the direction in the statement that "the Congress directs that the first substructure contracts [for the Three Sisters Bridge] be advertised for construction within 90 days of the enactment of" section 23.

The holding of the panel opinion in this respect directs hearings on *location* and *design* under a Policy and Procedure Memorandum that was not even promulgated until January 17, 1969 (34 F.R. 727 *et seq.*) some *five months after* Congress passed the law directing that work *begin* on the Three Sisters Bridge within 30 days and that within 90 days "substructure contracts be advertised for construction."[15] How could construction bids for a bridge be advertised if the preliminary prequirements of location and design had not been determined? Is it not plain that Congress would not direct public hearings to be held that could change the location and design of a construction project they were directing be advertised for building bids?

It is true that the regulation does make provision for situations "with respect to a project on which a hearing was held . . . before the effective date of this PPM" but a reading of the PPM[16] indicates that it only relates to situations where a *hearing* was held prior to the effective date of the PPM and *no approval* of location or design was received thereafter. It does not apply to projects upon which a hearing was held[17] and approvals received in accordance with prior practices before the effective date of the PPM which was January 17, 1969. The PPM by its terms thus does not apply to the situation involving the approvals of location and design for the Three Sisters Bridge and the case should not be remanded for any hearing thereon.

To the extent that the panel opinion directs such hearings it creates a monstrous result and completely frustrates the expressed will of Congress. It arrives at that result by an incomplete consideration of the legislative history and an incorrect interpretation of floor statements. The net result is completely without any basis in the record and unjustified.

VII

What then is the meaning with respect to the Three Sisters Bridge of that provision in section 23 that directs "Such *construction* shall be undertaken as soon as possible after the date of enactment of this Act, except as otherwise provided in this section, and shall be carried out in accordance with all applicable provisions of title 23 of the United States Code.

"(b) Not later than 30 days after the date of enactment of this section the government of the District of Columbia shall commence work on the following projects:

"(1) Three Sisters Bridge, I–266 (Section B1 to B2)."

When everything is considered it seems clear that Congress was directing compliance with those provisions of title 23 "applicable"

Footnotes at end of article.

to the "construction"[15] of the Three Sisters Bridge. This would bring into play those provisions of title 23 relating to apportionment of appropriations (section 104), letting of contracts (section 112), prevailing wages (section 113), supervision of construction (section 114), availability of apportioned sums (section 116), federal share payable (section 120), payments to states for construction (section 121), relocation of utilities (section 123), advances to states (section 124), railway-highway crossings (section 130), equal employment opportunity (section 140), small business participation (section 304), etc.

Such interpretation of the sentence would be reasonable and would not attribute to Congress an intention to require duplication of prior planning that had already been completed with respect to the Three Sisters Bridge when Congress enacted section 23. With respect to projects which were not as far advanced as the Three Sisters Bridge, they would have to comply with requirements they had not fulfilled, before the amended requirement became effective. I would thus attribute to Congress the reasonable intention of not requiring duplication of work already completed according to then existing standards. This is the real intention that Congress meant to convey when it used the words "applicable provisions of Title 23" other than directing full "compliance with Title 23."

VIII

As for the claim that plaintiffs are a "voiceless minority" in the District of Columbia who are being made the subject of invidious discrimination, it should be recognized that plaintiffs here and their lawyers are actually some of the most articulate and politically powerful individuals in America. Their success in obstructing this project now for onto four years is mute testimony that they are not "voiceless." Actually, it is commonly recognized that their close proximity to the seat of Government, the influence of a favorable local press that articulates their position and the frequency with which members of Congress, long resident in the District and its environs, tend to acquire similar local interests to those of local residents, on many issues, gives them more actual influence in Congress than citizens of states.

And, most importantly, despite incorrect statements in the panel opinion, there is no showing that they have been discriminated against here. Each interstate D.C. highway project as it progressed from planning to construction was subjected to the same procedures under Title 23 as interstate state highway projects. The same law applied to all such projects, that being the law that existed at the time the D.C. or state project passed through each successive stage. There is no showing that amendments to the Federal highway laws were made to apply *ex post facto* to highway projects that had previously passed through particular stages *before* new provisions were added. The reason for this is that legislation generally is given a prospective application.

In passing it should be noted that the numerous Fourteenth Amendment cases on equal protection are well recognized as not applying to the situation here. Also, that "unjustifiable discrimination" under those rare Fifth Amendment cases does not exist here because (a) there has not been any refusal to accord D.C. residents any right afforded state residents at the same time, and (b) even if there had been it is not the grievous loss that is "so unjustifiable as to be violative of due process." *Schneider* v. *Rusk*, 377 U.S. 163 (1964); *Bolling* v. *Sharpe*, 347 U.S. 497 (1954); *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U.S. 123, 168 (1951) (Frankfurter, J., concurring); *and see Shapiro* v. *Thompson*, 394 U.S. 618, 641–642 (1969). *Goldberg* v. *Kelly*, ——— U.S. ——— (March 23, 1970) applied a similar standard to rights claimed under the Fourteenth Amendment. (See slip op. 8)

I would accordingly not require location or design hearings now on the unfinished portions of the Center Leg that is under construction, nor to the Three Sisters Bridge where location and design had previously been approved. It seems that the Potomac River Freeway and the East Leg have some design problems. Where they stand on location has not been presented or studied in this case. It appears that the 18 months projects are similarly in different categories as to title 23 requirements. Each project should be considered separately, but I do not consider that the 1968 amendments to title 23 or the 1969 PPM require any project to be backed up for different consideration of planning or construction phases that it had previously passed through. I would affirm.

FOOTNOTES

[1] Congress frequently legislates in this manner by referring to official reports or documents within the cognizance of the committee or Congress.

[2] Section 23 in the final bill was altered over section 23 as originally adopted by the House of Representatives. Generally the final draft reduced the number of projects upon which immediate work was directed and provided additionally that a number of other D.C. highway projects, in varying stages of readiness, be studied and reported on within 18 months.

[3] Senator Cooper was a member of the Committee on Public Works, was a member of the Conference Committee, but refused to sign the Conference Report. His views are obviously not the views of the Senate Committee or the Senate, which recommended, adopted and passed the Conference Report and bill.

[4] Rules of the House of Representatives of of the U.S., 90th Cong. (1967), Lewis Deschler, Parliamentarian. Rule XXVIII, Conference Reports § 911:

"1. (c) And there shall accompany every such report a detailed statement sufficiently explicit to inform the House what effect such amendments or propositions will have upon the measures to which they relate."

[5] Subsequent references to Senate debates refer to the Congressional Record for this date. Vol. 114, Cong. Rec., Part 18, p. 24030, July 29, 1968.

[6] Appellants here are not at war with the direction in the statement of the House Managers that "no intrusion of" Glover Archbold Park take place. In fact, they insist upon it being carried out.

[7] Senator Cooper also refused to sign the Conference Report as one of the Managers on the part of the Senate.

[8] It also directed immediate construction of all the highway projects now placed by section 23 in the 18 month study and report.

[9] Legislative bodies frequently provide that a statute designed for one purpose apply *mutatis mutandis* to another purpose.

[10] This is the provision the panel opinion says does not exist.

[11] The concurring opinion, by conclusory statements unsupported by factual analysis, fails to find in the statement of the House Managers the "specificity" it considered necessary to establish the standard to be applied in determining which provisions of title 23 Congress intended to be not "applicable." However, the provision of the *law* directing "work" to begin within 30 days furnishes all the "specificity" any person needs to see that Congress clearly did not intend *all* the provisions of section 23 to be applied *ex post facto*. The 30-day provision also is sufficient indication of a congressional intent that regulations promulgated *five months after* passage of the law were *not* to be considered as being within the "applicable" provisions of title 23.

[12] Arrived at by refusing to consider a substantial part of the legislative record.

[13] Affidavit of Robert M. Kennan, Jr. of October 17, 1969.

[14] Swick affidavit of October 16, 1969. *And see* Memorandum of October 15, 1969 of the Secretary of Transportation reciting basis of August 12, 1969 approval, Exhibit F to Swick affidavit.

[15] From the statement of the House Managers.

[16] d. With respect to a project on which a hearing was held, or an opportunity for a hearing afforded, before the effective date of this PPM, the following requirements apply:

(1) With respect to projects which have not received location approval:

(2) With respect to those projects which have not received design approval:

Policy and Procedure Memorandum, Bureau of Public Roads, Department of Transportation, 34 F.R. No. 12, p. 729, Jan. 17, 1969.

[17] The hearing requirement could not be construed as referring to prior separate hearings on design, because they were not required, but only to such hearings as were provided for. In these, design might be one matter discussed in a general hearing. But the PPM provision on request for design approval within three years, quoted in the panel opinion in footnote 54, has no application because by the forepart of the regulation it only relates to "those projects which have *not* received design approval." The Three Sisters Bridge is not in this category because its design had been approved by the Fine Arts Commission on Sept. 20, 1967 (Swick affidavit) and there is no indication in the PPM that prior approvals are to be reconsidered or reheard.

[18] The statutory definition of "construction" in title 23 is not strictly applicable because section 23 is not a part of Title 23.

## CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

## EQUAL-TIME REQUIREMENTS FOR CANDIDATES FOR PUBLIC OFFICE

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business which will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 3637) 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.

The Senate resumed the consideration of the bill.

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. PASTORE. 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. PASTORE. Mr. President, I offer an amendment for myself and the Senator from Kansas (Mr. PEARSON).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill insert a new section as follows:

"SEC. 2. (a) Section 315 of the Communications Act of 1934 is further amended by redesignating subsection (c) as subsection (d) and by inserting before such subsection the following new subsection:

"'(c) The total of (1) the amounts expended on the electronic media by any legally qualified candidate for the Office of the President or Vice President of the United States, United States Senator or United States Representative for such office in an election other than a primary election, and (2) the amounts expended by other persons, associations, groups, or committees on behalf of such candidate on the electronic media, shall not exceed an amount equal to 7 cents multiplied by the number of votes cast for all legally qualified candidates for such offices in the last preceding such election, or $20,000, whichever is the greater: *Provided*, That where there has been no election for the office of the United States Senator in the immediate preceding two years, the limitation on the amount expended shall be 5 cents multiplied by the highest popular vote cast for any statewide office in the preceding two years, or $20,000 which ever is greater: *Provided further*, That consistent with the other needs of the community broadcast licensees shall make a reasonable amount of time available for legally qualified candidates for federal elective offices during the hours 7:30–10:30 post meridien.'"

"(b) The amendment made by this section shall be effective after thirty days following the date of enactment of this Act."

Mr. PASTORE. Mr. President, last Thursday, April 9, I announced that I intended to offer an amendment to S. 3637 which involved the ceiling on the amount legally qualified candidates for Federal elective offices could spend on the electronic media. The amendment provided that the total of first, the amounts expended on the electronic media by any legally qualified candidate for Federal elective office in an election other than a primary election, and second, the amounts expended by others on behalf of such a candidate on the electronic media shall not exceed an amount equal to 7 cents multiplied by the number of votes cast for all legally qualified candidates for such office in the last preceding election, or $20,000, whichever is greater. In the event there has been no election for the office of U.S. Senator in the immediate preceding 2 years, the limitation on the amounts expended shall be 7 cents multiplied by the highest total popular vote cast for any statewide office in the preceding 2 years, or $20,000, whichever is greater.

I have revised the amendment to include a provision that would require a broadcast licensee to make a reasonable amount of time available for legally qualified candidates for Federal elective offices during prime times consistent with the other needs of the community.

The Federal Communications Commission, by regulation, would require broadcast licensees to ascertain from an authorized spokesman of the candidate that the money expended for the time he wished to purchase would not exceed the ceiling which the bill sets out.

The program logs which the stations are now required to keep would further aid the implementation of this provision.

We all know how campaign costs have gotten completely out of hand, and how the cost of broadcasting, especially television, has climbed steadily.

Human nature being what it is, each candidate feels compelled to match or outdo his opponent in the use of radio and television. And the wealthy candidate is able to inundate his poorer opponent.

We are all keenly aware of the great potential this media has for reaching the electorate and informing them, and the contribution it has made to political campaigning. But somewhere a saturation point is reached, and further use of the media simply escalates the cost of campaigning. The electorate begins to wonder why a candidate is willing to spend hundreds of thousands of dollars, and is some cases millions, for a job that pays $42,500 a year.

While all agree that something should be done, no one has come forth with a solution that is acceptable to all. And this is understandable because the subject is so complex, and the solution, to be effective, must be very simple and clean cut.

It puts a ceiling on the amount of money a candidate or anyone on his behalf may spend on the electronic media.

Moreover, Mr. President, as a condition of receiving a license to broadcast, and of having that license reviewed as it must be at least once every 3 years, a licensee must meet the needs and interests of the community he is licensed to serve. The FCC is required under the Communications Act to find affirmatively that he has and will do so.

Considering the importance and necessity of an informed electorate in a democracy, and the ever-increasing contribution political broadcasts make to informing that electorate, it would be difficult to comprehend how the FCC could find that a licensee was serving the public interest if he failed to make a reasonable amount of time available for legally qualified candidates for the important and significant offices of President, Vice President, U.S. Senator, or U.S. Representative.

Indeed, Mr. President, the legislative history of the 1960 amendments to section 315 of the Communications Act, the Commission's administration of the act, and the Court's interpretation of it, recognize quite clearly what a licensee's obligations are in this respect.

As I said on the floor when the Senate was considering the suspension of the equal time requirements for the 1960 presidential campaign:

> The Committee was impressed by the sincere desire of the broadcasters to meet their obligation of public service in the national political arena.

And, with respect to that same legislation, the distinguished former chairman of the House Interstate and Foreign Commerce Committee, Mr. Harris, said on the floor of the House:

> I feel deeply, Mr. Speaker, that the broadcasters of this Nation who have been given the privilege of operating broadcast facilities in the public interest have a public responsibility over political institutions.

The FCC and its predecessor, the Federal Radio Commission, have, from the earliest days, taken into account whether a licensee has met his responsibilities in the field of political broadcasts.

In the 1929 Great Lakes case, the Federal Radio Commission stated:

> In a sense, a broadcasting station may be regarded as a sort of mouthpiece on the air for the community it serves over which . . . its political campaigns . . . may be broadcast.

There are other cases, such as the city of Jacksonville, in re Loyola University, and in re Petition of Homer P. Rainey, where the FCC has said that a station's failure to carry political broadcasting as a policy matter, or the placing of restrictions on the amount of time that would be available for political broadcasts, left some gap in service to the community.

More generally, the Commission's concept of its statutory authority with respect to programing as set out in its policy statement on programing—1960—states that:

> The major elements usually necessary to meet the public interests, needs, and desires of the community in which the station is located . . . have included: . . . (8) Political Broadcasts . . .

The courts too have recognized the duty imposed by the Communications Act on licenses to carry political broadcasts in order to meet their public interest obligations.

In the WDAY case, the Supreme Court said that:

> The thrust of section 315 is to facilitate political debate over radio and television. Recognizing this, the Communications Commission considers the carrying of political broadcasts a public service criterion to be considered both in license renewal proceedings, and in comparative contests for a radio or television construction permit.

More recently, in the Red Lion case, the Supreme Court referred to broadcast licensees as "proxies for the entire community, obligated to give suitable time and attention to matters of great public concern."

Certainly this broad language encompasses the obligation of licensees to make a reasonable amount of time available to candidates for Federal elective office.

Mr. President, in order to avoid any misunderstanding as to the obligation of the licensee in making time available to candidates for a Federal elective office, I have included a proviso that clearly states that, consistent with the other needs of the community, a reasonable amount of time shall be made available during the prime time hours.

Mr. President, let me make a recapitulation of what the amendment does. The amendment I have sent to the desk for myself and my distinguished colleague from Kansas (Mr. PEARSON), as distinguished from the amendment we were talking about yesterday afternoon, provides that the amount that can be spent is 7 cents multiplied by the number of votes cast for a particular candidate in a particular office. Instead of 5 cents, it was raised to 7 cents because there were some persons who felt that perhaps the 5-cent figure would not be adequate to give to the public the exposure necessary in order to understand the issues and the candidates.

In addition, there is a further modification. It requires that the broadcaster shall make available, during prime time, reasonable time for the candidates, but

the allocation of that time must be consistent with the other needs of the community. In the allocation of the time, the other needs of the community—entertainment, cultural, educational, or what have you—shall be taken into consideration. In other words, we do not want the air waves during the campaign period saturated exclusively with political speeches. Of course, the broadcaster knows what the needs of his community are. For that reason, we are inserting that provision in the measure—mandating, of course, that some time must be available during prime time, but consistent with the other needs of the community.

I think that provision will meet with universal approval.

I understand the Senator from Kansas wants to ask me questions.

Mr. PEARSON. Mr. President, first I want to say that I join with the Senator from Rhode Island in his amendment. The matter of limitation was one that almost everyone agreed was necessary.

When we went into the particular limitation as to the amount that could be spent or the amount of time that could be purchased, I was among those in the committee who thought that a time limitation was a better device not only to make the possibility of seeking public office available to those of limited means, but also to make sure that when we put that limitation into effect we did not bring about a proliferation of greater spending than ever before.

As the Senator from Rhode Island said, the 5 cent per vote measurement was considered by many to be too severe.

I am in receipt of a communication that indicates in the State of Texas, for instance, it would be $125,000 under the old formula—a rather low amount for the State of Texas and an amount which other statewide candidates would exceed by a very large sum.

I am particularly grateful that the Senator incorporated in the amendment a provision that time must be made available to the candidates at the lowest unit cost.

I was, frankly, fearful, and had prepared a separate amendment on the possibility that individual stations might find it necessary to say to candidates that they just did not have time available at the lowest unit cost. The pragmatics of the situation, the business situation involved, may very well have shut out the possibility of candidates receiving time, and receiving it at the lowest unit cost.

If I could have the attention of the sponsor of the bill and the amendment, I want to go back to that part of the proposal which makes reference to the waiver of the equal-time provision of section 315 of the Communications Act of 1934. As I read the hearings and as I recall the hearings, Dr. Stanton, of CBS, and also the head of ABC, Mr. Goldenson, made reference to the point that they had in the past sought a waiver of section 315 so that they could make free time available to the candidates for President and Vice President.

I noted in the testimony of the hearings on the bill, S. 2876, that both the president of ABC and the president of CBS made specific reference to debates. I know the distinguished Senator from Rhode Island, chairman of the Subcommittee on Communications, expressed many times the feeling that this particular proposal has great freedom in it, and allows negotiation between the candidate and the broadcaster so that they can use the time as they see fit.

I know this is plowed ground, as they say in my part of the country, but I want to have it made clear for the record and nail it down again as a part of the legislative history.

Mr. PASTORE. Mr. President, will the Senator yield to me for an interruption?

Mr. PEARSON. I yield.

Mr. PASTORE. I will say to the Senator that if ABC, CBS, or NBC in 1972 insist upon a format without consultation with the candidates, and if they do not give this time to the candidates at the choosing of the candidates—and I am here—I will introduce a bill to repeal this provision. I want the record to show that declaration emphatically and categorically, just as I have said it, because that is my understanding.

There has been a tremendous amount of discussion as to whether a candidate for President of the United States should be placed in the position of being forced into a debate, without embarrassment, or with embarrassment if he did not accede to it. The business of "Here is the empty chair. Where is my opponent?"—if we are going to get into that sort of undignified format in presidential campaigns, the Senator from Rhode Island will be the first one to stand up and say, "Boys, you have had it. This is the end. You have had it."

My understanding is that they have pledged that they will give 30-minute segments—several of them—over to the candidate, and that the format will be at the choosing of the candidate.

If there is any misunderstanding about that—I want the record to show this clearly—I am saying right here and now, should there be any violation of this agreement, we will have it repealed the next time.

Mr. PEARSON. I thank the distinguished chairman. I think that is a very strong statement, and I think it spells out with particularity and with firmness precisely that concern which is on the minds of so many people.

I have not been in contact with the administration on this particular proposal, and I doubt whether we can control all the devices that candidates use. The Senator says we do not want to get into the old empty-chair gimmick. In all deference to the Senator, I doubt very seriously—he may have great influence with the networks, but I doubt how much influence we will have on the individual candidates, and what techniques they will employ.

But I do not think you can ever get down to writing restrictions to that degree. I think the Senator's statement does give all of us who are concerned about this particular part of the bill a great deal of reassurance.

I should like to direct another question to the distinguished chairman. The bill provides that the charges of any broadcasting station for any legally qualified candidate for any public office shall not exceed the lowest unit charge.

In the report—and I suppose within the Communications Act itself also—there is language that says that the FCC shall have the power to make rules and regulations to implement the purposes of this particular bill.

I understand that the lowest unit charge is something that is established by the broadcaster or by station policy. It may take in a large number of economic considerations. It is a matter, I suspect, that is a confidential sort of figure, and I am wondering—and I have an amendment prepared for that purpose—whether or not, in addition to the authority to establish rules and regulations by the FCC, the Senator from Rhode Island would think it expedient to spell out specifically that the lowest unit rate must be a figure that is furnished to the FCC to be kept confidential by the FCC except for those officers who might need to make reference to it in case some sort of controversy came up.

It seems to me this is a figure that ought to be a matter of record, even though it may change periodically.

Mr. PASTORE. I certainly would have no objection to that type of amendment. I would assume there would have to be a predicate for setting forth rules and regulations.

Stations have to keep logs, and I think they include in the logs at least some of these charges. I do not want to be held to that statement. But I would have no objection to that kind of amendment.

Mr. PEARSON. I shall furnish the Senator with a copy of the proposed amendment.

Mr. PASTORE. What the Senator is trying to do is nail down the condition that the lowest unit cost is the lowest unit cost. There will be no question about it, because it is already registered confidentially with the FCC.

Mr. PEARSON. That is the purpose of the amendment.

Mr. PASTORE. If the Senator will send it up, I will accept it.

Mr. PEARSON. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. HOLLINGS). There is an amendment pending.

Mr. PASTORE. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside, and that the Senate proceed to consider the amendment of the Senator from Kansas.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment of the Senator from Kansas will be stated.

The bill clerk read the amendment, as follows:

On page 2, line 6, after the period insert "The Commission shall require licensees to keep such records as may be necessary to carry out the provisions of this subsection. Information in such records shall be considered confidential for the purpose of section 1905 of title 18 of the United States

Code, except that such information may be disclosed to such officers or employees of the Commission as is necessary for the purpose of this subsection or when relevant in any proceeding under this Act."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. PASTORE. Mr. President, I ask unanimous consent that the Senate now revert to the consideration of my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The pending question is now the amendment of the Senator from Rhode Island.

Mr. PEARSON. Mr. President, I know that the Senator yesterday, in his prepared statement and also during the debate, dwelt upon the matter of enforcement—enforcement, specifically, of the 7 cents times the number of votes. I wonder if he would, once again, go through the existing regulations and procedures, and indicate how the enforcement of this limitation will be effective.

I put that question to him because among the reasons that some of us thought the time limitation might be a better limitation were the fact that each station was required to keep a log—these logs are available to all—and the fact that just about all dollar limitations in the election rules, regulations, and statutes heretofore imposed upon candidates have been honored more in the breach than in the observance. I am concerned about the enforcement of this particular limitation.

Mr. PASTORE. I can make it very simple. First of all, the FCC will require that the broadcasters keep a log.

The only reason why I thought that the time limitation was impracticable was simply that, let us say, candidate A goes to station B and buys time. Then he goes to station C and buys time. Now he has got to go down to station D to buy time.

When he gets down to station D, how does station D know how much he bought from B and C, unless it gets an affidavit from the other stations that he is not exceeding his time, and that the time he is buying is within the limitation he is entitled to?

There you are; you have D, a broadcaster, almost having to act as FBI to a candidate.

My method is very simple. I govern it by the amount of money. That has been the idea right along, to govern it by the amount of money you can spend.

The amendment requires that the candidate, or anyone or any group on his behalf, cannot spend more than 7 cents multiplied by the number of votes cast in the previous election. So all the candidate has to do is look at the result of the last election, when he ran for office or anyone in his community ran for that same office, and take the number of votes that were cast for that office by all of the voters for all of the candidates for that particular office, and multiply that figure by 7. Once he has done that, he has reached the maximum figure that he can spend, the total for radio or for television.

Now the question comes down to enforcement. Let us say I, in Rhode Island, am entitled by my formula to spend $25,000. I know I can spend only $25,000, and any committee acting in my behalf knows I can spend only $25,000.

So I have to come here before I take my seat and file with the Secretary of the Senate a record of the money that was spent.

If I have spent $50,000, instead of $25,000, I can be questioned about taking my seat. I have violated the law of this land, and the Senate can rise up and say, "You have disqualified yourself from taking your seat."

That has been done before.

In the second place, there are requirements in the law that cover this very matter, and I shall read it to the Senator. It is in the Communications Act now.

Mr. PEARSON. Mr. President, will the Senator yield before he reads?

Mr. PASTORE. I yield.

Mr. PEARSON. The statement filed with the Secretary of the Senate I frankly do not recall, from my own experience. Is that statement as to individual expenses, or expenses by individuals, committees, and other persons?

Mr. PASTORE. In this particular case, I would presume that this requirement would compel the candidate to tell his committee to file what they have spent for radio and television, if he cares to take his seat. Otherwise, what are we doing? Are we merely playing marbles here?

I hope we are serious about this. I hope we are not passing this law to allow everybody to work out a subterfuge in order to defeat its purpose. What we are trying to do here is bring these expenditures within reasonable limits.

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

Mr. PASTORE. I yield.

Mr. GORE. The Senator has just mentioned a very sensitive and important angle, and that is the subterfuge. As the Senator knows, the present corrupt practices law is utterly and completely ineffective, because any candidate can encourage the creation of committees, and his friends can create committees, with or without his knowledge and consent, and raise and spend unlimited amounts of money.

Now, the Senator has offered an amendment, and I would like to ask him about this point: In view of the circumstances I have cited, is the communications law broad enough, and is it the intent of the Senator's amendment, that such subterfuge be brought within the meaning and the intent of his amendment as to limitations?

Mr. PASTORE. Positively, because otherwise we are wasting our time. This is the easiest thing to govern. This can be governed better than the time element, because all you have to do is pick up the telephone and call the Chairman of the FCC, and within a short time they can tell you how much money you spent for your campaign on radio and television.

Mr. GORE. What about for those who spent——

Mr. PASTORE. Anybody in the Senator's behalf, because it is all cataloged. The committee has to say "Friends of PASTORE," "Friends of GORE." It has to say that. It is being done every day.

Mr. GORE. Suppose they do not actually use the name of the candidate. Is it still the intent of the Senator to cover expenditures in behalf of a candidacy?

Mr. PASTORE. Absolutely. If they do not use the candidate's name, they are wasting their money. For whom are they campaigning? They have to use the candidate's name.

Mr. GORE. Suppose a committee is organized in a State, not for PASTORE but against PASTORE, and the broadcast does not mention the name of his opponent, and they take the time to criticize Senator PASTORE, to use a personal example.

Mr. PASTORE. They are doing that every day. The news media is doing that to us every day. I cannot stop that. They write editorials every day and have editorials on television every day. That is another element.

Mr. GORE. I am talking about a campaign committee organized for the purpose of bringing about the Senator's defeat, and the committee buys time to criticize his record, without mentioning the name of his opponent.

Mr. PASTORE. That comes under the fairness doctrine. That is getting into another field.

Mr. GORE. Does the Senator's amendment cover that, also?

Mr. PASTORE. The law covers the fairness doctrine. The fairness doctrine was challenged by all the networks. They went to the Supreme Court, and the Supreme Court maintained and substantiated and upheld the fairness doctrine. That is how the situation came about with respect to cigarette ads. The Senator recalls the cigarette ads that said, "If you smoke too much, you might get lung cancer." That is how that came about—the fairness doctrine. Yes, if they start that, it comes under another rule.

I should like to read sections 501 and 502, Mr. President:

[Communications Act of 1934, as amended]

TITLE V—PENAL PROVISIONS—FORFEITURES

GENERAL PENALTY

SEC. 501. Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing, in this Act prohibited or declared to be unlawful, or who willfully or knowingly omits or fails to do any act, matter, or thing in this Act required to be done, or willfully and knowingly causes or suffers such omission or failure, shall, upon conviction thereof, be punished for such offense, for which no penalty (other than a forfeiture) is provided in this Act, by a fine of not more than $10,000 or by imprisonment for a term not exceeding one year, or both; except that any person, having been once convicted of an offense punishable under this section, who is subsequently convicted of violating any provision of this Act punishable under this section, shall be punished by a fine of not more than $10,000 or by imprisonment for a term not exceeding two years, or both.

SEC. 502. Any person who willfully and knowingly violates any rule, regulation, restriction, or condition made or imposed by the Commission under authority of this Act, or any rule, regulation, restriction, or condition made or imposed by any international radio or wire communications treaty or convention, or regulations annexed thereto, to which the United States is or may hereafter become a party, shall, in addition to any

other penalties provided by law, be punshed upon conviction thereof, by a fine of not more than $500 for each and every day during which such offense occurs.

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

Mr. PASTORE. I yield.

Mr. PEARSON. Does that relate to the broadcaster?

Mr. PASTORE. That relates to anything under this act, and this amendment comes under this act, and the broadcasting industry is under this act.

Mr. PEARSON. Reverting to the point I previously sought to make, I have made inquiry and have found that the reports, under existing law and regulations of the Senate, that necessarily must be filed with the Secretary of the Senate, refer only to individual expenses. There is no requirement at all that committees of a given Senator must file anything with the Secretary of the Senate.

Mr. PASTORE. In this particular case, the rules and the regulations inaugurated by the amendment will compel the FCC to make a record of expenditure. In turn, of course, they have the way and the method and the means and power to discover the amount very easily.

I think this is as airtight as anything can be. Of course, we can begin to conjure up and imagine many outlandish situations in which someone possibly could work out some small subterfuge. After all, I do not pretend to be the man who can write the perfect law. I do not think we have ever done that.

I think this is a sensible rule. It is very simple and plain. It speaks out very clearly as to what we intend to do. We have the mandate that the FCC shall watch it. The broadcaster will have to keep a log. A coordinator can be selected by the candidate. Each broadcaster can contact him.

In my State there are three television stations, and observation is the easiest thing in the world, because the fellow who will raise the question will be your opponent. The man who will raise the question that you were on there too much and spent too much money is your opponent. He is your best detective. I think this is easy to find.

As it is today, the sky is the limit. Anybody who has the money can buy all the time he wants. All he needs to do is form a little committee, and that committee can buy $2 million or $3 million worth of time, and there is no way to stop it.

We are getting to the point where this thing is getting out of hand, and it verges on the scandalous. The time is now and the place is here to do something about it. That is my only motive. If the Senate wants to go along with it, fine. On the other hand, if the Senate wants to reject it, I have done my best. I will have to wait and try again the next time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

RECESS UNTIL 1:45 P.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:45 o'clock p.m. today.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate (at 1 o'clock and 3 minutes p.m.) took a recess until 1:45 o'clock p.m., the same day.

On the expiration of the recess, the Senate reconvened when called to order by the Presiding Officer (Mr. CRANSTON).

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

The PRESIDING OFFICER (Mr. CRANSTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GORE. Mr. President, the pending bill and the pending amendment offered by the distinguished senior Senator from Rhode Island are very important measures. For years, I have sought some reasonable limitation on campaign expenditures. Now I think that the distinguished Senator from Rhode Island has, with his amendment and this measure, suggested a very practical approach that, while it would not solve all the problems, would at least inhibit the threat to democracy, to the democratic processes, to the very principles of government of the people, by the people, for the people that is posed by the abuse of the greatest communications and educational medium that this free people has ever known.

Television ought to be an instrument of education, of information, of entertainment, of leadership. We must safeguard its use, lest its use subvert democracy and defeat the democratic processes.

I had not thought of the approach which the able and distinguished chairman of the committee has suggested. Yesterday, after listening to his eloquent speech and to the debate, as I went to my office and then home last night, I fully intended to offer an amendment this morning. I had one prepared, with 100 copies for distribution to Senators. When I came to the Chamber this morning I intended to offer my amendment. But I have been persuaded by the chairman of the committee, and by the recitation of the law which he has cited, not to offer my amendment, but rather to support his.

He has made the legislative intent clear. I endorse his interpretation of the purpose of the amendment.

Mr. President, an election ought to be a time of serious discussion, a time when ideas are brought forth and debated, not for the sound they make but for their meaning; not for their marketability but for their merit; not for their packaging but for their content. The most vital single action of a self-governing society is the election of public officials.

It is remarkable, Mr. President, upon what a comparatively small group of men and women the every efficacy of our democratic process depends. Whom do the people elect in their Federal Government? A President, a Vice President, Senators, and Representatives. Surely this is a function so important that Congress should throw every possible safeguard around the purity of the ballot. Unless the will of the people can be determined and maintained in elections, there can be no government of, by, and for the people. Unless the elective process is surrounded by effective safeguards, there can be no real assurance that the will of the electorate will emerge.

In this day of slogans, labels, image making, and mass communication, a vulgar use of television, an abuse of media time, monopolizing the time of the television that goes into the homes of the American people, is a great danger to the democratic processes.

The theory of one-man, one-vote, is deeply imbedded in our system of elections, and our society has thrown safeguards around the casting of ballots, the counting of ballots, and the secrecy of balloting. We look upon voting as one of the inalienable political rights of citizens, and through the years we have extended the right to more and more segments of the population, and stricken down laws and rules and habits which would restrict it. Voting is one of our highest privileges. It is a duty, too, of course, but a personal duty which must be decided personally and not coerced either by a system of fines against those who fail to exercise their privileges or by an undue influence from any direction, particularly an undue influence from money in excessive amounts.

But we have a long way to go in protecting the public from this undue influence, a long way to go to make our voting system as free and as unhampered and as equitable as all of us would wish it to be. The country has not thrown proper safeguards around financial influences in Federal elections; and until a way to do this is evolved, the other ills must be considered secondary.

Senator PASTORE proceeds by his amendment to attack the area of greatest abuse, the area that invites the greatest abuse, the communication media, which can be so used as to mislead instead of inform, which can make candidates seem what they are not. We have but to refer to the title of a popular book, "The Selling of a President," without any uncomplimentary references to anyone, to recognize how potent advertising techniques with mass communication have now become.

Of course, these techniques are not confined—and the use of techniques of image making, of sloganeering, of sentiment manufacture, of attitudinal development—to one side. All candidates are now looking to this. But, Mr. Presi-

dent, when candidates look to it, the threat of democracy looms big.

What does a television advertising campaign cost in an average State? They are talking in terms of a million dollars for television in the average sized State. This does not take into consideration the headquarters, the printing, the newspaper advertising, the telephones, the travel of the candidates, the public address systems. From what sources does this money come? It does not come in adequate amount to some candidates. On the other hand, some have all they can spend. Now and then some spend so much that it reacts against them, fortunately.

The Corrupt Practices Act of 1925 and the Hatch Act of 1939 continue to form the basis of existing law dealing with the financial aspects of Federal elections, but these acts are wholly inadequate. Indeed, we would be just as well off with no law at all as with the Corrupt Practices Act.

There is one provision in law that I think has some wholesome effect, and that is the act that requires each Senator to file with the Secretary of the Senate a statement of the sources of earned income other than his salary—unless perchance it be a legal fee—and the amount. I think this is wholesome. I think it should also include legal fees, but that is beside the point here.

Money is the root of much political evil in our country, and the Senate has been considering ways to lessen that influence for more than two decades. I believe that this afternoon we are getting nearer to a solution of one particular threat to democracy—perhaps the single greatest one—than we ever have been, and I wish to congratulate the able chairman of the committee. We all know that he has cited here that the costs of campaigns have mushroomed and the practices of vested interests have become a threat to popular government. The influence, as I have said, of television and other expanding communications media, notably that of the advertising industry, has skyrocketed; and there is now widespread and justifiable public concern over the threat to popular government arising from the improper influence of money in elections.

The concentration of dollars poured out at election time serves to thwart the will of the American people both directly and, as I have tried to illustrate, subtly. Not many people would sell their votes directly, but the influence exerted by merchandising and image making does not come directly, and nobody is immune to it, either in the purchase of soap flakes or in the selection and election of a candidate.

Mr. PASTORE. Mr. President, will the Senator yield so that I may ask for the yeas and nays at this time?

Mr. GORE. I yield.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PASTORE. I thank the Senator.

Mr. GORE. To get at the dollar size of this problem, I served as chairman of a subcommittee a few years ago, and the subcommittee conducted an investigation. I have been a student of this matter for a long time, and I recognize fully the dangers that arise from use of money in elections.

There is something profoundly wrong about a system by which the election of a Senator in many States now costs a million dollars.

I might say, parenthetically, that such an election never cost me or my supporters as much as 10 percent of that amount. I do not know what the future will hold.

This problem is growing bigger and bigger, and the threat to the will of the people is becoming ever starker. Public confidence in government and in the integrity of the elected representatives of the people is the bedrock upon which the foundation of our system rests. Government is no more secure than public confidence in its institutions. Moreover, representative government cannot be truly representative unless the electorate has the opportunity to choose among the candidates on the basis of their qualifications, without improper influences, without undue influences which impede rather than aid a free choice.

Elections, Mr. President, are public business. Indeed, there is no aspect of the public business which more directly affects the quality of government and the public welfare than the act of election of the relatively few men and women, as I have said, upon whom this Government depends. Yet the present system of financing an election campaign makes a mockery of the free democratic processes. Money in elections, both as to source and amount, threatens to undermine public confidence in those who are elected and, thus, in the institution of government itself.

It is utterly impossible to finance a modern, mass media, statewide campaign with small $5 and $10 contributions from the rank and file of our constituents. This was once possible. It is no longer possible, if one should go the route of the image-making, mass-media advertising. The candidate who elects not to seek or accept this kind of money needed for a mass-media campaign is at a disadvantage.

Modern campaigning, with the tremendous costs of indispensable exposure on television, has vastly increased the advantage of the candidate with an adequately financed campaign.

Simply stated, money can buy an election without in any way violating our archaic election laws and without buying a single vote. The buying is more indirect and subtle.

Since election to public office is public business of the highest order, election to Federal office should be, in my opinion, publicly financed.

I have introduced a bill to provide for that, but to take effect only after each Member of this body has had an opportunity to seek reelection, or for his constituents to get an opportunity to choose under the present law.

Almost everyone agrees that something should be done. With such unanimity, it is remarkable that the law has not been changed; but it is also understandable. Perhaps it is not unlike a leaking roof that does not get fixed because when it rains, it is too wet to fix it.

Mr. PASTORE. Mr. President, will the Senator from Tennessee yield right there?

Mr. GORE. I yield.

Mr. PASTORE. The Senator has put his finger right on the problem. Everyone talks about the weather but no one does anything about it.

Mr. GORE. The able Senator is now proposing to do something about it, just before the storm breaks.

Mr. PASTORE. That is right.

Mr. GORE. This is a good time to do it. The gales will blow hard, the storms will rage, and the pocketbooks will open. Unless we establish some limit, the public will be subverted; at least the people will become disgusted with election riddles, rhymes, and jingles monopolizing the television in their living rooms.

Thus, I welcome this amendment, not as a cure-all, but as providing for a reasonable limitation on the amount of time the candidate and his supporter can purchase for television. It also protects the right of the people against having their television sets rendered to them, shall I say, obnoxious during the closing weeks of a campaign, because what they wish to listen to and see is taken off the air in order that the image-making industry can ply its trade.

Therefore, Mr. President, I shall, with enthusiasm, support the amendment of the distinguished senior Senator from Rhode Island.

Mr. President, I yield the floor.

Mr. MURPHY. Mr. President, I should like to say that I have thought a great deal about these matters, having been involved in the media myself, formerly as president and vice president of Desilu, and I know a good deal about it.

Unfortunately, I shall be forced today to oppose the amendment because of the timing.

I am presently a candidate in the great State of California in the primary election. I have opponents, one of whom, at least, has announced that he will spend an astronomical sum of money.

Thus, if I should vote for the pending amendment today, even though I have complete sympathy for it, it may be misconstrued as being a defensive tactic on my part because I would not be able to match that sum of money.

So, for that reason, while I agree with the amendment in principle, I would have to oppose it for practical reasons.

Mr. PASTORE. Would it not satisfy the Senator's conscience if he just voted "present"?

Mr. MURPHY. I thank the Senator.

Mr. PEARSON. May I interject here that the amendment does not pertain to primary elections at all.

Mr. MATHIAS. Mr. President, the Senate owes a debt of gratitude to the distinguished Senator from Rhode Island (Mr. PASTORE) for the careful attention and the thoughtful work that has been done in bringing this legislation to the floor.

We have observed inflation in many fields of American life. We see it in the

grocery stores. We see it in higher rents, in the cost of borrowing money, and so forth. But, perhaps inflation has been nowhere more dramatic than in the necessary job of conducting the critical campaigns upon which the Government and the democratic representatives of the Republic rest. The cost of campaigns, not alone to select public officials but are supposed to illuminate the issues and help to educate the public. It is not just a question of whether an individual member is chosen to discharge certain duties for a term of years, but it is also to let those men contending for jobs discuss the public issues in a way that the entire population can be involved and engaged in the business of government.

Yet, inflation, which has hit campaigns, has, I think, confronted us with the absolute necessity for some revisions in the ways we are going about the business of conducting political campaigns.

The impact of the mass media is something about which we can argue whether it is good, bad, or indifferent. But the fact is, they are with us. We have to deal with them pragmatically and as a fact of life. In dealing with the mass media we have to consider that we have two possibilities; namely, to reduce the rates of the time the mass media are available; or to make time available.

I think that these are the choices, to limit the expenditures of money and to limit the time. But whatever choices we make, we have to do something. The pending bill may not be the ultimate that could be achieved, but it is a step in the right direction.

I think the amendment is a reasonable amendment. I shall support both the amendment and the pending bill with a great deal of fervor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island (Mr. PASTORE).

Mr. GRIFFIN. Mr. President, I shall vote against this amendment with mixed feelings. The escalating cost of television exposure in political campaigns is a serious problem. But the same point can be made as to other forms of political advertising.

To limit expenditures for television in a campaign, without imposing realistic limits on other forms of advertising, merely penalizes one industry to the advantage of others.

I believe that realistic and enforcible overall ceilings on campaign spending in particular races can, and should, be imposed. But then a candidate should be able to decide how, and through which media, he may wish to advertise.

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

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

The question is on agreeing to the amendment of the Senator from Rhode Island. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURPHY (when his name was called). Present.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wisconsin (Mr. NELSON), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that 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 West Virginia (Mr. RANDOLPH), and the Senator from Connecticut (Mr. DODD) would each vote "yea."

I further announce that, if present and voting, the Senator from Minnesota (Mr. MCCARTHY) would vote "nay."

Mr. GRIFFITH. 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 Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) would each vote "nay."

The result was announced—yeas 50, nays 35, as follows:

[No. 130 Leg.]

YEAS—50

| | | |
|---|---|---|
| Allen | Hartke | Moss |
| Bayh | Holland | Muskie |
| Burdick | Hollings | Packwood |
| Byrd, Va. | Hughes | Pastore |
| Byrd, W. Va. | Inouye | Pearson |
| Cannon | Jackson | Proxmire |
| Case | Javits | Ribicoff |
| Cooper | Jordan, N.C. | Sparkman |
| Cranston | Kennedy | Spong |
| Eagleton | Long | Symington |
| Ellender | Mathias | Talmadge |
| Fulbright | McGee | Tydings |
| Goodell | McGovern | Williams, N.J. |
| Gore | McIntyre | Williams, Del. |
| Gravel | Metcalf | Yarborough |
| Harris | Mondale | Young, Ohio |
| Hart | Montoya | |

NAYS—35

| | | |
|---|---|---|
| Aiken | Fannin | Prouty |
| Allott | Fong | Saxbe |
| Baker | Goldwater | Schweiker |
| Bellmon | Griffin | Scott |
| Boggs | Gurney | Smith, Maine |
| Brooke | Hansen | Smith, Ill. |
| Cook | Hatfield | Stennis |
| Cotton | Hruska | Stevens |
| Curtis | Jordan, Idaho | Thurmond |
| Dole | McClellan | Tower |
| Dominick | Miller | Young, N. Dak. |
| Ervin | Percy | |

ANSWERED "PRESENT"—1

Murphy

NOT VOTING—14

| | | |
|---|---|---|
| Anderson | Eastland | Nelson |
| Bennett | Magnuson | Pell |
| Bible | Mansfield | Randolph |
| Church | McCarthy | Russell |
| Dodd | Mundt | |

So Mr. PASTORE's amendment was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN and Mr. INOUYE moved to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the amendment of the House to the bill (S. 3690) to increase the pay of Federal employees.

## EQUAL-TIME REQUIREMENTS FOR CANDIDATES FOR PUBLIC OFFICE

The Senate continued with the consideration of the bill (S. 3637) 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.

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 and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. PASTORE. Mr. President, on that question, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HART. Mr. President, very briefly, let me say that I think months ago no one would have anticipated that we would reach this point with a proposal so difficult and yet so important. I rise not to delay the Senate or my colleagues on the vote, but simply to express deep admiration to the Senator from Rhode Island (Mr. PASTORE), who has, along with the Senator from Kansas (Mr. PEARSON), managed to bring us to this moment, a very signficant one.

Those of us who were close to this proposal from the outset never permitted ourselves to believe it was possible. It would not have been possible if it had not been for the skill and understanding of the Senator from Rhode Island, and I congratulate him.

Mr. DOMINICK. Mr. President, I had not intended to speak on this matter at all, but in view of the fact that the amendment has passed, I think there might be things that are of interest to point out.

The Senator's amendment would limit the amount that any candidate could spend in a general election, but leave it wide open for a primary; so if you wanted to, you could spend a million dollars a vote in a primary election, but in a general election you could spend only 7 cents a vote. I find that very difficult to reconcile.

The second unfortunate thing about

this bill is that it has the earmarks of a congressional price control bill.

Congress is saying that it is going to regulate broadcasting rates. Congress has refrained from regulating rates on past occasions and has left that responsibility to regulatory agencies. We are incorporating ourselves as a special committee to take advantage of lower rates so that we can afford more TV, and at the same time are saying we cannot spend in excess of a certain amount. The net result is that we are regulating the advertising field, both in radio and television by placing an advertising ceiling on candidates and at the same time we are seeking to exercise a form of price control on the broadcasters.

Though, like everyone else, I would like to see the cost of campaigning reduced, for the reasons I have stated I find myself unable to support the bill.

Mr. PASTORE. If I may respond briefly to the statement of the Senator from Colorado, first, we did not include the primary for the simple reason that the primary is not included under the Corrupt Practices Act. I think in due time that should be taken care of as well; but I believe that to attempt to include the primary now would only confuse the issue.

Mr. DOMINICK. But I am correct, am I not?

Mr. PASTORE. I quite agree that in the future, even that should be taken into account.

As to the Senator's comment on the question of rates, that is not correct at all. All we are saying here is that in no instance shall a broadcaster charge any candidate, be it for the Presidency, for the Vice-Presidency, for the Senate, for the House of Representatives, for a governorship, or for any State or local office, even on a school board, more than the lowest unit charge they make to advertisers.

There is nothing wrong with that, for the simple reason that the public is entitled to have the issues and the candidates before it. If they are going to be permitted to raise these prices indiscriminately during election time, they can do it as a means to avoid political advertising. We simply provide that they cannot charge more than the lowest unit cost they have already instituted with reference to their commercial advertising.

Mr. DOMINICK. I am correct, am I not, that there is no limitation as to what you can spend in primaries, but there is in general elections, as far as this bill is concerned?

Mr. PASTORE. That is correct.

Mr. CURTIS. Mr. President, I should like to ask the distinguished Senator from Rhode Island a question. What enforcement provisions are there for this limitation on expenditures for advertising on the electronic media?

Mr. PASTORE. Section 501 of the Communications Act of 1932. Anyone who knowingly or otherwise violates any of the provisions of the Communications Act is subject to a fine not to exceed $10,000, or imprisonment for no more than 2 years, or both.

Mr. CURTIS. In that regard, the distinguished Senator's amendment also provides that the amount expended by other persons, associations, groups, or committees on behalf of such candidate on the electronic media shall not exceed the amount designated. I ask the Senator, who is to be punished, the candidate or the group that goes over the line, or the last group to make an expenditure, or what will be the procedure?

Mr. PASTORE. Mr. President, the candidate would be foolish if he allowed anyone to act in any way that would violate the law, so that he would jeopardize his seat in the Senate.

Mr. CURTIS. I inquire further, Is the candidate responsible, then, for holding other persons, associates, groups, or committees within the limitation here?

Mr. PASTORE. He is responsible, naturally, because he has to file with the Secretary of Senate; and, furthermore, the FCC will have access to logs, and we have already agreed to an amendment whereby they will institute regulations and have the broadcasters file with them.

It is the easiest thing in the world to detect. First of all, your best policemen is your opponent; and, second, it is a simple step to pick up the telephone and call up the FCC and have them interrogate the various television stations in your locality, and find out how much has been spent. They have to have a record of it. They have to log that, under the law.

Mr. MURPHY. Mr. President, will the Senator yield for a question?

Mr. PASTORE. After I have yielded to the Senator from Nebraska.

Mr. CURTIS. I agree very much with the objective and purpose of this bill, as amended. I do not think it would work. Over a period of years, the Subcommittee on Privileges and Elections of the Committee on Rules and Administration has heard much testimony on how to limit campaign spending. It is most difficult. I think there are some things that could be done; perhaps the shortening of the campaign period, and there are other things, but dollars limits will not work.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. EAGLETON). The Senate will be in order, so that the Senator can be heard.

Mr. CURTIS. I do not believe there is an effective way and a fair way that you can hold the candidate responsible for all the broadcasting that takes place.

Suppose a group or association buys time for some other purpose, and they invite a candidate, because he is deemed newsworthy, to take part in it. In what category would that fall?

Mr. PASTORE. That falls under the category of the fairness doctrine. It is in the law. It has been substantiated by the Supreme Court.

Mr. CURTIS. Well, there are no guidelines for it.

Mr. PASTORE. It is in the basic law. The fairness doctrine is in the basic law. It was challenged by the networks and others and taken to the Supreme Court, and the Supreme Court upheld it.

I mean, you cannot take advantage of another individual by subterfuge of that kind, under the fairness doctrine. It is all basic law: the fairness doctrine.

Mr. CURTIS. Let me ask the Senator another question. Suppose someone is angry at a candidate; perhaps it may be an incumbent.

Mr. PASTORE. You do not have to suppose that. That usually happens.

Mr. CURTIS. Yes. Suppose he says, "I do not care who is elected, but I am going to tell what I think about candidate X," and he does not utter one word in behalf of any candidate, in his entire broadcast. Does that come within the limitation for the opponent of candidate X?

Mr. PASTORE. Say that again. If he does not mention the candidate, how could it?

Mr. CURTIS. No, he does not speak a word in behalf of any candidate. He spends all his time for the purpose of broadcasting against a candidate. Does such an expenditure come within the limitation?

Mr. PASTORE. No, that would come under the fairness doctrine. The person aggrieved could apply for opportunity to reply—of course—to answer the charges.

Mr. CURTIS. Even though the person answering had already spent up to his limit?

Mr. PASTORE. Yes. That is under another category entirely. That is the fairness doctrine.

Several Senators addressed the Chair.

Mr. PASTORE. I yield first to the minority leader.

Mr. SCOTT. Mr. President, would the Senator be good enough to clarify a situation where the candidates have budgeted their allocations for television within the limitations of this act, and then some other organization, not purporting to act on behalf of either candidate, undertakes, for the education of the public, to discuss the issues, and in the course of the discussion of the issues indicates quite clearly, although perhaps impliedly, that one of the issues is the defeat of one of the candidates, or the election of the other? Would the proliferation of such television programs be covered in the purview of this bill?

Mr. PASTORE. No, that would come under the fairness doctrine. You would have extra time that you could get under the fairness-doctrine rule, because it does not come within the purview of this bill.

Mr. SCOTT. Under the fairness-doctrine rule, if such organizations, well endowed with funds, were to continue to assault a candidate, and the candidate were not well endowed with funds, the application of the fairness rule is of no use to him, since he would have to pay for the time to answer; is that not correct?

Mr. PASTORE. Well, the other party has to pay for the time as well. But that exists today. There is nothing we can do about that, really. Those are facts of life. I cannot change the pattern of America.

Mr. SCOTT. But could a candidate not be driven into the ground by simply using up so much network time and the

expenditure of so much money that the person who is defending himself would be unable to raise that amount of money to defend himself?

Mr. PASTORE. Unless there would be a backlash. Unless there would be an aftermath. We have to realize that the American public is for a fair deal, and we love the underdog. If it is a matter knocking anybody the way the Senator is talking about, an attack by some of these groups who think they are going to destroy a person and his reputation and integrity, then the American people will respond in their own fashion.

Mr. SCOTT. It is usually the advocates of the underdog who are busy trying to destroy somebody.

Mr. PASTORE. We have that today. We have organizations that are conservative and we have organizations that are liberal. That is a continuous contest. This has gone on ad nauseam. We are trying to do something about it, but we get into censorship. Newspapers will write editorials about us, broadcasters will speak editorials about us. When one is in public life, he is subject to that sort of thing. The only thing one has for his protection is the fairness doctrine.

I think that any person or any group that starts out to malign a candidate through the medium, about which the Senator has asked a hypothetical question, such person will find they cannot buy that kind of time from a reputable broadcaster, because broadcasters will not stand for it. That is the actual reason why they have not been selling the time. The networks have not been selling the time to some of these groups—so much so that when the Democratic National Committee got in touch with me at one time saying they wanted to buy some time to put their case before the public, the answer has been generally "No" up to now. They do not sell time that way, for fear they will be approached by the fringe groups and the outside groups that actually get into the pamphlets and propaganda where they malign people.

After all, that is a fact of life that I cannot change and this bill cannot change and no one can change, because they campaign under the rule of censorship.

Mr. SCOTT. The Senator does agree that the situation I have postulated could happen?

Mr. PASTORE. Absolutely. It is happening today, and will happen whether this bill is passed or not.

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

Mr. PASTORE. I yield.

Mr. MURPHY. My distinguished colleague has asked a question about an infraction of the rule with respect to expenditures and the blame falling on the candidate. My colleague stated a case in which someone wanted to buy the time, break the rule, and attack the candidate, and this would be blamed on the candidate. Suppose somebody bought the time and spoke for the candidate, in order to bring the candidate under an infraction of the rule. This is possible.

Mr. PASTORE. The question is getting a little complicated.

Mr. MURPHY. This is a complicated matter.

Mr. PASTORE. If this group is acting with the acquiescence and consent of your opponent and that would be their only motive, that time perhaps could be charged to the opponent.

Mr. MURPHY. When do you prove this—during the campaign, afterward, the Saturday night before?

Mr. PASTORE. You prove it if your opponent should win and try to take his seat in Congress. Your colleagues will stand up——

Mr. MURPHY. This is after the election is over.

Mr. PASTORE. That is correct.

Mr. MURPHY. That is a very dangerous situation.

Mr. PASTORE. Will the Senator permit me to finish my statement?

You are subject to denial of your seat if you violate the law.

Mr. MURPHY. I understand that.

Mr. PASTORE. In your particular case, if your opponent is not involved and any group speaks against your candidacy or speaks against you, you have a perfect right, over and beyond what is in this bill, to ask for time under the fairness doctrine.

Mr. MURPHY. I said suppose he speaks for me. Suppose a group comes in and they find that I have already spent the permitted 7 cents a vote, and they buy extra time, and they do not attack me. They speak for me.

Mr. PASTORE. They cannot do it.

Mr. MURPHY. Let me finish.

Suppose someone says, "Wait a minute. This fellow broke the rule." Now there is a headline that says he broke the rule; he broke the rule of the good Senator from Rhode Island which has been laid down today. Now you go into litigation—there are charges and countercharges. By the time you have any proof one way or the other, the election is over, the damage has been done, and I do not know how it can be repaired.

This is a very complicated matter. I understand the situation, and I congratulate my distinguished colleague for trying to take it on and unravel it. But I am afraid that parts of this bill could react in ways that even he has not perceived. I am sure there are possible problems that I have not perceived.

Mr. PASTORE. If we sit around long enough, we can even stir up a nightmare. The point is that in your particular case——

Mr. MURPHY. I wish the Senator would not refer to my particular case. I stated that earlier.

Mr. PASTORE. All right; in the case that the Senator has cited.

Mr. MURPHY. Yes.

Mr. PASTORE. We have already adopted an amendment here that the FCC must make rules and regulations and a broadcaster must keep a log. While all this is going on, the Senator still has it within his right to pick up the phone and have the FCC make an investigation, even while the campaign is going on.

Mr. MURPHY. I am not sure that would be possible. In a State as large as California, this would be a matter of pretty extensive bookkeeping. I doubt very much whether the FCC could provide that figure. In my 5 years' experience as a Senator, I doubt if one could get the figure in perhaps 6 months; by which time it would be way too late.

Mr. PASTORE. This is a very simple matter, written very simply, to do one thing. We are saying here that insofar as the campaign is concerned, no candidate or no group on his behalf can spend more than 7 cents multiplied by the number of votes at the last election. The reason for that is to bring this whole, scandalous thing into a good, sensible context. That is the only reason.

I suppose we could imagine many situations in which possibly this would not be a perfect law. I do not think a perfect law has ever been written. Perhaps experience will lead us out of the darkness. The fact remains that this is a simple procedure, and we ought to give it a chance to work. If this does not work, I do not know what we can do to bring these expenses into proper gage.

Mr. MURPHY. I agree with the Senator that this is a most noteworthy attempt. My concern is that this is such a complicated field, that I wonder whether it can be handled properly by such a simple approach. Generally, I am in favor of a simple approach, so that everybody can understand it. But as I consider this present problem, I see more and more possibilities of complexities being injected which disturb me greatly.

I thank my distinguished colleague for his response. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I should like to associate myself with the original remarks of the Senator from Colorado, and say that the Senator from Rhode Island said that he did not think he could change the pattern of American politics.

Mr. PASTORE. I did not say that. I said "American life." I am changing the pattern of American politics with this bill. But the idea that a man can say what he thinks and think what he likes—I cannot change that.

Mr. COOK. Does the Senator from Kentucky have the floor, Mr. President?

The PRESIDING OFFICER. He does.

Mr. COOK. Mr. President, I think we ought to call this what it really is. I think we are changing the pattern of American life, and I think we are changing the pattern of American politics; because I think we could call this an incumbent's bill. I think it is obvious when we look at the far side of the aisle to see that only three members of the opposite party voted against this amendment.

I merely want to say that I do not really think it is scandalous, as the Senator from Rhode Island said, because this merely says that you can spend on one medium only 7 cents per voter who voted in the last election. That merely means that you can go to the same contributors and be a captive of the same facilities and say, "This time you only have to give us less," or, "We will need more for pamphlets, more for automobiles, more for everything." But we can only spend so much on television.

I can only say that I honestly and truly believe that by saying that you are going to adopt an amendment, as the Senator from California said, in which

your recourse is to call the Federal Communications Commission and say, "How much time has my candidate in my State used?" the election is going to be over before you find out.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. COOK. I yield.

Mr. TOWER. Would the Senator from Kentucky like to speculate on why State officeholders were not included in this particular provision? It seems to me that it should apply to Governors, attorneys general, land commissioners, and what have you.

I note a very fortuitous circumstance here, and it is that the Republicans seem to be in the incumbency in State governments throughout the country and the Democrats seem to be in incumbency in Congress. I am sure it is purely fortuitous, but I wonder whether the Senator from Kentucky would like to speculate on that.

Mr. PASTORE. I can answer that question.

Mr. COOK. I would rather have the Senator from Rhode Island answer that.

Mr. PASTORE. We considered that fact. I was for putting the whole State ticket on it, but on second thought, we wrote it in our report and thought we were getting into State's rights.

The last man in the world that would want to do that would be the Senator from Texas. We did not want to get into States rights.

Mr. TOWER. If the Senator will yield further, the Federal Government has the power to regulate communications media, so it can also regulate State offices for State use, as well as national use.

Mr. PASTORE. Not under the Corrupt Practices Act. Each State does its own. But we write in the report that we would seriously recommend the States pass comparable laws. We say that in the report.

Mr. COOK. A great deal has been said in the report that the Republican Party in the last election spent more money than did the Democratic Party on the media. I would suggest that the party out of power does not have the advantage of the political party in power and has to spend as much. But I would suggest that the report did suggest, and in debates on this floor, that 4 years ago the party in power spent twice as much money as the party out of power.

Mr. PASTORE. I said that.

Mr. COOK. I can only say that I again associate myself with the remarks of the Senator from Colorado. I could have voted for this without the amendment, but because of the terms of the amendment, I cannot vote for it.

Mr. BAKER. Mr. President, will the Senator from Kentucky yield?

Mr. COOK. I yield.

Mr. BAKER. I wonder if the Senator from Kentucky knows any other example of a situation where the Federal Congress has attempted to establish the dollar rate for any TV time for any purpose.

Mr. COOK. Under no circumstance.

Mr. BAKER. I might ask the Senator from Kentucky further if this might be the first example of a situation where the Federal Government, in this case the legislative branch, has called the networks of the local stations on the carpet and told them how they should perform in a political manner?

Mr. COOK. One of the things which disturbs me about the amendment is that it will federalize the communications system in this country, to which I have serious objection.

Mr. BAKER. I might say to my colleague from Kentucky that he knows of the criticism of the Vice President of the United States for his remarks in connection with news coverage and other matters concerning television performance. He knows that there was nothing in what the Vice President said that there should be statutory regulation, or the apportionment of time, or anything like that; is that not correct?

Mr. COOK. So much so that there were some Members of this Senate who filled up the CONGRESSIONAL RECORD with their comments criticizing the Vice President's statements.

Mr. FONG. Mr. President, will the Senator from Kentucky yield?

Mr. COOK. I yield.

Mr. FONG. As I read the amendment, it states that we can expend only $20,000 for the candidate but we can spend millions of dollars against him. Is that correct?

Mr. COOK. That is correct.

Mr. PASTORE. No.

Mr. COOK. Unless, under the fairness doctrine, the candidate can impose a restriction under the fairness doctrine.

Mr. FONG. It says here:

> The total of (1) the amounts expended on the electronic media by any legally qualified candidate for the office of President or Vice President of the United States . . .

And then it says:

> (2) the amounts expended by other persons, associations, groups, or committees on behalf of such candidate.

So it means that we are limited to a small amount in behalf of a candidate, but we can expend any amount of money against him; is that not correct?

Mr. COOK. That is really not true, because under the fairness doctrine, we can really register a complaint on this; but it would mean that the Senator from Kentucky, say, would have to have the stations monitored at Chattanooga, Tenn.; Bristol, Tenn.; Huntington and Charleston, W. Va.; Cincinnati, Ohio; Cape Girard; Evansville, Ind.; Nashville, Tenn., to see to it that someone did not go on television not in favor of a candidate but against me as a candidate, and therefore I would have to have monitored all those TV stations, or have someone designated to monitor them, so that I could file a complaint with the FCC under the fairness doctrine.

Mr. FONG. Suppose we have a situation like that in New York, where there is a conservative party candidate, there is a liberal party candidate, and there are candidates of the national parties. Suppose the liberal party does not only want their own candidate, or suppose the conservative party does not only want their own candidate, but the conservative or the liberal party may want to help a member of the Democratic Party. They could expend any amount of money attacking a member of the Republican Party, could they not?

Mr. COOK. They would not even have to spend an unlimited amount. They could spend all the money authorized under the bill, not on behalf of their own candidate but against a candidate of another party. This would operate to favor the candidate of a party that they would like to see win, if their candidate could not.

Mr. FONG. Under the bill, if they were fighting a candidate, they could expend this amount of money against him, but all groups helping a candidate could only spend up to $20,000, or 7 cents per vote, in his behalf, is that not correct?

Mr. COOK. Mr. President (Mr. BELLMON), I say to the Senator that I am not sure they could spend any amount of money, but I must say that where one would have to have a scorecard to keep account of a candidate, that would be difficult to do.

Mr. FONG. It would be very difficult to enforce.

Mr. COOK. It would.

Mr. SCOTT. Mr. President, I think it is unfortunate that the amendment is in the bill. The amendment has been added to the bill. This would be a desirable bill and as such should be passed with the greatest possible majority, but I know now that that is not going to happen, I suspect, because of the addition of this amendment which may not be workable and seems, as I see it, to be unfair to some of the potential candidates.

It seems to be an amendment which, it has been pointed out, penalizes the nonincumbent but goes further than that and limits what candidates may spend and yet permits unlimited expenditures by anyone who has it in for a candidate, unless a candidate can protect himself, as the Senator from Kentucky has said, by monitoring every station in his State and adjoining States.

I have been supporting the bill without the amendment. At the moment, I must say that I am uncertain as to what I will do, because I do not think that this amendment is one which is designed entirely in the national interest but may, perhaps, be geared toward the difficulties of certain individual candidates.

Mr. COOK. I could not agree more with the Senator. I would add that I think that, in all we have been discussing, the most damaging part of the amendment in the bill as it now is, is that it will be considered throughout the country as an incumbent's bill.

Mr. President, I yield the floor.

Mr. COTTON. Mr. President, I will not detain the Senate more than 2 or 3 minutes.

We considered the bill in executive sessions of the Committee on Commerce with some care. I want to say here and now that I think the committee is, and the Senate should be, grateful to the distinguished Senator from Rhode Island, who has for the past number of years sincerely, objectively, and honestly worked to try, in his capacity as chairman of the Communications Subcom-

mittee of the Committee on Commerce, to improve and perfect, insofar as is humanly possible, the laws relating to the use of the electronic media for political as well as other purposes.

No one on the Committee on Commerce, I can assure the Senate, would attribute to the Senator from Rhode Island any motive other than the desire for good legislation.

In the committee, however, it was the position of the Senator from New Hampshire that he could and would support the bill as it was reported to the Senate. However, he could not approve of any of the amendments that were then offered, including the amendment of the Senator from Rhode Island for a limitation. I therefore regret to say, reluctantly, that I cannot vote for final passage of the bill with this amendment included in it.

It is almost impossible to devise a control of this type that does not create more problems than it will solve.

In the first place, there was a good deal of discussion by members of the Committee on Commerce who wanted to put a limit on campaign expenditures in the field of television, as to the kind of limit, whether it should be a dollar limit, or whether it should be a time limit on the number of hours that a candidate would be allowed to purchase and use on television. There was a good reason for the considerable discussion of a limitation. The candidates of various States cannot buy television time at the same rate.

There are States like my own—and I could name some others—where one cannot secure adequate coverage unless he goes into a large city in another State and covers a whole group of States. Often, it is the only way a candidate can reach the people of his own State.

This means that candidates in such a situation have to pay much more per hour or per minute for their coverage. So when we fix a monetary limitation, we are creating a situation in itself that is unjust.

In the second place, we are just pushing the money from the television and radio media into newspaper advertising and direct mailing.

The Senator from Rhode Island said only a few minutes ago that we could depend upon reputable broadcasters to help administer the fairness doctrine and to refuse advertising by every Tom, Dick, and Harry, or by organizations such as COPE and others that have an interest in political matters.

If Congress proceeds to put a limit on the amount that candidates can spend on television and leaves them free—with the exception of some other restriction the States may impose—to spend all they want on newspaper advertising and direct mailing, then I doubt if we will find a continued enthusiasm on the part of the broadcasting stations to help us administer the fairness doctrine.

I can conceive of a situation in which an organization under the guise of educating the public can go ahead and talk about issues and then say, "Ask your candidates how they stand on these issues."

Everyone knows there is a candidate in the State who is a labor candidate and a candidate who is opposed by labor. Everyone knows perfectly well how those candidates stand on the issues.

An organization or a group could use all kinds of time and not mention a candidate's name. Of course, we get at the very root of the thing, as the Senator from Kentucky (Mr. COOK) did a moment ago in one sentence, when we say, "This is a provision for incumbents."

A person who is an incumbent and whose name is known has all the advantage of writing newsletters and other constant communication with constituents through the years. He has a tremendous advantage. When we put the same ceiling on a comparatively unknown person who does not have these advantages, it cannot be fair.

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

Mr. COTTON. Mr. President, I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I ask the Senator from New Hampshire if there is the same freedom available for purchasing television time as there would be if we were to have a differential rate. In other words, many times programs are scheduled months and months ahead. But if there is a political campaign coming up, those programs are not scheduled ahead for a great length of time. What effect does the Senator think that would have?

Mr. COTTON. Mr. President, the Senator from Arizona is talking about a feature that is covered in the bill as originally reported by the committee and is not the amendment.

The bill which the committee unanimously agreed to did provide that political candidates should be charged the lowest rate for the same type of time that is charged commercial users of the media.

Certainly, this may dampen some of the enthusiasm of stations to sell time. But, I doubt if it would have very much effect. As a matter of fact, anyone who has ever run for public office and used television as a form of political advertising knows that he has to be very, very careful that he does not push some program off the air that a lot of his people like to listen to.

The candidate who knocks off the air the climax of Gunsmoke is liable to lose more votes for the money he has spent than he gains.

My own feeling is that the bill as reported with the suspension of section 315 and with the provision to give political candidates the same rates as commercial advertisers is a fair bill.

Mr. FANNIN. Mr. President, the distinguished Senator from New Hampshire mentioned COPE. Does the Senator feel that COPE will have any advantage over any other advertisers through the provisions of this bill? They do have in so many other areas. I wonder if the same control will apply to them that applies to other organizations.

Mr. COTTON. Mr. President, I do not know how much advertising COPE does throughout the years when campaigns are not in progress. I would not think that they would have any undue advantage in the securing of time under the bill.

I would think, however, that the pending bill with the amendment which curtails the amount of time that the candidates or their committees can buy and pay for would leave a hiatus on the air which might cause the broadcasters to have more time to sell, not just to COPE, but also to other organizations—the U.S. Chamber of Commerce or any of these organizations. I mention these organizations only by way of example.

It is a situation that involves what is workable.

I think that to that extent it would give these supposedly nonpolitical organizations who are engaged in what they call educating the public more time at their disposal when we cut out the time or reduce the time that candidates can buy.

During the 24 years I have served in Congress, this problem has come up again and again, and I have come to the firm conviction that we can pass laws until the statute books are bulging with them. But, the only way that we are ever going to effectively deal with campaign expenditures is to provide—and we certainly can do this in all Federal elections—for a thorough, complete accounting at various stages during the campaign—not after the election, in order to provide an accounting by candidates for every cent they have spent in their behalf. If that is publicized, then the people will know who is contributing the money. Then, the candidate who does not have the advantage of being wealthy has the opportunity to take his case to his people and say, "My opponent has spent so many millions of dollars, and we cannot meet him dollar for dollar." It would be the most effective way to control expenditures.

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

Mr. COTTON. I yield.

Mr. PASTORE. I agree with everything the Senator has said, but the Senator will admit that our committee had jurisdiction only over the electronic media. I hope that once the bill is passed and signed by the President, in whatever form it may come out, this will be a first step and that we cure in time all the other abuses of which the Senator speaks. I think that should be a first step.

We have achieved one thing in this bill which does not exist under the law. Today independent committees do not have to report to the Secretary of the Senate, but under this bill all groups and individuals that act in behalf of a candidate are subject to the limitations of the amendment.

If one is against this bill he should vote against it; but I think it provides a simple solution to a serious problem. I know that one can conjure up situations and examples. This group, not to mention any names, is going to talk against the candidate. If that is going on today it will go on tomorrow and it will go on after the bill is passed. I have not seen too much of that and the idea that this group is going to act as a subterfuge does not seem to be the case to me.

Mr. COTTON. I agree with the Sena-

tor that our committee could not report a bill to handle the whole situation. It also is true that this bill affects only the electronic media. But, I do not agree with the Senator on his other statement because as far as this Senator is concerned I am not conjuring up the situation where people spend money to educate the public and thereby having an indirect political impact. We are not imagining a single thing, and I must disagree with what the Senator from Rhode Island says. We are not conjuring up anything imaginary when we say the real fact is that this amendment has to militate for the incumbent and against the person running against the incumbent.

Mr. TOWER. Mr. President, will the Senator yield at that point?

Mr. COTTON. I yield.

Mr. TOWER. Is there not a committee in the Senate that would be competent to deal with campaign practices and procedures on a comprehensive basis, to include all media?

Mr. COTTON. Yes, of course.

Mr. TOWER. Why can we not submit comprehensive legislation to that committee for consideration rather than attacking the problem piecemeal?

Mr. PASTORE. The Senator from Delaware has been attempting to do that for 15 years and has not been successful.

Mr. TOWER. Why not?

Mr. PASTORE. This is the first time we have had a successful vote on this question. I refer to the vote this afternoon. I think a part of the people who voted for that amendment were a little bit stunnned by the outcome, and this has become a prolonged discussion.

Mr. TOWER. I would suggest why it was a successful vote. I might answer why State officeholders were not included. The answer was given. It was a question of States rights; and yet the committee in the revision of section 315 (b) did not seem to be inhibited by States rights when it said "any person who is a legally qualified candidate for any public office." Let us be consistent according to the McCarthy rule for 30 minutes anyway.

Mr. COTTON. Mr. President, all the Senator from New Hampshire wishes to say in closing is I think the bill as we reported it from committee was a good bill. It did two very important things, both of which are very desirable.

I am sorry I cannot agree with my friend from Rhode Island, whom I respect greatly, and my friend from Kansas, who sits on my side of the aisle, and for whom I also have the greatest respect. I cannot agree with this amendment. I think it is a dangerous amendment. In my case, it is not a matter of pique because of the vote on the amendment. I took the same position in committee that I did not and would not support the bill with this amendment. That was my position in committee. It is my position now.

I yield the floor.

Mr. DOMINICK. Mr. President, I wish to ask several questions of the Senator from Rhode Island. Before I do that, I want to make sure the colloquy in the RECORD will reflect the facts.

Do I understand the amendment to provide an overall limitation on the amount that can be expended on electronic media by all groups working on behalf of the candidate and the candidate himself, or does each group have that amount to spend?

Mr. PASTORE. No. It is the aggregate.

Mr. DOMINICK. The aggregate. Assuming that the amendment formula allowed $30,000 to be spent on the campaign and the candidate decided he is going to spend $15,000 for spot announcements and everything else. Who has the responsibility to determine what the other groups can or cannot spend, whether it be $15,000, $20,000, $25,000, or $30,000?

Mr. PASTORE. Has the Senator from Colorado ever had a group working in his behalf yet he did not know what they were doing? Of course, it is his responsibility.

Mr. DOMINICK. I have been working in my behalf most of the time.

Mr. PASTORE. Of course, in your case maybe you have been working yourself. But if there is a committee, like Friends of Senator DOMINICK——

Mr. DOMINICK. I hope there will be some.

Mr. PASTORE. Or it might be friends of Senator PASTORE. Of course, there is consultation there. Not only that, but also a smart candidate would pick out a campaign manager in this regard to make sure that the law was lived up to. I am not trying to create a scandal here; I am trying to avoid one. I am trying to avoid an abuse; not create one.

Mr. DOMINICK. I understand the motives of the Senator. My questions are designed to clear up the record with respect to what we are talking about because the bill does not specifically say in an aggregate; nor does the bill say all amounts have to be included in this one formula by all groups.

I could foresee a situation where a Senator from an industrial State could get support from unions, from the American Medical Association, the chamber of commerce, or whomever it may be. The candidate will find himself in a position where he is going to be responsible for what various supporting groups do and be responsible under the language of the bill.

Having said that and having pointed out the inconsistencies on having a limitation on a general election but not on a primary election, and also having pointed out that this is the first time that Congress, as far as I know, has ever approved any price ceilings, on a particular form of communication except in time of emergency; I conclude that we are going far beyond the scope of anything Congress has proposed before. Additionally the bill does not put electronic communications in an all-encompassing form where we will take into account other forms of communications at the same time.

Does the Senator have any comment on that?

Mr. PASTORE. My comment is that I think the Senator has been misled. The joining word is "and." It is clear. It means in the aggregate. There is no question about that. I think this is a very simple way to police it. I do not see the difficulty that has been stated on the other side of the aisle this afternoon. I must say that the Senator from Kansas (Mr. PEARSON) and I have struggled over this matter for weeks, weeks, and weeks. We heard all parties in interest and the matter was debated for our committee in executive session.

The only reason we did not agree on this in committee is that the Senator from Kansas thought we should limit the amount of time. I thought that would be very impractical. It should be the amount of money to be spent. On that we agreed.

I had proposed an amendment which provided for the computation of 5 cents multiplied by the number of votes cast in the election. He suggested it should be higher than that. We agreed on 7 cents and we cosponsored the amendment together.

I will say to my distinguished colleagues that if it does not work out as we intended, we can always move to repeal it. But I think it would be a sad day in the history of the Senate if we swept the whole thing under the carpet at the present time simply because some people think it is going to create more problems than it cures. I cannot go along with that. If I thought that way, I would not have given 10 minutes of my time to this measure.

This bill does not mean anything to me. I do not expect to spend more than $20,000 for my campaign; I do not care who runs against me. If I cannot do it with $20,000 in my State, I do not deserve to come back.

Mr. DOMINICK. Mr. President, I have heard very little question of the motives of the Senator from Rhode Island, and I do not think any Senator even begins to question them. I think what he has been saying here is that elections are too expensive; let us cut them down.

Before I sit down, let me say that what we are doing here is taking jurisdiction of a subject which, prior to this time, has been handled by other committees in Congress. As I understand it, one of those committees is the Subcommittee on Privileges and Elections. The other committee that has considered this question in the past is the Committee on Finance. Here we remove from Commerce Committee consideration only one form of news media. Further we are dealing only with general elections, not primaries. Further yet we are setting the rates as to what can or cannot be charged by one particular form of media.

It just strikes me that this bill, with the amendment in it, has not really taken hold of the crux of the various problems involved and the bill really has not had the exploration it needs in order to avoid those enumerated problems.

As I said at the beginning, the debate has simply further convinced me that I shall vote against the bill.

Mr. DOLE. Mr. President, will the Senator from Rhode Island respond to a question

I want to ask one quick question of the chairman. Does this proposal affect the fairness doctrine at all?

Mr. PASTORE. Oh, no.

Mr. DOLE. This is merely a limitation on what may be spent.

What concerns me, not as an incumbent, but what would concern a nonincumbent, is this: How does it affect an incumbent, who may be a committee chairman, or the ranking minority member, who appears on the "Tonight" show or "Today" show, or "Meet the Press," "CBS Morning News," and so forth, before an election? Can his opponent demand equal time of NBC, ABC, or CBS?

Mr. PASTORE. The fairness doctrine applies unless it is a news documentation. We wrote into section 315 deliberately that that type of program does not come under the spirit of section 315 on equal time. That is not purchased time. We are talking about purchased time here. That is free time. Any time any broadcaster gives me time free, my opponent is entitled to the same time.

Mr. DOLE. Does that include the "Today" show or "CBS News," "Meet the Press," and others?

Mr. PASTORE. That is a news interview program. It is the same thing the Senator would do when he walked out of here and was interviewed and talked into a little box. The Senator could have an opponent, but that would not give his opponent equal time, because he is speaking on news time.

Mr. DOLE. They are not even interviewing proponents of Carswell on the networks yet.

Mr. PASTORE. The opponents can say they should have equal time.

Mr. DOLE. But the networks are inclined to have on their programs only those with a certain point of view, and very often the nonincumbent, or even the incumbent, has the wrong viewpoint from the standpoint of the network.

Mr. PASTORE. That is the Agnew theory. Some people agree with that theory. Some people say the news is too shaded. Some say it is too one-sided. I hope we do not discuss that on the floor.

Mr. DOLE. How do we correct that?

Mr. PASTORE. I do not think we can, because, under our Constitution, every man has a right to say what he thinks. That is America.

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

Mr. DOLE. I yield.

Mr. COTTON. The Senator has brought out again, in a nutshell, the difficulty of this amendment. The name of every Senator on this floor, except those who have come in by appointment very recently, is known throughout his State. Most of them have for years been sending out newsletters and other communications.

When it comes to a campaign, every Senator has a staff, and it is no longer a strict staff. It is exempted from the Hatch Act, so he can use his staff in his campaign. Every Senator has a certain allowance for trips back to his State.

I do not say they are wrong, but there are all kinds of built-in advantages for the incumbent in office.

By this amendment the Senator is building in another inequality, because the opponent, who has not acquired through the years—and much of it with the use of a frank—this name, this reputation, all these advantages, and does not have a staff at his disposal, has to start from scratch and present his case and his name. He has another handicap in addition to all the handicaps he already has.

Mr. PASTORE. Mr. President, will the Senator yield on that point?

Mr. COTTON. The fact that this year there may be many more incumbents on one side of the aisle running for reelection than on the other side of the aisle may be the reverse in 2 years. So I am not talking about party politics. I am talking about facts. The fact is that this amendment, although intended to be most fair, has another built-in advantage for the incumbent.

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

Mr. DOLE. I yield to the Senator from Rhode Island.

Mr. PASTORE. The Senator makes a good point, but he must admit, too, that if we were shutting out the opponent with a very, very small amount of money, he would have a good, logical argument; but the amount we are allocating to him is rather adequate.

On the question that the incumbent is well known, we must realize that a man can be known for bad as well as good. I admit that Robert Taft would have been the nominee for President of the United States if he had not taken a position on many controversial subjects as he sat in this chair. So a Senator may have an advantage if he is a good Senator and what he has said is right; but if he is not, his exposure may work against him.

The idea that a Senator works up a good reputation by sending out newsletters depends on his sending out good letters. If he sends out a good newsletter, he makes friends. If he sends out a bad newsletter, he makes enemies. Many Senators send out newsletters.

Mr. COTTON. But even if it is a bad newsletter, it has his name and picture on it. Every time he sends out a newsletter, his name and face are before the public. It counts for something, even though some of us are very homely.

Mr. PASTORE. But it may make it easier for them to vote against you, as they come to know who you are.

Mr. DOLE. Mr. President, the point I make is that we make it more difficult for the nonincumbent, because sooner or later, incumbents might participate on the CBS morning show, or the NBC program, despite their point of view. It is unlikely, but there is a remote chance it could happen.

Mr. PASTORE. That is right.

Mr. DOLE. But for the nonincumbent, who is not a Member of this august body, it would cost him $20,000 for time equivalent to such a program.

This is another disadvantage, then, to the nonincumbent. I am not certain whether this gets into the Agnew theory. But when we are talking about equality—and that is the thrust of the amendment, then everyone should have the same right, and should not have to spend a fortune—how does a man running for office for the first time catch his opponent who has just been on the CBS morning show, "Face the Nation," "Meet the Press," or any other program since the "fairness doctrine" does not apply.

Mr. PASTORE. No one can answer that question. I can say the same thing as the majority leader, and it is likely he will be on the front page and I will be on page 32. I mean, you walk outside the door here, and whom do they ask for, to interview?

Mr. DOLE. But this proposal restricts a man who does not have the opportunity?

Mr. PASTORE. There are members of this body who have not appeared on "Meet the Press" or "Face the Nation," and I think they are just as good Senators as others who have appeared on those programs. For some reason, some have not made it. I cannot change that. That is the American way of life I am talking about. I hope the Senator does not hold me responsible for that.

Mr. DOLE. No; I do not hold the Senator responsible for that, but say it is part of the problem, and if the fairness doctrine does not apply, we further inhibit the poor opponent who can only expend $20,000 from being elected to any office.

Mr. PASTORE. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Campaign Costs," published in the Providence Journal of Monday, April 13, 1970, and an editorial entitled "Pastore's TV Spending Bill Better," published in the Charlotte Observer of March 19, 1970.

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

[From the Providence Journal, Apr. 13, 1970]

CAMPAIGN COSTS

The high and rising costs of political campaigning by radio and television—particularly television—is a matter of growing concern to Americans. Sen. John O. Pastore well voiced that concern the other day when he said spending on races for Congress, the vice presidency, and the presidency "reach the point of scandalizing the American political scene." The senator's own Draconian answer to the problem, however, got little support in the Senate's Committee on Commerce.

The senator long has been involved in the use of radio and television for campaigning, particularly for the two top offices in the country. In a resolution he filed last month, he argued for relief of the "equal time" provision affecting candidates for the presidency and vice presidency. He also proposed that charges for use of any broadcasting station by any legally qualified candidate for any public office ought not to exceed the "lowest unit charge" of the station for any time period.

But Mr. Pastore went farther. He suggested quite seriously that the total amounts spent on electronic media for any legally qualified candidate for the presidency, the vice presidency, the Senate, the House, or a governorship ought to be restricted to sums not exceeding five cents for each vote cast in the last elections for such offices. Mr. Pastore wanted to control amounts spent by the candidates themselves and by other individuals and groups in their behalf.

Translated into meaningful figures, the Pastore proposal would have fixed a limit in the next national elections of about 3.7 million dollars for each of the candidates for the presidency of the two major parties. This small sum is in contrast to reported spending in 1968 of 12.6 million by President Nixon and 7.1 million by Hubert Humphrey. In

Rhode Island less than $20,000 could be spent on electronic campaigning by candidates for the federal Senate, House, and governorship.

Mr. Pastore's attempt to peg controls at a "nickel a voter" was bold, but the Commerce Committee apparently felt that it was so tight that it never would get by the Senate on a floor vote. His two major proposals on equal time and station charges alone came out of the committee as a bill for the hopper late last month.

But the senator knows that substantial changes frequently take years to accomplish. By raising the concept of a control, he has contributed to debate that must lead in time to the imposition of regulations on campaign spending not only for the major offices he aimed at but for other offices as well at state and local levels. Uncontrolled spending more and more makes it possible to "sell" images with victory going to the man or woman with the fattest checkbook and not necessarily to the best qualified candidate.

If a "nickel a vote" is too big a step to take now, perhaps it would be possible to make a start, at least, with a somewhat higher figure. As experience in operation of the controls developed, it might be possible to win support for further cuts. Mr. Pastore may not have all the answers on the problem of campaign spending, but he has offered one that warrants serious consideration.

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[From the Charlotte Observer, Mar. 11, 1970]

PASTORE'S TV SPENDING BILL BETTER

Sen. John Pastore has offered a legislative package that should revive congressional interest in reasonable controls on television's role in major political campaigns.

The Rhode Island senator is a powerful figure in shaping legislation in the broadcast field. The mere fact that Pastore is behind these proposals means they will get serious consideration.

More important, what Pastore proposes is a comprehensive improvement on any plan that has had a fighting chance of congressional approval up to now.

Legislation considered last year, for example, had the limited aim of providing all candidates with a minimum of television exposure. The Pastore package goes beyond that.

It would not only require discount television rates for candidates (one-fourth off) during the four weeks immediately preceding an election. It would set a limit on what a well-heeled candidate could spend for television—the equivalent of five cents for each vote cast in the last election for the office he seeks.

Pastore would also suspend the "equal time" regulation created by the Federal Communications Act. Thus the industry itself could give significant candidates coverage that has been next to impossible where splinter party nominees or fringe candidates crowded the field.

The industry will hardly be thrilled at the prospect of Congress setting discount rates or putting limits on spending for individual candidates. Yet it cannot deny either the impact of its messages or political campaigns or the problems this impact creates.

The health of the political system may depend on clear, reasonable controls beyond the discount for candidates in the last weeks before an election. A discount alone won't stop a candidate with limitless funds for TV time from dominating a television-oriented campaign. In fact, a discount alone would simply increase what he could do with his money.

Sen. Pastore isn't stigmatizing television as a source of evil in the political process. He is simply facing the fact that its role is too important to be left to chance or manipulation. He has proposed the best plan yet for keeping it in check.

Mr. PASTORE. I read the concluding paragraph of the editorial published in the Charlotte Observer:

Sen. Pastore isn't stigmatizing television as a source of evil in the political process. He is simply facing the fact that its role is too important to be left to chance or manipulation. He has proposed the best plan yet for keeping it in check.

Mr. ALLEN. Mr. President, I believe there was general agreement with respect to the bill, S. 3637, in that it would allow a political advertiser to enjoy the same rate as is paid by commercial advertisers for the same amount of time in the same time period.

Apparently there is not the same unanimity of opinion with respect to the amendment. The amendment has been agreed to. A motion to reconsider has been laid upon the table, so that the amendment has been frozen into the bill, and the only way to reach the amendment and get back to the original bill—which I believe the Senate would quickly adopt, practically unanimously—would be to move to recommit the bill.

The bill has very little application, it occurs to me, in my own State of Alabama, because it does not seek to cover primary elections, and I point out that primary elections in the State of Alabama still have the force and effect of deciding the question in November.

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

Mr. ALLEN. I yield.

Mr. TOWER. Is the Senator willing to make an exception for three of his distinguished colleagues in the House of Representatives from his State?

Mr. ALLEN. I am talking about primary elections. They do not run at large in my State.

Mr. TOWER. I understand that. They did at one time.

Mr. ALLEN. Yes. They went in with the Goldwater sweep, and I might state to the Senator from Texas that they have given general satisfaction in their respective congressional districts and throughout the State of Alabama. They are three very fine Republican Representatives.

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

Mr. PASTORE. I yield.

Mr. COOK. Are there not a number of other States in the United States where election in the primary election is tantamount to absolute election, and the general election becomes secondary?

Mr. ALLEN. Yes; both Republican and Democratic.

Mr. TOWER. That would be true in the State of Rhode Island also; would it not?

Mr. PASTORE. Yes. That is quite a State, the State of Rhode Island.

Mr. TOWER. But as long as a Republican candidate was opposed by our present distinguished colleague, it is doubtful whether he could ever be elected.

Mr. PASTORE. The Senator's State and my State have many things in common, though his is at least twice the size of mine.

Mr. ALLEN. Mr. President, I move that the bill be recommitted, and I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. GRIFFIN. Mr. President, if I may I should like to ask the distinguished chairman of the subcommittee, the sponsor of the pending amendment, a question or two.

As I understand it, under a modification of his amendment, the stations must keep records. Is there any liability on the part of the stations to try to keep track of how much is spent in behalf of a candidate, or anything of that kind? This penalty does not go to the station, as I understand; it goes to the candidate, is that correct?

Mr. PASTORE. Under the law, this becomes a part of the Communications Act of 1934, and there is a general penalty in the act itself.

Mr. GRIFFIN. I am trying to find out to whom that penalty would be applied.

Mr. PASTORE. It might be applied to the candidate, or it might be applied to the station. If a station deliberately sold more time than the candidate is eligible to buy, it would be responsible as well. But I think the primary responsibility would tend to be on the candidate. I think the candidate should always be responsible for the amount of money spent by him or anyone else in his behalf to win a seat in the Senate. I do not think we ought to begin policing the broadcasting industry; we ought to begin policing ourselves.

Mr. GRIFFIN. If others than the candidate may be held responsible; namely, the station, I think the answer to this next question, which I cannot get from the language itself, becomes very important. That is, when does the accumulation begin? When does the limit begin, at what time? I understand it does not apply to a person who is a primary candidate. The bill does not talk about 5 weeks before the election; it does not talk about any particular number of weeks or months. When do you have to start keeping track?

Mr. PASTORE. When you become a legally qualified candidate. When you become a qualified, legal candidate. It is as simple as that. I mean there is no problem there.

Mr. GRIFFIN. If you become a candidate, and your State has a provision for a primary election, but you have no primary opponent, and you can concentrate your attacks on the other party, do you start adding it up at that point?

Mr. PASTORE. Oh, no.

Mr. GRIFFIN. Or do you wait until after the primary?

Mr. PASTORE. Let me get this straight. You say you do not have a primary?

Mr. GRIFFIN. There is a provision for a primary, but you do not have a primary opponent.

Mr. PASTORE. Then you do not have a primary.

Mr. GRIFFIN. That is right.

Mr. PASTORE. If you spend any money under those circumstances, you are spending money on your campaign, if you are a legally qualified candidate for the office. If you are not a qualified candidate for the office, you subject yourself to the fairness doctrine.

Even today, if the Senator went back

to his State and made a speech, he would subject himself to the fairness doctrine—today, if he did it now. Anyone who disagreed with him could ask for equal time.

Mr. GRIFFIN. Then during the period before a primary election, if a person were a candidate and had no primary opposition, but spent money to promote his candidacy, would he or would he not have to include it in figuring up the total amount subject to this amount, during the period of the primary?

Mr. PASTORE. And he is not yet a legally qualified candidate?

Mr. GRIFFIN. That is another question. What is a qualified candidate?

Mr. PASTORE. A candidate is qualified when either he wins the primary or is selected by a convention, either one or the other or meets the requirements of the State, In my State, we have a primary. In my State, if you do not have a primary opponent, the minute you are endorsed by your organization and you file your papers, you automatically become a legally qualified candidate. If you have to go through a primary, and win the primary, once you are declared the winner, you are a legally qualified candidate, and that is when it starts to run.

Mr. GRIFFIN. I am trying to make legislative history, so we will know what this means.

Mr. PASTORE. I understand; yes.

Mr. GRIFFIN. A person may be a declared candidate, but if he has not been selected at a convention or if he has not been designated in a primary election, he can spend money to promote his candidacy and it will not be counted in the computation of what he can spend, as I understand it.

Mr. PASTORE. The point is that you can do that now. The time does not run until you become a legally qualified candidate under your State law. The FCC has a primer entitled "Use of Broadcast Facilities by Candidates for Public Office," which contains questions and answers to these various questions.

That is the situation today, under any circumstance. It begins to run from the time one becomes a legally qualified candidate. The same applies to the opponent. Up until that time, one is subject, of course, to the fairness doctrine, as he is today. It is written in the law. I cannot overcome that.

Mr. GRIFFIN. I thank the Senator.

Mr. PASTORE. There is no way of overcoming that.

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

Mr. PASTORE. I yield.

Mr. TOWER. Mr. President, the fact is that this is not an equitable piece of legislation. It does not deal fairly with everybody who seeks public office.

The point has been made that an incumbent gets much more exposure through the mass media than nonincumbents do. The nonincumbent may have a good case to make. He may have an attractive personality; he may be responsive to the needs of his people. But if he cannot buy the time through the mass media to put himself before the public and present his case, he has no chance of unseating an opponent who perhaps deserves to be unseated.

As an incumbent, coming up for election in 2 years, I think it would be in my own selfish interest to be in favor of this measure. But I think that anybody who seeks public office ought to have the opportunity to challenge an incumbent, and he cannot successfully do so when the media is weighted so much in favor of the incumbent—not necessarily philosophically in favor of him and not advocating him, but the fact is that they cover him and give him the exposure.

I happen to be a fellow who walked out of a college classroom and got elected to the U.S. Senate. I do not think I ever could have done it had it not been for the fact that I was able to purchase all the TV time my financial resources would allow me to purchase. I think that is true of many other people far more qualified and far more attractive than I and far more intellectually suited for public service than I. I think we are denying them the chance if we enact this type of measure. I submit that it is unfair, it is inequitable, it is weighted.

Mr. PASTORE. Mr. President, let me say this to my good friend the Senator from Texas.

I did not invent all this. What we started out to do was to do something about the situation of the enormous expense of national elections. This controversy has been raging for years and years.

Finally, a nonprofit, public-spirited committee was created by the 20th century fund to study campaign costs, the chairman of which was Newton Minow. One of the members was Dean Burch, who is now Chairman of the FCC. Another member was Thomas Corcoran. They made a recommendation in which they summarized the expense of television and radio. They emphasized the cost of radio and television and what Congress should do about it. Naturally, the recommendation came particularly to me because I am chairman of the Subcommittee on Communications. I did not go out of my way to do this.

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

Mr. PASTORE. I yield.

Mr. PEARSON. All this talk about the great advantage for the incumbent really is a reversal from the original theory that caused the introduction of a measure that had some 36 cosponsors. These are statistics, and I do not know whether they are meaningful to those who are still in the Chamber.

In 1952, in the general election, in all elections in the country, we spent $3 million on television. In 1956, it went up to $6.6 milion. In 1960, it went up to $10 million. In 1964, it went up to $17.5 million. In 1968, it went up to $27 million. The cost of television for candidates in general elections from 1952 to 1968 went up 114 percent. That was not all just more political money piling in. The cost of television went up, also. From 1960 to approximately 1968, we had an increase, and I am not talking about production costs, which the Senator from Texas knows so much about because of his responsibilities in this particular field. It went up about 30 to 40 percent.

What we were trying to do was to introduce a bill that said TV had to give everybody some time within a given period of time at a reduced rate, so that the person who wanted to run against an incumbent would have an opportunity to do so.

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

Mr. PASTORE. I yield.

Mr. TOWER. Actually, the cost of everything has gone up. It is not just the cost of waging politics. Everything has gone up. We figure the inflationary factor into this.

May I say that as chairman of the Republican senatorial campaign committee, as one responsible for raising funds for political purposes. I lament the high cost of politics as much as anyone else in this body, except perhaps the Senator from Hawaii (Mr. INOUYE), who laments it as much as I do, being my counterpart.

Mr. PASTORE. But it is my guess that the Senator from Texas has done a lot better as a fundraiser than has the Senator from Hawaii.

Mr. TOWER. I have raised more money, I suppose, for the reason that there is broader public approval of the Republicans than of the Democrats. That is the only surmise I can make on that point.

Beyond this, may I note that, yes, we would like to keep the cost down. But why can we not address this whole question on a comprehensive basis, rather than taking it piecemeal, taking one form of communication and addressing it to that alone? Now money will be forced into other media. Why not address it on a comprehensive basis? The Senator from Rhode Island has said, "We have tried to, and have not gotten anywhere." Perhaps it is because addressing it on a comprehensive basis has no merit. Perhaps that is why it has not gotten anywhere. If it is a good thing and has basis, why not do it on a comprehensive basis? I submit, and it has not been contradicted successfully in this body today, that this militates against the nonincumbent candidate.

Mr. PASTORE. Mr. President, I began to explain that the 20th century fund committee to study campaign costs came to us with a recommendation, and in essence this is what they said: We recommend that the candidates for the Presidency and the Vice-Presidency pay half the bill and the other half be paid by Congress. We know what chance that has of being passed by Congress. So. we had to contend with that.

Then this amendment was introduced by Senator PEARSON and Senator HART, with 36 cosponsors, as a result of a recommendation made by the committee for an effective Congress. In that measure they had specified the number of spot announcements that one could have 5 weeks before election. They specified the discount he was supposed to receive. We heard them completely and thoroughly. The Senator from Kansas and the Senator from Michigan made a good case.

But the Senator from Rhode Island always thought it would be sort of discriminatory to institute any discounts in

the political scene without considering all the other notable enterprises that are in the public interest as well.

The reason I am saying this is to show how our subcommittee came into the picture. Our jurisdiction only went so far as these recommendations, recommendations that had to do only with radio and television, nothing more. Many Senators prodded me every time I came to the floor, saying, "When are you going to do something about that bill?" I was being prodded by Republicans and by Democrats—"When are you going to do something about the bill?"

We sat down patiently, constantly, and consistently, and we held very exhaustive hearings. As for myself, I worked on this day and night, and finally we came forth with this recommendation.

The Senator from Texas is arguing as to why we do not have a comprehensive bill. Perhaps we should have had a comprehensive bill. But this was within our jurisdiction, this was our authority and was our responsibility—and this forward step is the product we bring to the floor.

Let me conclude by saying this: This bill is neither a help nor a hindrance to me personally.

This bill in its import does not mean a row of beans to me in my situation. It makes no difference to me this afternoon whether we pass it or not. All I said from the committee was that I had a responsibility. I carried it out. I said let us go on the floor and see what they want to do. I am not trying to help incumbents, nor am I trying to hurt those outside. I am not trying to help Democrats or hurt Republicans. I have no such motive in my mind. I do not care a row of beans what the Senate does with the bill this afternoon, whether we send it back to the committee or kill it. I say, the best thing is, if we want to send it back to committee is, please stop it. Stop giving me this bothersome, burdensome responsibility—this nuisance. Just stop giving me this nuisance. Just say you do not want it. I think we have brought out a bill that makes sense. What we are trying to do is to eliminate—not create abuses. I have been told by every member of the committee that they were for the limitation. Now I am surprised to see that we are picking at this sentence and that sentence. It does not make sense. It is a simple formula. Either agree with it or disagree with it. You either want the bill or you do not want the bill. If you want to spend $18 million to run a presidential campaign, go ahead and do it. If you want the sky to be the limit, because you have the money, then do it. I do not care. If you have the idea that you will send it back to committee, it is as dead as a doornail if it goes back there. I say, let us have the courage to stand up and vote.

Mr. TOWER. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. TOWER. I should simply like to say that I did not mean to imply, in any event, that there was a personal motive on the part of the Senator from Rhode Island. I have great confidence that the Senator from Rhode Island is absolutely right when he says it makes no difference to him personally. I am confident, as chairman of the senatorial campaign committee for the Republican Party, that we cannot beat the distinguished Senator from Rhode Island in that State this fall. We are not even going to try. The Senator is home free.

Mr. PASTORE. The Senator's statement is now in the CONGRESSIONAL RECORD. It is in the CONGRESSIONAL RECORD. Do not go into the Official Reporters' room to knock it out. [Laughter.]

Mr. TOWER. I am not. We will leave it in there. It will be there.

Mr. PASTORE. Leave it right in there. [Laughter.]

Mr. TOWER. I may be many things, but I am a pragmatist, and I know this: I know that the Senator has no serious motivation here; and I know that, being the kind of performer he is, he could command a great audience on television, even on political time, when there are some of us who are not so gifted. If we can find a television station charging the same rate for politicians to appear as it charges for Gunsmoke, then I think we will find that TV stations will be loath to sell time not only to political candidates, because they will lose their audience. The Senator from Rhode Island could appear opposite Gunsmoke in Rhode Island and draw a big audience, but the Senator from Texas could not appear opposite Gunsmoke in Texas and draw a big audience. The audience would break their arms flipping the dial over to other stations.

There is something in this amendment which is unrealistic. It really does not take into consideration the realities of the mass media they are using. To me it is a totally impractical piece of legislation. I know the motivation is honest and good. At least, I think so. I am reasonably sure of it. But, in any case, it is an unrealistic piece of legislation. We are moving into an area that has not been tried. We have had no experience with it. The fact is, it still militates against the incumbent regardless of what anyone says here. The point has not been successfully made that it does not.

Mr. GURNEY. Mr. President, I agree with many of the Senators who have spoken on this bill that the authorship and sponsorship which the Senator from Rhode Island has given it is intended to be wholly fair. However, I do not agree with it, either. I am going to vote against it. I think it is a bad bill.

Much argument has been made about incumbents. I think it goes way beyond that. It assumes, for example, that every candidate for the Senate or Congress starts out even, whether in Florida, Rhode Island, or in some other State.

I do not think that a situation like that exists anywhere, any time, in any election, I do not think that two men start out even. If they did, the bill might be a good one, because it does limit expenses for television evenly for both candidates. But, in order to be a fair bill, it does mean that the two men have got to start out even.

Mr. PASTORE. If the Senator will allow me to interject there, to prove the fairness of it, is not President Nixon an incumbent?

Mr. GURNEY. Yes.

Mr. PASTORE. Are we not being fair with him?

Mr. GURNEY. But he is not up for reelection this year.

Mr. PASTORE. He will be up for reelection in 1972, though; will he not?

Mr. GURNEY. Yes; but I am speaking of 1970 and——

Mr. PASTORE. He will be up for election in 1972. That is how "unfair" we will be.

Mr. GURNEY. If I can continue my line of reasoning, I would appreciate it, because I do think it is important.

For example, there are States that traditionally vote Republican, and there are States which traditionally vote Democrat. We start with two unknown candidates presumably even. But they are not even, of course. In a Republican State, the Republican candidate would be favored. In a Democratic State, the Democratic candidate would be favored. Let us say we start with two men who are not incumbents but one had been a Governor of his State. That was true in my race in Florida in 1968. As a matter of fact, a poll was taken by the opposition, right after the primary had ended which showed, of course, that the Democratic candidate in Florida in 1968 would win by a large margin, not because he was a much better one, but he had been Governor for 6 years and had served in the Johnson administration and, on the other hand, his opponent, a Republican, had only been in Congress, so was well known in his particular congressional district but nowhere else in the State particularly. So these two candidates did not start out even, either.

However, the TV media was extremely important in this race. It was perhaps used more effectively by one candidate than the other. So here we say in the bill that when people do not start out even we will not give them a chance to use the most effective political medium today; namely, television. If he wants to use it, possibly just to make him even with the other, obviously he will not get a fair shake. Therefore, apart from the incumbent argument, this bill is unfair all around.

Mr. PASTORE. Would the Senator say that if his opponent were allowed to spend $141,689.52, he would be placed at a disadvantage in purchasing electronic time?

Mr. GURNEY. I think he should be——

Mr. PASTORE. How much time do you need?

Mr. GURNEY. He should be entitled to budget his finances any way he wants to.

Mr. PASTORE. The sky is the limit?

Mr. GURNEY. If he wants to spend much more on television, or less on newspaper advertising, he should be able to do that.

Mr. PASTORE. Then we should take the Corrupt Practices Act and include it in the safeguard?

Mr. GURNEY. All I am saying, and this is the nub of the question, is that the Senate has no right to limit the expenditure in the most effective political medium we have today. That is highly un-

fair, because no two candidates start out even. Someone always has an advantage.

Mr. COOK. I ask the Senator if, more important than the example he has given is the example of many of us in the State where the most important election is the Democratic primary, where the Republican Party is so small in numbers that we have a difficult time even in getting one candidate. The two Democratic opponents in the primaries, or three or four, can, under the terms of this bill, spend an unlimited amount of money and get all the coverage for a whole year, or 6 or 8 months, and then suddenly we have the Republican candidate who has not had the benefit of the exposure of 6 or 8 months that the Democrat candidate has and who, from that day forward, is limited to the 7 cents vote, but the Democratic candidate spends half a million dollars or $100,000, or whatever it is, during the primary, exposing himself all over the State, when the Republican candidate has gotten no exposure at all.

Mr. GURNEY. The point of the Senator from Kentucky is well made. There is no question about it. It goes to the heart of the thing that I said, that is, that no two candidates start out on an even basis. One is ahead of the other. You can use that same example of a Republican State, where the Democrats are weak, and television expenditures in the Republican primary, and both candidates get a lot of exposure. Of course, the winning incumbent, the one who wins the primary, is known around the State.

The Democratic candidate in such a State goes into the final election at a disadvantage. And the only way he can overcome it is by this means.

Mr. COOK. And the Senator has also mentioned States in which the political party is such that there is very seldom a primary.

Mr. GURNEY. The Senator is correct. That is why the bill is very unfair. I intend to vote against it.

Mr. ALLEN. Mr. President, as the junior Senator from Alabama understands the bill as reported by the committee, according to the distinguished Senator from New Hampshire (Mr. COTTON), it came out if not by a unanimous vote, then practically by a unanimous vote.

That was an original bill that had two aspects. One aspect was to do away with equal time provision with respect to the Presidential and Vice Presidential campaigns with the understanding, not written into the statute, that a certain amount of time would be made available to the major candidates for President and Vice President. On that point there seemed to be no disagreement.

The second aspect of the original bill provided for comparability as between a political advertiser and a commercial advertiser. And there did seem to be general agreement on those two aspects of the bill.

There has now been frozen into the bill by amendment a third aspect which has set an overall limit on the aggregate amount that can be spent in behalf of a candidate by any group or by the candidate himself. So, now that the motion to reconsider the vote by which the amendment was agreed to has been laid on the table, the only way to get back to the original bill with its two approved aspects is by sending it back to committee.

Far from killing the bill, it would enable the committee to vote the original bill out as it originally did. The committee did not send out the amendment as part of the bill. That was to be voted on separately because there was not agreement on it in the committee, according to the distinguished Senator from New Hampshire. So, the only way that the committee and the Senate now have to go back to the original bill with its two approved aspects would be to send the bill back to committee. That is the motion which the junior Senator from Alabama has made, not with a view of killing the bill, but with a view of going back to the bill in its original shape, a bill which would be supported and was being supported by the distinguished Senator from New Hampshire (Mr. COTTON).

Mr. TYDINGS. Mr. President, in the past decade, there has occurred a quiet, but steady erosion of the public's confidence in the integrity, honesty, and independence of our elected political representatives. This is, I believe, a large part in our present crisis of confidence of the whole American political system. There are many facets to this problem, so many that I will not even attempt to list them. But one aspect of this growing lack of trust has to do with today's inordinately high cost of political life. These costs, dominated by the expenses of political campaigns, are growing at an ever increasing rate, as those who testified in hearings documented in detail. The public is more and more aware that political success is tied to huge financial resources—and this fact widens the gulf between the represented and representative.

First, the expenses of political campaigning have tended to make elective office the exclusive preserve of the wealthy; it is difficult to understand how democracy can flourish when one small and very special group with obvious interests to preserve dominates the leadership of the Nation. And who can estimate the damage done to our system because some of our most able leaders have been denied office because of their inability to tap financial resources?

Second, high costs of campaigning have significantly raised the barriers against new political entrants. The newcomer has less exposure, less recognition, usually no public record of achievement, and little access to forums for publicity. The odds are heavily against him to begin with. On top of this, the would-be officeholder must raise hundreds of thousands or millions of dollars.

Challenge is the heart of any democratic system—only through realistic choice can an electorate exercise its will. But the fact is that effective challenge of incumbents is becoming more and more difficult because of the financial prerequisites of a campaign.

Third, the expanse of a campaign, both for challenger and incumbent, rich and poor alike, are such that all those who run for public office are becoming increasingly dependent upon large financial backing. It has always been true that a small percentage of our constituents has raised the largest percentage of the money for campaigns; 90 percent of campaign funds are given by 1 percent of the population. The inevitable influences that this situation creates whether conscious or not, are too real to deny. It is obvious that they are a threat to the functioning and confidence of our political system. In order for our representative system to work properly, every representative must ultimately be answerable to his conscience and his constitutents and no other party. Because elections are key to our democracy, if they are not democratic, we cannot hope that our Government will be democratic.

The spiraling costs of political campaigns are due in large part to the increased use and increased cost of television. This is inevitable. Television is the most effective campaign tool available; there is no substitute. Television is the medium of our times. In large part television determines our view of society and of events. As far as influencing voter choice is concerned, television is "where it's at." The increased use of television by politicians is not a fad or fashion; rather it reflects the growing realization of the enormous power of television in politics.

Unfortunately this vital part of the election process is the most expensive part. But fortunately, the television airwaves are owned by the public. It is time that this public resource is used to protect the public interest by reducing the cost of election campaigns.

Reduced costs for television time will not clear the agenda of urgently needed campaign reforms, nor will it solve the problem of money and politics. But it will be a very substantial step forward in an absolutely critical area. I cannot think of a better use of the public airwaves.

We must be vigilant in the protection and preservation of our democratic system, especially in times of stress and rapid change. And the preservation of a democratic framework takes more than reverence for our democratic values, though reverent we must be. It takes more than the confidence that ultimately the people are the final arbiters of our fate, though confident we must remain. It takes more than the respect of our traditional forms of political practice, though respectful we must stay. It takes an intelligent and searching evaluation and reform of our political structure to keep it healthy, vibrant, and functioning amidst the changes of a modern world. To do less would be a failure of our public trust. Let us begin reconciling our political system and our changed world by enacting this vital reform. Therefore, I urge the Senate to pass the campaign broadcast reform bill.

Mr. YARBOROUGH. Mr. President, the bill we are considering today is of great importance to the American people. It would repeal that portion of section 315 which requires a licensee of a broadcasting station who permits any legally qualified candidate for the office of President

and Vice President of the United States to use his facilities to afford equal opportunities to all other candidates for these offices to use his facilities. This provision of section 315 was suspended during the 1960 presidential campaign, and as a result the American people had the historical opportunity of watching the Kennedy-Nixon debates. These debates did more to acquaint the average American voter with the issues in that important election than any other form of campaign literature. It was a great educational experience and should be encouraged for future elections.

S. 3637 would permanently repeal the equal opportunity provision of section 315 with regard to candidates for the office of President and Vice President. Thus, in all future presidential elections, the vehicle for public debate would be available should the candidates choose to use it. It should also be understood that by repealing this provision, Congress is not discriminating against significant third party candidates. On the contrary, the committee's report clearly states that the major networks have given their assurance that free time will be allotted on a fair basis to any significant third party candidate that might emerge in future elections.

I wish to commend the distinguished Senator from Rhode Island (Mr. PASTORE) and other distinguished members of the Committee on Commerce for their work on the bill. The measure represents another significant achievement in our efforts to involve all of our people in the political processes of this country. I urge all Senators to give the measure their full support.

Mr. KENNEDY. Mr. President, I want to commend the Senator from Rhode Island and his colleagues on the Commerce Committee, and particularly Senators HART and PEARSON, for this excellent piece of legislation. The Senator from Rhode Island has, from time to time, stirred things up in the broadcast media, as he has done with this legislative proposal, but in bringing forth this bill, he has produced one of his most significant, and, I think far-reaching proposals. His knowledge of the industry and his keen sense of the important have combined to produce this landmark of legislation, in which reference I include his pending amendment. The original legislation was introduced by the Senator from Michigan (Mr. HART), and from Kansas (Mr. PEARSON), and I was one of the many cosponsors. The bill which the Commerce Committee reported out indicates that major surgery was performed in committee and as one of the cosponsors I can say that I am pleased by the result.

As have many other Senators, I have long been interested in this subject, and with the Senator from Kansas (Mr. PEARSON), last December, I introduced for the consideration of the Senate during the tax reform debate, an amendment which would have permitted every taxpayer to deduct as an income tax credit one-half of contributions to political parties or candidates up to a credit of $25 per year. The cost to the Federal Government would have been approximately $50 to $60 million per year. This seemed to me to be a reasonable reform, although it was not accepted by the Senate. For today, however, I commend these Senators for what I hopefully regard as perhaps the first substantial step in major reform of the election process.

We have listened in the last 2 days to recitations of many statistics compiled by credible groups and associations attesting that there have been massive increases in the cost of campaigning for public office over the last few years. All of us have some personal knowledge of this problem.

In just 12 short years, for example, the campaign cost per vote for the Presidential election campaigns has risen 350 percent—from 19 cents per vote in 1956, to 67 cents per vote in 1968. Total campaign spending rose to over $200 million in 1964 to $300 million in 1968. Television broadcasting costs, more than any other factor, account for this increase. This year one of our major parties is financially in clover, while the other is deeply in debt. Not too many years ago, the picture was the reverse, although the contrast less stark. Senator PASTORE reminded us yesterday that in 1968, the Republicans overspent the Democrats in television more than 2 to 1, but that in 1964, again the reverse was true.

I was startled when I first learned that 1 percent of the American people contributes over 90 percent of all political funds in this country. We conduct campaigns, apparently, with the resources of a select few, on the hopeful assumption that the elected officials will govern for the benefit of all. Whether that theory is correct must now be questioned. And each year, Mr. President, as the cost of campaigning escalates higher, these few contributors, for whatever motivation, contribute more and more money—which must testify that they are, by and large, satisfied contributors. I am not aware of any statistics to indicate the turnover among that dynamic 1 percent who contribute 90 percent of the campaign funds, but I would speculate that the list changes only slightly from year to year. And legitimate question can, and should, be raised about whether the country's best interests are served by permitting those who wield all governmental power to be politically dependent upon so few willing hands.

How much influence can one organization buy with, say, a campaign budget of $1 million? If $300 million was spent in the 1968 elections, as is reliably reported, it can safely be assumed that many groups or allied interests have such budgets this year. One such single association could conceivably contribute $30,000 to the campaign of a candidate in each of the 34 Senate contests, and thereby, if the contributions are wisely placed, introduce in a special way, the association's cause into the offices of perhaps one-third of the U.S. Senate by 1 year's political activity alone. And the cost to the group would be just $1 million—one-third of 1 percent of what may be contributed this year to all campaigns. What dependent friends are cultivated by such help, and what immunities are broken down by such substantial campaign contributions? Although it is a rare Senate candidate who, under today's laws, does not divorce himself from the details of his campaign financing, each is aware of who his substantial financial backers are.

Many observers have expressed concern that the high cost of campaigning for public office is becoming prohibitive for all but the wealthy or those indebted to powerful special interests. The Senator from Hawaii (Mr. INOUYE) stated the problem quite concisely when he said:

> I am afraid that realities and practicalities of the election process have, to some extent, developed a new aristocracy of wealth and power.

The late President Eisenhower observed in a magazine article 2 years ago:

> We have put a dollar sign on public service, and today many capable men who would like to run for office simply can't afford to do so. Many believe that politics in our country is already a game exclusively for the affluent. This is not strictly true; yet the fact that we may be approaching that state of affairs is a sad reflection on our elective system.

Mr. President, I agree with the conclusions of Senator INOUYE and President Eisenhower, and I want to go on record as stating that I do not believe this situation to be a healthy condition for the American body politic. If elective office doors do close to men and women financially too poor, or too principled to make the sacrifice necessary to be elected, we are poorer by their loss to public service. And even more important, the people, in an open society, will not sustain a government which becomes committed to powerful special interests or institutions and thus renders itself incapable of assuring social justice and permitting change and improvement.

We are faced with a generation of young who question not just willingness to permit changes peacefully through evolutionary processes of improvement, but a generation which questions the ability of our system to respond to the needs of its constituency. Many of the young are dispirited and say that special interests are already too entrenched and our mutual involvements too complicated and self-serving, and because of this, that Congress does not have the ability to require significant change, even if Senators and Congressmen become convinced of its necessity. And if, in the end, these young are correct, and our national institutions prove incapable of self-correction, then it is a question of how long our system can withstand natural attrition.

What can we do? We can move to protect the integrity of public office, by preserving its accessibility to all. In the past, major campaign reform attempts have failed for, I suppose, a combination of reasons. To the extent that "incumbent's fear" has been to blame, I hope that Congress, as a body, will lay aside the parochial considerations of each of us. Is this an incumbent's bill? Or a challenger's bill? Arguments can be made both ways. I believe the bill will be fair to both.

This measure is, in my opinion, only the first step in a long journey, but it is movement in the right direction, and I hope that Congress will begin by enacting it into law now.

Mr. GOODELL. Mr. President. The words "campaign reform" have a very hollow ring about them, a result of too much rhetoric and too little action for too many years. It does not seem right to me that we as legislators constantly talk about the need for other people to respond to new problems, when we cannot even move forward in an area which vitally affects ourselves.

For a number of years, I have introduced in the House and Senate a meaningful campaign reform bill to strengthen our existing laws on campaign financing in Federal elections. The rationale of my bill, S. 77, is that a system of free elections in a democratic society is best served by requiring meaningful and timely public disclosure of a political candidate's sources of financial support. It gives full recognition to the right of American voters to have a true picture of candidates' campaign finances, and it backs up its disclosure requirements with an effective administrative and enforcement machinery. I regret that the Senate has not yet considered this measure because I strongly feel that the enactment of a bill of this type is long overdue.

The Senate is today considering extremely significant legislation. As an original cosponsor of S. 2876, the "Campaign Broadcast Reform Act of 1969," introduced by Senators HART and PEARSON, I am delighted that the entire Senate will have this opportunity to debate the question of what to do about the high costs of TV and radio in political campaigns. S. 3637 also contains a repeal of the equal time requirement in section 315(a) of the Communications Act of 1934 as it applies to legally qualified candidates for the office of President and Vice President. I have long been in favor of such a repeal.

Everyone knows that the political arena has shifted from the large outdoor rally to the television tube. Campaigns are by and large waged in the television and radio studios with the result that a greater number of people are better able to judge the qualifications and opinions of candidates. Radio and TV are an important means of bringing the candidate closer to the average voter. They also provide an invaluable opportunity for in-depth discussions of the issues among opposing candidates.

Nonetheless, there are negative side effects. Radio and TV are expensive, and not everyone can afford them. Their prohibitive costs have sometimes served as a barrier to the entry in campaigns of qualified individuals who cannot afford to join the race. The total costs of campaigning on television and radio are often staggering, and no one would argue that they should not be reduced.

Also, the costs are climbing at a very steep rate. The FCC has reported broadcast industry charges of $58.9 million for political broadcasting in 1968, a full 70 percent higher than the $34.6 million reported in 1964, the previous comparable election year. Television broadcasting accounted for 64.5 percent of this total. These figures represented both increased costs and increased use.

Although divided on the way to limit these costs, the Commerce Committee reached agreement on one major point: the charge to the candidate could not exceed the lowest unit charge of the station for the same time period. As the committee report pointed out, candidates are at a disadvantage in that they are not able to benefit from combinations of rates or other arrangements offered to the usual commercial time buyer. Although these practices may be used as an incentive to advertisers, broadcasters are granted licenses to operate a station in the public interest. As written in committee, S. 3637 did not specifically state the responsibility of the broadcaster to make time available at these reduced costs. In my view, additional language along these lines is necessary and desirable and I am glad it has been added.

The major question today is what kind of limitation, if any, should be imposed on a candidate's purchase or use of television or radio time. I strongly feel that any debate on this subject should not deteriorate into what a candidate is to get and whether it is enough. I fully support effective campaign expenditure reform. Any such reform, in my judgment, must fairly deal with all incumbents and challengers alike. It should also be a positive instrument which allows the public to make more rational and better choices in an election campaign.

Mr. President, I hope that we will be able to agree upon a bill which will accomplish these objectives.

Mr. PASTORE. Mr. President, if there is no further debate, I move to lay the pending motion on the table.

Mr. ALLEN. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island (Mr. PASTORE) to lay on the table the motion of the Senator from Alabama (Mr. ALLEN) to recommit. On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. METCALF (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Indiana (Mr. HARTKE). If he were present and voting, he would vote "yea." I withdraw my vote and announce that if I were at liberty to vote I would vote "nay."

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. BIBLE), the senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. MANSFIELD), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that 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 Connecticut (Mr. DODD) and the Senator from West Virginia (Mr. RANDOLPH) 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 Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Illinois (Mr. PERCY) is necessarily absent.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from South Dakota (Mr. MUNDT), and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The result was announced—yeas 48, nays 37, as follows:

[No. 131 Leg.]

YEAS—48

| | | |
|---|---|---|
| Bayh | Holland | Nelson |
| Burdick | Hollings | Packwood |
| Byrd, Va. | Hughes | Pastore |
| Byrd, W. Va. | Inouye | Pearson |
| Cannon | Jackson | Proxmire |
| Case | Jordan, N.C. | Ribicoff |
| Church | Kennedy | Saxbe |
| Cranston | Long | Schweiker |
| Eagleton | Mathias | Spong |
| Ellender | McGee | Stennis |
| Fulbright | McGovern | Symington |
| Goodell | McIntyre | Talmadge |
| Gore | Mondale | Tydings |
| Gravel | Montoya | Williams, N.J. |
| Harris | Moss | Yarborough |
| Hart | Muskie | Young, Ohio |

NAYS—37

| | | |
|---|---|---|
| Aiken | Ervin | Murphy |
| Allen | Fannin | Prouty |
| Allott | Fong | Scott |
| Baker | Griffin | Smith, Maine |
| Bellmon | Gurney | Smith, Ill. |
| Boggs | Hansen | Sparkman |
| Brooke | Hatfield | Stevens |
| Cook | Hruska | Thurmond |
| Cooper | Javits | Tower |
| Cotton | Jordan, Idaho | Williams, Del. |
| Curtis | McCarthy | Young, N. Dak. |
| Dole | McClellan | |
| Dominick | Miller | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metcalf, against.

NOT VOTING—14

| | | |
|---|---|---|
| Anderson | Goldwater | Pell |
| Bennett | Hartke | Percy |
| Bible | Magnuson | Randolph |
| Dodd | Mansfield | Russell |
| Eastland | Mundt | |

So Mr. PASTORE's motion to lay Mr. ALLEN's motion to recommit on the table was agreed to.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. The yeas and nays have been ordered. The bill having been read a third time, the question is, Shall it pass? 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 Nevada (Mr. BIBLE), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MCCARTHY), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that 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 Connecticut (Mr. DODD), the Senator from Indiana (Mr. HARTKE), and the Senator from West Virginia (Mr. RANDOLPH) 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 Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Illinois (Mr. PERCY) is necessarily absent.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from South Dakota (Mr. MUNDT), and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The result was announced—yeas 58, nays 27, as follows:

[No. 132 Leg.]

YEAS—58

| | | |
|---|---|---|
| Aiken | Holland | Pastore |
| Allen | Hollings | Pearson |
| Bayh | Hughes | Prouty |
| Burdick | Inouye | Proxmire |
| Byrd, Va. | Jackson | Ribicoff |
| Byrd, W. Va. | Javits | Saxbe |
| Cannon | Jordan, N.C. | Schweiker |
| Case | Kennedy | Smith, Maine |
| Church | Long | Sparkman |
| Cooper | Mathias | Spong |
| Cranston | McGee | Stennis |
| Eagleton | McGovern | Stevens |
| Ellender | McIntyre | Symington |
| Ervin | Metcalf | Talmadge |
| Fulbright | Mondale | Tydings |
| Goodell | Montoya | Williams, N.J. |
| Gore | Moss | Yarborough |
| Gravel | Muskie | Young, Ohio |
| Harris | Nelson | |
| Hart | Packwood | |

NAYS—27

| | | |
|---|---|---|
| Allott | Dominick | McClellan |
| Baker | Fannin | Miller |
| Bellmon | Fong | Murphy |
| Boggs | Griffin | Scott |
| Brooke | Gurney | Smith, Ill. |
| Cook | Hansen | Thurmond |
| Cotton | Hatfield | Tower |
| Curtis | Hruska | Williams, Del. |
| Dole | Jordan, Idaho | Young, N. Dak. |

NOT VOTING—15

| | | |
|---|---|---|
| Anderson | Goldwater | Mundt |
| Bennett | Hartke | Pell |
| Bible | Magnuson | Percy |
| Dodd | Mansfield | Randolph |
| Eastland | McCarthy | Russell |

So the bill (S. 3637) was passed, as follows:

S. 3637

An act 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

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the first sentence of section 315(a) of the Communications Act of 1934, as amended (47 U.S.C. 315(a)), is amended by striking out the colon and inserting in lieu thereof a comma and the following: "except that the foregoing requirement shall not apply to the use of a broadcasting station by legally qualified candidates for the office of President and Vice President of the United States:".

(b) Section 315(b) of that Act is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office shall not exceed the lowest unit charge of the station for the same amount of time in the same time period. The Commission shall require licensees to keep such records as may be necessary to carry out the provisions of this subsection. Information in such records shall be considered confidential for the purpose of section 1905 of title 18 of the United States Code, except that such information may be disclosed to such officers or employees of the Commission as is necessary for the purpose of this subsection or when relevant in any proceeding under this Act.'

SEC. 2. (a) Section 315 of the Communications Act of 1934 is further amended by redesignating subsection (c) as subsection (d) and by inserting before such subsection the following new subsection:

"(c) The total of (1) the amounts expended on the electronic media by any legally qualified candidate for the office of the President or Vice President of the United States, United States Senator or United States Representative for such office in an election other than a primary election, and (2) the amounts expended by other persons, associations, groups, or committees on behalf of such candidate on the electronic media, shall not exceed an amount equal to 7 cents multiplied by the number of votes cast for all legally qualified candidates for such office in the last preceding such election, or $20,000, whichever is the greater: *Provided,* That where there has been no election for the office of United States Senator in the immediate preceding two years, the limitation on the amount expended shall be 5 cents multiplied by the highest total popular vote cast for any statewide office in the preceding two years, or $20,000 whichever is greater: *Provided further,* That consistent with the other needs of the community broadcast licensees shall make a reasonable amount of time available for legally qualified candidates for Federal elective offices during the hours 7:30–10:30 post meridiem."

(b) The amendment made by this section shall be effective after thirty days following the date of enactment of this Act.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. KENNEDY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

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

## DESIGNATION OF ADM. THOMAS H. MOORER TO BE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Mr. STENNIS. Mr. President, I have personal satisfaction as well as satisfaction as a Member of the Senate in the selection of Adm. Thomas H. Moorer to be the new Chairman of the Joint Chiefs of Staff. His nomination may not yet be before the Senate, but it has been announced in the press, and his name has been suggested to take office, following General Wheeler, on July 2, 1970. General Wheeler has had an outstanding career in this office, and I shall speak of that later. I am delighted that this very fine naval officer, Admiral Moorer, who has been an outstanding Chief of Naval Operations—which is the same as the Chief of Staff in the Navy—is now to become Chairman of the Joint Chiefs of Staff.

He is not only a very fine naval officer and a very fine military man, but he is truly a natural leader, and a man of great commonsense, prudence, and understanding of the problems of America far beyond his special military knowledge. I am not given to praising anyone; he will have to prove his merit in this position, but I am satisfied that he will.

My joy comes from the fact that in these troublesome times for all departments of the Government, and in a troubled world, we shall have a man of his capacity, and particularly his commonsense and understanding, as the Chairman of our Joint Chiefs of Staff. He does not have a direct vote as such, but he is the liaison man and the representative, in a large way, of all the Chiefs of Staff with the President of the United States, and this officer, more than any other, is the chief military adviser to the President.

I am sure that I am not the only Senator who feels very much pleased that this highly practical man, with his fine experience, with his understanding of Congress, and, of course, with his very fine comprehensive grasp of our military programs and military problems worldwide, is now to be chief military adviser to the President of the United States, and to Congress as well.

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

Mr. STENNIS. I yield to the Senator from Alabama.

Mr. SPARKMAN. Mr. President, I am very glad that the chairman of the Committee on Armed Services has made that statement. I am delighted, of course, to join with him in the fine sentiments he has expressed regarding Admiral Moorer. Of course, I take a great deal of personal pride in the fact that Admiral Moorer is from my State. I have known him and Mrs. Moorer for some time.

I have followed closely his work as Chief of Naval Operations. I think he has done a wonderfully fine job, and I know he is the kind of man who will give us the kind of leadership we need in his capacity as chief adviser to the President and to the country on military affairs.

Admiral Moorer distinguished himself during World War II, in which he performed gallantly and well, and I am pleased that we are going to have his leadership in his new capacity.

Mr. STENNIS. I thank the Senator, and I certainly share his sentiments.

## DISTRICT OF COLUMBIA METROPOLITAN AREA TRANSIT ACT OF 1969

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 763, S. 1814, the District of Columbia mass transit bill.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 1814) 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.

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 the District of Columbia with an amendment to strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as "District of Columbia Metropolitan Area Transit Act of 1969".

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds that (1) an adequate and economically sound transportation system or systems, including bus and rail rapid transit, serving the Washington metropolitan area is essential to commerce among the several States, and among such States and the District of Columbia, and to the health, welfare, and safety of the public; (2) economies and improvement of service will result from the unification of bus transit and rail transit operations as well as from integration of bus transit facilities within the Washington metropolitan area; (3) the Washington Metropolitan Area Transit Authority is a body corporate and politic organized pursuant to interstate compact among the States of Maryland and Virginia, and the District of Columbia, with the consent of Congress, to plan, develop, finance, and cause to be operated improved transit facilities in the Washington metropolitan area transit zone; (4) an appropriate solution to the current bus transportation problem in the District of Columbia is public ownership and operation of the D.C. Transit System, Incorporated; (5) to these ends it is necessary to enact the provisions hereinafter set forth.

TITLE I

ACQUISITION OF PRIVATE BUS COMPANIES OPERATING WITHIN THE WASHINGTON METROPOLITAN AREA

SEC. 101. (a) Based on the findings set forth in section 2 of this Act, it is the view of the Congress that the Washington Metropolitan Area Transit Authority should initiate negotiations with the ownership of D.C. Transit System, Incorporated, its subsidiary, the Washington, Virginia, and Maryland Coach Company, the Alexandria, Barcroft, and Washington Transit Company, and the WMA Transit Company, for acquisition at the earliest practicable date by the Authority of all capital stock or all facilities, plant, equipment, real and personal property of such bus companies of whatever nature whether owned directly or indirectly, used or useful for mass transportation by bus of passengers within the Washington metropolitan area. Any agreement for such acquisition should provide for assumption by the Authority of the obligations of the labor contract or contracts of such bus companies. A representative of the Washington Metropolitan Area Transit Authority should participate in any labor contract negotiations undertaken prior to acquisition by the Authority of such bus companies.

(b) Pursuant to section 2(b) of the Act of July 24, 1956 (70 Stat. 598), the franchise to operate a mass transportation of passengers for hire granted to D.C. Transit System, Incorporated, by such Act is hereby canceled, effective upon the date immediately preceding the date on which the Washington Metropolitan Area Transit Authority or the District of Columbia Metropolitan Area Transit Agency established in title II of this Act acquires the transit facilities of D.C. Transit System, Incorporated, whichever shall occur earlier.

CONSENT TO COMPACT AMENDMENT

SEC. 102. (a) The Congress hereby consents to, adopts, and enacts for the District of Columbia amendments to articles I, III, XI, XII, and XVI of title III of the Washington Metropolitan Area Transit Regulation Compact, as amended, for which Congress heretofore has granted its consent (Public Law 86–794, 74 Stat. 1031, as amended by Public Law 87–767, 76 Stat. 764, and Public Law 89–774, 80 Stat. 1324), as follows:

1. Subparagraph (g) of section 1 of article I is amended to read as follows:

"(g) 'Transit services' means the transportation of persons and their packages and baggage by means of transit facilities between points within the zone including the transportation of newspapers, express, and mail between such points, and charter service which originates within the zone but does not include taxicab service or individual-ticket-sale sightseeing operations; and"

2. Subparagraph (a) of section 5 of article III is amended to read as follows:

"(a) The Authority shall be governed by a Board of six Directors consisting of two Directors for each signatory. For Virginia, the Directors shall be appointed by the Northern Virginia Transportation Commission; for the District of Columbia, by the City Council of the District of Columbia from among its members, the Commissioner, and the Assistant to the Commissioner of the District of Columbia; and for Maryland, by the Washington Suburban Transit Commission. In each instance the Director shall be appointed from among the members of the appointing body except as otherwise provided herein and shall serve for a term coincident with his term on the body by which he was appointed. A Director may be removed or suspended from office only as provided by the law of the signatory from which he was appointed. The appointing authorities shall also appoint an alternate for each Director, who may act only in the absence of the Director for whom he has been appointed an alternate, except that, in the case of the District of Columbia where only one Director and his alternate are present, such alternate may act on behalf of the absent Director. Each alternate shall serve at the pleasure of the appointing authority. In the event of a vacancy in the office of Director or alternate, it shall be filled in the same manner as an original appointment."

3. Section 51 of article XI is amended to read as follows:

"51. Any facilities and properties owned or controlled by the Authority may be operated by the Authority directly, or by others pursuant to contract or lease as the Board may determine".

4. Section 56 of article XII is amended by adding the following new paragraph:

"(e) The Authority may acquire the capital stock or the transit facilities of any private transit company and may perform transit service, including service by bus or similar motor vehicle, with transit facilities so acquired, or with transit facilities acquired pursuant to article VII, section 20. Upon acquisition of the capital stock or the transit facilities of any private transit company, the Authority shall undertake the acquisition, as soon as possible, of the capital stock or the transit facilities of each of the other private transit companies within the zone requesting such acquisition. Lack of such request, however, shall not be construed to preclude the Authority from acquiring the capital stock or the transit facilities of any such company pursuant to section 82 of article XVI."

5. Section 79 of article XVI is amended to read as follows:

"REDUCED FARES

"79. The District of Columbia, the Northern Virginia Transportation District, the Washington Suburban Transportation District, and the component governments thereof, may enter into contracts or agreements with the Authority to make equitable payments for fares lower than those established by the Authority pursuant to the provisions of article XIII hereof for any specified class or category of riders."

6. Subsection (a) of section 82 of article XVI is amended by deleting the phrase "or by a private transit company" at the end of said subsection, and by inserting in lieu thereof the following: "whenever such property cannot be acquired by negotiated purchase at a price satisfactory to the Authority".

(b) The Commissioner of the District of Columbia is authorized and directed to enter into and execute on behalf of the United States for the District of Columbia amendments, substantially as set forth above, to the compact with the States of Maryland and Virginia.

(c) The consent of Congress is granted upon the condition that, within three years from the date of enactment of this Act, sections 1, 51, 56, 79, and 82 of title III of the compact be amended substantially as set forth in this section.

(d) The consent of Congress granted herein shall be construed as applicable to each compact amendment individually and to this end the provisions of subsections (a)(1) through (a)(5) are separable.

TITLE II

INTERIM PUBLIC OWNERSHIP AND OPERATION

SEC. 201. In the event that the Commissioner of the District of Columbia and the Board of Directors of the Washington Metropolitan Area Transit Authority jointly determine it necessary or desirable to provide for public acquisition and operation of D.C. Transit System, Incorporated, including any subsidiaries thereof, prior to the time that the Washington Metropolitan Area Transit Authority is legally in a position to acquire and operate such facilities in accordance with title I of this Act, the agency herein created shall immediately organize and undertake such acquisition and acquisition of the Alexandria, Barcroft, and Washington Transit Company and the WMA Transit Company. There is hereby created, as an interim agency for such purpose, a public body corporate to be known as the District of Columbia Metropolitan Area Transit Agency, which shall be an instrumentality and agency of the government of the District of Columbia.

BOARD OF DIRECTORS

SEC. 202. The powers of the agency shall be vested in and exercised by a Board of Directors consisting of the six members of the Board of Directors of the Washington Metropolitan Area Transit Authority (hereinafter referred to as the "Board"). Each Director shall have as an alternate the same person serving as his alternate on the Board of Directors of the Washington Metropolitan Area Transit Authority. An alternate may act only in the absence of the Director whom he represents, except that in the case of the District of Columbia where only one Director and his alternate are present such alternate may act on behalf of the absent Director. The members shall not be subject to the provisions of section 7324(a)(2) of title 5, United States Code. Four of said members shall constitute a quorum. No action by the Board shall be effective unless a majority of the Board concurs therein, which majority shall include at least one Director from the District of Columbia, the State of Maryland, and the Commonwealth of Virginia. The members shall select from among their number a Chairman and Vice Chairman of the Board. The agency may delegate to one or more of its directors,

officers, agents, or employees such powers or duties as it may deem proper. Members of the Board shall receive no salary but shall be entitled to per diem pay not to exceed $50 for each day in which they attend a meeting on business of the agency and expenses unless otherwise prohibited by law.

POWERS OF THE AGENCY

SEC. 203. The agency shall constitute a public body corporate, exercising public and essential governmental functions, and shall have—

(a) all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, and

(b) such other powers as are or may be authorized by appropriate authority of the United States or the District of Columbia, including, but without limitation, the power to acquire for public service all of the capital stock or facilities, real and personal property and rights of whatever nature used or useful for the mass transportation by bus of passengers of D.C. Transit System, Incorporated; its subsidiary, the Washington, Maryland, and Virginia Coach Company; Alexandria, Barcroft, and Washington Transit Company; and the WMA Transit Company, by purchase, gift, or exercise of eminent domain or otherwise, on such terms and conditions as it may deem proper, and

(c) power to operate such companies, and

(d) power to adopt, prescribe, amend, repeal, and enforce bylaws, rules, and regulations for the exercise of the broad powers granted under this Act or governing the manner in which its business may be conducted, and

(e) power to borrow money for any of the purposes of this title, and

(f) power after consultation with the Washington Metropolitan Area Transit Commission to fix and revise from time to time and charge and collect fares, determine schedules, routings and conditions of service for such mass transit bus system. The determinations of the Board with respect to the fixing of fares, schedules, routes, and conditions of service shall not be subject to judicial review nor to the processes of any court. Insofar as practicable, and consistent with the provision of adequate service at reasonable fares, the fares and service shall be fixed so as to result in revenues which will pay the operating expenses and provide for repairs, maintenance, and depreciation of the transit facilities owned or controlled by the agency. The Agency shall, to the fullest extent possible, operate any transit system acquired by it as a coordinated system with private transit companies without unnecessary duplicating service.

CONTRACT WITH THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SEC. 204. The Agency is authorized to contract with the Washington Metropolitan Area Transit Authority for use of the Authority's facilities and services on a reimbursable basis, in connection with the acquisition, operation, and maintenance of any mass transit bus system acquired by the Agency.

PERSONNEL

SEC. 205. The Board shall establish a system of organization to fix responsibility and promote efficiency; establish such positions as may be necessary to perform the business of the Agency; define the duties of such positions; fix the rates of pay therefor; make appointments thereto; and require bonds to be given by the incumbents of such of the said positions as the Board, in its discretion, may determine, and the Board may make provisions for the payment by the Agency of the premiums for such bonds for such periods as the Board may consider desirable. The Board shall establish a personnel system independent of the Federal civil service system and the personnel systems governing employment in the municipal government of the District of Columbia.

TRANSFER OF MASS TRANSIT BUS SYSTEM OR SYSTEMS TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SEC. 206. Whenever the Washington Metropolitan Area Transit Authority determines it has the power to acquire and operate, or provide for the operation of a mass transit bus system, the District of Columbia Transit Agency shall, within sixty days after a request therefor is made by the Authority, transfer to it any mass transit bus system theretofore acquired by the Agency. Any such transfer should provide for assumption by the Authority of the labor contract or contracts of the Agency.

EMINENT DOMAIN

SEC. 207. (a) The Agency shall have the power to acquire by condemnation, whenever in its opinion it is necessary or advantageous to the Agency to do so, the capital stock of any private transit company or any real and personal property, or any interest therein, necessary or useful for the transit system, except property owned by the United States, by a State, or any political subdivision thereof, whenever such property cannot be acquired by negotiated purchase at a price satisfactory to the Agency.

(b) Proceedings for the condemnation of property in the District of Columbia shall be instituted and maintained under the Act of December 23, 1963 (77 Stat. 577, section 16–1351–1368 of the District of Columbia Code). Proceedings for the condemnation of property located elsewhere shall be instituted and maintained, if applicable, pursuant to the provisions of the Act of August 1, 1888, as amended (25 Stat. 357; 40 U.S.C. 257) and the Act of June 25, 1948 (62 Stat. 935 and 937; 28 U.S.C. 1358 and 1403) or any other applicable Act: *Provided, however,* That if there is no applicable Federal law, condemnation proceedings shall be in accordance with the provisions of the State law in which the property is located governing condemnation by the highway agency of such State. Whenever the words "real property," "realty," "land," "easement," "right-of-way," or words of similar meaning are used in any applicable Federal or State law relating to procedure, jurisdiction, and venue, they shall be deemed, for the purposes of this title, to include any personal property authorized to be acquired hereunder.

TITLE III

LABOR POLICY

SEC. 301. The rights, benefits, and other employee protective conditions and remedies of section 13(c) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1609(c)), as determined by the Secretary of Labor, shall apply to the operation by the Agency or the Authority of any mass transit facilities owned or controlled by them and to any contract or other arrangement for the operation of such transit facilities. Whenever the Agency or Authority shall operate any transit facility or enter into any contractual or other arrangements for the operation of such transit facility, the Agency or Authority shall extend to employees or affected mass transportation systems first opportunity for transfer appointment as employees of the Agency or Authority in accordance with seniority, in any nonsupervisory job in respect to such operations for which they can qualify after a reasonable training period. Such employment shall not result in any worsening of the employee's position in his former employment nor any loss of wages, hours, working conditions, seniority, fringe benefits and rights and privileges pertaining thereto.

SEC. 302. The Agency and Authority shall deal with and enter into written contracts with employees as defined in section 152 of title 29, United States Code, through accredited representatives of such employees or representatives of any labor organization authorized to act for such employees concerning wages, salaries, hours, working conditions, and pension or retirement provisions.

SEC. 303. In case of any labor dispute involving the Agency or Authority and such employees where collective bargaining does not result in agreement, the Agency or Authority shall submit such dispute to arbitration by a board composed of three persons, one appointed by the Agency or Authority, one appointed by the labor organization representing the employees, and a third member to be agreed upon by the labor organization and the Agency or Authority. The member agreed upon by the labor organization and the Agency or Authority shall act as chairman of the board. The determination of the majority of the board of arbitration, thus established shall be final and binding on all matters in dispute. If after a period of ten days from the date of the appointment of the two arbitrators representing the Agency or Authority and the labor organization, the third arbitrator has not been selected, then either arbitrator may request the Federal Mediation and Conciliation Service to furnish a list of five persons from which the third arbitrator shall be selected. The arbitrators appointed by the Agency or Authority and the labor organization, promptly after the receipt of such list, shall determine by lot the order of elimination, and thereafter each shall in that order alternately eliminate one name until only one name remains. The remaining person on the list shall be the third arbitrator. The term "labor dispute" shall be broadly construed and shall include any controversy concerning wages, salaries, hours, working conditions, or benefits including health and welfare, sick leave, insurance or pension or retirement provisions but not limited thereto, and including any controversy concerning any differences or questions that may arise between the parties including, but not limited to, the making or maintaining of collective-bargaining agreements, the term to be included in such agreements, and the interpretation or application of such collective-bargaining agreements and any grievance that may arise and questions concerning representation. Each party shall pay one-half of the expenses of such arbitration.

SEC. 304. The Agency and Authority are hereby authorized and empowered to establish and maintain a system of pensions and retirement benefits for such officers and employees of the Agency or Authority as may be designated or described by resolution of the Agency or Authority; to fix the terms of and restrictions on admission to such system and the classifications therein; to provide that persons eligible for admission in such pension system shall not be eligible for admission to, or receive any benefits from, any other pension system (except social security benefits), which is financed or funded, in whole or in part, directly or indirectly by funds paid or appropriated by the Agency or Authority to such other pension system; and to provide in connection with such pension system, a system of benefits payable to the beneficiaries and dependents of any participant in such pension system after the death of such participant (whether accidental or otherwise, whether occurring in the actual performance of duty or otherwise, or both) subject to such exceptions, conditions, restrictions and classifications as may be provided by resolution of the Agency or Authority. Such pension system shall be financed or funded by such means and in such manner as may be determined by the Agency or Authority to be economically feasible.

Unless the Agency or Authority shall otherwise determine, no officer or employee of the Agency or Authority and no beneficiary or dependent of any such officer or employee shall be eligible to receive any pension or retirement or other benefits both from or under any such pension system and from or under any pension or retirement system established by an acquired transportation system or established or provided for by or under the provisions of any collective bargaining agreement between the Agency or Authority and the representatives of its employees.

SEC. 305 Whenever the Agency or Authority acquires existing transit facilities from a public or privately owned utility either in proceeding by eminent domain or otherwise, the Agency or Authority shall assume and observe all existing labor contracts and pension obligations. When the Agency or Authority acquires an existing transportation system, all employees (except executive officers) who are necessary for the operation thereof by the Agency or Authority shall be transferred to and appointed as employees of the Agency or Authority, subject to all the rights and benefits of this title. These employees shall be given seniority credit and sick leave, vacation, insurance and pension credits in accordance with the records or labor agreements from the acquired transportation system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired transportation system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The Agency or Authority shall assume the obligations of any transportation system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. It shall assume the provisions of any collective-bargaining agreement between such acquired transportation system and the representatives of its employees. The Agency or Authority and the employees, through their representatives for collective-bargaining purposes, shall take whatever action may be necessary to have pension trust funds presently under the joint control of the acquired transportation system and the participating employees through their representatives transferred to the trust fund to be established, maintained and administered jointly by the Agency or the Authority and the participating employees through their representatives. No employee of any acquired transportation system who is transferred to a position with the Agency or Authority shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health, and welfare insurance or any other benefits than he enjoyed as an employee of such acquired transportation system.

TITLE IV—FINANCING

FINANCIAL ASSISTANCE

SEC. 401. (a) The Commissioner of the District of Columbia is authorized, within the limit of funds appropriated therefor, to contract with the D.C. Transit System, Incorporated, or any successor Agency or Authority, for the payment to it of such amounts as he may deem appropriate to assist in maintaining reasonable fare levels for residents of the District of Columbia, and to contract with the Authority for the payment to it of the District's share of the cost to the Authority of acquiring buses and other vehicles which may be leased to the company by the Authority.

(b) Payments made to the D.C. Transit System, Incorporated, pursuant to this section, shall be subject to the following limitations and conditions—

(1) In determining the amount of such payments the Commissioner shall seek the advice and recommendations of—

(i) the Washington Metropolitan Area Transit Commission concerning just and reasonable fares, financing of bus operations, and adequate levels of service to the public; and (ii) the Washington Metropolitan Area Transit Authority concerning the impact of such payments on the proposed rapid rail transit program and upon public ownership contemplated by section 101 of this Act.

(2) The contracts made with D.C. Transit System, Incorporated, pursuant to this section, shall include such terms and conditions with respect to the financing and operations of D.C. Transit System, Incorporated, as may be agreed to by the Commissioner of the District of Columbia, the Washington Metropolitan Area Transit Commission and D.C. Transit System, Incorporated.

(c) The Commissioner, for the government of the District of Columbia, is authorized to participate in any program which may be available under the provision of the Urban Mass Transportation Act of 1964 (78 Stat. 302).

(d) The Commissioner of the District of Columbia is authorized to purchase, either from D.C. Transit System, Incorporated, or from some other company, buses and other vehicles utilized or to be utilized by D.C. Transit System, Incorporated, in the operation of any mass transit bus system owned or controlled by it, and to lease such buses and other vehicles to D.C. Transit System, Incorporated, for an annual lease payment which may be less than the current capital cost to the company of owning such buses and other vehicles. The Commissioner is further authorized and directed to transfer ownership of such buses and other vehicles to the Washington Metropolitan Area Transit Authority at such time as the Authority may acquire the bus system or systems owned or controlled by D.C. Transit System, Incorporated, under such terms and conditions as may be agreed to by the Commissioner and the Authority.

(e) As a condition to receiving funds or other benefits under this section, D.C. Transit System, Incorporated, shall first pay its obligations to employee retirement and health and welfare programs, and shall permit the Comptroller General of the United States or the Commissioner of the District of Columbia, at their request, to have access to all books, records, and papers of the company, and to inspect any facility or any real or personal property of the company.

(f) The provisions of this section shall expire June 30, 1972.

ACCEPTANCE OF GRANTS

SEC. 402. The District of Columbia Metropolitan Area Transit Agency is authorized to receive and accept from the United States of America, any Federal instrumentality or agency thereof, the District of Columbia, or any State or political subdivision thereof, grants and contributions for or in aid of the acquisition, construction, ownership, operation, and maintenance of any mass transit bus system, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, or applied only for the purposes for which such grants and contributions may be made.

TEMPORARY FINANCING OF ACQUISITION

SEC. 403. The Secretary of the Treasury upon request of the Secretary of Transportation is authorized and directed to advance on the requisition of the Commissioner of the District of Columbia out of any money in the Treasury of the United States not otherwise appropriated such sums as the said Commissioner may determine to be necessary to temporarily finance the acquisition of the mass transit bus system or systems contemplated by titles I and II of this Act, and such amounts so advanced shall be reimbursed to the Treasury out of sums contributed or appropriated pursuant to section 404 hereof.

APPROPRIATIONS AUTHORIZED

SEC. 404. There are hereby authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out the purposes of titles, I, II, and IV of this Act: *Provided, however*, That such sums as are appropriated hereunder shall be available only if the Secretary of Transportation determines that the Agency or Authority has agreed to undertake immediate acquisition of all private transit companies operating regularly scheduled bus transit service over fixed routes in the Washington Metropolitan Area Transit Zone.

Mr. KENNEDY. Mr. President, it is the intention of the leadership that we have the opening statement by the manager of the bill this evening. We expect that there will be no further votes today.

Mr. EAGLETON. Mr. President, S. 1814, as amended by the committee and endorsed by the District of Columbia government, has two principal purposes: to grant congressional consent to the public acquisition and operation of mass transit bus facilities in the Washington metropolitan area, and to authorize payments by the District of Columbia government to assist in maintaining reasonable bus fares for District residents.

Your committee believes that this legislation is needed both to protect the public against a sudden disruption of bus service and to facilitate long-range transportation policy in the metropolitan region.

The chronic financial crises besetting the D.C. Transit System, Inc., continually threaten to disrupt bus service in the Washington metropolitan area either through a drivers' strike or company insolvency.

Moreover, as the Metro rapid transit system moves toward reality, the need to coordinate all forms of mass transit grows more apparent. Within 6 years, five spines of the Metro system will extend into the Maryland and Virginia suburbs, requiring a massive system of feeder bus service along new routes, on new schedules matched to Metro routes and timetables, and with a fare structure integrated with the Metro fares. These great alterations in bus ridership, service, and fare structure argue most persuasively for unification of the Metro system and the regional buslines in the Washington area.

In authorizing public ownership and operation of transit facilities, however, the committee does not intend to foreclose the possibility of continued private ownership of these facilities, if a qualified buyer can be found. It is the committee's view that ample time will exist between the start of the negotiations authorized by this bill and the appropriation of funds under it for any bona fide private offer to be fully and fairly considered.

The bill also permits private operation of publicly owned companies in any case where the public interest warrants it. Your committee believes, however, that public acquisition of the bus transit systems in Washington is the only permanent, efficient, and effective an-

swer to the mounting crisis in bus mass transit in the Washington area.

The legislation recommended by your committee was formulated in the spring of 1969 in cooperation with the Distict of Columbia government, the Bureau of the Budget, and the Washington Metropolitan Area Transit Authority to meet the continuing triple-pronged crisis in Washington metropolitan area bus transportation: rapidly escalating fares, chronic near insolvency in the dominant bus company, D.C. Transit, Inc., and continued threats of walkout by D.C. Transit, Inc., drivers over massive deficiencies by that company in its contract obligations to employee pension and health trust funds.

The legislation is not opposed by any of the bus companies in the metropolitan area included in the bill. In fact, at the request of the two other major bus companies in the area, the bill has been broadened to permit their acquisition by public agencies as well.

The stockholders of D.C. Transit, Inc., have done well with their investment. D.C. Transit, Inc., purchased the assets of the Capital Transit Co., then valued at $23.8 million, for $13,500,000, financed by an actual cash investment of $500,000. The balance was paid out of cash on hand in the purchased company at the time it was acquired and from the proceeds of the sale of certain properties owned by the purchased company, but most of the balance was financed from farebox revenues.

Between August 1965 and 1966, stockholders' dividends on the initial $500,000 investment total $4,390,000, or an 830 percent actual paid-out return on the original equity in just 10 years. In addition to these substantial dividends, D.C. Transit, Inc., and its subsidiaries own six properties, originally acquired by D.C. Transit from Capital Transit in 1956, which, on the basis of tax assessments, appear to have a market value of about $5,900,000.

But while the stockholders have prospered, the company's financial health has declined and the interests of the riding public have been jeopardized. D.C. Transit has registered earning deficits after deductions for interest every year since 1965.

Mr. MURPHY. Mr. President, will the Senator yield for a question?

Mr. EAGLETON. I yield.

Mr. MURPHY. I am most interested in the details that are being recounted by my distinguished colleague. Do I correctly understand that each year this company was declaring dividends and losing money at the same time?

Mr. EAGLETON. They were incurring the dividends in the period up through 1965, when they paid out the sum of $4.390 million, or, as I said, an 830 percent actual paid out return on the original equity in the 10 years. After it had been milked pretty good, the company was not in a position to pay any dividends when it started running up its deficits in 1965.

Mr. MURPHY. I was also interested in the first purchase figure that was mentioned, that a company that was worth, I think, $26 million——

Mr. EAGLETON. $23.8 million.

Mr. MURPHY. Was purchased for $13 million, and the only money that changed hands was less than a half million dollars.

Mr. EAGLETON. A half million dollars.

Mr. MURPHY. How does one manage that? That is some new type of financial ledgerdemain, I would suggest.

Mr. EAGLETON. I agree with the Senator. I fail to comprehend it, although those are the actual facts and figures. It is one of the greatest steals since the Brinks robbery.

Mr. MURPHY. Was there any evidence by someone before the committee that there was any collusion between the seller and the buyer at the expense of the traveling public?

Mr. EAGLETON. No, there was no collusion. Neither the Senator from California nor I were in Washington in 1956, but the predecessor of the current operator was Mr. Louis Wolfson; and Mr. Wolfson was running on some ill financial times himself. The company was in rather rickety operating shape. There was a great hue and cry to unload him. Bills were introduced in Congress even back then for the Federal Government or the District government to take over the transit line, and one of the bills passed one of the houses. I forget which. My notes will soon reflect.

Into this chaotic breach came Mr. O. Roy Chalk with $500,000 and picked himself up a $23.8 million company in a quasi-distress sale situation. But, again, I cannot give the Senator a very satisfactory answer as to how, under even the most pressing circumstances, one could be so fortunate as to pick up a commendable asset for such a negligible investment and then milk it dry. It has been a very interesting operation.

Mr. MURPHY. I thank my distinguished colleague.

Mr. EAGLETON. Mr. President, the financial problems of D.C. Transit came to a head in March, 1969, when its drivers, members of Local 689 of the Amalgamated Transit Union, threatened to strike to force payment of almost $2 million owed by the company under its contract obligations to the union pension and health and welfare funds. Only at the last minute was a walkout averted, when D.C. Transit, Inc., agreed to pledge certain properties of the company toward satisfaction of the obligations and to remain current in future trust fund payments.

The easing of the pension fund crisis—that is the one I am talking about, back in March of 1969—removed the immediate danger of a breakdown in District bus service, but, in the committee's judgment, the company remains in a shaky financial state, subject to a relapse at any time.

At the time of the Senate hearing in 1969, the company's total accounts payable were in excess of $3.5 million, and it was understood that several creditors had placed the company on a cash-only basis. Included in those outstanding accounts was $400,000 owed to the District Highway Department for track removal work dating back in some cases to 1966.

As this bill is being considered, the company is under an ultimatum from its drivers to make up deficiencies in its employee pension and health and welfare funds or face a possible strike vote on April 26.

I want to make clear that the committee is not reacting to this strike threat, although it is certainly a factor in the committee's overall assessment of the company's stability. The proposed legislation has been under consideration by the committee for more than 1 year, and it is the result of very careful study, negotiation, and deliberation. It is addressed not to any specific crisis of the moment but to a long-range deteriorating situation that involves significant public and Federal interests.

The compact amendments embodied in this bill have been approved by the Virginia Legislature at its most recent session. However, the Maryland Legislature has not yet acted on these proposed changes, although it is understood that a majority of the legislators from the affected counties, Prince Georges and Montgomery, support the changes.

Anticipating that a transit crisis could occur after enactment of this bill, but before the Maryland Legislature can meet next year to consider the compact changes, the committee has included in the bill provisions for a public corporation in the District of Columbia government to acquire bus companies on an interim basis before the Metro Authority is legally authorized by action of the Maryland Legislature to own and operate mass transit facilities. When this occurs, the bill provides for an automatic transfer of the transit facilities from the temporary agencies to the Metro Authority.

Mr. President, the committee believes that by permitting, but not requiring, the Metro Authority to acquire and operate mass transit facilities where the public interest warrants, the maximum possible flexibility, efficiency, and rationality can be achieved in mass transit service for the citizens of the Washington metropolitan area. The declining financial condition of bus companies in the Washington area, the constantly increasing fares, and the chronic financial crises of D.C. Transit and its subsidiary promise a bleak future for bus transit in the Washington area unless the proposed legislation is enacted.

Mr. MURPHY. Mr. President, will the Senator yield for a question?

Mr. EAGLETON. I yield.

Mr. MURPHY. May I ask the Senator, earlier in his remarks, should the bill be passed, would it not include the possibility of another operator or several operators entering into the field and bidding for the operating rights of the transit system in Washington; is that correct?

Mr. EAGLETON. That is correct.

Mr. MURPHY. Is there anything in the bill that provides guidelines, or sets up conditions under which the bids might be received or accepted?

Mr. EAGLETON. No; because of the negotiations between the two private parties—to wit, the current owner of D.C. Transit, Inc., Mr. Chalk, and any potential buyer who might wish to purchase it. To be more specific, I do not think I am at liberty to divulge the name,

but it was some time during the latter part of the calendar year of 1969 that a very knowledgeable gentleman in transit operations paid me a visit, and I think to all the other members of the District of Columbia Committee, to discuss transit problems here. He had the view of putting together a group and then entering into negotiations or "discussion," which would be a more apt term, I believe, with Mr. Chalk for the potential purchase of the D.C. Transit, Inc. The gentleman was a very fine person to my knowledge and he spent a couple of hours in my office and, as I say, presumably with other members of the District of Columbia Committee. I have not heard from him since.

Mr. MURPHY. Mr. President (Mr. HUGHES), in the event of public management or public ownership which is invested in the bill should it take over, and subsequent to that, would there be any possibility, or has there been any consideration setting up considerations under which a private party might bid later on for the management of the company?

Mr. EAGLETON. The way the bill was written, the committee put up the final condemnation process almost up to the very minute the case was submitted to a jury and the jury was out deliberating on the final award. There could be private negotiations and discussions take place between outside groups that might wish to take it over, and if that group looks promising and to have a potential to run the metropolitan transit system, the condemnation procedures could be dropped or abated at that time.

Mr. MURPHY. I thank the Senator and sincerely hope that if these procedures move forward, there will be some consideration and some way found to clean up the emissions from the exhausts of the buses here in the District.

I guess I am as sensitive to the matter of air pollution as anyone. I must say, coming to work in the morning, the buses in Washington seem to smoke it up about as badly as any I have ever seen. I would hope that somewhere along the line we consider taking up that matter, too.

Of course, as everyone knows, the matter of smog is important to my hometown of Los Angeles, but if we keep it up here and allow pollution to permeate Washington, it will be very soon as important a matter in Washington, D.C., as well. So that I hope, in some way, we can issue instructions that will be given to the new management as they look into this new aspect. I would be glad to advise them. I am getting to be a bit of an expert on the matter of smog.

Mr. EAGLETON. I thank the distinguished Senator from California for his apt observations.

Mr. President, I yield the floor.

## ANNOUNCEMENT OF APPOINTMENT OF ADM. THOMAS H. MOORER TO BE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Mr. ALLEN. Mr. President, the White House has announced today the appointment of Adm. Thomas H. Moorer, presently Chief of Naval Operations, to be Chairman of the Joint Chiefs of Staff.

Mr. President, I want to congratulate Admiral Moorer and to commend the President on this wise choice.

Admiral Moorer is a native of my own State of Alabama.

Alabama and the Nation are proud of Admiral Moorer and his brilliant naval career.

Admiral Moorer was born in south Alabama, in Lowndes County, in the small town of Mount Willing, a town of some 250 citizens. He went to preparatory school at Cloverdale High School in Montgomery, Ala., where he graduated as the valedictorian of his class, from there going on to the Naval Academy at Annapolis, and then on to his brilliant career in the Navy.

His home now is in Eufaula, Ala., where he is regarded as the chief citizen of that fine and fair city.

I do not know what Admiral Moorer's political philosophy is. Certainly I do not know whether he would be considered a strict constructionist of the Constitution. He probably never stopped to consider whether he was or not. His philosophy unquestionably is one of loyalty to the military services, loyalty to his country, and loyalty to his Commander in Chief. As Chairman of the Joint Chiefs of Staff he will render outstanding service in advising with the other Chiefs of Staff, and in advising with the President of the United States in matters of military planning and military strategy.

Mr. TYDINGS. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. TYDINGS. I should like to take this occasion to associate myself with the remarks of the distinguished Senator from Alabama upon the announcement of the appointment of Adm. Thomas H. Moorer to be Chairman of the Joint Chiefs of Staff.

I concur in all his remarks about this splendid, career naval officer.

It was my pleasure to be present at the installation of Admiral Moorer when he became commander-in-chief of the Pacific fleet in Hawaii in 1964. I had occasion to get to know him at that time, and my admiration for him has increased over the years.

I certainly applaud the selection by the President of Admiral Moorer in these very serious times to be chairman of the Joint Chiefs of Staff. I thank the distinguished Senator for permitting me to make these remarks at this point.

Mr. ALLEN. I thank the distinguished Senator from Maryland.

Mr. SPONG. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. SPONG. I would also like to associate myself with the remarks of the Senator from Alabama. I should like to congratulate Admiral Moorer upon his appointment and commend President Nixon for making it.

Admiral Moorer, as the Senator from Alabama has said, has had a distinguished naval career. Some of his years of naval service were spent in the Fifth Naval District, at Norfolk, Va. I know that the people of Virginia join me in congratulating him upon his appointment. The country will benefit from the fine service that he will render.

I thank the Senator from Alabama for yielding to me.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from Virginia.

Paraphrasing Kipling, Admiral Moorer can walk with the world's leaders nor lose the common touch.

Certainly he is a down to earth person, level headed with his feet squarely on the ground. The talents, the abilities, the zeal, the dedication, and the determination that he brings to this new assignment will assure him of a great place in the annals of this country.

Mr. President, it has been possible to get the admiral out of Alabama, but we cannot get the Alabama out of the admiral. He does take—and we love him for it—a great interest in his home State. He considers himself to be an American first but an Alabamian second.

He takes great interest in our civic activities, our patriotic celebrations, our philanthropic activities, and, in general, is a great Alabamian, a great American.

Once again, speaking for the people of Alabama, I express our great pride and our love for Admiral Moorer and our admiration for his outstanding career.

I commend him on this additional honor that has come to him at this time.

Due to his eminent qualifications for the position of Chairman of the Joint Chiefs of Staff, I predict his early confirmation by the Senate by a unanimous vote.

## ORDER FOR RECOGNITION OF SENATOR BELLMON TOMORROW

Mr. KENNEDY. Mr. President, I ask unanimous consent that following disposition of the reading of the Journal on tomorrow, the Senator from Oklahoma (Mr. BELLMON) be recognized for not to exceed 15 minutes.

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

## ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. KENNEDY. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the Senator from Oklahoma (Mr. BELLMON), there be a period for the transaction of routine morning business with the usual 3 minute limitation on speeches and that at the conclusion of the period for the transaction of routine morning business, the Chair lay the unfinished business before the Senate.

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

## AUTHORITY TO SIGN DULY ENROLLED BILLS AND TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Acting President pro tempore be authorized to sign

duly enrolled bills during the adjournment today and that the Secretary of the Senate be authorized to receive messages from the House of Representatives.

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

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## THE RUNOFF PROVISIONS OF SENATE JOINT RESOLUTION 1 NEED MODIFICATION

Mr. TYDINGS. Mr. President, the constitutional amendment providing for the direct election of the President (S.J. Res. 1) is designed to remedy a number of specific problems found in the present electoral college system. These difficulties, when added together, have led to a questioning of the rationality and legitimacy of our method of electing Presidents and, in 1968, raised the threat of a major constitutional crisis.

By providing for a direct popular election, Senate Joint Resolution 1 eliminated the following faults of our present system:

First. The lack of legitimacy of a system in which a candidate with a plurality or majority could lose an election to a rival with an electoral majority.

Second. The alleged bias toward very big States because of the unit rule of State electors, and toward very small States because of the three-elector minimum per State.

Third. The exaggerated majority in the electoral college, as compared to popular vote totals, giving a close winner an inflated victory.

Fourth. The problem of the faithless elector.

Fifth. The unequal weight accorded to voters in different sized States.

Sixth. The general irrationality and antimajoritarian aspects of this archaic institution which are difficult to justify in reasoned debate.

Because of these major improvements in our key election provisions of the Constitution, I am a strong supporter of Senate Joint Resolution 1, and I want to congratulate Senator BAYH on the outstanding job he has done in bringing this desperately needed reform so close to final enactment.

### THE THIRD-PARTY PROBLEM UNDER THE ELECTORAL COLLEGE

However, Senate Joint Resolution 1 does not eliminate the electoral college's most glaring and threatening weakness—the possibility of crisis due to a third-party candidacy. Under the electoral college, third-party candidates are generally discouraged from running for the Presidency because of the unit rule; unless a splinter party leader can receive a majority of votes in a State, he will not receive any electoral college votes. This unit rule has thus successfully discouraged ideological third parties. Regional candidates, also, are presented with significant barriers, although these barriers are only of national scope. At the regional level, candidates such as Wallace can attract State majorities and break into the electoral college; yet chances of obtaining an ultimate majority in the electoral college from such a base remain slim. The prospect of eventual failure serves to channel votes away from this type of candidate to second choice candidates because it becomes clear to the average third-party voter that his vote will be wasted if he votes for his first preference.

Yet in spite of the existing institutional barriers to third parties, the prospect of continued third- and fourth-party candidacies continues. This is a function of the "spoiler" role that a third-party candidate can play. Under our electoral college, a third-party candidate has no effect upon the election outcome unless he can deny an electoral college majority to the election winners. Because of the peculiarities of the electoral college, this is a real possibility for sectional candidates. The possibility of triggering the unknown and awkward procedures of selecting the President in the House of Representatives is enough of a threat to any regular candidate's chance of victory and to the legitimacy of the entire election process, that the third-party candidate has extraordinary bargaining leverage. A refusal to deal with the outsider can mean defeat and/or crisis for the regular party candidates and the certainty of more wholesale political bargaining in the House.

Thus under the present electoral college system, the mechanism of resorting to a House election, when the electoral college fails to produce a majority, is enough of an incentive to create meaningful third-party challenges and the threat of a constitutional crisis, in spite of the inhibiting unit rule of the States.

### THE THIRD-PARTY PROBLEM UNDER THE DIRECT ELECTION PLAN

The provisions of Senate Joint Resolution 1, although otherwise laudatory, create the very same problem of an incentive for third-party candidacies. In this case the trigger device is the 40-percent plurality required for direct election. A candidate outside the two regular parties need only approach 20 percent of the popular vote in order to reach a strong bargaining position. This incentive would apply to ideological as well as to regional candidates because there is no unit rule under the direct election scheme. The 20 percent figure becomes very much in reach of splinter parties when more than one outsider is running. The prospect of two candidates, one regional and one ideological, amassing 20 percent of the vote amongst them is quite realistic in the near future of American politics.

Under the direct election plan, the opportunity for crude political bargaining and threats are as available as under the electoral college. In both, an outsider can offer to withdraw immediately preceding the election and attempt to swing his followers toward a would-be victor in return for a significant political concession. While the haunting threat of a debacle in the House does not offer itself under Senate Joint Resolution 1, the maneuvering and dealing in a runoff race of the two surviving candidates would certainly be intense as they desperately wooed the disappointed followers of the third-party candidates. If experience under the French electoral system is any guide, the runoff makes the first election a test of bargaining strength, leads to a further ideological hardening, and creates an atmosphere of shameless deals preceding the runoff. Given the fact that this kind of bargaining would take place under conditions of division and disappointment—it would be used only if no candidate has amassed 40 percent of the vote—cynical political moves might in themselves lead to a crisis of respect and legitimacy in the selection of the President.

It would appear that this incentive to use the 40-percent trigger and runoff is just as great as is the present temptation to deny an electoral college majority and go to the House. However, under Senate Joint Resolution 1, the initial restraint of the States' unit rule is absent. Thus, the direct election amendment will increase the attractiveness of third-party Presidential candidacies. If present political trends continue, Senate Joint Resolution 1 will bring a constitutional crisis closer to reality.

### THE EFFECTS OF PARTY FRAGMENTATION

Presidential election systems do not cause splinter parties, they merely encourage or discourage them. It is the underlying problems and conflicts in our society which create new parties and political movements. As our Nation continues to feel the effects of both major domestic and foreign crises, it will no doubt experience greater pressure for splinter party groups. This is a function of the deep divisions in our society that have finally emerged and burst into the political area.

In part, this trend of political fragmentation reflects the increase in ideological and rigid political doctrines that threaten to drive the traditional American pragmatism and compromise into the past. No doubt the general politicization of issues in our society draws into the political fray fringe groups that previously suffered silently or remained dormant without hope of change. Perhaps the widespread frustration and malaise in the Nation plus a feeling of inability to influence the events that shape our destiny, drives concerned groups into strong political movements. Certainly there is little hope in the next few decades that the major schisms and problems that confront our society will disappear; it is more likely that our political parties will be the ones to vanish.

For many, substantial weakening of the two-party system would be a serious, if not crippling blow to the functioning of the American political process. A stable dual party structure serves many vital tasks of our democracy. Two strong parties are essential to maintain the competition for office amongst leaders that provides the honesty and innovation in American politics. Two stable parties provide the continuity of program needed to accomplish major change in a relatively slow moving political process. Most important, with only two parties, there is a need to create a

real majority or large plurality for electoral victory. This fact requires that each party provide a political program that attracts a broad spectrum of voters.

Thus in a two-party system, the parties are forced to create programs that satisfy a broad range of groups and interests. In the United States, the two major political parties have become the central institutions for moderating and resolving conflicts in our society. Our conventions, fault-ridden as they may be, and party machinery serve to mitigate and lessen the divisions of the Nation. Without these institutions, the whole burden of resolving conflict would be thrust into the legislature. Under a multiparty system dogmatic ideology would flourish and compromise disappear. Executive leadership would be difficult because there would be no institution to aggregate enough political support to form a majority President. If the example of modern European parliamentary systems is of any relevance, multiparty government means bitter conflict and governmental immobility.

Of course, ours is a society that is in desperate need of change and innovation of its policies and institutions. Many believe that the two-party system and barriers to third parties have impeded these needed reforms. However, historical precedent seems convincing that reform, if it is to be successful, is best directed within a major party. Only the major parties offer the strength of broad support and the structure of continuity that is a prerequisite for meaningful change. This is not to say, however, that the parties do not require major internal reform in order to allow change and challenge from within.

It is difficult to gather the support of large and differing groups in any party for significant change; but this is the cost of governing by consent rather than decree. The only other alternative in such a diverse society as ours is political fragmentation. And fragmentation without coercion will be stagnation.

In short, our political system desperately needs all its institutions that moderate conflict and provide for the means to change. The enactment of Senate Joint Resolution 1 would alter the Presidential elections to encourage third parties and undermine one of the key institutions of conflict resolution and change in our system. We should change our electoral system, but in a way that avoids crisis and supports our two-party structure.

TYDINGS AMENDMENT

I have a one-sentence amendment to Senate Joint Resolution 1 which replaces the run off provisions with a modified version of the electoral college if the direct election winner fails to gain 40 percent of the popular vote.

On page 2:

SEC. 3. The persons joined as candidates for President and Vice President, having the greatest number of votes shall be declared elected President and Vice President, if such number be at least 40 per centum of the total number of votes certified. If none of the persons joined as candidates for President and Vice President shall have at least 40 per centum of the total number of votes certified [a runoff election shall be held between the two pairs of persons joined as candidates for President and Vice President who received the highest number of votes certified.] *then of the two pairs of persons with the highest number of votes in the election, that pair with the highest number of votes in each State shall receive the number of votes equal to the number of Senators and Representatives from that State, and the pair with the highest number of such votes shall be elected.*

Bracketed material stricken; italicized material added.

HOW IT WORKS

The direct election system would continue unmodified in 99 percent of all Presidential elections since it is an historical rarity for the winning Presidential candidate to receive less than 40 percent of the popular vote. In that rare case when no one received 40 percent, only the two leading candidates would remain in the race, and their vote totals would be counted on a State-by-State basis. The one candidate of the two with more votes in each State would receive that State's electoral votes. Since there are only two candidates left, there must be a winner with a large number of electoral votes. Of course, no one would have received 40 percent of the votes, but the winner would have received more votes than his opponent in first, most of the large States, or second, a huge amount of medium and small States.

It should be noted that this provision in no way compromises the other remedies that Senate Joint Resolution 1 provides to the electoral college system; this amendment merely replaces one emergency contingency with another.

The whole point of the change is that the Tydings contingency, unlike the runoff in Senate Joint Resolution 1 discourages its own use. Its success will be its preventative effect. Under this plan, no third-party candidate, ideological or sectional, has a chance of winning the Presidential election, unless he can amass an electoral college majority as one of two front runners or unless he receives over 40 percent of the popular vote. More important, there is no trigger that leads to a second political contest, in the House or in a runoff. There is no incentive for the two front-runners to bargain with minor party candidates. The incentives for third-parties under this amendment to Senate Joint Resolution 1 will be similar to those of an ideological party under our present system; there is little encouragement to run unless a third-party candidate can attract more votes than one of the two leading parties. If third-party candidates come close to attracting 20 percent of the vote, the two leading candidates would merely switch to an election strategy aimed at an electoral college majority—the same strategy used today. This allows a genuine, national third-party movement such as the Bull Moose Party, to succeed.

Thus under the Tydings amendment, the loss of the unit rule in the States as a barrier to splinter parties is replaced with another support of the two-party system without the undesirable effects of the winner-take-all method except in rare cases.

THE PROBLEM OF LEGITIMACY

Some have pointed out that any use of the discredited electoral college system would raise questions of legitimacy. This does not seem to bear out analysis.

First, there is no possibility of either a faithless elector or the wholesale bargaining in the House, two of the major objections to the present electoral college.

Second, the electoral college, in spite of its faults, retains a tremendous amount of political legitimacy. Its use as an emergency provision would not seem to draw too deeply on the reservoir of legitimacy now available.

Third, this contingency—because it discourages its own use—would be employed rarely; and if it were used, it would be under conditions of division and dissent which would raise questions of legitimacy under any contingency plan. Under either the amended or unamended Senate Joint Resolution 1, the contingency provisions only operate if the leading candidate has less than 40 percent of the vote. Thus large groups in the society will already have registered dissatisfaction with both regular parties.

Under a runoff, these splinter party voters are forced to vote for second choices or register their protest by abstentions. Further, the political bargaining inherent in this situation will further add to the mood of dissatisfaction and discontent. It must be conceded that this route of choosing a candidate who is the first choice of only a minority of voters will raise at least as much dissatisfaction with the method of selection as the modified electoral college alternative.

Thus, in terms of the political legitimacy of electoral institutions, both contingencies will occur in a situation full of doubt and in themselves raise more questions. But the modified electoral college contingency is superior in two ways: First, it will resolve an unhappy election at one time, leaving no doubt and precluding a second contest liable to exacerbate questions of legitimacy; second, it will discourage its own use, thereby avoiding the problem altogether.

EAGLETON-DOLE ALTERNATIVE

The Tydings amendment accomplished much of the purpose of Eagleton-Dole Electoral Process Reform, Senate Joint Resolution 181, but without its undue complication and while preserving the direct election principle in all but extremely rare cases. The greatest amount of legitimacy for a Presidential election today stems from a popular majority—and Senate Joint Resolution 181 simply ignores this fact. The Tydings amendment recognizes it by supporting a stable two-party system and preserving direct elections; it only takes effect as does the runoff when there is no broad-based, popular support.

I hope my colleagues will give this subject thought and attention, because it is a matter of deep importance for the proper functioning of our constitutional system. I intend to do everything I can to help Senate Joint Resolution 1 pass the Senate this spring. I propose this amendment to improve what I think is a

brilliant reform of our antiquated electoral college system.

## MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 3690) to increase the pay of Federal employees; and it was signed by the Acting President pro tempore (Mr. ALLEN).

## SENATOR SPONG AGAIN CALLS FOR EXPEDITIOUS ACTION ON THE FOUR MILE RUN PROJECT

Mr. SPONG. Mr. President, the people of the Arlandria area of northern Virginia today endured the anguish of a flood alert from Four Mile Run. It was the fourth alert since the disastrous floods of last summer. Children were evacuated from an elementary school in the area because of the flood threat, and water was in the streets. Several families in low-lying areas were removed to higher ground.

Since August 1969, I have been attempting to convey to the administration the urgency of a much-needed flood control project to protect the citizens of Arlandria and their property, but the project has not yet been submitted to Congress for authorization and appropriation action.

I have sought expeditious action on the project by means of letters to the various Federal agencies having responsibility to review and comment on such improvements. My staff has made followup telephone calls. I have asked HUD about rushing the printing of forms for flood insurance, but was told they would not be available until May 10. I inquired about the possibility of allowing persons to sign up for insurance prior to the time that forms would become available, and was told it could not be done.

I can only wonder if the administration is insensitive to the plight of the people of Arlandria. I have even appealed to the President without success. In a letter dated March 26, 1970, I requested his assistance in expediting consideration of the project by the Secretary of the Army and the Bureau of the Budget. In an acknowledgment dated April 1, 1970, Mr. William E. Timmons, an Assistant to the President, said he would be pleased to bring my letter to the President's attention at the earliest opportunity. He gave assurance that my request would be given full consideration, but I have received no further word on the project.

Mr. President, the governing bodies of the city of Alexandria and the county of Arlington have given assurance that the local funds for the flood control improvements will be provided. All we need is a little sympathetic consideration of the project by the administration.

As a member of the Public Works Committee, I have pledged to the people of the community that I would seek action at the earliest possible moment. I renew that pledge today. But Congress cannot act on the project until it has been submitted by the administration.

Mr. President, I ask unanimous consent that my correspondence with the President, and my communications to the agencies having responsibility to review and comment on the project, together with their responses, be inserted chronologically in the RECORD.

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

AUGUST 5, 1969.

The PRESIDENT,
*The White House,*
*Washington, D.C.*

Recent floods in Arlandria section of Alexandria, Virginia, demonstrates urgent need for flood protection on Four Mile Run. I have urged Chief of Engineers to expedite processing of report on flood protection plan. Your assistance in speeding this report would be deeply appreciated.

Sincerely,

WILLIAM B. SPONG, Jr.,
*U.S. Senator.*

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THE WHITE HOUSE,
*Washington, September 2, 1969.*

Hon. WILLIAM B. SPONG,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SPONG: This is in further response to your telegram of August 5, 1969, to the President urging approval by the Corps of Engineers of a flood control project for Four Mile Run in Arlington and Alexandria, Virginia.

The Corps of Engineers has informed us that the draft of an economic feasibility survey of Four Mile Run has been completed, and that the report is now under review by the North Atlantic Division Engineer. Upon completing his review, the Division Engineer will transmit the report to Washington for departmental review and further coordination with the State of Virginia and other Federal agencies, including the Bureau of the Budget. The Corps has also informed us that there is a strong possibility that if an omnibus rivers and harbors bill is introduced in 1970, the status of the report on the Four Mile Run project, if found favorable, will be such that the Secretary of the Army will be able to make appropriate recommendations for authorization in this bill.

We are aware of the flood problem of Four Mile Run in Arlington and Alexandria, and understand your concern in this matter; however, since no flood control project has yet been authorized for Four Mile Run, we must wait for the completion and authorization of the above survey before starting construction of protective measures for this area.

With cordial regard.

Sincerely,

EUGENE S. COWEN,
*Special Assistant to the President.*

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OCTOBER 14, 1969.

Hon. WALTER J. HICKEL,
*Secretary, Department of the Interior,*
*Washington, D.C.*

DEAR MR. SECRETARY: This is in reference to a proposed flood control project along Four Mile Run in the City of Alexandria and the County of Arlington, Virginia. The reports of the District and Division Engineers, U.S. Corps of Engineers, are pending before the Board of Engineers for Rivers and Harbors, and I anticipate that the Board's review will be completed in the near future.

As you know, the proposed project will then be submitted to you for comment. The purpose of this communication is to request expeditious preparation of your comments. The Arlandria area of Northern Virginia was extensively damaged by floods from Four Mile Run on two occasions last summer. The area has been inundated eight times in the past 27 years.

In order to familiarize you with the project I am enclosing a copy of a summary of the project provided by representatives of the Corps of Engineers at hearings September 17 before the Senate Subcommittee on Flood Control-Rivers and Harbors.

Any consideration you can give to this matter will be appreciated.

With kind regards.

Sincerely,

WILLIAM B. SPONG, Jr.,
*U.S. Senator.*

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U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., October 15, 1969.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SPONG: Secretary Hickel has asked us to acknowledge your letter of October 14, 1969, regarding a proposed flood control project along Four Mile Run in the City of Alexandria and the County of Arlington, Virginia.

The Secretary appreciates your interest and concern and a reply regarding this matter will be provided promptly.

Sincerely yours,

Mrs. LOUISE BUNDY,
*Assistant to the Secretary.*

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U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, NATIONAL CAPITAL REGION,
*Washington, D.C., November 5, 1969.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SPONG: Secretary Hickel has asked this Office to provide you with further information relative to the proposed flood control project along Four Mile Run and comment on the position of the National Park Service which has jurisdiction over the George Washington Memorial Parkway.

This Office is familiar with the preliminary report prepared by the U.S. Corps of Engineers for this project. Their plan will require, among other things, the replacement of several bridges over Four Mile Run including the parkway bridge under the jurisdiction of this Office.

The report of the Corps of Engineers divides the responsibility for funding this project into two categories, Federal and non-Federal or local. The George Washington Memorial Parkway bridge over Four Mile Run has been classified as a non-Federal or local responsibility by the Corps of Engineers and not eligible for replacement with funds appropriated for the proposed flood control project. While the National Park Service concurs in the desirability of this project, our participation will be limited to the availability of funds.

We also recognize the need for coordination in the construction of this project and feel that this need would best be served by having as much of the development as possible handled by one Federal agency. To this end, we find it desirable that the Corps of Engineers incorporate the replacement of the Parkway bridge into their program. This would insure the continuity of construction and simplify matters since Federal funds are involved, regardless of which agency makes the request. We are prepared to urge the Corps to pursue this course.

This Office will be pleased to furnish any further information you may require on this project.

Sincerely yours,

RUSSELL E. DICKENSON,
*Acting Regional Director.*

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DECEMBER 2, 1969.

Hon. WALTER J. HICKEL,
*Secretary, Department of the Interior,*
*Washington, D.C.*

DEAR MR. SECRETARY: This is in further reference to my letter of October 14, in which I requested that action be expedited in the

preparation of the comments of the Department of the Interior with respect to a proposed flood control project along Four Mile Run in the City of Alexandria and the County of Arlington, Virginia.

It is my understanding that your comments have not yet been submitted to the Corps of Engineers. In view of the urgent nature of the project, I wish to renew my request that the Department of the Interior do everything possible to expedite its review of this matter.

Sincerely,

WILLIAM B. SPONG, Jr.

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U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, NATIONAL CAPITAL REGION,
*Washington, D.C., December 17, 1969.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SPONG: On behalf of Secretary Hickel, I am pleased to receive your recent letter regarding the Four Mile Run Flood Control Project as proposed by the Army Corps of Engineers. In our November 5 reply to you concerning this subject, we outlined the position and recommendations regarding the implementation of our portion of the project. We have since been provided with a copy of the most recent report by the U.S. Army Corps of Engineers and find it to be a well documented statement of the problem and its solutions.

Although the reconstruction of the Mount Vernon Memorial Highway is the only portion of the project involving Department of the Interior facilities, other functions of the Department are being considered. The comments to be forwarded to the Army Corps of Engineers will, therefore, be a combined effort of the several agencies involved. These are now being finalized and will soon be forthcoming. We support the objectives of the project insofar as our interest and responsibilities are affected and you may be assured that our comments will be limited to coordination and implementation.

Your active interest in this matter is greatly appreciated.

Sincerely yours,

RUSSELL E. DICKENSON,
*General Superintendent, Office of National Capital Parks.*

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FEBRUARY, 13, 1970.

Mr. RUSSELL E. DICKENSON,
*Acting Regional Director, National Capital Region, National Park Service, Washington, D.C.*

DEAR MR. DICKENSON: This is in reference to the proposed Four Mile Run flood control project in the City of Alexandria and to your letter dated November 5, 1969, (A7627–NCR RSP), in which you advised that the National Park Service has proposed that the Corps of Engineers specify as a federal cost the replacement of a bridge over the George Washington Memorial Parkway.

In the belief that the project had been forwarded to the Secretary of the Army, I requested Secretary Resor in a letter dated January 20, 1970, to transmit his report to Congress as quickly as possible. Secretary Resor's Special Assistant, Mr. Robert E. Jordan, III, responded on January 26 that all comments had not yet been received by the Chief of Engineers. Enclosed, for your convenience, is a copy of Mr. Jordan's letter.

It has since come to my attention that the project is being held up by reason of uncertainty over whether the bridge replacement should be designated as a local or federal cost. The Senate Subcommittee on Flood Control-Rivers and Harbors held hearings on the project in September 1969, and I cannot stress too strongly my desire that action be expedited. I would hope that questions involving the cost of the bridge replacement will be resolved quickly. I am writing a similar letter to the Chief of Engineers.

Sincerely,

WILLIAM B. SPONG, Jr.

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U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, OFFICE OF NATIONAL CAPITAL PARKS,
*Washington, D.C., March 2, 1970.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SPONG: In response to your recent letter regarding comments on the Four Mile Run flood control project, we are enclosing a copy of the Department of the Interior's reply to the Corps of Engineers, dated January 23, 1970.

We must apologize for what must seem an unusually long delay, however, we understand it was necessary to consolidate the input from many Departmental Bureaus in order to fully present our views.

The question of the parkway bridge classification still needs to be resolved and we hope to be hearing from the Corps regarding this in the near future.

Your efforts in expediting this matter are appreciated, and we hope to continue enjoying the benefits of your interest.

Sincerely yours,

RUSSELL E. DICKENSON,
*General Superintendent.*

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U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D.C., January 23, 1970.*

Lt. Gen. F. J. CLARKE,
*Chief of Engineers, Department of the Army, Washington, D.C.*

DEAR GENERAL CLARKE: This responds to your October 28, 1969, letter requesting the Department's review and comment on your proposed report on Fourmile Run, City of Alexandria and Arlington County, Virginia.

The proposed project would be located in an urban area where a need exists for outdoor recreation opportunities. Construction of trails along the proposed levees and development of the right bank ponding area for nature appreciation could provide such opportunities. It is recommended that the Corps of Engineers cooperate with local interests in post-authorization planning for needed outdoor recreation development and that such features be incorporated into the final design for the project to the extent practicable. It is further recommended that local interests be encouraged to consider a companion flood plain management program as a means of preserving open space and preventing future encroachment and building on the flood plain.

The George Washington Memorial Parkway is a Federal facility classified as part of the National Park System, owned and operated by the National Park Service. The report identifies funding for the project in two categories, Federal (meanings Corps of Engineers) and non-Federal (meaning local) and the Parkway bridge replacement over Fourmile Run is classified for non-Federal funding. We believe it was an oversight in formulating the project to consider the Parkway facilities as a highway bridge not eligible for flood control funding. The Parkway should be treated as a Federal facility wherein it could be eligible for appropriation for the flood control project. To this end, we recommend incorporating the parkway replacement into your Federal funding category for this project.

The plan you are recommending includes the clearing of trees and shrubs from the 25-acre ponding area on the right bank. It is contended that the preservation of the natural values of this area is worthy of further consideration and could be accomplished without reducing the flood storage capabilities of the pond. We urge that trees and shrubs not be cut from the upland portion of the ponding area to assist in maintaining fish and wildlife values. Habitat of this type, where wildlife can be observed in a near natural environment is particularly valuable near cities and urban areas.

To protect water quality during the construction period in accordance with provisions of Executive Order 11288, we recommend that contract specifications require all contractors and subcontractors to:

1. Exercise care in the relocation of any petroleum product pipelines.
2. Provide and operate sanitary facilities to adequately treat and dispose of domestic wastes in conformance with Federal and State water pollution control regulations.
3. Schedule clearing, excavation and construction operations to keep turbidity and siltation at the lowest level practicable.

We appreciate the opportunity to review and comment on this report and request further consideration to include the George Washington Memorial Parkway bridge replacement cost into your program.

Sincerely yours,

——— ———,
*Secretary of the Interior.*

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OCTOBER 14, 1969.

Hon. CLIFFORD M. HARDIN,
*Secretary, Department of Agriculture, Washington, D.C.*

DEAR MR. SECRETARY: This is in reference to a proposed flood control project along Four Mile Run in the City of Alexandria and the County of Arlington, Virginia. The reports of the District and Division Engineers, U.S. Corps of Engineers, are pending before the Board of Engineers for Rivers and Harbors, and I anticipate that the Board's review will be completed in the near future.

As you know, the proposed project will then be submitted to you for comment. The purpose of this communication is to request expeditious preparation of your comments. The Arlandria area of Northern Virginia was extensively damaged by floods from Four Mile Run on two occasions last summer. The area has been inundated eight times in the past 27 years.

In order to familiarize you with the projection, I am enclosing a copy of a summary of the project provided by representatives of the Corps of Engineers at hearings September 17 before the Senate Subcommittee on Flood Control-Rivers and Harbors.

Any consideration you can give to this matter will be appreciated.

With kind regards.

Sincerely,

WILLIAM B. SPONG, Jr.

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OCTOBER 14, 1969.

Hon. JOHN A. VOLPE,
*Secretary, Department of Transportation, Washington, D.C.*

DEAR MR. SECRETARY: This is in reference to a proposed flood control project along Four Mile Run in the City of Alexandria and the County of Arlington, Virginia. The reports of the District and Division Engineers, U.S. Corps of Engineers, are pending before the Board of Engineers for Rivers and Harbors, and I anticipate that the Board's review will be completed in the near future.

As you know, the proposed project will then be submitted to you for comment. The purpose of this communication is to request expeditious preparation of your comments. The Arlandria area of Northern Virginia was extensively damaged by floods from Four Mile Run on two occasions last summer. The area has been inundated eight times in the past 27 years.

In order to familiarize you with the project, I am enclosing a copy of a summary of the project provided by representatives of the Corps of Engineers at hearings September 17 before the Senate Subcommittee on Flood Control-Rivers and Harbors.

Any consideration you can give to this matter will be appreciated.

With kind regards.

Sincerely,

WILLIAM B. SPONG, Jr.

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THE SECRETARY OF TRANSPORTATION,
*Washington, D.C., November 20, 1969.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SPONG: This is in response to your letter of October 14, 1969 concerning an expedited review of the Corps of Engineers flood control report on Fourmile Run, City of Alexandria and Arlington County, Virginia.

As you probably know, a member of your staff, Mr. Allan Jones, and the Department's Coordinator for Water Resources have been in touch to reduce for this report the standard 90-day period for Executive Branch review of water resource projects. We received the report from the Corps of Engineers on November 3 and immediately requested the Federal Highway Administration, U.S. Coast Guard, and Federal Railroad Administration to analyze it in the light of agency responsibilities. We reviewed their findings and from them prepared our commentary which was sent to the Chief of Engineers on November 18, 1969.

I am happy to advise you that there was no Departmental objection to any of the recommendations contained in the Four Mile Run report.

Sincerely,

JAMES M. BOGGS,
*Acting Secretary.*

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OCTOBER 14, 1969.

Hon. ROBERT H. FINCH,
*Secretary, Department of Health, Education, and Welfare, Washington, D.C.*

DEAR MR. SECRETARY: This is in reference to a proposed flood control project along Four Mile Run in the City of Alexandria and the County of Arlington, Virginia. The reports of the District and Division Engineers, U.S. Corps of Engineers, are pending before the Board of Engineers for Rivers and Harbors, and I anticipate that the Board's review will be completed in the near future.

As you know, the proposed project will then be submitted to you for comment. The purpose of this communication is to request expeditious preparation of your comments. The Arlandria area of Northern Virginia was extensively damaged by floods from Four Mile Run on two occasions last summer. The area has been inundated eight times in the past 27 years.

In order to familiarize you with the project, I am enclosing a copy of a summary of the project provided by representatives of the Corps of Engineers at hearings September 17 before the Senate Subcommitte on Flood Control-Rivers and Harbors.

Any consideration you can give to this matter will be appreciated.

With kind regards.

Sincerely,

WILLIAM B. SPONG, Jr.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
*Washington, D.C., October 16, 1969.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SPONG: The Secretary has referred your October 14 letter regarding the proposed flood control project along Four Mile Run in the City of Alexandria and the County of Arlington, Virginia to the appropriate office.

A reply will be forwarded to you as soon as possible.

Sincerely,

JERRY W. POOLE,
*Deputy Assistant Secretary for Congressional Liaison.*

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DECEMBER 2, 1969.

Mr. CHRIS A. HANSEN,
*Assistant Surgeon General Commissioner, Environmental Control Administration, DHEW/Public Health Service, Rockville, Md.*

DEAR MR. HANSEN: This is in reference to your letter dated October 30 in response to my request of Ocober 14 that action be expedited on your review of a proposed flood control project at Four Mile Run in the City of Alexandria and the County of Arlington, Virginia.

It is my understanding that your comments have not yet been submitted to the Corps of Engineers. In view of the urgent nature of the project, I wish to renew my request that you do everything possible to complete your review.

Sincerely,

WILLIAM B. SPONG, Jr.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
*Rockville, Md., October 30, 1969.*

Hon. WILLIAM B. SPONG, Jr.
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SPONG: Secretary Finch has requested that I reply to your letter of October 14, 1969, concerning the proposed flood control project along Four Mile Run in the city of Alexandria and Arlington County, Virginia.

We are aware of the urgent nature of this project since flooding has caused extensive damage to the Arlandria area in recent years.

As soon as we have received the Corps of Engineers Report on this project, we will do everything possible to expedite the review.

Sincerely yours,

CHRIS A. HANSEN,
*Assistant Surgeon General Commissioner.*

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OCTOBER 15, 1969.

Mr. ROBERT P. MAYO,
*Director of the Budget,*
*Executive Office Building,*
*Washington, D.C.*

DEAR MR. MAYO: This is in reference to a proposed flood control project along Four Mile Run in the City of Alexandria and the County of Arlington, Virginia. The reports of the District and Division Engineers, U.S. Corps of Engineers, are pending before the Board of Engineers for Rivers and Harbors, and I anticipate that the Board's review will be completed in the near future.

As you know, the proposed project will then be submitted to you for comment. The purpose of this communication is to request expeditious preparation of your comments. The Arlandria area of Northern Virginia was extensively damaged by floods from Four Mile Run on two occasions last summer. The area has been inundated eight times in the past 27 years.

In order to familiarize you with the project I am enclosing a copy of a summary of the project provided by representatives of the Corps of Engineers at hearings September 17 before the Senate Subcommittee on Flood Control-Rivers and Harbors.

Any consideration you can give this matter will be appreciated.

With kinds regards,

Sincerely,

WILLIAM B. SPONG, Jr.

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DEPARTMENT OF AGRICULTURE,
*Washington, D.C., October 21, 1969.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate,*

DEAR SENATOR SPONG: Thank you for your letter of October 14, 1969, alerting us that the reports of the District and Division Engineers, U.S. Corps of Engineers, on the proposed Four Mile Run Flood Control Project, Virginia, are expected to be referred to this Department for review in the near future.

We appreciate your sending us a copy of a summary of the proposed project. You are assured that we will give the report on this proposed project immediate attention. Our comments will be completed and transmitted to the Secretary of the Army as quickly as the review procedure will permit.

We appreciate your interest in this report and also your interest in the water and related land resource programs carried out by this Department.

Sincerely,

ALFRED L. EDWARDS,
*Deputy Assistant Secretary.*

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EXECUTIVE OFFICE OF THE PRESIDENT, BUREAU OF THE BUDGET,
*Washington, D.C., October 27, 1969.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SPONG: Thank you for your letter and enclosure to the Director of October 15, 1969, concerning the flood control project in Alexandria.

The Board of Engineers for Rivers and Harbors reported favorably on this project on October 20. Their report now goes to the Chief of Engineers for further evaluation and for submission to the State of Virginia and other Federal agencies for views and comments. Upon receipt of the State and agency views, the Chief of Engineers will make his final recommendations to the Secretary of the Army for review and subsequent transmittal to the Bureau of the Budget for its considerations.

We appreciate knowing of your interest in this proposed project. You may be assured that we will complete our review of the survey report as soon as practicable.

Sincerely yours,

CARL H. SCHWARTZ, Jr.,
*Director, Natural Resources, Programs Division.*

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DEPARTMENT OF AGRICULTURE,
*Washington, D.C., December 9, 1969.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate*

DEAR SENATOR SPONG: This is in reply to your letter of December 2, 1969, referring to your previous request that we expedite the review of the report by the Corps of Engineers on the Four Mile Run project in Virginia.

We are pleased to advise you that the comments of this Department were forwarded to the Secretary of the Army on November 21, 1969.

We appreciate your interest in this project.

Sincerely,

ALFRED L. EDWARDS,
*Deputy Assistant Secretary.*

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FEBRUARY 13, 1970.

Lt. Gen. FREDERICK C. CLARKE,
*Chief of Engineers,*
*Department of the Army,*
*Washington, D.C.*

DEAR GENERAL CLARKE: This is in further reference to a proposed flood control project along Four Mile Run in the City of Alexandria and the County of Arlington, Virginia.

Acting on the belief that the project had been forwarded to the Secretary of the Army, I requested Secretary Resor in a letter dated January 20, 1970, to transmit his report to Congress as quickly as possible. Secretary Resor's Special Assistant, Mr. Robert E. Jordan III, responded on January 26 that all comments had not yet been received by the Chief of Engineers. Enclosed, for your convenience, is a copy of Mr. Jordan's letter.

It has since come to my attention that the project is being held up by reason of a recommendation by the National Park Service that a bridge over the George Washington

Memorial Parkway should be designated as a federal cost. The Park Service notified me of its recommendation on November 5, 1969, but I had hoped the problem would have been resolved more quickly.

As you know, I am most anxious that the project be expedited. I had hoped, when hearings were held last September before the Senate Subcommittee on Flood Control—Rivers and Harbors, that action could be taken during Calendar 1969.

With kind regards.

Sincerely,

WILLIAM B. SPONG, Jr.

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DEPARTMENT OF THE ARMY, OFFICE OF THE CHIEF OF ENGINEERS,
*Washington, D.C., March 6, 1970.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR SPONG: This is in reply to your recent letter to Lieutenant General Frederick J. Clarke concerning the report on Four Mile Run, Virginia.

The report of the Chief of Engineers on Four Mile Run has been transmitted to the Secretary of the Army recommending the improvements substantially in accordance with the plan of the District Engineer. However, the report of the Chief of Engineers recommends that replacement of the George Washington Memorial Parkway Bridge be included as a Federal cost.

Sincerely yours,

LEONARD EDELSTEIN,
*Colonel, Corps of Engineers, Assistant Director of Civil Works for Atlantic Divisions.*

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MARCH 26, 1970.

The PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: This is to request your assistance in expediting consideration by the Secretary of the Army and the Bureau of the Budget of a proposed flood control project at Four Mile Run in the City of Alexandria and the County of Arlington in Northern Virginia.

I was advised in a letter dated March 6, 1970, that the report of the Chief of Engineers on the project had been forwarded to the Secretary of the Army. The report recommended flood control improvements substantially in accordance with a plan developed by the Baltimore District Engineer.

The Arlandria community of Alexandria and Arlington has been damaged on several occasions by flooding from Four Mile Run. Two serious floods occurred last summer, and residents and businessmen of the area are extremely apprehensive over the future.

The Senate Subcommittee on Flood Control-Rivers and Harbors held hearings on the project last September, and since October I have been endeavoring to induce the federal agencies involved to complete their reviews and submit their comments to the Chief of Engineers. This process was not completed until January 23, 1970.

In view of the danger of recurring floods, I hope you will give favorable consideration to my request to expedite the project, so that this much-needed improvement can be taken up by the Congress.

Sincerely,

WILLIAM B. SPONG, Jr.

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THE WHITE HOUSE,
*Washington, April 1, 1970.*

Hon. WILLIAM B. SPONG, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR BILL: This will acknowledge and thank you for your letter to the President requesting that reports by the Department of Defense and the Bureau of the Budget on the proposed flood control project at Four Mile Run be expedited. We will be pleased to bring your letter to the President's attention at the earliest opportunity. You may be assured your request will be given full consideration.

With warm regard.

Sincerely,

WILLIAM E. TIMMONS,
*Assistant to the President.*

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APRIL 10, 1970.

Hon. CHARLES E. BEATLEY, Jr.,
*Mayor, City of Alexandria, Va.*

DEAR CHUCK: Thank you very much for your letter requesting expeditious action on the implementation of the federal insurance program for small businesses and apartments in the Arlandria area.

My office has contacted the Federal Insurance Administration, and has been advised that it is not possible for persons to sign up for the insurance prior to the printing of the policies.

In response to our request that action be expedited on the printing, we were informed that the policies would not be available until approximately May 10.

I sincerely regret this delay. As you will recall, I requested the President to expedite action on the transmittal of the Four Mile Run project to Congress. Attached is a copy of an acknowledgment from the White House.

Frankly, the Administration does not seem to be aware of the urgent need for this project. I shall continue to press for action.

With kindest regards.

Sincerely,

WILLIAM B. SPONG, Jr.

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.

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## NOMINATION OF HARRY ANDREW BLACKMUN TO BE AN ASSOCIATE JUSTICE OF THE U.S. SUPREME COURT

Mr. HRUSKA. Mr. President, late this afternoon it was announced by the White House that Harry Andrew Blackmun will be nominated—and the nomination sent to the Senate, probably tomorrow—to be an Associate Justice of the U.S. Supreme Court.

I ask unanimous consent that the text of the news release from the White House, dated earlier today for immediate release, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HRUSKA. Mr. President, from the standpoint of his background, his philosophy, and his judicial temperament, Judge Blackmun appears to be the kind of man and the kind of judge which President Nixon has decribed is needed on the Supreme Court.

He appears to be the kind of man who will meet, and does meet, admirably, President Nixon's criteria as described last Thursday, in which he said he wanted someone who shared his legal philosophy of strict construction of the Constitution in order to help restore a balance to the court. Judge Blackmun does appear to have the kind of philosophy which will help bring about that balance.

The President's second criterion was experience on the highest Federal appeals court, and Judge Blackmun has served with distinction for the past 11 years on the eighth circuit court, in which my own State of Nebraska is represented. I know he is well regarded in that circuit.

The third consideration is that the President has gone outside the South for his nominee in order to avoid the bitter and unwarranted assaults which have been mounted against his two previous nominees.

Judge Blackmun's experience spans many years of practice at the bar and service in the educational field, in addition to his years on the bench. In all respects he appears to be a candidate who fits the President's criteria and the Nation's need.

I trust the Senate Committee on the Judiciary will give his nomination its earliest consideration.

EXHIBIT 1

HARRY ANDREW BLACKMUN, NOMINATED ASSOCIATE JUSTICE, UNITED STATES SUPREME COURT

Harry Andrew Blackmun was born in Nashville, Illinois, on November 12, 1908, the son of Corwin Manning Blackmun and Theo H. Reuter Blackmun. He moved to Saint Paul, Minnesota, in 1910 where he attended the Van Buren Grade School and the Mechanic Arts High School, graduating in the class of 1925. He enrolled that year in Harvard College, Cambridge, Massachusetts where he was elected to Phi Beta Kappa and where in 1929 he received his A.B. degree, summa cum laude in mathematics. He went on to the Harvard Law School where he received his LL.B. in 1932 and where he was a member of the group which won the Ames moot court competition.

During his school years, Judge Blackmun held a variety of miscellaneous jobs: clerking, driving launches for racing crews, tutoring, correcting math papers, and working as a janitor and as a milk driver.

From Harvard, Judge Blackmun returned to Saint Paul where he served for a year and a half as law clerk to the Honorable John B. Sanborn, United States Circuit Judge for the Court of Appeals of the Eighth Circuit.

In 1934 he became an associate in the law firm of Dorsey, Colman, Barker, Scott and Barber in Minneapolis, Minnesota. He became a junior partner in the firm in 1939 and a general partner in 1943. His specialty there was in tax law. During these same years he was also an Instructor at the Saint Paul College of Law—now the William Mitchell College of Law (1935–37)—and at the University of Minnesota Law School (1945–47).

Judge Blackmun moved to Rochester, Minnesota on October 1, 1950, where he became resident counsel for the Mayo Clinic and the Mayo Association. He served as Member of the Section of Administration for the Mayo Clinic and as Member of the Investment Committee for the Mayo Association. He was also a member and secretary from 1952–1961 of the Board of Members of the Mayo Association.

President Eisenhower appointed Judge Blackmun to the United States Court of Appeals for the Eighth Circuit in 1959, a position he assumed on November 4th of that year and which he has held since that time. During this period he has continued to live in Rochester, Minnesota.

Judge Blackmun has been active in the work of bar associations in all the communities in which he has practiced law. He is

the past chairman of the Junior Bar Section and past secretary and chairman of the Administrative Law Section of the Hennepin County Bar Association. He now serves as Chairman of the Advisory Committee on Research to the Federal Judicial Center; a member of the Advisory Committee on the Judge's Function to the American Bar Association Special Committee on Standards for the Administration of Criminal Justice; and a member of the interim Advisory Committee on Judicial Activities. Judge Blackmun has written a number of articles and has participated in a number of legal seminars. One area of special interest to him is the medicolegal field.

Judge Blackmun was a member of the Minnesota National Guard from 1927–1930, a director of the Rochester Airport Company from 1952 to 1960, and a director of the Kahler Corporation from 1958 to 1964. He has been a trustee of the William Mitchell College of Law since 1959 and a member of the Board of Trustees of Hamline University since 1964. He is also a member of the Minneapolis Club and the University Club of Rochester, Minnesota. He is a member and former President of both the Harvard Club of Minnesota and the Rotary Club of Rochester, Minnesota.

Judge Blackmun is a member of the First Methodist Church of Rochester, Minnesota and he was chairman of its Board of Trustees from 1961–64. He is director of the Rochester Methodist Hospital and a member of its Executive Committee. On the national level, he has been a member of the Board of Publication of the Methodist Church since 1960 and of its Executive Committee since 1964.

Judge Blackmun married the former Dorothy E. Clark on June 21, 1941. They have three daughters, Nancy Clark, 26; Sally Ann, 22; and Susan Manning, 20. The three girls celebrate their birthdays on July 8, July 7 and July 1, respectively. Judge Blackmun's father died on February 5, 1947. His mother still lives in Minneapolis.

## PARAGRAPH 3 OF RULE VIII TO TAKE EFECT AT CONCLUSION OF SPECIAL ORDERS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time under paragraph 3 of rule VIII, the so-called Pastore rule, not begin running on tomorrow until the conclusion of the special orders previously entered.

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

## ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is S. 1814, to provide for public ownership of the mass transit bus system operated by D.C. Transit System.

## ADJOURNMENT TO 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 39 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, April 15, 1970, at 10 a.m.

## NOMINATIONS

Executive nominations received by the Senate April 14, 1970:

NATIONAL SCIENCE BOARD

The following-named persons to be members of the National Science Board, National Science Foundation, for the terms indicated:

For the remainder of the term expiring May 10, 1972: Horton Guyford Stever, of Pennsylvania, vice Clifford M. Hardin, resigned.

For a term expiring May 10, 1976:

Herbert E. Carter, of Illinois; reappointment.

Robert Alan Charpie, of Massachusetts, vice Julian R. Goldsmith, term expiring.

Lloyd Miller Cooke, of Illinois, vice William W. Hagerty, term expiring.

Robert Henry Dicke, of New Jersey, vice Mina S. Rees, term expiring.

David Murray Gates, of Missouri, vice Mary I. Bunting, term expiring.

Roger W. Heyns, of California; reappointment.

Frank Press, of Massachusetts, vice Harvey Picker, term expiring.

Frederick P. Thieme, of Colorado; reappointment.

# HOUSE OF REPRESENTATIVES—*Tuesday, April 14, 1970*

The House met at 12 o'clock noon.

The Reverend Father Joseph F. Thorning, Ph. D., D.D., pastor emeritus, of St. Joseph's-on-Carrollton Manor, Md., and an honorary professor of the Catholic University of Chile, a pontifical institution, offered the following prayer:

Heavenly Father, author of light and of love, let the light of Thy countenance shine brightly upon the Speaker of this House and upon all the distinguished members of legislative bodies throughout the Western Hemisphere, including Canada.

Grant a special blessing, we beseech Thee, upon the President of the United States of America and upon the chief executives of the American Republics that their programs of partnership may be fruitful.

Almighty God, with extraordinary fervor, we implore Thy grace and favor for the safe return of our brave astronauts, whose welfare is dear to their families, their Nation, and to all the peoples of this planet.

We pray that, as a result of brotherly love and cooperation, this inter-American partnership program may bring better education, improved housing, stronger health, and nutritious food to the peoples of the Western Hemisphere.

Vouchsafe, dear Saviour, that a fair distribution of rewards to hard-working producers may help to provide justice, order, security, and peace.

At the same time, may all citizens, who cherish freedom and the blessings of representative government, show respect for the rights of their neighbors and a deep sense of responsibility to authority, essential to virtue in the home and genuine progress in national and international life.

These are among the graces and favors, for which we implore God's help, throughout this new decade of the 1970's. Amen.

## THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

## PAN AMERICAN DAY

The SPEAKER. Pursuant to House Resolution 889, this day has been designated as Pan American Day.

The Chair recognizes the gentleman from Florida, Mr. FASCELL.

Mr. FASCELL. Mr. Speaker, on the occasion of the 80th anniversary of the creation of the Pan American Union, an event which provided the foundation for the great inter-American system in existence today, I wish to offer a resolution and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 911

Whereas April 14, 1970, marks the eightieth anniversary of the Union of American Republics, now known as the Organization of American States;

Whereas the continued hemispheric solidarity is essential to the cause of progress and freedom for all citizens of this hemisphere; and

Whereas in unity there is real promise of accelerated progress in social and political reform and economic growth in the countries of our home hemisphere: Now, therefore, be it.

*Resolved*, That in honor of the founding of the Pan American Union, the House of Representatives of the United States of America extends greetings to the other Republics of the Western Hemisphere and to all citizens of those Republics, with the fervent hope that new thresholds of good will, stability, and prosperity are being crossed.

The SPEAKER. The gentleman from Florida (Mr. FASCELL) is recognized.

Mr. FASCELL. Mr. Speaker, first let me say that I am very happy to avail myself of this opportunity to note, for the benefit of my distinguished colleagues, that Father Joseph F. Thorning, who gave the invocation on Pan American Day for the 26th consecutive year, is the onetime dean of the Graduate School of Georgetown University and the first North American to have been awarded the degree, doctor of divinity, honoris causa, by the Catholic University of Chile, a pontifical institution.

Dr. Thorning, who serves today as one of the associate editors of World Affairs, was an influential leader in the ecumenical movement long before it became as popular as it is now; an active apostle in interracial harmony before the cause was widely recognized; and a worker in the cause of Western Hemisphere understanding and friendship at a time when relatively few were dedicated to the ideal.

So today, Mr. Speaker, we are indeed