By Mr. BROYHILL of Virginia (by request):

H.R. 2393. A bill for the relief of Slavko N. Bjelajac; to the Committee on the Judiciary.

By Mr. CASEY of Texas:

H.R. 2394. A bill for the relief of Antonio Benavides; to the Committee on the Judiciary.

H.R. 2395. A bill for the relief of Agustin Pinera; to the Committee on the Judiciary.

By Mr. CELLER:

H.R. 2396. A bill for the relief of Vincenzo Di Martino; to the Committee on the Judiciary.

H.R. 2397. A bill for the relief of Evan Juan Fornilda; to the Committee on the Judiciary.

H.R. 2398. A bill for the relief of Generosa Fusco; to the Committee on the Judiciary.

H.R. 2399. A bill for the relief of Gustavo Genovese, his wife, Marianna Genovese, and their children, Simone Genovese, Salvatore Genovese, and Caterina Genovese; to the Committee on the Judiciary.

H.R. 2400. A bill for the relief of David Z. Glassman; to the Committee on the Judiciary.

H.R. 2401. A bill for the relief of Maria Gomez; to the Committee on the Judiciary.

H.R. 2402. A bill for the relief of Joseph W. Harris; to the Committee on the Judiciary.

H.R. 2403. A bill for the relief of Teresa Metrisciano; to the Committee on the Judiciary.

H.R. 2404. A bill for the relief of Miss Ada Vergeiner; to the Committee on the Judiciary.

H.R. 2405. A bill for the relief of Mary Weekes; to the Committee on the Judiciary.

By Mr. CORBETT:

H.R. 2406. A bill for the relief of Morris and Lenke Gelb; to the Committee on the Judiciary.

By Mr. COTTER:

H.R. 2407. A bill for the relief of Alda Vergano Fracchia and Angelo Fracchia; to the Committee on the Judiciary.

By Mr. GERALD R. FORD:

H.R. 2408. A bill for the relief of Louis A. Gerbert; to the Committee on the Judiciary.

By Mr. FRELINGHUYSEN:

H.R. 2409. A bill for the relief of Anna Crocetto; to the Committee on the Judiciary.

By Mr. GIAIMO:

H.R. 2410. A bill for the relief of Guerino Allevato and Vienna Mazzei Allevato; to the Committee on the Judiciary.

H.R. 2411. A bill for the relief of Arie Eliazarov; to the Committee on the Judiciary.

H.R. 2412. A bill for the relief of Cesare Anthony Luciani; to the Committee on the Judiciary.

By Mr. GOLDWATER:

H.R. 2413. A bill for the relief of Mesrop Bogosoglu; to the Committee on the Judiciary.

H.R. 2414. A bill for the relief of Nicola Di Nallo; to the Committee on the Judiciary.

H.R. 2415. A bill for the relief of Shi Chang Hsu (also known as Gerald S. C. Hsu); to the Committee on the Judiciary.

H.R. 2416. A bill for the relief of Hospicio A. Lakilak; to the Committee on the Judiciary.

H.R. 2417. A bill for the relief of Miss Peyravi Pary Parichehr; to the Committee on the Judiciary.

H.R. 2418. A bill for the relief of Adele Romanelli; to the Committee on the Judiciary.

H.R. 2419. A bill for the relief of Santuzza Simonti; to the Committee on the Judiciary.

H.R. 2420. A bill for the relief of Lucia Tortorella; to the Committee on the Judiciary.

H.R. 2421. A bill for the relief of Aurora Castell (also known as Aurora Villanueva); to the Committee on the Judiciary.

By Mr. KOCH:

H.R. 2422. A bill for the relief of Pacita de Azucena; to the Committee on the Judiciary.

By Mr. LONG of Maryland:

H.R. 2423. A bill for the relief of Anthony Di Russo; to the Committee on the Judiciary.

H.R. 2424. A bill for the relief of Maria Felicia; to the Committee on the Judiciary.

H.R. 2425. A bill for the relief of Hideo Uchiyama; to the Committee on the Judiciary.

By Mr. MINSHALL:

H.R. 2426. A bill for the relief of Nemecia Macatangay; to the Committee on the Judiciary.

By Mr. MOSS:

H.R. 2427. A bill for the relief of Maria Regina Montenegro-Quintero; to the Committee on the Judiciary.

By Mr. NELSEN:

H.R. 2428. A bill for the relief of Kyu Whan Whang and spouse, nee Young Won Lee; to the Committee on the Judiciary.

By Mr. O'NEILL:

H.R. 2429. A bill for the relief of Guglielmo Tonino Alleva; to the Committee on the Judiciary.

H.R. 2430. A bill for the relief of Eustachio V. Favia; to the Committee on the Judiciary.

H.R. 2431 A bill for the relief of Dimitra Kassola; to the Committee on the Judiciary.

H.R. 2432. A bill for the relief of Bong Soon Lee; to the Committee on the Judiciary.

H.R. 2433. A bill for the relief of Won Chan Lowe; to the Committee on the Judiciary.

By Mr. PEYSER:

H.R. 2434. A bill for the relief of Antonio Scopino; to the Committee on the Judiciary.

H.R. 2435. A bill for the relief of Giuseppe Speranza; to the Committee on the Judiciary.

By Mr. PIRNIE:

H.R. 2436. A bill for the relief of Sgt. Franklin A. Carpenter, U.S. Air Force; to the Committee on the Judiciary.

H.R. 2437. A bill for the relief of Mrs. Julia Chambers; to the Committee on the Judiciary.

H.R. 2438. A bill for the relief of Rosalia Manta Marchese; to the Committee on the Judiciary.

By Mr. REES:

H.R. 2439. A bill for the relief of Mrs. Tomoko Tokugawa; to the Committee on the Judiciary.

By Mr. ROONEY of New York:

H.R. 2440. A bill for the relief of Mrs. Josefina Ferrer Marasigan; to the Committee on the Judiciary.

H.R. 2441. A bill for the relief of Giovanni Orecchia; to the Committee on the Judiciary.

H.R. 2442. A bill for the relief of Rafael Antonio Pappa, his wife, Clotilde Consuelo Teresa Burastero de Pappa, and their children, Alejandra Andrea, Gabriela Araceli, Sergio Javier, and Fabian Rafael Pappa; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 2443. A bill for the relief of Heung Book Song; to the Committee on the Judiciary.

By Mr. SCHMITZ:

H.R. 2444. A bill for the relief of Ghassan Yousif Cotta; to the Committee on the Judiciary.

By Mr. TERRY:

H.R. 2445. A bill for the relief of Erlinda S. Calalang; to the Committee on the Judiciary.

By Mr. THOMSON of Wisconsin:

H.R. 2446. A bill for the relief of Song Han Kyou; to the Committee on the Judiciary.

By Mr. WILLIAMS:

H.R. 2447. A bill for the relief of Paulina Medrano Martinez; to the Committee on the Judiciary.

By Mr. ROYBAL:

H. Res. 160. Resolution honoring the late Rossell G. O'Brien; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

3. By Mr. LENT: Memorial of the Legislature of the State of New York, by Joint Resolution No. 2, adopted on January 20, 1971, calling upon the Congress of the United States and the Federal Government to take prompt action to implement proposals for a system of direct Federal tax-sharing payments to the States; to the Committee on Ways and Means.

4. By the SPEAKER: Memorial of the Legislature of the State of West Virginia, relative to amending the Constitution of the United States to provide for intergovernmental sharing of Federal income tax revenues; to the Committee on the Judiciary.

SENATE—*Tuesday, January 26, 1971*

The Senate met at 11:15 a.m. and was called to order by the Vice President.

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

O Thou ever-living God, to whom in all ages men have lifted up their hearts in prayer, make our hearts a temple of Thy spirit. Strengthen our awareness of Thy presence not only in the time of prayer, but in the hours of work. Confirm our faith in the invincibility of goodness. Guide Thy servants who serve Thee here that they may create enduring ministries for the common good, help heal the wounds of a broken world, and lift high the banner of the kingdom which is in time and beyond time, whose builder and maker is God.

We pray in His name who proclaimed the coming kingdom of truth and justice. Amen.

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Monday, January 25, 1971, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

The VICE PRESIDENT. Under the previous order, the Chair recognizes the Senator from Delaware for 15 minutes.

S. 191—INTRODUCTION OF NATIONAL CATASTROPHIC ILLNESS PROTECTION ACT OF 1971

Mr. BOGGS. Mr. President, I am introducing a bill which I believe goes far toward filling a desperate need in the area of health insurance. This bill, entitled the National Catastrophic Illness Protection Act of 1971, would relieve a measure of the financial burden that

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befalls a family when catastrophic illness strikes by providing insurance for medical expenses above what is now being offered.

I am pleased to announce that I am joined in sponsoring this legislation by the distinguished Senator from Texas (Mr. TOWER) and the distinguished Senator from Maryland (Mr. BEALL).

Specifically, this legislation seeks to encourage the insurance industry to offer policies providing coverage for catastrophic illness by fostering the establishment of insurance pools and statewide catastrophic illness insurance plans. The Federal role would be limited to reinsuring, when necessary, private insurance companies or insurance pools against loss.

Since it is anticipated that most families would desire this type of protection, participation would be widespread, and cost per policy would be low. The result, I believe, would be the availability to all Americans of low-cost protection against the staggering costs of misfortune.

The need for such legislation is great. President Nixon, only a few days ago in his state of the Union address, called for improved health care services. This legislation is an important step in that direction.

The President will soon submit to the Congress his own proposals for new legislation dealing with national health care and insurance. I shall welcome an opportunity to study these proposals. It is my hope that among them will be a catastrophic illness insurance plan similar to the one I am introducing today.

Each year thousands of families suffer not only the anguish of a member's prolonged illness, but also the resulting financial strain. This legislation will not relieve the pain of disease or the suffering of the family. But it will guarantee that the family will be able to afford the best possible medical care, regardless of cost. For the first time, costly operations or extensive therapy or hospitalization need not raise fears of financial ruin for helpless families.

Catastrophic illness strikes at random—it does not discriminate between young and old, black and white, rich and poor. In some cases, the families are financially able to absorb the many thousands of dollars of cost involved. Most are not. Most are rendered financially destitute as the result of a catastrophic illness.

It is time we provide some relief for these financial and human disasters. It is certainly within our power. With the introduction of this legislation today, I believe it is within our reach.

I first introduced this legislation in the 91st Congress shortly after it was introduced in the House of Representatives by the distinguished gentleman from Maryland, Mr. HOGAN. It was introduced again in the other body by Representative HOGAN just last week. I ask that his remarks and analysis, along with a copy of the bill, be printed in the RECORD at this point.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the remarks and analysis, and a copy of the bill will be printed in the RECORD.

The bill (S. 191) to amend the Social Security Act to establish a national catastrophic illness insurance program under which the Federal Government, acting in cooperation with State insurance authorities and the private insurance industry, will reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost, introduced by Mr. BOGGS, for himself and other Senators, was received, read twice by its title, referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

S. 191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Social Security Act is amended by adding at the end thereof the following new title:

"TITLE XX—NATIONAL CATASTROPHIC ILLNESS INSURANCE

"PART A—GENERAL PROVISIONS

"SHORT TITLE

"SEC. 2001. This title may be cited as the 'National Catastrophic Illness Protection Act of 1971'.

"FINDINGS AND PURPOSE

"SEC. 2002. (a) The Congress finds and declares that, despite the great advances in health insurance programs which have been made within both the public and private sectors of the economy, many individuals are still unable to secure adequate health insurance protection or to secure such protection at rates which they can afford. The Congress further finds that few of our citizens are protected from catastrophic illness and that provisions are generally lacking which would allow for such protection in the future.

"(b) It is therefore the policy of the Congress and the purpose of this title to establish a national catastrophic illness insurance program under which the Federal Government, with the cooperation of the States and their insurance authorities and with the active participation of the private insurance industry, will encourage the issuance of private policies which offer adequate health insurance protection on such terms and conditions as will guarantee that such protection is available to all Americans, including those who cannot afford it under existing programs and policies, and will reinsure such policies on terms and conditions calculated to provide the maximum encouragement to insurance companies to participate in the program either individually or through insurance pools established for the purpose.

"DEFINITIONS

"SEC. 2003. When used in this title (unless the context otherwise requires)—

"(1) the term 'extended health insurance' means insurance against all costs paid or incurred for medical care (as defined in section 213(e) of the Internal Revenue Code of 1954 and the regulations issued thereunder);

"(2) the term 'costs of medical care' includes, with respect to any individual, all of the expenses of medical care (as so defined), incurred by or on behalf of persons covered by such individual's extended health insurance policy, which are deductible by such individual under section 213 of the Internal Revenue Code of 1954 (or would be deductible by such individual under section 213 of such Code but for the percentage limitations contained in such section) for the taxable year in which such expenses are paid or incurred;

"(3) the term 'insurer' includes any insurance company, or group of insurance companies under common ownership, which is authorized to engage in the insurance business under the laws of any State;

"(4) the term 'pool' means any pool or association of insurance companies in any State which is formed, associated, or otherwise utilized for the purpose of making extended health insurance more readily available;

"(5) the term 'person' includes any individual or group of individuals, corporation, partnership, association, or other organized group of persons;

"(6) the term 'reinsured losses' means losses on reinsurance claims under this title and all direct expenses incurred in connection therewith, including, but not limited to, expenses for processing, verifying, and paying such losses;

"(7) the term 'Secretary' means the Secretary of Health, Education, and Welfare;

"(8) the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa; and

"(9) the term 'year' means a calendar year, fiscal year of a company, or other period of twelve months designated by the Secretary.

"PART B—ESTABLISHMENT OF PROGRAM; STATE PLANS

PROGRAM AUTHORIZATION

"SEC. 2011. The Secretary is authorized to establish and carry out a national catastrophic illness insurance program as provided for in this title.

"STATE CATASTROPHIC ILLNESS INSURANCE PLANS

"SEC. 2012. (a) The National catastrophic illness insurance program shall be designed to carry out the purpose of this title through the establishment of statewide plans providing extended health insurance and the reinsurance by the Federal Government of the insurers and pools of insurers who offer extended health insurance under such plans.

"(b) Each insurer which is reinsured under this title (or which is a member of a pool reinsured under this title) shall cooperate with the State insurance authority in each State in which it is to acquire such reinsurance in establishing and carrying out the plan of such State described in subsection (a).

"(c) Each statewide plan described in subsection (a) must be approved by, and administered under the supervision of, the State insurance authority, or be authorized or required by State laws, and shall be designed to make extended health insurance more readily available to all individuals in the State and particularly to those who would be unable to secure adequate and complete health insurance protection at reasonable rates without coverage by extended health insurance policies meeting the requirements of this title which are issued and made available under such plan. Such plans may vary in detail from State to State because of local conditions, but all plans shall contain provisions that—

"(1) extended health insurance issued by insurers under the plan will be available to all eligible individuals (as defined in section 2013) at reasonable premiums (as determined under section 2014), subject only to a deductible or deductibles meeting the requirements of section 2015;

"(2) if any insurer declines to write a policy of extended health insurance covering one or more eligible individuals making application therefor in accordance with this title, or agrees to write the policy only at surcharged rates or subject to specified conditions, such insurer will promptly notify both the applicant and the State insurance authority, which shall take such action as may be necessary or appropriate to provide for the issuance of the policy by a pool or by otherwise allocating the risk to be insured to two or more insurers (acting through the all-industry placement facility described in section 2016 or otherwise);

"(3) all extended health insurance policies for which application is made by eligible individuals under the plan will be promptly written after such application and the payment of initial premium and will be separately coded so that appropriate records may be compiled for purposes of performing loss prevention and other studies of the operation of the plan;

"(4) such reports as the Secretary shall by regulation prescribe will be submitted to the State insurance authority and to the Secretary setting forth information, by individual insurers, including the number of risks insured under the plan and such other information as the State insurance authority or the Secretary may request;

"(5) notice will be given to the policyholder a reasonable time prior to the cancellation or nonrenewable by an insurer of any policy written under the plan (except in case of nonpayment of premium), in order to allow ample time for an application for new coverage to be made and a new policy to be written under the plan; and

"(6) a continuing public education program will be undertaken by the participating insurers, agents, and brokers to assure that the plan receives adequate public attention.

"(d) Each plan shall in addition contain such terms, conditions, requirements, and other provisions as the Secretary shall determine to be necessary or appropriate to carry out the purpose of this title.

"ELIGIBLE INDIVIDUALS

"SEC. 2013. For the purpose of this title, and for the purposes of any State plan submitted under section 2012 and the insurance policies issued thereunder, an individual shall be an eligible individual if (1) he resides in the State submitting such plan, and makes application for extended health insurance coverage under such a policy in such manner and form as the State insurance authority (in accordance with regulations of the Secretary) shall direct, or (2) he is not an eligible individual under clause (1) but is a member of the household of a person who is an eligible individual under clause (1), and is such person's spouse, child, grandchild, parent, or grandparent.

"PREMIUMS

"SEC. 2014. (a) The Secretary is authorized to undertake and carry out such studies and investigations and receive or exchange such information as may be necessary to estimate—

"(1) the premium rates for extended health insurance which, based on consideration of the risks involved and accepted actuarial principles, would be required in order to make such insurance available on an actuarial basis, and

"(2) the rates, if less than the rates established under paragraph (1), which would be reasonable, would encourage prospective insureds to purchase extended health insurance, and would be consistent with the purpose of this title.

"(b) On the basis of estimates made under subsection (a) and such information as may be necessary, the Secretary shall from time to time prescribe by regulation the premium rates which may be charged for extended health insurance under policies issued by insurers under State plans approved under section 2012. Such rates may vary according to the number of individuals in the insured individual's family who are covered by the policy, and on the basis of such other factors as the Secretary may find to justify rate differences (whether based on differences in the risks involved in the coverage or otherwise). Losses sustained by insurers and pools charging premium rates prescribed under this subsection which are lower than the corresponding estimated risk premiums determined under subsection (a)(1) shall be compensated for by premium equalization payments made as provided in section 2044.

"(c) Premium rates prescribed under subsection (b) shall, insofar as practicable, be—

"(1) based on a consideration of the risks involved in the coverage, including differences in risks due to family size or composition;

"(2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or if less than an amount adequate to provide such reserves, consistent with the objective of making extended health insurance coverage available so as to encourage prospective insureds to purchase such insurance and with the purpose of this title; and

"(3) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium rates determined under subsection (a)(1), the estimated rates determined under subsection (a)(2), and the rates actually prescribed under subsection (b).

"DEDUCTIBLES

"SEC. 2015. (a) The total amount payable to or with respect to any eligible individual on account of costs of medical care paid or incurred in any year under an extended health insurance policy issued by an insurer or pool under a State plan approved under section 2012 may be reduced by a deductible equal to so much of such costs, actually paid or incurred by such individual, as does not exceed the amount determined under subsection (b).

"(b) The deductible for any individual or family for purposes of subsection (a), with respect to costs of medical care paid or incurred in any year, shall be—

"(1) 50 per centum of the amount by which the adjusted income of such individual or family for such year exceeds $1,000 but does not exceed $2,000, plus

"(2) 100 per centum of the amount by which the adjusted income of such individual or family for such year exceeds $2,000.

No deductible may be imposed in the case of an individual or family whose adjusted income does not exceed $1,000.

"(c) Notwithstanding any other provision of law, the deductible applicable with respect to any individual or family for any year under this section shall be reduced by the amount of any payments made toward the costs of medical care of such individual or the members of such family under title XVIII or XIX of the Social Security Act or under any other public or private health insurance policy covering such medical care.

"(d) As used in this section with respect to any individual or family for any year, the term 'adjusted income' means the gross income of such individual or family for purposes of chapter 1 of the Internal Revenue Code of 1954, reduced by the aggregate amount of the personal exemptions allowed such individual or the members of such family for such year under section 151 of such Code.

"(e) For purposes of subsections (a) and (b), if an individual pays or incurs costs of medical care in any year with respect to a specific illness or injury which began in a previous year and continued without interruption until the time such costs are so paid or incurred, such costs shall be considered to have been paid or incurred in such previous year.

"ALL-INDUSTRY PLACEMENT FACILITY

"SEC. 2016. Any plan under this part shall include an all-industry placement facility doing business with every insurer participating in the plan in the State, and shall provide that this facility shall perform certain functions including, but not limited to, the following:

"(1) seeking, upon request, to distribute the risks involved in the issuance of any extended health insurance policy or class of policies equitably among the insurers with which it is doing business; and

"(2) seeking to place insurance up to the full insurable value of the risk to be insured with one or more insurers with which it is doing business, except to the extent that deductibles, percentage participation clauses, and other underwriting devices are employed to meet special problems of insurability.

"INDUSTRY COOPERATION

"SEC. 2017. (a) Each insurer seeking reinsurance under this title shall file a statement with the State insurance authority in each State in which it is participating in a plan under this title, pledging its full participation and cooperation in carrying out the plan, and shall file a copy of such statement with the Secretary.

"(b) No insurer acquiring reinsurance under this title shall direct any agent or broker or other producer not to solicit business through such a plan, nor shall any agent, broker, or other producer be penalized by such insurer in any way for submitting applications for insurance to an insurer under the plan.

"PLAN EVALUATION

"SEC. 2018. (a) In accordance with such rules and regulations as the Secretary may prescribe, each State insurance authority shall—

"(1) transmit to the Secretary any proposed or adopted plan, or amendments thereto; and

"(2) advise the Secretary, from time to time, concerning the operation of the plan, its effectiveness in providing extended health insurance, and the need to form a pool of insurers or adopt other programs to make extended health insurance more readily available in the State.

"(b) The Secretary may by rules and regulations modify the plan criteria set forth under this part, if he finds, on the basis of experience, that such action is necessary or desirable to carry out the purpose of this title. The Secretary may also, with respect to any State, waive compliance with one or more of the plan criteria, upon certification by the State insurance authority that compliance is unnecessary or inadvisable under local conditions or State law.

"PART C—REINSURANCE COVERAGE

"REINSURANCE OF LOSSES UNDER EXTENDED HEALTH INSURANCE POLICIES

"SEC. 2021. (a)(1) The Secretary is authorized to offer to any insurer or pool, subject to the conditions set forth in section 2023, reinsurance against losses under extended health insurance policies under the plan or plans of any one or more States.

"(2) Reinsurance shall be offered to any such insurer or pool only on all extended health insurance written by it or by its members.

"(b) Reinsurance coverage under this section may be provided immediately following the enactment of this title to any insurer or pool in any State on a temporary basis, and on such terms and conditions as may be agreed upon, and coverage under such terms and conditions may be bound with respect to any such insurer or pool by means of a written binder which shall remain in force not more than ninety days and shall expire at the earlier of either—

"(1) the termination of such ninety-day period, or

"(2) the effective date of any governing contract, agreement, treaty, or other arrangement entered into between the insurer or pool and the Secretary under section 2022 for the purpose of providing reinsurance coverage against losses under extended health insurance policies.

"(c) No reinsurance shall be offered to any insurer or pool in a State after the expiration of the written binder entered into under subsection (b), unless there is in effect in such State a plan as set forth under part B and the insurer or pool is participating in such plan, and unless, in the case of an insurer in a State where a pool has been established pursuant to State law, the insurer is participating in such a pool.

"REINSURANCE AGREEMENTS AND PREMIUMS

"SEC. 2022. (a) During the first year following the date of the enactment of this title, the Secretary is authorized to enter into any contract, agreement, treaty, or other arrangement with any insurer or pool for reinsurance coverage, in consideration of payment of such premiums, fees, or other charges by insurers or pools as the Secretary deems to be adequate to obtain aggregate reinsurance premiums for deposit in the National Catastrophic Illness Insurance Fund established under section 2043 in excess of the estimated amount of losses under extended health insurance policies during such first year, and thereafter the Secretary may increase or decrease such premiums for reinsurance if it is found that such action is necessary or appropriate to carry out the purpose of this title.

"(b) Reinsurance offered under this title shall reimburse an insurer or pool for its total proved and approved claims for covered losses under extended health insurance policies during the term of the reinsurance contract, agreement, treaty, or other arrangement, over and above the amount of the insurer's or pool's retention of such losses as provided in such reinsurance contract, agreement, treaty, or other arrangement entered into under this section.

"(c) Such contracts, agreements, treaties, or other arrangements may be made without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665 (a)), and shall include any terms and conditions which the Secretary deems necessary to carry out the purpose of this title. The premium rates, terms, and conditions of such contracts with insurers or pools, throughout the country, in any one year shall be uniform.

"(d) Any contract, agreement, treaty, or other arrangement for reinsurance under this section shall be for a term expiring on April 30, 1971, and on April 30 each year thereafter, and shall be entered into within ninety days after the date of the enactment of this title or within ninety days prior to April 30 each year thereafter or within ninety days after an insurer is authorized to write insurance eligible for reinsurance in a State which it was not authorized to write in the preceding year.

"CONDITIONS OF REINSURANCE

"SEC. 2023. (a) Subject to the provisions of subsection (b), reinsurance shall not be offered by the Secretary in a State or be applicable to insurance policies written in that State by an insurer—

"(1) after one year following the date of the enactment of this title, or, if the appropriate State legislative body has not met in regular session during that year, by the close of its next regular session, in any State which has not adopted appropriate legislation, retroactive to the date of the enactment of this title, under which the State, its political subdivisions, or a governmental corporation or fund established pursuant to State law, will reimburse the Secretary, in an amount up to 5 per centum of the aggregate extended health insurance premiums earned in that State during the preceding calendar year on insurance reinsured by the Secretary in that State during the current year, such that the Secretary may be reimbursed for amounts paid by him in respect to reinsured losses that occurred in that State during a calendar year in excess of (A) reinsurance premiums received in that State during the same calendar year plus (B) the excess of (i) the total premiums received by the Secretary for reinsurance in that State during a preceding period measured from the end of the most recent calendar year with respect to which the Secretary was reimbursed for losses under this title over (ii) any amounts paid by the Secretary for reinsured losses that occurred during this same period;

"(2) after thirty days following notification to the insurer that the Secretary finds (after consultation with the State insurance authority) that there has not been adopted by the State, or the extended health insurance industry in that State, a suitable program or programs, in addition to plans under part B, to make extended health insurance available, and that such action is necessary to carry out the purpose of this title; except that this paragraph shall not become effective until two years after the date of the enactment of this title, or at such earlier date as the Secretary, after consultation with the State insurance authority, may determine;

"(3) after thirty days following notification to the insurer that the Secretary, or the State insurance authority, finds that such insurer is not fully participating—

"(A) in the plan in the State;

"(B) where it exists, in a pool; and

"(C) where it exists, in any other program found by the Secretary to aid in making extended health insurance more readily available in the State:

Provided, That the Secretary shall not make any such finding with respect to any insurer unless (i) prior to making such finding the Secretary has requested and considered the views of the State insurance authority as to whether such finding should be made, or (ii) the Secretary has made such a request in writing to the State insurance authority and such authority has failed to respond thereto within a reasonable period of time after receiving such request;

"(4) following a merger, acquisition, consolidation, or reorganization involving one or more insurers having extended health insurance in the State reinsured under this title and one or more insurers with or without such reinsurance, unless the surviving company—

"(A) meets the criteria of eligibility for reinsurance, other than as provided under section 2022 (d); and

"(B) within ten days pays any reinsurance premiums due; or

"(5) upon receipt of notice from the insurer or pool that it desires to cancel its reinsurance agreement with the Secretary in the State.

"(b) Notwithstanding the foregoing provisions of this section, reinsurance may be continued for the term of the policies written prior to the date of termination or nonrenewal of reinsurance under this section, for as long as the insurer pays reinsurance premiums annually in such amounts as are determined under section 2022, based on the annual premiums earned on such reinsured policies, and for the purpose of this subsection, the renewal, extension, modification, or other change in a policy, for which any additional premium is charged, shall be deemed to be a policy written on the date such change was made.

"RECOVERY OF PREMIUMS; STATUTE OF LIMITATIONS

"SEC. 2024. (a) The Secretary, in a suit brought in the appropriate United States district court, shall be entitled to recover from any insurer the amount of any unpaid premiums lawfully payable by such insurer to the Secretary.

"(b) No action or proceeding shall be brought for the recovery of any premium due to the Secretary for reinsurance, or for the recovery of any premium paid to the Secretary in excess of the amount due to him, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except that, where the insurer has made or filed with the Secretary a false or fraudulent annual statement, or other document with the intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

"PART D—GOVERNMENT PROGRAM WITH INDUSTRY ASSISTANCE

"FEDERAL OPERATION OF THE PROGRAM IN NONCOOPERATING STATES

"SEC. 2031. (a) If at any time, after consultation with representatives of the insurance industry, the Secretary determines that operation of the national catastrophic illness insurance program as provided in the preceding provisions of this title cannot be carried out in any State, or that such operation in any State, in itself, would be assisted materially by the Federal Government's assumption, in whole or in part, of the operational responsibility for extended health insurance under this title (on a temporary or other basis), he shall promptly undertake any necessary arrangements to carry out such program in that State through the facilities of the Federal Government, utilizing, for purposes of providing extended health insurance coverage, either—

"(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States,

"(2) officers and employees of the Department of Health, Education, and Welfare, and such other officers and employees of any executive agency (as defined in section 105 of title 5 of the United States Code) as the Secretary and the head of any such agency may from time to time, agree upon, on a reimbursement or other basis, or

"(3) both the alternatives specified in paragraphs (1) and (2).

"(b) Upon making the determination referred to in subsection (a), with respect to any State, and at least thirty days prior to implementing the national catastrophic illness insurance program in such State through the facilities of the Federal Government, the Secretary shall make a report to the Congress and such report shall—

"(1) state the reasons for such determination,

"(2) be supported by pertinent findings,

"(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing extended health insurance coverage under the program, and

"(4) contain such recommendations as the Secretary deems advisable.

"ADJUSTMENT AND PAYMENT OF CLAIMS

"SEC. 2032. In the event the program is carried out as provided in section 2031, the Secretary shall be authorized to adjust and make payment of any claims for proved and approved losses covered by extended health insurance, and upon the disallowance by the Secretary of any such claim, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant shall have the right of judicial review as provided by section 2041(b).

"PART E—PROVISIONS OF GENERAL APPLICABILITY

"CLAIMS AND JUDICIAL REVIEW

"SEC. 2041. (a) All reinsurance claims for losses under this title shall be submitted by insurers in accordance with such terms and conditions as may be established by the Secretary.

"(b) (1) Upon disallowance of any claim under color of reinsurance made available under this title or any claim against the Secretary under section 2032, or upon refusal of the claimant to accept the amount allowed upon any such claim, the claimant may institute an action against the Secretary on such claim in the United States district court for the district in which the insurer's principal office is located or the insured individual resides (or resided).

"(2) Any such action must be begun within one year after the date upon which the claimant received written notice of disallowance or partial disallowance of the claim, and exclusive jurisdiction is hereby conferred upon United States district courts to hear and determine such actions without regard to the amount in controversy.

"FISCAL INTERMEDIARIES AND SERVICING AGENTS

"SEC. 2042. (a) In order to provide for maximum efficiency in the administration of the reinsurance program under this title, and in order to facilitate the expeditious payment of any funds under such program, the Secretary may enter into contracts with any insurer; pool, or other person, for the purpose of providing for the performance of any or all of the following functions:

"(1) estimating or determining any amounts of payments for reinsurance claims;

"(2) receiving and disbursing and accounting for funds in making payments for reinsurance claims;

"(3) auditing the records of any insurer, pool, or other person to the extent necessary to assure that proper payments are made;

"(4) establishing the basis of liability for reinsurance payments, including the total amount of proved and approved claims which may be payable to any insurer, and the total amount of premiums earned by any insurer in the respective States for reinsured extended health insurance; and

"(5) otherwise assisting in any manner provided in the contract to further the purpose of this title.

"(b) (1) Any such contract may require the insurer, pool, or other person, or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amounts as the Secretary may deem appropriate.

"(2) In the absence of gross negligence or intent to defraud the United States—

"(A) no individual designated pursuant to a contract under this section to certify payments shall be liable with respect to any payment certified by him under this section; and

"(B) no officer of the United States disbursing funds shall be liable with respect to any otherwise proper payment by him if it was based on a voucher signed by an individual designated pursuant to a contract under this section to certify payments.

"NATIONAL CATASTROPHIC ILLNESS INSURANCE FUND

"SEC. 2043. (a) To carry out the program authorized under this title, the Secretary is authorized to establish a National Catastrophic Illness Insurance Fund (hereinafter called the 'fund') which shall be available, without fiscal year limitations—

"(1) to make such payments as may, from time to time, be required under reinsurance contracts under this title;

"(2) to make premium equalization payments as provided in section 2044; and

"(3) to pay such administrative expenses as may be necessary or appropriate to carry out the purpose of this title.

"(b) The fund shall be credited with—

"(1) reinsurance premiums, fees, and other charges which may be paid or collected in connection with reinsurance provided under part C;

"(2) interest which may be earned on investments of the fund;

"(3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities; and

"(4) receipts from any other source which may, from time to time, be credited to the fund.

"(c) If, after any amounts which may have been advanced to the fund from appropriations have been credited to the appropriation from which advanced, the Secretary determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

"(d) An annual business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849)) for wholly owned Government corporations.

"PREMIUM EQUALIZATION PAYMENTS

"SEC. 2044. (a) The Secretary, on such terms and conditions as he may from time to time prescribe, shall make periodic payments to insurers and pools in recognition of such reductions in premium rates under section 2014(b) below estimated risk premium rates under section 2014 (a) (1) as are required in order to make extended health insurance available on reasonable terms and conditions.

"(b) Designated periods under this section and the methods for determining the sum of premiums paid or payable during such periods shall be established by the Secretary.

"RECORDS, ANNUAL STATEMENT, AND AUDITS

SEC. 2045. (a) Any insurer or pool acquiring reinsurance under this title shall furnish the Secretary with such summaries and analyses of information in its records as may be necessary to carry out the purpose of this title, in such form as the Secretary, in cooperation with the State insurance authority, shall, by rules and regulations, prescribe. The Secretary shall make use of State insurance authority examination reports and facilities to the maximum extent feasible.

"(b) Any insurer or pool acquiring reinsurance under this title shall file with the Secretary a true and correct copy of any annual statement, or amendment thereof, filed with the State insurance authority of its domiciliary State, at the time it files such statement or amendment with such State insurance authority.

"(c) Any insurer or other person executing any contract, agreement, or other appropriate arrangement with the Secretary under section 2022 or section 2042 shall keep reasonable records which fully disclose the total costs of the programs undertaken or the services being rendered, and such other records as will facilitate an effective audit of liability for reinsurance payments by the Secretary.

"(d) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of any insurer or other person that are pertinent to the costs of any program undertaken for or services rendered to, the Secretary. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities.

"GENERAL POWERS

"SEC. 2046. In the performance of, and with respect to, the functions, powers, and duties vested in him by this title, the Secretary shall (in addition to any authority otherwise vested in him) have the same functions, powers, and duties (including the authority to issue rules and regulations) as those vested in the Secretary of Housing and Urban Development under section 402, except subsections (c) (2), (d), and (f), of the Housing Act of 1950. Any rules or regulations of the Secretary shall only be issued after notice and hearing, if granted, as required by the Administrative Procedure Act.

"SERVICES AND FACILITIES OF OTHER AGENCIES—UTILIZATION OF PERSONNEL, SERVICES, FACILITIES, AND INFORMATION

"SEC. 2047. The Secretary may, with the consent of the agency concerned, accept and utilize, on a reimbursable basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, except that any such agency having custody of any data relating to any of the matters within the jurisdiction of the Secretary shall, to the extent permitted by law, upon request of the Secretary, make such data available to the Secretary.

"ADVANCE PAYMENTS

"SEC. 2048. Any payments which are made under the authority of this title may be made, after necessary adjustments on account of previously made underpayments or overpayments in advance or by way of reimbursement. Payments may be made in installments and on such conditions as the Secretary may determine.

"TAXATION

"SEC. 2049. The National Catastrophic Illness Insurance Fund, including its reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, or any subdivision thereof, except that any real property acquired by the Secretary as a result of reinsurance shall be subject to taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

"APPROPRIATIONS

"SEC. 2050. There are hereby authorized to be appropriated such sums as may be necessary to carry out this title."

The remarks and analysis of Representative HOGAN are as follows:

NATIONAL CATASTROPHIC ILLNESS PROTECTION ACT OF 1971

The SPEAKER pro tempore (Mr. ROONEY of New York). Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 30 minutes.

Mr. HOGAN. Mr. Speaker, today I have introduced a bill, the National Catastrophic Illness Protection Act of 1971, which I originally authored and introduced in the 91st Congress. This legislation, which I consider to be extremely important, received bipartisan support and sponsorship in both the House and the Senate at that time.

I am pleased to say this proposal is again receiving bipartisan support in the 92d Congress. Those Members joining me today in introducing this legislation are: MARK ANDREWS of North Dakota, JAMES A. BYRNE of Pennsylvania, TIM LEE CARTER of Kentucky, SEYMOUR HALPERN of New York, JAMES F. HASTINGS of New York, AUGUSTUS F. HAWKINS of California, PETER N. KYROS of Maine, ROMAN C. PUCINSKI of Illinois, ROBERT A. ROE of New Jersey, WILLIAM L. SCOTT of Virginia, and LAWRENCE G. WILLIAMS of Pennsylvania.

The National Catastrophic Illness Protection Act of 1971 would, if enacted, allow our Nation's families to protect themselves against the scourge of catastrophic illness. The bill would provide the mechanism for such protection in a manner which could involve a very small Federal expenditure.

Catastrophic illness, by definition, would comprise those illnesses which require health-care expenses in excess of what normal basic medical or major medical coverage provides protection for. Once a family finds itself forced with having to pay for health-care costs of an extended nature, they are saddled with a financial burden that is staggering to comprehend.

Imagine, if you will, what it means to finance for years hospital care which will run between $80 and $100 a day after your routine insurance has been exhausted. For middle-income Americans who earn too much to receive welfare and who are not rich enough to even begin to meet such obligations, the result of catastrophic illness is instant poverty. The family is driven to its knees.

Such a family, which has probably already watched one of its members incapacitated and perhaps destroyed medically, also finds that its financial stability has disintegrated. Usually, private hospitals cannot afford to provide care after the family can no longer afford to pay for the hospital's services. This means that the afflicted member of the family must be transferred to whatever public facility exists to treat patients under such circumstances. Unfortunately, these public institutions are often understaffed, underequipped, and horribly overcrowded. All too often they become depositories where families must leave their children or other loved ones, because the doors of all other possible assistance have been slammed in their faces.

Catastrophic illness does not refer to a specific or rare disease. It is any disorder—from the exotic calamity to the common coronary. It is the fall from a step ladder in a home, a highway accident, or even the untimely sting of a bee, which cost one family over $57,000. It is anything that happens to any of us that causes medical expense in excess of what the actuaries tell us we should expect. Virtually every family becomes medically destitute when that point is reached. Fortunately, only a small portion of medical cases are of such magnitude. But for the thousands of families who, through no fault of their own, find themselves pummeled into such an abyss, there is—currently—no hope.

While catastrophic illness is nondiscriminating in whom it attacks, when it attacks and where it attacks, it seems that a tragically high number of these cases involve children. When a child is the victim, the parents are often young marrieds who find themselves depriving their healthy children of a wholesome family life in order to finance the health care of a sick child. Often, the havoc is so great that the young couples must watch their dreams go down the drain as all present and future planning is marshaled toward the single goal of finding the money to pay for their ill child's care. While nearly all of the pediatric diseases that are catastrophic are individually rare, in the aggregate they afflict more families than most of us would imagine. The list of obscure diseases such as Tay-Sachs disease, Niemann-Pick disease, Gaucher's disease, Fabrey's diseases, metachromatic-leukodystrophy, leukemia, muscular dystrophy, myasthenia gravis, and the scores and scores of other maladies that destroy our people at enormous emotional and financial cost to their families appears endless.

Obviously, when catastrophic illness strikes the head of a household—the breadwinner—the disaster is compounded.

We are too great a nation to stand idly by—leaving our families that are victimized by catastrophic illness to their own devices. They have no devices. They are alone.

The legislation which I am proposing will go a long way toward mitigating against the problems of catastrophic illness because it will stimulate our insurance industry to provide coverage that will allow any family to protect itself fully against the costs of catastrophic illness. The legislation would foster the creation of catastrophic illness—or extended care—insurance pools similar to those that have been successful in making flood insurance and riot insurance feasible.

Because all participating insurance companies would be required to promote the plan aggressively, and because we would be dealing, statistically, with a small minority of all claims, the cost per policy should be low. As more people buy this new protection as part of their health care program, thereby spreading the risk, the cost should drop even more. The Federal role would be limited to reinsuring against losses in those instances where insurance companies paid out more in benefits than they took in in premiums. As the insurance industry gained experience under the plan they would be able to sharpen their actuarial planning so that such losses should be limited, if they occur at all.

We have taken careful steps to preserve the State role in insurance administration and to allow the Secretary of Health, Education, and Welfare to participate in the actuarial review of the policy rate structure in order to assure that the rates charged for those new policies are fair to all parties concerned.

Perhaps the most attractive feature of this legislation is that it would be free of all of the constraints that are plaguing existing federally funded health care programs. We would not be overburdening an already overburdened social security system in order to finance the plan. Families who choose not to participate in the program would not be required to do so. However, on the other hand, families desiring to secure this protection would be assured of an opportunity to do so.

Under my program a deductible formula would be used to stimulate each family to provide basic health care protection. It would only be when this deductible level had been exceeded that the catastrophic insurance protection plan would be utilized. Under our formula, a family with an adjusted gross income of $10,000 would have to either pay the first $8,500 of medical expense or have provided themselves with $8,500 worth of basic insurance protection to offset the deductible requirement. Coverage from existing basic health and major medical plans would generally be sufficient to satisfy this deductible amount. However, if a family with an adjusted gross income of $10,000 incurred expenses during the period of a year that exceeded $8,500, our catastrophic or extended care program would be available to see the family through the period of financial burden when they would ordinarily be left on their own without help.

Again, because relatively few families would experience medical costs of this magnitude in a single year, the costs for this insurance should be quite reasonable—especially as more and more of our citizens availed themselves of its protection.

In developing this legislation I have met with many individuals uniquely experienced in the problems of catastrophic illness. I have discussed this proposal at great length with members of the medical community and have consulted leading members of the insurance community. More important, I have met with families that have been victimized by catastrophic illness. I have studied their plight in great detail. I know that it is wrong that these families are, in effect, abandoned—almost as a small boat adrift in stormy water.

I know that we can do something to help them and we do not have to spend ourselves into Federal bankruptcy to do it. All we need to do is utilize a concept that has been tested successfully in other analogous areas.

(A description and section-by-section analysis of the National Catastrophic Illness Protection Act of 1971 follows:)

NATIONAL CATASTROPHIC ILLNESS PROTECTION ACT OF 1970

(Introduced by Representative LAWRENCE J. HOGAN (Republican of Maryland) June 10, 1970)

PURPOSE AND ORGANIZATION OF LEGISLATION

The proposed National Catastrophic Illness Protection Act of 1970 is designed to encourage private health insurers, with the assistance of the Federal Government, to provide adequate health insurance protection for persons who cannot otherwise afford such protection, or whose medical and health expenses are such that extended health insurance protection is not available. According to the findings outlined by Congress in the proposal, "many individuals are still unable to secure adequate health insurance protection or to secure such protection at rates which they can afford" and "few of our citizens are protected" from the costs of "catastrophic illness."

To deal with these problems, the bill would create a Federal health reinsurance program designed to encourage the development by the private insurance industry of policies which would afford individuals extended protection. Working with the industry, the Government would reinsure policies on terms and conditions calculated to provide maximum encouragement to insurance companies to participate in the program, either individually or through pools established for the purpose.

The legislation contains five titles designed to meet the program's objectives. Title I contains general provisions relating to the program, including the statement of Congressional findings and a section setting forth the definitions used in the proposal. Title II establishes the National Catastrophic Insurance Program by means of State-wide plans providing extended health insurance coverage through a program by which the Federal Government reinsures losses of insurers or pools of insurers offering extended health insurance policies. Title III contains the Federal reinsurance mechanism for protecting insurers against losses incurred by plans provided under title II of the bill. Title IV of the legislation establishes a separate reinsurance program to operate in those States where a State-wide plan is not developed in accordance with title II of the bill. Title V of the proposal contains general provisions relating to claims and judicial review procedures and Federal financial obligations in connection with the reinsurance programs established under titles II and IV of the bill.

SECTION-BY-SECTION ANALYSIS

Title I—General Provisions

Section 101—*Short Title.*—Provides that the legislation may be known as the "National Catastrophic Illness Protection Act of 1970."

Section 102—*Findings and Purpose.* Sets forth the findings of the Congress that there are still many individuals who cannot secure or cannot afford adequate health insurance protection and that very little insurance protection is available to help meet the costs of catastrophic illness or disease. Establishes as the policy of Congress the need for a National Catastrophic Illness Insurance program to encourage States and private insurers in the development of policies which will meet the problems set forth in the statement of findings.

Section 103—*Definitions.* Defines certain terms used in the Act, such as "extended health insurance," "costs of medical care," "insurer," "pool" and "reinsured losses." Among the definitions are:

(1) *extended health insurance,* meaning insurance against all costs paid or incurred for medical care as defined in the Internal Revenue Act.

(2) *costs of medical care*, include expenses of medical care incurred by or on behalf of persons covered by an extended health insurance policy which are deductible in accordance with provisions in the IRS Code.

(3) *Insurers*, include any insurance company or group of companies under common ownership authorized to engage in the insurance business under laws of a State.

(4) *pool*, meaning association of insurance companies in a State formed or organized for the purpose of making extended health insurance more readily available.

(5) *reinsured losses*, meaning losses on reinsurance claims under this Act and all direct expenses incurred in connection with such claims, including processing, verifying, and paying such losses.

Title II—Establishment of program; State plans

Section 201—*Authority*. Authorizes the Secretary of Health, Education and Welfare to establish and carry out a National Catastrophic Illness Insurance Program.

Section 202—*State Plans*. Provides that the program shall involve the creation of State-wide plans providing extended health insurance, and that the Federal Government will reinsure insurers and pools of insurers who offer such insurance. Each insurer (or pool of insurers) will work with the State insurance authority in carrying out the State-wide plan. All plans would have to include:

(1) that extended health insurance be available to all eligible individuals, as defined in Sec. 203, and at a cost which is reasonable, as defined in Sec. 204, subject only to deductibles authorized in Sec. 205.

(2) that where an insurer does not agree to write a policy of extended insurance, or does so under various limiting conditions, the State authority is notified. The policy would then be placed with a pool or otherwise assigned to insurers by the "all-industry placement facility," provided for in Sec. 206.

(3) that data be compiled and studied in connection with the operation of the State-wide plan.

(4) that certain reports be submitted to the State insurance authority by individual insurers.

(5) that any cancellation of a policy provide for reasonable notice to permit coverage under a new policy to be written under the plan.

(6) that public information about the plan be readily distributed.

Further, each plan would have to contain such terms, conditions, requirements and other provisions determined to be necessary to carry out the purpose of the program.

Section 203—*Eligible Individuals*. In order to be eligible for policies issued under a State-wide plan, an individual would have to be a resident of the State and make appropriate application, or be a member of the household of such a person and his spouse, child, grandchild, parent or grandparent.

Section 204—*Premium Setting*. Premium rates would be set on the basis of a study of the risks in question and accepted actuarial principles. These rates would be promulgated by the Secretary for use by States and insurers in charging for extended health insurance issued under plans approved under Sec. 202 above. Rate differentials would be authorized on the basis of the number of persons covered in a family, or by other factors approved by the Secretary, including the different risks involved in various coverage arrangements. Where insurers established rates lower than those promulgated by the Secretary, any losses sustained by these insurers or pools of insurers would be compensated by "premium equalizers" provided for in Sec. 504 of the bill.

Section 205—*Deductibles*. Provides that, before payments are made under an extended insurance policy, a deductible must be satisfied through an equal amount of medical expenses paid or incurred by such individual. The amount of such deductible is determined by relating the extent of medical expenses to adjusted income and is equal to one-half of the amount by which a person's or family's adjusted income exceeds $1,000 but does not exceed $2,000; *plus* all of the amount by which such adjusted income exceeds $2,000. (A person with an adjusted income of $10,000 would have a deductible of $8,500.)

For the purposes of this section, the term "adjusted income" means the gross income of an individual or family for tax purposes less the aggregate amount of personal tax exemptions allowed the individual or family.

For satisfying the deductible, costs paid and incurred with respect to an illness which began in the previous year and continued uninterrupted until such costs were paid or incurred, shall be considered to have been paid or incurred in such previous year.

The deductible would be reduced by the amount of any payments, for the costs of care covered by the Medicare and Medicaid programs, or by any other public or private health insurance policy covering such care.

Section 206—*All Industry Placement Facility*. A State-wide plan must provide for an all-industry placement facility which would have the responsibility of distributing equitably the risks involved in the issuance of extended health insurance and which would seek to place insurance up to the full insurable value of the risk to be insured.

Section 207—*Industrial Cooperation*. Provides that certain statements pledging participation and cooperation with the State insurance authority would be required of insurers seeking reinsurance under the program. In addition, no insurer shall direct any agent or broker not to solicit business through such a plan, nor penalize agents or brokers in any manner for submitting applications under the plan.

Section 208—*Plan Evaluation*. Provides that the State plan shall be evaluated from time to time in accordance with criteria established by the Secretary.

Title III—Reinsurance coverage

Section 301—*Reinsurance of Losses under Extended Health Insurance Policies*. Provides that the Secretary is authorized to reinsure against the losses which might be incurred under extended health insurance policies. Temporary reinsurance would be authorized immediately after enactment, but at the expiration of such temporary period, only permanent reinsurance is available to insurers participating in a State-wide plan as provided for in title II.

Section 302—*Reinsurance Agreements and Premiums*. Authorizes the Secretary to make agreements with insurers and pools for reinsurance premiums deposited in the National Catastrophic Illness Insurance Fund provided for in Sec. 503 of the bill. Reinsurance offered would pay an insurer or pool for total proved and approved claims for losses in connection with the provision of extended health insurance over and above the retention of such losses by insurers which were required in accordance with the reinsurance contract. Terms would be made annually in connection with any reinsurance contract.

Section 303—*Conditions of Reinsurance*. Provides a detailed procedure for implementation of the reinsurance program in a State within specified time requirements, taking into account certain State and local factors which might affect such implementation.

Section 304—*Recovery of Premiums; Statute of Limitations*. Provides that the Government may recover in the courts any unpaid premiums lawfully payable to the Government by an insurer under provisions of a 5-year statute of limitations.

Title IV—Government program with industry assistance

Section 401—*Federal Operation of Program in Noncooperating States*. Authorizes after certain determinations that, where a State-wide program cannot be carried out, or that the objective of the program would be materially assisted by the Federal Government's assumption of the plan, arrangements for operation by the Government may be carried out. Insurers would deal directly with the Federal Government as fiscal agents of the United States.

Section 402—*Adjustment and Payment of Claims*. If a Federally-operated program is provided for, the Secretary is authorized to adjust and pay claims for proved and approved losses covered by extended health insurance.

Title V—Provisions of general applicability

Section 501—*Claims and Judicial Review*. Provides procedures for judicial review of disallowances for claims for losses under the reinsurance program, whether State-wide or operating by the Federal Government.

Section 502—*Fiscal Intermediaries and Servicing Agents*. Authorizes the Government to enter into contracts and other arrangements for claims review, receiving and disbursing funds for making payments, etc.

Section 503—*National Catastrophic Illness Insurance Fund*. Provides for the creation of a fund for purposes of receiving premiums for reinsurance, paying claims, and so on.

Section 504—*Premium Equalization Payments*. Provides that the Secretary may make periodic payments to insurers and pools in recognition of reductions in premium rates below estimated risks as provided for in Sec. 204.

Section 505—*Records, Annual Statement, and Adults*. Self-explanatory.

Section 506—*General Powers*. Authorizes the Secretary of HEW to exercise certain powers vested in the Secretary of HUD under the Housing Act of 1950, in addition to powers provided in this proposal.

Section 507—*Services and Facilities of Other Agencies*. Provides that the Secretary may, on a reimbursable basis, utilize the services of other Government agencies.

Section 508—*Advance Payments*. Authorizes necessary payment adjustments in connection with the program.

Section 509—*Taxation*. Exempts the National Catastrophic Illness Insurance Fund from Federal taxation, except that any real property acquired by the Secretary as the result of reinsurance would be taxable by States or political subdivisions.

Section 510—*Appropriations*. Authorizes such appropriations as are necessary to carry out the provisions of the bill.

APPLICATION OF THE DEDUCTIBLE UNDER THE NATIONAL CATASTROPHIC ILLNESS PROTECTION ACT OF 1970

The deductible, or the amount of medical costs which must be incurred or paid in one year before benefits begin under this insurance, is based on individual or family income and would be as follows:

Adjusted income:	Deductible
$1,500	$0
$2,000	500
$2,500	1,000
$3,000	1,500
$3,500	2,000
$4,000	2,500
$4,500	3,000
$5,000	3,500

And so on up the scale.

"Adjusted income" means the gross income of an individual or family for tax purposes less the aggregate amount of personal tax exemptions allowed.

The deductible would be reduced by the amount of any payments, for the costs of care covered by the Medicare and Medicaid programs, or by any other public or private health insurance policy covering such care.

Example: A family with an adjusted income of $10,000 would during a year be required to pay or incur medical expenses to the extent of $8,500 (or to have insurance coverage to meet those expenses in whole or in part; Medicare or Medicaid payments would reduce the deductible similarly). At that point all medical expenses regardless of the extent, during that year, or for any lengthy illness or injury the treatment of which extends into another year, would be covered under such a policy.

Mr. BOGGS. Mr. President, I also ask unanimous consent on behalf of the distinguished Senator from Texas (Mr. TOWER) that a statement which he wished to deliver himself at this point be printed in the RECORD. The Senator from Texas is unavoidably detained and unable to be present at this moment.

There being no objection, the statement of Mr. TOWER was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR TOWER

Mr. President, I rise to support the bill Senator Boggs has just introduced entitled the National Catastrophic Illness Protection Act of 1971.

The need for legislation to assist Americans in the area of catastrophic illnesses is quite clear. It is quite likely that some form of legislation in this area will be enacted by the 92nd Congress. I am hopeful that any legislation enacted will be along the lines of this bill which I am extremely proud to co-sponsor.

This legislation will insure assistance to Americans who find themselves financially incapable of meeting the costs of catastrophic illnesses. At the same time, it would limit the role of the federal government to insuring against potential losses encountered by insurance companies when their catastrophic payments exceed their collected premiums. In this way we could take advantage of the nation's private insurance industry, while, at the same time, avoiding the cumbersome task of tightly connecting such a program to strict federal regulation. If Congress is to pass legislation intending to assist in meeting the needs of Americans who must confront this problem, I believe it is most important that we avoid the problems that have been realized in Medicare and other government health programs.

I believe that the National Catastrophic Illness Protection Act combines the best assets which the Federal Government, State Governments and the private sector can contribute in providing the best possible catastrophic illness coverage for the American people. I urge my colleagues to give it their most careful consideration.

Mr. BEALL. Mr. President, I am pleased once again to cosponsor the National Catastrophic Illnesses Protection Act of 1970. I want to congratulate Senator BOGGS for his initiative in helping to provide a mechanism under which our citizens will be able to protect themselves against the staggering costs of catastrophic illnesses. I also want to salute my colleague from Maryland, Congressman HOGAN, for originating and leading this effort on the House side.

Fortunately, catastrophic illnesses do not strike often. When such illnesses do strike, however, it means not only personal tragedy and hardship to the family stricken, but also astronomical financial costs which often force a family on to welfare. This is particularly true when the head of the family is stricken.

It is estimated that 80 percent of our population under 65 carry insurance against hospital expenses. These policies, however, have a limitation, the most common being 60 days, on hospital days that will be covered. Private policies for medical expenses also have limitations on coverage. There also are major medical insurance plans available, but it is estimated that only 20 to 30 percent of our population enjoy such protection. Even under these policies, there are maximum benefits per spelled illness usually ranging from $5,000 to $20,000.

Medical science has made tremendous progress in combating illnesses which in the past would have been fatal. A good example of these strides made by medical science is the kidney area. Kidney failures formerly were fatal, but today kidney patients with the aid of dialysis and transplants are able to live many additional years. Major medical breakthroughs then have been able to prolong life; but the cost of the extensive care and of the complex and expensive machinery often necessary is enormous.

Mr. President, if medical science can achieve these dramatic breakthroughs, thereby enabling patients to live relatively normal lives, it behooves the Nation to find the mechanism which will permit families to finance the medical expenses associated with catastrophic illnesses.

I believe that the bill being introduced today will create such a mechanism. Under this measure, a catastrophic illness-extended care insurance pool will be created which would enable citizens to buy insurance against such calamities. Under the plan all expenses above the deductible would be covered. This deduction would vary with family income. For example, a family with an "adjusted income" of $10,000 would pay the first $8,500 of medical expenses. In general, coverage under basic health and major medical plans would be adequate to satisfy the deductible.

The lack of catastrophic illness insurance is a serious gap in the present insurance coverage of most American families. The enactment of this bill would make it possible for families, if they so elect to protect themselves at a reasonable cost from the unexpected and staggering blow when a catastrophic illness strikes. While this measure cannot prevent the personal disaster resulting from a catastrophic illness, it can prevent the problem from compounding itself by relieving families somewhat from the staggering costs associated with catastrophic illnesses. I therefore am pleased to join Senator BOGGS in introducing this measure and I am hopeful that this Congress will take steps to provide the American families with insurance against catastrophic illnesses.

THE PRESIDENT'S STATE OF THE UNION MESSAGE

Mr. SCOTT. Mr. President, the President's state of the Union message, containing six great goals embodied in a new American revolution, has received a remarkably friendly and favorable reception from press and people; and, indeed, I think this is consonant with the spirit of the message which is bold, daring, and which evidences——

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, will the Senator be kind enough to yield for a question?

Mr. SCOTT. I am glad to yield.

Mr. BYRD of West Virginia. Mr. President, it was my understanding that the Senator from Delaware had yielded the floor.

The VICE PRESIDENT. The Senator is correct.

Mr. BYRD of West Virginia. Mr. President, under the previous order the able Senator from Delaware was to be recognized for not to exceed 15 minutes, and following that the able Senator from Wisconsin (Mr. NELSON) was to be recognized for not to exceed 15 minutes.

I merely inquire whether or not the able minority leader would like to be recognized without prejudice, under the previous order, to the Senator from Wisconsin, who is to be recognized at the end of the 15-minute period which was earlier allotted to the Senator from Delaware.

Mr. SCOTT. Yes. I do make this as a unanimous-consent request, but with a further request that my time begin at the time the unanimous-consent request is allowed. By way of explanation I do not believe the Senator from Wisconsin was in the Chamber when the Senator from Delaware finished in less than 15 minutes. In that situation normally we would have had a quorum call, and being in public life, like most Senators, I could not stand the vacuum and thought it should be filled by these remarks rather than by a call of the roll.

Mr. BYRD of West Virginia. The able Senator well knows that a Senator cannot be taken off his feet. The Senator got recognition and now has the floor, but I feel it my duty to protect the rights of Senators who are to be recognized under the special orders entered yesterday. I have no objection to the able minority leader filling in the time but I want to make sure that at the conclusion of the 15-minute period which had been allotted to the Senator from Delaware the Senator from Wisconsin (Mr. NELSON) will be duly recognized under the previous order.

Mr. SCOTT. I have no objection, but I serve notice right now that if any Senator has reserved time and is not present on the floor to claim it, that reservation of time, in my opinion, no longer holds for him and the Senate's business should be permitted to proceed accordingly.

Mr. BYRD of West Virginia. If the Senator will yield, I say most respectfully, the Senator from Wisconsin is not required to be on the floor until the conclusion of the 15-minute period previously allotted to the able Senator from Delaware (Mr. BOGGS).

The VICE PRESIDENT. The Chair thinks the point of the Senator from

West Virginia is well taken. The Chair, in recognizing the Senator from Pennsylvania, was in error under the circumstances. The Chair feels that the Senator from Delaware had a perfect right to yield the remainder of his time. Under the circumstances, the Senator from Wisconsin not being present, and the Chair being of the opinion that in all probability the Senator from Pennsylvania will not exceed the time remaining of the Senator from Delaware, the Chair suggests that by mutual accord the Senator from Pennsylvania be allowed to continue.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the remainder of the time earlier allotted to the Senator from Delaware be allotted to the able minority leader.

Mr. SCOTT. I thank the Senator. Perhaps the procedural question is more important at the moment than the state of the Union message. But we should clarify the fact that if there is a period when one Senator does not use the time, there should be a better use of the time, since we are trying to improve procedures, than to go into another quorum call while we wait for the expiration of a 15- or 30-minute period. Perhaps the leadership on both sides can work out some procedure.

I will reserve what I have to say on the state of the Union message until a later period. I think the message is good. I am going to support it. The President introduced a competition of ideas and in that competition of ideas, I believe both political parties in a bipartisan spirit can engage in a determination of the best way to achieve some very fine goals for the future of this Nation.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield further, I know the able minority leader will appreciate the fact that I was merely acting to protect the rights of Senators, as I would act to protect the rights of Senators on the minority leader's side of the aisle, and the rights of the minority leader himself.

Mr. SCOTT. I say to the distinguished assistant majority leader, this being a moment of candor, the only reason I got up was to test the new microphones. I had not tried them before.

Mr. BYRD of West Virginia. Mr. President, the distinguished minority leader is always good humored and most gracious.

S. 192—INTRODUCTION OF MARINE POLLUTION CONTROL ACT OF 1971

Mr. NELSON. Mr. President, I send to the desk a bill to amend the Federal Water Pollution Control Act, which may be cited as the Marine Pollution Control Act of 1971, and I ask that it be appropriately referred.

The VICE PRESIDENT. The bill will be received and appropriately referred.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the bill introduced by the able Senator from Wisconsin (Mr. NELSON) be referred to the Committee on Public Works and, if and when it should be reported, that it then be referred to the Committee on Commerce for consideration of any matters falling within the jurisdiction of that committee.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

INTRODUCTION OF ENVIRONMENTAL PROTECTION PACKAGE

Mr. NELSON. Mr. President, I send to the desk 17 bills to which I make reference in my remarks.

The VICE PRESIDENT. The bills will be received and appropriately referred.

Mr. NELSON. Mr. President, including the bills I introduced yesterday, I have introduced a package of 24 bills and resolutions constituting an environmental protection package, which will be explained in detail. If adopted, these measures would be major beginning steps in establishing urgently needed national policies to cope with the crisis of America and its environment.

This will be the fourth Congress for some of these bills—such as the proposals to ban DDT and to set tough antipollution standards on detergents. Others, including several measures that will be introduced shortly, are new.

From mercury and pesticide pollution to massive waste dumping at sea, there is a wide range of problems needing our immediate attention. And these are just a prelude to the fundamental changes in attitudes and priorities we must make to avoid environmental consequences far greater than anything we have yet imagined.

By any normal standards in this society, the environmental actions of the 91st Congress, the President, and the public, constituted significant progress.

With the participation of millions of Americans, Earth Day last April demonstrated an overwhelming concern.

A Senate vote against the SST marked the coming of age of the environmental issue as a national political force.

Taking hallmark initiative, Congress passed the Clean Air, Environmental Education, National Environmental Policy, Resource Recovery and Water Quality Improvement Acts, and the first pesticide pollution control measure. It also approved major new national parks and recreation areas.

The President's state of the Union and environmental messages to Congress and establishment of the Environmental Protection Agency, and subsequent administrative commitments against polluters were substantial steps in the right direction.

Environmental lobbies achieved hard-won victories from San Francisco Bay to Everglades National Park, and a growing army of dedicated environmental lawyers secured favorable court actions on critical issues from the Trans-Florida Barge Canal to the Alaska Pipeline.

But when measured against the fantastically complex and pervasive global environmental problems we now face, these steps are at best mere beginnings. Always in uneasy balance, the bond between our species and the planet is now threatening to break apart.

Our vaunted western technology, supposedly the key to endless affluence, is backfiring again and again, bringing on a series of stunning disasters that signal a hostile future for all living things.

Once the meccas of civilization, many of the world's cities are now being turned into chemical retorts, choking in their own pollution. Now to add to the atmospheric poisoning by the automobile, industry, and airplanes, the high flying SST's pose a threat, as yet unknown and unstudied, to the fragile environment of the stratosphere.

Miracle compounds such as pesticides are spreading worldwide, attacking species they were never aimed at, and accumulating in man.

Pollution is begetting pollution. Organisms that thrive in polluted waters are converting industrially discharged mercury to poisonous methyl mercury which is then passed on up the food chain. The process will go on for centuries, threatening generation after generation of various living creatures, including man.

Until it was too late, nobody thought to ask whether we were planting an environmental time bomb. Meanwhile, the industrial age throws 300 to 500 new chemicals into the atmosphere every year with almost no evaluation of the consequences.

Over and over, we hurl what Rachel Carson described as crude clubs against the delicate web of life on earth. In a massive overkill, our environmental warfare with herbicides in Vietnam has leveled much of the country's forests and threatens permanent ecological damage.

Time and again, ill-planned technology piles up costs many times greater than any of its benefits. In Egypt, one-quarter of a billion dollars is now being budgeted just to stop the erosion of the country's coastline, and 500 miles of the Nile River set off by the giant new Aswan Dam.

And in the greatest environmental folly of all, the ocean itself is being polluted—ruining vital resources before we even have a chance to exploit them. Distinguished marine scientists predict the destruction of all significant productive sea life in 25 to 50 years at present accelerating pollution rates. Famed underwater explorer, Jacques Cousteau, says bluntly:

> The oceans are in danger. The pollution is general.

What the technological backlash is not destroying, rampant consumption and an exploding world population are.

With its $1 trillion gross national product, this country is the leader in gobbling up the planet's wealth. With less than 6 percent of the world's population, we are consuming 40 percent of its resources.

If the rest of the world used energy at this country's levels, annual coal production would have to reach more than 30 billion tons, far beyond any present capacity.

In our consumption-oriented economy, U.S. energy demands are doubling every 10 years. One-half of all history's coal has been mined in the last 31 years. One-half of all the petroleum production in world history occurred in a recent 12 years.

At present growth rates, the machine age is likely to go the route of the dinosaur and the dodo bird within the next century. Shortages of uranium 235 for nuclear energy will confront us within two decades. World petroleum to fuel industry is expected to last only another 70 to 80 years. Many other vital materials—tin, tungsten, helium—are already running short and will be nearly exhausted by the end of this century.

One-third of the world's original forests have been obliterated for man's progress. In U.S. history, more than 280 million acres of crop and range land have been degraded or destroyed and one-third of this country's average 9 inches of topsoil has been washed away.

While the industrial nations scour the earth to fuel the spiraling demands of their age of affluence, more than half of the world's population struggles for enough food to survive. In Calcutta, 1 million people sleep in the streets every night.

The rich get richer, the poor get poorer, and the resources get scarcer. Wars become luxuries we can no longer afford—they may completely wipe out the remaining resources needed to sustain civilization. Yet, intensifying competition between nations for ever more slim resources will further heighten world tensions.

The grim warnings pour in. Former Canadian Prime Minister Lester Pearson, head of a world study commission, says:

> A planet cannot, any more than a country, survive half-slave, half-free, half-engulfed in misery, half-careening along towards the supposed joys of almost unlimited consumption.

And no nation can live by gross national product alone, as World Bank President Robert S. McNamara so aptly states. From any standpoint—environmental, social, economic—no industrial nation can now avoid giant efforts to balance world wealth, development, and education, and bring national and world population growth under control.

In his book, "The Challenge of Man's Future," scientist Harrison Brown argues that only with stunning technological breakthroughs and a whole new view of priorities will civilization be able to survive.

In short, the fact is that with the devastating weapons of reckless technology and ever-soaring growth, we are waging all out war on our own future, and though commendable as a start, present efforts will come nowhere near reversing the trend.

In America, the chief obstacle to real environmental progress is a diehard national mental attitude of arrogance. Despite the mess we have already made, we still think we can ignore the realities of a closed-cycle planet.

To hear the promises since Earth Day, one would have thought environmental cleanup had become Holy Writ within the industrial community. But investigations since have revealed that for many if not most corporations, pollution control has been more advertising than action.

And while American industry did spend $1 billion last year for pollution control, it is also spending on the order of $18 billion annually for all its advertising, creating major new consumer demands requiring tremendous new production, posing new pollution.

And at the public level, agencies persist in trying to do environmental business in private. Prior to the critically important Senate vote last December on the SST, and even until this very day, the administration refused to release a vital scientists' report on the project's environmental dangers, in spite of the public information intent of the National Environmental Policy Act.

In the face of urgent new needs, old priorities are slow to change. The Federal budget for pollution control monitoring and surveillance—a key program needed to uncover such environmental dangers as methyl mercury—is at about $41 million a year, nearly equalled by the Defense Department's $39 million annual outlay for public relations.

And while there is increasing talk of a nationwide energy crisis—and a desperate need for new energy technology—the electric utility industry is spending less than one-fourth of 1 percent of its operating revenues on research and development.

Around the country, the national environment story recurs endlessly in microcosm. New oil well drilling is proposed in the Santa Barbara Channel, while an oil well fire started almost 2 months ago in the Gulf of Mexico continues to blaze and send out oil slicks.

In North Carolina, part of the virgin timber commemorating Joyce Kilmer and his poem "Trees" is planned to be cut for a highway; in Massachusetts, a trailer park overlooks Walden Pond.

In Florida, a salt water national monument area in Biscayne Bay is threatened by thermal pollution; in Northern Wisconsin, the Navy proposes a massive underground antenna system that raises serious environmental questions.

In Appalachia and elsewhere strip-mining chews up entire regions at an ever faster pace without any national environmental controls whatever.

Ironically, it is this continued environmental anarchy, abuse and squandering that more than anything else may ultimately force a truly repressive society in this country. Failing a more cooperative course now for environmental protection and resource management, survival itself might eventually demand a society so tightly organized, with individual initiative and property under Government control, that liberty and free enterprise would become antiques.

A serious effort now to stop the incredible waste and environmental destruction is going to require a sustained ethical, financial, political, and technological commitment on a scale unprecedented in this country's history.

Established and entrenched economic interests will fight environmental change every step of the way. Corporate and Government lobbies arrayed against meaningful environmental action represents a broader spectrum and more formidable array of powerful opposing forces than the military-industrial complex.

To make any real headway, environmentalists must set their sights high. And the national war to stop environmental degradation must be waged on three fronts—the philosophical, physical, and political.

Our goal must involve the adoption of a new attitude of respect for ourselves as a species and all other living creatures. We must accept the fact that the earth is a finite system, incapable of being endlessly exploited. When by our actions we drive other species to extinction, we should recall John Donne's lines:

> And therefore, never send to know for whom the bell tolls; it tolls for thee.

That there is already underway a national awakening of grassroots environmental concern and citizenship is no longer in doubt—the decisive Senate vote against SST funds was a dramatic example of it. Previously, all efforts to defeat the SST had fallen far short, as the old argument that America must use every new gadget at any cost prevailed again and again.

But last year, when the possibility of grave environmental dangers became evident and environmentalists alerted a concerned public, the Senate switched its years-old position and voted against the SST.

The SST vote was the first great preliminary victory in the battle to restore the technological balance of power—to make the machine age work for, rather than against a decent society and a livable world. And it signals a dramatic change in the politics of this country.

There will never be another political campaign like the one in 1968 when not one of the three candidates for President considered the environment a concern worthy of a major speech. It is nothing short of remarkable how rapidly this issue has been thrust into the politics, the conversation, and the literature of this country.

Furthermore, it is not just a passing fancy. The issue will not just go away as so many writers and politicians predicted after Earth Day last April 22. It is here to stay because the environment is here, and the environment's quality is measurably and visably deteriorating at an ever-accelerating pace.

There is a growing sense of alarm over what we are doing to the planet and an ever expanding realization that we are tampering with the quality of our lives, as well as with the very survival of endless numbers of living species.

Concern over the status of our environment has been developing and spreading across this country among the people for more than a decade now. Finally it flowered in a vast, peaceful public demonstration of concern on Earth Day in April.

Literally tens of millions of people participated, from grade school students to elderly citizens in every corner of the Nation. Earth Day was not initiated or led by any political faction, economic group or establishment organization. It came from the grassroots. It was unplanned and unorganized except for the selection and announcement of a date and the establishment of an information clearinghouse here in Washington, D.C. The people did the rest in their own way

in thousands of schools, colleges, villages, and cities across the Nation.

Earth Day was a remarkable event that marked a changing point in the politics of the country. A new issue has been born, and it is here to stay.

It is important now, I think, to institutionalize this activity. The National Governors' Conference has already passed a resolution recommending that all Governors proclaim the third week in April as Earth Week.

The purpose is a continuing education effort, an occasion each year for the country to focus special attention for a week on the environmental accomplishments of the past year and to plan for the future.

In particular, an Earth Week would afford an opportunity for all the schools across the Nation to bring to culmination their environmental education efforts for the school year. As the inheritors of the environment, our young people have the greatest stake in its future quality.

It is my hope that the Governors of the 50 States will act to proclaim the third week in April as Earth Week. Already, many environmental organizations and school groups are planning to contact their Governors for this purpose.

As the second major objective for achieving a decent, livable world, we are going to have to adopt new policies that build environmental considerations into the daily business of the Nation.

In air and water quality, energy, growth, land use, ocean use, population, public lands and resources, solid waste management, technology, transportation, and comprehensive new policies must be set which will include the cost of environmental protection in the balance sheet of progress. Nothing is free—not the air, the water, the land.

Major gaps in our technology must be filled. To accomplish this, our scientific and technical resources must be marshaled on a scale comparable to tne Manhattan project that developed the atomic bomb.

We must develop clean energy from entirely new sources—clean, efficient transportation, including a pollution-free automobile— sewage treatment processes that can cope with the exotic wastes of modern society—environmentally acceptable detergents, pest control systems, food additives.

We must develop new products from old wastes—finding economic uses for everything from junked automobiles to factory smoke.

We must intensively research birth control technology, to develop the surest, safest method to enable Americans and others around the world to stabilize population growth.

As has long been sought, a mandatory national industrial waste survey must be established, requiring industries to submit detailed breakdowns of their wastes.

National and worldwide environmental monitoring systems must be set up. At present, it seems our most sophisticated environmental quality index is counting cases of contaminated fish.

A mechanism for systematic review of all products and processes for their environmental and health implications must be established. "First time safe" standards must be set, eliminating or minimizing environmental dangers before products are massively introduced into the marketplace.

A major objective of all arms control talks must be mutual cutting of defense budgets to save the world's natural resources.

National and world resources must be inventoried and plans developed to aid public decisions about resource management and consumption.

To map a Manhattan project for the environment, I urge that the President convene a conference of the Nation's scientists and technicians. For the compelling need to outthink and outplan the environmental crisis and the machines of our own creation, the declining national research and development effort must be dramatically reversed and refocused.

In a 20th century, modern nation, to have doctors of philosophy and engineers out of work is an intolerable waste of talent, a classic instance of misplaced priorities. It is not necessary to give up on progress and technology—only to redirect them to more constructive ends.

To have vast laboratory facilities for putting man on the moon while rivers run with filth and power systems fail is, to say the least, bizarre.

To begin a technological conversion and new assessment of environmental consequences, U.S. arms technology and space institutes at campuses around the country should be turned into environmental research centers.

Adversary science centers to independently test and question the consequences of new technology should be established at universities and funded by a percentage of the Federal science budget set aside as an environmental assessment tithe.

As proposed in legislation I introduced last year, environmental taxes should be established on products and processes, from packaging to power generation, to raise necessary funds for environmental research.

To continue public education and provide objective information on environmental change, a National Association for the Environment should be established. Privately funded, it should be a clearinghouse for scientists to make available to the public their environmental assessments.

To launch an environmental Manhattan project, the price tag will be high, but it will be far less than the annual bill we already pay in property and health losses from pollution. As an instance, air pollution could be reduced by 90 percent at no more than the cost of 1 year's worth of its economic damage.

As an environmental cleanup start, we must commit $20 to $25 billion a year over the current spending level. That equals one-third of the defense budget and is about what the Vietnam war has been costing.

As dramatic testimony to the false economy of continuing to permit a filthy environment, air pollution alone causes $12 to $15 billion in property damage in the United States each year; water pollution causes an additional $12 billion in property damage; health costs from our poisoned environment are $35 billion.

In Congress, with the December SST vote as a standard, environmentalists must not only work for comprehensive national policy reform, but must draw the line on the specific issues.

Because of the jam of environmental problems and the national awakening to the need for action, this and subsequent Congresses will be the major battleground for environmental causes.

In an attempt to provide Congress with a broad, if not all-inclusive range of environmental issues for consideration, I am introducing a package of 24 bills and resolutions.

The 24 measures are:

First. Ocean dumping ban. Introduced last February, this bill, S. 192, would phase out the dumping of wastes at sea in 5 years. Everything from industrial waste acids to sewage sludge is going into this fragile environment now. In September, the President endorsed the concept of this legislation and I hope he will support this measure or propose one of his own.

Second and third. Prohibit foreign-made SST's. The first of these measures, S. 193, will prohibit flights of all commercial supersonic aircraft within the United States, and the second, Senate Concurrent Resolution 2, is a resolution which recommends that this issue also be put on the agenda of the 1972 U.N. Conference on the Human Environment. In rejecting Federal funding of a U.S.-built SST, we are deciding against the project because of its worldwide considerations. Certainly, we now have the moral obligation to do everything we legitimately can within our sphere of influence to prevent a global experiment, no matter where the planes are made, that may adversely affect us all.

Fourth. Environmental standards on detergents. For years, detergents have been polluting our rivers and lakes, and now, new ingredients may pose human health hazards. Environmental performance standards would be set by this bill, S. 75, on all detergent ingredients, a step I have urged since 1963.

Fifth. "First Time Safe" food additives. The American public is being used as a proving ground for thousands of new chemicals in its food, and for many other products in the Consumer Society. This bill, S. 76, would require comprehensive testing of all new as well as already-approved food additives.

Sixth. Recycling tax on packaging. This bill, S. 282, would regulate the throwaway packaging, such as disposable bottles, cans, and jars, that is littering the American countryside. It would charge industries for packaging that is not recycled or easily disposable; the funds raised would be returned to local government to aid solid waste disposal.

Seventh. Constitutional amendment for a decent environment. The Judiciary Subcommittee on Constitutional Amend-

ments is planning hearings on this measure, Senate Joint Resolution 14, which would recognize and protect the right of every person to a decent environment. There is a need to clearly establish the right of citizens to bring appropriate legal actions against those who unnecessarily and indiscriminately degrade the environment of others. This is a critical tool to supplement the authority of governmental bodies.

Eighth. Declare annual Earth Week. Under this resolution, Senate Joint Resolution 15, Congress would designate the third week in April annually as Earth Week.

Ninth. Strip mining controls. Effective environmental control and supervision of strip mining practices is an urgent national necessity. For 4 years, I have been proposing legislation without any signs of progress yet. It is to be hoped that this Congress will finally act to require controls on all strip mining and initiate reclamation of previously ruined areas, steps which this bill, S. 77, would undertake.

Tenth. Moratorium on new ocean oil well drilling. To stop the marine devastation that has blackened our beaches and killed untold wildlife, this bill, S. 275, would hold all untapped ocean oil in U.S. undersea areas in a national trust until we need the oil and have the technology to extract it without the risk of repeated environmental disasters.

Eleventh. Mass transit from Highway Fund: One of the most urgent needs in national transportation policy is to provide an alternative to the automobile in our polluted, crowded, congested cities. As a beginning, this bill, S. 194, would give Governors the option to use some of their U.S. Highway Trust Fund money to build urban mass transit.

Twelfth to fifteenth. Pesticide reform: In addition to reintroducing the bill to ban DDT, S. 272, and a bill to ban eight other toxic, persistent pesticides, S. 232, I am today introducing a comprehensive measure to reform our entire pesticide regulation law so as to institute rational controls over the testing, marketing, and use of pesticides and herbicides. I am also reintroducing a measure, S. 281, to set standards of degradability and toxicity on all pesticides.

Sixteenth. Replace U.S. mineral leasing law: Under this bill, S. 274, the antiquated 1872 mining law would be replaced with a mineral leasing system based on modern public resource protection standards. The inclusion of all public minerals under this system would put an end to the blind priority for mineral resources without any concern for environmental and other values.

Mineral policies will be only a part of the public lands debate that is taking shape in this Congress. More generally, recommendations for major changes in nearly all public lands policies have raised grave conservation questions. At stake is the future of these vast holdings, one-third of the United States.

The proposed Alaska pipeline is a critically important public lands issue. The Interior Department's recent environmental impact report indicates the pipeline proposal raises some serious environmental issues. These issues must be thoroughly discussed and resolved before the project is permitted to go forward.

And in another vital public resource issue, setting aside wilderness under the Wilderness Act of 1964 must be vastly accelerated. In the 6 years since the act, only two national park areas have been given National Wilderness System status.

Seventeenth and eighteenth. Wildlife protection: The first of these two bills, S. 273, would put a halt to the widespread poisoning of predatory animals by Federal "control" agents in the West. The second bill, S. 78, would prohibit the hunting of wildlife from aircraft, legislation aimed especially at protecting the few timber wolves left in America.

Nineteenth. National Lakes Preservation Act: Because of pollution and overuse, our lakes are a dying feature of the landscape. Authorizing Federal-State-local measures to create national lake areas, this bill, S. 280, would launch a major shoreline protection and restoration program.

Twentieth to twenty-fourth. The remaining legislative proposals in this package are for a program of fellowship grants for students in planning for environmental careers, S. 276; a National Commission on Public Health Hazards, S. 277; a new Federal program to cut massive erosion along our streams, rivers, and highways, S. 279; and new steps to cut Great Lakes erosion, S. 278. And the last measure is a resolution, Senate Concurrent Resolution 1, urging U.S. automakers to declare a moratorium on styling changes and reallocate these funds to assuring a near-pollution-free automobile.

In the near future, I will also introduce measures for federally aided community environment services for environment jobs in urban areas; for inclusion of herbicides under the provisions of the Geneva protocol banning gas and biological warfare, and for strengthening and clarifying the public information provisions of the National Environmental Policy Act.

In years past, it would have been futile to think that Congress would seriously consider, much less pass, any really tough environmental measures.

Now it is reasonable to hope that many of these and the bills sure to be introduced by others will be enacted into law.

Until recently, the decisions that have destroyed our environment have been made in the board rooms of giant corporations, in the thousands of Government agency offices protected from public scrutiny—and even in the frequently closed committee rooms of Congress.

But now, the public is rightfully insisting that these matters be brought out into the open and demanding that the Nation's environmental performance gap be closed.

It is highly doubtful we will have the time to muddle through until the oceans are so polluted they would not sustain life, until the air is so unbreathable our cities will have to be domed, until the water becomes too filthy to purify for bathing, let alone for drinking.

In "The Challenge of Man's Future," Harrison Brown describes what he believes the future may hold.

The course he thinks most likely is a return to an agrarian existence, where, with resources exhausted—perhaps because of war—and population at overwhelming levels, we barely survive, if at all.

But, yet Brown and many others believe it is still possible, in spite of the grave dangers we face, to achieve a free industrial society in reasonable harmony with nature, where there is a decent standard of life for all.

The question is whether we can join together in a massive cooperative effort to preserve the integrity and livability of our environment before it is too late. We have the means, but only if we have the will.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the special order recognizing the able Senator from New York (Mr. JAVITS), there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

The VICE PRESIDENT. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for not to exceed 15 minutes.

S. 195—INTRODUCTION OF THE EMERGENCY SCHOOL AID ACT OF 1971

Mr. JAVITS. Mr. President, I am introducing today for appropriate reference the administration's Emergency School Aid Act of 1971. I do this as the ranking minority member of the Committee on Labor and Public Welfare, and also, Mr. President, because I believe the bill represents a critically important initiative of the administration. I regret very much that it did not pass last year.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 195) to assist school districts to meet special problems incident to desegregation, and to the elimination, reduction, or prevention of minority group isolation, in elementary and secondary schools, and for other purposes, introduced by Mr. JAVITS, was received, read twice by its title and referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. I ask unanimous consent that a section-by-section analysis of the bill be printed at the conclusion of my remarks.

The VICE PRESIDENT. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. As I say, I think it is most regrettable that we did not act on this measure last year, and in the course of these remarks I shall explain why, and what my hopes are for this year.

This measure authorizes $500 million this year and $1 billion next year, to

assist in meeting the special problems incident to desegregation—by which we mean the classic compliance with the decisions of the U.S. Supreme Court on the fact that every American child is entitled to a nonsegregated education—and the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools—that is, such an undue concentration of the children of one minority group or a number of minority groups in a given school district, or even individual schools, as to materially reduce the capabilities for learning and the capabilities for advancement in education on the part of that child or those children.

Funds may be used for such activities as remedial services, additional professional staff, staff training and retraining, guidance and counseling programs, new instructional techniques and materials, innovative intergroup educational programs, repair and minor remodeling of facilities, auxiliary services, community activities, special administrative activities, planning and evaluation, and other specially designed projects to achieve desegregation and to reduce or prevent minority group isolation.

It is critically important, Mr. President, that these objectives be understood and recognized.

Mr. President, we must never miss the forest for the trees. While there are differences which exist in my own committee and the select committee dealing with this subject of which I am also the ranking minority member and which is headed by the Senator from Minnesota (Mr. MONDALE), the forest is the fact that the administration and the committees agree upon the ad hoc expenditure of this sizable sum of money—$1.5 billion—for the purposes which I have mentioned. The question is how to spend it best, and where to spend it in terms of the most useful way in which to deal with the problem.

Mr. President, there has been very considerable progress in desegregation in our schools, both in the South and elsewhere in the Nation. I would not for a minute be the one to say that even the straight desegregation problem does not exist in some parts of the country. We in New York State, for example, who pride ourselves upon our advancement in this matter, have had a situation in New Rochelle, N.Y., a suburb of New York City, in which a decree had to be entered by a court relating to the desegregation of the public schools there.

Then, as to minority isolation, Mr. President, the problem is presented also in terms of housing patterns. For example, it is impossible in some areas to have a child even be bused to school within any reasonable compass of space or time without it still being in the minority isolation situation.

I mention both those things to show how pervasive is this problem, and how very difficult and elusive is the situation. In addition, it is very expensive. In order to carry out successful programs, school districts must devise new—and often expensive—educational efforts. All too often, this very undertaking comes at a place or a time when financial stress is faced by school districts for many other reasons associated with inadequate revenues and rising costs.

Mr. President, there is very clear indication that Congress will meet this need. We did appropriate $75 million as a beginning last year in respect of this particular situation, and the other body passed, at the very end of the last Congress, a measure for this $1.5 billion which came over here; but, unfortunately, it came in the last hours of the last Congress, when it was impossible to reconcile the views of my own committee in respect of education and of the other body on this bill.

The bill I am introducing today, which is essentially the administration's bill, I introduce with the hope and expectation that it will now receive the full and favorable consideration that it merits. I have made a few changes in the administration bill. They are not changes of profound substance, but they are useful changes. These changes, which are essentially five in number, omit the use of the term "racial" in the bill, which seems undesirable in terms of identity of what we are trying to accomplish, and substitute the term "minority group."

I include orientals in the definition of minority group. Substantial testimony was submitted to the Senate Education Committee last year to support this.

A third change I have made in the bill as passed by the other body, which is essentially now the administration bill, relates to the effort to give a broader base for the expenditure of the resources which we are making available here in terms of their use also for experiments, especially in the field of racial isolation which is so elusive and so difficult to deal with.

A fourth change is designed to give each State a minimum of $100,000 in connection with applying the formula which we have applied to the various States on a population basis in terms of the children who are affected.

The fifth change is the removal of the limiting factors respecting the issues of busing, because busing may be an important element here, and leaving completely out, of course, the question of coercion which I thoroughly agree should be left out, giving to the Secretary broad discretion as to whether the success of any program or project requires such auxiliary service as may be encompassed in the busing idea.

There is a great deal of illusion and misinformation about busing. Eighteen million children—about a third of the total who go to school—are bused to school today. It is the very salvation of country school districts, bringing them into a much higher educational level, to have had busing. No one wants to coerce children into being bused in any way, directly or indirectly; so in a facilitating tool such as the one we are now designing, busing should not be excluded as a useful adjunct to the many other things we expect to do.

I feel certain that, in the normal process of consideration of legislation, further changes will be made. One need not be wedded to every detail in such a bill as this. What is vital is to bring to fruition the view expressed by the President that new initiatives, supported by Federal funds, are needed to achieve equality of educational opportunity and to achieve the goal set by the President in his message of last year—"a system in which education throughout the Nation is both equal and excellent, and in which racial barriers cease to exist."

Finally, Mr. President, we did develop in the Subcommittee on Education of the Committee on Labor and Public Welfare, at the end of the last session, a bill which essentially proceeded upon a theory different from that of the administration's bill. My feeling is, given the overall amounts, given many of the basic techniques which both bills adopt, that the objective to be served should not in any rational approach represent the stumbling block which is irremovable as between the views of the majority of the committee and the views of the administration.

I will pledge—that is the reason why I am introducing the administration's bill—my utmost efforts to resolve all differences so that the most expeditious action may be taken upon this bill, which I regard as a singularly auspicious initiative by the President. I am sure these differences can be resolved. We would not be talking about $1.5 billion for this matter if it had not been proposed, and there would be no place for the difference between the views of the Subcommittee on Education and the views of the administration if the proposal had not been made in the first place.

I express the feeling that the leadership will give us high priority to consider a bill, if we can agree upon one, and I believe there is every likelihood of doing so. It is toward that end and the contribution toward that objective that I have introduced the administration's bill today.

EXHIBIT 1

SECTION-BY-SECTION ANALYSIS

Section 1.—This section provides that the Act may be cited as the Emergency School Aid Act of 1971.

PURPOSE

Section 2—This section states the two purposes for which financial aid may be provided under the act: (1) to meet the special needs incident to the elimination of minority group segregation, and discrimination, and (2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in schools with substantial minority group enrollments.

APPROPRIATIONS

Section 3—The authorized appropriations are $500 million for fiscal year 1971 and $1 billion for fiscal year 1972. Funds appropriated shall remain available for obligation for one fiscal year beyond the fiscal year for which they are appropriated.

ALLOTMENTS AMONG STATES

Section 4—Eighty percent of the funds appropriated would be allotted among the States (with a $100,000 minimum State allotment) on the basis of the number of children enrolled in schools in the State who are Negro, American Indian, Spanish-surnamed Americans, or members of other minority groups (as determined by the Secretary), as compared to the number of such children in all of the States. The remaining 20 percent of the sums appropriated are reserved to the Secretary for grants or contracts to carry out the purposes of the Act.

The Secretary is authorized to make reallotments except that no reallotment may take place as of a date earlier than 60 days prior to the end of a fiscal year. Reallotments from a State's allotment may be made only to the extent that applications from a State do not meet the requirements of the act or if they offer insufficient promise of carrying out the purposes of the act.

ELIGIBILITY FOR FINANCIAL ASSISTANCE

Section 5—This section provides that the Secretary shall provide financial assistance, pursuant to applications approved under section 7, to a local educational agency—(1) which is implementing a plan: (A) undertaken pursuant to a final order of a Federal or State court for student or faculty desegregation in elementary or secondary schools or for the elimination or reduction of minority group isolation in such schools, or (B) approved by the Secretary under title VI of the Civil Rights Act; (2) which, without having been required to do so, has adopted and is implementing, or will adopt and implement, a plan for the complete elimination of minority group isolation in its schools; or (3) which has adopted and is implementing, or will adopt and implement, a plan: to eliminate or reduce minority group isolation in one or more of its minority group isolated schools; or (B) to reduce the total number of minority children in minority group isolated schools; or (C) to prevent minority group isolation reasonably likely to occur in any school which has an enrollment of 10 percent but not more than 50 percent of minority children; or (D) to enroll and educate in non-minority-group isolated schools minority children who would not otherwise be eligible for enrollment because of nonresidence in the school district. The Secretary may also assist any other public or private nonprofit agency to carry out programs designed to support plans described above.

The Secretary is also authorized to provide funds for districts with high concentrations of minority group students, those with more than 15,000 such students or with an enrollment of which such students compose more than half. These grants may be made only upon the Secretary's determination an applicant has submitted an unusually promising pilot program or project designed to improve the academic achievement of students in minority group isolated schools.

The section also makes ineligible for assistance, school districts which since the passage of the Emergency School Assistance Act on August 18, 1970, have engaged in discrimination against students or faculty on the basis of their membership in minority groups. The disqualifying practices include in-school segregation and the transfer of public property to discriminatory private schools. Provision is made for waiver of ineligibility by the Secretary under special circumstances.

AUTHORIZED ACTIVITIES

Section 6—Financial assistance shall be available under the act for programs or projects which would not otherwise be funded and which are designed to carry out the purposes of the act, including (a) remedial or other services, (b) hiring of additional staff, (c) guidance and counseling, (d) development of new instructional techniques, (e) innovative intergroup programs, (f) repair or minor remodeling, (g) administrative and auxiliary services to facilitate the success of the program or project, (h) community activities, (i) special administrative activities, (j) planning and evaluation, and (k) other specially designed programs.

CRITERIA FOR APPROVAL

Section 7—In approving applications submitted under the act, except for Sec. 9(b), the Secretary must consider: (1) the need for assistance, (2) the degree to which the program is likely to effect a decrease in minority group isolation, (3) the comprehensiveness of the program or project, (4) the degree to which the program affords promise of achieving the purposes of the act, (5) except for 9(a) the amount necessary to carry out the program, and (6) the degree to which the program involves the total educational resources of the community both public and private. The section also provides that the Secretary shall not give less favorable consideration to an application of a local educational agency because such agency has adopted a voluntary plan, rather than being legally required to adopt such a plan.

ASSURANCES

Section 8—Applications submitted for approval must contain assurances that: (1) the appropriate State educational agency has been given reasonable opportunity to offer recommendations; (2) provision has been made for the participation of private school children, teachers, and other staff if such participation would assist in achieving the purposes of the act; (3) effective evaluation procedures have been adopted; (4) (A) there has been (after the commencement of the 1969–70 school year) no unlawful disposition of property or services to a private segregated school, (B) no such transaction has resulted in a substantial decrease in the applicant's assets or that the transfer has been rescinded or consideration received, and (C) there will be no disposition of property or services to such a school in the future; (5) there has been no reduction of fiscal effort; (6) funds are not reasonably available from other non-Federal sources; (7) other relevant information will be provided; (8) the agency is not operating under a freedom of choice plan unless it is determined to achieve desegregation; (9) current expenditures per pupil from local sources have not been reduced; (10) there will be no hiring, promotion, or demotion of professional staff on the basis of race; (11) the applicant has availed itself of all other Federal programs; and (12) no practices (including testing) will be employed by the applicant in the assignment of children to classes so as to result in the isolation of minority group children or discrimination against them. The Secretary shall not disapprove in whole or in part any application for funds submitted under section 5(a) without first notifying the applicant of the specific reasons for his disapproval and affording him a reasonable time to modify such application. Provision is made for joint applications.

SPECIAL PROGRAMS

Section 9—From the 20 percent of the funds reserved to the Secretary, grants may be made to schools for model and demonstration programs related to the purposes of the act and for programs for children from environments where the dominant language is other than English and who are educationally deprived as a result of limited language ability and have needs similar to other children served under the act.

PAYMENTS

Section 10—This section contains administrative provisions for reservation and payment of appropriate amounts following on approval of an application. There is a private school bypass where public school agency cannot legally or will not provide for effective participation on an equitable basis by children and educational staffs of private elementary and secondary schools. The Secretary may make provision for them through contracts with institutions of higher education or other private non-profit institutions and organizations and to pay the cost, thereof. Private school children are to have an equitable share in the resources made available under this Act. After approval of a grant or contract the Secretary is required to notify the appropriate State educational agency. The assistance made available under this Act may not exceed the net additional cost resulting from the implementation of a plan.

DEFINITIONS

Section 11—This section contains the definitions of terms used in the act.

EVALUATION

Section 12—The Secretary is authorized to reserve one percent of the funds for evaluation.

JOINT FUNDING

Section 13—This section allows joint funding by the Department of Health, Education, and Welfare and other Federal agencies.

NATIONAL ADVISORY COUNCIL

Section 14—This section provides that the President shall appoint a twelve-member National Advisory Council on the Education of Minority Group Isolated Children.

REPORTS

Section 15—This section provides that the Secretary shall report annually to the Congress on his administration of the act.

GENERAL PROVISIONS

Section 16—Parts B and C of the General Education Provisions Act relating to General Requirements and Conditions Concerning the Operation and Administration of Education Programs and rules governing Advisory Councils are made applicable to the act.

TRANSACTION OF ROUTINE MORNING BUSINESS

The VICE PRESIDENT. Under the previous order, the Senate will proceed to the consideration of morning business, with a 3-minute limitation. Is there any morning business?

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

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE RURAL ELECTRIFICATION ADMINISTRATION

A letter from the Secretary, Department of Agriculture, transmitting, pursuant to law, a report covering the activities of the Rural Electrification Administration for the fiscal year 1970 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON NUMBER OF OFFICERS ASSIGNED OR DETAILED TO PERMANENT DUTY IN THE EXECUTIVE PART OF THE DEPARTMENT OF THE AIR FORCE AT THE SEAT OF GOVERNMENT

A letter from the Secretary of the Air Force, reporting, pursuant to law, on the number of officers assigned or detailed to permanent duty in the executive part of the Department of the Air Force at the seat of government; to the Committee on Armed Services.

REPORT ON MILITARY CONSTRUCTION—ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on the location,

nature, and estimated cost of 13 facilities projects proposed to be undertaken for the Army National Guard in 12 States (with accompanying papers); to the Committee on Armed Services.

REPORT ON EXEMPLARY REHABILITATION CERTIFICATES

A letter from the Secretary of Labor, reporting, pursuant to law, on Exemplary Rehabilitation Certificates; to the Committee on Armed Services.

REPORT ON PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report of Department of Defense procurement from small and other business firms for July–October 1970 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT CONCERNING THE IMPLEMENTATION AND ADMINISTRATION OF THE FAIR PACKAGING AND LABELING ACT

A letter from the Chairman, Federal Trade Commission, transmitting, pursuant to law, a report concerning the implementation and administration of the Fair Packaging and Labeling Act (with an accompanying report); to the Committee on Commerce.

REPORT OF THE SURGEON GENERAL ON THE HEALTH CONSEQUENCES OF SMOKING

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report from the Surgeon General of the Public Health Service on the health consequences of smoking (with an accompanying report); to the Committee on Commerce.

REPORT OF THE RENEGOTIATION BOARD

A letter from the Chairman, the Renegotiation Board, transmitting, pursuant to law, the 15th Annual Report of the Renegotiation Board (with an accompanying report); to the Committee on Finance.

REPORT OF GRANTS APPROVED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of grants approved by the Department of Health, Education, and Welfare (with an accompanying report); to the Committee on Finance.

PROPOSED LEGISLATION FOR THE RELIEF OF ROBERT F. FRANKLIN

A letter from the General Counsel and Congressional Liaison, U.S. Information Agency, submitting a draft of proposed legislation for the relief of Robert F. Franklin, formerly an employee of the U.S. Information Agency, who suffered personal losses overseas on two separate occasions incident to the performance of his official duties (with accompanying papers); to the Committee on the Judiciary.

PROPOSED LEGISLATION TO AUTHORIZE THE U.S. POSTAL SERVICE TO RECEIVE THE FEE OF $2 FOR EXECUTION OF AN APPLICATION FOR A PASSPORT

A letter from the Assistant Secretary for Congressional Relations, Department of State, submitting a draft of proposed legislation to amend section 214 of title 22, United States Code, to permit the Secretary of State to pay to the U.S. Postal Service the execution fee of $2 for each passport application executed before postal officials (with accompanying papers); to the Committee on Foreign Relations.

PROPOSED LEGISLATION TO AUTHORIZE APPOINTMENT OF ADDITIONAL JUDGES IN FIVE U.S. DISTRICT COURTS

A letter from the Director, Administrative Office of the United States Court, submitting a draft of proposed legislation to authorize the appointment of additional judges in five United States district courts (with accompanying papers); to the Committee on the Judiciary.

PROPOSED LEGISLATION TO PROVIDE FOR THE GRANTING OF WRITS OF HABEAS CORPUS IN CERTAIN ADDITIONAL INSTANCES

A letter from the Director, Administrative Office of the United States Courts, submitting a draft of proposed legislation to amend chapter 153 of title 28, United States Code, to provide for the granting of writs of habeas corpus in certain additional instances (with accompanying papers); to the Committee on the Judiciary.

PROPOSED LEGISLATION TO PROVIDE FOR APPEAL FROM CERTAIN ORDERS BY A DEFENDANT WHO HAS PLEADED GUILTY, AND FOR OTHER PURPOSES

A letter from the Director, Administrative Office of the United States Courts, submitting a draft of proposed legislation to amend title 18 of the United States Code to provide for an appeal from certain orders by a defendant who has pleaded guilty, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

PROPOSED LEGISLATION TO ELIMINATE THE REQUIREMENT OF A THREE-JUDGE DISTRICT COURT IN CASES SEEKING TO RESTRAIN THE ENFORCEMENT OF STATE OR FEDERAL STATUTES FOR REPUGNANCE TO THE CONSTITUTION

A letter from the Director, Administrative Office of the United States Courts, submitting a draft of proposed legislation to eliminate the requirement of a three-judge district court in cases seeking to restrain the enforcement of state or federal statutes for repugnance to the Constitution (with accompanying papers); to the Committee on the Judiciary.

PROPOSED LEGISLATION TO AMEND THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

A letter from the Secretary of Labor, submitting a draft of proposed legislation to amend the Longshoremen's and Harbor Workers' Compensation Act to improve its benefits (with accompany papers); to the Committee on Labor and Public Welfare.

REPORT ON POSITIONS IN GRADES GS–17 AND GS–16 OF THE CIVIL SERVICE COMMISSION

A letter from the Chairman, U.S. Civil Service Commission, transmitting, pursuant to law, a report on positions in grades GS–17 and GS–16 of the Civil Service Commission (with accompanying papers); to the Committee on Post Office and Civil Service.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the VICE PRESIDENT:

A joint resolution of the Legislature of the State of New York; to the Committee on Finance:

"JOINT RESOLUTION NO. 2

"Joint resolution of the Legislature of the State of New York calling upon the Congress of the United States and the federal government to take prompt action to implement proposals for a system of direct federal tax-sharing payments to states

"Whereas, In recent years the challenges of modern-day America have required state and local governments to increase their expenditures at a rate greater than federal spending for domestic purposes; and

"Whereas, The growth in state and local taxation per capita has out paced the growth in federal taxation per capita in recent years; and

"Whereas, State and local governments are better equipped to determine how their needs can best be met and what formulas should be used in the distribution of available funds; and

"Whereas, The federal government is currently taking such a large share of the productive wealth of this nation through federal taxation that state and local governments are increasingly unable to find equitable and non-confiscatory revenue measures to produce the funds necessary to finance programs under their own control; and

"Whereas, The burden for innovation in domestic programs, under our federal system, rests with the states rather than with the federal government; now, therefore, be it

"*Resolved*, That the Legislature of the state of New York calls upon the Congress of the United States and the federal government to take prompt action to implement proposals for a system of direct federal tax-sharing payments to the states, so that the state governments will be able to provide vital domestic programs which are now beyond their financial means and so that the states may assist local governments to exercise their proper responsibilities, particularly in the fields of education, transportation, environmental protection and social services; and be it further

"*Resolved*, That any such shared revenues that are provided to the states and local governments not be earmarked for specific purposes and functions; and be it further

"*Resolved*, That copies of this resolution be transmitted to the President of the United States, the Majority Leader, Minority Leader and Secretary of the Senate and the Speaker, Minority Leader and Clerk of the House of Representatives of the Congress of the United States, and to each member of the Congress from the state of New York."

A concurrent resolution of the Legislature of the State of West Virginia; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION 9

"Concurrent resolution memorializing the Congress of the United States to call a convention for the sole purpose of amending the United States Constitution to provide for intergovernmental sharing of federal income tax revenues

"Whereas, A resolution of our Nation's myriad and diverse problems is contingent upon a viable partnership between the Federal Government and strengthened state governments; and

"Whereas, The Federal Government, by its extensive reliance on the graduated income tax as a revenue source, has virtually preempted the use of this course from state and local governments, thereby creating a disabling fiscal imbalance between the Federal Government and state and local governments; and

"Whereas, Increasing demands upon state and local governments for essential public services have compelled the states to rely heavily on highly regressive and inelastic consumer taxes and property taxes; and

"Whereas, Federal revenues based predominantly on income taxes increase significantly faster than economic growth, while state and local revenues based heavily on sales and property taxes do not keep pace with economic growth; and

"Whereas, The fiscal crisis of state and local governments is the overriding problem of intergovernment relations and of continuing a viable federal system, and the only solution to this problem is a meaningful sharing of federal income tax resources; and

"Whereas, The Congress of the United States, despite the immediate and imperative need therefor, has failed to enact acceptable revenue sharing legislation; and

"Whereas, In the event of such Congressional inaction, Article V of the Constitution of the United States grants to the states the right to initiate change by applications from the legislatures of two thirds of the several states to Congress, calling for a constitutional convention; and

"Whereas, The Congress of the United States is required by the Constitution to call such a convention upon receipt of applications from the legislatures of two thirds of the several states; therefore, be it

"Resolved by the Legislature of West Virginia: That pursuant to Article V of the Constitution of the United States, the Legislature of the State of West Virginia does hereby make application to the Congress of the United States to call a convention for the sole purpose of proposing to the several states a constitutional amendment which shall provide that a portion of the taxes on income levied by Congress pursuant to the sixteenth amendment of the Constitution of the United States shall be made available each year to state governments and political subdivisions thereof, by means of direct allocation, tax credits, or both, without limiting directly or indirectly the use of such moneys for any purpose not inconsistent with any other provision of the Constitution of the United States; and, be it

"Further Resolved, That this application shall constitute a continuing application until the legislatures of two thirds of the states shall have made like applications and such convention shall have been called by the Congress of the United States unless previously rescinded by this Legislature; and, be it

"Further Resolved, That certified copies of this resolution be presented forthwith to the President of the Senate and Speaker of the House of Representatives of the United States and to the legislature of each of the several states attesting the adoption of this resolution by the Legislature of the State of West Virginia."

The petition of Evelyn Barnes, of Bridge, Idaho, praying for a congressional investigation relating to the Headstart program; to the Committee on Appropriations.

A resolution adopted by the United Center of Retailers of Puerto Rico, Inc., praying for the enactment of legislation relating to curbing inflation; to the Committee on Banking, Housing and Urban Affairs.

The petition of Robert Hayworth Beel, of Mount Clemens, Mich., praying for a redress of grievances; to the Committee on Banking, Housing and Urban Affairs.

A resolution adopted by the City of Buffalo, N.Y., praying for the enactment of legislation relating to air pollution; to the Committee on Commerce.

A resolution adopted by the Board of Supervisors, County of Goochland, Va., praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

A resolution adopted by the City Council of New York City, praying for the enactment of legislation relating to revenue sharing; to the Committee on Finance.

Resolutions adopted at the Grand Camp, Alaska Native Brotherhood, Inc., relating to social security payments to persons living in Alaska; to the Committee on Finance.

A resolution adopted by the Colorado Conference of Social Welfare, Denver, Colo., praying for the enactment of legislation relating to welfare reform; to the Committee on Finance.

Resolutions adopted at the North Atlantic Assembly, held in The Hague, relating to certain recommendations concerning international relations; to the Committee on Foreign Relations.

A resolution adopted by the Evangelical Covenant Church of America, Chicago, Ill., praying for conformation to rules of war as delineated in the Geneva Convention, relating to prisoners of war; to the Committee on Foreign Relations.

An opinion of the U.S. District Court, Southern District of Indiana, Indianapolis Division, relating to the case of Vance Hartke, Plaintiff, against Richard L. Roudebush, Samuel J. Walker, John R. Hammond, Duge Butler, Defendants; to the Committee on Rules and Administration.

The petition of New Yorkers for a New York Senator, Hamilton, N.Y., objecting to the seating of JAMES L. BUCKLEY, as Senator, from the State of New York; to the Committee on Rules and Administration.

The petition of Paul B. Knuese, of Lake Geneva, Wis., praying for a redress of grievances; to the Committee on Banking, Housing and Urban Affairs.

A resolution adopted by the Council of the city of New York, praying for the enactment of legislation approving income tax deductions for all people who cannot work at a gainful job without having to make private arrangements for child care; to the Committee on Finance.

A petition, signed by sundry citizens of the State of Florida, praying for the immediate cessation of aid in any form to Communist enemies; to the Committee on Foreign Relations.

A resolution adopted by the council of the city of New York, praying for the enactment of legislation to create an independent Federal agency to coordinate a national drive to conquer cancer; to the Committee on Labor and Public Welfare.

A proclamation of the Governor, Commonwealth of Puerto Rico, relating to the recently approved amendment to the constitution of the Commonwealth of Puerto Rico, granting the right to vote to all persons over 18 years of ago; to the Committee on Interior and Insular Affairs.

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of a nomination was submitted:

By Mr. HANSEN (for Mr. JACKSON), from the Committee on Interior and Insular Affairs:

ROGERS C. B. MORTON, of Maryland, to be Secretary of the Interior.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. RIBICOFF:

S. 185. A bill for the relief of Carmen Soto Velesquez;

S. 186. A bill for the relief of Miss Ilva John; and

S. 187. A bill for the relief of Miss Marie Arcache and Miss Verdun Arcache; to the Committee on the Judiciary.

By Mr. SCOTT:

S. 188. A bill for the relief of Tibor Egetoe;

S. 189. A bill for the relief of Carmela Marullo; and

S. 190. A bill for the relief of Vittorio Liotti; to the Committee on the Judiciary.

By Mr. BOGGS (for himself, Mr. TOWER and Mr. BEALL):

S. 191. A bill to amend the Social Security Act to establish a national catastrophic illness insurance program under which the Federal Government, acting in cooperation with State insurance authorities and the private insurance industry, will reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost; to the Committee on Finance.

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

By Mr. NELSON:

S. 192. A bill to amend the Federal Water Pollution Control Act, as amended; to the Committee on Public Works, by unanimous consent and then to the Committee on Commerce for its consideration of any matters in its jurisdiction, by unanimous consent.

S. 193. A bill to amend the Federal Aviation Act of 1958 to prohibit the operation within the territorial jurisdiction of the United States of any civil supersonic aircraft until and unless the sonic boom and stratospheric pollution created by such operation have been reduced to zero or the effectual equivalent of zero, and for other purposes; to the Committee on Commerce.

S. 194. A bill to permit a State to elect the use funds from the highway trust fund for purposes or urban mass transportation; to the Committee on Finance.

(The remarks of Mr. NELSON when he submitted the bills appear earlier in the RECORD under the appropriate heading.)

By Mr. JAVITS (for himself and Mr. GRIFFIN):

S. 195. A bill to assist school districts to meet special problems incident to desegregation, and to the elimination, reduction, or prevention of minority group isolation, in elementary and secondary schools, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. MOSS:

S. 196. A bill for the relief of Eva Semnani;

S. 197. A bill for the relief of Mrs. Kwi Dong Park;

S. 198. A bill for the relief of Osvalda R. Borelo, Angela Borelo, Diana Laora Borelo, Viviana Christina Borelo, Estevan Daniel Borelo, and Mirian Borelo;

S. 199. A bill for the relief of Miss Maike Hannemann;

S. 200. A bill for the relief of Olga Quintas-Freijo and Susanna Alvarez;

S. 201. A bill for the relief of Dr. Ralph R. Stevenson;

S. 202. A bill for the relief of Ann Maria Y. Uy;

S. 203. A bill for the relief of Eou Bee Han; and

S. 204. A bill for the relief of Sing Ho Chan; to the Committee on the Judiciary.

By Mr. CURTIS:

S. 205. A bill for the relief of Kimura Koshun; to the Committee on the Judiciary.

By Mr. BENNETT:

S. 206. A bill for the relief of William Arthur Herbertson; and

S. 207. A bill for the relief of Grace Home Herbertson; to the Committee on the Judiciary.

By Mr. HRUSKA (for himself and Mr. CURTIS):

S. 208. A bill for the relief of Filadelfo Fracica; to the Committee on the Judiciary.

By Mr. WEICKER:

S. 209. A bill to require the Secretary of Transportation to prescribe regulations governing the humane treatment of animals transported in air commerce; to the Committee on Commerce.

By Mr. FONG:

S. 210. A bill to amend section 8340 of title 5, United States Code, to provide a 5-percent increase in certain annuities;

S. 211. A bill to amend the Civil Service Retirement Act so as to permit retirement of employees with thirty years of service on full annuities without regard to age;

S. 212. A bill to provide certain retirement benefits under title 5, United States Code, for air traffic controllers;

S. 213. A bill to provide for employment within the Environmental Protection Agency of commissioned officers of the Public Health Service, and for other purposes; and

S. 214. A bill to correct certain inequities relating to civil service retirement benefits

provided under subchapter III of chapter 83 of title 5, United States Code; to the Committee on Post Office and Civil Service.

By Mr. ERVIN:

S. 215. A bill to provide procedures for calling constitutional conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution; to the Committee on the Judiciary.

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

By Mr. CHURCH (for himself, Mr. BAYH, Mr. BIBLE, Mr. CANNON, Mr. DOMINICK, Mr. FANNIN, Mr. GRAVEL, Mr. HANSEN, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. JORDAN of Idaho, Mr. MCGEE, Mr. MAGNUSON, Mr. METCALF, Mr. MONDALE, and Mr. Moss):

S. 216. A bill to permit suits to be brought against the United States to adjudicate disputed land titles; to the Committee on Interior and Insular Affairs by unanimous consent.

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

By Mr. MOSS:

S. 217. A bill to amend section 303 of the Communications Act of 1934 to require that radios be capable of receiving both AM and FM broadcasts; to the Committee on Commerce.

S. 218. A bill to amend title II of the Social Security Act to increase the annual amount individuals are permitted to earn without suffering deductions from the insurance benefits payable to them under such title; to the Committee on Finance.

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

By Mr. MOSS (for himself and Mr. HATFIELD):

S. 219. A bill to amend the Water Resources Act of 1964 to increase the authorization for water resources research and institutes, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. MOSS:

S. 220. A bill to amend the Mineral Leasing Act of February 25, 1920, as amended; to the Committee on Interior and Insular Affairs.

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

By Mr. KENNEDY:

S. 221. A bill to provide certain essential assistance to U.S. fishing industry; to the Committee on Commerce.

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

By Mr. MOSS:

S. 222. A bill to provide for the establishment and administration of the Canyon Country National Parkway in the State of Utah, and for other purposes; and

S. 223. A bill to provide for airports on Indian reservations; to the Committee on Interior and Insular Affairs.

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

By Mr. PROXMIRE:

S. 224. A bill for the relief of Myrna S. Cabanada;

S. 225. A bill for the relief of Ruzica Galic and Nada Jankovic;

S. 226. A bill for the relief of Dominico Piemonte; and

S. 227. A bill for the relief of Bruce M. Richards; to the Committee on the Judiciary.

By Mr. BYRD of West Virginia:

S. 228. A bill for the relief of Lee Kuck Ting;

S. 229. A bill for the relief of Chong Tsz Ying; and

S. 230. A bill to authorize the U.S. District Court for the Northern District of West Virginia to hold court at Morgantown; to the Committee on the Judiciary.

By Mr. MOSS:

S. 231. A bill to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes; to the Committee on Post Office and Civil Service.

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

By Mr. NELSON:

S. 232. A bill to prohibit the sale or shipment for use in the United States of the chemical compounds known as aldrin, chlordane, DDD/TDE, dieldrin, endrin, haptachlor, lindane, toxaphene; to the Committee on Agriculture and Forestry.

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

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 233. A bill to amend section 2634 of title 10, United States Code, relating to the shipment at Government expense of motor vehicles owned by members of the Armed Forces; to the Committee on Armed Services.

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

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 234. A bill to convey the interest of the United States in certain property in Fairbanks, Alaska, to Hillcrest, Inc.;

S. 235. A bill to provide for the establishment of the post cemetery at Fort Richardson, Alaska, as a national cemetery; to the Committee on Veterans Affairs.

S. 236. A bill to authorize the Secretary of the Interior to convey to the city of Anchorage, Alaska, interests of the United States in certain lands; and

S. 237. A bill to authorize the Secretary of the Interior to convey certain land to the city of Anchorage, Alaska; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. STEVENS, when he introduced the bills, appear below under appropriate headings.)

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 238. A bill for the relief of the widow and children of Thomas Pillifant; to the Committee on the Judiciary.

By Mr. STEVENS (for himself, Mr. GRAVEL, Mr. TOWER, and Mr. CANNON):

S. 239. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, and for other purposes; to the Committee on Government Operations.

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

By Mr. HUMPHREY:

S. 240. A bill for the relief of Alfio Margiotta; to the Committee on the Judiciary.

S. 241. A bill to improve intergovernmental relationships, and the economy and efficiency of all levels of government, by providing Federal block grants for States and localities where there is a demonstration of State intention to modernize state and local government; to the Committee on Government Operations.

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

By Mr. BYRD of West Virginia:

S. 242. A bill for the relief of Elizabeth Currado; and

S. 243. A bill for the relief of Li Lien-Shiun; to the Committee on the Judiciary.

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 244. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus personal property to State fish and wildlife agencies; to the Committee on Government Operations.

S. 245. A bill to authorize the establishment of the Old Kodiak National Historic Site in the State of Alaska, and for other purposes; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. GRAVEL when he introduced the bills appear below under appropriate headings.)

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 246. A bill to authorize the conveyance of certain property to the city of Nome Alaska; to the Committee on Interior and Insular Affairs.

S. 247. A bill for the relief of Albert G. Feller and Flora Feller; to the Committee on the Judiciary.

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

By Mr. GRAVEL (for himself and Mr. STEVENS):

S. 248. A bill for the relief of William D. Pender; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 249. A bill to implement the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (56 Stat. 1354); amend Public Law 89-669 (October 15, 1966); and for other purposes; to the Committee on Commerce.

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

By Mr. CRANSTON:

S. 250. A bill for the relief of Cindeline Dawn Dillon;

S. 251. A bill for the relief of Trinidad O. Tenefrancia;

S. 252. A bill for the relief of Fermin Marquez;

S. 253. A bill for the relief of Florentino Adona, Jr.;

S. 254. A bill for the relief of Kaiganoosh Vartevanian (Monahan);

S. 255. A bill for the relief of Leonora Lopez; and

S. 256. A bill for the relief of Stanley Varga; to the Committee on the Judiciary.

By Mr. MONDALE:

S. 257. A bill for the relief of Rocco D'Alessio Lucia Di Biasse D'Alessio, and Angelo D'Alessio;

S. 258. A bill for the relief of Pyung Yang Park;

S. 259. A bill for the relief of Doris Ann Janzen;

S. 260. A bill for the relief of Joseph Bernard Kelly, wife Shirley Joan and children Robert, David, and Karen;

S. 261. A bill for the relief of Branko Colakovic;

S. 262. A bill for the relief of Anna Gambino;

S. 263. A bill for the relief of Mario Augusto Roca;

S. 264. A bill for the relief of Lidiette Bolanos Vargas;

S. 265. A bill for the relief of Bahram Yusefzadeth;

S. 266. A bill for the relief of Mr. and Mrs. Frank Ariss, Charlotte (daughter), and Crispin (son);

S. 267. A bill for the relief of Sudha B. Bakare;

S. 268. A bill for the relief of Shie Tong Chiu;

S. 269. A bill for the relief of Marietta Dacto;

S. 270. A bill for the relief of Giovanni Incoronatto; and

S. 271. A bill for the relief of Maroun George Khouri; to the Committee on the Judiciary.

By Mr. NELSON:

S. 272. A bill to prohibit the sale or shipment for use in the United States of the chemical compound known as DDT; to the Committee on Agriculture and Forestry.

S. 273. A bill to establish a national policy and program with respect to wild predatory mammals, and for other purposes; to the Committee on Commerce.

S. 274. A bill to amend the Mineral Leasing Act, and for other purposes; and

S. 275. A bill to amend the Outer Continental Shelf Lands Act, to establish a National Marine Mineral Resources Trust, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 276. A bill to authorize the Commissioner of Education to award fellowships to persons preparing for environmental careers; and

S. 277. A bill to establish a National Commission on Public Health Hazards, and to provide for a program of investigation, basic research, and development to find means of protecting the public health by controlling and neutralizing health hazards created by certain drugs and other potentially mutagenetic or lethal chemicals and compounds; to the Committee on Labor and Public Welfare.

S. 278. A bill to amend the act of August 13, 1946, relating to Federal participation in the cost of protecting the shores of the United States, its territories, and possessions, to include privately owned property;

S. 279. A bill to provide for the control and prevention of pollution, deterioration of water quality, and damage to lands and waters resulting from erosion to the roadbeds and rights-of-way of existing State, county, and other rural roads and highways and for other purposes;

S. 280. A bill to preserve, protect, develop, restore, and make accessible the lake areas of the Nation by establishing a National Lake Areas System and authorizing programs of lake and lake areas research, and for other purposes;

S. 281. A bill to amend the Federal Water Pollution Control Act to protect the navigable waters of the United States from further pollution by requiring that pesticides manufactured for use in the United States or imported for use in the United States comply with certain standards of biodegradability and toxicity; and

S. 282. A bill to amend the Solid Waste Disposal Act in order to establish economic incentives for the return, reuse, and recycling of packaging, to reduce the public costs of packaging and other solid waste disposal, to require national standards for controlling the amount and environmental quality of packaging, and for other purposes; to the Committee on Public Works.

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

By Mr. METCALF:

S. 283. A bill to provide for the distribution of motor vehicle tires, and for other purposes; to the Committee on Commerce; and

S. 284. A bill for the relief of Solomon Simtob; to the Committee on the Judiciary.

By Mr. METCALF (for himself and Mr. MANSFIELD):

S. 285. A bill to grant all minerals, including coal, oil, and gas, on certain lands on the Fort Belknap Indian Reservation, Mont., to certain Indians, and for other purposes;

S. 286. A bill providing that certain privately owned irrigable lands in the Milk River project in Montana shall be deemed to be excess lands; and

S. 287. A bill relating to the status of the Little Shell Band of Chippewa Indians of Montana; to the Committee on Interior and Insular Affairs.

By Mr. METCALF (for himself and Mr. ERVIN):

S. 288. A bill to provide for certain jury trials in condemnation proceedings in district courts of the United States; to the Committee on the Judiciary.

By Mr. MOSS (for himself and Mr. TUNNEY) (by request):

S. 289. A bill to amend the Federal Aviation Act of 1958, as amended, to authorize air carriers to engage in bulk air transportation of persons and property; to the Committee on Commerce.

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

By Mr. BELLMON:

S. 290. A bill to amend the Consolidated Farmers Home Administration Act of 1961 to provide for insured operating loans, and for other purposes; to the Committee on Agriculture and Forestry;

S. 291. A bill to establish within the Department of the Interior the position of Assistant Secretary of the Interior for Indian Affairs; to the Committee on Interior and Insular Affairs; and

S. 292. A bill to redesignate the Senate Office Building and the additional Senate Office Building as the "Everett McKinley Dirksen Building" and the "Richard Brevard Russell Building," respectively; to the Committee on Public Works.

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

By Mr. KENNEDY:

S. 293. A bill to amend title VII of the Housing and Urban Development Act of 1965 to authorize financial assistance for the development and improvement of street lighting facilities; to the Committee on Banking, Housing and Urban Affairs.

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

By Mr. KENNEDY:

S. 294. A bill to amend the Federal Power Act to further promote the reliability, abundance, economy and efficiency of bulk electric power supplies through regional and interregional coordination; to encourage the installation and use of improved extra-high-voltage facilities; to preserve the environment and conserve natural resources; to establish the National Council on the Environment; and for other purposes;

S. 295. A bill to establish a National Transportation Trust Fund, and for other purposes;

S. 296. A bill to protect consumers and to assist the commercial fishing industry by providing for the inspection of establishments processing fish and fishery products in commerce, and to amend the Fish and Wildlife Act of 1956 to provide technical and financial assistance to the commercial fishing industry in meeting such requirements; to the Committee on Commerce;

S. 297. A bill to amend the Social Security Act to provide a 15 per centum across-the-board increase in monthly benefits with a minimum primary insurance amount of $100;

S. 298. A bill to amend the Sugar Act of 1948 to terminate the quota for South Africa; to the Committee on Finance;

S. 299. A bill to authorize the Secretary of the Interior to establish the Bunker Hill desirability of a Boston Harbor National Recreation Area in the State of Massachusetts;

S. 300. A bill to establish the birthplace of Susan B. Anthony in Adams, Mass., as a national historic site, and for other purposes;

S. 301. A bill to authorize the Secretary of the Interior to establish the Bunker Hill National Historic Site in the city of Boston, Mass., and for other purposes;

S. 302. A bill to authorize the acquisition and maintenance of the Goddard Rocket Launching Site in accordance with the act of August 25, 1916, as amended and supplemented, and for other purposes; to the Committee on Interior and Insular Affairs;

S. 303. A bill to incorporate the Historic Naval Ships Association;

S. 304. A bill for the relief of the State of Massachusetts; to the Committee on the Judiciary; and

S. 305. A bill to amend the Public Health Service Act to support research and training in diseases of the digestive tract, including the liver and pancreas, and diseases of nutrition, and aid the States in the development of community programs for the control of these diseases, and for other purposes; to the Committee on Labor and Public Welfare.

(The remarks of Mr. KENNEDY, when he introduced the bills, appear below under appropriate heading.)

By Mr. SPONG:

S. 306. A bill for the relief of Eddie Troy Jaynes and Rosa Elena Jaynes; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 307. A bill to foster oceanic an environmental research and development, and for other purposes; to the Committee on Commerce.

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

By Mr. CANNON:

S.J. Res. 16. Joint resolution proposing an amendment to the Constitution of the United States providing for the election of the President and the Vice President of the United States; to the Committee on the Judiciary.

(The remarks of Mr. CANNON when he introduced the joint resolution appear below under the appropriate heading.)

By Mr. MANSFIELD (for Mr. MUSKIE) (for himself, Mr. MAGNUSON, Mr. RANDOLPH, Mr. JACKSON, Mr. BAKER, Mr. BAYH, Mr. BIBLE, Mr. BOGGS, Mr. CANNON, Mr. CHURCH, Mr. COOPER, Mr. EAGLETON, Mr. GRAVEL, Mr. JORDAN of Idaho, Mr. HATFIELD, Mr. INOUYE, Mr. KENNEDY, Mr. McGEE, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. NELSON, Mr. PELL, Mr. PERCY, Mr. SPONG, Mr. STEVENS, and Mr. WILLIAMS):

S.J. Res. 17. Joint resolution to establish a Joint Committee on the Environment; placed on the calendar, by unanimous consent.

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

S. 23—INTRODUCTION OF THE ETHNIC HERITAGE STUDIES CENTERS ACT OF 1971

Mr. SCHWEIKER. Mr. President, I introduce the Ethnic Heritage Studies Center Act of 1971.

This bill authorizes the Commissioner of Education to create a series of regional centers around the Nation which will develop, and make available to schools, colleges, and community groups, materials concerning the history and culture of all the various ethnic groups in our country.

Mr. President, the decade of the sixties began in relative quiet, but ended in ashes of misunderstanding, hatred, and violence. During these riot-torn years, we witnessed the tragic events of race fight-

ing race, religion opposed to religion, and ethnic groups hostile to ethnic groups. Independent study groups, Presidential Commissions, academicians, and reporters alike were in general agreement that polarization among Americans was rapidly increasing, and that misunderstanding and distrust among Americans at all levels of society was dangerously high, and getting worse.

In representing a large, diverse State like Pennsylvania, and in reading my mail, talking to constituents, and following newspaper reports, I have become vividly aware of the feeling among Americans of all races, colors, and creeds that they are being neglected by government and society at large.

This high level of distrust and discontent at all levels of society is a serious problem, particularly in view of the broad problems we face in modernizing all public services, in maintaining a strong viable economy, and in helping to insure the best possible life for all Americans, in urban and rural areas alike. If our people are divided, we will never be able to make our democracy work. If all persons can come together, and work together, the American dream can slowly but surely become a reality to everyone.

The bill I am introducing today, creating Ethnic Heritage Studies Centers, is designed to help bridge the gaps of misunderstanding between people by fostering the study of ethnic history and culture.

America is a new land in world history, still only a few hundred years old. One of our strengths has always been the rich mixture of backgrounds and traditions of the countries from which our forefathers originally emigrated to start a new life with new hopes and new promises. With the single exception of our great American Indians, all Americans derive from other countries' cultures, backgrounds, and heritages, which have existed for many hundreds of years before America.

However, in the development of our country, and in the history of American people, persons came to our shores in order to make a new life for themselves, became embarrassed with their old country mannerisms and customs, and felt they had to take on new "American" traditions. Historians and social commentators have referred to the great "melting pot" theory of America, whereby the cultures and backgrounds from around the world would merge in our new country to create a new homogenized culture that would provide everyone with a new, better life.

As the years have gone on, however, and as we analyze, in particular, the trouble-filled era of the sixties, I have come to the conclusion that too much faith has been put on the dream of a "melting pot." In the process, our peoples have lost a sense of identity. We now see many Americans in a fluid state, with few community ties, and a lack of any firm roots to provide stability for their lives. What was seen as the opportunity for unlimited growth, has instead resulted in insecurity, and a loss of the important values of community, identity, tradition, and family solidarity.

Mr. President, I feel that the focus of the American dream is no longer the "melting pot" mixture of people, but should be our own motto, "E Pluribus Unum," one out of many. Rather than ignoring the many ethnic and traditional differences of all Americans, it is time to emphasize them, and combine the strengths of all ethnic groups, to have these groups work together to build a better society and bring harmony to all people.

I have talked with a number of people who have worked with minority and ethnic groups, and who have been active in promoting ethnic cultural activities, and I have become convinced that greater study, awareness, and application of ethnic traditions and cultural activities can help to increase personal identity and stability which is lacking among so many people today.

Even more important, however are the prospects for members of one race, color, or creed, to be able to learn about the background of other groups, to understand their different ways of life and traditions, in the hopes that each group, through this new understanding will be able to get along better with each other, to work together, and begin the necessary task of creating a more harmonious society.

The Ethnic Heritage Studies Centers to be created by this bill will begin to provide the resources to begin this task of greater ethnic understanding. I envision the creation of regional centers, utilizing colleges, universities, civic groups, existing ethnic organizations, and any other community resource in that region, which will foster the study of the history, traditions, and cultures of the various ethnic groups within that region. Eventually, when these individual regional centers are working effectively, coordination on a national scale can be easily accomplished, but we will have to begin with smaller steps. They can develop libraries of ethnic studies material, develop curriculum material for use in elementary and secondary schools and colleges and universities, help promote ethnic cultural events in their local communities, and work closely with fraternal organizations, student groups, civic associations, women's clubs, and any other community group which can help to foster the goals of mutual understanding of the ethnic centers.

The centers would be under the general scope of the Office of Education, since these goals are ultimately educational in their outlook, but the centers would have separate staffs which should be encouraged to exercise considerable flexibility and independence based on the needs and wishes of the ethnic groups within the areas served by each regional center.

Mr. President, community solidarity through ethnic communications can work. One of the largest mixtures of ethnic and racial groups in our country exists in Pittsburgh. I have sat in on a number of meetings of a new ad hoc ethnic committee in Pittsburgh, which has been meeting to discuss how different ethnic groups and people can work together for the benefit of the entire community. Let me list the different groups represented in this committee: African, Bulgarian, Carpatho-Russian, Croatian, German, Greek, Hungarian, Irish, Israeli, Latvian, Lebanese, Lithuanian, Netherland, Polish, Russian, Scandinavian, Scottish, Serbian, Slovak, Slovene, Spanish, Syrian, and Ukrainian. The mere fact that leaders from these ethnic communities, representing nearly all of the population in the greater Pittsburgh area, are sitting down, meeting together, and talking about mutual projects is in itself a significant development. But the potential for continued close cooperation among these peoples is enormous, and it can take place everywhere in our country, with the ethnic groupings of each region of the country, not just in Pittsburgh.

In summary, I feel that ethnic solidarity and ethnic identification can be instrumental in eliminating many of the tensions between different groups of people today. Members of all ethnic groups, of all races, colors, and creeds, share the American hope for meaningful employment, healthy families, strong communities, and peace and harmony within their daily lives. Tension and turmoil brings out the worst of human tendencies and motivations, and it is our responsibility to help encourage understanding and identity which will bring out the best in human goals and aspirations.

The creation of ethnic centers can become regional and national focal points for this goal. The study of ethnic heritages will not in itself solve our social problems. But the mutual understanding and tolerance between people, and the self-confidence and identity within ethnic groups, can. I urge serious study by the Senate of this small, but significant step; and swift approval of ethnic heritage studies centers.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 23) to provide a program to improve the opportunity for the study of cultural heritages of all ethnic groups in the Nation, introduced by Mr. SCHWEIKER, was received, read twice by its title and referred to the Committee on Labor and Public Welfare.

S. 215—INTRODUCTION OF THE FEDERAL CONSTITUTIONAL CONVENTION PROCEDURES ACT

Mr. ERVIN. Mr. President, I introduce, for appropriate reference, a bill to establish procedures for calling constitutional conventions for proposing amendments to the Constitution of the United States, upon application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution.

This bill is identical to S. 623, which I introduced in the 91st Congress, on January 24, 1969. I introduced an earlier version of that bill, S. 2307, later revised, in the 90th Congress.

These earlier bills were submitted in an effort to clarify some of the confusion that developed when it was realized that a total of 32 States had petitioned the

Congress for a constitutional convention to consider amendments pertaining to the reapportionment decisions of the Supreme Court.

When the Nation discovered that 32 of the 34 applications required for the calling of the first National Constitutional Convention since 1787 had been submitted, the first reaction was the shocking realization that the country faced the worst constitutional crisis since the Civil War. Voices were heard suggesting that the proposed convention would be a constitutional nightmare, that a runaway convention could abolish the Bill of Rights, repeal the income tax, provide for an elected Supreme Court, and that other dire consequences were in store for the country if a convention were held. It was even suggested that Congress ignore its constitutional obligation by refusing to call a convention, should the two additional petitions be submitted.

These reactions were the product partly of surprise and partly of opposition to the substantive changes sought by the State petitions. Nonetheless, it is generally recognized that virtually no precedent exists to guide the States and Congress in answering the complex and sensitive questions involved in implementing this part of Article V of the Constitution.

S. 2307 was introduced in an effort to provide answers to these difficult questions. The bill was referred to the Senate Judiciary Subcommittee on Separation of Powers, and hearings were held in October 1967. The hearings were published, together with an extensive appendix containing pertinent precedent and commentary on the subject.

In drafting the present legislation and the proposals preceding it, I have attempted to make its effect on any particular issue as neutral as possible. The bill seeks neither to facilitate a convention nor to lay obstacles in its path. Now, however, once again, an issue has arisen which is bringing the possibility of a constitutional convention near to reality. While the bill I am introducing is in no way inspired by the current drive by the States for a constitutional convention to propose an amendment for revenue sharing by the States, that proposal, like the earlier reapportionment issue, is forcing recognition that such a convention is indeed possible and perhaps imminent.

At the present time, memorials have been submitted to the Congress from four States—Louisiana, California, New Hampshire, and New Jersey—petitioning the Congress to call a constitutional convention on revenue sharing. In addition, I am informed that similar resolutions have been introduced in the State legislatures, or are being prepared for introduction, in Iowa, Vermont, Florida, New York, Washington, and others. Indeed, I am told that at least 14 States in one way or another are acting on applications calling for a constitutional convention to consider revenue sharing. With the intense interest among the States in the revenue-sharing proposal, the probability that the requisite number of 34 States will apply to the Congress for a constitutional convention is real and immediate.

Today, as before, there are no rules on how such a convention should be called, how it should operate, or how it should be controlled. Most important, there is no law on the books that would confine a convention to a specific amendment. If we are to avoid the possibility of a runaway convention and a constitutional crisis, I believe it is imperative that orderly procedures be established for the conduct of a constitutional convention.

Even if this present issue is resolved without a constitutional convention, why should this Nation go through crisis after crisis in the years to come each time there is a new stirring among the States to propose a convention, for whatever purpose? It is the duty of Congress to specify the rules and the procedures, so that, if a constitutional convention is called, we shall be prepared to implement Article V in an orderly and responsible manner. There is no need to subject Americans to the consternation which most certainly will be felt if, within the coming weeks, the requisite 34 States petition for a convention in their efforts to obtain revenue sharing from the Federal Government.

Let me mention briefly the principal provisions of this legislation, S. 215 provides:

First, that the States are to use the same procedure for adopting applications as they use for the passage of statutes, but without the necessity of approval by the Governor.

Second. That the receipt of an application by Congress is to be announced on the floor of both Houses, and that copies are to be sent to each Member of Congress as they are received by the presiding officers, and that copies are to be sent to each house of every other State legislature.

Third. That each application is to remain in effect for 7 years, unless rescinded by the State legislature.

Fourth. That applications may be rescinded by State legislatures except that if two-thirds of the States have submitted applications on the same subject or subjects, within 7 years, all applications remain in effect.

Fifth. That after Congress determines the validity of the requisite number of applications, the Congress shall pass a concurrent resolution calling for a convention; and shall send copies of the resolution to each Governor and to each house of the State legislatures.

Sixth. That a convention must be convened within 1 year after adoption of the concurrent resolution by Congress.

Seventh. For funds and facilities for the conduct of the business of a convention.

Eighth. For election of one delegate from each congressional district, and the election at large of two additional delegates from each State.

Ninth. For the election of officers of the convention.

Tenth. That each delegate may cast one vote.

Eleventh. That the delegates' vote be recorded and that verbatim records be kept, published, and transmitted to the Archivist of the United States at the termination of the proceedings.

Twelfth. That amendments be proposed by majority vote of the delegates.

Thirteenth. That the convention be limited to subjects named in the concurrent resolution; and that delegates subscribe to an oath to refrain from proposing or voting in favor of any proposed amendment not so named.

Fourteenth. That the convention be terminated 1 year after the date of its first meeting, unless Congress extends its life.

Fifteenth. That questions arising as to convention procedures shall be determined solely by Congress.

Sixteenth. That Congress may disapprove a proposed amendment on the ground that substantial procedural irregularities occurred at the convention or that the amendment pertains to a subject different from that described in the resolution calling the convention.

Seventeenth. That the Congress may not disapprove a proposed amendment on the ground that it disagrees with the substance of the amendment.

Eighteenth. That the Congress transmit the proposed amendment to the Administrator of General Services for submission to the States for ratification.

Nineteenth. That the amendment must be ratified by three-fourths of the States.

Twentieth. That ratifications may be rescinded by the same process by which the amendment was ratified; except that a ratification may not be rescinded when there are valid ratifications by three-fourths of the States within the requisite time.

Twenty-first. That when ratified, the Administrator of General Services shall issue a proclamation that the amendment is part of the Constitution.

Twenty-second. That the effective date of the amendment shall be the date specified therein, or, if not specified, the date on which the last State necessary to constitute three-fourths of the States has ratified.

Mr. President, as I mentioned before, I have endeavored to draft this bill in a manner so that it evenhandedly and fairly answers the problems and unknows inherent in calling a constitutional convention under article V. I should like to reiterate that, just as the previous bills were nonpartisan on the reapportionment issue, the present bill is likewise nonpartisan on the issue of revenue-sharing. We should not permit any current or future controversy to cloud our thinking on sound and reasonable legislation to implement and give effect to the constitutional convention provision of article V.

The neutrality of the predecessors of this bill was demonstrated by the wide support they received from the partisans on both sides of the reapportionment controversy.

On Saturday, January 16, the Washington Post, in an editorial, urged Congress to approve my measure establishing the framework for a constitutional convention.

Mr. President, I ask unanimous consent that the editorial from the Washington Post and a copy of the bill be

printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ERVIN. Mr. President, I believe that time is of the essence; we know that a potential crisis is at hand. If we are derelict in our duty, we may find that our constitutional system of Government is indeed threatened.

I urge the Members of this body to support this measure.

EXHIBIT 1

[From the Washington Post, Jan. 16, 1971]

REVENUE-SHARING AND THE CONSTITUTION

The idea of revenue-sharing has become so fascinating to members of state legislatures across the country that many of them have embarked on a reckless venture. Led by three national organizations of state legislators, they are urging each state to petition Congress for a Constitutional Convention. One state has already done so and others are expected to follow this winter and spring. While these resolutions are aimed at limiting such a convention to the sole question of revenue-sharing, they raise again the specter of a convention that would undertake a complete revision of the Federal Constitution.

It is easy to understand the impatience that has moved the state legislators to act. Rising costs and increased demands on state and local governments have outstripped the money that some states can raise from the channels of taxation customarily open to them. They cast envious eyes on that huge sum which the income tax laws draw into the federal treasury and they see as the solution to their problems some sort of provision giving the states the unrestricted use of a portion of that sum.

It is also easy to understand why the leaders of this petition drive are trying to speed up the normal legislative process. They know that President Nixon's modest revenue-sharing proposal of last year received a cool reception on Capitol Hill and they want to build a fire under Congress so that it will act quickly on whatever proposal the President puts forward this year. Some of the leaders have said, quite frankly, that the goal of their petition drive is not so much to get a constitutional convention as it is to get the House Ways and Means Committee to act on the President's ideas.

But in their impatience to get their hands on a share of the federal kitty, the leaders of this drive have chosen a course that is unjustified as well as reckless. Congress has not said "no" to revenue-sharing; at most it has stalled and said the idea deserved careful scrutiny. Indeed, it does. If the states are going to draw substantial funds from the federal government without any federal control at all over how they are spent, many state legislatures are going to have to be reformed; the tale of the money-making affairs of a leading Illinois legislator told on this page this week indicates some of the problems that must be overcome.

What makes this whole petition idea reckless, however, is not the possibility that it will succeed in pressuring Congress to act on revenue-sharing but that it won't succeed in achieving that and will succeed in forcing Congress to call a constitutional convention. Once that happened, the fat would be in the fire. There is no constitutional provision confining such a convention to consideration of only a specific amendment and there is no law on the books that even makes an effort to so confine a convention. Although leaders of this petition drive cite legal opinions arguing that the convention would be confined to considering only revenue-sharing, there is no certainty that that would be the case. About the last thing this country needs just now is a convention that attempts to rewrite the Constitution—it doesn't take much imagination to figure out the pressure that would be brought to bear for amendments dealing with apportionment or prayer—or a long court battle over the powers that such a convention would have.

Congress, of course, can take two steps that would head off this entire affair. One is to begin at once to give the most careful kind of consideration to revenue-sharing, consideration it certainly merits particularly when President Nixon has indicated it will represent a large part of his legislative program this year. The other is to get down to work on Senator Ervin's proposal for legislation setting the framework for a constitutional convention and for the reception of petitions such as those now circulating in the states. The senator brought this proposal out of his subcommittee 18 months ago when the threat of a convention aimed at apportionment and prayer amendments was great. No one else in Congress showed much interest, however, and it slid into the wastebasket. With another petition drive coming so closely on the heels of that one, Congress will be grossly negligent if it waits until the eleventh hour to adopt the senator's proposal or one like it.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 215) to provide procedures for calling constitutional conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution, introduced by Mr. ERVIN was received, read twice by its title and referred to the Committee on the Judiciary.

S. 215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Constitutional Convention Procedures Act".

APPLICATIONS FOR CONSTITUTIONAL CONVENTION

SEC. 2. The legislature of a State, in making application to the Congress for a constitutional convention under article V of the Constitution of the United States on and after the enactment of this Act, shall adopt a resolution pursuant to this Act stating, in substance, that the legislature requests the calling of a convention for the purpose of proposing one or more amendments to the Constitution of the United States and stating the nature of the amendment or amendments to be proposed.

APPLICATION PROCEDURE

SEC. 3. (a) For the purpose of adopting or rescinding a resolution pursuant to section 2 and section 5, the State legislature shall follow the rules of procedure that govern the enactment of a statute by that legislature, but without the need for approval of the legislation's action by the Governor of the State.

(b) Questions concerning the adoption of a State resolution cognizable under this Act shall be determinable by the Congress of the United States and its decisions thereon shall be binding on all others, including State and Federal courts.

TRANSMITTAL OF APPLICATIONS

SEC. 4. (a) Within thirty days after the adoption by the legislature of a State of a resolution to apply for the calling of a constitutional convention, the secretary of state of the State, or if there be no such officer, the person who is charged by the State law with such function, shall transmit to the Congress of the United States two copies of the application, one addressed to the President of the Senate, and one to the Speaker of the House of Representatives.

(b) Each copy of the application so made by any State shall contain—

(1) the title of the resolution;

(2) the exact text of the resolution signed by the presiding officer of each house of the State legislature; and

(3) the date on which the legislature adopted the resolution; and shall be accompanied by a certificate of the secretary of state of the State, or such other person as is charged by the State law with such function, certifying that the application accurately sets forth the text of the resolution.

(c) Within ten days after receipt of a copy of any such application, the President of the Senate and Speaker of the House of Representatives shall report to the House of which he is presiding officer, identifying the State making application, the subject of the application, and the number of States then having made application on such subject. The President of the Senate and Speaker of the House of Representatives shall jointly cause copies of such application to be sent to the presiding officer of each house of the legislature of every other State and to each Member of the Senate and House of Representatives of the Congress of the United States.

EFFECTIVE PERIOD OF APPLICATION

SEC. 5. (a) An application submitted to the Congress by a State, unless sooner rescinded by the State legislature, shall remain effective for seven calendar years after the date it is received by the Congress, except that whenever within a period of seven calendar years two-thirds or more of the several States have each submitted an application calling for a constitutional convention on the same subject all such applications shall remain in effect until the Congress has taken action on a concurrent resolution, pursuant to section 8, calling for a constitutional convention.

(b) A State may rescind its application calling for a constitutional convention by adopting and transmitting to the Congress a resolution of rescission in conformity with the procedure specified in sections 3 and 4, except that no such rescission shall be effective as to any valid application made for a constitutional convention upon any subject after the date on which two-thirds or more of the State legislatures have valid applications pending before the Congress seeking amendments on the same subject.

(c) Questions concerning the rescission of a State's application shall be determined solely by the Congress of the United States and its decisions shall be binding on all others, including State and Federal courts.

CALLING OF A CONSTITUTIONAL CONVENTION

SEC. 6. (a) It shall be the duty of the Secretary of the Senate and the Clerk of the House of Representatives to maintain a record of all applications received by the President of the Senate and Speaker of the House of Representatives from States for the calling of a constitutional convention upon each subject. Whenever applications made by two-thirds or more of the States with respect to the same subject have been received, the Secretary and the Clerk shall so report in writing to the officer to whom those applications were transmitted, and such officer thereupon shall announce on the floor of the House of which he is an officer the substance of such report. It shall be the duty of such House to determine that there are in effect valid applications made by two-thirds of the States with respect to the same subject. If either House of the Congress determines, upon a consideration of any such report or

of a concurrent resolution agreed to by the other House of the Congress, that there are in effect valid applications made by two-thirds of more of the States for the calling of a constitutional convention upon the same subject, it shall be the duty of that House to agree to a concurrent resolution calling for the convening of a Federal constitutional convention upon that subject. Each such concurrent resolution shall (1) designate the place and time of meeting of the convention, and (2) set forth the nature of the amendment or amendments for the consideration of which the convention is called. A copy of each such concurrent resolution agreed to by both Houses of the Congress shall be transmitted forthwith to the Governor and to the presiding officer of each house of the legislature of each State.

(b) The convention shall be convened not later than one year after adoption of the resolution.

DELEGATES

SEC. 7. (a) A convention called under this Act shall be composed of as many delegates from each State as it is entitled to Senators and Representatives in Congress. In each State two delegates shall be elected at large and one delegate shall be elected from each congressional district in the manner provided by State law. Any vacancy occurring in a State delegation shall be filled by appointment of the Governor of that State.

(b) The secretary of state of each state, or, if there be no such officer, the person charged by State law to perform such function shall certify to the Vice President of the United States the name of each delegate elected or appointed by the Governor pursuant to this section.

(c) Delegates shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at a session of the convention, and in going to and returning from the same; and for any speech or debate in the convention they shall not be questioned in any other place.

(d) Each delegate shall receive compensation for each day of service and shall be compensated for traveling and related expenses. Provision shall be made therefor in the concurrent resolution calling the convention. The convention shall fix the compensation of employees of the convention.

CONVENING THE CONVENTION

SEC. 8. (a) The Vice President of the United States shall convene the constitutional convention. He shall administer the oath of office of the delegates to the convention and shall preside until the delegates elect a presiding officer who shall preside thereafter. Before taking his seat each delegate shall subscribe to an oath by which he shall be committed during the conduct of the convention to refrain from proposing or casting his vote in favor of any proposed amendment to the Constitution of the United States relating to any subject which is not named or described in the concurrent resolution of the Congress by which the convention was called. Upon the election of permanent officers of the convention, the names of such officers shall be transmitted to the President of the Senate and the Speaker of the House of Representatives by the elected presiding officer of the convention. Further proceedings of the convention shall be conducted in accordance with such rules, not inconsistent with this Act, as the convention may adopt.

(b) There is hereby authorized to be appropriated such sums as may be necessary for the payment of the expenses of the convention.

(c) The Administrator of General Services shall provide such facilities, and the Congress and each executive department and agency shall provide such information and assistance, as the convention may require, upon written request made by the elected presiding officer of the convention.

PROCEDURES OF THE CONVENTION

SEC. 9. (a) In voting on any question before the convention, including the proposal of amendments, each delegate shall have one vote.

(b) The convention shall keep a daily verbatim record of its proceedings and publish the same. The vote of the delegates on any question shall be entered on the record.

(c) The convention shall terminate its proceedings within one year after the date of its first meeting unless the period is extended by the Congress by concurrent resolution.

(d) Within thirty days after the termination of the proceedings of the convention, the presiding officer shall transmit to the Archivist of the United States all records of official proceedings of the convention.

PROPOSAL OF AMENDMENTS

SEC. 10. (a) Except as provided in subsection (b) of this section, a convention called under this Act may propose amendments to the Constitution by a vote of a majority of the total number of delegates to the convention.

(b) No convention called under this Act may propose any amendment or amendments of a nature different from that stated in the concurrent resolution calling the convention. Questions arising under this subsection shall be determined solely by the Congress of the United States and its decisions shall be binding on all others, including State and Federal courts.

APPROVED BY THE CONGRESS AND TRANSMITTAL TO THE STATES FOR RATIFICATION

SEC. 11. (a) The presiding officer of the convention shall, within thirty days after the termination of its proceedings, submit to the Congress the exact text of any amendment or amendments agreed upon by the convention.

(b) (1) Wherever a constitutional convention called under this Act has transmitted to the Congress a proposed amendment to the Constitution, the President of the Senate and the Speaker of the House of Representatives, acting jointly, shall transmit such amendment to the Administrator of General Services upon the expiration of the first period of ninety days of continuous session of the Congress following the date of receipt of such amendment unless within that period both Houses of the Congress have agreed to (A) a concurrent resolution directing the earlier transmission of such amendment to the Administrator of General Services and specifying in accordance with article V of the Constitution the manner in which such amendment shall be ratified, or (B) a concurrent resolution stating that the Congress disapproves the submission of such proposed amendment to the States because such proposed amendment relates to or includes a subject which differs from or was not included among the subjects named or described in the concurrent resolution of the Congress by which the convention was called, or because the procedures followed by the convention in proposing the amendment were not in substantial conformity with the provisions of this Act. No measure agreed to by the Congress which expresses disapproval of any such proposed amendment for any other reason, or without a statement of any reason, shall relieve the President of the Senate and the Speaker of the House of Representatives of the obligation imposed upon them by the first sentence of this paragraph.

(2) For the purposes of paragraph (1) of this subsection, (A) the continuity of a session of the Congress shall be broken only by an adjournment of the Congress sine die, and (B) the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the period of ninety days.

(c) Upon receipt of any such proposed amendment to the Constitution, the Administrator shall transmit forthwith to each of the several States a duly certified copy thereof, a copy of any concurrent resolution agreed to by both Houses of the Congress which prescribes the time within which and the manner in which such amendment shall be ratified, and a copy of this Act.

RATIFICATION OF PROPOSED AMENDMENTS

SEC. 12. (a) Any amendment proposed by the convention and submitted to the States in accordance with the provisions of this Act shall be valid for all intents and purposes as part of the Constitution of the United States when duly ratified by three-fourths of the States in the manner and within the time specified.

(b) Acts of ratification shall be by convention or by State legislative action as the Congress may direct or as specified in subsection (c) of this section. For the purpose of ratifying proposed amendments transmitted to the States pursuant to this Act the State legislatures shall adopt their own rules of procedure. Any State action ratifying a proposed amendment to the Constitution shall be valid without the assent of the Governor of the State.

(c) Except as otherwise prescribed by concurrent resolution of the Congress, any proposed amendment to the Constitution shall become valid when ratified by the legislatures of three-fourths of the several States within seven years from the date of the submission thereof to the States, or within such other period of time as may be prescribed by such proposed amendment.

(d) The secretary of state of the State, or if there be no such officer, the person who is charged by State law with such function, shall transmit a certified copy of the State action ratifying any proposed amendment to the Administrator of General Services.

RESCISSION OF RATIFICATIONS

SEC. 13. (a) Any State may rescind its ratification of a proposed amendment by the same processes by which it ratified the proposed amendment, except that no State may rescind when there are existing valid ratifications of such amendment by three-fourths of the States.

(b) Any State may ratify a proposed amendment even though it previously may have rejected the same proposal.

(c) Questions concerning State ratification or rejection of amendments proposed to the Constitution of the United States, shall be determined solely by the Congress of the United States, and its decisions shall be binding on all others, including State and Federal courts.

PROCLAMATION OF CONSTITUTIONAL AMENDMENTS

SEC. 14. The Administrator of General Services, when three-fourths of the several States have ratified a proposed amendment to the Constitution of the United States, shall issue a proclamation that the amendment is a part of the Constitution of the United States.

EFFECTIVE DATE OF AMENDMENTS

SEC. 15. An amendment proposed to the Constitution of the United States shall be effective from the date specified therein or, if no date is specified, then on the date on which the last State necessary to constitute three-fourths of the States of the United States, as provided for in article V, has ratified the same.

S. 216—INTRODUCTION OF A BILL TO PERMIT SUITS AGAINST THE UNITED STATES IN LAND TITLE DISPUTES

Mr. CHURCH. Mr. President, I introduce, for appropriate reference, on behalf of myself and several other Senators a bill to permit suits to be brought against the United States to adjudicate disputed land titles.

I introduced this same measure in the 91st Congress and it was first referred to the Committee on the Judiciary, but that committee was subsequently discharged from its consideration, and the bill, S. 3248, rereferred to the Committee on Interior and Insular Affairs. May I respectfully request, Mr. President, in the light of that legislative history, that this measure now be referred to the latter committee.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, besides my distinguished colleague from Idaho (Mr. JORDAN), other cosponsors of the bill are Mr. BAYH, Mr. BIBLE, Mr. CANNON, Mr. DOMINICK, Mr. FANNIN, Mr. GRAVEL, Mr. HANSEN, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. MCGEE, Mr. MAGNUSON, Mr. METCALF, Mr. MONDALE, and Mr. MOSS.

This bill would amend title 28 of the United States Code to permit a citizen to bring a quiet title action against the Government in the U.S. district court in the district in which the land in question is located. Jurisdiction is also conferred on the district courts to hear and decide such suits.

Because of the common law doctrine of "sovereign immunity," the United States cannot now be sued in a land title action without giving its express consent. Grave inequity often has resulted to private citizens who are thereby excluded, without benefit of a recourse to the courts, from lands they have reason to believe are rightfully theirs.

Sovereign immunity or the infallibility of the Crown, so to speak, became imbedded in the common law of England and so came into our American law. However, this principle is not appropriate where the courts are established, not for the convenience of the sovereign, but to serve the people.

We in the United States have been getting away from this outworn doctrine of sovereign immunity. A landmark instance was enactment of the Federal Tort Claims Act in 1946. Prior to this, the Federal Government could not be made a defendant in a personal injury suit except by express waiver to sovereign immunity.

In each Congress, scores of private bills were introduced and a considerable amount of very valuable time of Senators and Representatives had to be spent in deciding whether an injured citizen should be permitted his day in court, solely because the Government was involved. Unquestionably, there were many instances in which a private citizen did not or could not get a private bill introduced and put through the entire legislative process.

We have waived sovereign immunity in a number of other instances. Examples are claims arising out of noncombat activities of the Armed Forces, certain admiralty claims, actions arising out of contract, and tax controversies.

In none of these instances has the general waiver of sovereign immunity resulted in the imposition of any excessive or unfair burden on the Government.

I am convinced that this bill likewise would not subject the Government to burdensome, expensive litigation, or result in unjust loss of Federal property. It is a jurisdictional measure. In no way would it alter the substantive rules of law prevailing in actions against the Government.

All the bill does is enable a citizen involved in a title dispute with the Government to have his day in court—something he does not now get unless or until the Government elects to initiate suit.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 216) to permit suits to be brought against the United States to adjudicate disputed land titles, introduced by Mr. CHURCH, for himself and other Senators, was received, read twice by its title and referred to the Committee on Interior and Insular Affairs by unanimous consent.

S. 217—INTRODUCTION OF A BILL TO REQUIRE THAT RADIOS BE CAPABLE OF RECEIVING BOTH AM AND FM BROADCASTS

Mr. MOSS. Mr. President, I am introducing a bill to amend section 303 of the Communications Act of 1934 to require that all radio receiving sets shipped in interstate commerce be capable of receiving both AM and FM broadcasts.

The practical effect of this bill would be to materially broaden the listening possibilities of radio, thus providing improved communications to the widest possible cross section of the American public. It would not only provide greater programing service to the public at large but it would also have the effect of improving the programing content of all radio broadcasting due to increased competition between stations. At the present time many sets are equipped to receive only AM broadcasts, and the people owning these sets are shut out from the vast world of FM broadcasting—a world which includes educational as well as commercial programs. There are approximately 2,651 FM stations on the air today, 455 of them noncommercial or educational stations.

This FM world for broadcasting will become even more important as the Corporation for Public Broadcasting continues to develop its programs and to expand its functions. The Corporation for Public Broadcasting has a congressional mandate to build a system of general education, cultural, and informational broadcasting in the United States. The President of CPB, Mr. John W. Macy, Jr., has said that without the successful passage of the all-channel AM–FM legislation, the Corporation for Public Broadcasting cannot efficiently and effectively fulfill its responsibility to public radio since virtually all noncommercial educational radio licensees—455 of 480—are assigned FM frequencies. FM set penetration as low as 10 percent in radio-equipped automobiles and ranging in percentages from the low 30's to the high 80's in homes located in the top 100 population centers is inadequate to meet this commitment. The passage of all-channel legislation, Mr. Macy has said, will insure a significant expansion of the number of listeners able to receive and benefit from public radio programing.

There are presently about 4,300 AM stations in the country, some half of which are daytime stations only. Thus, many rural areas lack local service at night and must depend on radio stations located in distant cities for news, weather information, and other matters of importance. This void can be filled only by FM stations reaching persons with FM receiving sets for the Federal Communications Commission has recently pointed out that the AM band of frequencies is, for all practical purposes, exhausted and that the FM band must be relied on if the public is to receive additional aural broadcast service.

In these crucial times it is imperative that certain information be made instantaneously available to all Americans. The inclusion of FM bands on all radio receivers would make additional radio available to many people after the daytime stations go off the air, as well as during the day when both types of stations are broadcasting. The net effect would be to make more radio reception available to more people at all times.

UHF television has already received support from similar legislation. One would expect the same advantages to accrue to the radio listener as to the television viewer. It is essential if equality is to be provided for FM radio as has been for UHF in the television field.

At the present time, receiving sets including AM and FM bands are more expensive than those which receive AM signals only and undoubtedly the present minimum price of aural receiving sets would be increased somewhat with the requirement that all sets carry both AM and FM signals. On the other hand, the requirement would force mass production of the all-channel sets which would inevitably result in significantly lower costs per unit to members of the public.

It is the present price differential between AM only and AM–FM receiving sets that is denying many members of the public the superior entertainment and communications advantages that FM broadcasting has to offer. On an average, only approximately 65 percent of the homes in this country have FM receiving sets and in most of those homes there is only one FM radio while there are multiple AM units. However, it is in automobiles where the public suffers most in terms of access to FM broadcast signals. Since 1964, only about one car in 12 has been FM equipped. When manufacturers produce this limited number of FM car radios, the sales cost is much too high.

Today the U.S. consumer is being asked to pay twice as much, or more, to add FM reception for his motoring pleasure and communication needs. It is expected that the mass production resulting from my bill, together with the force of competition, would substantially reduce, if not eliminate, this price differential.

The rationale on this bill is in line with the thinking of the Federal Communications Commission on radio programing generally. For instance, the Commission has recently held that jointly owned AM–FM stations in communities of 100,000 population or over must program separately in order to give the public a greater diversity and choice. My bill would have the same end result.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 217) to amend section 303 of the Communications Act of 1934 to require that radios be capable of receiving both AM and FM broadcasts, introduced by Mr. Moss was received, read twice by its title and referred to the Committee on Commerce.

S. 218—INTRODUCTION OF A BILL TO INCREASE THE AMOUNT OF INDIVIDUAL EARNINGS PERMITTED WITHOUT SUFFERING DEDUCTIONS IN SOCIAL SECURITY BENEFITS PAID

Mr. MOSS. Mr. President, the key to most of the problems confronting senior citizens today is inadequate income. The Senate Special Committee on Aging has given us ample data that the economic position of senior citizens today vis-a-vis their working counterparts is much worse than it was a few years ago.

In 1962, for example, a family headed by a senior citizen could count on 50 percent of the average income of a family with a head of household less than 65. Today, the family with the senior as the head of household can expect about 43 percent of the average income of his younger counterpart.

All the social security benefit increases passed by the Congress have been only stopgap measures designed to keep the elderly "even" with the rest of the population under the impact of inflation. It is obvious from the above statistic that the congressional efforts have failed even to meet this rather limited objective.

Few would argue with the proposition that our senior citizens do not have enough money to meet their basic needs. Over 25 percent of our 20 million senior citizens have incomes below the accepted poverty line. But a senior citizen with a below-poverty income is in a relatively much worse position than a man of middle age.

For example, a senior citizen typically has reduced mobility and will require more money for transportation. Typically he will not drive; thus, he will have to purchase his fare on a taxi or a bus. Again, routine house repairs and maintenance which can be performed by young people are often beyond the abilities of seniors who have to pay for such services or to do without. Also, senior citizens are ill three times as often, moreover, they are hospitalized three times as often as those under 65. Even with medicare, the senior citizens must still bear 55 percent of the cost of their health care.

How much income does a senior citizen need? The Bureau of Labor Statistics of the U.S. Department of Labor stated that in January of 1970, an average retired couple living in an urban area would need an income of $4,320 for a moderate standard of living. I am speculating that the figure for 1971 will be about $4,500 given the current level of inflation. Match this amount against the average social security benefit for an over-65 couple. The average couple gets $196 per month or $2,352 per year in benefits. For a majority of them this is their only income. Clearly, families with just $2,352 in income would have to sacrifice much in the way of food, housing, clothing, transportation or medical care. I am sure we will all agree that this is an unacceptable situation.

What is the solution? We could simply appropriate funds from general revenues and raise the incomes of our elderly to $4,500 or any level that we agree upon. Perhaps this is what we must ultimately do. But somehow I have the feeling that the Congress, the people in general, and the senior citizens themselves would all feel much better if we followed other courses.

One course that I suggest is consistent with the initial philosophy of social security. The philosophy employs the concept of earned right. Senior citizens have a vested right to receive benefits at age 65 because they have contributed from their earnings in earlier years. While these benefits were intended to provide for individuals in their retirement years, I question that they were ever intended to prohibit senior citizens from seeking or maintaining employment. In 1935, when the Social Security Act was passed, age 65 might have been considered the threshold of old age and senility, but this is no longer true today. More and more seniors are living longer and longer. They are ready, willing, and able to continue some contribution to society—and we need their service.

I have, therefore, long felt that the so-called retirement test should be removed completely so that individuals at age 65 could receive their appropriate social security entitlement and also earn whatever they could on the outside. Last session I cosponsored a bill to this effect. This would provide a pension like those of private industry which would not vanish if an individual, out of need or desire, sought to continue his employment. This is the position toward which I will try to influence my colleagues.

For the present, however, I would like to reintroduce the bill I presented to the 91st Congress. This bill, Mr. President, would call for the retirement test to be raised to $210 a month or $2,520 a year. I consider this to be a highly reasonable amount. The Senate-passed social security bill of last Congress would have raised the amount that could be earned without penalty to $2,400. This proposed increase was more realistic than the $2,000 proposed by the House-passed H.R. 17550.

It is unfortunate that we were not able to enact that legislation last year. But I am confident we will do so early this year. It appears that we will have an increase in amount in the retirement test to allow our seniors to earn more money without penalty of social security forfeitures. With this bill I make a plea that the Congress raise this amount from $1,680 to $2,520. Millions of senior citizens would, I am sure, be deeply grateful.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 218) to amend title II of the Social Security Act to increase the annual amount individuals are permitted to earn without suffering deductions from the insurance benefits payable to them under such title, introduced by Mr. Moss was received, read twice by its title and referred to the Committee on Finance.

S. 219—INTRODUCTION OF THE WATER RESOURCES RESEARCH ACT AMENDMENTS

Mr. MOSS. Mr. President, I am today introducing for Senator HATFIELD and myself, a bill to amend the Water Resources Research Act to increase the amount authorized for a water resources research center in each State from $100,000 to $200,000 annually. The bill also would provide for information retrieval and dissemination activities at each research center and would make the District of Columbia and the territories of Guam and the Virgin Islands a State for the purposes of the act, so that a water research center could be established at one of the universities in each jurisdiction and receive funds annually.

This bill was passed by the Senate late in August of 1970, but died in the House, mainly due to the adjournment rush. There is great interest in it, and I am hopeful that both Houses will pass it early in this session.

The original Water Resources Act which became law in 1964, was based on one of the recommendations made by the Senate Select Committee on National Water Resources, of which I was a member. In the original bill, annual grants of $100,000 were authorized for each center.

Since that time, however, costs have gone up considerably so $100,000 is no longer an adequate amount to finance the level of activity contemplated in the original act. If we expect these centers to do the job we want them to do in research in water quality, water utilization, water resource planning, and related ecological problems, as well as to train graduate students and other young people in water resource technology and skills, we must furnish each center adequate funds with which to work.

This bill would authorize only a modest increase of $50,000 per center which will compensate for the effects of inflation since passage of the original act with some allowance for the future.

An additional increase of $50,000 per center would be authorized to cover the costs associated with the new function of information dissemination authorized in the bill. This information being devel-

oped in the research centers is hard, practical information of immediate use to local resource development agencies. The experience of the past few years shows that a great deal more utility can be obtained from the research if funds are available to put it in the form of manuals or other publications which can be distributed to users.

This is the type of return on a research investment which is often difficult to obtain. It already is being obtained through this program and the small additional expenditure will increase the return many times.

The addition of research centers in the District of Columbia, Guam, and the Virgin Islands will greatly assist schools in each of these locations to strengthen their expertise in resource development. Furthermore, each location presents unique water resource problems which are not likely to be studied under nationwide programs. The results of the studies, however, may well find broad application elsewhere.

Mr. President, the additional authorization provided in this bill for water resource research centers in each of our States will return to us benefits worth manifold the dollar investment which we will make. I send the bill to the desk for appropriate reference.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 219) to amend the Water Resources Act of 1964 to increase the authorization for water resources research and institutes, and for other purposes, introduced by Mr. Moss, for himself and Mr. HATFIELD, was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

S. 220—INTRODUCTION TO MAKE POSSIBLE TAR SANDS DEVELOPMENT

Mr. MOSS. Mr. President, I send to the desk, for appropriate reference, a bill to make possible the development of deposits of bituminous sands, popularly known as tar sands, which are found in some abundance in Federal lands of Utah and other Western States.

Tar sands are a source of petroleum and energy which all sections of our country so gravely need. The opening of these deposits to development will add significantly to our supplies of energy fuels in several areas of the West.

Mr. President, the bill I am introducing today is a direct outgrowth of measures I sponsored in the two preceding Congresses. On January 23, 1969, I introduced S. 581 and S. 582, twin bills designed to offer a choice of legislative solutions to the situation under which all development of tar sands on the public lands had been at a complete standstill for several years. These measures were referred to the Interior Committee, and the Minerals, Materials, and Fuels Subcommittee, of which I am chairman, held comprehensive field hearings in Salt Lake City, Utah, at which officials of the State and spokesmen for private industry interested in tar sands development made highly constructive presentations.

As a result, the subcommittee worked out amendments to S. 581 which embodied the substance of the companion bill, S. 582, as well as certain other amendments, the need for which was indicated by the hearings. These amendments were submitted to the Department of the Interior for comment, but unfortunately the Department did not see fit to respond to the committee's request until the day before the adjournment of the 91st Congress.

As a result, this potentially important natural resource, which would add to our energy fuels supplies, remains in a state of deep freeze, so to speak. The measure I am introducing today is similar, in substance, to the bill worked out and reported favorably last year by my Minerals Subcommittee.

It is my earnest hope, and that of the people of Utah, that the Interior Department now will take timely cognizance of the situation and work with the Interior Committee for a solution.

In closing, I am happy to be able to point out that the procedure I am proposing in the current measure is wholly consistent with the findings and recommendations of the Public Land Law Review Commission.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 220) a bill to amend the Mineral Leasing Act of February 25, 1920, as amended, introduced by Mr. Moss was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

S. 221—INTRODUCTION OF THE FISHERIES DEVELOPMENT ACT OF 1971

Mr. KENNEDY. Mr. President, I introduce today a bill to help revitalize the American fishing industry. The need for action is clear and the time long overdue.

One of our finest industries—with a long and proud heritage dating back to the first colonial days of our Nation—is shadowed by economic decline. On both coasts, on the Gulf of Mexico, and on the Great Lakes, American fishermen are being displaced from their jobs. All segments of the industry are suffering.

Since 1945, domestic catch has remained static at 4 to 6 billion pounds, while world hauls have tripled from 43 billion pounds to 123 billion pounds.

Booming increases of imports both exemplify the decline of the industry and are a primary contributor to it. We now consume more than $700 billion worth of imported seafood annually.

The plight of the fishing industry is all the more serious because it represents a failure to capitalize on our tremendous potential both in domestic demand and in stock available to fulfill that demand.

While, domestic output has remained stable since World War II, demand for fish products has almost tripled—from 5.3 billion in 1945 to 14.2 in 1967. Yet we have more than adequate capacity to meet this demand. Conservative estimates are that there presently exists fishery resources off the U.S. coasts to sustain a total annual yield of about 30 billion pounds, including some marketable species not yet fished.

With U.S. consumption expected to increase from present standards of 15 billion pounds to 31 billion by the year 2000, the benefits from making full use of our stocks is clear. But, to fully develop that potential, major efforts to reverse the spiraling decline of our domestic fishing industry—a decline that has moved the United States from second to sixth among nations in only a decade—must be made.

As a Senator from New England, and from Massachusetts, where American fishing had its proud beginnings, I am deeply aware of the regional and personal impact of its decline. New Bedford, Boston, or Gloucester no longer bustle with the hurried activity and excitement which once reflected the worldwide stature of their great fleets. In these ports I have seen fishermen who have spent their lives at sea, grounded without work. I have seen the great ships lying idle at harbor unable to compete with modern, fully equipped foreign subsidized vessels. I have spoken with members of all phases of the industry and heard countless times of their frustration and fear at the decline which has gone beyond their individual control.

In 1960, New England's fishermen caught 93 percent of the fish brought in from the New England Continental Shelf—the remainder landed by Canadians. Five years later, their percentage had dropped to 35, with the Russians taking more than the other nations combined.

The International Commission on the North Atlantic Fisheries recently found it necessary to announce a moratorium on haddock fishing at George's Bank, recognizing that it was the only way to preserve the depleted stock. The consequence has been a greater and greater need for fishermen to turn to new and under-utilized species. But the economic impact of the past few years has left them unable to take this step forward and, therefore, prevented them from effectively competing with other nations. They are caught in a vicious circle which could ultimately work their destruction.

I have been in touch with the Department of the Interior on the haddock situation along with my colleagues in the Congress and officials in Massachusetts. Former Secretary Hickel declared the New England fisheries a "resource disaster" which brought some assistance through emergency funds. But, small stopgap funds are insufficient. Much more aid is required.

Mr. President, I have supplied this background information because I believe that it is important to realize the extremely serious nature of the current situation as well as the potential for the industry to renew itself, if we make a genuine commitment.

The situation is summarized in the January 1969 Report of Marine Sciences Affairs, prepared by the National Council on Marine Resources and Engineering Development:

The United States has become the world's most lucrative market for fishery products with a two year increase in demand during the past ten years. However, while the fishing catch worldwide and off our coast has tripled during the past two decades, the total catch by U.S. fishermen has slightly declined, with the United States now sixth among the fishing nations of the world. The problem in U.S. fisheries is further aggravated by the fact that foreign fishermen take most of the catch from the highly productively high seas fishing grounds off the U.S. coast and about three-fourths of our domestic demand is satisfied by imports.

Several factors have contributed to this decline—overlapping and contradictory Federal, State, and local regulations; depletion of species through overconcentration, high costs for building and insuring vessels, fragmentation of the industry and so on.

We have not taken steps to modernize our fleets or fishing techniques at a time when foreign countries subsidize such modernization in their own fleets. We lack both adequate vessels and equipment. Methods for locating fish are so crude that fishermen spend about 50 percent of their time simply searching out suitable fish.

Because fishing vessels or fleets are often traditionally, family owned, there is a lack of capital for real improvement. Declining economic conditions have made it more and more difficult for fishermen to obtain loans from banks or other sources and therefore, the supply of risk capital is also limited. Few large companies are entering the field as there is little hope of immediate profit in the business.

The relative unfavorable competitive position of our fishing industry has been most affected by the forms of assistance—especially subsidies that are given by foreign nations to their own fleets. Even if we could overcome this obstacle, the lower prices of imports would continue to exert great pressure on our domestic market. This is all the more reason why we should lead and not follow on fisheries development.

The great delay in Federal action on antidumping and other related charges brought by the fishermen is also unnecessary and disruptive, and I urge the Department of the Treasury to move with deliberate speed on these measures.

The foregoing profile of our fishing industry is certainly dismal, but not without hope. A growing and vital fishing industry could stimulate economic development at home and abroad, develop new tools for dealing with hunger and malnutrition here and in developing nations, improve our balance of payments, increase our technical and research capabilities for tapping the vast potential resources of the ocean, enhance our position as a world maritime leader and confirm that given a new chance, the American economy can and does adapt to new conditions.

Three years ago, in the 90th Congress, I introduced S. 2426 to improve our fishing industry through a comprehensive and coordinated program. Unfortunately the Senate did not act on the bill. The Fisheries Development Act of 1971 incorporates many of those first proposals and takes into account the present condition of the industry. We must act immediately to meet the present emergency and to solve the underlying factors that have contributed to this crisis.

To assist in revitalizing the fishing industry and returning it to its rightful position as a world leader, I propose the following eight step program.

First, creation of a fishermen's extension service.

Fundamental to the decline in the fishing industry has been the failure to keep abreast of changing technology. Foreign countries are constantly reequipping their ships with new and costly equipment. And they are passing on the latest advancements in knowledge to all parts of the industry.

In the United States, on the other hand, the dissemination of information and assistance is wholly haphazard and unorganized. Vast amounts of valuable information are gathered by the more than 20 Federal agencies that are involved with oceanography, but they are not systematized or centralized into any single location.

Section 102 of this bill provides for the establishment in the Department of the Interior, a fisheries extension program to correlate and deliver information and research results to all phases of the industry.

The Service would provide a vital link between the fishermen and the academic community. It would promote a continued educational program on fishing technology, marketing procedures and processing techniques. It would instruct and offer practical demonstrations. In addition, the Service would retain critical information on Government assistance programs and would encourage communication between the various sectors of the industry.

The bill authorizes $10 million for fiscal year 1972, $15 million for fiscal year 1973, and $20 million for fiscal 1974.

Second, establishment of a program of technical assistance grants.

Our fishing industry can be strong and vigorous only if we take advantage of modern equipment and methods and constantly seek newer and better ways to fish. Sonar gear, which is already standard aboard foreign ships has not yet been fully introduced aboard American vessels. As a result, we have lost significant opportunities for cost reduction.

Section 103 provides for grants to finance demonstration projects and to assist in the purchase of advanced equipment to modernize our fishing fleets.

Some examples might be demonstrations of the effectiveness of new sonar equipment, of central fleet radio direction, of mechanized harvesting devices, of the use of computers to forecast areas of probable productivity of new methods of shellfish farming and of various techniques of aquaculture.

Authorizations under this bill would be for $5 million for fiscal 1972, $7.5 million for fiscal 1973, and $10 million for fiscal 1974.

Third, encouragement of expansion into new species.

As the depletion of haddock at Georges Bank so vividly points out, the overexploitation of certain species ultimately threatens their survival and the survival of fishermen who depend on that species for a living. A balanced program and therefore a more stable industry can only be assured if we move on to the underexploited species.

To make this possible, markets must be created and vessels must be reequipped. This bill gives assistance toward both of these goals in section 104 and title II.

Section 104 provides $5 million for 3 years to enable those fleets interested in fishing new or underutilized species to acquire the necessary gear. Further money and assistance is also made available for emergency situations, such as we presently have in New England.

Fourth, establishment of a comprehensive study and review of existing regulations at all levels of Government.

Presently, fishing is governed by a mass of overlapping fractionalized, contradictory regulations, many of which are now obsolete or simply unworkable.

Section 105 directs the Secretary of the Interior to undertake a comprehensive review of existing fishing regulations and to develop a series of model codes suitable for adoption by the States. These would be designed to reconcile the competing ends of sport and commercial fishermen, to facilitate communications with and between different commercial fisheries, and to preserve and conserve our present marine resources. One million dollars is authorized for fiscal year 1971 to commence the study.

Fifth, review and constantly evaluate the fish import situation.

We all realize that the rising amounts of imports comprises the most immediate and serious threat to our fishing industry. Section 106 of my bill calls for a semiannual report by the Secretary of the Interior to the President and to Congress on the importation of seafood products. The report would include a profile of the quantity and value of imports for the preceding 6-month period broken down by country of origin and tariff category. It would also include projected amounts of imports for the following 6 months and an analysis of the effect of imports on the domestic fisheries.

Sixth, expand research of fish-protein concentrate.

The development of fish protein concentrate promises to be the most important breakthrough in fish processing in this century. FPC is odorless, tasteless, highly nutritious, and inexpensive. It can be easily stored, easily shipped and could open up world markets for American fisheries. The widespread utilization of FPC as a dietary supplement could stimulate a revolution in American fishing,

and minimal investments now will return enormous amounts.

Congress has already authorized funds for the establishment of one FPC plant and the leasing of another, and some preliminary work is already underway. But little research has transpired in the effects of reducing fatty fish to FPC and many other significant factors have gone unexamined.

Section 107 would increase the funds available for such research. It adds to present legislation an authorization of $1.5 million annually toward this end.

Seventh, grants to fishermen's cooperative associations.

Cooperatives can be highly efficient in coordinating and assisting fishermen in a given port or area. The Port Judith Fishermen's Cooperative in New England has had relatively high success at organizing 50 medium and small offshore draggers in Rhode Island. The cooperative has existed for more than 20 years now handling all aspects of the fishing trade.

The model can be applied almost anywhere, but funding needs have prevented this. Section 108 of the bill would grant $3 million annually for the next 3 years to fishermen's cooperatives.

Eighth, authorize and assist the formation of fisheries marketing agreements.

Title II would assist fishermen, processors, cooperatives and other organizations to form voluntary associations for specific purposes. This would include group efforts to market products, promote the development of new products, conduct marketing research, and undertake promotional campaigns, and so on. Title II would provide limited exemption from the antitrust laws to such voluntary, dues-paying groups.

Analogous marketing associations have proved highly successful in agriculture and there is every reason to expect the same success in fisheries.

Fishing cooperatives could maintain quotas on marketing and establish reserve stocks to prevent serious seasonal price fluctuations. They could establish quality standards to increase public interest and trust in their products and promote research and advertising campaigns to increase per capita consumption of fish and fish products in the United States. They could be the impetus behind movement toward new species. Such agreements would help fishermen to help themselves.

Mr. President, I have met and talked with fishermen from Massachusetts, from New England, and from other areas and I have seen their frustration with the present situation, and most of all their discouragement. But I have also seen their pride, their courage, and their tremendous dedication. For century upon century, they have been valued citizens and a most significant part of this Nation's economic resources. Daily, in stormy, cold, and difficult conditions, they have faced the sea and risked their lives, producing at one time more than enough fish to supply the entire Nation. Fathers handed down their skills, their profession, and their love of it to their sons and to their grandsons.

It is these qualities that enable them to brave long weeks at sea, far from their families, for very modest economic returns. And it is these qualities that convince me that with coordination, and minimal assistance at this critical time, our fishermen have the strength and the determination to prevail.

Fishermen, boatowners, and processors can work together for their common good. Fishermen from Gloucester, New Bedford, and Boston have recognized the importance of working together and Maine, Rhode Island, and Massachusetts, along with other fishing States will hopefully commence cooperating and thus gain stature and force by presenting a united, common front.

I have great admiration for the fishermen of my State and New England for their efforts to cooperate in the vigorous pursuit of their needs. I look forward to working closely with these leaders to prescribe and facilitate a unified industry that will assist our efforts here in Washington.

The fishing families of New Bedford, Gloucester, and Boston are anxious to preserve their industry and they are prepared to work hard to do so. The same holds true for fishermen throughout the Nation. For, the decline of the fishing industry is not exclusive to New England; it is occurring in similar proportions in all areas of this country that depend on fishing as a livelihood for its citizens—the Atlantic coast, the Pacific coast, the Gulf States, and the Great Lakes.

And so, while the situation at present is certainly alarming, there should be little cause for hopelessness if Congress is willing to take the steps that are required. We have the knowledge, the means, the desire, and the dedication. What we need is a comprehensive, forward-looking program and a genuine determination to bring about the rejuvenation of the American commercial fishing industry.

This kind of rebirth is essential. It can result in new jobs for fishermen and processors. It can mean increased orders for shipbuilders and suppliers. It can mean restoring our port facilities. It can mean more food for the hungry people of the United States and indeed the world. It can mean increased tax revenue for our hard-pressed municipalities.

It can mean the repair of the faded reputation of the American fishing industry—a fine reputation from the time when the sailing schooners of New Bedford, Gloucester, and Boston represented the crest of world fishing ability and knowledge.

These proposals are not a panacea for all the problems of the fishing industry. Instead, they should be viewed as part of the overall effort.

However the urgency of the situation is more than clear. A firm commitment now can save the fishing industry for the future. The bill I introduce today reaffirms my own commitment to this worthy effort. I believe that this bill could be of crucial significance to our fishermen and I ask for favorable and deliberate action by the Congress.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 221) to provide certain essential assistance to the U.S. fishing industry, introduced by Mr. KENNEDY, was received, read twice by its title and referred to the Committee on Commerce.

S. 222—INTRODUCTION OF A BILL TO PROVIDE FOR THE ESTABLISHMENT AND ADMINISTRATION OF THE CANYON COUNTRY NATIONAL PARKWAY, UTAH

Mr. MOSS. Mr. President, I am again introducing my bill to establish a Canyon Country National Parkway through southeastern Utah from Arizona to Colorado. This bill was before the 89th, 90th, and 91st Congresses, but no action was taken for several reasons.

The first reason is that this is a companion, to some extent to the bill (S. 26) extending the boundaries of Canyonlands National Park, which passed the Senate last session, but died in the House, and which I have reintroduced this session. It has been my policy to complete action first on the park extension bill and then to bring up the parkway bill after the new boundaries of the park are settled. The parkway bill would skirt the park and perhaps even cross some areas.

The second reason I have not pushed the parkway bill is that the Four Corners Regional Commission, which embraces all of the counties through which the parkway would run, has in the process two studies, the conclusions of which could give definite guidance to parkway planning and development. The first study is on tourism and recreation potentials in the Four Corners Area, and the second on transportation, with special emphasis on the roads which are needed and where they might well be built. Both studies are scheduled for completion in the spring of this year, 1971. It is important that action on this bill be tied in with Commission plans. It is complementary to them.

However, there is no doubt in my mind as to the desirability of a desert wilderness parkway of the type envisioned by my bill. The parkway would connect the spectacular Glen Canyon Dam with Canyonlands National Park and with the Colorado National Monument. It would traverse what is perhaps the world's most scenic area. Most of this area is now accessible only by packhorse.

The parkway would run in a northeasterly direction paralleling the north shore of Lake Powell through the Glen Canyon recreation area for about 100 miles, with connecting spurs out into the recreation area to special points of interest. It would skirt, or perhaps cut across, the northwest corner of Canyonlands National Park and traverse the recreation area west of the Maze. Along the northern boundary of Canyonlands, the road would swing eastward across the Green River and down to the Colorado River near the town of Moab, Utah. It would then proceed northeastward along the bank of the Colorado River to the vicinity of "Dewey Bridge" where it would cross the Dolores River. The route would continue through Glade Park and reach

a terminus on Route I–70 at Grand Junction, Colo. The entire parkway would total about 400 miles.

Since Lake Powell was created, it has become a major recreation area for outdoor enthusiasts. The number of people enjoying the Lake Powell area has quadrupled in the last 4 years—the National Park Service record of attendance shows 196,000 people visited the lake in 1964, the first year the reservoir filled, and 789,000 came in 1970. Lake Powell's fame is spreading, and will continue to spread.

Canyonlands National Park, established in 1964, has also attracted many visitors and their number will increase as the roads in the park are completed.

There is no direct connecting link between the Lake Powell area and the Canyonlands area. Nor is there any way to cross the interesting country north of Canyonlands, and to see the scenery along the Colorado River north and east of Moab, into Colorado. All this scenery is most unusual. A road which would allow tourists to drive along Lake Powell to Canyonlands National Park would allow them to enjoy both attractions in one trip, and then, if they wished, to enjoy the splendors of the upper reaches of the Colorado and the Colorado Monument. As a scenic drive, the Canyon Country Parkway would be unparalleled anywhere.

Mr. President, southern Utah is becoming one of the Nation's most popular western playgrounds. There are canyons by the hundreds waiting to be explored, many of them still inaccessible except by packhorse. There is a sculptured beauty and magnificent vistas and sun and solitude.

We must build access roads into the Glen Canyon Recreation Area and into Canyonlands Park which will reveal some of this spectacular scenery. I hope to increase beauty in Canyonlands through the passage of S. 26. But we have only begun to explore the area.

A Canyon Country National Parkway would make more of this scenery accessible and enjoyable to the American people. It would be a ribbon of beauty in our golden circle of National Parks.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 222) to provide for the establishment and administration of the Canyon Country National Parkway in the State of Utah, and for other purposes, was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

S. 223—INTRODUCTION OF A BILL TO PROVIDE FOR AIRPORTS ON INDIAN RESERVATIONS

Mr. MOSS. Mr. President, although there are a few airports located on Indian reservations, there is no pattern for their establishment. I am therefore today introducing a bill to give the Department of the Interior generally authority to establish airports on Indian reservations, provided, of course, that the airport is included in revision then current for the national airport plan formulated by the Administrator of the Federal Aviation Administration, pursuant to the provisions of the Federal Airport Act.

The bill I am introducing also provides that the airport must be maintained in accordance with the standards, rules and regulations provided by the Administration of the Federal Aviation Administration.

S. 231—INTRODUCTION OF A BILL TO PROVIDE AN EQUITABLE SYSTEM FOR FIXING AND ADJUSTING RATE EMPLOYEES OF THE FEDERAL GOVERNMENT

Mr. MOSS. Mr. President, last session the Congress passed a bill to provide by statute an equitable system for fixing and adjusting the rates of pay of prevailing rate employees of the Federal Government.

Although there was general agreement that Federal workers in the blue collar or prevailing rate field had suffered gross inequities for many years, and that changes in the system of adjusting and fixing their compensation rates were justified, President Nixon vetoed the bill. The veto came in the closing hours of the 91st Congress, and was a deep disappointment both to those of us who had sponsored and pressed for the legislation, and those who would have benefited by it.

I am today therefore introducing a bill which will bring again before the Congress the subject of wage rates for the blue collar worker, and of the method of setting those rates. I cannot stress too strongly the need for early consideration of this measure.

As my colleagues know, prevailing rate employees make up about 27 percent of Federal workers paid exclusively from appropriated funds. There are also thousands of employees included in the nonappropriated fund lists, and when these are added, the total number of blue collar or prevailing rate employees in the Federal Government approaches 800,000. Some 17,500 of them are in my State of Utah.

The prevailing wage employee is among the lowest paid in the Federal Government. Wage grade employes, for example, earn on the average 16 percent less than classified workers or those in the postal field service. These are the men and women who are being hardest hit by our constantly rising prices, yet they are the ones we have turned our back on. They are the stepchildren of Government service.

This bill I am introducing will set up 10 steps in pay differential, which will not only correct the blatant inequities of the present three-step system but will set up a range of rates so that Federal wage board employees can win comparability with private industry, which operates successfully under a similar range of rates.

At the present time, the pay differential for the classified white collar worker is about 30 percent; the pay differential of the blue collar worker in private enterprise follows a similar pattern. But the wage board blue collar worker in Federal installations can only increase his rate of pay by 8 percent. How then, under existing rules, do you reward these employees, particularly since most of them are in the final step shortly after they begin work?

Supervisors are given the privilege of a five in-grade system now, so they can enjoy continued financial rewards while the workers they supervise are stuck in the morass of an inflexible grade system.

This bill would also establish a Federal Prevailing Rate Advisory Committee within the Civil Service Commission with an impartial chairman appointed by the President—a chairman wedded neither to management nor unions—to insure that the broad interests of both sides are represented and protected.

The measure provides that five members of the Committee shall be appointed by the Chairman of the Civil Service Commission from among labor unions representing the largest number of prevailing rate employees under exclusive recognition in Government service and that management officials, five in number, shall be appointed from each of the four executive agencies—other than the Civil Service Commission—and military departments having the largest number of prevailing rate employees and an employee of the Civil Service Commission appointed by its Chairman.

Another important feature of the bill is that it would include in the provisions the forgotten people of the Federal service—the nonappropriated fund workers—who would receive the same benefits as the wage grade workers.

This bill is vital to the welfare of the Federal service. These workers have been more than patient in waiting for its passage but their patience is growing thin.

We must now move to correct the mishmash of antiquated executive orders and chaotic regulations under which they work, and provide by law a sound and equitable system.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 231) to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government, and for other purposes, was received, read twice, and referred to the Committee on Post Office and Civil Service.

S. 233—INTRODUCTION OF A BILL RELATING TO THE SHIPMENT AT GOVERNMENT EXPENSE OF MOTOR VEHICLES OWNED BY MEMBERS OF THE ARMED FORCES

Mr. STEVENS. Mr. President, for myself and my colleague (Mr. GRAVEL), I introduce a bill to amend section 2634 of title 10, United States Code, to authorize the military departments, in certain cases to ship automobiles to and from the State of Alaska by commercial motor carrier via the Alaska ferry system, and by means of other surface transportation.

Mr. President, this bill would give the military departments more flexibility in moving privately owned automobiles of military personnel stationed in Alaska to

and from Alaska in that it would allow shipment by water transportation, railroad transportation, or a combination thereof.

At the present time, there is only one carrier serving Anchorage directly by water. The language of the existing law prohibits use of any mode of transportation except a water carrier. This means that under existing law the carriers serving Anchorage by water have all the military privately owned vehicle business. There are other land carriers interested in the business, who would be able to compete.

In addition, the military departments have indicated in the past, and I am certain that feeling has not changed now, that they would like to have several modes to choose from. As a rule, competition for Government business keeps Government costs down. Therefore, Mr. President, if my bill is enacted, benefits will be threefold:

First, it will allow several carriers to bid on the military business to and from Alaska.

Second, it will give the military departments greater flexibility in their contracting authority.

Third, it will assure the taxpayers that transportation of the vehicles is being provided the Government at the lowest possible cost.

Mr. President, I ask unanimous consent that the text of my bill be printed at the conclusion of my remarks.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 233), to amend section 2634 of title 10, United States Code, relating to the shipment at Government expense of motor vehicles owned by members of the armed services, was received, read twice by its title, referred to the Committee on Armed Services, and ordered to be printed in the RECORD, as follows:

S. 233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2634 of title 10, United States Code, is amended by—

(1) striking out the word "or" at the end of clause (1);

(2) striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word "or"; and

(3) adding at the end thereof a new clause as follows:

"(3) in the case of movements to and from Alaska, by commercial motor carrier via highways and the Alaska ferry system or other surface transportation between customary ports of embarkation and debarkation, if such means of transport does not exceed the cost to the United States of other authorized means.

S. 234—INTRODUCTION OF A BILL TO CONVEY THE INTEREST OF THE UNITED STATES IN CERTAIN PROPERTY IN FAIRBANKS, ALASKA, TO HILLCREST, INC.

Mr. STEVENS. Mr. President, for myself and my colleague (Mr. GRAVEL) I introduce, for appropriate reference, a bill which would authorize conveyance of all right, title, and interest of the United States reserved or retained in certain lands, in Fairbanks, Alaska, which were conveyed to the Hillcrest Home for Boys under the Recreation and Public Purposes Act of January 24, 1961.

Hillcrest Home for Boys was first organized at a meeting at the Eagle's Hall on September 11, 1958. Hillcrest, a home for boys without a home, is a community project and will accept all boys without regard to race, creed, or color. It is not a detention home nor a correctional institution. Rather, it is a home to live in during their 4 years of high school. Hillcrest will provide housing, school guidance, counseling, part-time opportunities for work, and the interest and care of a director who presides at Hillcrest.

Surveys have made apparent the need for Hillcrest, and Hillcrest has the support of both public and private agencies and service groups. Hillcrest plans to cooperate to the fullest degree possible with others in the field including Federal, State, and private organizations.

Hillcrest currently accommodates nine boys, and all available funds are needed to maintain the operation as is. Hillcrest wants to expand their facilities to accommodate up to 20 boys, a situation which is financially impossible now. If title were granted to Hillcrest for the land, a portion of the land could be sold to finance the desired expansion of their facilities. Currently, boys waiting to get into Hillcrest are housed in the State jail—a situation which is certainly not desirable. The entire concept of Hillcrest rests on taking disadvantaged youngsters and giving them the best possible environment and hope for the future.

Hillcrest is the only private institution in the State of Alaska which handles boys of this age group. These young men represent an important resource for Alaska and the Nation, and we should do our best to see that they are properly taken care of through the high school years.

The land in question, acquired under the Recreation and Public Purposes Act, can be used as income property if the bill I introduced today is favorably considered.

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

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 234), to convey the interest of the United States in certain property in Fairbanks, Alaska, to Hillcrest, Inc., was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to convey to Hillcrest, Incorporated, without consideration, all of the right, title, and interest of the United States in and to the tract of land (together with any buildings or other improvements thereon) described as the southeast quarter, section 26, township 1 north, range 2 west, Fairbanks meridian, such tract being the tract conditionally patented to Hillcrest, Incorporated, by patent numbered 1216565 under the Recreation and Public Purposes Act of June 14, 1926 (43 U.S.C. 869), for use as a home for juvenile boys.

S. 235—INTRODUCTION OF A BILL DESIGNATING THE POST CEMETERY AT FORT RICHARDSON, ALASKA, AS A NATIONAL CEMETERY

Mr. STEVENS. Mr. President, during the last session of Congress, I introduced S. 2626, which designated the post cemetery at Fort Richardson as a national cemetery. Unfortunately, this legislation was not acted on, but Senator GRAVEL and I are hopeful that with the creation of the new Veterans Committee, and the increased need in my State for a second national cemetery, action might be taken early in this Congress on this legislation.

The citizens of Alaska have never hesitated to step forward when their country has called. The service record of Alaska's veterans is long and distinguished, ranking proudly with any State in the Nation.

However, the veterans of my State are being denied one of the basic privileges that all veterans in this Nation receive. This is the privilege to be buried in a national cemetery.

Currently, there is a national cemetery in Alaska, located in Sitka. However, it is far removed from many population centers of the State, and it works an extreme hardship and expense upon the families of many veterans who wish to bury their deceased veterans there. Transportation costs are high, and the final resting place of the veteran is far away from his loved ones in other parts of Alaska. Alaska is a huge State, being over one-fifth the size of the entire continental United States together. Our transportation system is very inadequate, and travel between different areas is difficult and expensive. Often, the only method of travel is by sea or air. For an area as large as Alaska, having only one national cemetery is a hardship. The Sitka Cemetery is adequately located for citizens of southeastern Alaska but very much removed from the citizens of the central and southcentral areas. The situation is the same as if the people of Los Angeles had to bury their loved ones in Sacramento and then were only able to visit the cemetery by air or boat. I think the inadequacy of the present situation is evident.

For several years there has been discussion of establishing a new national cemetery in central or south-central Alaska to better serve the large population of the railbelt area. However, the entire national cemetery program is currently under review, and it is presently impossible to establish an entirely new national cemetery until the administrative problems of that review are settled.

Nonetheless, I feel that, in the interim, the veterans of Alaska should have access to a proper national cemetery, convenient to their homes and loved ones.

Consequently, I am today introducing S. 235 which would designate the exist-

ing post cemetery at Fort Richardson, Alaska, as a national cemetery. The cemetery facilities already exist there, and it is a matter of little or no money and a minor administrative change to provide the veterans of this area with a national cemetery within reach of their homes. This is a step which would not conflict with the current policy of not establishing entirely new national cemeteries and yet provide a basic service to many deserving veterans.

The people of Alaska are extremely interested in seeing that a centrally located national cemetery is established in Alaska. The State legislature has passed a resolution calling for the establishment of a national cemetery in the Cook Inlet-Tanana Basin area of Alaska and all of the veterans' organizations in the State have expressed their wholehearted approval and support for such a measure.

Despite the fact that there is a moratorium on establishing new national cemeteries, I feel that it is both desirable and feasible to designate the existing facility at Fort Richardson as a national cemetery without upsetting the national review now underway. This is a simple thing to do, but it would have the greatest benefit for thousands of veterans in my State. I hope that the Congress will see fit to accord these veterans the same rights and privileges that veterans in all the rest of the Nation receive.

At this point, I ask unanimous consent that the text of S. 235 be printed in the RECORD.

The VICE PRESIDENT. Without objection, the bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 235), to provide for the establishment of the post cemetery at Fort Richardson, Alaska, as a national cemetery, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is authorized and directed to establish a national cemetery at Fort Richardson, Alaska. The secretary shall include within the boundaries of such national cemetery the grounds presently set aside for use as a post cemetery at Fort Richardson and shall include within the boundaries of such national cemetery such other lands under his jurisdiction at Fort Richardson as he deems necessary or appropriate.

SEC. 2. The Secretary of the Army shall provide for the care and maintenance of the national cemetery established under authority of this Act.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 236—INTRODUCTION OF A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY TO THE CITY OF ANCHORAGE, ALASKA, INTERESTS OF THE UNITED STATES IN CERTAIN LANDS

Mr. STEVENS. Mr. President, I have today introduced, on behalf of myself and Mr. GRAVEL, legislation which would give the city of Anchorage greater freedom of action in administering city hall property. My bill would grant title in fee to the Anchorage City Hall property and remove the restriction that this property must be used for municipal purposes.

We are hopeful that this body can take early action on this very important legislation.

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

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 236), to authorize the Secretary of the Interior to convey to the city of Anchorage, Alaska, interests of the United States in certain lands, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to transfer by quitclaim deed or other appropriate means, without consideration, to the city of Anchorage, Alaska, all right, title, and interest remaining in the United States in and to block 42 of Anchorage townsite (proper) which was conveyed to the city of Anchorage by Patent Numbered 873718 (dated July 27, 1922), and Patent Numbered 1117601 (dated December 8, 1943), and block 52 of Anchorage townsite (proper) which was so conveyed by Patent Numbered 873718 (dated July 27, 1922).

S. 237—INTRODUCTION OF A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LAND TO THE CITY OF ANCHORAGE, ALASKA

Mr. STEVENS. Mr. President, for myself and my colleague, Mr. GRAVEL, I am today introducing a bill which authorizes the Secretary of the Interior to convey the Alaska Railroad Employees Club property on Government Hill to the city of Anchorage. Much interest has been expressed by residents of Anchorage in this property, and I am hopeful that hearings can be held early on this important legislation, and I ask unanimous consent that the bill be reprinted in full immediately following my remarks.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 237), to authorize the Secretary of the Interior to convey certain land to the city of Anchorage, Alaska, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to convey to the city of Anchorage, Alaska, all the right, title, and interest of the United States in and to the tract described in section 2 of this Act, and the improvements thereon.

SEC. 2. The tract to be conveyed under the first section of this Act is a parcel of land lying within the Alaska Railroad Terminal Reserve at Anchorage, Alaska, adjacent to the north addition to the Anchorage townsite and is more specifically described as follows: Beginning at corner 7 of United States survey 3047;

thence north 61 degrees 11 minutes 30 seconds east 240.73 feet;

thence south 28 degrees 48 minutes 30 seconds east 91.94 feet;

thence south 74 degrees 24 minutes east 86.31 feet;

thence south 15 degrees 36 minutes west 384.37 feet;

thence south 46 degrees 36 minutes west 161.91 feet;

thence south 74 degrees 41 minutes 35 seconds west 161.63 feet;

thence north 70 degrees 31 minutes 30 seconds west 179.23 feet;

thence north 19 degrees 28 minutes 30 seconds east 431.35 feet;

thence north 54 degrees 28 minutes 30 seconds east 78.27 feet,

more or less, to the point of beginning, containing approximately 4.70 acres.

SEC. 3. The conveyance made under this Act shall be without monetary consideration, but subject to the provision that if within twenty-five years after the lands are conveyed by the Secretary of the Interior, the city of Anchorage attempts to transfer title to or control over the tract to another, or the tract is devoted, in whole or in part, to other than recreational or public purposes, without the consent of the Secretary of the Interior, title to the tract automatically shall revert to the United States. The acceptance of any instrument of conveyance under this Act by the city of Anchorage shall constitute an agreement by the city that a determination of the Secretary of the Interior that a breach of the requirements of this section has occurred shall be conclusive with respect to the necessary facts constituting such a breach.

SEC. 4. The conveyance authorized by the Act shall be made subject to the terms and conditions contained in the sublease of the Anchorage Curling Club, Incorporated, dated September 15, 1964.

S. 239—INTRODUCTION OF A BILL TO AMEND THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

Mr. STEVENS. Mr. President, on behalf of my colleague (Mr. GRAVEL) of the senior Senator from Texas (Mr. TOWER) and the junior Senator from Nevada (Mr. CANNON), I am introducing a bill to amend the Federal Property and Administrative Services Act of 1949, as amended.

This bill was introduced in the 90th Congress by my good friend and former Senator from the State of Alaska, Ernest Gruening. His bill was cosponsored by our late Senator, Bob Bartlett. It passed the Senate but failed to obtain approval of the House of Representatives.

The bill provides that property which has been declared excess to the needs of Federal agencies will be made available to State and local agencies before such property could be obtained by the Agency for International Development.

Much of the equipment now acquired by AID is stored for long periods until a foreign government requests it. And in many other cases, valuable equipment is given to a foreign government that is unable to use it or unable to maintain it. In any event, our American State and

local agencies will be able to make good use of much of the surplus property, at a lower cost to the American taxpayer than now exists.

Considering the grave situations, both social and monetary, that exist in many of our States, we feel that our problems and people should have the first option on the use of excess Federal properties. These properties were purchased with the taxpayers' money in the first place and it is unfair and unwise to expect them to pay again for items identical to those already sitting in Federal warehouses, awaiting shipment overseas.

I ask unanimous consent that the text of this bill be printed at this point in my remarks.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 239) to amend the Federal Property and Administrative Services Act of 1949, as amended, and for other purposes, introduced by Mr. STEVENS (for himself and other Senators), was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the RECORD, as follows:

S. 239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 203(j)(1) of the Federal Property and Administrative Services Act of 1949, as amended, is further amended to read as follows: "Under such regulations as he may prescribe, the Administrator is authorized, in his discretion, to donate without cost (except for costs of care and handling and, with respect to excess property described herein, costs of transportation and repair) for use in any State for purposes of education, public health, or civil defense, or for research for any such purpose any equipment, materials, books, or other supplies (including those capitalized in a working capital or similar fund) under the control or any executive agency which—

"(i) shall have been determined to be surplus property; or

"(ii) shall have been determined to the excess property and is being held under section 608 of Public Law 87–195 (75 Stat. 424), approved September 4, 1961, as amended, which property shall be offered to designated State agencies, as herein defined, before being offered to any other eligible donee; and

"(iii) shall have been determined under paragraph (2), (3), or (4) of this subsection to be usable and necessary for such purpose."

S. 241—INTRODUCTION OF A BILL RELATING TO REVENUE SHARING—LOCAL GOVERNMENT MODERNIZATION INCENTIVE

Mr. HUMPHREY. Mr. President, State and local governments need to change. Remaining frozen in the status quo is an invitation to bureaucratic lethargy and governmental paralysis.

Change and reform in government, its processes and policies is essential to keeping government responsive to the needs of the people government serves. Failure to keep State and local governments up to date leaves the governed with an inefficient system that becomes increasingly costly while providing less and less service.

I offer for Senate consideration, today, legislation that will provide financial incentives to State and local governments to reform and streamline themselves. This bill, introduced in the House on January 21, by Congressman HENRY REUSS, would provide block grants to those State and local governments that demonstrate a willingness to update their governmental systems and processes.

The administration's approach to revenue sharing gives no incentive to State and local governments to streamline so they can function more efficiently. What we need is a revitalized federal system, not perpetuation of the status quo. The Humphrey-Reuss bill would relieve the fiscal crisis of States and localities by sharing revenues over and above what the Federal Government at present distributes in categorical grants; it would use revenue sharing to encourage State and local governments to modernize their structures so the shared funds can be spent with greatest effect.

The Humphrey-Reuss revenue-sharing bill has these features:

FUNDING

The bill would provide revenue sharing of $3 billion for fiscal 1972, $5 billion for fiscal 1973, $7 billion for fiscal 1974, and $9 billion for fiscal 1975.

If the administration will take steps to put our country on a full-employment-without-inflation course, and to reorder our priorities, enlarged revenues will permit the Federal Government to perform its necessary functions, balance its budget, and still have adequate revenues left over for revenue sharing.

However, any revenue sharing that is passed into law, must make clear that the funds being distributed to the States and localities are over and above those funds now being distributed to them on a grant or matching basis. Merely switching the structure by which local government receives funds already being allocated to them, provides no solution to their fiscal crisis. Representatives of the States, counties, and cities, have made this point quite clear. What is needed is more help for the States and localities, not a manipulation of the distribution system.

QUALIFICATIONS

The administration's most recent approach to revenue sharing did not include any incentives to the States and localities to update and streamline their governmental structures. I understand, however, that the next version will contain some of the incentive philosophy and local share negotiation process, outlined in the Humphrey-Reuss bill. I welcome this implicit support from the administration for the most essential part of our bill. The heart of our legislation is a requirement that States qualify for revenue sharing, in the second and subsequent years of the program, by preparing a master plan and timetable for modernizing State and local government.

Effective State and local participation in "Creative Federalism" requires this modernization. The Humphrey-Reuss bill also includes a list of reforms that States and localities might wish to consider in drawing up their master plan for governmental updating and streamlining.

This list of possible reforms can serve to alert the States and localities to those areas of reform most needed in their own systems and processes of government.

STATE INCOME TAX INCENTIVE

The bill gives double weighting to the income tax efforts of the States after July 1, 1974, in the formula used to apportion funds among the States. States lacking income taxes thus have an incentive to adopt them and have time to take the necessary legislative steps to enact them.

Presently, Connecticut, Florida, Nevada, Ohio, Pennsylvania, South Dakota, Texas, Washington, and Wyoming have no income tax at all, and compete unfairly for industry with the States which have such a tax. Four States have narrowly based income taxes; New Hampshire, New Jersey, Rhode Island, and Tennessee, and five States: Illinois, Indiana, Massachusetts, Michigan, and Mississippi, have income taxes with the same rate for both rich and poor.

ALLOCATION TO LOCALITIES

The bill includes a negotiation process whereby the States, counties, and municipalities can work out the allocation of funds. This negotiation process incorporates allocation procedures recently worked out by the national organizations of cities, mayors, Governors, and counties.

First. A State will get a 10-percent bonus in its portion of the Federal revenue-sharing total as it meets with and negotiates an agreement with a representative number of county and city governments determining: First, the State-local split and, second, the local distribution of these funds.

Second. If a State does not negotiate, it must pass through to its localities an amount that will average over 50 percent nationally. According to the formula set out in the bill, the local share will range from about 30 to 65 percent State by State. Far more than the average contained in the administration's 1969 bill. Distribution of the local share would be determined by State law.

I am particularly pleased with the agreement reached by national State-county-city organizations. I feel that the negotiation of the local pass-through share will also provide a forum for consultation and agreement on a modernization plan.

And a particularly glaring flaw of the administration's plan is avoided by my bill: Mandatory distribution to all 63,000 local governments, whether rich or poor, archaic or efficient. Instead the bill leaves distribution among localities to State law or to intrastate negotiation, thus providing the flexiblity needed to encourage consolidation of inefficient units, and to take account of relative fiscal need and other differences State by State.

CONGRESSIONAL PROCEDURE

The administration's approach to revenue-sharing requires assignment of its bill to the Ways and Means Committee in the House of Representatives. The chairman and ranking minority member

have expressed their opposition to any type of revenue-sharing.

My bill avoids this pitfall since the particulars of the legislation have nothing to do with revenue raising or establishment of a trust fund to receive earmarked revenues and will go to the Government Operations Committee. The bill is a straight authorization that must also travel the appropriations route in both Houses of Congress.

Congressman REUSS is a member of the House Government Operations Committee and will be able to facilitate the bill's passage in the House. It is my hope to be assigned to the Senate Government Operations Committee, where I can provide a similar impetus to the bill's favorable consideration.

Mr. President, I firmly believe that revenue-sharing's time has truly come. It has been discussed thoroughly for approximately a decade. I have long supported the concept and am delighted to be able to introduce legislation that I believe will have excellent chances of passage.

I urge my Senate colleagues to give the legislation careful consideration. It provides the means for helping solve the fiscal crises of State and local governments and provides the incentive for States and localities to modernize and streamline themselves and to better utilize these Federal investments and their own local-effort revenues.

Mr. President, I ask unanimous consent that a table listing the percentage of local pass-through be printed in the RECORD. I also ask unanimous consent that the text of the bill be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill and table will be printed in the RECORD.

The bill (S. 241) to improve intergovernmental relationships, and the economy and efficiency of all levels of Government, by providing Federal block grants for States and localities where there is a demonstration of State intention to modernize State and local government, introduced by Mr. HUMPHREY, was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the RECORD, as follows:

S. 241

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 may be cited as the "State and Local Government Modernization Act of 1971".

FEDERAL BLOCK GRANTS

SEC. 2(a) AUTHORIZATION OF APPROPRIATIONS.—There is herewith authorized to be appropriated for the fiscal year beginning July 1, 1971, $3 billion; for the fiscal year beginning July 1, 1972, $5 billion; for the fiscal year beginning July 1, 1973, $7 billion; for the fiscal year beginning July 1, 1974, $9 billion; to be paid by the President to all States (and localities within such States) which qualify for Federal block grants.

(b) DETERMINATION OF "OVERALL STATE-LOCAL SHARE."—Subject to the provisions of subsection (d)(2) of this section, the President shall quarterly make a payment to each State (and to eligible local governments in that State pursuant to subsection (c) or (d) of his section) which is qualified under section 3 of this Act for a Federal block grant of an amount to be known as the "overall state-local share," which shall bear the same ratio to the amount appropriated for that year under subsection (a) of this section as the product of—

(1) the population of the State, and

(2) the State's "revenue-effort ratio" (as determined below),

bears to the sum of the corresponding products for all the States which are qualified for a revenue-sharing payment in that year. The "revenue-effort ratio" for a State shall be the ratio between the sum of all revenues collected in the State by the State and its political subdivisions, and the total personal income for the State. After July 1, 1974, double weight shall be given to income tax revenue. Population, revenue, and income data shall be based on the most recent data available from the Department of Commerce. The term "State" shall include the District of Columbia, which shall receive both the 60 percent and the 40 percent share.

(c) APPORTIONMENT OF "OVERALL STATE-LOCAL SHARE": GENERAL RULE.—

(1) APPORTIONMENT BETWEEN STATES AND LOCAL GOVERNMENTS.—The "overall State-local share" shall be apportioned between the State government ("State share") and all eligible general purpose local governments in that State ("local government share") in the same ratio as the revenues of the State government bear to the revenues of all units of local government in the State, including school districts and special districts.

(2) APPORTIONMENT AMONG LOCAL GOVERNMENTS.—The "local government share" shall be apportioned among such units of general purpose local government, and according to such a distribution formula, as the State shall by law provide. Such inclusion or exclusion of local governments, and such distribution formula, shall be fair and equitable departing from a per capita or a revenue basis only for the purpose of favoring localities that are relatively more populous, contain relatively more low-income families, or have high local tax burdens in relation to individual income. The chief executive of each State shall keep the President currently informed of the amounts payable to local governments under such State law.

(d) APPORTIONMENT OF "OVERALL STATE-LOCAL SHARE": BONUS FOR NEGOTIATION.—

(1) Any state may obtain a 10 percent bonus in its "overall state-local share" if it enacts an apportionment between the state and its localities, and among its localities agreed to (A) by a majority decision of all county governments, representing at least half of all counties by population; and (B) by a majority decision of all governments of municipalities with 2500 or more population representing at least half of all such municipalities by population.

(2) In each fiscal year for which funds for Federal block grants are appropriated pursuant to this Act, the President shall reserve for a specified period prior to the first quarterly payment to qualifying states an amount sufficient to provide a 10 percent bonus for all states. At the expiration of this period, the unclaimed portion of the amount reserved shall become available for distribution to all qualifying states pursuant to subsection (b) of this section and, either subsection (c) of this section or paragraph (1) of this subsection.

(3) The President shall issue regulations to ensure equity to states, which by reason of their local governmental structure, are not able to meet the requirements of paragraph (1) of this subsection.

QUALIFICATIONS FOR BLOCK GRANTS

SEC. 3. In order to qualify for block grants in the first, and subsequent fiscal years, each state shall, within a specified period prior to the first quarterly payment each year, do one of the following: (a) enact and file with the President a local government distribution law (which may from time to time be amended) pursuant to section 2(c) (2) of this Act; *or* (b) enact and file with the President a state-local apportionment agreement (which may from to time be amended) pursuant to section 2(d) (1) of this Act. In order to qualify in the second, and subsequent fiscal years, a state's chief executive officer shall prepare and file with the President (and may from time to time amend) a master plan and timetable for modernizing and revitalizing state and local governments, by methods (where appropriate) such as those on the following illustrative checklist—

(1) Interstate: proposed arrangements, by interstate compact or otherwise, for dealing with interstate regional problems, including those of metropolitan areas which overlap State lines, and for regional cooperation in such areas as health, education, welfare, conservation, resource development, transportation, recreation, housing.

(2) State Direct action: proposed governments (by constitutional, statutory, and administrative changes), including recommendations concerning the short ballot; longer terms for Constitutional officers; annual legislative sessions; adequately paid officers and legislators; modernized State borrowing powers; improved tax systems (including an income tax of at least moderate progressiveness); rationalized boards and commissions; increased assistance to local governments; revising the terms of State aids and shared taxes so as to encourage modern local governments and to compensate for differences in total local fiscal capacity; State assumption of direct fiscal responsibility for basic functions; and modern personnel systems.

(3) State action affecting localities: proposed strengthening and modernizing by the State of local, rural, urban, and metropolitan governments (by constitutional, statutory, and administrative changes), including

(A) Changes designed to make local government more efficient and economical, as by

(i) reducing the number of, or eliminating, local governments too small to provide efficient administration, or possessing inadequate fiscal resources, and special districts not subject to democratic controls;

(ii) restricting local popular elections to policy-makers (the short ballot);

(iii) concentrating on a single responsible executive for each local unit;

(iv) reform of personnel practices;

(v) granting adequate home rule powers to local governments of sufficient size and scope;

(vi) improving local property tax administration;

(vii) authorizing local governments to utilize nonproperty taxes, coordinated at the State or regional level;

(viii) easing restrictions on the borrowing and taxing powers of local governments;

(ix) encouraging the formation of multicounty and regional bodies.

(B) Changes designed to strengthen local government in metropolitan areas, as by

(i) liberalizing municipal annexation of unincorporated areas;

(ii) discouraging new incorporations not meeting minimum standards of total population and population density;

(iii) authorizing city-county consolidation, or transfers of specified functions between municipalities and counties;

(iv) authorizing intergovernmental contracts for the provision of services;

(v) authorizing the municipalities to exercise extraterritorial planning, zoning, and subdivision control over unincorporated areas not subject to effective county regulation;

(vi) restricting zoning authority in metropolitan areas to metropolitan units, to larger municipalities, to counties, or to the State, in order to prevent zoning by smaller municipalities which excludes housing for lower income families;

(vii) authorizing the formation of metropolitan councils of government and other regional governing bodies;

(viii) authorizing the establishment by the State, by local governmental bodies, or by the voters of the area directly, of metropolitan area study commissions to develop proposals to improve and coordinate local governmental structure and services, to permit side-by-side area-wide and local governments, or to permit consolidation of municipalities; and to present to the voters of the area such proposals;

(ix) authorizing the formation of metropolitan planning agencies to make recommendations to local governments concerning such matters as land use, zoning, building regulations, and capital improvements; and

(x) furnishing State financial and technical assistance to metropolitan areas for such matters as planning, building codes, urban renewal, consolidation, and local government and finance.

(C) Changes designed to make local government more responsive and democratic by decentralizing power and functions back to the neighborhood wherever possible.

REPORTS AND RECOMMENDATIONS

SEC. 4.—The President shall report to the Congress at the end of each fiscal year in which Federal block grants are paid on the progress made by each participating State in carrying out its modern governments program, and, prior to the end of the fourth fiscal year, shall make recommendations to the Congress concerning the future of the Federal block grant program.

The list, presented by Mr. HUMPHREY, is as follows:

Pass-through to localities (1966–67 data)

[In percent]

State:	*Local share*
Alabama	39.22
Alaska	31.45
Arizona	44.58
Arkansas	35.84
California	57.94
Colorado	50.59
Connecticut	51.57
Delaware	28.20
D.C.	-- --
Florida	53.43
Georgia	43.83
Hawaii	28.09
Idaho	42.08
Illinois	57.38
Indiana	48.07
Iowa	52.53
Kansas	52.55
Kentucky	36.95
Louisiana	30.77
Maine	44.79
Maryland	47.72
Massachusetts	53.14
Michigan	46.94
Minnesota	49.25
Mississippi	40.15
Missouri	52.52
Montana	54.48
Nebraska	65.05
Nevada	54.39
New Hampshire	58.54
New Jersey	61.65
New Mexico	27.79
New York	53.48
North Carolina	31.86
North Dakota	43.25
Ohio	58.09
Oklahoma	38.64
Oregon	49.75
Pennsylvania	48.50
Rhode Island	45.13
South Carolina	29.36
South Dakota	54.44
Tennessee	45.29
Texas	49.68
Utah	41.08
Vermont	39.14
Virginia	42.09
Washington	38.29
West Virginia	34.07
Wisconsin	41.91
Wyoming	49.10

S. 244—INTRODUCTION OF A BILL RELATING TO PROPOSED AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

Mr. GRAVEL. Mr. President, the Federal Property and Administrative Services Act of 1949 as amended permits donations of certain kinds of Federal surplus property to State education agencies, health, library, and civil defense agencies. The bill I now introduce, on behalf of myself and Senator STEVENS, would extend this opportunity to State fish and game agencies.

We are convinced that substantial benefits could be realized in the important field of fish and wildlife management from the utilization of surplus equipment and materials that could be made available to States under this amendment.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 244) to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus personal property to State fish and wildlife agencies, introduced by Mr. GRAVEL (for himself and Mr. STEVENS), was received, read twice by its title, and referred to the Committee on Government Operations.

S. 245—INTRODUCTION OF A BILL TO ESTABLISH THE OLD KODIAK NATIONAL HISTORIC SITE IN THE STATE OF ALASKA

Mr. GRAVEL. Mr. President, on behalf of myself and Senator STEVENS, I introduce today a bill to authorize the establishment of the Old Kodiak National Historic Site in the State of Alaska.

This historic site will preserve for future generations the Erskine House which dates from 1792–93 and may well be the oldest Russian structure standing in the United States. In addition to its unusual design and esthetic appeal, the structure possesses exceptional value in commemorating the history of the United States.

The Erskine House and accompanying old Russian dock were erected by Alexander Baranov, the Russian Governor of Alaska who was then manager of the Shelikhov-Golikov Co. headquarters in Kodiak.

It is essential if this structure is to be preserved that prompt action be taken. The Erskine House and the desired national site is held by the local public agency for disposal in accordance with the postdisaster urban renewal plan for Kodiak. Therefore, it is important that the National Park Service acquire the Erskine House, the Russian dock, and other related lands to insure the compatibility with historic site purposes.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 245) to authorize the establishment of the Old Kodiak National Historic Site in the State of Alaska, and for other purposes, introduced by Mr. GRAVEL (for himself and Mr. STEVENS), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 247—INTRODUCTION OF A BILL FOR THE RELIEF OF ALBERT G. AND FLORA FELLER

Mr. GRAVEL. Mr. President, on behalf of myself and Senator STEVENS, I introduce today a private bill for the relief of Mr. and Mrs. Albert G. Feller, of Ketchikan, Alaska. On May 24, 1966, the Feller's son, Albert, Jr., was called to Anchorage by the Army for his preinduction physical. The young man was given a transportation request to Anchorage and after he failed his preinduction physical, he was given a transportation request to return to Ketchikan. For unknown reasons, Albert did not use that transportation request on the date for which it was issued. He subsequently drowned in Big Lake near Wasilla, Alaska. The Government was obviously responsible for financing Mr. Feller's return trip to Ketchikan and had, in fact, issued a transportation request for this trip. However, the Government has refused to take the responsibility for shipping Mr. Feller's body back to Ketchikan. Mr. Feller was in Anchorage at Government request and it seems perfectly clear that the Government is liable for Mr. Feller's return costs. This bill will reimburse Mr. and Mrs. Feller, Sr., for the costs, $267.12, of transporting their son's coffin and body from Anchorage to Ketchikan.

The Army states that it has no regulations to cover such contingencies as this. Although the Army agrees that it must pay for the return of any live person who has failed a preinduction physical, the Army feels it has no responsibility to pay for the return of a deceased person who has failed a preinduction physical. In short, coffin transportation is not covered under the transportation request authorized to Albert Feller, Jr. Despite this kind of bureaucratic juggling, I feel that the Government responsibility is obvious and it is time that the wrong done to Mr. and Mrs. Feller be rectified.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 247) for the relief of Albert G. Feller and Flora Feller, introduced by Mr. GRAVEL (for himself and Mr. STEVENS), was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 249—INTRODUCTION OF THE NATURE PROTECTION ACT

Mr. CRANSTON. Mr. President, I introduce, for appropriate reference, the Nature Protection Act. This legislation will prohibit the hunting, capturing, kill-

ing, taking, transporting, selling, or purchasing of any species of fish or wildlife which is in danger of becoming extinct in the United States of America. In addition, the act will prohibit States or their political subdivisions from paying bounties on species whose survival is in jeopardy.

I introduced this bill in the 91st Congress as S. 3888. The response among conservation groups and people interested in protecting our Nation's wildlife was overwhelming. I feel there is substantial public support for this proposal, and I am extremely hopeful that we can have hearings in both Houses on the bill early in this Congress.

I would like to explain the purpose and philosophy of the act.

Mr. President, the sallow air of our cities, the blackened sands of our seashores, our lakes and harbors reeking of sewage and depleted of oxygen are but a part of the sad legacy of the idea that nature can be treated as a servant, blindly obedient to every want, whim or pleasure of man.

In his quest to conquer nature, man has been the only animal to remove himself from his natural ecosystem, and to try to survive in an environment changed and shaped to suit his own convenience. The whole earth has been altered in the process.

For generations, our civilization thought the battle was won. Our sole vision was of a shining road ever ascending in the infinite progress and perfectability of man and his society. Only in the past few years have we begun to realize that our vision has been inverted—that in fact we have been descending into a sewer where air, earth, and water threaten to smother us in our own excrements.

Only recently have we begun to understand that we are and have been transmuting the world ecosystem—upon which all life depends—without even the most elemental ecological knowledge to direct our actions.

Only now we are beginning to perceive that we are involved in a grim struggle to maintain the way of life our people demand, without at the same time making our natural environment hostile to all forms of life, including our own.

Indeed, other life forms find their struggle for existence increasingly difficult because of man's environmental irresponsibility.

The coral reefs of the Pacific are threatened by man's tampering with the marine ecosystem. Almost 50 percent of the ponderosa and jeffrey pine trees in the San Bernardino National Forest are damaged because our air pollution interferes with nature's process of photosynthesis. Our sewage nurtures excessive plant growth in our lakes which depletes the oxygen supply and changes the ecosystem so that the only organisms which can survive are those which do not need air to live.

Among the higher life forms, the toll has been even greater. Some species are already extinct. Others are rare or endangered.

Direct human alteration of the environment is the leading reason species are threatened. Farmers cultivated and irrigated land and destroyed the habitat of many species like the San Joaquin kit fox and the northern greater prairie chicken. Agriculture, pollution, logging, and dozens of other forms of direct human encroachment into natural habitats have threatened the survival of many species.

Excessive hunting and fishing are the second largest threat to animals. Species have been killed for food, skins, sport or as pests. Animals threatened with extinction because of excessive hunting and fishing range from the American ivory-billed woodpecker to the American alligator to the Florida panther.

A number of species—especially birds—have declined because of disease made possible by man. In Hawaii, for example, man introduced mosquitoes, and avian malaria ravaged the islands' bird population.

Man's use of pesticides and other poisons is another reason for decline. In some cases, one species will be killed by eating poison left for another. However, more serious is the indirect destruction of animals by pesticides. The predator accumulates pesticide poisons from the tissue of its prey and is either killed outright or prevented from reproducing. In California the eggs of the peregrine falcon and the brown pelican have become soft shelled and so easily destroyed that the species is seriously threatened. In addition, nonpredators are taking large doses of pesticides and the effect on them—like the effect on man—is not completely known.

And finally, species have declined because of excessive killings by, or competition from, other animals—often animals introduced by man. Feral rabbits introduced by man in the Hawaiian Islands destroyed vegetation; the laysan duck was unable to compete and was nearly wiped out. Also in Hawaii, the Hawaiian dark-rumped petrel was decimated by rats, cats and mongooses. Even fish are threatened by man's introduction of other species. The gila topminnow, to name one, has been badly damaged by exotics.

But, so what? There are far more serious problems confronting the Nation and the world. What difference will it make if the black-footed ferret or the California condor are no longer with us? There are several answers to this question—some simple and some complicated.

The various species and subspecies are a part of the diversity of nature which we should preserve for the education and enjoyment of future generations of man. Animals are fun to see and to experience. Our kids ought to have the same opportunity that our parents had to know and love wildlife and nature. In addition, taxonomists and other specialists within the biological sciences will obviously benefit if we preserve as many life forms as possible.

These reasons, I believe, would most probably be cited by the average person who would like to prevent the extinction of any more species. However, there are more compelling issues at stake here which make the preservation of various life forms a more serious problem than the need to educate our children or to satisfy our scientific or idle curiosity.

Ecology is still a young and growing science. Much remains unknown. In the next decades ecologists will learn more and more about the interrelationships of life forms in our earth's ecosystem. This new knowledge in turn will teach us how man himself must interrelate with his environment in order to survive. It will also teach us how to attain and maintain an environment where survival is both possible and worthwhile.

While we are only on the threshold of ecological understanding, there is at least one major ecological finding which can guide our present policies.

Ecologists have learned that complex and diversified ecosystems are generally stabler and have more compensatory resources to resist invasion from outside plants and animals. Conversely, simple systems or systems with only a few dominant species are more subject to destructive population variations and more vulnerable to invasion by foreign life forms.

When we destroy a complex ecosystem and in its place create a simple one, we have made a life system where survival is less secure and extinction a greater threat. Yet that is what we did when we leveled and fenced the prairies and planted our crops. When we tear down a forest to plant an orchard, we change from a complex to a simple system. Thus, mixed forests are generally less prone to outbreaks of pests than are orchards or even pure stands of trees which may occur naturally.

Another example of man's substitution of a simple system for a complex one is the elimination of a diversity of primary consumers such as elk, deer, and other graze and browse animals—and along with them the secondary consumers such as predators and scavengers.

In its place we substitute a single primary consumer, the cow, who is eaten solely by man, the secondary consumer.

Once these vulnerable simple systems are threatened by invasions, we do not attempt to restore the stronger diverse systems. Just the opposite, we spray the fields with pestcides to kill all the insects, including the predators who might eat the invaders. Thus the system becomes even simpler, and even more vulnerable.

We cannot know where this process will end. Speculation on the question quickly leads into the fancies of science fiction.

But one thing should be obvious: diversity of life forms may be among our most precious natural resources. It follows that we should act now to preserve this diversity for that future day when we have mastered the science of ecology well enough to do sound environmental planning.

If we fail to do this, if we let our native fish and wildlife become extinct, then we will close the door on restoring the natural and complex ecosystems which future knowledge may dictate as essential for the survival of the biosphere, and man himself.

If we kill all the predators, we will be unable to reestablish a natural system. The extinction of the large herbivores will have the same consequence. Yet it is the predators and the large herbivores who are and have been in the greatest trouble because they are least able to survive the onslaught of man's environmental destructiveness.

In the face of our uncertainity about our future environmental needs, it is quintessence of folly to allow any species to disappear.

The Wilderness Act is one excellent method to conserve diversity in nature. I believe the bill I introduce today is another essential step.

Not only will my proposal make it illegal to kill an animal threatened by extinction but it will encourage State game management officials to take steps to provide habitats where rare and endangered species can survive, as I shall explain later.

Time is growing short for many forms of life. Here on just the threshold of understanding the need for diversity in nature, we can see species after species slipping away. This list of American animals which have become extinct within the last years is alarmingly long. Yet with each new compilation the Department of the Interior's list of rare and endangered species grows longer and longer.

A second area where I believe the extinction of species has serious implications has nothing directly to do with the science or the economics of survival, but rather concerns the ethics of man's relationship with other life forms and with nature.

Does man's moral responsibility extend to other life forms?

Animals kill other animals as part of the natural system—and they did so long before man appeared on earth. The foxes, owls, bobcats, snakes, and other predators are an indispensable part of the ecosystem. When they are eliminated, as man has often unwisely done, the populations of their prey, such as rabbits or deer, often explode, with disastrous consequences to the plant life they feed on. Under these circumstances, the human hunter becomes a substitute predator, fulfilling a role in the ecosystem. In turn, we have game laws to make sure he does not overplay the part.

Furthermore, animals became extinct, species vanished for a variety of reasons, and new species appeared, long before man, another new species, walked the planet.

But none of this, it seems to me, in any way justifies or gives us any moral right to ignore the consequences of our tampering with the environment, particularly when such tampering dooms a distinct life form to extinction. We seem to have the attitude that because it is not convenient or economically profitable for us to make the effort to save endangered animals, we are justified in letting them die out.

One of the most profound thinkers of our age, Dr. Albert Schweitzer, said of this question:

> At the same time the man who has become a thinking being feels a compulsion to give to every will-to-live the same reverence for life that he gives to his own. He experiences that other life in his own. He accepts as being good: to preserve life, to promote life, to raise to its highest value life which is capable of development; and as being evil: to destroy life, to injure life, to repress life which is capable of development. This is the absolute, fundamental principle of the moral, and it is a necessity of thought.
>
> The great fault of all ethics hitherto has been that they believed themselves to have to deal only with the relations of man to man. In reality, however, the question is what is his attitude to the world and all life that comes within his reach. A man is ethical only when life, as such, is sacred to him, that of plants and animals as that of his fellowman, and when he develops himself helpfully to all life that is in need of help. Only the universal ethic of the feeling of responsibility in an ever-widening sphere for all that lives—only that ethic can be founded in thought. The ethic of the relation of man to man is not something apart by itself: it is only a particular relation which results from the universal one.

I can think of no ethic which is more appropriate to the ills of our age than Dr. Schweitzer's ethic of reverence for life, be it human life or the animal and plant life about us.

But, you may say, the wolf kills and so indeed must man if he is to survive. What then of this ethic?

And I must agree, thinking back to last evening's prime rib or rack of lamb, that while I might wish no killing were necessary, our society's institutions will continue to include the slaughterhouse. However, when the wolf kills, he is but an agent in the continuing cycle of life and death. His act, if performed in nature, is part of the ecosystem which enables both the wolf and the deer to survive. Nature undergoes no basic change when an individual animal dies.

But the death of a species is profound, for it means nature has lost one of its components, which played a role in the interrelationship of life on earth.

Here the cycle of birth and death ends. Here there is no life, no chance to begin again—simply a void.

To cause the extinction of a species, whether by commission or omission, is unqualifiedly evil. The prevention of this extinction, thus, must be a tenet among man's moral responsibilities.

Furthermore, in obeisance to the pragmatism of our age, I suspect that the acceptance of the ethic of reverence for life may be crucial in terms of our own survival.

Lynn White, Jr., in an article entitled "The Historical Roots of Our Ecologic Crisis," suggested that Western man needs to revise the Judeo-Christian credo of man's domination over nature and nature's subservience to man's purposes.

> What we do about ecology depends on our ideas of the man-nature relationship. More science and more technology are not going to get us out of the present ecologic crisis until we find a new religion, or rethink our old one.

As a model for this new ethic, White suggests that we review the teachings of St. Francis of Assisi:

> The greatest spiritual revolutionary in Western history, Saint Francis, proposed what he thought was an alternative Christian view of nature and man's relation to it: he tried to substitute the idea of man's limitless rule of creation . . . Since the roots of our trouble are so largely religious, the remedy must also be essentially religious, whether we call it that or not. We must rethink and refeel our nature and density. The profoundly religious, but heretical, sense of the primitive Franciscans for the spiritual autonomy of all parts of nature may point a direction. I propose Francis as a patron saint for ecologists.

Thus, I suggest that Dr. Schweitzer's ethic of Reverence for Life may be the ethic for mankind's survival.

My final contention about the preservation of rare and endangered species deals with neither science nor ethics—but is ultimately practical. Simply put, man's own survival is at stake; the actions he must take to assure the animals' survival will also be his own salvation.

As the environment deteriorates, man must find more and more ways to protect himself from it. We in the Senate are able to work in our offices, travel to the Capitol, speak in this Chamber, and even visit the other body without ever inhaling the unfiltered air outside our halls. Unless we choose to go out, we can remain in an encased environment for most of the time. If air pollution is not reversed, life in our cities will require even more stringent controls which will enable us to avoid completely any contact with the great outdoors.

So it is with other forms of environmental pollution. We can keep the poisons away from us by building structures to encase all our activities from bubbles over our baseball diamonds to underground shopping malls.

But improved techniques to protect us from pollution are dangerous for two reasons. First, they lull us into the belief that man is capable of surviving in a totally artificial environment. Biologists who study genetic evolution have begun to question this assumption. Second, they fail to alert us to what lies at the end of this process—that our habitats will become mechanized tombs where life won't be worth living.

We cannot preserve wildlife and fish by protecting them from their environment. Instead, we must preserve their environment in a liveable form and we must keep our contaminants from degrading their ecosystems. And in the process, we will preserve at least some of our environment in a condition where we know that we and our children can survive.

These are my reasons for believing that the preservation of our rare and endangered species should be given high priority in our national system of values.

Unfortunately, a prohibition on killing or capturing will not guarantee that any species will survive. As I pointed out earlier, man's act of excessive hunting or intentional poisoning in wildlife control programs is only one of a number of threats to the survival of fish and wildlife. Some of the greatest dangers to develop from human actions where the adverse effects on wildlife are entirely unintended.

Other steps need to be taken. We made good progress in 1966 with the passage of the Endangered Species Preservation Act and last year with the passage of the Endangered Species Conservation Act.

However, a prohibition on killing, or

capturing of rare and endangered species will have three positive consequences which will mean substantial progress in wildlife preservation.

First, the bill will protect individual members of a species when the species is near its minimal survival population. The death of the last passenger pigeon in 1914 marked the end of the species, but its extinction had become inevitable years before when the population dropped below the point where its breeding and other survival abilities were capable of reversing the decline in its number. This minimal population point varies from species to species, and is probably not subject to any precise mathematical determination. In addition, man's intervention can sometimes work miracles, as we hope is the case with the whooping crane.

Nevertheless, we should not be as concerned about the death of the final grizzly bear as we are about the next one which may die at the hand of man.

Even if the animal is being challenged by one of the unintentional human acts such as the introduction into its ecosystem of a foreign species, the fact that the animal is rare or endangered means that it has reached the point where every individual member of the species may be crucial to the species survival. Thus I believe members of rare and endangered species should be protected.

In addition, some States have laws which provide bounties for animals listed as rare or endangered. While I doubt that these bounty laws provide substantial economic incentive in many areas of our Nation, they do encourage the attitude that wild animals, particularly predators, are varmints to be shot on sight as a matter of commonsense.

We should be penalizing anyone who kills a rare animal, not rewarding him. Therefore, I propose that States be prohibited from paying such bounties.

Second, for those animals threatened by man's encroachment on their range, the illegalizing of their slaughter, will make it mandatory for local, State, and Federal agencies to find and provide new range land as well as to protect existing range at least until herd size grows to the point where the species is removed from the rare list.

The California Tule elk, which has been listed as both rare and endangered, is a good example of a species which would benefit. Once this little elk roamed the hills and valleys of Central California in the tens of thousands. Today the only remaining wild herd is in the Owens Valley, east of the Sierra Nevadas, an area where they are not indigenous.

The Tule elk is protected under California law. However, the California Fish and Game Commission has determined that the available range will support a herd of only 250 elk—the area also supports 15,000 to 40,000 cattle at various times during the year. Thus, hunters are given special permission to come in and shoot the surplus. Last year the State of California permitted private sportsmen to kill about 80 Tule elk, an animal the Department of the Interior lists as rare.

I think it is obvious that if we are seriously concerned with saving such species, we must expand their herds and extend their range. I have introduced separate legislation (S. 3028) to authorize a study of new range sites for the Tule elk in the Southwestern United States, and I am hopeful that we can establish new wild and unfenced range areas for the Tule elk in California, particularly at Point Reyes.

But the Tule elk situation serves to emphasize the point that we cannot depend on the States to make available the land necessary to preserve our rare species so long as they can maintain that hunting is a sound wildlife management technique for such rare and endangered species.

To authorize hunting of rare or endangered animals is bad for another reason. The sportsman seeking a trophy will naturally go for the biggest and best of the herd, not the weakest runts who can contribute the least to the species survival. If it is necessary to limit an endangered species population, it should be done by scientists who will cull out the weak and the aged, not by private hunters who will do just the opposite.

The States should be setting aside more lands in wildlife refuges. The States should also be preventing further encroachments of human society into existing wildlife habitats. By outlawing the killing of rare and endangered species, we will encourage State and local actions in both areas.

Finally, the enunciation of a national policy which makes illegal such killing would require a rethinking of our traditional attitudes toward wild animals, particularly predators. If we say to the rancher who has lost a sheep to a timber wolf that it is illegal for him to kill the wolf because it is endangered, then we will need to develop a procedure for reimbursing the rancher for his loss, and of convincing him that the benefits man derives from predators are worth the inconvenience of an occasional dead sheep. This would also benefit other predators, such as the coyote, who is not rare or endangered and is more apt to be the villain in the case of the lost sheep. Animals not yet rare or endangered might also be helped to avoid those unhappy categories, if this legislation makes us reconsider the indiscriminant broadcasting of poisons to kill "pests" especially in the Western States.

All considered, I believe this bill is essential to saving our rare and endangered species.

Moreover, the United States is under treaty obligation to protect rare and endangered species.

At the eighth International Conference of American States various resolutions were adopted. Pursuant to the 13th resolution of December 23, 1938, the Pan American Union established the Inter-American Committee of Experts on Nature Protection and Wildlife Preservation. This Committee consisted of one member-representative from each American republic. The U.S. representative was Dr. Alexander Wetmore who was then Assistant Secretary of the Smithsonian Institution. The draft of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere was unanimously approved on May 16, 1940, by the Committee. On October 12, 1940, the treaty was signed in Washington by the respective plenipotentiaries of the United States, Bolivia, Cuba, the Dominican Republic, Ecuador, El Salvador, Nicaragua, Peru, and Venezuela. Subsequently it was signed on behalf of Costa Rica on October 24, 1940, Mexico on November 20, 1940, Uruguay on December 9, 1940, and Brazil on December 27, 1940.

Secretary of State Cordell Hull officially conveyed the treaty to President Franklin D. Roosevelt on February 13, 1941. In the letter which accompanied the treaty, Secretary Hull informed the President that the animals listed in the annex to the Convention "shall be protected as completely as possible." The list was described by Secretary Hull as flexible and subject to modification as changes in conditions might warrant.

The Convention was transmitted by President Roosevelt to the Senate on February 14, 1941, for advice and consent to ratification. The treaty was ratified by the Senate on April 7, 1941, ratified by the President on April 14, 1941, deposited with the Pan American Union at Washington on April 28, 1942, and proclaimed by the President on April 30, 1942.

The first list of species included by the United States in the annex to the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere consisted of:

Woodlands caribou, sea otter, manatee, trumpeter swan, California condor, whooping crane, Eskimo curleu, Hudsonian godwit, Puerto Rican parrot, ivory-billed woodpecker.

The annex list was revised on September 1, 1967. This list is much more extensive than the original annex of the 1940's. As ecological conditions change and scientific knowledge advances, further revisions of the annex can be made.

It is article VIII of the treaty which requires the protection of the animals list in the annex.

> Protection of the species mentioned in the annex to the present Convention, is declared to be of special urgency and importance. Species included therein shall be protected as completely as possible, and their hunting, killing, capturing, or taking, shall be allowed only with the permission of the appropriate government authorities in the country. Such permission shall be granted only under special circumstances, in order to further scientific purposes, or when essential for the administration of the area in which the animal or plant is found.

The article requires that these animals be protected as completely as possible. The hunting, killing, capturing or taking of these animals is strictly forbidden. However, the governments are permitted to grant exemptions to this prohibition, but only for scientific purposes or when such an exemption is essential to the proper administration of the area in which the animal is found.

These prohibition requirements became law in the 1940's and under international law they have been fully binding on the United States ever since. However, our domestic law distinguishes between "self-executing" and "non-self-executing" treaties. This treaty is of the

"non-self-executing" type. That means that before the prohibitions and requirements of article VIII can be enforced in our domestic courts, Congress must enact enabling legislation.

During the 1940's, when this country was fighting World War II, Congress neglected to enact the necessary legislation. Nor has any attempt been made since the 1940's to fulfill our international legal responsibilities under article VIII of the treaty. It is my intention that this bill shall fulfill that obligation.

The present annex to the treaty, submitted in 1967, includes the following species.

(See exhibit 1.)

In addition, the "Rare and Endangered Fish and Wildlife of the United States," contains the following species which should be added to the annex at its next revision.

(See exhibit 2.)

These then are the species which my proposal would attempt to save. In this context, I would like to direct the Senate's attention to those animals we cannot save. Following is a list of those species which have already become extinct in the United States:

(See exhibit 3.)

The bill I have proposed contains the following provisions.

Section 2 of the bill is a brief statement of the need to protect endangered and rare animals and of our international obligation to enact a bill to provide this form of protection.

Section 3 defines various terms which are used in the bill.

Section 4 specifies what acts will be prohibited. Subsection (a) forbids the hunting, capturing, killing, taking, transporting, selling, or purchasing of any protected animals. Subsection (b) prohibits the payment of any bounty for the killing of a protected animal. The species and subspecies of animals protected by this bill are those species or subspecies which are listed in the annex to the convention.

Section 5 provides for a few limited exceptions to section 4(a). There are no exemptions from a bounty prohibition of section 4(b). Under section 5, the Secretary of the Interior may grant an exemption for scientific purposes, for the display of animals in zoos, for the administration of the area in which an animal is found, for the propagation of protected animals or the relocation of animals in new natural habitats. A general exemption from the prohibition of section 4(a) is provided for in various situations. The most important there being the exemptions for animals already in captivity on the effective date of this act, individual diseased animals, animals which have been raised and released as game animals, and animals used by the Indians for religious purposes.

Section 6 provides for the updating of the list of animals enumerated in the annex to the Convention. The treaty's annex is subject to revision as circumstances warrant. When the annex is updated, all those animals which have been found to be either rare or endangered under the Endangered Species Act will be included in the annex.

Section 7 provides that both Federal and State officers may enforce the provisions of this bill.

Section 8 is the penalty clause. It prescribes that violations of section 4(a) constitute a misdemeanor.

Section 9 has two subsections. The first affirms the power and right of the States to provide for the protection and scientific management of animals. The second subsection authorizes the Secretary of the Interior to consult with the Governors of the several States concerning the policy and provisions of the bill. It is my intention to make it perfectly clear by this section that the Secretary of the Interior will not be empowered by this legislation to regulate hunting and fishing; nor will he be authorized to control, in any manner, the issuance of State hunting or fishing licenses. I do not have any intention to interfere in any way with the hunting or fishing of the many sportsmen of our Nation, except in the case of animals facing extinction.

Section 10 is a separability clause.

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

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 249) to implement the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (56 Stat. 1354); amend Public Law 89–669 (October 15, 1966); and for other purposes, introduced by Mr. CRANSTON, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 249

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

SEC. 2. Congress finds that—

(1) the animals of our Nation represent an invaluable natural resource; that in the past inadequate protection and changing conditions have resulted in the extinction of many species with ecological, historical, educational, scientific, and recreational values; and that we canont afford to allow the disappearance of these assets;

(2) there is an overriding need to preserve representatives of all animal species in their natural habitat in sufficient numbers and over extensive enough areas to protect animals from extinction; and

(3) pursuant to our treaty obligations under article VIII and other provisions of the Convention on Nature Protection and Wildlife Preservation, it is the responsibility of Congress to protect animal species and subspecies threatened with extinction.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) the term "fish" means any finfish or any part, products, egg, or offspring thereof, or the dead body or parts thereof whether or not included in a manufactured product;

(b) the term "wildlife" means any wild mammal, wild bird, amphibian, reptile, mollusk, or crustacean, or any part, product, egg, or offspring thereof, or the dead body or parts thereof whether or not included in a manufactured product;

(c) the term "Convention" means the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (56 Stat. 1354);

(d) the term "annex" refers to that portion of the annex to the Convention which contains the list of species submitted by the United States of America; and

(e) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

PROHIBITED ACTS

SEC. 4. (a) Except as provided in section 5 of this Act, no person within any State, or within any place subject to the jurisdiction of the United States, shall hunt, capture, kill, take, transport, sell, or purchase any fish or wildlife the species or subspecies of which is listed in the annex to the Convention.

(b) No person or State (or political subdivision thereof) shall pay or offer to pay any form of bounty for any fish or wildlife the species or subspecies of which is listed in the annex to the Convention.

EXEMPTIONS

SEC. 5. (a) If the Secretary of the Interior determines that it will not endanger the preservation or health of the species or subspecies protected by this Act, he may grant an exemption to any person from the prohibitions of section 4(a) of this Act. Such exemptions shall only be granted in order to further scientific purposes; provide for the display of fish or wildlife in public zoos; administer the area in which the fish or wildlife are found; provide for the propagation in captivity of a species or subspecies with the intention of later release of the fish or wildlife in their natural habitat; or transplant the fish or wildlife to a new natural habitat.

(b) Section 4(a) of this Act shall not apply to the following fish or wildlife:

(1) the Tule White-fronted Goose (anser albifrons gambelli);

(2) American alligators (alligator mississippiensis) found on private property and transported, without harm to the animal, to its natural habitat for release in the wild;

(3) fish or wildlife in captivity on the effective date of this Act;

(4) fish or wildlife raised and kept entirely in captivity;

(5) fish or wildlife released as game animals after having been raised in captivity specifically for that purpose;

(6) fish or wildlife taken for the religious purposes of Indian tribes; and

(7) individual fish or wildlife which are infected with the plague, rabies, tularemia, or other dangerous disease.

LISTING OF ANIMALS IN THE ANNEX

SEC. 6. When appropriate the Secretary of State shall transmit to the Pan American Union the list of species of fish and wildlife to be included as part of the annex. This list shall include, but not be limited to, all species of fish and wildlife found by the Secretary of the Interior, pursuant to the provisions and standards of Public Law 89–669 (Oct. 15, 1966), to be rare or endangered.

ARREST, ENFORCEMENT, SEARCHES, AND SEIZURES

SEC. 7. Any employee of the Department of the Interior authorized by the Secretary of the Interior; any Coast Guard officer; and any United States marshal or deputy marshal; any customs officer; and any civil officer having authority to apprehend offenders under the laws of a State; and any other person authorized to enforce this Act shall have the power to: (1) arrest without warrant or other process any person committing in his view or presence a violation of this Act; (2) take any person arrested for violation of this Act for examination or trial before any officer or court of competent juris-

diction; and (3) with a search warrant search any place where he may have reason to believe that a violation of this Act has been committed.

PENALTY

SEC. 8. Any person that violates any provision of section 4(a) of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall pay all costs of the proceedings and be fined not more than $5,000 or imprisoned not more than six months, or both.

STATE LAWS AND REGULATIONS

SEC. 9. (a) Except to the extent otherwise specifically provided in the Convention or this Act, nothing in this Act shall be construed so as to (1) abridge the presently existing responsibility of any State for the protection, preservation, and scientific management of fish and wildlife; or (2) abridge or deprive any such State of its power and right to make and enforce laws and regulations for the protection, preservation, and scientific management of fish and wildlife.

(b) The Secretary of the Interior, in carrying out his duties under this Act, is authorized from time to time, to consult with the Governors of the several States and the Commissioner of the District of Columbia.

SEPARABILITY

SEC. 10. If any provisions of this Act or the application of such provisions to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provisions to other circumstances or persons shall not be affected thereby.

EXHIBIT 1

SPECIES AND WHERE FOUND

FISH

Endangered

Atlantic Sturgeon: Atlantic.
Lake Sturgeon: Great Lakes, Alabama, Missouri, Nebraska, Kansas.
Shortnose Sturgeon: New York.
Longjaw Cisco: Michigan.
Arctic Grayling: Montana, Utah, Wyoming, Washington, Colorado.
Atlantic Salmon: Maine.
Apache Trout: Arizona.
Gila Trout: New Mexico.
Greenback Cutthroat Trout: Colorado.
Lahontan Cutthroat Trout: Nevada, California.
Montana Westslope Cutthroat Trout: Montana.
Piute Cutthroat Trout: California.
Rio Grande Cutthroat Trout: New Mexico.
Colorado River Squawfish: Arizona.
Desert Dace: Nevada.
Humpback Chub: Arizona, Utah, Wyoming.
Little Colorado Spinedace: Arizona.
Cui-ui: Nevada.
Comanche Springs Pupfish: Texas.
Devil's Hole Pupfish: Nevada.
Owens Valley Pupfish: California.
Pahrump Killifish: Nevada.
Clear Creek Gambusia: Texas.
Gila Topminnow: Arizona.
Blue Pike: Lake Erie and Ontario.

Rare

Blackfish Cisco: Lake Michigan and Huron.
Deepwater Cisco: Unknown.
Blueback Trout: Maine.
Sunapee Trout: New Hampshire.
Olympic Mudminnow: Washington.
Moapa Dace: Nevada.
Big Bend Gambusia: Texas.
Ozark Cavefish: Missouri.
Suwannee Bass: Florida.
Maryland Darter: Maryland.
Niangua Darter: Missouri.
Sharphead Darter: Tennessee.
Spring Darter: Unknown.
Trispot Darter: Alabama.

Peripheral

Mexican Stoneroller: Texas, Arizona.
Sonora Chub: Arizona.
Chihuahua Shiner: Texas.
Rio Grande Darter: Texas.

AMPHIBIANS

Endangered

Texas Blind Salamander: Texas.
Black Toad: California.

Rare

Pine Barrens Tree Frog: New Jersey, North Carolina, Georgia.

REPTILES

Endangered

American Alligator: North Carolina, Texas, Mississippi, Arkansas, Oklahoma.

Rare

Bog Turtle: North Carolina.

Peripheral

American Crocodile: Florida.
Green Turtle: U.S. coasts.

BIRDS

Endangered

Florida Great White Heron: Florida.
Aleutian Canada Goose: Alaska.
Laysan Hawaiian Duck; Hawaii.
Main Islands Hawaiian Duck: Hawaii.
Mexican Duck: Arizona, New Mexico, Texas.
Nene (Hawaiian Goose): Hawaii.
California Condor: California.
Florida Everglade Kite: Florida.
Hawaiian Hawk: Hawaii.
Attwater's Greater Prairie: Texas.
Masked Bobwhite: Mexico.
Whooping Crane: Texas.
Hawaiian Common Gallinule: Hawaii.
Yuma Clapper Rail: Arizona.
Eskimo Curlew: Alaska.
Puerto Rican Parrot: Puerto Rico.
American Ivory-Billed Woodpecker: Texas, Louisiana, Florida, Georgia, South Carolina.
Hawaiian Crow (Alala): Hawaii.
Puaiohi (Small Kauai Thrush): Hawaii.
Nihoa Millerbird: Hawaii.
Kauai OO (OOAA): Hawaii.
Akialapolanu: Hawaii.
Crested Honey-Creeper (Akohekohe): Hawaii.
Kauai Akialoa: Hawaii.
Laysan Finch-Bill: Hawaii.
Maui Parrotbill: Hawaii.
Nihoa Finch-Bill: Hawaii.
OU: Hawaii.
Palila: Hawaii.
Bachman's Warbler: Virginia, South Carolina.
Kirtland's Warbler: Michigan.
Cape Sable Sparrow: Florida.
Dusky Seaside Sparrow: Florida.

Rare

Hawaiian Dark-Rumped Petrel: Hawaii.
Newell's Manx Shearwater: Hawaii.
Hawaiian Harcour's Petrel: Hawaii.
Trumpeter Swan: Alaska.
Tule White-Fronted Goose: Alaska.
Northern Short-Tailed Hawk: Florida.
Southern Bald Eagle: Atlantic and gulf coasts.
American Peregrine Falcon: Alaska, Washington, Oregon, California, Arizona, Texas, Colorado.
Lesser Prairie Chicken: Kansas, Colorado, New Mexico, Texas, Oklahoma.
Northern Greater Prairie Chicken: central U.S.
Florida Sandhill Crane: Florida.
Hawaiian Stilt: Hawaii.
Puerto Rican Whip-Poor Will: Puerto Rico.
Black-Capped Vireo: Mexico.
Golden-Cheeked Warbler: Texas.
Ipswich Sparrow: Atlantic coast.

Peripheral

Green-Throated Arctic Loon: Alaska.
Least Grebe: Texas.
Red-Faced Cormorant: Alaska.
Roseate Spoonbill: Texas Louisiana, Florida.
Northern Black-Bellied Tree Duck: Arizona, Texas.
Masked Duck: Texas, Puerto Rico.
Zone-Tailed Hawk: Arizona, New Mexico, Texas.
Gray Hawk: Arizona, New Mexico, Texas.
Northern Black Hawk: Arizona, New Mexico, Texas.
Northern Aplomado Falcon: Arizona, New Mexico, Texas.
Northern Chachalaca: Texas.
Richardson's Blue Grouse: Idaho, Montana.
Mearn's Harlequin Quail: Mexico.
Northern Jacana: Texas.
Rufous-Necked Sandpiper: Alaska.
Atlantic Sooty Tern: Texas, Louisiana, Florida.
Atlantic Noddy Tern: Florida.
Xantus' Murrelet: California.
Whiskered Auklet: Alaska.
Northern Red-Billed Pigeon: Texas.
Northern White-Fronted Dove: Texas.
Florida Mangrove Cuckoo: Florida.
Northern Groove-Billed Ani: Texas.
Northern Whiskered Owl: Mexico.
Northern Ferruginous Owl: Arizona, Texas.
Merrill's Pauraque: Mexico.
West Indian Nighthawk: Florida, Puerto Rico.
Blue-Throated Hummingbird: Arizona, Texas.
Northern Rivolis Hummingbird: Mexico.
Bun-Belled Hummingbird: Texas.
Northern Violet-Crowned Hummingbird: Arizona.
Broad-Billed Hummingbird: Mexico.
Coppery-Tailed Elegant Trogon: Arizona, New Mexico.
Northeastern Elegant Trogon: Texas.
Northeastern Green Kingfisher: Texas.
Northwestern Green Kingfisher: Texas.
Northern Arizona Woodpecker: Arizona.
Northwestern Rose-Throated Becard: Arizona.
Northeastern Rose-Throated Becard: Texas.
Northeastern Tropical Kingbird: Texas.
Northwestern Tropical Kingbird: Arizona.
Northern Thick-Billed Kingbird: Arizona.
Northern Kiskadee Flycatcher: Mexico.
Northern Sulphur-Bellied Flycaster: Mexico.
Northern Olivaceous Flycatcher: Mexico.
Northern Buff-Bellied Flycatcher: Arizona.
Northern Beardless Flycatcher: Texas.
Northwestern Cave Swallow: New Mexico, Texas.
Couch's Mexican Jay: Texas.
Northern Green Jay: Texas.
Cascade Boreal Chickadee: Washington
Sennett's Long-Billed Thrasher: Mexico.
Azure Eastern Bluebird: Arizona.

Peripheral

Red-Spotted Bluethroat: Alaska.
Cuban Black-Whiskered Vireo: Florida.
Cuban Yellow Warbler: Florida.
Northern Olive-Backed Warbler: Texas.
Arizonas Olive Warbler: Arizona.
Alta Mira Lichtenstein's Oriole: Texas.
Audubon's Black-Headed Oriole: Texas.
Southeastern Pine Grosbeak: New England.
Dickey's Varied Bunting: Arizona.
Northern White-Collared Seadeater: Texas.
Northern Olive Sparrow: Texas.
Northern Rufous-Winged Sparrow: Arizona.
Northwestern Botteri's Sparrow: Arizona.
Northeastern Botteri's Sparrow: Texas.

MAMMALS

Endangered

Delmarva Peninsula Fox Squirrel: Maryland.
Atlantic Right Whale: Atlantic.
Bowhead Whale: Atlantic.
Pacific Right Whale: Pacific.
Nevada Kit Fox: Nevada.
Red Wolf: Texas.

Timber Wolf: Michigan, Minnesota, New York.
Grizzly Bear: Wyoming Montana, Idaho.
Black-Footed Ferret: North and South Dakota, Montana, Texas, New Mexico.
Florida Panther: Florida.
Guadalupe Fur Seal: California.
Caribbean Monk Sea: Florida.
Florida Manatee or Sea Cow: Florida.
Columbia White Tailed Deer: Oregon.
White-Tailed Deer: Oregon.
Key Deer: Florida.
Sonoran Pronghorn Antelope: Arizona.

Rare

Spotted at: Montana, Idaho.
Kaibab Squirrel: Arizona.
Utah Prairie Dog: Utah.
Beach Meadow Vole: Massachusetts.
Block Island Meadow Vole: Rhode Island.
Gray Whale: Pacific.
Blue Whale: Atlantic and Pacific.
Glacier Bear: Alaska.
Southern Sea Otter: Pacific coast.
Hawaiian Monk Seal: Hawaii.
Ribbon Seal: Alaska.
Tule or Dwarf Elk: California.

Peripheral

Coati: Arizona, New Mexico, Texas.
Jaguar: Texas.
Jaguarundi: Texas.
Ocelot: Texas.
Margay: Texas.
Woodland Caribou: Northern Great Lakes states.
Mountain Caribou; Pacific Northwest U.S.
Musk Ox: Alaska.
Steller's Sea Cow: Mexico.

EXHIBIT 2

SPECIES LISTED IN "RARE AND ENDANGERED FISH AND WILDLIFE OF THE UNITED STATES" BUT NOT LISTED IN THE ANNEX TO THE CONVENTION ON NATURE PROTECTION AND WILDLIFE PRESERVATION IN THE WESTERN HEMISPHERE

AMPHIBIANS AND REPTILES

Endangered

Blunt-Nosed Leopard Lizard: California.
San Francisco Garter Snake: California.
Puerto Rican Boa: Puerto Rico.
Santa Cruz Long-Toed Salamander: California.
Limestone Salamander: California.

Peripheral

Houston Toad: Texas.
Vegas Valley Leopard Frog: Nevada.
St. Croix Ground Lizard: Minnesota.

BIRDS

Endangered

California Least Tern: California.
Light-Footed Clapper Rail: California.
Hawaiian Coot: Hawaii.
Puerto Rican Plain Pigeon: Puerto Rico.
Northern Red-Cockaded Woodpecker: Missouri, Kentucky, Virginia, Florida.
Southern Red-Cockaded Woodpecker: Florida.
Large Kauau Thrush (Kuaui Omao): Hawaii.
Molakai Creeper (Kakawahie): Hawaii.
Maui Nukupuu: Hawaii.

Rare

California Black Rail: California.
Short-Tailed Hawk: Florida.
Prarie Falcon: California, Texas.
Greater Sandhill Crane: California, Nevada, Utah Wyoming, Minnesota, Wisconsin, Michigan.

Peripheral

Eastern Reddish Egret: Texas, Florida.
Wood Ibis: Texas, Florida.
Sennetts White-Tailed Ptarmigan: Montana.
Gould's Turkey: New Mexico.
Eastern Blue-Throated Hummingbird: Texas.
Western Blue-Throated Hummingbird, Arizona, New Mexico.
Colima Warbler: Texas.
Arizona Grasshopper Sparrow: Arizona.

MAMMALS

Endangered

Indiana Bat: Mid-West and Eastern U.S.
Humpback Whale: Pacific and Atlantic.
San Joaquin Kit Fox: California.
Columbian White-Tailed Deer: Washington, Oregon.

Rare

California Bighorn: Oregon, Nevada, California.
Peninsular Bighorn: California.

EXHIBIT 3

EXTINCT WILDLIFE—SPECIES, WHERE FOUND, AND DATE EXTINCT

MAMMALS

Gull Island Vole: New York, 1898.
Amargosa Meadow Vole: California, 1917.
Plains Wolf: Great Plains, 1926.
Sea Mink: New England coast, 1890.
Eastern Cougar: Eastern U.S., 1899.
Steller's Sea Cow: North Pacific, 1768.
Eastern Elk: U.S. east of Great Plains, 1880.
Merriam Elk: Arizona, 1900.
Badlands Bighorn: North and South Dakota, 1910.

BIRDS

Labrador Duck: Northeastern U.S., 1875.
Heath Hen: Eastern U.S., 1932.
Laysan Rail: Hawaii, 1926.
Sandwich Rail (Moho): Hawaii, 1893.
Great Auk: North Atlantic, 1844.
Passenger Pigeon: U.S., 1914.
Culebra Puerto Rican Parrot: Puerto Rico, 1899.
Mauge's Parakeet: Puerto Rico, 1892.
Carolina Parakeet: Southeastern U.S., 1920.
Louisiana Parakeet: South central U.S., 1912.
Oahu Thrush: Hawaii, 1825.
Lanai Thrush: Hawaii, 1931.
Molokai Thrush: Hawaii, 1936.
Laysan Millerbird: Hawaii, 1904–1923.
Kioea: Hawaii, 1859.
Oahu Oo: Hawaii, 1937.
Molokai Oo: Hawaii, 1915.
Hawaii Oo: Hawaii, 1934.
Laysan Apapane: Hawaii, 1923.
Hawaii Mamo: Hawaii, 1898.
Perkin's Mamo or Black Mamo: Hawaii, 1907.
Oahu Akialoa: Hawaii, 1837.
Lanai Akialoa: Hawaii, 1894.
Hawaii Akialoa: Hawaii, 1895.
Oahu Nukupuu: Hawaii, 1860.
Oahu Akepa: Hawaii, 1895.
Greater Amakihi: Hawaii, 1900.
Ula-ai-hawane: Hawaii, 1892.
Greater Koafinch: Hawaii, 1896.
Lesser of Yellow-Headed Koafinch: Hawaii, 1891.
Grosbeakfinch or Konafinch: Hawaii, 1894.

FISH

San Gorgonio Trout: California, 1935.
Pahranagat Spinedace: Nevada, 1938–1959.
Big Spring Spinedace: Nevada, 1938–1959.
Harelip Sucker: Mississippi, Ohio, Georgia, Arkansas, 1900.
Leon Springs Pupfish: Texas, 1938.
Ash Meadows Killifish: Nevada, 1942.

S. 289—INTRODUCTION OF A BILL TO AUTHORIZE AIR CARRIERS TO ENGAGE IN BULK AIR TRANSPORTATION OF PERSONS AND PROPERTY

Mr. MOSS. Mr. President, for myself and Mr. TUNNEY, I introduce, at the request of the National Air Carrier Association, a trade group representing the U.S. supplemental air carriers, a bill to amend the Federal Aviation Act of 1958 to authorize these carriers to engage in bulk air transportation.

Mr. President, this bill is a result of the continuing controversy between the U.S. scheduled air carriers and the supplemental air carriers over charter authority as provided for in the Federal Aviation Act and in the economic regulations of the Civil Aeronautics Board. This legislation proposed by the supplemental air carriers would greatly broaden their authority to engage in charter operations and thus would basically alter the regulatory framework under which the supplemental carriers have been operating.

While I am not an advocate of the provisions of this bill at this time, I introduce it at the request of these carriers in order that their legislative program formally be before the Committee on Commerce when its Aviation Subcommittee begins oversight hearings on the U.S. air transportation industry beginning next week. I feel it important that this proposed legislation be thoroughly discussed and analyzed by the various witnesses, both carriers and Government, who will appear before the committee to discuss current problems and financial difficulties being experienced by the carriers. It will be very helpful I believe for the members of the Aviation Subcommittee to have an actual bill before them giving all interested parties an opportunity to comment upon very specific language.

Mr. President, as I am sure we are all aware, the issue of charter authority is a highly controversial one and this legislation will certainly encounter vocal and heated debate. However, with most of the Nation's air transportation companies facing serious financial difficulty, it is important that the members of the Commerce Committee consider any and all alternatives advanced by any party which might seek to restore financial health to the industry. Personally, I reserve judgment on the merits of this legislation until it has been thoroughly and carefully considered by the committee and until I have been able to analyze carefully the impact such legislation might have on the entire air transportation industry.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 289), to amend the Federal Aviation Act of 1958, as amended, to authorize air carriers to engage in bulk air transportation of persons and property, introduced by Mr. Moss (for himself and Mr. TUNNEY), was received, read twice by its title, and referred to the Committee on Commerce.

S. 292—INTRODUCTION OF A BILL DESIGNATING THE SENATE OFFICE BUILDING AND THE ADDITIONAL SENATE OFFICE BUILDING AS THE "EVERETT McKINLEY DIRKSEN BUILDING" AND THE "RICHARD BREVARD RUSSELL BUILDING," RESPECTIVELY

Mr. BELLMON. Mr. President, the Senate of the United States and the citi-

zens of this country will long remember the memory of Senator Richard B. Russell. Although I only served with Senator Russell for a brief period during his 37 years in the Senate, his dedication to this body, to the people of his native State of Georgia, and to principles that have made our country great were well known to every Member of this body.

As a memorial to this great American, I feel that a fitting tribute to recognize his devotion and dedication to the Senate would be to name in his honor one of the office buildings used by Senator Russell and his colleagues. As was proposed during the 91st Congress, I further propose to name the other office building in honor of our former distinguished minority leader, Everett McKinley Dirksen.

It seems strange to me that the office buildings used by the Members of this body are referred to as "new" and "old" rather than being named in honor of Members who have rendered a great service to this body and to the country. I can think of no greater tribute to men who have spent their lives serving this Senate and their country than being honored by their colleagues in that manner. I therefore introduce today a bill which would designate the building now referred to as the "New Senate Office Building" as the "Richard Brevard Russell Building" and the building referred to as the "Old Senate Office Building" as the "Everett McKinley Dirksen Building."

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 292), to redesignate the Senate Office Building and the additional Senate Office Building as the "Everett McKinley Dirksen Building" and the "Richard Brevard Russell Building," respectively, was received, read twice by its title, and referred to the Committee on Public Works.

S. 293—INTRODUCTION OF A BILL RELATING TO STREET LIGHTING FACILITIES

Mr. KENNEDY. Mr. President, in recent years, Congress has devoted much time to the control and prevention of crime. As a member of the Senate Judiciary Committee, I have been closely involved in these deliberations, and in the drafting and passage of legislation designed to retard both the rising rate and growing pervasiveness of crime in the United States.

But despite all our legislation and expenditures, the overall crime rate for the United States rose in 1970 by 10 percent. A major explanation of this staggering statistic lies in the general ineffectiveness of our anticrime legislation. We must do all that we can to review the effectiveness of our national effort. It is essential that in addition to the passage of broad-based, long-range programs, we explore the usefulness of laws and programs which attack particular facets of the overall problem.

One of the most successful programs which the Federal Government can encourage is improved street lighting. My proposal, previously introduced in prior Congresses, would authorize the Department of Housing and Urban Development, under title VII of the Housing and Urban Development Act of 1965, to make grants to communities and urban areas for up to two-thirds of the cost of street-lighting facilities.

Although there is some minor disagreement about the degree of effectiveness of such a measure, there is a broad consensus that it would bring a reduction in the crime rate. In 1969, the National League of Cities completed a survey revealing that with better lighting, crime was reduced in some areas of Indianapolis by 85 percent, and in Detroit by 55 percent. In New York city, when an area of 111 blocks was relighted, the incidence of murder, assault and rape dropped 49 percent.

A recent survey in the Wall Street Journal concurred with these findings. In Gary, Ind., crime fell 70 percent in better lighted areas. In Wilmington, Del., officials attribute a 7-percent decrease in violent crimes in the first 10 months of 1970 to "Operation Golden Light."

These statistics are impressive, but too often communities are unwilling to utilize such programs without Federal assistance. We all know the deplorable economic condition of local government. I do not feel that the Federal Government should assume the total cost of such a measure, but Federal funds should be available to stimulate local communities to devote their own resources to such programs.

The bill I introduced today calls for a Federal expenditure of $7.5 million a year to share the cost of installing better street lighting in high crime areas.

We are all aware of the very limited resources of our city and community governments. But it is my belief that such projects, when completed, will reduce the crime rate for particular areas, and will serve as an example to the community of the need to invest local funds in additional projects.

Mr. President, I ask unanimous consent for the Wall Street Journal article to be printed in the RECORD at this point.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the article will be printed in the RECORD.

The bill (S. 293), to amend title VII of the Housing and Urban Development Act of 1965 to authorize financial assistance for the development and improvement of street lighting facilities, was received, read twice by its title, and referred to the Committee on Banking, Housing, and Urban Affairs.

The article furnished by Mr. KENNEDY follows:

[From the Wall Street Journal, Jan. 6, 1971]

LET THERE BE LIGHT: THEN CRIME WILL FALL—IF IT DOESN'T GO UP—MORE CITIES FIND BRIGHT LIGHTS CAN MAKE CRIME DISAPPEAR—OR AT LEAST CHANGE LOCATION

(By Raymond A. Joseph)

It's a new year, urban living fans, and here's a cheery little jingle to get you off to a good start. Altogether now, to the tune of "Three Blind Mice":

"Light the night
See robbers run
They won't be mauling your neighbor's wife
Or stabbing your friends with a butcher knife
Or robbing a bank or taking a life
Light the night"

Who would sing a dumb song like that?"

The answer is: A whole choir of optimistic Tampa, Fla., residents. They got together to warble the ditty at 8:45 p.m. one day last May—just at the moment at which switches were thrown to light up the neighborhood around city hall with high-intensity mercury vapor streetlights. That ceremony was the latest wrinkle in a lighting campaign that began in 1967. That's when Tampa lit up three troubleprone sections of the city after a nasty riot. The point: Bathe the streets and sidewalks with lights and criminals will disappear.

IT'S ALL IN YOUR MIND

And how is it working? Umm. Crime in the three areas, says Police Captain Walter Pask, is, well, as rampant as ever. But, he is quick to add, the lighting campaign is no failure. Tampa folk may not be any safer these days, but "we sure feel safe" walking around all lit up, says Capt. Pask gamely.

Actually, it's not quite as bad as it sounds. Cities and towns across the country are turning to powerful street lights to discourage crime. And, with the exception of Tampa and one or two other places, it really seems to work.

In Owensboro, Ky., Police Chief Vernie Bidwell says a three-year lighting program has proven a "potent weapon" against street crime. In 1969, "major offenses" in Owensboro, totaled 1,413, a 28% decrease from the 1,966 such offenses reported in 1967, the year before the lighting program began. As more and more lights are installed, more and more crime isn't committed. For the first half of 1970, there were 38% fewer major offenses reported in Owensboro than in the first six months of 1969.

In Wilmington, Del., officials attribute a 7% decrease in violent crime in the first 10 months of last year to "Operation Golden Light"—the replacement of 175-watt mercury vapor lights with glaring 250-watt sodium vapor lights. In Gary, Ind., city officials say "criminal assault incidents" fell a dramatic 70% in areas in which 5,000 extra-bright streetlights were installed.

Businessmen are especially interested in lighting up the downtowns of their cities. Once Main Street is all aglow and crime-free, they figure, shoppers will flock back to the city center. In Wilmington, Carl Cobin, president of a businessmen's association and owner of a downtown shoe store, says business has picked up on shopping nights. "We've created a different atmosphere with the lights, one of security," he says. In Tampa, a group of real estate agents and other businessmen is the driving force in the lighting campaign.

A PR BLITZ

Lighting companies have been quick to capitalize on the wattage battle against crime. General Electric is organizing conferences for city officials to tout the magic of lights and, when a city does decide to light up with GE, the company descends on area newspapers and radio and TV stations with a PR blitz. Sylvania, a unit of General Telephone & Electronics, has launched a nationwide ad campaign to convince the public and city officials that high-intensity lighting can cut crime.

Manufacturers have been just as fast to come up with ever more powerful lights—so fast, some cities complain, that it's impossible to keep up. Newark, N.J., for example, began a relighting program in 1954 with incandescent bulbs. Then in 1957, lighting companies introduced fluorescent street-

lights. Two years later, fluorescent lighting was abandoned for brighter mercury vapor lights. And now sodium vapor fixtures, brighter yet, are being introduced as the best lights ever. Newark has been left far behind—more than half of its 15,000 streetlights are those incandescent lamps that were the going rage in 1954. (Over the same period, violent crimes in Newark more than doubled, to the current rate of nearly 100 per day.)

Despite lighting's proven effectiveness in driving away criminals, in many a city lighting projects have been undertaken only after a riot or some horrendous crime. The Washington, D.C. Department of Highways and Traffic installed bright lights around Robert F. Kennedy Stadium, as well as along adjoining streets, in 1969—after repeated attacks on spectators leaving night games created a public outcry. The murder of a coed at Washington's Catholic University in December 1969 resulted in a lighting program 48 hours after the act.

Elsewhere, city officials anxious to light up the streets have been thwarted by budget cuts. New York's Bureau of Gas and Electricity requested $10 million for street lighting for the fiscal year beginning next July. The Bureau of Budget sliced that to $8 million and the City Planning Commission cut it to $4 million, thereby insuring that the city's lighting program, which began in 1965 and is far behind schedule, will fall further behind.

In smaller cities, however, lighting the streets is relatively cheap, which may account for part of its popularity with voters. Owensboro, with a population of 50,000, completed its three-year lighting program at a cost of $413,500. Wilmington lit up for a mere $340,000.

High-intensity lighting is not without its opponents, however. In St. Louis, a $15 million bond issue for high-intensity lighting of poorly lit streets, parks and alleys was approved by a whopping 78.5% of the voters last March—but only after some vigorous opposition by low-income families in ghetto areas who said their neighborhoods had been neglected in previous lighting projects and accused the city of lighting up only white, middle-class areas.

Some Chicagoans are starting to wonder about the effectiveness of that city's much-ballyhooed $20 million lighting program of a few years ago. Plagued by a rash of alley crimes, the city used $13 million of the total to line some 2,300 miles of alleys with 51,000 mercury vapor lights. A police department survey indicated that after-dark alley crimes fell a dramatic 30% as a result of the lights. Trouble is, crime on main streets and other areas rose 33%. The lights, it seems clear, were stunningly successful in chasing criminals out of the alleys of Chicago—and onto the streets of Chicago.

But perhaps no one is more skeptical of lighting up the night than Jack E. Morris, a Russellville, Ala., geologist. Mr. Morris recalls that when Russellville installed mercury vapor lights along its main drag a few years back the street lit up "like Broadway." That night, Mr. Morris went to bed, secure in the knowledge that his home and his pickup truck parked outside were bathed in bright light. The next morning Mr. Morris got up, went outside—and discovered his pickup truck had been ransacked of numerous tools and instruments and even of its spare tire.

For years, Mr. Morris says, he parked that truck out there in front of his house, and no one ever took a thing. "Before the lights were installed," he muses, "I guess no one knew I had anything worth stealing."

S. 294—INTRODUCTION OF ELECTRIC POWER RELIABILITY ACT OF 1971

Mr. KENNEDY. Mr. President, I introduce a bill to improve the reliability of our electric power systems, and to eliminate the large-scale power blackouts which have plagued the American public with increasing frequency over the last several years. In addition, one of the major purposes of the bill is to develop safeguards to assure that construction of large new generating and transmission facilities will not violate this Nation's irreplaceable environment scenic and historic assets.

It has been 5 years since the massive Northeast blackout of November, 1965, which left over 30 million people without electricity for up to 12 hours and more. It has been 3 years since the blackout in the Middle Atlantic States, which left 13 million people without power and convinced Americans that blackouts are definitely not freak occurrences.

Unreliable electric service has been further dramatized in scores of additional major power failures. Federal Power Commission figures indicate that blackouts are occurring with increasing frequency. Indeed, as the Commission has said, the growing complexity of equipment and the increasing use of electric power make blackouts more likely all the time.

These failures are not isolated or rare events. They are, rather, a common fact of modern-day life. They are common, not because they are unavoidable, but because the utility industry views itself as a composite of individuals and local units, a view contrary to reality and to commonsense.

Blackouts can be prevented but only by coordinated, regional planning by all segments and systems in the electric power industry.

At the same time, the rapid growth in electric power facilities, and the fact that larger and larger units are dictated by economies of scale, constitute an increasing threat to the environment. The harmful effect which extra-high voltage electric power facilities can have on our Nation's environmental, scenic and historic assets is enormous.

At the present time, electric utilities are a steady polluter of air and water. Transmission lines mar the countryside from the Pacific to the Atlantic. Often utility plants destroy scenic or historic areas.

Studies of air pollution bear out the fact that utility companies pour tons of dirt and noxious and dangerous contaminants into the air we breath every day. Indeed, powerplants are the third largest source of air pollution. In addition, generating facilities affect other environmental assets, including land, recreation, scenic and historic values.

The legislation I am proposing would establish regional councils of utilities in an area, in order to strengthen coordination and insure that all electric systems in a region—large or small, private or public—work together in their planning efforts.

Each regional council would be required to file with the FPC a comprehensive development plan, which could be modified or changed at a later time. The FPC could accept or reject the plan and the proposed changes, depending on whether they are consistent with reliability standards and environmental protection. In all of its licensing and other decisions, the FPC would have to consider the consistency of a proposal with the appropriate regional coordination plan or plans.

As a nation, we face increasingly serious problems of electric power, and I urge the new Congress to give these problems our direct consideration.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 294) to amend the Federal Power Act to further promote the reliability, abundance, economy and efficiency of bulk electric power supplies through regional and interregional coordination; to encourage the installation and use of improved extra-high-voltage facilities; to preserve the environment and conserve natural resources; to establish the National Council on the Environment; and for other purposes; introduced by Mr. KENNEDY, was received, read twice by its title, and refered to the Committee on Commerce.

S. 295—INTRODUCTION OF NATIONAL TRANSPORTATION TRUST FUND BILL

Mr. KENNEDY. Mr. President, I introduce today a bill to establish a single National Transportation Fund for comprehensive planning and implementation of transportation programs in the United States. Under this bill, the trust funds which presently exist for highways, airports, airways, and other specific categories would be terminated and absorbed into the more comprehensive trust fund proposed in the bill.

Transportation in the United States today is in a state of serious disarray. Contemporary transportation policy is characterized by an almost total lack of coordination among the different modes of transportation. Comprehensive planning and efficient use of limited resources are almost completely absent.

The crux of the problem lies in the fact that programs have developed separately over the years for the various modes of transportation. Because the Federal Government has adhered to a rigid policy of categorical programs, States and local communities and the various regions of the Nation have not had the option of spending available funds on the particular modes that would most usefully meet the needs of the area. Consequently, for example, Federal spending on highways is disproportionately high, while it is tragically low on mass transit.

As a result of the migration of large numbers of Americans in the last several decades, there is an urgent need for mass transit. But our national transportation programs are still geared to interregional transportation. So, while to a great extent our categorical grant programs have succeeded in transporting people from one metropolitan or regional area to another, we have failed to develop successful programs to transport our citizens within metropolitan or regional areas.

We must also realize that the regions, States, and local communities of the Nation can do a better job than the Federal Government in evaluating their specific

needs and goals. Thus, the essential purpose of establishing a national transportation trust fund is allocate to the regional, State, and local governments greater power and flexibility in fulfilling these needs and goals.

The National Transportation Trust Fund would consolidate the existing highway and airport and airway trust funds on July 1, 1972. The provisions of the bill call for allotments to the States on the basis of population, since population pressures, rather than vast distances, are the source of our most acute transportation problems.

Other important provisions of the bill center on the encouragement given to regions, States, and metropolitan areas, with populations of at least 50,000 persons, to prepare and maintain comprehensive transportation plans. For example, Federal grants will be given only to States with such comprehensive plans. The Governor of a State would be able to reject the comprehensive plan prepared by a metropolitan area, but prospective loss of Federal funds would encourage agreement among the various groups. In addition, a substantial part of a State's own allotment would have to be allocated to metropolitan areas within the State.

The bill also stresses the notion that two or more States might get together to plan and carry out their transportation programs on a regional basis. This extremely important approach can avoid further duplication and inefficiency in the existing system.

Mr. President, this bill seeks to make a new beginning in establishing a coherent national transportation policy for the Nation, and I hope that the 92d Congress will give this crucial issue a high priority.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 295) to establish a National Transportation Trust Fund, and for other purposes, introduced by Mr. KENNEDY, was received, read twice by its title, and referred to the Committee on Commerce.

S. 296—INTRODUCTION OF FISHERIES PRODUCTS PROTECTION ACT OF 1971

Mr. KENNEDY. Mr. President, I send to the desk for appropriate reference the "Fisheries Products Protection Act of 1971."

Over the past several months, we have seen the results of 30 years of dumping toxic chemicals into the coastal waters of the Nation. Headline accounts of the presence of mercury in certain canned fish have brought national attention to this problem. We know the tragic results of man's own vast disregard for the tenuous thread that links all human life on this planet. For years, we have used the offshore waters as a garbage heap for the chemicals we thought too dangerous to bury on land. Now we are forced to deal with the consequences of our own thoughtlessness.

Today I am reintroducing the Fisheries Products Protection Act of 1971 which is designed to protect consumers and to assist the commercial fishing industry. The bill will both provide for the inspection of fish processing plants and will amend the Fish and Wildlife Act of 1956 to provide technical financial assistance to the commercial fishing industry.

The Nation's fishing industry has undergone serious economic difficulties during the past several years with very little Government assistance to offset foreign government subsidies to other nation's fishing industry.

Part of the problem in the fishing industry has been the inability of processing plants to keep up with changing technology at a time when their own profits were small and heavy capital investment faced the reality of a declining economy. These economic difficulties also occurred during the same period when we have begun to demand—and rightfully so—that the food we buy is absolutely safe to eat.

The Fisheries Products Protection Act states unequivocally that unwholesome and adulterated fish or fishery products must not be permitted on the market shelves, and that the presence of such injurious products must be prevented by adequate detection and inspection procedures. The bill directs the Secretary of the Interior, through the Bureau of Commercial Fisheries, to survey the methods, practices, and sanitary conditions of fish processing plants and ships in the United States and to establish adequate standards to protect the consumer and the integrity of the fishing industry.

To assist processing plants in meeting sanitation and quality control standards, the bill provides a $35 million technical assistance loan fund for the commercial fishing industry.

Just as we must assure the highest sanitary practices in domestic processing, so we must insure that the rising percentage of fish imported after processing abroad matches the domestic quality. Too often we place restrictions on our own producers that we do not require of foreign imports. When it comes to matters as important as the safety of the food we eat, there can be no doubt that foreign products should face the same rigorous inspection process that our own products face.

This act would require all imported fish and fishery products to bear an official inspection mark, authorized by the Secretary of the Interior, after agreement has been reached with the foreign nation that enforceable sanitary standards and practices exist for fish processing, equal to those required domestically in the United States.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 296) to protect consumers and to assist the commercial fishing industry by providing for the inspection of establishments processing fish and fishery products in commerce, and to amend the Fish and Wildlife Act of 1956 to provide technical and financial assistance to the commercial fishing industry in meeting such requirements, introduced by Mr. KENNEDY, was received, read twice by its title, and referred to the Committee on Commerce.

S. 297—INTRODUCTION OF SOCIAL SECURITY ACT AMENDMENTS BILL

Mr. KENNEDY. Mr. President, I introduce for appropriate reference a bill to provide a $100 minimum in monthly social security benefits, and for other purposes.

The intention of the Social Security Act of 1935 was to establish a program of benefits to the elderly which would later be expanded and developed. The goal of the act was to provide a supplemental income to the aged at retirement. But in the years since its enactment, the premise of a supplemental income has become invalid. For most social security recipients, the only income they receive is in the form of these benefits. As a consequence, many of our elderly citizens are compelled to live in poverty. An adequate income based on social security benefits must be provided.

The first priority of the 92d Congress will be the enactment of social security legislation. This legislation narrowly missed passage in the closing days of the 91st Congress last December, and it will be the first order of business in the new Congress. It is my hope that the passage of this bill will serve as the "cornerstone" for a new structure, designed to guarantee a life free of poverty and indignity for all of America's elderly citzens.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 297) to amend the Social Security Act to provide a 15-per centum across-the-board increase in monthly benefits with a minimum primary insurance amount of $100, introduced by Mr. KENNEDY, was received, read twice by its title, and referred to the Committee on Finance.

S. 298—INTRODUCTION OF A BILL TO AMEND THE SUGAR ACT OF 1948 TO TERMINATE THE QUOTA FOR SOUTH AFRICA

Mr. KENNEDY. Mr. President, I introduce legislation to terminate the sugar quota for South Africa, and thereby end a special economic benefit conferred too long on the Republic of South Africa by the United States. The present racial policies of South Africa are repugnant to the principles and ideals of all Americans. They have been condemned by the overwhelming majority of the nations of the world, both in the United Nations and elsewhere. They violate the basic human rights provisions of the United Nations Charter, and they threaten to plunge the entire African continent into racial conflict. It is morally wrong for the United States to continue a program of special financial assistance of this sort, under which the Republic of South Africa has received millions of dollars in subsidies from the United States in recent years, I urge the Congress to terminate the sugar quota at the earliest opportunity.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 298) to amend the Sugar Act of 1948 to terminate the quota for South Africa, was received, read twice by its title, and referred to the Committee on Finance.

S. 299—INTRODUCTION OF A BILL TO STUDY THE FEASIBILITY OF CREATING THE BOSTON HARBOR RECREATION AREA

Mr. KENNEDY. Mr. President, growing emphasis on environmental protection and conservation has brought into focus the real and urgent need for recreational facilities for our crowded urban centers. The results of the leadership and dedication of Presidents Kennedy and Johnson in protecting our natural resources are already visible. Eighteen new recreations areas in 17 States have been added to the National Park Service in this decade, adding approximately 1 million acres designed specifically for recreational purposes.

With the hope of assuring continued national commitment to the provision of such recreational facilities, I am now introducing legislation to study the feasibility of establishing a recreation region serving one of the Nation's largest urban areas, Boston, Mass.

Boston Harbor, including Dorchester, Quincy, and Hingham Bays comprise 47 square miles of water, 180 miles of irregular tidal shoreline, and some 30 islands. Certainly, such natural assets should be available for the use and enjoyment of all the citizens of this region.

However, through uncontrolled technology and a lack of prudent planning, much of the shoreline is affected by severe water pollution, spotted with dilapidated structures, and unprotected from the forces of erosion. Virtually all of the islands today are inaccessible and underutilized.

Since the first settlements reached Boston, the harbor has been both economically and esthetically valuable. Its commercial advantages have contributed to the growing prosperity of the surrounding regions. In the earliest days, the cod and shellfish of its waters sustained the communities that grew along its shores. The beaches served as recreational areas for all of the city's dwellers. Today, Boston Harbor is an example of man's carelessness and arrogance toward his environment.

It is our responsibility to revitalize and restore and preserve this resource for all of New England. To accomplish this, we must bring together leaders from all levels of government—Federal, State, and local, together with continued support from the private sector.

Limited actions have been taken to help eradicate the problems we have created. Some towns and cities bordering the harbor have passed ordinances prohibiting disposal of refuse and garbage in its waters. Local development commissions have curtailed unplanned residential and commercial development of waterfront property. The State, through the Massachusetts Port Authority, the Metropolitan District Commission, and the Department of Natural Resources has focused attention on the need for restoring the harbor and has acted to restrict municipal and industrial pollution. The Federal Government has developed a sewage treatment facilities program, and has begun to eliminate drift and debris from the harbor. A federally supported dredging program also endeavors to maintain the natural depth of the harbor channels.

But, these are limited efforts at best and they are hopelessly fragmented. No fewer than 17 agencies hold responsibility for matters concerning the harbor. Thus, it is extremely difficult to pursue coordinated programs of pollution abatement, industrial and commercial revitalization, recreation, and harbor development.

However, the Congress and the Federal Government, through the Department of the Interior, have become increasingly involved in the preservation, development, and conservation of this Nation's previous natural resources. Surely, our coastal regions are one of our finest resources. And for both historical and physical reasons, the Boston harbor shore line deserves Federal protection and preservation.

I, therefore, introduce this bill to authorize the Secretary of the Interior to study, investigate and formulate recommendations on the feasibility of establishing a Boston harbor national recreation area, including that region from Winthrop to Hull. The Secretary shall coordinate his studies with authorities from the Commonwealth of Massachusetts, interested and related Federal agencies and shall include other planning activities involving the Boston Harbor area. The study shall be of 2 year's duration, at which time the Secretary shall report to the President.

Once restored, Boston Harbor, located centrally in the great Northeast megalopolis will serve many more than the 2 million in its immediate vicinity and as many as 50 million people who live within a day's drive.

It is my earnest hope that this bill will be favorably considered so that a foundation is laid for the reclamation of these natural resources. I also hope that the serious nature of our present loss will serve as a constant reminder that we cannot allow progress to continue unrestrained without protecting our environment; for, we are learning that to deplete our natural resources is to destroy our Nation's wealth and to deny our children their rightful heritage.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 299), to authorize the Secretary of the Interior to study the feasibility and desirability of a Boston Harbor National Recreation Area in the State of Massachusetts, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 300—INTRODUCTION OF A BILL TO ESTABLISH THE BIRTHPLACE OF SUSAN B. ANTHONY AS A NATIONAL SHRINE

Mr. KENNEDY, Mr. President, I introduce, for appropriate reference, a bill to establish the birthplace of Susan B. Anthony in Adams, Mass., as a national historic site.

Susan B. Anthony lived in a period of American history during which many wrongs were righted through the perseverance and dedication of dynamic leaders. As a woman aspiring to teach in the 19th century, she experienced bitter discrimination. As a result, she became a tireless worker for 50 years for equal rights for women, especially for the right to vote. Through her efforts, the National Woman Suffrage Association was organized in 1869. In 1892, she was elected president of the National American Woman Suffrage Association.

In 1872, her persistent efforts to gain the right to vote led to her arrest in Rochester, N.Y. Later, when the Supreme Court ruled that the 14th amendment did not give women the right to vote, Miss Anthony and her followers proposed an amendment to the Constitution giving women the franchise. Fourteen years after her death, the amendment was finally adopted as part of the Constitution.

Susan B. Anthony began a crusade which is unfinished even today. Her work and her leadership led to the accomplishment of great progress toward her goals. I hope that my colleagues will agree that her birthplace should be preserved as a part of the national park system, and I am pleased to introduce this bill to accomplish that goal.

The VICE PRESIDENT. The bill be received and appropriately referred.

The bill (S. 300) to establish the birthplace of Susan B. Anthony in Adams, Mass., as a national historic site, and for other purposes, introduced by Mr. KENNEDY was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

S. 301—INTRODUCTION OF A BILL TO ESTABLISH THE BUNKER HILL NATIONAL HISTORIC SITE

Mr. KENNEDY. Mr. President, I introduce a bill to establish the Bunker Hill National Historic Site.

The history of the Battle of Bunker Hill is well known. Two months after the commencement of the Revolutionary War, it became apparent that the British strategy was to occupy Boston Harbor and its environs. On June 17, 1775 a highly dedicated band of patriots resolved to drive the British from Boston. These 1,200 patriots entrenched themselves on Breeds Hill and Bunker Hill. In the morning, they withstood and repulsed two British attacks, suffering defeat only after the third attack.

In the aftermath of the battle, however, it was clear that the defeat was a moral victory for the patriots. They learned that they had the ability to repel the enemy and inflict substantial losses, while suffering few casualties among their own men.

The Revolutionary War gave birth to our Nation of freedom and liberty, and the memory of the courage of our early patroits is treasured in the hearts of all Americans. The sites involved in the battles of the American War of Independence are a significant part of the visual history of our Nation. It is fitting that they should be restored and preserved as part of our national heritage. I ask my colleagues to support this bill to make this historically significant site a part of our national park system.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 301) to authorize the Secretary of the Interior to establish the Bunker Hill National Historic Site in the city of Boston, Mass., and for other purposes, introduced by Mr. KENNEDY, was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

S. 302—INTRODUCTION OF A BILL TO AUTHORIZE THE ACQUISITION AND MAINTENANCE OF THE GODDARD ROCKET LAUNCHING SITE

Mr. KENNEDY. Mr. President, I introduce, for appropriate reference, a bill to authorize the acquisition of the Goddard Rocket Launching Site in Auburn, Mass., by the National Park Service. Dr. Goddard was the father of rocketry. His pioneering work led to his launching of the first liquid-propelled rocket on March 15, 1926. Born in Worcester, Mass., in 1882, he became a professor at Clark University. His scientific accomplishments have significance for the entire world, and enactment of this legislation will be a fitting tribute to his memory.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 302) to authorize the acquisition and maintenance of the Goddard Rocket Launching Site in accordance with the act of August 25, 1916, as amended and supplemented, and for other purposes, introduced by Mr. KENNEDY, was received, read twice by its title and referred to the Committee on Interior and Insular Affairs.

S. 303—INTRODUCTION OF A BILL TO INCORPORATE THE HISTORIC NAVAL SHIPS ASSOCIATION

Mr. KENNEDY. Mr. President, I introduce, for appropriate reference, a bill to incorporate the Historic Naval Ships Association. This association presently includes the following former U.S. Navy ships:

The U.S.S. *Olympia*.
The U.S.S. *Texas*.
The U.S.S. *Alabama*.
The U.S.S. *North Carolina*.
The U.S.S. *Massachusetts*.

Many thousands of our finest Navy and Marine officers and men served on these ships. The ships themselves, in their years of service, took part in a number of naval engagements of great historical significance. For these and other reasons, the five ships attract, collectively, some 1,250,000 visitors annually.

This bill would make the Historic Naval Ships Association a corporation chartered by the Federal Government. The bill is intended solely to facilitate the operation of the association and the presentation of the ships themselves, through increased public attention.

The bill authorizes no expenditure of Federal funds for the association, and I hope that it will receive early action in this Congress.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 303), to incorporate the Historic Naval Ships Association, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 304—INTRODUCTION OF A BILL TO PROVIDE FOR THE RESTORATION OF NORTH ANDOVER ABM SITE

Mr. KENNEDY. Mr. President, I introduce a bill to require the U.S. Government to provide the State of Massachusetts with sufficient funds to restore the North Andover anti-ballistic-missile site and to create a park in that location.

In February 1969, the U.S. Army abandoned its work on the site. As Members of the Senate are aware, North Andover was to have been part of the original Sentinel ABM system. When the North Andover project was terminated, however, the Army failed to restore the site to its previous condition. Instead, the Army left behind a road leading to nowhere, and a landscape scarred by huge craters.

As our cities and towns grow larger, no resource is more precious than open land—land which can be used for recreation and for renewed contact between man and nature.

Fortunately, the damage done at North Andover can be repaired, and I hope that Congress will give early consideration to this proposal.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 304), for the relief of the State of Massachusetts, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 305—INTRODUCTION OF THE NATIONAL DIGESTIVE DISEASES AND NUTRITION ACT

Mr. KENNEDY. Mr. President, I introduce for appropriate reference a bill to create a National Institute of Digestive Diseases and Nutrition in the National Institutes of Health.

The investigations and findings of the Special Committee on Nutrition and Human Needs have dramatically demonstrated the dependence of the human body upon proper food and nutrition and the important connection between nutrition and mental and physical growth. One of our most important windows into the normal function of nutrition in the body is the study of digestive diseases, which include disorders of the stomach, intestines, biliary passages, liver, and pancreas. We know the heavy toll taken by these diseases in terms of human suffering, illness, and death.

One-third of all cancer deaths are caused by cancer of the digestive tract. Digestive diseases as a whole are the third leading cause of death in the Nation. In addition, digestive diseases are the leading cause of industrial absenteeism among male employees in the Nation.

The National Institute of Digestive Diseases and Nutrition I am proposing would be authorized to conduct research relating to the causes, prevention, and treatment of digestive diseases, to make grants to public and private agencies for research in these fields, and to carry out a number of related purposes.

The legislation is similar to the bill proposed by Senator Ralph Yarborough in the 91st Congress. Each of us in Congress owes a great debt to Senator Yarborough for his enormous contributions to the quality of health care in the Nation, and I am pleased to introduce this legislation which he has done so much to develop.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 305), to amend the Public Health Service Act to support research and training in diseases of the digestive tract, including the liver and pancreas, and diseases of nutrition, and aid the States in the development of community programs for the control of these diseases, and for other purposes, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

ADDITIONAL COSPONSORS OF JOINT RESOLUTION

SENATE JOINT RESOLUTION 10

At the request of the Senator from Tennessee (Mr. BROCK), the Senator from North Carolina (Mr. JORDAN), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of Senate Joint Resolution 10, to authorize the President to designate the period beginning March 21, 1971, as "National Week of Concern for Prisoners of War Missing in Action."

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 9

At the request of the Senator from Idaho (Mr. CHURCH), the names of Senators ALLOTT, ANDERSON, BAYH, BENTSEN, BROOKE, BEALL, BURDICK, CASE, COOK, CRANSTON, DOMINICK, EAGLETON, FONG, GRIFFIN, HARRIS, HART, HARTKE, HATFIELD, HUGHES, HUMPHREY, JACKSON, JAVITS, KENNEDY, McGOVERN, McINTYRE, MAGNUSON, MANSFIELD, MATHIAS, MONDALE, MONTOYA, MOSS, MUSKIE, NELSON, PACKWOOD, PASTORE, PELL, PERCY, PROXMIRE, RANDOLPH, RIBICOFF, SAXBE, SCHWEIKER, SCOTT, STEVENSON, SYMINGTON, TAFT, TUNNEY, and WILLIAMS were added as cosponsors of Senate Resolution 9, amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

SENATE JOINT RESOLUTION 16—INTRODUCTION OF A JOINT RESOLUTION PROPOSING A CONSTITUTIONAL AMENDMENT PROVIDING FOR THE ELECTION OF THE PRESIDENT AND VICE PRESIDENT

Mr. CANNON. Mr. President, I introduce for appropriate reference a joint resolution proposing a constitutional amendment providing for the election of the President and Vice President.

Mr. President, the debate which took place on the floor of both Houses of the Congress on January 6, 1969, involving the counting of electoral votes proves that:

First, presidential electors are free

agents and could, if the spirit moved them, cast their votes for anyone for President;

Second, electors who are not legally bound to vote in accordance with the wishes of the people of a given State could thwart and frustrate all of the citizens of that State; and

Third, the presidential elector under our present system is not an officer charged with responsibility, serves no useful purpose, and ought to be removed entirely from the process of choosing the President and Vice President of the United States.

However, I believe in the constitutional provisions alloting to each State a certain number of electoral votes in accordance with the total number of Senators and Representatives.

Each State has two Senators serving all of the people of the State plus one or more Representatives depending upon the population of the State. Proportional representation guarantees each State a weighted vote in the Congress of the United States. Consequently, the electoral votes should be retained.

The provisions of my joint resolution are in keeping with the wishes of the drafters of the Constitution except for the abolition of presidential electors who could no longer perform the functions intended by the original drafters of the Constitution.

The population of our Nation is too large today for an elector to be able to exercise the peculiar personal choice of candidates for President and Vice President that was intended at the latter part of the 18th century.

Millions of voters now have the right to expect that their votes will be honored in choosing the country's two highest officers. This resolution, therefore, abolishes the presidential elector but not the electoral vote.

Following the casting of votes by all of the people on election day, the lists of all persons for whom votes were cast on election day for the offices of President and Vice President, the responsible election official for each State, and the District of Columbia would transmit all that information to the President of the Senate.

Thereafter, the President of the Senate at a joint session of the Congress, would open all certificates and count the votes.

Each person for whom votes were cast for President in each State and the District of Columbia would be credited with such proportion of the electoral votes as he received of the total vote cast by the electors of that State for President. In making computations, fractional numbers less than one one-thousandth would be disregarded.

The person having the largest number of electoral votes for President would be President if he received at least 40 percent of the total electoral vote. If no person received 40 percent of the electoral vote or if two persons received an identical number of such votes which is at least 40 percent of the total electoral vote, then from the persons having the two greatest numbers of electoral votes the Senate and House, in joint session, would choose by ballot the President. A majority of the votes of the combined membership would be necessary for a choice.

The same procedures would apply to the choosing of a Vice President.

Mr. President, a great many different proposed amendments have been introduced in the past and will, I am sure, be offered this year.

In my opinion, however, the electoral votes should be preserved but cast not on a winner take all basis, as is done under the existing law, but on a proportional basis in accordance with the votes cast by our American citizens.

My bill preserves the historical structure of the Constitution, yet eliminates the "unfaithful elector" and fairly distributes the electoral votes to reflect in a truly democratic manner the wishes of the voters.

The VICE PRESIDENT. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 16) proposing an amendment to the Constitution of the United States providing for the election of the President and the Vice President of the United States, introduced by Mr. CANNON was received, read twice by its title and referred to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION 1—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO A LOW-EMISSION PROPULSION SYSTEM FOR MOTOR VEHICLES

Mr. NELSON submitted the following concurrent resolution (S. Con. Res. 1); which was referred to the Committee on Commerce:

S. CON. RES. 1

Whereas it is recognized by Congress that emissions from motor vehicles are a major source of the total air pollution in the United States and contribute as much as 85 per centum of the air pollution in many metropolitan areas; and

Whereas it is recognized by Congress that emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, lead, and oxidants from motor vehicles have deleterious effects upon human physiology and health; and

Whereas it is the intent of Congress to prevent and control the emissions of air pollutants from motor vehicles; and

Whereas it is recognized by Congress that prevention and control of emissions of air pollutants from motor vehicles requires the accelerated development of a mass-produced low-emission propulsion system; and

Whereas it is recognized by Congress that the accelerated development of a mass-produced low-emission propulsion system will necessitate the investment and expenditure of substantial moneys: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that manufacturers of motor vehicles declare a moratorium on styling changes and reallocate the moneys that would normally be invested and expended for styling changes to the costs of accelerated development of a mass-produced low-emission propulsion system to be offered for public sale no later than model year 1975.

SENATE CONCURRENT RESOLUTION 2—SUBMISSION OF A CONCURRENT RESOLUTION ON THE NECESSITY FOR INTERNATIONAL COOPERATION AND UNITED NATIONS CONSIDERATION OF OPERATION OF CIVIL SUPERSONIC AIRCRAFT IN INTERNATIONAL COMMERCE

Mr. NELSON submitted the following concurrent resolution (S. Con. Res. 2); which was referred to the Committee on Foreign Relations:

S. CON. RES. 2

Whereas it is recognized by Congress that many of the international air carriers of the world are actively planning the purchase of civil supersonic aircraft which will regularly operate in international commerce at stratospheric levels and supersonic speeds; and

Whereas it is recognized by Congress that the operation of civil supersonic aircraft in international commerce will inject into the stratosphere quantities of water vapor, sulfur dioxide, hydrocarbons, and other solid or gaseous substances which may compromise the stability and integrity of the stratosphere and have a deleterious effect upon the earth's climate; and

Whereas it is recognized by Congress that the operation of civil supersonic aircraft produces the phenomenon of sonic booms, a continuous series of short, sharp shock waves at the surface of the earth beneath the aircraft's flight path, which may have serious detrimental effects upon the human and animal populations and the ecology of the area of the earth subjected to continuous repetition of sonic booms; and

Whereas it is recognized by Congress that the operation of civil supersonic aircraft would produce increased levels of noise in areas adjacent to points of landing and takeoff; and

Whereas it is recognized by Congress that the full nature and extent of the environmental impact and the ecological consequences which may result from the operation of civil supersonic aircraft in international commerce are unresolved; and

Whereas it is recognized by Congress that the environmental impact and ecological consequences which may result from the operation of civil supersonic aircraft in international commerce are of a global dimension; and

Whereas it is recognized by Congress that the preservation and improvement of national and global environmental quality are of the highest order of priority and necessity: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that all issues pertaining to the operation of civil supersonic aircraft in international commerce be presented to the United Nations for the attention and consideration of the General Assembly, and that the subject of the environmental impact and ecological consequences of the operation of civil supersonic aircraft in international commerce be presented for inclusion on the agenda of the United Nations Conference on Environment to be held in Sweden in 1972.

SENATE RESOLUTION 12—SUBMISSION OF A RESOLUTION EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO ESTABLISHMENT OF AT LEAST ONE STANDARD METROPOLITAN STATISTICAL AREA IN EACH STATE

Mr. STEVENS. Mr. President, on behalf of myself, Mr. GRAVEL, Mr. HANSEN,

Mr. PROUTY, and Mr. MCGEE, I submit a resolution which would declare it to be the sense of the U.S. Senate that the Bureau of the Budget establish at least one standard metropolitan statistical area in any State which at present has none.

Mr. President, only three States in the Union have not a single standard metropolitan statistical area within their boundaries. My own State of Alaska is one; the others are Wyoming and Vermont.

An SMSA is needed in Alaska. One of the major purposes of the SMSA concept is to promote and facilitate commerce among the several States and to facilitate the movement of people, goods, and industries from one part of the Nation to another.

In the words of the Bureau of the Budget: Standard metropolitan statistical areas definitions are used in presenting data from the censuses of business, manufacturers, and mineral industries; the census of population and housing; and the census of governments; in presenting current economic and social data; and in analysis of local area problems. And, the data are used in many market analyses.

Mr. President, my State is entering a new era of development and growth. The problems of crowded urban centers, packed population, and traffic jams are unknown to Alaska.

I look forward to the development of Alaska's industries within the guidelines of commonsense conservation practices. In my State, 25 percent of the population have been termed the poorest of the poor. Industry is needed in Alaska, as well as the continued development of Alaska's vast mineral resources. The decision of industry to move to Alaska is being retarded by the arbitrary Bureau of the Budget requirement that a State must have a city area with a population greater than 50,000 persons before an SMSA is established.

Alaska is the largest State in the Union but cannot have an SMSA because Anchorage, its most populous city, had a population of 45,000 in 1960. However, the Greater Anchorage area borough has 113,522 residents. Alaska is not an area consisting solely of villages and farms. It is an exciting place with a potential for an increase in commerce hitherto unknown in our Union. The development of this potential is in part constrained by the lack of information made available to the Nation's industries.

My resolution does not call for the Bureau of the Budget to relax its guidelines regarding the establishment of an SMSA. It merely recognizes the inequity of having three sovereign States of the Union without SMSA, and requires that this inequity be corrected. I ask unanimous consent that this resolution be printed in the RECORD at the conclusion of my remarks.

The VICE PRESIDENT. The resolution will be received and appropriately referred; and, without objection, the resolution will be printed in the RECORD.

The resolution (S. Res. 12), which reads as follows, was referred to the Committee on Government Operations:

S. RES. 12

Whereas standard metropolitan stitistical areas are among the statistical standards developed for use by Federal agencies in compiling and presenting statistical data on a comparable basis for general purpose use; and

Whereas, under criteria developed under the sponsorship of the Bureau of the Budget, only Alaska, Vermont, and Wyoming do not have within their boundaries at least one standard metropolitan statistical area; and

Whereas the statistical data of standard metropolitan statistical areas gathered by various Federal agencies are highly useful in the establishment of meaningful economic and industrial profiles of metropolitan areas; and

Whereas standard metropolitan statistical areas are frequently used as market areas by business and industry because they represent a uniform basis for presentation of statistics; and

Whereas some of the Nation's two hundred and thirty-one standard metropolitan statistical areas are composed of population areas more than double the minimum population listed in officially published criteria which indicates that population alone is more a benchmark than a prerequisite for the effective functioning of the standard metropolitan statistical area concept; and

Whereas the majority of the criteria other than minimum population of the central city in the standard metropolitan statistical area can be met by cities in the only three States not now having at least one standard metropolitan statistical area; and

Whereas the presence of a standard metropolitan statistical area in a State can be considered as helpful to the economic development of the State and region as well as the standard metropolitan statistical area itself: Now therefore, be it

Resolved, That it is the sense of the Senate of the United States that in any case in which any State of the United States does not have within its boundaries at least one standard metropolitan statistical area, under criteria used by the Bureau of the Budget in establishing any such area, the Bureau of the Budget should establish within such State without delay at least one standard metropolitan statistical area comprised of the largest city or cities within such State, together with such part of the immediate environs of such city or cities as the Bureau of the Budget may deem appropriate.

ADDITIONAL STATEMENTS OF SENATORS

MISSOURI HONORS DR. THOMAS A. DOOLEY

Mr. SYMINGTON. Mr. President, I ask unanimous consent that a proclamation by the Governor of Missouri, Warren E. Hearnes, designating the week of January 18 through 25 as Dr. Tom Dooley Week in Missouri be inserted at this point in the RECORD.

Dr. Dooley was born in St. Louis January 17, 1927; and died of cancer 34 years and 1 day later. During those few years and especially during the last 6 years of this all too brief life, he compiled a record of accomplishments seldom equaled or exceeded by any man.

Beginning in May 1954, circumstances developed that changed his life. Aboard the U.S. Navy attack transport, U.S.S. *Montague*, as a Navy doctor, he was reassigned to an evacuee staging area in Haiphong, Vietnam, to offer medical assistance to refugees fleeing south.

Dr. Dooley was awarded the Legion of Merit, the youngest officer in the history of the U.S. Medical Corps to receive this award, for his efforts in providing medical care, food and housing for the several thousand Vietnamese people who passed through this camp. He also received the National Order of Vietnam, that nation's highest decoration, in recognition of his great service.

This experience brought Dr. Tom Dooley to a point in life where, as Robert Frost described it:

> Two roads diverged in a wood, and I—I took the one less traveled by. And that has made all the difference.

From this decision, Dr. Dooley dedicated the remainder of his life to bring medical care to the underprivileged of the world.

He returned to the United States in 1956; recruited a staff of three former Navy Corpsmen who had worked with him at Haiphong, and used the royalties from his first best selling book, "Deliver Us From Evil," to finance his trip back to Southeast Asia and establish a small village hospital at Nan Tha, Laos.

It was during these next few years that Dr. Dooley established a record of service to humanity which has seldom been equaled. He wrote two more best selling books, "The Edge of Tororrow" and "The Night They Burned the Mountain," and with the proceeds from these books and his lecture tours he founded MEDICO; an instrument to carry forward his work in the less-developed countries of the world.

By working up to 20 hours per day he not only treated the sick but through his personal efforts setup 17 hospitals in 12 countries. Throughout his work he exemplified by his actions those words he wrote in 1958:

> I believe that it behooves those of us who attempt to aid in a foreign land to be content with small achievements. We must not attempt to build dynasties. We must try to build at the level of the people, or just one step ahead, always planning it so that the Asian can ultimately take over.

In August 1959, Dr. Dooley learned that he had chest cancer. After surgery and a brief convalescence he returned to work; first on a nationwide lecture tour and then back to Southeast Asia. By late 1960, however, Dr. Dooley again became ill and was forced to return to the United States for medical attention. He died January 18, 1961, the day after his 34th birthday.

He was posthumously awarded the Congressional Medal of Honor in 1962 by a grateful U.S. Government for his work in Southeast Asia. This brought to a total of three nations who had awarded him their highest decorations.

It was indeed fitting that Dr. Tom Dooley's home State should remember him officially during this anniversary week of his birth and death. His example of service to mankind and his achievements in working to help make this a better world in which to live will long be an inspiration to all who knew or read of his work, and to the unnumbered thousands who have directly benefited and will be served by the medical services he established.

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

PROCLAMATION

Whereas, St. Louis, Missouri, was the birthplace of Doctor Thomas Anthony Dooley III, and the eighteenth day of January, 1971, marks the tenth anniversary of his death; and

Whereas, the Congress of the United States, through a joint resolution on May 9, 1961, proposed an authorization to the President of the United States, to award posthumously, a medal to Doctor Thomas Anthony Dooley; and

Whereas, the then President of the United States, John Fitzgerald Kennedy, did present to Mrs. Thomas Dooley, Senior, the doctor's mother, a gold medal with appropriate emblem, devices, and inscription commemorating the doctor's work; and

Whereas, the President did bestow this singular honor on this Missourian, by this special Act of Congress, in recognition of the gallant and unselfish public service rendered by Doctor Thomas Anthony Dooley III, in serving the medical needs of the people of Laos and Vietnam, of people living in the remote areas of the Laotian jungles, and of peoples in other developing countries; and

Whereas, this service was performed voluntarily as a citizen of these United States; and

Whereas, the youth of the world need inspiration and leadership to orient them toward ideals and service to others, and a richer appreciation of the dignity of self and others; and

Whereas, I call upon officials of the state, county and city governments and upon local officials to encourage citizens' groups and agencies of the press, radio, television and motion pictures to engage in appropriate activities to deepen the meaning and observance of the unselfish life of Doctor Thomas Anthony Dooley III; and

Whereas, to assure that this great Missourian be remembered as an exemplary citizen of the world:

Now, therefore, I, Warren E. Hearnes, Governor of the State of Missouri, do hereby proclaim January 18 through January 25, 1971, as Dr. Tom Dooley Week in Missouri, and urge all of our citizens to observe this time with appropriate ceremonies expressive of their desire for idealism among our youth, and their hope that the example of Doctor Thomas Anthony Dooley III may serve as an inspiration to all.

In testimony whereof, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, this 15th day or December, 1970.

Attest:

WARNER E. HEARNES,
Governor.

JAMES C. KIRPATRICK,
Secretary of State.

THE PRESIDENT'S FIRST SPECIAL MESSAGE TO THE CONGRESS

Mr. SCOTT. Mr. President, the President of the United States has today submitted his first special message to the 92d Congress.

As the President indicated, his first request deals not with things new, but with things familiar. He is proposing to the 92d Congress more than 36 items of legislation, which were previously submitted to the 91st Congress. Some received favorable action in one or the other House of Congress. Some will be resubmitted in their original form. Others have been modified. All, however, are considered by the President to be in the national interest.

I would strongly urge the committees in the Senate and the Congress as a whole to give immediate attention to the proposals submitted today. The text of the President's message appears elsewhere in the RECORD, and I shall not ask that it be again printed in the RECORD.

HUMPHREY SETS HEALTH CARE GOALS

Mr. HUMPHREY. Mr. President, I am proud to be a cosponsor of S. 3, the Health Security Act of 1971, because it is something I have been working for since I first came to the Senate in 1949. On May 17 of that year, I introduced the first medicare bill. It was finally signed into law by President Johnson in 1965.

This time we cannot and must not wait so long.

There are going to be tremendous changes over the next few years in the delivery of health care and the methods of financing it. This change is inevitable. And it is desirable.

This is no time for the Senate of the United States to act like King Canute, who tried to command the tide to halt. The time has come for a complete, comprehensive overhaul of health care in America.

This is the paramount issue of the 1970's. It is sad that we have waited so long. We should have acted long ago. But it is not too late.

There is no conceivable reason why the wealthiest, most scientifically advanced Nation in the history of the world—the United States of America—is not also the healthiest Nation on earth. Unfortunately, we are not. Despite the fact that Americans last year spent some $70 billion on health care, we rank 13th among industrialized nations in infant mortality, 11th in life expectancy for women, and 18th in life expectancy for men.

All this points to one inescapable fact—Americans are less healthy now than they were 20 years ago when the national annual health expenditure was less than one-fifth what it is today.

Forty million Americans have no health insurance of any kind. No one actually has health insurance—it is really sickness insurance. You have got to be sick, really sick, before you get any benefits.

It is rather ironic to note that a preponderant number of States in this wealthy Nation of ours require automobile insurance, but not one State requires or even advocates the most minimal health coverage for all its citizens.

What we have here is a serious deficiency in basic planning, design, and operation of our health care system—a failure of our society to establish national priorities. The time has come, I am convinced, to get both our priorities and our systems straightened out and functioning properly.

The Department of Health, Education, and Welfare has warned of a "breakdown in the delivery of health care unless immediate concerted action is taken by the Government and the private sector."

Medical care in this country is organized as "crisis" medicine rather than preventive medicine. We are the only major western nation that does not have a national health care plan for the majority of its citizens.

Years back I proposed a system of national health insurance. It was not terribly sophisticated, but it was an idea. I was called a dreamer, a Socialist, and a political neophyte, and a few other things I would not care to repeat.

Today this concept of national health insurance is accepted, even endorsed, and applauded by leaders of both major parties.

The President of the United States recently said that we simply have got to have some kind of system like this. He did not feel that way when he was in Congress, but he is President now.

As I return to the Senate, I bring with me the determination, the dedication, the commitment to make improved health services for all 206 million Americans a matter of top priority. I want to see this 92d Congress go down in history as the "Health Congress."

Let us dedicate ourselves here to the task before us. Let us resolve that by 1976, when our great Nation celebrates its 200th birthday, that no American lacks instant and total access to the very best medical care in the world. Let America be known as the healthiest Nation in the world.

If we wish to achieve this goal, and I am sure there is not a person here, or anywhere in this land, who does not also share this dream, there are some basic steps we must take:

There must be a significant increase in public funds for expanding the supply of medical manpower, including persons from minority groups;

We must train new types of medical aides such as assistant physicians, family planning aides and community health workers;

Financial aid must be made available for starting hundreds of additional group practice plans;

We must increase the number of neighborhood health centers, ambulatory clinics, maternity and well-baby clinics; and

We should offer financial incentives for innovative, more economical and efficient arrangements, and coordinated medical service plans.

Any effective restructuring of our health care system will require the concerted effort of all citizens—of members of the health professions and their associations, of public health officials, of the insurance industry, of labor and management, of this Senate, this Congress and—perhaps most importantly—of the health consumer.

Such a health coalition—such a working force of dedicated, creative individuals and organizations—can do for the health of the Nation what the urban coalition hopes to do for its cities.

Such a coalition—manning medical think tanks and staffing medical task forces—can design a health care system in keeping with our unique American traditions yet fully responsive to the needs of all citizens; a health care system appropriate to our advanced and affluent Nation's needs and desires.

Such a health care system is possible

only in a society which has its priorities straight—a society that puts the health and well-being of its citizens at the top of its agenda.

That is the kind of health care I want this Congress and our Nation to provide.

I will have more to say about this in the days and weeks and months ahead. And I will have some definite measures to introduce aimed at achieving these goals.

UKRAINIAN INDEPENDENCE DAY

Mr. YOUNG. Mr. President, January 22 was the 53d anniversary of the Ukrainian Independence and the 52d anniversary of the Act of Union.

I think it appropriate that we once again demonstrate this country's sympathy and understanding of the Americans of Ukrainian descent who are now amongst our finest citizens.

Despite the continued persecution of the Ukrainian people by the Soviet Union, these people have never been intimidated and have kept up their fight to regain their independence. In recognition of their gallant efforts, I ask unanimous consent of the Senate to have the brief statement concerning the background of this oppression and a newspaper story which appeared in the January 10, 1971, edition of the New Star, Chicago, Ill., printed in the RECORD as a part of my remarks.

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

HISTORICAL BACKGROUND

January 22nd will be the 53rd anniversary since the Proclamation of Independence of the Ukrainian National Republic and the anniversary of the Act of Union, whereby all Ukrainian territory was united into one independent and sovereign state of Ukraine. The Independence of Ukraine was proclaimed in Kiev, the capital of Ukraine on January 22, 1918 and the Act of Union took place a year later.

The Ukrainian National Republic was recognized by foreign government including Soviet Russia. Shortly after this recognition Russia began a large scale invasion of Ukraine. For 3½ years the Ukrainian people waged a gallant struggle in defense of their country but it was subdued to a puppet regime of the Soviet Socialist Republic.

The freedom loving people of Ukraine have not accepted the Soviet-Russian domination and have since been fighting to regain their independence by all means accessible to them. During the World War II the Ukrainian people organized a powerful underground resistance movement known as the Ukrainian Partisan Army (UPA) which fought not only against the Soviets but the Nazi regime as well.

The Brezhnev and Kosygin leadership is bent on keeping the Soviet-Russian Empire intact by persecution of Ukrainian intellectuals, professors, poets, writers, scientists and commentators. The international press has been providing a vast amount of documentation on the supression of the Ukrainian culture.

Briefly, the Kremlin rule in Ukraine can be described as follows: Exploitation of Ukraine's economic resources for the benefit of Moscow and its imperialistic ventures in Asia, Middle-East, Africa, and Latin America. Genocide and systematic deportation of Ukrainians to central Asia. Arrest and trials of Ukrainian patriots including Ukrainian Communists defending freedom of their country.

Persecutions of all religions in Ukraine and enforced Russification aiming at the cultural and linguistic genocide of the Ukrainian people.

All the available evidence of the western obervers shows that the ever-increasing tempo of repression has failed to intimidate the Ukrainian people; therefore, the Russian leadership in Kremlin took brutal measure against liberal movement in Czechoslovakia. Since Kremlin leaders were convinced the liberal ideas of Czechoslovakia would help Ukrainian liberals and other captive Nations.

Both the U.S. Congress and the President of the United States have expressed their concern over captive non-Russian nations in the USSR by enacting the "Captive Nations Week Resolution" in July 1959.

GENOCIDE AGAINST CHRISTIANS IN UKRAINE

WASHINGTON, D.C.—"The Ukrainian Catholic Church must be protected," said Patrick Cardinal O'Boyle, Archbishop of Washington, on the occasion of the inaugural lecture of the Roman Smal-Stocki Lecture Series sponsored by the Ukrainian Catholic Studies Foundation presented on December 11, 1970 at the St. Josaphat Seminary in Washington, D.C. by Archbishop Ambrose Sensyshyn, OSBM, Metropolitan for the Ukrainian Catholics in the United States. The thesis presented was, "Christianity in Soviet Ukraine" in which the Archbishop charged the Soviet Union with practicing genocide against Christianity in Ukraine.

The Archbishop made 21 charges of genocide and crimes perpetrated by the Soviet Union against the Byzantine-Ukrainian Catholic and the Ukrainian Autocephalus Orthodox Churches in Soviet Ukraine.

In a lecture delivered by the Archbishop at St. Josaphat's Ukrainian Catholic Seminary in Washington (Dec. 11, 1970), he stated that the Soviet Union systematically planned the complete destruction of the Byzantine-Ukrainian Catholic and Ukrainian Autocephalus Orthodox Churches, notwithstanding its so called constitutional guarantees of religious freedom and its demonstration of tolerance of religion to foreigners by allowing a few "show" churches to remain open.

Archbishop Senyshyn charged the Soviet Union with the following deliberately planned official acts of genocide and crime against Christians and Christianity in Soviet Ukraine:

1. The Soviet Union caused to be killed or die in prison many thousands of bishops, priests, nuns, vergers, professors of theology and prominent faithful of both the Byzantine-Ukrainian Catholic and the Ukrainian Autocephalus Orthodox Churches in Ukraine.

2. The Soviet Union destroyed or confiscated historical churches, monasteries, seminaries, schools, icons, chalices and other church property belonging to the Byzantine-Ukrainian Catholic or the Ukrainian Autocephalus Orthodox Churches or the Christian faithful.

3. The Soviet Union deliberately sent hoodlums in the churches to disrupt services and to physically attack priests and the faithful.

4. The Soviet Union arrested falsely thousands of clergy and faithful merely for practicing their right to religious freedom.

5. The Soviet Union abolished Sunday as a holiday and eliminated all other church holidays as a measure against the practice of religion.

6. The Soviet Union deliberately set exorbitantly high fees for the use of the churches they confiscated so that the priests would have no place to conduct services.

7. The Soviet Union declared priests, nuns, professors of theology and other churchmen "non-working elements thus denying them certain civil rights available to other members of the Soviet society.

8. The Soviet Union used numerous terroristic measures to dissuade priests from hearing confessions, celebrating Mass and caring for the faithful and used similar methods of terror on the faithful.

9. The Soviet Union imposed exorbitantly high taxes against priests and church property so as to preclude the exercise of religious freedom.

10. The Soviet Union dressed atheists in priest's vestments, who with cross in hand held wild masquerades in the streets and ridiculed God, religious faith, the Church and the priesthood as to discredit the dignity of belief in God.

11. The Soviet Union organized the "Union of Atheists" run by the communist party and supplied them with various propagandist means at the expense of the state while denying the same to those who would encourage the practice of religion.

12. The Soviet Union organized the population to take part in anti-religious demonstrations under duress of arrest for not participating.

13. The Soviet Union deprived the children of the clergy the right to get an education and denied them entitlement to work for normal wages unless the children severed all connection with their parents.

14. The Soviet Union closed down all seminaries and church schools in order to deny the Byzantine-Ukrainian Catholic and the Ukrainian Autocephalus Orthodox Churches development of future priests.

15. The Soviet Union denied the religious press the freedom to propagate the faith by closing down all publishing facilities used by the Byzantine-Ukrainian Catholic and Ukrainian Autocephalus Orthodox Churches.

16. The Soviet Union destroyed Christian cemeteries and monuments and converted the stone into building blocks for roads and sidewalks, thus attempting to eliminate all traces of Christian tradition of the Ukrainian people.

17. The Soviet Union forbade priests from visiting the sick and dying thus denying them the last sacraments.

18. The Soviet Union prohibited the clergy from engaging in any charitable and social work on behalf of the needy, thus denying the priests from carrying out their religious duty.

19. The Soviet Union made false accusations against the bishops, priests and other churchmen by charging them with collaboration with the Nazis, a crime of "high treason" against the Soviet Union.

20. The Soviet Union denied the imprisoned clergy and faithful the right of legal counseling or fair trial and further denied them humane treatment.

21. The Soviet Union applied extreme pressures and tortures to the Byzantine-Ukrainian Catholic clergy in order to force them to renounce their Catholic faith and to sever all ties with the Vatican.

In reply to the question of "what is the status of the Ukrainian Catholic Church in Soviet Ukraine today" Archbishop Senyshyn said, "The Catholic Church of the Byzantine Rite is outlawed in Ukraine. The fatihful, however, worship in secret. There exists an underground Ukrainian Catholic Church in Soviet Ukraine. The Holy Mass is held in secret and marriages are performed in secret."

Finally, the Archbishop said, "Nonetheless, if we are to view the future of the Church from the perspective of faith, then we have every reason to hope for a happy resolution to every problem and difficulty. The Fathers of the Church have always taught that the blood of martyrs is the seed of the Church. The Ukrainian Catholic Church, has not ceased shedding her blood, and because of this alone, coupled with an ardent faith in God's Divine Providence, we can expect a glorious future for the Catholic Church not only in Ukraine, but in every country where faithful Ukrainian Catholics have made their home."

TAX SHARING

Mr. HOLLINGS. Mr. President, yesterday I introduced a tax-sharing bill which I presented before this body when I first came to Congress in 1967. I stated at that time and reiterated yesterday that, although State and local problems must be solved at the State and local levels, it is quite clear that we must have legislation which will financially enable our State and local governments to meet the overwhelming demands for governmental services. It seems clear that this type of measure is critically needed.

On January 13, 1971, a Spartanburg County commission in South Carolina passed a resolution urging the passage of such a measure to permit State and local governments financially to meet the demands of their citizenry. On that same date the General Assembly of South Carolina passed a concurrent resolution which also recognized the need for such a program.

These are only two examples of recognition by State and local governments which I am sure is endorsed by literally thousands of governmental entities throughout our Nation. I believe the time has come for Congress to recognize this need and go forward with such legislation. I ask unanimous consent that a copy of both these resolutions be printed in their entirety in the RECORD.

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

STATE OF SOUTH CAROLINA, COUNTY OF SPARTANBURG, BEFORE THE COUNTY COMMISSION—RESOLUTION—NUMBER 23

Whereas, the demands upon State and Local Governments for public services have multiplied in recent years, and they will continue to grow at a rapid pace; and

Whereas, the costs of these services on the State and local level are also increasing at an unprecedented rate; and

Whereas, a proposal which would empower the Federal Government to share certain percentages of their income tax revenue with State and local governments would greatly aid these governments to meet the demands of their citizenry without a substantial tax increase on the local level.

Now, therefore, be it resolved, that the Board of Commissioners of Spartanburg does hereby support the principle revenue sharing and urges the 92nd Congress to hold hearings on this measure so that final enactment may be realized in 1971.

Be it further resolved, that the Commission requests that any such revenue sharing proposal be based upon a national formula with any share returned to local governments be determined upon expenditures by the local governments in lieu of revenues generated by them.

R. D. BLACKMAN,
Chairman.
M. L. WORKMAN,
Vice-Chairman,
THOMAS P. JOHNSON,
Member,
JAMES O. THOMASON,
Member,
R. L. HOLDEN,
Member.

CALENDAR NO. S. 7

A concurrent resolution memorializing the Congress to take such steps as necessary to provide for income tax revenue sharing with the States and their political subdivisions

Whereas, revenue received by the Federal Government from income taxes is derived from sources in the various states; and

Whereas, the various states and other political entities therein are in dire need of financial assistance; and

Whereas, it would be most equitable that a portion of the income taxes collected by the Federal Government be shared with the states and their political entities; and

Whereas, such sharing should result in more efficient government as some services now being rendered by the Federal Government could be done by existing state and local government agencies; and

Whereas, the members of the General Assembly support the principles of revenue sharing and respectfully request the Congress to take such steps as necessary to provide for income tax revenue at the earliest possible time. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That the members of the General Assembly do hereby respectfully request the Congress to take such steps as necessary to provide for income tax revenue sharing at the earliest possible time.

Be it further resolved that a copy of this Resolution be forwarded to the President of the Senate of the United States, Speaker of the House of Representatives of the United States and to each member of the Senate and House of Representatives from South Carolina.

A MAN OF SPIRITED CONVICTIONS

Mr. CHURCH. Mr. President, in each generation there are a few dauntless individuals who undertake to comfort the afflicted and afflict the comfortable. Such a man of spirited conviction is Joe Rauh, "Mr. Liberal," who was honored for his achievements and his influence on the occasion of his 60th birthday this month.

The Washington Post in its editorial of January 16, 1971, said about Joe Rauh's testimonial dinner audience:

There will be union members who cheered his fights against employer obstinacy and against occasional oppression of the rank and file by overbearing union officials. There will be blacks and whites heartened by his indefatigable battling against racial discrimination and the denial of civil rights. There will be libertarians of every hue who rejoiced in his championship of free speech and due process. There will be numerous Washingtonians grateful for his tireless efforts to win for this community the simple right of self-government.

They were all there for a deserved commendation to Joe Rauh, ebullient, energetic, deft, and combative friend of the good causes of America—and a good friend of mine.

The fires of Joe Rauh's convictions burn as fiercely today as they did 35 years ago when he first came to Washington during the momentous early years of the New Deal. I am glad he came and I am glad he stayed.

Mr. President, I ask unanimous consent that three articles from the Washington Post of January 16, 1971, conveying the spirit of the occasion, be printed in the RECORD at this point in my remarks:

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

COUNSEL FOR THE UNDERDOG

The diversity of the throng that will come together this evening to pay tribute to Joseph L. Rauh Jr., and to help him celebrate his 60th birthday tells a great deal about his extraordinary professional career. There will be lowly and eminent New Dealers who shared in his rambunctious, youthful efforts under Franklin D. Roosevelt to resuscitate and reform the nation. There will be union members who cheered his fights against employer obstinacy and against occasional oppression of the rank and file by overbearing union officials. There will be blacks and whites heartened by his indefatigable battling against racial discrimination and the denial of civil rights. There will be libertarians of every hue who rejoiced in his championship of free speech and due process. There will be numerous Washingtonians grateful for his tireless efforts to win for this community the simple right of self-government.

Joe Rauh has been, in short, an undaunted, unrepentant counsel for the underdog. Undoubtedly there have been more profitable practices than his. Nevertheless, it seems probable that no lawyer has ever found more fun in the law. There have been no odds too heavy, no cases too hopeless, no unfortunates too forlorn to recruit his ardor. To all of them he contributed great professional resourcefulness and a magnificent exuberance of spirit. He has fought hard and has found his satisfaction in the fighting, in the giving of himself unstintingly to great causes. It is therefore improbable that he will tire—and impossible that he will quit. At 60, Joe Rauh may well be approaching his prime.

MR. RAUH IS JOE LIBERAL

(By Myra MacPherson)

Joe Rauh—known reverently by friends and disdainfully by detractors as "Mr. Liberal"—is a relentlessly garrulous, energetic, bouyant, charismatic ham who "get mad quick and glad quick."

Tall and athletic, he bounds into a room with more than faint boyish enthusiasm despite the fact his 60th birthday is being honored tonight ("after that dinner, I'll be known as an old has-been.")

A splash of bourbon goes into a glass, and Rauh is ready for pictures, allowing that he is just a liberal lawyer and no politician—"a politician would never let his picture be taken with a drink in hand."

Despite his uncomplicated manner, Rauh is known as a brilliant strategist with a string of civil rights and civil liberties victories. He was chief lobbyist for the Civil Rights Act of 1944, the 1965 Voting Rights Act and the 1968 Fair Housing Act.

Rauh, has a boisterous self-confidence that may well stem from an emotionally and financially secure childhood. His father, a German Jew, was a prosperous shirt manufacturer in Cincinnatti, Ohio, and a "rock ribbed Republican." A family joke is that his peace * * *

Rauh himself seemed to be wobbling toward the shirt business, majoring in economics at Harvard, graduating magna cum laude. "I swear to God I don't know why I went into economics," Rauh says. As a Depression era graduate, there was little room for Rauh in his father's business and Rauh went on to law school.

As an undergraduate, there was no noticeable thrust toward causes. Rauh enjoyed rah-rah adventures like sneaking into the New Haven stadium and tearing down the goalposts the night before a Harvard-Yale game and faking an ability to play drums to get in with a ship's summer band bound for Europe. "After they got out to sea, the band made him promise he would never touch the drums," said Rauh's wife of 35 years, Ollie.

But when Rauh met Felix Frankfurter, then a professor at law school, his future was shaped. Rauh calls Frankfurter "a one man recruiting agency for the New Deal."

Years later in Washington the Rauhs incurred Frankfurter's wrath when they didn't invite him to their house when Marilyn Monroe stayed there, while her husband Arthur Miller, testified before the House Un-American Activities Committee. Miss Monroe eluded the press for two weeks, riding a bike in the Northwest Washington neigh-

borhood wearing a scarf and blue jeans. When reporters finally cornered Rauh's son, Carl, then 16, and asked him what it was like having Marilyn Monroe in the house, he said, "well, it's sure not like having your brother around."

Rauh worked vehemently against Lyndon Baines Johnson's nomination for vice president, then later worked with him. Rauh was so upset when he heard that Johnson was Kennedy's choice that he grabbed a mike on the convention floor, and with TV cameras grinding away, hollered, "Wherever you are Jack, don't do it." The next time they met, Kennedy told Rauh, "You were very persuasive." Rauh answered drily, "Apparently not persuasive enough." Rauh then attacked Vice President Johnson saying Johnson's "first loyalty was to the Southern racists."

As President, Johnson sought Rauh's help and got it, although they never became friends. "He asked me to help pass the civil rights law," Rauh explains.

"God forbid, should President Nixon ask me to pass a civil right law, he would have my help."

Both Rauh's sons, Mike and Carl, 30, who are more conservative than their father, surprised their father by following in his profession. "In the '68 convention, we were the only family where the old goats were for McCarthy and the kids were for Humphrey," Rauh jokes. "Mike was Humphrey's liaison with John Connally, and one of my jobs for McCarthy was to throw the Connally delegation out of the convention. Mike won."

To many of the young and blacks, Rauh's brand of liberalism seems now old hat and anachronistic. But 20 years ago, when Rauh and his wife picketed the segregated National Theatre faithfully every Friday night (the local ADA night to picket) it was hardly radical chic.

Rauh seems undisturbed by "dirty white liberal" attacks by blacks who feel whites should stay out of their struggle, Mrs. Rauh only says, "I think it unfortunate they don't know who their friends are."

Rauh says, "I'm proud of our laws. What our generation has done is bring equality in law, the next generation has to bring equality in fact."

Rauh lives in a home remarkably free, by Washington political standards, of narcissistic memorabilia. The only prominent picture of Rauh is a joke gift of his face inside a Time magazine man-of-the-year frame. (His office is another story. It's festooned with political cartoons of himself.)

He shows little sign of slowing down; he plays tennis once a week, swims in the family pool and watches football on TV.

Rauh was "elated" at the victory of the Rev. Walter Fauntroy in the Democratic congressional delegate here last week. But Rauh, once called the "boss" of Washington liberals, seems out of touch to some because he still believes a white man can get elected in Washington. If the District ever got a Senate seat, it would surpise no one, including Rauh, if he ran for it.

Mrs. Rauh, who has been content to be the private figure in the family, says, "Joe says by the time we get a Senate seat he'll be in a wheelchair. I always answer, 'I'll push you.' "

THERE WAS LIBERALISM—A ONCE AND FUTURE POLITICS

(By Philip A. McCombs)

In 1935, when Joe Rauh Jr. graduated from Harvard Law School and came to Washington to work in the New Deal, the place was popping with the "sheer excitement of restructuring a stark capitalist society toward a welfare state."

That's the way Rauh remembers it.

To the endless stream of bright young men deluging Washington in those days, Arthur Schlesinger Jr. in *The Coming of the New Deal* attributed "an alertness, an excitment, an appetite for power, an instinct for crisis and a dedication to public service which became during the thirties the essence of Washington."

Judge Learned Hand found them insensitive and arrogant. "The Filii Aurorae," he said, "make me actively sick at my stomach."

"There was a crusading spirit among the New Deal kids," said Rauh. "But one of the things that's saddened me over the years is that so many of those who were part of it didn't carry that spirit through the rest of their lives."

Joe Rauh, his friends say, did. He was a founder of Americans for Democratic Action in 1947 and a battler in every important liberal cause for three decades. Tonight the American liberal community—from its commanding generals to its field soldiers—honors his 60th birthday with a testimonial dinner in the Cotillion Room of the Sheraton-Park Hotel.

Mrs. Page Wilson, the veteran ADA publicist, said yesterday that more than 900 acceptances have been received at $60 each during the six-month organizing effort for the affair. The money will be administered by ADA as Rauh directs.

The list of dinner sponsors includes most of the prominent liberal establishmentarians from New Deal days on. Former Attorney General Ramsey Clark and labor leader A. Philip Randolph are co-chairmen. Historian Schlesinger and New York Post editor James Weschler are toastmasters. Playwright Arthur Miller and Mississippi Democratic leader Aaron Henry will read tributes.

Democratic presidential hopefuls Hubert H. Humphrey, Edward M. Kennedy, Edmund S. Muskie, George McGovern and Harold E. Hughes are among the sponsors along with Eugene S. McCarthy and a group of liberal congressmen.

The dinner came into being at the instigation of Wechsler and James Loeb, an ADA founder and past national chairman, who thought of the idea a year ago, Schlesinger agreed, and the idea blossomed.

The response "has exceeded all expectations and grown so big that it has had to be moved to a bigger banquet room," said arrangements chairman Frank W. McCullock, former chairman of the National Labor Relations Board under the Kennedy and Johnson administrations.

The response to the dinner, says some of the liberal old guard, is symptomatic of a new spirit among their brethren. The cause, they say, though under attack from many sides and fraught with dissension within, is regaining its old momentum and will exert an important influence in 1972.

However, there are those of a more pessimistic cast of mind who say that American liberalism has not recovered from the slump into which it fell during the last decade.

"Liberalism today," said Arthur Miller, "is a wandering spirit looking for a body." Miller characterized liberalism since the New Deal as "flabby." He said the old liberals are "Bewildered by a sense of defeat" and the newer ones "got too comfortable with power, excused too much and made peace with the privileged, the smug and the indifferent."

The kids, the militant blacks, the hard revolutionaries, much of the labor movement and the new conservatives—all say that bourgeois, hypocritical liberalism is at the root of the malaise. But the organizers of tonight's dinner says they are honoring a man who is living proof that isn't the case.

"The dinner means there are some basic principles which survive as the body of the American liberal tradition," said Loeb. "We're coming out of our most recent rough period when young people got disgusted with democratic processes."

Former U.S. Senator Paul M. Douglas said liberalism is "the predominant American sentiment . . . I don't know that it's intact, but it's strong," he said. "It defeated Haynes and Carswell."

Liberalism's biggest problem today may be that it lacks a single strong, charismatic leader—or had too many of them all battling one another for preeminence.

Says Schlesinger: "These things ebb and flow, and in 1972 the liberals will come back politically and intellectually."

Yet Schlesinger's carefully structured eulogy for tonight, "The Last Liberal?" strikes a more somber tone. He writes that modern liberalism has fallen into disrepute partly because of dogmatism, sentimentalism and a fear of power in its own ranks.

"Confronted with . . . horrid accusations, discouraged by the apparent intractability of social and economic problems, aware of the bottomless depths of human fallibility, some liberals have begun to sound a little apologetic about liberalism," he writes. "A few are recanting altogether, one side flaking off to the left and condoning violence and repression, another flaking off to the right and commending tradition and order."

From James Wechsler comes a sweeter refrain. The Left's "wild flirtation with nihilism" is over, he said, and a "new cycle" in American politics is beginning. "The sort of fashionable view that liberalism is obsolete is receding again," he said. "Joe is a sort of symbol of indestructibility."

"In fighting for the Mississippi liberals," said the NAACP's Roy Wilkins, "Joe was fighting for the vindication of the political democratic process—this is the field of true liberalism."

Harvard professor Paul Freund, who clerked for Mr. Justice Brandeis in 1932–33, said that modern liberalism tends to meet on several issues with a new, humanist conservatism.

Page Wilson, who said she remembers having "a fine time, a merry time" as a young lady at another birthday party—Franklin D. Roosevelt Jr.'s 21st in Hyde Park—said tonight's dinner will have "no sense of obituary about it."

"It's a very alive group of people," she said. "It's going to be a very merry occasion."

POLLUTION WATCHING BY TELESCOPE

Mr. GOLDWATER. Mr. President, during the latter part of the second session of the last Congress I placed in the CONGRESSIONAL RECORD an article developing a revelation of an Astrophysical Observatory symposium conducted by the Smithsonian Institution. I said at the time:

> It is remarkable that some newsman did not realize the significance this development holds . . . seems to me to be worthy of wide news coverage.

Since that time it has been called to my attention that one of the better scientific papers in this country, Science News, had in its October 1970 issue an article entitled "Pollution Watching by Telescope," covering the precise subject I discussed before the Senate. I must apologize to Science News and also to my colleagues for not having known of this, but I now ask unanimous consent that the article, "Pollution Watching by Telescope," appear at this point in my remarks.

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

POLLUTION WATCHING BY TELESCOPE

While biologists and diplomats struggle with the vast problems involved in setting up a worldwide pollution monitoring system,

scientists at the University of Washington in Seattle suggest a novel idea using equipment already in existence: astronomical telescopes.

The university has formed an interdisciplinary group of astronomers, geophysicists, atmospheric scientists and civil engineers called project ASTRA—Astronomical and Space Techniques for Research on the Atmosphere.

"We came to realize," says Dr. Paul W. Hodge, astronomy professor and chairman of ASTRA, "that some of the astronomical techniques for studying extraterrestrial sources can be applied to the earth's atmosphere and can complement and in many cases far surpass in accuracy the existing equipment used in air pollution studies."

The project proposes three methods for the study: high-dispersion spectroscopy, atmospheric extinction measurements and particulate sampling.

Spectroscopy is one of the most powerful tools for analyzing the composition of objects in space (see p. 299). The spectrum of light coming from these sources contains bright and dark lines which vary according to both the source and the environment it passes through, including the earth's atmosphere.

Astronomers have traditionally treated the lines from the earth's atmosphere as annoyances. But if the lines are analyzed, they can be a highly accurate source of information on air pollution molecules.

Thus molecules of carbon dioxide, ozone, carbon monoxide, nitrogen oxide and nitrous oxide can be separated.

The extinction method is another source being used at the university. A paper Dr. Hodge recently submitted to NATURE outlines the results of such a study at Mt. Wilson Observatory above Pasadena, Calif. Archive data and his research shows that between 1910 and 1960 there was a 26 percent loss of light in the ultraviolet and a 10 percent loss in the visual light due to atmospheric constituents.

The third method, particle sampling and analysis, also supplies long-term data for pollution comparisons. For 18 years, Dr. Hodge has been looking for micrometeoritic dust. "Each year we find more and more man-made dust," he says.

By analyzing new data being obtained by astronomers all the time at observatories all over the world and old data stored for over 50 years, a curve-of-growth analysis can be made. "We will be able to check the controversial report of a secular increase in the CO_2 concentration in the atmosphere (SN: 11/15/69, p. 458) by measuring existing plates in observatory archives," he says.

A proposal by ASTRA now being studied by the university administration, prior to request for Federal funding, calls for a telescope to be placed on the university campus to compare urban pollution with data obtained from a 16-inch photoelectric telescope (now at the Rattlesnake Ridge Observatory) to be moved to a new site on Manastash Ridge, in dry, central Washington. The over-all proposals include extraction of all possible data from records of astronomers worldwide; establishment of a center for the accumulation, storage and dissemination of the data and publishing of monthly reports.

"This is an example of the sort of spin-off that comes from basic scientific research that cannot be predicted," says Dr. Russell Drew of the Office of Science and Technology in Washington, D.C. "And a very fortuitous one at that."

TRIBUTE TO MAYOR DAVIS OF KANSAS CITY

Mr. SYMINGTON. Mr. President, strange as it may seem in this era of reputed taxpayer revolt, recently the citizens of Kansas City passed, by a large margin, an increased earnings tax; and this badly needed revenue will provide further impetus for Kansas City moving forward in the 1970's.

Such a superb display of community spirit was, in large part, a result of the tireless effort of the city's remarkable Mayor, Ilus W. Davis.

In an administration marked by integrity, honesty, and plain hard work, Mayor Ike Davis has inspired extaordinary public confidence, thereby leading his city into a new era of pride and self-respect. His achievement has now been honored in an editorial in the Kansas City Times of December 19, 1970.

Mr. President, I ask unanimous consent that a copy of this editorial lauding an outstanding public servant of Missouri be printed in the RECORD.

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

AN E-TAX TRIUMPH FOR THE CITY AND A SAFER FUTURE

Who would have believed it! The E-tax increase not only carried—it carried big.

The "tax revolt" and the credibility gap between people and government vanished Thursday as an impressive number of voters went to the polls to impose a higher burden on themselves. The elements of this remarkable victory were a major issue, public safety, and an intelligent campaign to explain the stakes to the public.

The central architect of this achievement was Ilus W. Davis, the lame-duck mayor of Kansas City. We have often thought that the term "lame duck" was little more than a convenient excuse for tired or weak political leaders to pass the buck during the final weeks and months of an administration.

Ike Davis is neither tired nor weak. Thursday's election offers a brilliant capstone to an 8-year administration that is without parallel in the history of this community. It would have been easy for the mayor to have backed off from this one. The decision to ask for higher taxes, and it was a difficult one, could have been deferred to the new administration that takes over April 10.

But Kansas City needs more policemen now—not next fall or winter. Municipal trash collection is years overdue. Street lights, a deterent to crime, are needed now to illuminate areas of darkness. Dead elm trees must come down before they fall on pedestrians and property. If this tax increase had failed, Kansas City faced the very real threat of a strike by policemen and firemen. Any way you look at it, that development would have been a catastrophe for this community.

No one was more aware of the dangers involved than Ike Davis. As recently as mid-November, some councilmen were having second thoughts about this election. Their fears of defeat were genuine. They were based on the costly toll of the construction and motor car strikes. The mayor was just as concerned over the problems, but he was determined to make one final effort to overcome the financial problems that threatened to cripple the community.

Ike Davis did not do this alone. He did provide the leadership around which others could rally to achieve a goal. John A. Morgan, co-chairman of the emergency committee for public safety, performed masterfully in organizing the campaign. Mrs. Leone Park, co-chairman, carried the message to the women of Kansas City, Clarence Kelley, chief of police, told the voters the facts in his quiet, forceful way and they believed him. Hundreds of others helped do the job.

But without the driving force of Ike Davis, none of these people would have had an opportunity to serve their community. Afterward he said: "I would have been very sad to have walked off and left the cupboard bare after we have tried as hard as we have to make progress for Kansas City."

His determination to press ahead, despite odds which at first seemed insurmountable, is the best way to sum up the extraordinary quality of his leadership. Now Kansas City can move ahead during the final months of this administration. Taxes will not become a negative and possibly divisive issue in the campaign. The new mayor and council will not have to devote months to solving a problem which has already been taken care of.

After a discouraging summer, when nothing went right, a new mood prevails in Greater Kansas City. The Jackson County charter, the United Campaign and now the E-tax add up to a string of victories of which any community in the nation could be proud. If this momentum can be sustained, the 1970's will be bright for Kansas City.

CONGRESSIONAL REFORM

Mr. SCOTT. Mr. President, just prior to the convening of this Congress, Senators MATHIAS and HARRIS held hearings on congressional reform.

With all of the discussions taking place over possible rules changes and changes in Senate procedure, I thought it might be of interest to my colleagues to see the testimony offered at those hearings by Senator BARRY GOLDWATER.

Senator GOLDWATER was kind enough to embrace some of the procedures advanced by Senators SAXBE, SCHWEIKER, HUGHES, and CRANSTON and concurred in by the joint leadership.

I ask unanimous consent that Senator GOLDWATER'S testimony be inserted at this point in the RECORD.

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

IMPROVING SENATE PROCEDURES

(Statement by Senator BARRY GOLDWATER, of Arizona, before the ad hoc Committee on Congressional Reform, Jan. 19, 1971)

Senators Harris and Mathias, let me say at the outset that I think these hearings serve a useful purpose. I am very pleased to be able to participate in your effort to find ways of improving Senate procedures and making our distinguished body more responsive to the nation; and as a Member of the institution we are discussing, I will try to add some helpful insight to this study.

Perhaps more than most Members, I have had an opportunity to observe and examine the practices and procedures under which the Senate operates. Before my present term, I was privileged to serve for 12 years as a Member of the Senate and then to have a self-imposed sabbatical of 4 years during which I could reflect upon the basic structure and distinguishing features of this national institution. So, unlike many of the voices which you will hear in the course of these proceedings, I will speak to you as one who has viewed the inner workings of the Senate's machinery and who has had a unique opportunity to examine the issues which are the subject of your hearing.

With this background, I wish to express my strong view that there is no need to perform major surgery on the Senate. To the contrary, I shall propose several changes in practices used on the Senate Floor which would make the Senate operate in a smoother, swifter, and more responsive manner, but would not require amendment of the Senate rules. In addition, I shall suggest one

reform which would require a substantial break with Senate tradition.

But before launching into the details of these suggested changes, let me explain the reasons for my belief that no drastic alterations are called for. To my mind, the Senate is not the irresponsible, ponderous dinosaur which many of its critics make it out to be. Though there are times when we all become frustrated over its inability to grab hold of an issue and reach a decision right here and now, upon reflection, when one looks at the record developed by the last Congress, we can see the Senate is capable of reaching a great many significant decisions. On the other hand, I do not think the mark of a successful Congress is necessarily found in how many laws it passes, and often the Senate can serve the country best by not acting to pass ill-considered proposals.

On the positive side, I might mention two laws which I had sponsored in the last Congress together with wide bipartisan support that might contribute to the public good. One of these new laws will protect the important personal right of privacy by completely barring the use of the United States mails as a means to distribute unsolicited and unwanted sexually related advertisements.

The second will enhance the right to vote for President and Vice President for over 10 million American citizens. You may recall this law abolishes residence requirements as a pre-condition to voting for President and Vice President, and grants to all United States citizens the right to register absentee and to vote by absentee ballot in Presidential elections. I like to point to this statute when anyone suggests the previous Congress has failed to act on election reform. Why this one change alone will expand the vote by nearly 14 per cent.

And have we already forgotten the giant step taken when Congress reduced the voting age to 18? This provision will add another 11 million persons to our election rolls. Therefore, it must be recognized that the 91st Congress deserves credit for having enabled over 20 million additional American citizens to join the ranks of eligible voters in future elections. This is an increase of almost 30 per cent in the number of persons who elect a President.

Other legislative contributions made by the previous Congress include a Water Quality Improvement law, enactment of a major organized crime bill, a Clean Air measure, and a complete reform of the postal system.

Among the legislative proposals which the last Congress turned down is the so-called welfare reform proposal. Though I realize there is some disagreement over this issue, I am persuaded that my good friend from Delaware, Senator John Williams, is correct when he concludes the welfare package would freeze all the inequities of existing law into the new program and add several new ones. For example, my colleague revealed that not one welfare recipient in America would receive a dime less than that which he is now getting under existing law. On the other hand, the welfare proposal would increase the public assistance rolls from 11 to 24 million persons, a rise of more than 100 per cent. In addition, it was discovered the bill would have provided a 1,300 dollar cash bonus to a mother who had an illegitimate baby over and above what she would receive if the baby were born in wedlock.

It's this kind of deficiency which leads me to believe it might not be such a bad idea if the Senate would defer action on a Presidential proposal every once in a while. I do not think there is anyone here who wants the Senate to become a rubber stamp for the President, whatever his political beliefs. I have mentioned one instance where I believe President Nixon has been given bad advice. I would also like to refer to a related measure which should never have gotten through during the term of Mr. Nixon's predecessor, Lyndon Johnson—and this is the Medicaid program for which public expenditures have leaped 1,000 per cent above the estimates given to Congress. Indeed, I might add that much of the inflationary costs saddled upon the national economy today can be traced back to legislation which was barreled through by an obliging Congress which was all too eager to accept and expand President Johnson's social schemes.

With these thoughts in mind, I would like to list some of the practical changes which can be made in order to improve the Senate's performance. I will preface this list by saying they did not originate with me. Rather, these are items which have been developed as a result of great efforts and time spent by the joint leadership of the Senate, particularly Senator Mansfield and Senator Scott. I do not think I am revealing any secret today when I mention that the joint leadership is likely to request—perhaps I should say insist—that at least a dozen changes shall be implemented in the Senate's procedure once the new Congress convenes.

These changes include a decision by the leadership to insist that roll call votes do not last more than 20 minutes in the Senate. On occasion, I can recall when these votes have stretched out up to 45 and 50 minutes in order to accommodate the convenience of one or two individual Members. If we are to cope with the ever increasing needs of a growing nation, we should try to prevent this kind of ridiculous waste of time which holds up the country's business.

In order to make this practice workable, the Sergeant-at-Arms will be asked to install a new light and bell system to indicate the beginning of the final 5 minutes of each roll call vote. In this way, each Member can know at a glance this is his last opportunity to be recorded. Whether Senators will find this acceptable will depend upon them, of course. The mechanics can be provided to assist Senators, but it's up to them to make proper use of these procedures.

Another move to cut down on the time for holding votes will be an appeal to Members to stay close to the Floor once they know a unanimous consent agreement has gone into effect. If Senators will keep close to the Chamber instead of being scattered all over Capitol Hill, I am confident this will save several precious minutes out of each day whenever a vote is called.

The next change would require that all Members should be prepared to accept strict enforcement of the 3 minute rule on speeches during the morning hour. Here, we have a rule that is broken regularly and draws out the beginning of the Senate's day time after time. It is my feeling Senators should abide by the present rule; and if they cannot deliver their full statement within 3 minutes they can ask for their speech to be printed in the Congressional Record as if it had been read in its entirety.

This proposal is related to a decision to crack down on the growing tendency of Senators to seek a special order setting aside the whole morning hour for their speeches. When the new Congress convenes, Senators will be expected to ask for no more than 15 minutes under any special order; and if their thoughts need further development, they should insert their remarks in the Record or come back at the end of the day to resume their statement after the Senate's business has been conducted.

Perhaps the most important change will be the giving of a firm notice to each Member that he must remain in Washington except during announced recesses. All too often in the past individual Senators have been allowed to delay the holding of a vote from one day to another in order to satisfy their outside speaking plans. Now if we would just think about this, we would see that if each Senator is granted a delay only once in each session of Congress, the Senate would thereby lose a full 100 days out of it's work year. This is an impossible situation, and I shall support the enforcement of the new practice with great hopes for its success.

In order to assist the needs of each Senator, I understand the joint leadership will seek to provide for a 5-day recess at the end of every month during which Senators can carry out their speaking engagements. Again, it will be up to each Senator to adjust his schedule in the service of the entire Senate.

There are other changes which will improve the ability of each Senator to do his job well even though it may not reduce the time it takes him to do it. For example, the 3-day rule on appropriations bills will be followed to the letter. As you know, this rule provides that an appropriation measure must stay on the Senate's calendar for 3 days before it is acted upon. The close monitoring of this rule will assure Members who do not sit on the Appropriations Committee that they will have the time to study and inform themselves about these massive, important bills.

Secondly, the final 15 minutes of debate under a limited time agreement will hereafter be equally divided between the proponents and opponents of an issue. Very often in the past, the Senate has witnessed the spectacle in which all the minutes reserved for one side has been used up early in a debate, so that by the time most Members come onto the Floor, they will hear only one-sided presentation of the issue. By altering this practice, I believe Senators who are in the Chamber shortly before a vote will be able to hear a balanced discussion of both sides of the matter before them.

This concludes my review of the mechanical changes which will be laid before the new Congress when it convenes. I shall leave it for the Senate leadership to announce the full details of their new plan. But before closing, I would like to add one suggestion to their list which is the proposal that Senate Committees should begin their work much earlier in the session by scheduling hearings immediately after Congress convenes.

Finally, I want to join with the many opinions voiced at this hearing that conclude the Seniority system is outmoded and improper for a Twentieth Century Congress. While I do not have any hard and fast position about what we might use to replace it, I do think it would be worthwhile to consider whether the Chairmen and members of each Committee can be chosen by party vote, or in the case of the Chairmen, perhaps by the ranking three or four members of each Committee.

For my part, I am very impressed with the energy and skill shown by many of our junior Members, and I strongly believe these young men should be given greater opportunities to rise to the heights of their abilities within our political structure.

Furthermore, I will go a step beyond the usual recommendation by announcing my position that the Senate procedures must be revised to make room on our Committees for the young Members according to their personal area of expertise. In my view, any consideration of a change in the Seniority system should not be restricted merely to the spot of Committee Chairman, but must be aimed at the broader question of how one can get onto that Committee in the first place. If we can achieve this one limited change, I think we can do more to modernize the Senate and preserve its stature than by adopting any other reform which I have heard about.

This concludes my statement.

THE PROMISE OF THE U.N. CHARTER UNFULFILLED

Mr. PROXMIRE. Mr. President, I rise once again to urge this body to rati-

fy the Genocide Convention unanimously adopted by the United Nations General Assembly almost 21 years ago. The position of the United States with regard to this treaty has been both puzzling and ironic. In 1945, the American people and the world stood aghast at the hideous crimes of the Third Reich. This episode gave rise to the concept of genocide and the movement to outlaw genocide as a crime under international law. Following the war, the United States was one of the leaders in urging the United Nations to adopt a resolution on this matter. We joined in the unanimous vote of December 11, 1946, by which the General Assembly adopted its resolution, calling for the drafting of an international convention for the same purpose. On December 8, 1948, the convention was adopted by the U.N. General Assembly by unanimous vote, with the United States concurring. On December 10, the United States signed the convention and on June 16, 1949, the then President Harry Truman submitted it for the advice and consent of this body. A subcommittee of the Foreign Relations Committee held hearings and reported the convention favorably to the full committee, which took no action. In 1951, the treaty entered into force, having been ratified by the requisite 20 States. Today, the convention has 75 parties; the latest to deposit its instruments of ratification being Great Britain on January 30, 1970.

We have stood aloof from this international treaty in the drafting of which we fully cooperated. Other nations find our position short of incomprehensible. If we abhor the crime of genocide, if we desire that it should never happen again, if we support the building of world order based on law and justice, then we must ratify this convention, which would fulfill a promise we have consistently made.

The promise that needs to be fulfilled in this world, the question that needs to be answered, and the imperative that must be followed is that yearning of mankind to build a foundation of a law of human rights for all mankind, a foundation for world law. First, we are asked to fulfill the promise of universal human rights personally. In the words of Mrs. Eleanor Roosevelt:

> Where after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any map of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, women and child seeks equal justice, equal opportunity, and equal dignity without discrimination. Unless these rights have meaning here, they have little meaning anywhere.

It is precisely these sentiments and ideals to which the founders of this Nation dedicated their lives and sacred honor. It involves the preservation of an open, free society, rid of the scourge of racism, poverty, hunger, and free from fear and intimidation, and to this promise we must dedicate ourselves and our efforts to.

Second, as a nation of States we must ask ourselves to what extent we are committed to preserving human rights, guaranteed under world law. It is appropriate here to remember the counsel of Robert Kennedy:

> Each nation has different obstacles and different goals, shaped by the vagaries of history and experience. Yet as I talk to young people around the world I am impressed not by the diversity but by the closeness of their goals, their desires and concerns and hopes for the future. There is discrimination in New York, apartheid in South Africa and serfdom in the moutains of Peru. People starve in the streets of India; intellectuals go to jail in Russia; thousands are slaughtered in Indonesia; wealth is lavished on armaments everywhere. These are differing evils, but they are the common works of man. The inadequacy of human compassion, the defectiveness of our sensibility toward the sufferings of our fellows; they mark the limit of our ability to use knowledge for the well-being of others. And therefore, they call upon common qualities of conscience and of indignation, a shared determination to wipe away the unnecessary sufferings of our fellow human beings at home and around the world.

This speaks eloquently not only of the need to preserve human dignity and freedom in our national life by fulfilling the promise of the Declaration of Independence, but also to answer the shared concern of nations around the world with the growing problem of world law and justice. The building of world law would be greatly enhanced by the ratification of the Genocide Convention. We as a nation can show our concern and support for establishing as matters of international concern and jurisdiction certain specified aspects of human rights, in this case the right of national, ethnic, religious, or racial groups to live under just and humane government.

This speaks to a commonality of concern among nations, although each nation may have different obstacles and different goals. In the context of modern history the convention stands for a principle of fundamental importance; namely, that whatever evils may befall any group or nation or people are a matter of concern not just for that group but for the entire human family. It is thus in our commonality of compassion for the rights of mankind that the nations of this world can gather their strength. And the question at this time, and in this place is whether we, the United States, will answer by ratifying this document of world law.

I have spoken of past promises that need to be fulfilled, and of the present questions facing us today. And there is yet another aspect of this convention: It is concerned with what kind of vision we will proclaim, what imperatives we will follow. Former Chief Justice Earl Warren, speaking before the Conference on Continuing Action on Human Rights in December of 1968, said:

> The foundation of a law of human rights for all mankind are the UN Charter obligations to promote and protect human rights and standards proclaimed in the Universal Declaration of Human Rights. This Declaration has already had a real impact on countries around the world. In speaking of the Universal Declaration Secretary General U Thant said recently: ". . . the Declaration has guided and inspired many statesmen and legislators. . . . Those who suffered from inequities, from prejudices, from humiliations, from fear and insecurity, found in it a justification for their complaints and protests. . . ."

This declaration has only begun to play its role in the development of a universal society. It has a major role to play both here among us at home and abroad among our sister countries. An attempt was made through the establishment of the United Nations to shield the citizen from the abritrary actions of his government. It was hoped that mankind would be benefited and governments would be deterred from despotic tendencies. It was hoped that the peacekeeping actions of the United Nations would be strengthened, and the unilateral use of massive military power be eliminated.

The United Nations speaks of the finest virtues of mankind—a quality of the imagination, a will that demands courage over timidity, adventure over love of ease. The United Nations calls forth the best in mankind. This imperative, this call to the future, this push for a new vision that demands of us to take the lead in the introduction of a new order of things. Nothing is more difficult, nothing more perilous, nothing more uncertain in its success. For those who deny that deep convictions and high aspirations are compatible with the most practical and efficient of programs, let us heed the counsel of the late Senator Robert Kennedy:

> It is not realistic or hardheaded to solve problems and take actions unguided by ultimate moral aims and values. It is thoughtless folly. For it ignores the realities of human faith and passion and belief, forces ultimately more powerful than all the calculations of economists and generals.

At this time, here in the Senate of the United States, we must ask ourselves how we will fulfill the promise of our Declaration of Independence, how we will answer our commitment to the Charter of the United Nations, and what path we will follow in answering the imperatives of a troubled world that asks for international peace and justice. It is my conviction that ratifying the Convention on Genocide will in part fulfill the promises of the past, answer the questions of today and follow the imperatives of tomorrow.

NATIONAL WEEK OF CONCERN FOR PRISONERS OF WAR/MISSING IN ACTION—ADDITIONAL COSPONSORS

Mr. BROCK. Mr. President, for many months, along with many of my colleagues in the House, I have exerted every possible effort toward bringing the tragic story of our prisoners of war and missing in action, together with that of their families home to the American people. It is believed that only by so doing can any hope be held out that their captors will be persuaded to abide by the Geneva Convention in their treatment of our men.

Two separate sessions of the House—one a joint meeting—was devoted to this cause. Yet today, as more and more U.S. servicemen return to this country to be reunited with their loved ones, the families of the POW's and those missing in action wait in vain for their return or even for full information as to their welfare.

That is why I have submitted Senate Joint Resolution 10 asking that the Pres-

ident designate March 21–27 as "National Week of Concern for Prisoners of War/Missing in Action." These dates have significance as the anniversary of the first U.S. serviceman to be captured in the North of Vietnam, and will serve as a time frame during which I am told many artists of radio, TV, stage and screen will concentrate their efforts in presenting this story. Let us hope the message will be heard in Hanoi and will have positive results.

The following Senators join me as additional cosponsors: Mr. JORDAN of North Carolina, Mr. SYMINGTON, and Mr. HATFIELD.

TRIBUTE TO THE LATE SENATOR RUSSELL

Mr. JORDAN of North Carolina. Mr. President, the death of Senator Richard Russell has closed a magnificent chapter in the history of the Nation he loved so much and served so long and so well.

I mourn, as does every other Member of this Senate, the passing of a man who rightfully will be remembered as one of America's finest statesmen and most illustrious political and legislative leaders.

But mixed with my sorrow is a sense of awe and thankfulness that our country was blessed by the fruits of his strength, his wisdom and his expert guidance in such a splendid way for so many years.

And I am very grateful for the high personal privilege of having shared the last 12 of those years with him in these Halls and of benefiting so greatly from his leadership.

History denied this man the chance to be President—a role I am completely convinced he would have filled with exceptional distinction.

But it afforded him the opportunity to serve as a confidant and counsel of no less than six Chief Executives during periods of national trial and crisis which tested to the very core the fiber of his own greatness.

He was in a very real sense the architect of America's military strength and the country's role as a defender of weaker nations during the years he served as chairman of the Senate Armed Services Committee.

For what he accomplished there, the entire free world, as well as his own country, owes him a debt of undying gratitude.

In times of domestic turmoil he was ever a tower of strength and a voice of wisdom and reason in these halls where we now pay such richly deserved tribute to his memory.

Richard Russell loved the South which gave him birth and fought with consumate skill for its legislative causes.

He loved his party and championed it in countless battles.

But, above all, he loved his country and what it stood for and it was to its laws, traditions, and dreams that he gave himself without question or reservation.

He brought to that task qualities of fairness, courage, and unswerving integrity that made him a legend in his own time.

The voice of Richard Russell is forever stilled.

The things he said and did in his nearly four decades of outstanding public service, however, will live on as a rich heritage for future generations of Americans as well as in the memory of those of us who were so privileged to know this great man.

ON THE SIDE OF THE POOR

Mr. CHURCH. Mr. President, a continuing debate in this country centers around assisting the poor, one-seventh of our citizenry. As long as these Americans live outside our affluent society, we cannot halt the debate and—more important—we cannot swerve from our national goal of abolishing poverty in our midst.

"Always be on the side of the poor man," St. Louis IX, King of France (1228–1270), instructed his son Phillip, "rather than the rich man until you know the truth." A man who followed this precept is Mr. John C. Cort of Boston. His long life on the side of the poor is a moving testament to the kind of human motivation existing within our system. From the Catholic Worker through the trade union experience, the Peace Corps, the war on poverty and the black revolution, Cort writes in the current Commonweal, he has found that—

> There is so much health and so much vitality in our system that if can afford to pay people to fight the injustice and inefficiency within the system and thereby keep the system from getting so fat and corrupt that it might indeed fall of its own dead weight.

Another account of the fight against poverty is less reassuring. Writing in the January issue of the Washington Monthly, Mr. Taylor Branch describes in detail current problems in the Office of Economic Opportunity revolving around the Legal Services program. He outlines this most promising and, perhaps, the most constructive effort to date to provide legal representation and other legal services to the poor. By working through our judicial system, the Legal Services program exemplifies conservatism in this country at its best. He concludes that "society's pillars need drastic reform."

Yet, according to Mr. Branch, recent political developments in OEO raise serious questions about the administration's commitment to support needed change in our courts and in the application of our laws in regard to unrepresented poor people. Publicized political plans are in motion to stymie the work of poverty lawyers. However, these lawyers "were not just helping the poor." Mr. Branch says:

> They were forcing responses from that great enveloping blanket which is known as administrative government and which warms all our problems. They were beginning to act almost like a fourth branch of power kicking those huge agencies that murder equity and then bury the responsibility in a corridor somewhere while the PR men explain. Perhaps the thought of a single independent lawyer—totally unprogrammed and uncoordinated—standing there and causing change on the basis of principle was too much for the politicians, who are lost in the blanket, too. They have a place there woven together, along with the old differences between liberal and Republican and Democrat and conservative. Everyone has a spot to protect. There is little support for the idea of that independent lawyer any more, for he is out of style. And if the powers keep the poverty lawyer from suing city hall or HUD or HEW or the police department, Legal Services will itself be incorporated into the blanket and become another program with problems to protect and jobs to keep by not gouging its neighbors. If the control of Legal Services is mailed out to the politicians and bureaucrats and special interests one of the last best hopes and the best idea in the war on poverty will be absorbed into the great woolly fabric and wetted down. That is how it is.

With developments such as described above, the creed of John Cort and the Legal Services program mandate, "to further the cause of justice," will never be fulfilled.

I ask unanimous consent that "The Evolution of a Catholic Worker," by John C. Cort appearing in the January 8, 1971, Commonweal plus Taylor Branch's "The Ordeal of Legal Services: How Poor People Won in Court But Lost in OEO," from the January issue of the Washington Monthly, as well as Jack Anderson's column, "Budgeteers Slash Poverty Programs," in the Washington Post of January 7, 1971, be printed in the RECORD.

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

THE EVOLUTION OF A CATHOLIC WORKER

(By John C. Cort)

When I was in school I was so bored by economics that I dropped out of the course at the end of the first half-year. I began to get excited by economics only after I spent a few years working on the breadline at the Catholic Worker and walking on picket lines with the Association of Catholic Trade Unionists.

The breadline extended all the way down Mott Street and around the corner on Canal Street. Sometimes they were lined up before dawn, standing in the cold, waiting for the coffee and one slice of bread smeared with apple butter. The line was long because there were many able-bodied men standing in it who could have been at work if there had been jobs for them, men who were still not broken down by booze, hunger and despair.

The economic system had broken down (about 12,000,000 unemployed in a much smaller labor force) and now it was breaking down the men whom it could not employ. Nobody who watched it happen could help but be moved with anger against such a system, especially when, as I believed and still believe, a major cause of this suffering was the greed of the rich and the powerful and their indifference to the anguish of the poor.

I accepted the argument of those who held that the chief cause of that depression and unemployment was the refusal of employers and government to maintain purchasing power through decent wages and other monetary benefits. I did not accept the argument of Peter Maurin and others at the Catholic Worker that the solution to the evils of our industrial system was to flee the cities and go back to the land and to making things by hand. This seemed to me to be a lovely and romantic notion that would never appeal to more than a select few who rarely had the money or the hard-muscled skill and determination to make it work. In short, counterproductive and highly distracting. It was a debate that raged for years, at times even more violently than the battles over pacifism and anarchism that also kept us busy at the C.W.

Dorothy Day was probably a saint and certainly a beautiful writer and in all fairness it should be said that she was ambiguous

about trade unions. Peter was not. He said clearly, "Strikes don't strike me." But Dorothy's Marxist background would not permit her to turn her back on the unions. She wrote some wonderfully warm and vivid pieces supporting the sit-down strikes in the auto industry. But mostly the C.W. was not very sympathetic to the union movement.

So with Marty Wersing and George Donahue and a few others who included a large percentage of Manhattan College graduates we organized the Association of Catholic Trade Unionists, which was dedicated to the proposition that to give the workers a meaningful share in control, *power*, over the industrial system, was a Christian and Catholic thing to do, that power should be used with reason and prudence but that the main thing right then was to get some for the workers. And so we went out and marched on picket lines and distributed leaflets at plant gates and on the docks and in Jersey City and got jumped by goons and other unpleasant persons.

We worried a good deal about racketeers in some of the older AFL unions and we tried to help rank-and-file union members who were inclined to organize themselves, usually unsuccessfully, to cast off the dead hand of corrupt local leaders. One reason for their unsuccess was explained to me when a truck-driver really made me understand what it feels like to have a gun shoved in your ribs on a dark rainy night under the 9th Avenue El. Better a dead hand than a dead member.

We also worried about Communists in the CIO when we weren't defending the CIO from right-wing charges that it was Communist-dominated. Looking back now, especially in view of the fact that Russian Communism and its adherents in this country have become so respectable and even paunchy, I sometimes wonder if perhaps we didn't worry too much about them. But on the whole I am inclined to think not. The Stalinists of the 30's and 40's were by no means paunchy and they were highly effective at twisting their control of various unions into an instrument of Russian foreign policy, depending on whether the Yanks were or were not coming at the moment.

We were denounced by some priests and praised by others who generally got to be known as "labor priests." We wrapped ourselves in the papal encyclicals, especially *Rerum Novarum* of Leo XIII and *Quadragesimo Anno* of Pius XI, and when we weren't wrapping ourselves in them we were beating our Catholic adversaries over the head with them in a manner that, since *Humanae Vitae*, I have come to resent in others.

But one way or another we helped to get the church on the line on the side of the poor man at a time when union members were still poor. Recently I asked a union friend why the labor movement had become so conservative. His reply was, "Well, it's the first time that we've had anything to conserve." Union members had little to conserve in those days.

At the Catholic Worker we ate corn flakes for breakfast, not knowing then how much we were being cheated on nutrition. Lunch was usually a sandwich and dinner stew. I slept in a four-room apartment with nine other men, from one of whom I probably contracted the tubercle bacillus that ate a hole in my right lung. The walls were infested with bedbugs and try as we might we could not rout them out entirely. I remember once taking a particularly bad steel frame cot up to the roof and burning the vermin out of it with a blow torch. I shall forever treasure the memory of the sharp, acrid smell of roasting bedbug.

There was usually a meeting to go to at night and when you were able to get to bed sleep was rarely sound. The days also were full of action and turmoil and after two and a half years I was ready for a TB sanatorium. Many years and relapses later, after much reading and some writing, several jobs and the acquisition of a small amount of patience and a sizable amount of children I became executive secretary of the Newspaper Guild of Greater Boston, CIO, which means I was a local union business agent and responsible for negotiating contracts, handling grievances, organizing new shops and mediating old hatreds.

In New York I had first become active in the Guild as chairman of the *Commonweal* unit during the somewhat frantic days immediately after the war when the fight between Stalinist and anti-Stalinist factions was at its height. The Stalinists tagged me as "a clerical redbaiting Fascist." There were also two factions in the Boston Guild, a mere 200 miles away, but those were somewhat different: pro-publisher and pro-Guild. The pro-publisher group quickly identified me as a Communist.

My mind goes back to one negotiating session with the *Boston Post*, a dying newspaper that we were trying to keep alive. Borrowing an idea from Pius XI and Clinton Golden, we proposed a joint production committee of management and union members that would work together and develop ways and means of saving money and improving the paper. "After all," I said, "we don't agree with Marx that labor and management have nothing in common." At the mention of Marx, one of my critics on the Guild side of the table woke up and nudged his neighbor. "Hear that?" he said, "I told you Cort was a Commie."

Management didn't like the idea either and the paper went ahead and quietly died.

In New York I knew the labor movement mainly from the angle of strikes, picket lines, organizing campaigns, conflict, drama. The labor movement was where the action was in those days. In Boston, over twelve long years, I learned about trade unions from the standpoint of day-in, day-out housekeeping. We never had a strike of our own, although we supported the strikes of other crafts on several occasions. It took seven years just to persuade our largest unit to authorize a strike, to make a threat. That's how conservative they were.

And finally they stood up to the boss and told him they would walk out if he didn't give them a decent contract. And he did. And all those who stood up stood taller. And things were never the same again. They had tasted power, the power to talk to the powerful, the power to stop begging and start demanding, the power to impose some law of reason and justice on a resisting world. I don't say that they had really achieved that power, but they had tasted it. And that was enough, as it usually is. It was never any problem to get a strike vote after that.

But before that happened there were hundreds of meetings: membership meetings, board meetings, workshops, conferences, conventions. And there was the talk: hours and hours and hours of talk. Good talk, bad talk, boring talk. Oh, the hours of boring talk. But all of it was part of the dynamics of building an organization of workers who would finally be strong enough to stand up and talk to the boss as an equal—well, almost an equal. It was the democratic process extending itself to the city room and the advertising department of the *Boston Herald-Traveler*. It was a pain in the ass and a thing of beauty.

In 1958 I ran for state representative from Ward 22 of Boston, mostly Irish, a little Italian, Jewish and Polish (see *Commonweal*, Nov. 7, 1958, "My First Hurrah"). Which means I joined the Knights of Columbus, imitated Maurice Chevalier singing "Louise" in the parish variety show, attended more wakes than was good for me, and lost. And I ran again two years later, had my nomination papers stolen, ran on stickers, won on the first count, lost on the recount, learned enough to respect politicians because sometimes in their life they really have to sweat, and lost.

Two years later I was the local martyr and would have had to do something really foolish to avoid getting elected, but my wife, who was allergic to politics, persuaded me to join the staff of the Peace Corps in the Philippines (see "Eight Hundred Americans," *Commonweal*, Sept. 25, 1964). We watched the democratic process at work in a land where it was new and even stranger than it is everywhere, and saw it working again despite the strangeness. At the suggestion of a Peace Corps Volunteer we organized a group that discussed Teilhard's *Phenomenon of Man* and reflected on how the Peace Corps itself was an example of that process Teilhard describes by which the world is contracting, coalescing and speeding up.

In 1964, home on leave, I got an invitation from the Governor to head up the Service Corps, a new domestic Peace Corps that became the multi-purpose anti-poverty agency of Massachusetts. We helped organize community action agencies all over the state, those agencies that were supposed to give the poor "maximum feasible participation" in the planning and administration of the programs. We recruited over 500 full-time Volunteers, mostly poor folks themselves, gave them a few dollars expense money and assigned them to help those and other agencies to organize their neighbors and fight their way out of poverty.

And some strange things came to pass. Through the Service Corps the Commonwealth of Massachusetts was paying people to organize welfare mothers first in MAW (Mothers for Adequate Welfare) and later in the Welfare Rights Organization to make trouble for another agency of the Commonwealth, the department of public welfare. Service Corps and VISTA Volunteers were organizing public housing tenants, making trouble for housing authorities, mayors, redevelopment authorities and other branches of the Establishment.

Some people might point to this as evidence that our democratic system is cracking up. It doesn't even know how to defend itself. It contributes to its own destruction. I prefer another explanation. I prefer to say that there is so much health and so much vitality in our system that it can afford to pay people to fight the injustice and inefficiency within the system and thereby keep the system from getting so fat and corrupt that it might indeed fall of its own dead weight.

THE CRITICS

There has been a lot of criticism of OEO's community action from Daniel Patrick Moynihan and others. Mayors and public bureaucrats don't like it because it has been organizing the poor and giving them the power to make trouble. Radicals don't like it because it is committed to working within the system. A lot of people don't like it because it has been oversold and underfunded and tends to make promises it can't fulfill.

I have rarely seen or heard any persuasive criticism of the basic concept of community action that underlies the Economic Opportunity Act from anybody who actually worked in it, from anybody who actually knew how it works, from anybody who had actually seen it work.

Moynihan makes some valid points in his book, *Maximum Feasible Misunderstanding*. One of those is his point that community action was a concept that covered four different meanings that tended to get confused in the minds of its inventors and practitioners, namely, organizing the power structure, expanding the power structure, confronting the power structure, and assisting the power structure.

Possibly Moynihan meant to include a

fifth meaning, which is really the most important and significant meaning, when he spoke of confronting the power structure. And that is, to use an old union term, organizing the unorganized, organizing the nonunion poor so that they can confront the power structure with something more than total powerlessness. It is revealing that Moynihan looks at this concept from the point of view of the power structure, not from the point of view of the poor.

On June 2, 1967, a number of Service Corps Volunteers, black mothers on welfare and organizers of MAW, chained the door of the Grove Hall welfare office and locked themselves and the entire staff in. They were demanding an immediate redress of grievances. The cops came and broke down the door, cut the chain and drove out the mothers, with unnecessary roughness. The black community of Roxbury, Boston's ghetto, exploded in the worst riot the city had seen in this century. I saw it, the burning and the looting, the over-reaction of the police and the trigger-happy firing of guns. I saw the fear and the hatred on both sides.

A few weeks later we moved into a house in Roxbury which we had bought some time before. I would hope that we would have moved anyway. Frankly, we wanted to identify with this community because it seemed to us that the white people of this area, Boston and environs, like the white people of America, sometimes consciously and sometimes unconsciously, have oppressed and exploited black people and denied their basic human rights.

This is where the action is today, in the black ghettos. This is where the great unfinished business of America will be finished or will finish America.

We have campaigned for black candidates. We have served on Model Cities committees and been active in parent associations in the local schools. We have observed police brutality and listened to the Black Panthers' rhetoric of counter-brutality and watched them filling sandbags outside their headquarters down the street for the inevitable raid which will one day shatter the quiet of the night. We have been robbed in our home and robbed on the street. We know about law and order and we are learning, slowly, about the infinite variety and the infinite sufferings of black people.

We have come to see that part of that suffering can be caused by the goodhearted bungling of friends like ourselves who sometimes contribute to the syndrome of dependence by being a little too aggressive and insensitive about how they help, not recognizing that blacks will make it only when they get themselves together to confront this white society in the same way that the workers got themselves together to confront the boss.

From the Catholic Worker through the trade union experience, the Peace Corps, the war on poverty and the black revolution, my life over the past 34 years has led me into highways and back alleys. If I did a book on these experiences, I would call it *The Side of the Poor Man*. The phrase is from a saying attributed to St. Louis, king of France in the 13th century, "Always be on the side of the poor man rather than the rich man until you know the truth." There seems to be an implication there that after you know the truth you will be on the side of the rich man, but I don't think St. Louis meant it that way.

Another theme of the book would be a remark identified with Winston Churchill whose wisdom I find myself admiring more and more as I grow older, namely, "Democracy is the worst possible system of government in the world except for every other system of government."

Let me put it simply and with more than a trace of arrogance. I am tired of reading and listening to stuff by people who have never been there: about unions and labor relations, about politics and public service, about underdeveloped countries and foreign aid, about poverty and the black ghetto, about the slow and painful process by which the powerless attain power and self-respect. I have been there, all those places, not just to visit but to live and work. By and large, it's not the way they say it is.

[From the Washington Monthly, January 1971]

THE ORDEAL OF LEGAL SERVICES: HOW POOR PEOPLE WON IN COURT BUT LOST IN OEO

(By Taylor Branch)

At 6:30 p.m. on November 20, an unlikely group of four people assembled in Washington for an important ceremony regarding the Office of Economic Opportunity's Legal Service Program of representation for the poor. Donald Rumsfeld chaired the meeting from his position as director of the anti-poverty agency, a post which he had accepted in May of 1969 after much cajoling from President Nixon and the Moynihan wing of the White House. The oddity of Rumsfeld's leading the charge against poverty has frequently been noted by writers who recite his moderately conservative record as a Republican Congressman. There is room to muse about the versatility of a man like Rumsfeld—who could become OEO's leader after voting against the original Economic Opportunity Act of 1964, who fights poverty and still comes on like a stylish version of his President, and who represents the poor from a background (Princeton '54, Congressman from a posh Illinois district) which finds them distant and hard to understand. Rumsfeld was attended at the meeting by Deputy Director Wesley J. Hjornevik, a NASA veteran, and General Counsel Donald Lowitz, an attorney in an established Chicago firm—two more strange officials for even a low-profile cruise against poverty.

The purpose of the gathering was to fire Terry F. Lenzner, Director of the Office of Legal Services and briefly the fourth participant in the meeting. He also seemed out of place—the 31-year-old product of the Eastern stream, Exeter, Harvard, Harvard Law School, captain of the Harvard football team, and widely touted as Rumsfeld's man after he came to OEO (on Bastille Day, 1969) as the Director's first major appointment. But apparently Lenzner had gotten religion about the five-year-old Legal Services program, whose nearly 2,000 lawyers in 850 offices across the country operated on a congressional mandate "to further the cause of justice among persons living in poverty by mobilizing the assistance of lawyers and legal institutions and by providing legal advice, legal representation, legal counseling, education in legal matters, and other appropriate legal services." It was, in short, a very legal program, and yet Lenzner's management policies had produced considerable political friction within OEO. "Every time he came up here with a problem, it was an urgent matter of principle," said an OEO official close to Rumsfeld, and there was no give in his position. His relationship with Don deteriorated over time, until there was great mutual suspicion between Lenzner's office on the sixth floor and the Director's on the eighth. It was useless to work together any longer."

Rumsfeld told the press that his two former employees had become "either unwilling or incapable" of administering the Legal Services program effectively and that he had lost confidence in them. He gave assurances that the ousting of Lenzner and Jones would not harm the program, emphasizing his record of commitment: the Legal Services budget had risen from $46 million in fiscal 1969 to $53 million in 1970 to requested $61 million in 1971; the caseload had risen from 610,000 in 1969 to a projected 1,200,000 in the current year; and the cost per case had declined steadily from $97 in 1967 to $51 in fiscal 1971.

Director Rumsfeld took the high road in public discourse, but a fierce political battle was nevertheless kindled by the Lenzner-Jones firing—a confusing snarl of disputes involving everyone from prestigious lawyers to obscure bureaucrats and camera-ready politicians.

OEO employees commenced full-scale bureaucratic warfare over who had control of the Legal Services program complete with memo-stealing and one reported case of a sawed filing cabinet in Lenzner's office. On the outside, the dispute over who was hurting the program escalated into a major political battle, with seconds in both camps and strong partisan overtones. Like most scraps within the government, the issues are complicated enough that most people, on ideological instinct, feel constrained to choose sides early with a meager grasp of the facts involved. The bar, the Congress, the OEO bureaucracy, and public opinion have all split, as the bruises are traded in the open over Legal Services.

The outcome of the scuffle is important to the poor and those who care about poverty or are paid to care about poverty, for the work of the poverty lawyers has been a rare multi-faceted success in the war on poverty. Legal aid is a profoundly conservative program, since the lawyers can do nothing for the poor without first convincing a judge of their case. They are impotent without written sanction from the robed men who have passed so many societal screenings for undignified quirks that the establishment itself must seem a little offbeat to them. And the lawyers in Legal Services have to accept these ground rules and the lofty courtroom atmosphere before they even begin. At the same time, Legal Services employees pontificate about professional standards, guard the attorney-client relationship from besmirchment at the hands of "lay" people, and call other law school graduates "Esquire" in all their letters.

Despite all these neutralities and the firm legal gaze back toward precedent, the poverty lawyers have been winning an extraordinary number of cases. Their successes have placed the squawking defendants—typically, landlords, government agencies, and corporations—in an awkward position. They must either accept the justice of the courtroom outcome produced by two well-represented adversaries contending before the law, or they must argue that the courts are biased in favor of the poor when the poor are represented and that justice is better served without poverty lawyers. The first option seems reasonable, but uncomfortable for the defendants, as it leads to the disturbing conclusion that many poor people must now be on the blunt end of justice. The second option not only seems unlikely but also leads to the non-establishment conclusion that society's pillars need drastic reform. Feeling a simultaneous need to uphold these pillars and to avoid being hurt by them, most defendants sidestep the dilemma by charging the poverty lawyers with fomentation, character deformity, and grandstanding—in other words, by politicizing the legal question.

There is an additional element of the fight over Legal Services which makes the outcome important—the poverty lawyers have not only been the most effective of all the efforts in the war against poverty but they have also offered new hope in the general struggle against unresponsive, unaccountable bureaucracy. Faced with an inert government agency sitting expansively on a real problem that touches peoples' lives, a poverty lawyer could simply file suit for court-ordered relief from such illegal inaction—complete with heavy contempt sanctions for defendants which still failed to act. Thus, he could begin to control the bureaucracy—something that neither Congress nor the While House have been able to accomplish. He could in-

dependently make waves and cause change without going through mounds of red tape, establishing a new program, or building an unwieldy organization. He could make the bureaucracy abide by its own rules without having to become a bureaucrat himself, with the attendant risk of being absorbed. In this sense, Legal Services provides the freshest idea yet in the critical task of blugeoning governmental institutions into responsiveness. Poverty lawyers have brought more than 100 suits against federal agencies and countless more against state and local governments. They are, therefore, controversial, but they are indeed potent weapons against both poverty and sleepy entanglements in government.

This is the context of the Lenzner-Jones firings and of their rifts with OEO Director Rumsfeld. The controversy is important because the gulf between the two parties and their respective supporters is so wide and because the embattled Legal Services program is such a promising segment of the movement for social justice.

On his first day of unemployment, November 21, Terry Lenzner publicly accused the Administration of watering down the Legal Services program to please the political powers who opposed it:

"We believe that poverty lawyers must provide the best advocacy possible—advocacy that is unconstrained by fear of antagonizing powerful interests. We believe that the poor deserve lawyers who protect their rights with the same vigor and concern that is expended by private lawyers on behalf of corporations and the well-to-do."

Frank Jones made his point in the straightforward, right-on style that symbolizes the chasm between Rumsfeld and his former employees:

"There is something dishonest, immoral, and possibly illegal about pretending to be concerned about the poor as Mr. Rumsfeld does on the one hand, and using his position and resources as Director of OEO to further his own political end and the careers of politicians whose interests are diametrically opposed to those of the poor."

These charges were echoed in the unanimous protest statement of the 10 Legal Services regional directors and the national staff—an unusual show of solidarity in a government agency, where survivors usually muzzle themselves to protect a shot at the spoils.

The Washington Post and *The New York Times* dived into the fracas on Lenzner's side, editorializing against the creeping politicalization of Legal Services. Along with a promise of a Senate investigation, Senator Mondale issued a chastisement of Rumsfeld for the firings and for the deceptive regionalization of the program. And Senator McGovern told the Senator on November 23 that Rumsfeld had squeezed one of the last pockets of social commitment from the Administration, leaving only a few people and large doses of public relations to smooth over the power politics:

Lenzner and Jones have now joined the long list of persons with too keen a sense of integrity and justice to be allowed to reside in this Administration—Leon Panetta, James E. Allen, John Knowles, and many attorneys within the Civil Rights Division of the Justice Department.

Rumsfeld is rumored to have been both surprised at the intensity of the reaction to his gear-shifting in OEO and angered by the piercing accusations of insincerity directed against him. In response, he stressed the enormous progress of the Legal Services program under his guidance and denied any political compromises of its independence.

Rumsfeld also went on the political offensive by emphasizing through his aides the details of three cases in which he charged that Lenzner and Jones disobeyed his orders by supporting controversial programs that were in violation of OEO guidelines.

Each case had a political message beyond the administrative technicalities, as the Legal Services programs were linked to the representation of the Black Panthers and SDS in New Orleans; the "voluntarily poor," hippie-type distributor of an underground newspaper in Dallas, which once featured the photograph of a nude male; and a group of middle-class, non-poor, government employees in Los Angeles. For those who were not convinced of the guideline violations or of the evil of representing these people per se, a more sophisticated argument was advanced, namely, that Lenzner and Jones were blind to the political delicacies involved in selling the legal services idea to the masses. The firers characterized the firees as a bit swim-headed, naive, and full of that save-the-world-quick purity which plagues good government.

It must have been difficult for Rumsfeld to "go public" with detailed allegations against one of his own programs, in view of the obvious risk that the spicy stories would promote political sniping from all directions—the kind of publicity which hurts appropriations. He could have protected the Legal Services program by maintaining that the firings rose simply from a personality clash and a breakdown of the working relationship. He might have declined to discuss the specifics of the Office of Legal Services for fear of exposing his agency to a public brawl which would hurt the OEO program and budget. But instead of stoically absorbing the Lenzner-Jones attacks and passing them off as the emotional parting shots of derailed bureaucrats, Rumsfeld elected to meet them head-on and counter-attack with the Panther-SDS-hippie buckshot. "Most people and many members of Congress won't remember the alleged guideline violations or who comes and goes as Director of Legal Services," said Senator Mondale. "All that will stick is the link between Legal Services and the unpopular."

Perhaps Rumsfeld felt that he had to answer the statements accusing him of a commitment gap, or maybe he was personally ruffled by Frank Jones' charges that he consorted with racists and bigots. In any case, he responded with the Panther medley, which may win him popular support against Lenzner but at the same time sacrifice support for the very idea of legal services—what with radic-lib lawyers, long-haired clients, militants, and all.

In the New Orleans case, OEO spokesmen charged that Lenzner had mishandled the disciplining of the New Orleans Legal Assistance Committee (NOLAC) for its violations of OEO guidelines. NOLAC, it was said, had represented the Black Panthers in criminal cases, non-poor SDS members, and a pornographic underground newspaper called the *NOLA Express*. In early October, Lenzner found that NOLAC was representing indigent Panthers, but not in violation of the guidelines, except for one case in which a lawyer represented Panthers at a criminal arraignment (he was suspended from NOLAC the same day). He also found that one NOLAC attorney had in fact represented two SDS members the previous April, without filling out the proper indigency forms. Filling in for a friend, the NOLAC lawyer had appeared as the attorney of record in a one-day hearing. Lenzner ordered such representations to cease, but he could take no action against the guilty attorney since he had left NOLAC four months earlier. NOLAC had never represented the pornographic paper in any suit. Finally, Lenzner found that NOLAC was involved in 18 criminal cases (of 1825 active ones) other than those criminal categories explicitly approved by OEO. He ordered NOLAC to withdraw from them, even though OEO's General Counsel had approved the current NOLAC work program, which stated the intention to become involved in such cases because of special problems in New Orleans criminal representation.

Lenzner was also accused of mishandling a Dallas incident, involving the representation by attorney Ed Polk of Brett Stein, the 27-year-old publisher of an underground newspaper, *Dallas Notes*. Its June 3 issue had featured several photographs of a nude man in a Dallas municipal parade and a story about a Jack Anderson column which accused Congressman James Collins (R-Tex.) of accepting kickbacks from people he employed. Apparently, Collins found both the pictures and the story obscene, and he complained to OEO that Stein was ineligible for Legal Services representation because he is "voluntarily poor." Stein's only income is $100 a month from his paper, although he is a college graduate and the son of a wealthy businessman. Lenzner inquired into the case upon Collins' request (as well as requests from Senator John Tower and Congressman George Mahon, chairman of the House Appropriations Committee) and received from Polk the defense that the guidelines on voluntary poverty are hopelessly vague, prohibiting representation of people who are voluntarily poor "without good cause," and that the *Dallas Notes* was distributed free to poor people and carried poverty notices, services which no other Dallas paper would provide. Since the Stein case ended in early July, Lenzner took no action; but he requested a more specific definition of voluntary poverty from the General Counsel's office, and this revision is still being made.

In Los Angeles, the Western Center on Law and Poverty was accused by Senator George Murphy of representing a dozen financially ineligible employees of the California youth corrections department in a civil action against the department. The Western Center defended its action by arguing that its guidelines allowed such representation if financially ineligible clients were first turned down by three private attorneys from the local bar's referral service, a procedure which had been followed. The Center also said that the cases were directly related to poverty because they arose from disciplinary actions taken against the youth department employees for protesting the treatment of the youth wards, mainly poor, in California's correction centers. Lenzner found their case persuasive in view of the guidelines, which he said OEO should tighten up, but he later ordered Western Center to drop the cases anyway, which was done.

On October 12, Lenzner received a copy of three memos from the OEO General Counsel's office to Rumsfeld, recommending suspension of the Dallas and New Orleans programs and a strong "show cause" order to the Western Center. Each memo was accompanied by an implementing letter already drafted for Lenzner's signature. Lenzner himself was surprised by the abruptness and indirection of this procedure, and he objected that each project should prepare a full written report before such stern measures would be justified.

The internal debate over these three cases, which Rumsfeld used to illustrate his impossible management problems, created an atmosphere in which the Office of Legal Services felt ulterior motives blossomed on the eighth floor. According to Lenzner, Rumsfeld summoned him shortly after the October 12 memos and outlined the plan of attack. Lenzner recalls that he wanted three things: a notice of suspension or at least a harsh reprimand to all three projects, a letter to every Congressman and all 265 Legal Services grantees announcing the action as a "signal" about Legal Services, and a press release to be issued and attached to all the letters.

Lenzner won his argument against the blanket letters, and "interested" Congressmen were merely informed of the actions. The press releases were compromised into press statements, not issued but made available to the press upon request. And the projects were not suspended, but sternly advised of the charges against them and ordered to produce explanations or else.

The New Orleans, Dallas, and Western Center cases, upon review, do not seem to be critical turning points in the relationship between Rumsfeld and the Office of Legal Services. The specific charges of regulations violations leveled at Lenzner and Jones are minor in the NOLAC instance, dubious in the Polk-Stein case, and ambiguous at the Western Center. The political content of the cases was the most important element of the public rationale for the firings anyway, and Lenzner feels that the full array of targets was no political accident—the Panthers, SDS, pornography, and hippies. "Don knew there was an election coming," said Jones, "and he wanted to get the message out that OEO didn't like radicals either."

"I think he had already decided to fire us," Jones observed, "even though he never said flatly that he was dissatisfied with our work." "Things had been sour for some time," echoed a Rumsfeld aide. They had gone bad over the previous year, as a few case studies should indicate.

THE BACKLASH OF POVERTY LAW

Peter O'Connor, deputy director of the Camden Regional Legal Services program, acknowledges that his law reform activities have put the Camden office in very hot water over the past year. He reeled off four cases which he thought had disturbed local officials enough for them to try to slash his program.

A successful suit against the Camden Board of Education, seeking a hot lunch program for all the 31 schools instead of selected ones.

Ott v. Nardi, a successful suit against the city which blocked the construction of a highway through a poor neighborhood.

A pending suit against the Camden Police Department for "destroying the garment factory of the Black Peoples Unity Movement with sledge hammers and other implements."

A federal suit seeking a permanent injunction stopping all urban renewal funds from coming into Camden until the city takes action to provide citizen participation in planning, construction jobs for poor people, relocation housing for displaced people, and low-income rather than middle-income replacement housing.

"We win these suits because the courts determine that we are often right," said O'Connor. "I mean the point is that they're just shafting people. I could handle 500 divorces and nothing would happen, but as soon as you file a suit that touches the politicians' friends or graft, they go berserk."

Says Camden Mayor Joseph Nardi, of *Ott v. Nardi:*

"In my opinion, Legal Services has been nothing but a hindrance to progress in our city. Those people are just filing whatever suits they want to, and the only purpose of bringing the suit is to get the publicity, to inflame the community, with the ultimate purpose of destroying the city. . . .

"You would have to live it to truly experience it."

The Legal Aid Society of Mecklenburg County in Charlotte, North Carolina, was under criticism within the Office of Legal Services almost immediately after it opened its doors in September, 1967. The 1968 evaluation report was quite negative, chastising the program for a low caseload volume, which the evaluators felt grew out of the society's downtown office in the prestigious Law Building.

The October, 1969, evaluation was almost equally harsh on the program's commitment to the poor and on its vigor in seeking to use suits to make inroads on Charlotte's poverty. The major exception was the performance of staff attorney Martin Miller, who had opened a separate office in the poor section of Charlotte, and who was developing a large caseload from the surrounding neighborhood, including some test cases. In *Tucker v. North Carolina National Bank as Trustee*, for example, he established a defense for tenants against eviction, on the grounds that, according to state statutes, the housing was "unfit for human habitation." The evaluators found the board policy and the downtown office negative, the Miller office and Miller involvement positive, and called for more of the latter.

On January 7 and 16, 1970, Miller filed two lengthy complaints in United States District Court against the Charlotte Police Department on behalf of several clients, all poor and black. The complaints alleged repeated instances of forced entry, destruction of property, harassment, and midnight searches by policemen without warrants or reasonable cause. Miller sought injunctive relief against the practice and $100,000 in punitive damages.

These complaints caused an uproar in the city of Charlotte and a sharp reaction from Legal Aid Society board president Alvin A. London. Miller, who now lives in Washington, recalls that "Mr. London was damn mad about the suits against the police. He said, 'In Charlotte, you don't sue the police department.' Then he told me to withdraw from the suits. I think he has about as much feeling for the poor community as one could expect to have from the ninth floor of the Law Building."

The Office of Legal Services in Washington investigated the Charlotte situation after Miller's cases received wide press coverage and found that London was not only applying political restrictions to the staff attorneys but also running the board of directors improperly. On February 27, OLS forwarded its evaluation report to London with an accompanying letter advising him that his grant would be cut off unless the board agreed by March 15 to cease interference with staff attorneys beyond the maintenance of eligibility requirements and professional standards. That same day, London convened the personnel committee of the board, which he had appointed a week earlier, and fired Miller. Then the politics began.

After London wrote Lenzner's office on March 12 that he could not comply with the February 27 conditions pending review by the North Carolina State Bar, Lenzner recommended to Rumsfeld on April 1 that the program not be re-funded and that other "vehicles" be explored for the provision of legal services to the poor in Mecklenburg County.

Lenzner's recommendation did not sell, partly because of intercession on London's behalf by Congressman Charles Jonas (R-N.C.), who apparently took enough interest in the dispute to become identified with the grant. On May 15, Rumsfeld, who still denies charges of political interference in the Charlotte case, wrote, "Where do we stand on the Jonas Legal Aid Program?" Dick Cheney wrote Lenzner on June 2, in the midst of stalled negotiations: "Terry, you and I need to sit down and chat about Charlotte Legal Services at your convenience. Congressman Jonas called the Director again and we need to get squared away on what our position is so we can tell him the same story."

In between these two memos, Rumsfeld and Cheney met on May 25 with Legal Aid Society President London and Robert G. Sanders, president of the North Carolina State Bar, upon Congressman Jones' request. London and Sanders are law partners, which is indicative of the close cooperation between the state bar and poverty law. According to a letter from Sanders to Rumsfeld dated July 7, the Charlotte lawyers were assured that the restrictions imposed on their grant by the February 27 letter would be "rescinded or withdrawn."

Lenzner, who obtained a copy of the Sanders letter on July 17, sent an angry memo to Rumsfeld protesting the whole procedure by which the Charlotte grant had been handled. It is clear from the memo that Lenzner knew he had been overruled on terminating the grant but thought that Charlotte's money had been released with instructions that the non-interference condition be "negotiated" between the Legal Aid Society and the regional OLS in Atlanta. The Sanders letter indicated that Lenzner had, without his knowledge, also been overruled on the special conditions for the Charlotte grant.

In many other areas of the country—Chicago, Boulder, Albuquerque, Baton Rouge, Gary, Berkeley, St. Louis—the same kind of detail can be marshalled. In Volusia County (Daytona Beach), Florida, for example, the county bar association became extremely disturbed when a staff attorney named Tom Goldsmith filed suit against the local justice of the peace system, alleging that it existed mainly to help merchants and landlords collect from poor people without due process. When Goldsmith *won* the suit, the bar turned a scrutinous eye to the Legal Services program. "Before that suit, Legal Services had 90 per cent support among the bar members," observed one Daytona attorney. "But it changed everything. Lawyers have to look to their clients."

"All this talk of allowing lawyers to ferment turmoil sounds good in a speech," agreed Legal Services board chairman Bernard Strasser, "but you can't do it locally."

The local board proceeded to fire Goldsmith three times—failing on the first two tries because of sympathies for Goldsmith at an appeal hearing and because of intercession from the Atlanta Legal Services office requiring due process. When the severance was finally executed, OLS sent a telegram on September 2 requiring restructuring of the board by September 30 as a condition for re-funding (the bar had almost twice the board representation required by Legal Services guidelines at the expense of poor representatives). Congressman William Chappell (D-Fla.) thereupon arranged for a Volusia County delegation to meet with Rumsfeld on November 6, without an OLS representative present. The delegation obtained a $25,000 interim grant to last until January 30, 1971. At that time, the bar association and the local Community Action Agency must present a proposal for a new board structure. Volusia County officials continue to bargain with the Community Action Agency, which is controlled by stubborn poor people, but they are taking no chances. A delegation of county commissioners has visited Washington to check up on the proper procedures for county authorities to take over a CAA. Led by Commissioner Dean Smith (brother-in-law of the Legal Services director who originally fired Goldsmith), the commission has already begun the takeover process, which will make the CAA more agreeable one way or another.

Instances like those described reduced the Rumsfeld-OLS relationship to one of bureaucratic guerrilla warfare long before the public debate over the dismissals. There were a few side issues to add to the friction, such as the Administration's political clearance system for all Lenzner's appointive positions in Washington and the 10 regional headquarters. Politics has always oozed forth in government employment, but the current system requires all nominees, down to the level of GS–9 (which begins at a $9,500 sal-

ary and is about the bottom level with any policy responsibilities), to survive a formal process of both local and White House clearance, often lasting for months. Anyone browsing in OEO files can come across passages like the following:

. . . had to wait to get necessary support as he is a registered Democrat . . . looks pretty good at this point. They have received okays from Ralph Smith and Charles Percy, have gotten a letter from Ogilvie, and other support letters from the Director of the Bureau of the Budget, etc.

This one may hang on forever.

As he is a registered Republican, there appears to be no problem other than the normal delays involved in springing these clearances loose.

Senator Tower's office has given "thumbs down" on this appointment . . . has made statements about the Senator in the past which he did not like.

But the major battle—which cut across almost all the disputes between OLS and Rumsfeld—involved "regionalization," or whether authority over Legal Services would filter out to the OEO regional offices. This fight has not yet been resolved and is a much larger issue than the Lenzner-Jones firing. The outcome, according to most knowledgeable sources, will determine the future usefulness of Legal Services programs, and the main new actor in the dispute is the American Bar Association.

REGIONALIZATION AND THE BAR

The American Bar Association has always been heavily involved in the Legal Services program, pushing to insure that professional controls over the operation were very tight. ABA officials made sure from the beginning that attorneys would constitute a majority of the governing boards for all local projects and that the organized bar would be consulted about all high matters of policy regarding the national program.

When the Nixon Administration came into office, the bar's remaining anxiety about Legal Services was that the grants were still being funded through local Community Action Agencies, the OEO "vessel" for all its programs. The bar didn't like that because laymen were often scratching around in the attorney-client relationship and interposing nonprofessional judgments about how much money the poverty lawyers should receive and what kinds of cases they should bring to trial. In Chicago, for example, Mayor Richard J. Daley is chairman of the board of the Community Action Agency (CAA), which sponsored Chicago Legal Services but placed it under intense political pressure not to bring suits against the city or otherwise irritate the mayor.

The ABA also resented the fact that the 10 regional directors of Legal Services were the employees of the overall OEO regional directors. Thus, at both the local and regional levels, lawyers and a legal program were being subordinated to a general political program controlled mainly by lay administrators. It was clearly an affront to the dignity of barristers everywhere, and President Nixon himself was sympathetic to the worries of the organized bar.

On July 3, 1969, an ABA delegation met with new OEO Director Rumsfeld to make sure of his commitment to the idea of separating Legal Services from ordinary antipoverty programs. And 11 days later Rumsfeld announced the appointment of Lenzner as the first Assistant Director of OEO for Legal Services. The Office of Legal Services was made separate from and equal to the operative offices of other OEO programs, and its 10 Legal Services regional directors became the equals rather than the employees of the OEO regional directors. The OEO regional directors retained only a "ministerial" (for information only) sign-off on Legal Services grants. Local Community Action Agencies were to continue sponsoring the Legal Services programs wherever possible, but Rumsfeld made it clear that bureaucrats should not expect to be backed up if they tampered with Lenzner's operation. On August 11, 1969, President Nixon stated his approval: "The Office of Legal Services will be strengthened and elevated so that it reports directly to the Director. It will also take on central responsibility for programs which help provide advocates for the poor. . . . This goal will be better served by a separate Legal Services program. . . ."

Upon taking office, Lenzner began centralizing the Legal Services operation and, in effect, reducing the amount of administrative paperwork between his program and the other OEO offices. Generally, he was more successful at the regional level than at loosening the local CAA-Legal Services tie. The struggle there was a classic bureaucratic one, for the Community Action Agency administrator reports directly to the OEO regional director, who reports directly to Frank Carlucci, the Assistant Director for Operations in Washington and Lenzner's rival.

Local squabbles between CAAs and Legal Services programs were quickly translated into Lenzner-Carlucci battles in Washington, which were sometimes not successfully worked out.

In Chicago, the issue turned on political control; and Lenzner, after unsuccessfully trying to loosen Daley's hold on the program, proposed that Chicago's Legal Services be funded directly—bypassing Daley's CAA entirely. Carlucci thereupon produced fierce memos to Rumsfeld and Hjornevik opposing the move on the grounds that it would "defuse the Office of Economic Opportunity's management capabilities."

Lenzner won, at least temporarily, on the egregiously politicized Chicago program, but he and OEO were clearly on a collision path. OLS was moving to separate and invigorate its programs stimulating more of the kind of poverty representation that would wound politicians—and OEO was simultaneously moving to increase state and local control over antipoverty programs and to "return the power to the states." Carlucci's chain of command was the most heavily politicized. His OEO regional director for the Western Region, for example, owes his job to Senator Hiram Fong (R-Hawaii), the deputy to Governor Reagan, and so on.

The poverty lawyers ran headlong into a phalanx of politicians and the established interests upon which they float. These forces produced the Murphy Amendment and its House counterpart (Quie-Green) to nestle Legal Services under the wings of state governors. When these efforts failed in late 1969, pressures began building to accomplish the same goals administratively by reversing the course that Lenzner had just launched with his joint Nixon-Rumsfeld blessing. Ironically, plans arose to decentralize Legal Services in early 1970—even as Lenzner's office was putting the last administrative touches on his independent OLS structure, trying to get out from under the restrictive Community Action Agencies, eliminating bureaucratic snarls with the OEO regional directors, and otherwise irritating Frank Carlucci. In February, 1970, while Lenzner was making speeches about the need to slap more poverty lawsuits on unresponsive government agencies, Hjornevik memoed Carlucci that "the Legal Services program will be decentralized again in fiscal year 1971." That same day, Carlucci reiterated to Rumsfeld his "strong opinion" that OLS projects should be direct-funded only, in essence, when local CAAs are non-existent or when the CAA itself "does not want to be the grantee."

The "regionalization" or "decentralization" question was hotly debated within OEO during the spring of 1970. And when Carlucci lost on the Daley Legal Services issue, he renewed the push toward regionalization. On June 8, he wrote Hjornevik, "If decentralization of Legal Services is to take place in FY 71, as previously decided, it is imperative that we begin to plan an orderly transfer to the Regional Offices immediately."

Lenzner continued to lose ground across the summer against a Rumsfeld-Hjornevik-Carlucci solid front in favor of "re-regionalization," until finally he requested a summit conference with Rumsfeld and Hjornevik. This meeting took place on August 24. Evidently displeased with the proceedings, Lenzner wrote Hjornevik with a very unbureaucratic suggestion:

Your plan amounts to the subordination of all Legal Services personnel to regional directors and the Office of Legal Services in headquarters being subordinated to the Office of Operations. As I said yesterday, I would strongly recommend that if your plan is adopted you abolish the unnecessary expense of continuing a headquarters Office of Legal Services.

Long before his position decomposed to this point, Lenzner had appealed to his principle source of outside clout, the American Bar Association.

There are many aspects of the $61-million Legal Services program which draw the admiration of the legal profession, and high among them ranks the fact that most of the money goes to laywers. "Also, every time a poverty lawyer files a suit," observed one member of the Florida bar, "another lawyer gets paid by the government or a company to represent the other side. A shrewd lawyer will vilify the ideology of the program but defend its independence on professional principles." Since Legal Services also siphons off much court-appointed attorney time which was formerly donated, it adds up to a sizable net gain for the collective legal pocket, especially for a young federal program with high growth potential.

Beyond these gritty financial details, intelligent lawyers recognize the growing pressure in each new graduating class for *pro bono*, public interest work—often concentrated among the highly talented but socially committed lawyers whose sense of purpose receives no throb from real estate dealings or the prestigious corporate firm. There is an obstinacy about these views which teaches prudent bar members that to some extent the government must pay for these demands, or the firm will have to.

But the time-worn principle upon which the ABA relies to unite its membership in protection of independence for Legal Services is the proposition that the attorney-client relationship shall not be violated. This means that no layman should interfere in the sanctum sanctorum of the law or in any decisions grounded in the law and properly made by lawyers, period. The principle here is in accordance with the prime maxim of all occupational guilds—that enlightened self-interest requires sealing the portals so that renegades will not commonize the profession and thereby make it cheap. The bar has established its proscriptions primarily by statute (that's why it's called the bar), but the fringes must be left to the Canons of Ethics and vigilant watch over the attorney-client relationship. This task is far above politics. It is the lifeblood of the attorney's distinction. It has been said that law schools merely teach their wards to "think like a lawyer," and that few graduates emerge from this process without a pulverized imagination—as if their zest for wondering had been strained through a cyclone fence to produce the iron latticework of interconnected syllogisms which lead methodically from the precedent to the possible. It may also be said that far fewer lawyers finish their training without an impregnable reverence for the attorney-client relationship.

Therefore, when Lenzner sent out the word that Rumsfeld, Hjornevik, and Carlucci were planning to decentralize Legal Services into the hands of politicians and lay administrators, the organized bar responded. Not all the members responded solely on the basis of professional protection, of course. In fact, many ABA leaders seemed motivated primarily by the desire to have the most vigorous possible representation of the poor and to preserve that representation from any threat, including those by lawyers, politicians or budget-cutters. For them, the choice of professionalism as the rallying cry was tactical, for professional integrity or sanctity from lay competition can stir even conservative attorneys who are philosophically opposed to the whole idea of poverty law.

The use of legal professionalism by the supporters of a strong Legal Services program is similar to the strategy that liberals once used to sell foreign aid as gardol against communism. Those concerned about international poverty consciously determined that it was worth it to crow a little about stemming the tide and put up with large amounts of military aid in order to protect their development programs. Now Lenzner and the poverty lawyers, concerned about domestic poverty, are committing themselves to a kind of professional xenophobia and to the high principles of the legal guild in order to protect a crucial program. There is no question that the goal—protecting Legal Services from political control—is worthwhile, or that professionalism may be the only way to rally the crusty ABA around such an electric idea. But it is also true that more professionalism is precisely what the public interest does not need from the organized bar. The legal profession is already overprotected, inflated, and puffy—harboring for degreeholders many specialized functions that should be separated out, and claiming too much for the degree.

In order to protect their revolution for the poor from political interference, the poverty lawyers are willing to stand on the professional distinctions which unnecessarily restrict the main actors to the professional bar. Every intelligent attorney knows that most of the poverty lawyer's daily tasks—standing up to the landlord and city hall, securing divorces, threatening suit against crooked merchants, and so on—could be performed by large numbers of people, given certain aptitude and minimal but precise formal training. Most lawyers are slightly embarrassed to explain exactly what three expensive years of law school teaches on top of college or what the bar exam really measures, and it seems clear that the legal tariff needs lowering and rationalizing.

But most poverty lawyers apparently believe in their professional gardol, and it is definitely useful in the current struggle over Legal Services.

On October 5, John D. Robb, chairman of the ABA Standing Committee on Legal Aid to the Indigent, wrote ABA President Edward L. Wright as follows, zeroing in on the professional issue:

"I regard regionalization as an extremely serious threat to the Legal Services program. Essentially, it will transfer the administration of the program and the enforcement of its professional standards from Terry Lenzner, the director of the OEO Legal Services Program in Washington, to 10 regional OEO directors, eight of whom are laymen."

The National Advisory Committee to Legal Services, a bar group whose consultation with OEO is required by statute, met in Washington on September 11. A special subcommittee on regionalization was created to study the question, and the group produced a legally passionate attack on decentralization.

Rumsfeld's aides assert that the advisory committee is unrepresentative of the national bar, and they are probably right. In fact, they might well have a case for the proposition that the average American lawyer would like to see poverty law confined to the guild absurdity syndrome—in which nonlawyers would be totally banned from any position of control or authority over Legal Services in the name of professional integrity, and then the poverty lawyers restricted by the bar itself to those standardized services cases which any H&R Block trainee could handle expeditiously and to which professional standards are largely irrelevant. Certainly, many local bar associations have trampled all over the attorney-client relationship to hold Martin Millers and Tom Goldsmiths and other controversial upstarts in line.

But there is an alternative to this sort of disreputable opposition to Legal Services programs—Judicare. Having watched their medical brethren wash away fears of socialized medicine with Medicare and Medicaid money, many wise lawyers feel that they can copy the plan and have the government pay for private legal services delivered to the poor from the Law Building. Some lawyers have become enthralled with the analogy, and bar committees are currently studying systems of "legal check-ups," "comprehensive legal care," and "preventive law" for presentation to Uncle Sam. When the Legal Services program in Albuquerque announced under questioning that it would accept poor peoples' reasonable cases against the police department, the Albuquerque Bar Association persuaded the local united charities fund to withdraw its $25,000 contribution to Legal Services and set up a Judicare program—run, of course, by the local bar.

"John Robb is chairman of the ABA committee on legal aid and he unfortunately comes from Albuquerque," said attorney Charles Glass, who helped engineer the Judicare program. "He has never spoken for our bar association, which has repeatedly spoken against the Legal Services program. Our state bar is also in favor of Judicare overwhelmingly, and has sent resolutions to all New Mexico public officials. In fact, elections to the state bar often turn on that question." ("Yes, Judicare is a very live issue within the bar," sighed Robb.)

In the face of such internal schism, it took considerable courage for people like Robb to continue fighting for Legal Services. It was no longer like the good old days, or even the Murphy Amendment days, when the ABA could work up nearly unanimous hoopla in favor of its program—feeling positively liberal and unthreatened by it. Judicare and the increasingly controversial nature of Legal Services put the national ABA leadership in danger of losing its decidedly unradical constituency.

But after Rumsfeld testified before a Senate hearing chaired by Senator Walter Mondale on October 7 and 9, things looked so bad that ABA President Wright got heavily into the fight. Rumsfeld told the Senators that he had always intended the centralization of Legal Services to be "temporary," that decentralization was crucially different from regionalization, that he felt compelled to act not by Congress nor by the ABA nor by the President but by his own sincere belief in sending power back to the states, and that some sort of administrative change was in the wind but that no decision had yet been made. The Senators seemed puzzled by all this but definitely dissatisfied. Wright wrote Rumsfeld on October 16:

"On behalf of the American Bar Association and its Board of Governors, I urge you to reaffirm the independent status of the Legal Services program at all levels of administration within the agency."

Pressures continued to build on regionalization across the election period—until Rumsfeld announced, on November 14, "I have decided not to regionalize the Legal Services program." This startling reversal of trend was trumpeted in a press release for the November 15 Sunday papers. While the press speculated about the reasons for the reversal in Rumsfeld's thinking, OLS employees analyzed the memorandum he sent out on the same day as his announcement, stating, "While I am not regionalizing Legal Services, I am instituting new administrative procedures. . . ." These guidelines were spelled out in six single-spaced pages of solid bureaucratese—whose significance lay in the repeated provision that if one of Carlucci's regional directors objected to anything about a Legal Services project in his region, he could not appeal the issue to Carlucci and Lenzner. These two would have to agree or the decision would be made in the Director's office.

Because the OEO regional directors were certain to place conditions on Legal Services grants as "objections," and because Frank Carlucci would undoubtedly support the conditions of his men in any conflict with Lenzner, and because Hjornevik and Rumsfeld seemed predisposed, at the least, to sustain Carlucci in such conflicts, the OLS people calculated that they had been regionalized even as Rumsfeld was announcing that they were not. (Rumsfeld announced that the changes were merely administrative minutiae handed down in the constant search for "more effective coordination." Most reorganizations are announced with great fanfare in an attempt to convince the public that the government is making great strides toward the solution of a problem, when in fact the government has no idea what to do and reorganizes solely to appear vigorously on the move and to get more money. A few other reorganizations are announced as barely even news, simple coordinative adjustments—and that is usually when the heads roll and power shifts. This change was definitely one of the latter.)

Everybody concerned with Legal Services, of course, was up in arms about the November 14 guidelines. ABA President Wright came to Washington on Thursday November 19 for an emergency conference with Rumsfeld about them, a meeting from which Rumsfeld excluded Lenzner and Frank Jones. Wright asked Rumsfeld to suspend the new procedures until the ABA could study them and register its formal opinion. General Counsel Lowitz called John Tracey, assistant director of the Washington ABA office, on Friday morning, asking whether Wright could work up a statement for a joint press release about the meeting. Tracey, who had himself attended, replied that Wright couldn't say many glowing things at that stage, and, when asked for anything "positive," said that Wright would probably say that he had been pleased with Rumsfeld's repeatedly expressed commitment to Legal Services generally. Lowitz said that was fine, so Tracey drafted a statement, cleared it with Wright, and sent it over to OEO Friday afternoon.

"When I heard a few hours later that Lenzner and Jones had been canned," recalls Tracey, " I called Lowitz and told him to make sure that the Wright statement and the announcement of their getting fired would be separated so that no one would get the impression that Mr. Wright knew of the plans to fire them. Lowitz said of course they would be separate, that they were separate events on two different days, and so on. But the two releases were stapled together, and reporters got the idea that the president of the American Bar Association approved of what Rumsfeld had done.

"Everyone over in OEO from Rumsfeld and Lowitz down denies having joined those two releases, charging administrative error down the line. They even sent them out to all 265 Legal Services projects, with a telegram a week later apologizing for any false impressions given.

"To top it all off," continued Tracey, "Jack

Rosenthal of *The New York Times* told me that he asked Rumsfeld how he could go through with the Lenzner-Jones firing in the face of opposition from the organized bar, and Rumsfeld said, 'You must not have read the joint statement.'

"Our position is that Rumsfeld can fire anyone he wants to, and we will try to work with him to salvage Legal Services. But he has certainly bruised the atmosphere between OEO and the ABA," concluded Tracey, with casual understatement.

THE HIGH COST OF PROMOTION

So Terry Lenzner and Frank Jones have left the Office of Legal Services and are now lobbying and pleading and pressuring on the outside to save their program from regionalization. It seems fair to say that Lenzner inherited a relatively complacent Legal Services operation from "the previous Administration," full of projects which were little more than patronage plans for local bar associations. ("We entered the program four years ago with the understanding that the bar would control the board," said Daytona Beach board president Bernard Strasser. "That was one of the big selling points. And if the bar doesn't run the program, what's the use of giving our time.") He took a program that was naturally improving and, with Rumsfeld's approval, pushed it—hard, very hard.

Legal Services will no longer be pushed like that, although Lenzner, the ABA, and Senator Mondale did engineer a repeal of the formal regionalization guidelines on December 14. There is no zeal in the program anymore. It is no longer in favor at OEO, and it has too many bureaucratic vulnerabilities. "There are many ways to gut a program," said a staff member. And the Administration has determined to find one for Legal Services.

Arthur J. Reid, a 41-year-old black Republican from Cincinnati, came down from the General Counel's office to take over Lenzner's job and absorb the repercussions of the "terminations." "God knows it's been hell," he lamented. "I'm right on the hotseat, and everybody thinks I had a hole in my head for coming down here." Reid's problems are complicated by the fact that Lenzner's staff considers him a kindly lightweight and an unassailable black figurehead who will preside over the demise of Legal Services or move on, depending on his orders.

Most people in the program foresee the regionalization of Legal Services—or some other form of its emasculation—and believe that such political control of the poverty lawyers would quickly restrict them to routine matters like divorce cases and garnishments and evictions and other nasty things that the right people have always expected happen to the poor. Rather than attacking poverty, these cases would remain its symbolic by-products which must be tended efficiently like everything else. You have to feel pretty guilty about controlling the poverty lawyers like that—if you are afraid that the poor might zap you in the halls of justice. But most politicians would have it that way. They would, in short, administer poverty for a slight government subsidy, and simultaneously enjoy the budgetary fruits of administration.

The poverty lawyers were not just helping the poor. They were forcing responses from that great enveloping blanket which is known as administrative government and which warms all our problems. They were beginning to act almost like a fourth branch of power kicking those huge agencies that murder equity and then bury the responsibility in a corridor somewhere while the PR men explain. Perhaps the thought of a single independent lawyer—totally unprogrammed and uncoordinated—standing there and causing change on the basis of principle was too much for the politicians, who are lost in the blanket, too. They have a place there woven together, along with the old differences between liberal and Republican and Democrat and conservative. Everyone has a spot to protect. There is little support for the idea of that independent lawyer any more, for he is out of style. And if the powers keep the poverty lawyer from suing city hall or HUD or HEW or the police department, Legal Services will itself be incorporated into the blanket and become another program with problems to protect and jobs to keep by not gouging its neighbors. If the control of Legal Services is mailed out to the politicians and bureaucrats and special interests one of the last best hopes and the best idea in the war on poverty will be absorbed into the great wooly fabric and wetted down. That is how it is.

Through it all, Frank Jones remains somehow optimistic. "I feel encouraged about the number of people who have spoken out about what they believe is happening to this program," he said. "When I traveled through rural Mississippi trying civil rights cases in 1964, the judges and juries ground up my clients time after time—even though I knew that any reasonable lawyer in the world would rule the other way. It seemed hopeless and useless. Only years later did I realize that the real significance of that year was the number of people who first began standing up."

And Lenzner: "I think the controversy over Legal Services is analogous to what happened in the Haynsworth and Carswell nominations, and that the public will again have enough sense to recognize a clear threat to the general interest. If so, I think we will have served some purpose." Perhaps such talk is sheer politics, but Lenzner clearly feels too right to be wholly disconsolate about his efforts. And he, like Jones, sees hope in the rank and file.

But what of Rumsfeld? Why did he, after earning wide respect for not dismantling OEO, part so unceremoniously with the Legal Services chief who accomplished precisely what Rumsfeld and President Nixon called upon him to do? Why did he, after building the Legal Services budget and repeatedly overriding gubernatorial vetoes of the program, move to gut the program so deviously?

Part of Rumsfeld's problem in dealing with the OLS staff flowed from the imperial flavor of his internal management. He seldom cultivated the feeling that *we've* got to sell our program to *those* people out there, and thus violated one of the first rules of bureaucracy. "What really made us angry was that he almost never acknowledged political pressures but tried to sell his plan on some twisted version of its merits," said Jones. "Rather than saying, 'Look, there is a political problem here and how can we solve it,' he would try to rationalize things on substance. Things got so bad that I would just sit in meetings and stare at Don when he started orating about poverty and why it urgently required that we re-fund Charlotte or reprimand Dallas or decentralize. He never had anyone around him who knew poverty. And I would just stare, knowing that his plan was plastered with politics and that his oration was a fraud. And he knew that I knew. We never got along, actually."

One reason Rumsfeld gave less than a full boosting to OEO against its adversaries was that he concurrently held the positions of special assistant to the President with Cabinet rank, complete with a second-floor office in the West Wing of the White House. His allegiance was obviously divided—his programs were run out of OEO, but his *future* would be determined in the White House. There was a time when his function was to build a demonstrably good track record for his agency in order to dispel politically dangerous notions that the Administration would summarily dissolve antipoverty efforts. It was then that his sincerity and positive attitude about doing a good job for the poor was put to good use, and then that scores of prominent liberals could genuinely praise his efforts at OEO. (Among them, his wrestling friend Allard Lowenstein said in May, 1969, "I know he is interested, deeply interested, in doing something about poverty in this country. . . . He is intelligent, he has integrity, he is committed. . . .") But then there came a time when OEO was no longer a real image problem and could be run as a holding operation, freeing Rumsfeld for more important affairs.

He has been on the move this year, securing a position in the 8:00 a.m. breakfast group with five of the President's closest White House advisers—Haldeman, Shultz, Ehrlichman, Finch, and Kissinger. For about two weeks this fall, Rumsfeld was designated Republican political coordinator for the 1970 elections. (He was, perhaps fortunately for him, replaced by Finch when objections were raised that it might be unseemly for the antipoverty director to manage a political campaign, especially the one planned by the Administration in 1970.) He even obtained one of the coveted White House videophones, which allowed him to gaze at the other lucky owners while consulting.

Things looked good for Donald Rumsfeld—young, bright, loyal, successful at OEO, and a Nixon supporter long before the nomination in 1968. It was highly unlikely that he would sacrifice his prospects at the White House for a measly Legal Services program. It was perhaps painful to make the opposite choice, but there were compensations.

This decision does not make Rumsfeld unusual in the slightest, for most people spend their whole life working for smiles, grades, offices, certificates, awards, cheers, gifts, words, and votes of approval. And the fact is that all Rumsfeld's power and status and success depended on his receiving the approval of the President. Everything hangs on the chief's nod and his favor. As if driven by some neurotic cocklebur, most of official Washington locks its internal organs in place and positively drives for that high ground of the blessed, where the compliments are dispensed and people have so much attention paid to them.

In the political battles over the Legal Services program, Rumsfeld was obviously not going to adopt Lenzner's position and battle it out with the White House on behalf of his OEO subordinates. Nor could he even explain painfully that the nasty old White House politics must prevail over the clear justice of the OEO-Legal Services team. Rumsfeld became incapable of making these distinctions, for he had *absorbed* the Administration's politics to be more like them. In a sense, he had become Nixon to make sure he retained the chief's approval, and this made it much easier to fire Lenzner and Jones. It was required to retain voter approval. And it made sense for a Rumsfeld aide to say, "I don't know what Don will do now. He'll do what the President wants him to do."

On December 11, Nixon wanted Rumsfeld to move closer to him as a full-time Counsellor to the President. And Frank Carlucci—Princeton, Harvard Business School, career Foreign Service Officer on leave from the State Department, arch-foe of Legal Services, and architect of re-regionalization—would also be rewarded. The President wanted him to be the new director of OEO. As the President said, he "has done an outstanding job in that particular position and I believe in promoting a man who has done such a job to the top spot."

Of course, there is no such thing as the top spot. Even the President is still pushing upward, seeking broader and more lasting approval.

Rumsfeld, for his part, made a prophet of Senator George McGovern, who had spoken on November 23 of the Lenzner-Jones firing:

"I would imagine that now that he has performed the Nixon Administration's dirty work, Mr. Rumsfeld will be rewarded with a chair closer to the President, as was Robert Finch after he performed the coup de grace on James E. Allen, the then-Commissioner of the Office of Education."

The timing of Rumsfeld's move was handy, as it removed him from OEO and out of congressional range for probings of his coup de grace and regionalization. These current politics require delicate footwork and eager soul-selling, but you may get a video-phone when you really arrive.

[From The Washington Post, Thursday, Jan. 7, 1971]

BUDGETEERS SLASH POVERTY PROGRAMS

(By Jack Anderson)

While President Nixon on TV was promising higher priorities for the poor, his budget trimmers have severely slashed antipoverty programs and personnel.

A confidential draft, summing up the proposed budget for the Office of Economic Opportunity, substantiates the dire predictions of its supporters. The agency's total funds would be squeezed from $854 million in Fiscal 1971 to $778 million in Fiscal 1972. Some programs would disappear entirely.

The budget summary, dated Jan. 3 and still in galley form, hasn't yet received final White House approval. It was smuggled out by poverty corps officials determined to block the crippling and dismantling of antipoverty projects.

VISTA, the domestic Peace Corps which sends volunteers into impoverished ghetto neighborhoods and rural districts, at first was phased out entirely in the backrooms.

In the final struggle, however, $33 million was allotted to keep VISTA alive—down $3 million.

The Rural Economic Loan Program, a multimillion-dollar project to help dirt-poor farmers, would be wiped out.

The heart of the antipoverty effort is the community action programs whose enemies at first slashed them by $40 million. In the Jan. 3 draft, however, the programs have actually been increased by $1 million to a $368 million level.

Special impact funds also will be cut from $36 million in Fiscal 1971 to $25.5 million in Fiscal 1972. These funds are used to meet sudden and special economic problems in ghetto areas.

The controversial legal aid services, which provide eager young attorneys to help the poor with their legal battles, have been cut back from $65 million to $61 million.

Old-time antipoverty officials say the plan has the approval of the OEO's new acting director, Frank Carlucci, who however, will put up a perfunctory fight for more funds.

THE HEALTH SECURITY ACT OF 1971

Mr. CASE. Mr. President, I am pleased to join Senators KENNEDY, COOPER, and SAXBE as a cosponsor of S. 3, the Health Security Act of 1971.

Today the question of national health insurance is not whether we should have a national health program. The facts dictate that we do. It is, rather, what kind of program will best serve all our people.

It is shocking that medical care is so difficult to obtain, and that so many people have little or no health coverage at all, when America is spending $63 billion a year on health care. This sum amounts to about 7 percent of our gross national product, or about $300 for every man, woman, and child. Despite the fact that we spend more on health than any other nation, America lags behind most industrial nations in health standards.

Clearly something must be done to change the system by which medical care and services are delivered. It must be made more equitable and much more efficient. In a country as wealthy and resourceful as ours, there is no reason why every citizen, rich or poor, young or old, working or unemployed, should be denied the right to good health care.

As one of the earliest supporters of medicare and as a member of the Senate Appropriations Subcommittee dealing with health, I have long believed that we must do better in making health care a matter of high national priority.

The Health Security Act of 1971 is the product of months of study by outstanding citizens involved in health care and many other areas of human and social concern. It is my hope that the proposal will be carefully considered this year and that the 92d Congress will enact legislation establishing a system capable of making quality health care available to every citizen of the United States.

RICHARD BREVARD RUSSELL

Mr. MOSS. Mr. President, one of the giants of the 20th century has gone in the passing of Richard Brevard Russell. A man of courage, of character, of discrimination, and of enormous ability, he was without question the Senate's most respected and revered Member. Only the fact of his southern birth and allegiance kept him from looming even larger in our national life.

Although Dick Russell and I came from different parts of the country, and often stood on opposite sides of a question, I found him at all times not only the most skilled and eloquent exponent of the view he held, but the best example of the courtesy and respect with which one Member of the U.S. Senate treats another. His grace at all times, both when he won and when he lost, was an inspiration.

The Senator from Georgia was at the peak of his powers when I entered the Senate 12 years ago, and my admiration—then great—has grown with the years. His mastery of the Senate rules, and his effective use of these tools, will not soon be equaled.

I always found him friendly, warm, and helpful, typifying day-in and day-out the highest ideals of Senate service. I shall miss greatly this aristocratic, wise and splendid man with whom it has been a privilege to be associated.

THE LOCKHEED CORP. CLAIMS AND THE LOSS-PLUS CONTRACT

Mr. PROXMIRE. Mr. President, last March the Department of Defense was impregnated by the Lockheed Corp. with claims on a series of defense contracts. The claims totaled the astronomical sum of $600 million. The Pentagon, having gone into labor for the traditional 9-month period, finally delivered in December a response to the claims. In doing so, it has given birth to a bizarre litter of bureaucratic half breeds which include one of the strangest offspring yet to be seen in the military-industrial complex; the loss-plus contract.

In my judgment, the Congress is being duped. Through a variety of gimmicks under what is known as the contract system, the Pentagon and the Lockheed Corp. are wheeling and dealing with the taxpayers' money while the Congress looks on seemingly helpless to influence the outcome.

It is bad enough that such manipulations are permissible under the contract system. What is worse is the plain fact that the Pentagon's relationships with the Lockheed Corp. are not in the public interest. Let me recount the later chapter in the saga of the C–5A and the other weapons systems in dispute.

On December 30, 1970, the Deputy Secretary of Defense, David Packard, delivered his long-awaited exposition of the Government's proposed solution of the Lockheed mess in a letter to the chairman of the Senate Armed Services Committee. This letter has been made public, and I feel free to quote from it. The entire text of the letter will be inserted in the record at the close of my remarks.

Mr. President, in 1969 I charged that the Pentagon was resorting to extortionary tactics to coerce and intimidate the Congress into going along with a $500 million request for funds for the C–5A. It was apparent then that the Pentagon was threatening Congress with the possibility that Lockheed would halt production if Congress did not appropriate the funds to pay for the huge cost overruns in this program.

I repeat that charge today. The Pentagon is resorting to political extortion to extract from the Congress the funds to pay the cost overruns which are over and above the agreed upon prices of the contracts in question. Moreover, it is clear that the Pentagon is giving little, if any, thought to the question of whether Lockheed is entitled to the taxpayers' money. What is uppermost in the minds of the planners in the Department of Defense is the question of the financial condition of the Lockheed Corp., rather than the merits of its various claims.

The pertinent passages from the Packard letter follow:

Our review established that normal procedures for resolving these disputes would require an extended period of time for which Lockheed would have insufficient cash and inadequate commercial credit to finance the continued operation of vital defense programs. We also found that without the provision of additional funds by the Department of Defense and without continued bank support, bankruptcy of the Lockheed Corporation was and is inevitable. It was then necessary to determine whether bankruptcy and corporate reorganization under the Bankruptcy Act was or was not in the interest of national defense. We found that while such bankruptcy proceedings would, if instituted, primarily apply to Lockheed, that company's operations are so entwined with many other companies which also contribute to our national defense effort that it was necessary for us to consider the chain reaction upon other companies as well. Based on extensive discussions with bankers and other defense contractors, I have concluded that the consequences of Lockheed bankruptcy at this time would be so far-reaching that several other defense suppliers would be placed in such a precarious financial condition that their capability for future operations would be jeopardized. Further, several senior members of the banking community have advised

me that bankruptcy of Lockheed now would cause them to reassess their credit agreements with many other companies which supply essential defense equipment.

The exact ramifications of a bankruptcy proceeding remain uncertain, but in my judgment, the potential consequences are of such a grave nature that all reasonable steps should be taken to avoid precipitating a bankruptcy by our actions on defense programs. In the event of Lockheed's bankruptcy, the Department of Defense would be faced with substantial uncertainties and risks about the degree to which several key national defense programs would or could be continued. Decisions on such matters would be subject to the discretion of the bankruptcy court, which would be required to take into consideration the interests of all creditors of the corporation. Serious delays would necessarily ensue. At a minimum, it is almost certain that an accommodation would have to be reached with the bankruptcy court to arrange to continue performance of the C–5A contract, among others, and I see no way which such an accommodation would enable the Department of Defense to obtain the C–5A and other needed equipment at a cost lower than under the course I am recommending.

One fact that emerges from these statements is the Pentagon's obsession with the condition of the Lockheed Corp. Mr. Packard believes that if the Pentagon does not deliver more money to this contractor, "bankruptcy of the Lockheed Corp. was and is inevitable." Mr. Packard goes on to say that in the event of bankruptcy and an arrangement by the bankruptcy court for continued production of the C–5A, "I see no way which such an accommodation would enable the Department of Defense to obtain the C–5A and other needed equipment at a cost lower than under the course I am recommending." Mr. Packard also is concerned that serious delays would ensue.

This, in my judgment, is utter nonsense. In the first place, the Pentagon ought to be looking at its original contract agreements with Lockheed in order to properly respond to the claims that have been filed. Do these claims have merit or do they not? It seems to me that the Department of Defense is going to some very extreme lengths to avoid confronting this issue, especially with regard to the C–5A.

The question of Lockheed's solvency should be only of secondary importance. The Federal Government should not be in the business of guaranteeing the solvency of the corporations that enter into contracts with it. If the Lockheed Corp. requires private relief, it ought to follow the established procedures. In this case, perhaps some Member of Congress would agree to introduce a private bill in its behalf. In any event, it is an abuse of authority, in my opinion, for the Pentagon to bail out a corporation from its financial difficulties. The Department of Defense should not have the power to act as the financial broker between the Lockheed Corp. and the Treasury.

I might add that the Pentagon's concern with Lockheed's finances calls into question its proposed settlements of all the contracts in dispute, not only the C–5A. It will be recalled that Lockheed has filed four separate claims with the Pentagon. These relate to work it is doing on the C–5A cargo plane, the Cheyenne helicopter, the SRAM missile, and a series of Navy ships.

With reference to the C–5A, Mr. Packard has proposed the existing fixed-price contract be discarded, in effect, for a cost-plus type arrangement, and a provision for a "fixed loss" of $200 million on Lockheed. Under such an agreement, the Pentagon will close its eyes to the so-called firm price commitments Lockheed entered into when the original contract was signed, and simply reimburse the contractor for all costs. At some later time, Lockheed would pay back to the Goverment at an unspecified rate the sum of $200 million.

In my judgment, such an arrangement would compound the existing difficulties. The major problem with this program has been the incredible cost overruns. As my Subcommittee on Economy in Government showed in 1968, the program is expected to cost about $2 billion more than the original estimates. The failure of the Defense Department has been its inability to take any corrective measures to control these cost increases.

I do not consider the transformation of a fixed-price agreement, rubbery and defective as the initial agreement was, into an open ended cost-plus agreement an exercise in cost control. It is quite the reverse. If all costs are to be reimbursed, what incentive is there for keeping them down? There will be no incentive.

As for the fixed-loss provision, the question of Lockheed's indebtedness to the Government should not be decided by the Deputy Secretary of Defense. As I have shown, his decision has been almost completely determined by his obsession with the possibility that Lockheed might go into bankruptcy. What has this possibility got to do with the question of how much money Lockheed owes because of the cost overruns?

I am not attempting to set out my own views on the legal questions in this case. Lockheed claims it should not have to absorb a $200 million loss. On the other hand, suppose that under the terms of the original agreement, the true loss amounted to more than $200 million? The question here, really, is the amount of the loss as a result of the cost overruns and whether Lockheed or the taxpayer foots the bill. I am not satisfied that the Deputy Secretary of Defense has properly reconciled the public interest in Lockheed's claim.

The technique of opening up the contract from a fixed-price to a cost-plus type has been followed with the Cheyenne contract. The ceiling price on the Cheyenne development program was originally set at $95 million. According to Mr. Packard, Lockheed has already spent almost $100 million more than the fixed price. The cost overrun in this case appears to be about 100 percent, so far.

The Pentagon's proposed "solution" is to transform the contract to a cost reimbursement agreement, and to make this transformation retroactive to December 29, 1969. Again, Mr. Packard's decision appears to have been controlled not by the merits of the case, but by the fears "that the company lacks the capacity to finance this program to a point of completion." Because of these fears, the public is being asked to pay millions of dollars for the cost overruns of the Lockheed Corp.

On the two remaining claims, the SRAM missile and the ship contracts, the Pentagon is offering to pay something less than the full amounts claimed. The Air Force will pay $20 million for Lockheed's $54 million claim on the SRAM contract, and the Navy will pay $58 million for the $159.8 million claim on the ship contracts. The Navy previously paid $17.9 million of $46 million claimed for other ship contracts. It should be pointed out that these claims are in addition to the contract price in each case. Lockheed is being paid the full amount of its original SRAM contract, for example, plus an additional $20 million. The Navy settlements are also in addition to the amounts of the original ship contracts.

As a result of Mr. Packard's obsession with Lockheed's financial condition, the question arises whether the SRAM and ship contract settlements have also been based on fear rather than on the merits of claims. The overwhelming evidence so far, in my opinion, is that fear has governed.

Mr. President, the average taxpayer would be entitled to ask at this point what benefit he is to receive out of all of this. The cost to the Federal Government of the proposed settlements have been estimated at from $750 million to $1.4 billion over and above the contract prices on the programs.

Mr. Packard says we must pay to prevent Lockheed from going into bankruptcy. Yet, on the last page of his letter, he states:

We are aware that the course of action which we propose to follow does not guarantee that bankruptcy of Lockheed is precluded.

In other words, the justification for bailing out this contractor with a settlement of from $750 million to $1.4 billion is ostensibly to prevent the company from going into bankruptcy. But Mr. Packard will not guarantee, nor would anyone else, that even after paying these astronomical sums, Lockheed would not go bankrupt.

This basic contradiction in the Government's position underlines the importance of full public disclosure of Lockheed's financial condition. As early as May 1970, I began requesting information about the finances of this corporation. Specifically, I asked the General Accounting Office to obtain a cash flow analysis of the Lockheed Corp. from the Defense Department and to provide me with a copy. It is essential to have this information so that it may be known whether or not Lockheed can remain solvent in the future, regardless of the bailing out that has been proposed.

Will the Lockheed Corp. be insulated against bankruptcy with a $750 million or $1.4 billion bailing out?

The Defense Department at first assured the GAO that it would supply the cash flow to the GAO by April 20, 1970. However, on April 27, 1970, 1 week after the information was supposed to be delivered, the Defense Department in-

formed GAO that they would not respond to the request. The reason given was Lockheed's reluctance to release "sensitive" data about itself.

On September 14, 1970, the request for information about Lockheed's financial capability was renewed in a letter signed by Senator RICHARD SCHWEIKER and myself to the Comptroller General. On November 19, I was informed by the Comptroller General that GAO had been "unable to conduct a study of Lockheed's financial capability to deliver C–5A aircraft because we have not been able to gain access to the necessary data."

The Pentagon had refused access to GAO of the books and records in its possession pertaining to the Lockheed Corp. This refusal violated the law, in my opinion. The United States Code, title 31, section 54, specifically directs all agencies of the Federal Government to give access to the GAO and the right to examine any books, documents, papers, or records in their possession.

The Department of Defense has now partially reversed its refusal to give GAO access, and has agreed, belatedly, to give it limited access to the financial information on Lockheed. Under the new arrangement, the GAO will not be permitted to disclose the contents of the records it examines, but will only be allowed to make a determination as to whether Lockheed has the financial capability to complete and deliver the C–5A aircraft called for under its contract with the Air Force.

I would like to emphasize that nothing I have said is intended as criticism of the General Accounting Office. Elmer Staats, the Comptroller General, has done an outstanding job and his staff has performed yeoman service in attempting to help the Congress understand these extremely complicated matters. The GAO is to be complimented for its persistence and its repeated efforts to unravel these difficult problems. Mr. Staats is one of the most dedicated, talented, and effective persons ever to have held the Office of Comptroller General.

Mr. President, it would be ludicrous for the Senate to provide any additional funds to the Lockheed Corp. on the contracts under dispute until full and complete disclosure of that company's financial capabilities is made. Further, I believe it would be improper and unwise to proceed with the settlement of any of these claims until an objective and impartial body is given the opportunity to thoroughly review them. I propose that these matters be taken out of the status of a private negotiation conducted in secrecy between the Deputy Secretary of Defense and the chairman of the board of Lockheed Corp., and that the entire case consisting of all the claims be turned over immediately to the Armed Services Board of Contract Appeals. This administrative authority is the proper body to adjudicate these claims and they should have been forwarded to it long ago.

With unanimous consent, I am inserting in the RECORD copies of the correspondence referred to, together with a number of newspaper stories and editorials.

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

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., December 30, 1970.

Hon. JOHN STENNIS,
Chairman, Senate Armed Services Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, on March 2, 1970, Mr. Daniel Haughton, Chairman of the Board of Lockheed Aircraft Corporation, submitted a letter to the Department of Defense citing his company's contractual and financial problems on four major defense programs: Navy shipbuilding, the SRAM Missile Motor, the Cheyenne helicopter, and the C–5A. Mr. Haughton's letter asserted that "the unprecedented dollar magnitude" of the claims and disputes in which these programs were then involved would "make it financially impossible for Lockheed to complete performance of these programs if we must await the outcome of litigation before receiving further financing from the Department of Defense." Mr. Haughton emphasized the urgent need for a settlement, or for some viable alternative to our procedure of requiring a contractor to continue performance with its own financing during resolution of disputed matters.

Immediately upon receiving this letter, the Department of Defense undertook an intensive independent determination of the nature and magnitude of the managerial and financial problems presented by Mr. Haughton's letter. Each of the military departments undertook to negotiate settlements of their individual programs. My staff compiled and analyzed data relating to the total corporate entity, including corporate financial forecasts prepared by Lockheed at our request and audited by the Defense Contract Audit Agency. It was necessary to determine the financial viability of the corporation and to examine the availability of commercial credit to meet the company's obligations.

Of utmost importance was our need to assure the continued availability of weapons systems urgently needed for our national security. Several programs for which Lockheed Aircraft Corporation is a contractor with the Department of Defense are particularly critical to the nation's defense.

These include the Poseidon missile system, the S–3A aircraft, the Cheyenne helicopter, and the C–5A aircraft. In addition, it clearly is in the vital national defense interest that the Navy ships currently being built under contract with the corporation be continued to completion.

The time has now come when we must move promptly toward a settlement of Lockheed-DoD contract disputes at minimum cost to the U.S. Government and with minimum impact on third parties such as Lockheed employees, suppliers, subcontractors and their employees.

It is my responsibility as Deputy Secretary of Defense to seek and to find a solution. I have learned over the years that prolonged procrastination in the face of difficult problems is an unsatisfactory stance that too often brings not solutions but added problems. Nothing is to be gained by wishing that these problems which arose in the past would go away; instead we must face present facts and move on to future needs. I therefore wish to present to you, as I promised to do, my plan to resolve these disputes.

To briefly recap, the defense contracts which have contributed to Lockheed's financial problem were executed before this administration took office. The C–5A contract was awarded to Lockheed in October 1965. The supplemental agreement to the contract, which committed funds for 23 additional aircraft and which is claimed by Lockheed to have exercised an option for 57 aircraft, was entered into during the last week of the previous administration. It is the principal dispute over the C–5A contract.

The contract for development of the AH–56A (Cheyenne) was awarded by the Army to Lockheed in March 1966. It contained an option for production quantities which was exercised in January 1968.

The contract for the SRAM missile development was awarded to Boeing in November 1966, with Lockheed participating as the subcontractor for the rocket motor.

The nine Navy ship contracts out of which Lockheed's claims arose were awarded to Lockheed from 1961 through 1965.

Shortly after taking office in January 1969, Secretary Laird and I became aware of the difficulties being encountered on these programs.

In fact, the problems we found in connection with these programs led to re-examination of and changes in the weapons acquisition process to bring both technical and cost problems under better control.

We re-evaluated operational requirements and looked at the C–5A cost growth in view of our budgetary constraints and decided not to extend that program beyond the 81 aircraft on order. Because of unresolved technical problems and a general failure to make progress, we made the decision to terminate the Cheyenne production contract for default. On the SRAM, we responded to technical and cost problems in development by not exercising our option for production and by continuing the emphasis on testing and development.

Since last March we have been working on a virtually daily basis on resolution of these Lockheed claims and disputes. Numerous discussions also have been held with the banking community on future financing needs of the corporation.

Our review established that normal procedures for resolving these disputes would require an extended period of time for which Lockheed would have insufficient cash and inadequate commercial credit to finance the continued operation of vital defense programs. We also found that without the provision of additional funds by the Department of Defense and without continued bank support, bankruptcy of the Lockheed Corporation was and is inevitable. It was then necessary to determine whether bankruptcy and corporate reorganization under the Bankruptcy Act was or was not in the interest of national defense. We found that while such bankruptcy proceedings would, if instituted, primarily apply to Lockheed, that company's operations are so entwined with many other companies which also contribute to our national defense effort that it was necessary for us to consider the chain reaction upon other companies as well. Based on extensive discussions with bankers and other defense contractors, I have concluded that the consequences of Lockheed bankruptcy as this time would be so far-reaching that several other defense suppliers would be placed in such a precarious financial condition that their capability for future operations would be jeopardized. Further, several senior members of the banking community have advised me that bankruptcy of Lockheed now would cause them to reassess their credit agreements with many other companies which supply essential defense equipment.

The exact ramifications of a bankruptcy proceeding remain uncertain, but, in my judgment, the potential consequences are of such a grave nature that all reasonable steps should be taken to avoid precipitating a bankruptcy by our actions on defense programs. In the event of Lockheed's bankruptcy, the Department of Defense would be

faced with substantial uncertainties and risks about the degree to which several key national defense programs would or could be continued. Decisions on such matters would be subject to the discretion of the bankruptcy court, which would be required to take into consideration the interests of all creditors of the corporation. Serious delays would necessarily ensue. At a minimum, it is almost certain that an accommodation would have to be reached with the bankruptcy court to arrange to continue performance of the C–5A contract, among others, and I see no way which such an accommodation would enable the Department of Defense to obtain the C–5A and other needed equipment at a cost lower than under the course I am recommending.

With this background on the disputes and my judgment regarding bankruptcy, I want to provide the Committee my plan.

I want to make it quite clear in presenting this plan that, while we have had access to extensive financial data prepared by Lockheed and audited by the DCAA, we have only recently received Lockheed's current formal financial submittals. The plan I am proposing, therefore, is contingent upon Lockheed's being completely responsive to our continuing data requirements and our satisfactory analysis and audit of the data submitted.

I have concluded that our normal, established procedures are adequate to resolve two of the four issues.

On the SRAM, for which Lockheed is a subcontractor, the Air Force through its established procedures has negotiated a settlement with Boeing (the prime contractor). Twenty million odllars was paid in full settlement of the $54 million claim which Boeing submitted on behalf of Lockheed. This settlement specifically provided that the entire $20 million would be applied to increase the ceiling price of Lockheed's subcontract. This problem can therefore be considered resolved.

Ship claims of $46 million for work under five completed contracts were settled for $17.9 million in June of 1970. This settlement was reached through the established procedures for negotiating ship claims. The remaining claims, totaling $159.8 million have been the subject of intensive negotiations between the Navy and Lockheed. To settle these claims, the Navy has offered Lockheed $58 million. I am hopeful that a settlement of these claims can be reached. Generally speaking, all negotiations regarding this program have also been concluded. The single remaining issue is Lockheed's acceptance of this offer.

The two remaining issues, therefore, are the Cheyenne program for the Army and the C–5A for the Air Force.

With regard to the Cheyenne program, it is my decision that it is in the best interest of the government to complete the development effort so that we can determine whether the Cheyenne will be a viable candidate to provide close air support for the Army, and so that we can realize some value from the investment we have already made. The ceiling price of the existing contract is approximately $95 million, of which about $90 million has already been disbursed by the Army. In an attempt to complete the development program, Lockheed has expended to date substantially more than the ceiling price and about $100 million more than it has been reimbursed. We believe that a realigned development program can be completed largely within the next year, but we have concluded that the company lacks the capacity to finance this program to a point of completion satisfactory for the Army to determine the aircraft system feasibility.

For this reason, we propose to convert the Cheyenne research and development contract to a cost reimbursement form effective as of December 29, 1969. The designation of the effective date is based on an evaluation of all the relevant factors bearing on the program and upon analysis of Lockheed's overall financial condition, as shown by data received from Lockheed to date. Under this arrangement, the Army will assume future costs of the program and will reimburse Lockheed for approximately $25 million in costs which have been incurred on the development program since December 29, 1969.

The Cheyenne production "letter contract" which was executed by the Army in January 1968, and terminated for default in May 1969, is now in the early stages of litigation. Lockheed's costs for this phase of the program approximate $98 million against which they received $53.8 million from the Army in progress payments prior to default. Suppliers and subcontractors for the Cheyenne production program have submitted settlement proposals in excess of $84 million.

We have decided to settle the Cheyenne production contract by authorizing the Army to pay $36 million or the actual amount of the settlement of the claims of unpaid suppliers and subcontracts under this letter contract, whichever is lesser. The settlement agreement will include controls and audit procedures to assure that any funds actually paid will be used solely for this purpose. The Army will audit and monitor the settlement of the claims of suppliers and subcontractors before payment. Lockheed, pursuant to this settlement, will have to agree to withdraw from litigation their related claim now before the Armed Services Board of Contract Appeals.

On the C–5A program I have, after the most careful consideration of all relevant factors, narrowed the range for resolution to two alternatives.

1. One alternative is to reduce the number of peripheral issues in dispute by negotiation and to allow the core of the disagreements to proceed through litigation. The litigation would be basically concerned, therefore, with the question of whether the Air Force exercised an option for 81 airplanes or for 115 airplanes and the corresponding application of the repricing formula. The Air Force and Lockheed, over several weeks of discussion, have concluded that the litigable disagreements would result in a financial range from approximately a plus $25 million recovery by Lockheed against the United States to about $480 million liability or loss by Lockheed.

2. The other alternative would settle the entire dispute by eliminating all issues and imposing a fixed loss on Lockheed. In addition, such a settlement would preclude any performance incentive fees, or profits on initial spares and on added work related to the scope of the contract which Lockheed otherwise might have earned.

Our analysis of Lockheed's financial situation has led us to the conclusion that after the Air Force has paid Lockheed up to the Air Force's interpretation of ceiling price, the company will lack the funds or resources to finance continued production of the C–5A program. Moreover, under either alternative we must achieve a workable contractual arrangement which will permit the Air Force a more active role in management of the program. Also, under either alternative, it will be necessary for the Air Force to provide all the funds to complete the C–5A program. (Although, under the first alternative a portion may—and under the second alternative a portion would—be repayable to the Air Force.) In any event, stipulations under either alternative would include a repayment provision and interest charges on the unpaid balances, with an acceleration clause in the event of initiation of bankruptcy.

A fixed loss settlement alternative would remove once and for all the contentions of both parties. Such fixed settlement loss would consist entirely of "allowable" costs, and would be above and in addition to losses due to certain costs incurred by the contractor which are neither allowed nor paid by the government. (These costs, referred to as "unallowables," are projected by Lockheed to exceed $40 million on this program. In addition, payments to Lockheed will exclude otherwise allowable costs to the extent such costs fall in the four numbered categories listed in Section 504(b) of the Department of Defense Procurement and Research Authorization Act, 1971 (P.L. 91–441).)

In determining the dollar amount of the fixed loss that should be the basis for the settlement of the C–5A dispute, I took all relevant factors into consideration. Among the factors considered in arriving at this figure were the range of financial results which would result from the litigation, the apparent weight of the legal arguments of the parties on the issues in dispute and Lockheed's potential ability to respond to a judgment in favor of the United States, should one result. After weighing all the many complex factors, a $200 million figure represents my best judgment. I do not expect it to meet with unanimous endorsement; some will think it too low, others too high—but it remains my best judgment after months of consideration of what is without doubt the most complex management and contractual dispute I or any of the principals ever have encountered.

After weighing both of these alternatives I have concluded that the fixed loss settlement alternative is preferable. It has the advantage of finality, and would facilitate management improvements in the remainder of the program. I recognize the possibility that Lockheed may decline to settle for this fixed loss and prefer litigation.

As I mentioned earlier, Lockheed's latest financial information is being compiled and will be audited by the Defense Contract Audit Agency. We have also asked that the General Accounting Office review this data with us prior to the execution of our decisions.

The $200 million "contingency" fund, which we have requested to be authorized and appropriated for FY 1971 for the C–5A, will necessarily be utilized to continue the production of the aircraft beginning in February, and will be expended in the context of the settlement outlined above.

We are aware that the course of action which we propose to follow does not guarantee that bankruptcy of Lockheed is precluded; nevertheless, this course is, in our opinion, the necessary one based on the national defense interest. The uncertainty exists because overall financial stability of Lockheed is contingent not only on the financing of its defense programs, but also on further financial support from the private sector for its commercial programs, particularly the L–1011 airbus.

Our actions in settling the disputes on the four defense programs will resolve contingent liabilities of Lockheed and, we hope, thereby provide a degree of certainty to the overall financial affairs of Lockheed that will permit the banks to continue to finance the commercial programs, and avoid bankruptcy. I will continue to closely monitor the financial and management situation of Lockheed as these plans are implemented. It is also my intent to insure that all possible controls are exercised by Defense over our financial relationships with Lockheed to assure the satisfactory performance on Defense programs and the protection of Defense interests.

This summarizes the alternatives and the action we intend to take to resolve these very difficult contractual matters. The final details of the settlement and the documents

necessary to implement this plan are now being prepared, and will be completed by the end of January 1971.

I will be available to review this plan in detail with your Committee at your convenience, and will be glad to have your views on the alternatives.

Sincerely,

DAVID PACKARD.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 12, 1970.

P-169300.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on Economy in Government, Joint Economic Committee, Congress of the United States.

DEAR MR. CHAIRMAN: This is in further reference to your letter of March 10, 1970, requesting that we obtain and furnish you certain information regarding the Lockheed Aircraft Corporation.

Our initial response to your request was made on March 21, 1970. Supplemental information consisting of Lockheed's 1969 Annual Report and a letter dated March 27, 1970, from the Assistant Secretary of Defense (Comptroller) were delivered to your staff on March 30, 1970. On April 15, 1970, we delivered to your staff a letter from Defense dated April 14, 1970, with enclosures concerning information on open contracts between DOD and the Lockheed Aircraft Corporation. At that time, the only open items were fund status reports on Air Force contracts with Lockheed and information on Lockheed's cash position.

According to the letter dated March 27, 1970, Defense expected to be able to provide you with information on the cash position by about April 20, 1970. In response to a telephone inquiry by Mr. Richard Kaufman of your staff, we advised him on May 1, 1970, that we had been following this matter closely, and that we had been informed by Defense on April 27, that Lockheed's legal staff had reservations about release of certain financial data which the company considers extremely sensitive.

In this connection, we were told that the Deputy Secretary of Defense, David Packard, and Daniel J. Haughton, Chairman of the Board, Lockheed Aircraft Corporation, currently, were trying to develop a mutually satisfactory solution with respect to Lockheed's cash requirements as well as the detailed information that could be made available to you and to the Congress on this matter. We understand that this matter is being given their personal attention and that a decision should be made momentarily.

The fund status reports on Air Force contracts were received on May 8 and are being forwarded separately.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

COMMITTEE ON BANKING AND CURRENCY,
Washington, D.C., September 14, 1970.

Hon. ELMER STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. COMPTROLLER GENERAL: As you know, Lockheed Aircraft Corporation has written to the Deputy Secretary of Defense and filed claims with the Armed Services Board of Contract Appeals requesting some $435 to $500 million in order to complete 81 C-5A aircraft. These sums are in addition to any amount the Air Force says it owes Lockheed under the existing contract. The Senate has voted to authorize $200 million above any amounts owned as a means of providing for the delivery of 42 of the 81 planes.

Meanwhile, Lockheed Aircraft Corporation has refused to make public the fundamental facts about its financial position. We have only their word that they are in grave financial difficulties. We have no official information as to either the cause of their difficulties or the extent of them. We do not know whether they are due to Lockheed's commercial business or its government contracts. The most elementary information, namely a "cash flow" statement, has been refused by the contractor to the Congress and the public on the grounds that it is proprietary information. There is, in fact, an appalling lack of specific knowledge as to Lockheed's real financial condition and its causes.

Even more important is the fact that we have no factual financial basis to determine whether the additional $200 million will actually provide for the 42 C-5A airplanes, or how much additional money will be necessary to complete the order of 81 planes. This latter amount was estimated to be $800 million by the Senate Armed Services Committee. Meanwhile, there are persistent rumors and a considerable body of evidence that the Pentagon is renegotiating the contract with Lockheed from, a fixed price to a cost reimbursement contract. This could legalize reimbursement far in excess of the $200 million or $800 estimates.

We therefore request that the General Accounting Office, at the earliest practicable date, conduct a study of the financial capability of Lockheed in order to determine both 1) its capability to actually deliver 42 C-5A aircraft by June 30, 1971 and 2) the total amount which would have to be expended to insure the completion and delivery of the 42 planes? In addition, what is the firms financial capability to complete and deliver the 81 aircraft called for under the existing contract, and what is the total amount which would have to be expended to insure the completion and delivery of the 81 planes?

This information is essential to protect both the Government and the taxpayers. In our view it would be a serious breach of the public trust to act without this elementary financial data.

With best wishes.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

RICHARD S. SCHWEIKER,
U.S. Senator.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., November 19, 1970,

B-169300.

Hon. WILLIAM PROXMIRE,
U.S. Senate.

DEAR SENATOR PROXMIRE: This is in further reference to the letter dated September 14, 1970, from you and from Senator Schweiker, requesting that we conduct a study of the financial capability of Lockheed Aircraft Corporation. Specifically, we were requested to determine Lockheed's capability to deliver 42 C-5A aircraft by June 30, 1971, and the total amount which would have to be expended to ensure the completion and delivery of the 42 aircraft. In addition, we were asked to inquire into the firm's financial capability to complete and deliver all 81 of the C-5A aircraft called for under the existing contract and the total amount which would have to be expended to ensure the completion and delivery of the 81 aircraft.

We have obtained some of the information you requested; however, we have been unable to conduct a study of Lockheed's financial capability to deliver C-5A aircraft because we have not been able to gain access to the necessary data. To perform such a study we would need access to information concerning sources and application of funds, lines of credit with financial institutions, current and contingent liabilities, firm sales commitments, and other data related to the financial structure of the Lockheed Aircraft Corporation.

We were advised by Lockheed officials that some of the financial data necessary to perform such a study concerns commercial ventures and are considered by the firm to be extremely sensitive. These officials believe that the public disclosure of such data without adequate explanation could possibly cause financial harm to Lockheed and its stockholders. Consequently, Lockheed would not make the data available for our review.

Generally, the General Accounting Office is entitled to examine any books, documents, papers, or records that directly pertain to and involve transactions relating to contracts negotiated with the Government. Since we do not have a statutory right to access to all data related to Lockheed's financial condition, i.e., data that does not pertain to Government contracts, a review such as you requested cannot be performed without the consent and cooperation of the contractor.

We requested officials of the Department of Defense to make available for our review any information the Department had relating to Lockheed's financial condition. We were informed that, although they did have certain financial data pertaining to Lockheed, they could not make it available to us since it had been furnished to the Department in confidence and on the basis that it would not be made public. For your information, we have enclosed a copy of a letter we sent to the Secretary of Defense concerning this matter.

With respect to the cost to complete and deliver these aircraft, the Air Force estimates that for 81 C-5A aircraft the total program will cost about $4.6 billion for development, production, initial spares, and directly related construction. The Air Force has not prepared a cost estimate for the completion and delivery of 42 aircraft. However, based on the rate of expenditures, it believes that about $4.1 billion will have been expended on the total of 81 aircraft by the time the 42nd aircraft is delivered. It should be emphasized that the amount of $4.1 billion includes costs applicable to aircraft which will be delivered (work-in-process) subsequent to aircraft number 42.

While the Air Force believes the cost estimate for 81 aircraft to be reasonably accurate, it also is aware that some unforeseen circumstances may occur in the future which could affect program costs. In this connection, it has been estimated that changes to the C-5A aircraft as a result of the report of the Ad Hoc Committee of the Scientific Advisory Board may add approximately $28 million to the costs of the program. These costs do not include possible incorporation of a lift distribution control system.

In addition, we were advised by Air Force officials that they were not aware of any technical or production problem which would preclude Lockheed from producing 42 C-5A aircraft by June 30, 1971. The contractor is currently on schedule and future deliveries are anticipated at the rate of two aircraft per month.

We plan to make no further distribution of this letter unless copies are specifically requested, and then we shall make distribution only after your agreement or Senator Schweiker's has been obtained or public announcement has been made by you or by Senator Schweiker concerning the contents of this letter.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., November 10, 1970.

B-169300.

The Honorable the SECRETARY OF DEFENSE.

DEAR MR. SECRETARY: The purpose of this

letter is to confirm our understanding that we will not be able to review certain financial information furnished to the Department of Defense by the Lockheed Aircraft Corporation.

As we explained to a member of your office, the General Accounting Office has been requested by Senators Proxmire and Schweiker to determine Lockheed's financial capability to deliver certain quantities of C–5A aircraft. However, we have been unable to make this determination because we have not had access to the necessary data.

We requested Department officials to provide us with access to the financial data that had been obtained from Lockheed. We were informed, however, that they could not furnish the data to us because it had been obtained from Lockheed by the Department of Defense in confidence on the basis that it would not be made public.

As an alternative, we asked whether or not it would be possible for us to examine the data at the Department and not remove it from your office. We would furnish the Senators only with our opinion as to whether Lockheed has the financial capability to complete and deliver C–5A aircraft.

We were advised that this could not be done because it would constitute a violation of the confidential relationship existing between the Department and the contractor concerning these data.

A copy of this letter is being furnished to Senators Proxmire and Schweiker.

Sincerely yours,

C. M. BAILEY,
Director.

NOVEMBER 20, 1970.

Hon. ELMER STAATS,
Comptroller General,
Washington, D.C.

DEAR MR. STAATS: I am most disappointed in the response to the request for information about the Lockheed Corporation and the C5–A.

As you know, I have been trying to get this data since last March when I wrote you. You now inform me that both the Lockheed Corporation and the Department of Defense refuse to allow GAO access to the books and records necessary to determine the company's financial capability to complete performance of the C5–A contract.

I am deeply disturbed not only by this denial of access to records but also by GAO's passive refusal to assert the statutory authority that clearly gives it accesss to the information desired.

The United States Code, title 31, section 54, states that "All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the Comptroller General . . . shall, for the purposes of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment."

You may recall that earlier in the year your office informed me that the Defense Department has the information necessary for a cash flow analysis of the Lockheed Corporation. The denial of this information to GAO by the Department of Defense appears to me to be in direct violation of the law. The copy of your letter of November 10, 1970 to Secretary Melvin Laird only confirms the fact that the Defense Department does not intend to comply with the law.

My question now is, what does the GAO intend to do about the Defense Department's flagrant violation of the law giving GAO access to its books and records? Will you forward this matter to the Justice Department for further action? What steps do you intend to take?

Sincerely,

WILLIAM PROXMIRE,
Chairman, Subcommittee on Economy in Government.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., December 3, 1970.

B–169300.

Hon. WILLIAM PROXMIRE,
U.S. Senate.

DEAR BILL: In accordance with our telephone conversation, I am enclosing a letter which I have sent to the Secretary of Defense with respect to a review by this Office of the financial condition of the Lockheed Corporation and its capability to make delivery on aircraft for which it has commitments to the Department of Defense.

It is my understanding that this arrangement is agreeable with you and will serve as an adequate response to your earlier letters to me on the same subject.

Sincerely,

ELMER B. STAATS.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., December 3, 1970.

B–169300.

The Honorable the SECRETARY OF DEFENSE.

DEAR MEL: As you know, the General Accounting Office has been requested by Senators Proxmire and Schweiker to determine Lockheed's financial capability to deliver certain quantities of C–5A aircraft.

This is to confirm our understanding that representatives of the General Accounting Office will be able to review financial information furnished to the Department of Defense by the Lockheed Aircraft Corporation.

As agreed, we will review the financial information that the Department of Defense has obtained from Lockheed at your office and will not copy or otherwise report the data. Based upon our evaluation of the information available, we will furnish the Senators with our opinion as to whether Lockheed has the financial capability to complete and deliver C–5A aircraft.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., December 4, 1970.

B–169300.

Hon. RICHARD S. SCHWEIKER,
U.S. Senate.

DEAR SENATOR SCHWEIKER: Further reference is made to your letter of September 14, 1970, with respect to Lockheed's financial capability to deliver C–5A aircraft.

Further discussion with the Department of Defense in connection with this matter has enabled us to work out arrangements whereby representatives of the General Accounting Office will be able to review financial information furnished to the Department of Defense by the Lockheed Aircraft Corporation. This information is being made available for our review with the understanding that we will not copy or otherwise report the data. While these arrangements will not permit us to disclose the reasons for our opinion as we are generally able to do, we are hopeful that, based upon our evaluation of the information available, we will be able to furnish both you and Senator Proxmire our opinion as to whether Lockheed has the financial capability to complete and deliver the C–5A aircraft called for under its contract with the Air Force.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

[From the Wall Street Journal, Oct. 23, 1970]

LOCKHEED'S DISPUTE WITH DEFENSE AGENCY OVER SRAM IS SETTLED

BURBANK, CALIF.—Lockheed Aircraft Corp. said it settled its dispute with the Defense Department over its SRAM short range attack missile motor subcontract for $20 million.

The SRAM is one of four disputes with the Defense Department involving Lockheed military contracts. The company originally asked for $54.3 million. The settlement resolves legal issues on the SRAM motor subcontract held by the Lockheed Propulsion Co. division in Redlands, Calif., with Boeing Co., Seattle, prime Air Force contractor on the SRAM.

In Washington, the Air Force said it had been negotiating the claim with Boeing since it was submitted last December. The Pentagon had stressed earlier this year that it wouldn't deal directly with Lockheed, to avoid undermining its relationship with Boeing, the prime contractor.

With settlement on this claim, Lockheed Aircraft's president, A. C. Kotchian, estimated the company's loss on the SRAM program at $24 million before taxes. He said it had provided for this loss in the determination of prior and current year reported earnings.

"Although the SRAM research-and-development program won't be complete until early next year, and there could be unforeseen incidents that could raise our costs, we believe we have provided for all probable losses," Mr. Kotchian said. "This settlement will result in immediate payment of $20 million to Lockheed. And we get behind us the settlement of one of our four major military contract disputes."

Still to be settled are Lockheed disputes with the Defense Department involving the Air Force C5A transport, the Army's AH56A Cheyenne helicopter, and Navy ship building contracts.

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

LOCKHEED WOES MAY COST U.S. PUBLIC $600 MILLION

(By Neil Sheehan)

WASHINGTON.—The Defense Department and the beleaguered Lockheed Aircraft Corporation are resolving their differences in a way that will keep Lockheed solvent at an apparent minimum cost to the public of about $600-million.

By choosing the alternative of rescuing the corporation rather than letting it go bankrupt, the Pentagon is also setting a precedent for Government behavior toward other major military manufacturers that might flounder financially and need help.

Lockheed is among the top two or three defense contractors in the country. It was running out of money from escalating production costs.

ONE ACTION, TWO DEEDS

Congress is going along with the Lockheed rescue so far. The Senate this week voted the first increment of $200-million approved earlier by the House toward covering unexpected costs $758-million on the C–J–5A jumbo jet transport that Lockheed is manufacturing for the Air Force. Disputed costs on two other projects, the Army's Cheyenne helicopter and ships for the Navy, are also being settled.

Publicly, the Defense Department main-

tains that it is only seeking to provide what funds are necessary to salvage the military contracts Lockheed has. Privately knowledgeable sources in Congress and the Pentagon concede that salvation of the military projects and a financial rescue of the corporation are synonymous.

They argue that a collapse of Lockheed would damage the national defense posture and have unforeseeable but probably serious economic repercussions. The Armed Services and appropriations committees in Congress have tacitly concurred.

BIG SHARE FOR TAXPAYERS

Opponents of the rescue, like Senator William Proxmire, Democrat of Wisconsin, contend that the risks ought to be run to serve notice on industry that the Government and the taxpayers will not tolerate inefficiency and mismanagement. The opponents have been unsuccessful, however, because they have been unable to convince the majority of Congress that the lesson justifies the perils involved.

The negotiations between Lockheed and the Defense Department are thus proceeding on the assumption that the corporation will not be allowed to lapse into bankruptcy.

What remains to be settled, and what is therefore still unclear, is what portion of the total financial burden will be borne by the taxpayers and how much Lockheed will end up assuming. It is obvious that the taxpayers will be absorbing the greater share.

More than $1-billion is involved—about $758-million in unexpected costs on the C-5A Galaxy, $135-million on the advanced Cheyenne helicopter, and $160-million in disputed costs for the ships.

Assured by the course the Government is taking, Lockheed's principal creditors have lent the corporation $30-million more for its short-term needs and have tentatively agreed to lend $250-million on top of this if Lockheed's negotiations with the Pentagon end favorably. The total of $280-million would assure production of the L–1011 trijet airbus, the new civilian airliner that Lockheed hopes will recoup much of its fortunes.

The quick $30-million came from 24 commercial banks, led by the Bankers Trust Company of New York. The banks would provide $150-million of the $250-million remaining, with three airlines—Eastern, Trans World and Delta—making additional advance payments of $100-million for L–1011's.

The banks had already loaned Lockheed $320-million, and Eastern, Trans World, Delta and other airlines had made previous down payments of about $100-million for airbuses that Lockheed will not begin to deliver until next November.

The collapse of the aircraft maker because of grave troubles with its military contracts would thus have spelled disaster for both banks and airlines.

PACKARD IN NEGOTIATIONS

David Packard, the Deputy Secretary of Defense, and Daniel J. Houghton, Lockheed's board chairman, are overseeing the negotiations between the Pentagon and the corporation.

They intend to reach final agreement before this January or early February, when a plan to resolve the differences must be presented to the Armed Services and Appropriations committees.

By that time Lockheed will have almost exhausted the money the Government acknowledges that it owes under the original C–5A contract. To continue production, Lockheed will have to use some of the $200-million additional voted by Congress, and Congress made the spending of the money contingent on a settlement plan.

The C–5A problem is the obvious center of the imbroglio, since its resolution will cost everyone the most money.

The original estimate when the contract was signed in 1965 was that 120 of the transports would cost about $3.4-billion. By mid-1969 the cost estimate had risen to $5.2-billion and the Nixon Administration decided to settle for 81 planes. The plane is to be the largest ever built—six stories high and nearly the length of a football field.

It is impossible at this point to determine precisely how much of the cost overrun was due to the corporation's mismanagement and how much was caused by inflation and the turmoil that struck the aircraft industry as a whole in 1966 when the demands of the Vietnam war were heaped atop an already high civilian aircraft production. Aircraft parts that had been taking eight years to forge or cast in 1965, suddenly began taking 18 weeks in 1966.

SAME COST, FEWER PLANES

The 81 C–5A's the Pentagon is settling for will, in any case, cost $4.585-billion under current estimates, nearly as much as the mid-1969 estimate for 120 planes.

Of this $4.585-billion, the actual cost for 81 planes, the Government contends that it legally owes $3.827-billion under the terms of the contract and that Lockheed is responsible for the remaining $758-million.

Lockheed officials will not say what the concern believes it owes. They do argue, however, that a so-called repricing clause in the contract was intended to protect the contractor "against catastrophic losses." In the corporation's view, the $758-million would be a catastrophic loss and was therefore not intended by the original agreement.

Robert H. Charles, the former Assistant Secretary of the Air Force who designed the contract—a new type called Total Package Procurement—says the repricing clause was aimed at setting an outside loss limit of $150-million. He also believes that the intent of the clause was to avoid breaking the corporation with a catastrophic loss.

Neither side will now acknowledge that a loss figure of $150-million was ever considered, although Lockheed could end up with a theoretical loss in this range.

An official Air Force analysis of the C–5A problem last August was made public by Senator Proxmire in September as part of his unsuccessful attempt to block a rescue. It estimated that Lockheed would be stuck with a loss of $300- to $400-million if the contract dispute went to the courts for resolution.

The prospect of extended litigation with no more funds coming in for the C–5A would drive the corporation into bankruptcy, however the Air Force noted, and this alternative would be unacceptable to the Government.

Someone must also come up with $758-million by mid-1973 if the 81 C–5A's are to be produced on the current schedule. Lockheed obviously does not have the money.

Here is how the settlement is being arranged:

The entire $758-million will initially be paid out from public funds to keep production going. The negotiations will decide what portion of this $758-million Lockheed will pay back. This portion will be termed the corporation's loss on the contract. The Pentagon has no hope of collecting the entire $758-million from Lockheed. "How do you collect it?" one official asked.

$300-MILLION TOP LOSS

The precise loss figure that Pentagon negotiators are trying to persuade Lockheed to accept is unknown. Defense sources say that it lies between $150-million and $300-million. The taxpayers will thus have to absorb a minimum of $458-million on the C–5A.

Lockheed sources indicate the corporation might be willing to take a loss of $150-million or more, depending on repayment provisions. In the aircraft industry, as in many others, the flow of ready cash that a company has to pay for its ongoing operations is more important than long-term debt.

The Air Force analysis suggested that Lockheed repay the Government at $10-million a year and 6 per cent interest, or 10 per cent of net corporation profits before taxes, whichever is greater. Repayment would start in 1973, after most of the 81 planes have been delivered.

The first $200-million increment just voted by Congress will be spent by next July $300- to $400-million must be voted and spent in the next 1972 fiscal year and the rest of the $758-million in the 1973 fiscal year.

When a final settlement is reached, it will be incorporated in a new contract, and the original C–5A contract will be scrapped, Defense sources said.

The Government's precise negotiating positions in the other two disputes, the Cheyenne helicopter and the shipbuilding contracts, are also unknown.

Lockheed contends that the Government owes it $135-million for the aborted Cheyenne production, canceled by the Pentagon for alleged default by the company in mid-1969, and $160-million on the ships Lockheed is still building for the Navy.

Escalating cost were the rub in both instances. The Cheyenne, a radical advance in helicopters that incorporates the landing and take-off advantages of rotors with a 250-mile-an-hour speed of fixed wing aircraft, burgeoned from an original estimate of about $1-million a machine to $3.5-million each before production was canceled.

Some military sources believe the Army procurement bureaucracy was as much to blame as Lockheed for trying to cram too much exotic electronics gear into the Cheyenne. "Everyone's little invention was the best thing since sliced bread," one officer said.

Lockheed officials concede that the company was guilty of not foreseeing the technical problems. "We thought we were adding one and one but we got four," one official said. The Pentagon has continued a smaller development contract, for which Congress voted $17-million more this year, to cure technical deficiencies.

Defense sources indicate that the Cheyenne production and shipbuilding disputes may be settled by roughly halving Lockheed's claims on each, about $65-million on Cheyenne and $80-million on the ships.

The over-all settlement of these two issues and the C–5A dispute could thus end up costing the taxpayers at least $600-million.

Although Lockheed will clearly take a loss on the immediate contract for the 81 C–5A's and in the two other disputes, the corporation could come out ahead in the long run.

The C–5A will be able to ferry 112,000 pounds of cargo for 5,500 nautical miles. Civilian versions could revolutionize the air freight business.

The Air Force could use other military versions for giant air-to-air refueling tankers, airborne command posts and even as a flying platform to launch intercontinental ballistic missiles.

Foreign governments may also buy C–5A's for their own air forces.

If Lockheed can sell enough C–5A's for these manifold uses, it can profit.

The Army may make the same true with Cheyenne by going back into production in the next year or two. There is still argument within the Army over the wisdom of buying the helicopter, but some of the most influential senior officers want it.

TWO ALTERNATIVES REJECTED

The Army would like to use the Cheyenne primarily as an airborne antitank missile platform that could knock out Soviet armor

at night and in bad weather if a land war erupted in Europe.

And production of Cheyenne could mean a new $1-billion contract for Lockheed.

Implicit in the Government's decision to keep Lockheed solvent was the rejection of the two other alternatives that lay at the end of the arguments that Senator Proxmire and others who opposed a rescue operation were making. These alternatives were letting the corporation go bankrupt or effectively nationalizing, on the grounds of national security, those divisions of Lockheed that were working on military contracts.

Theoretically, the Government could still have obtained the 81 C–5A's, new Cheyennes and the ships by paying the production cost to court-appointed bankruptcy trustees who would have taken over Lockheed management.

The Government would have run the risk with either alternative of becoming entangled in a long court battle.

The conversations with knowledgeable sources made clear, however, that this risk was not the major reason for the Government's decision to have the corporation.

Rather, Mr. Packard and others within the Government seem to have recoiled from the shock waves and unforeseeable consequences that would have hit the aircraft industry, and the banking and airline communities, if Lockheed had collapsed.

When the grim choice of bankruptcy or salvation was posed, the Defense Department and the military services apparently decided that they needed a leading military manufacturer, which currently obtains about 80 per cent of its revenues from the Government, as much as Lockheed needed them.

One aircraft industry source put the matter succinctly. "They're not the enemy, they're co-belligerents," he said of Mr. Packard and other senior defense officials.

In a minority view appended to the Senate-Armed Services committee report last July, Senator Richard S. Schweiker, Republican of Pennsylvania, who had also vainly opposed a rescue, warned that approval of the $200-million first increment in extra costs for C–5 would set the precedent under which other military manufacturers who might get into financial peril from cost overruns could expect the Government to save them.

"I believe Congress must use this issue to draw the line," he said. "Denial of this request for $200-million will serve notice loud and clear that although both Government and industry have been sloppy in the past, we are going to demand efficient performance by contractors and strict adherence to contract prices and specifications in the future."

The Pentagon has already taken precautions against future bankruptcy choices by reverting to a modified form of the old cost-plus type contracting of the 1950's and by abandoning the total package procurement system that Robert Charles initiated under former Secretary of Defense Robert S. McNamara.

[From the San Francisco Chronicle, Dec. 15, 1970]

RESCUE MISSION FOR LOCKHEED

The Government's rescue of Lockheed Aircraft Corporation from bankruptcy, a New York Times dispatch reports, appears likely to cost the public "about $600 million."

Expressed in those terms, the arrangements now being worked out between the Defense Department and Lockheed, with congressional approval, will lead many citizens to throw up their hands in outrage over the idea of saving a defense supplier from the financial consequences of its own misfortunes.

Senator William Proxmire (Dem-Wis.) has been the leading Senate objector to the Lockheed rescue mission. He and other Senators contend that the Government ought to take the economic risks of letting Lockheed go down the tubes. They argue that this would serve clear notice to industry that the Government and the taxpayers will not tolerate corporate inefficiency and mismanagement.

We doubt that complex issues of defense spending can be resolved in such terms; and we do not believe that the drastic repercussions on the economy of a possible failure of the Government's third largest defense contractor can be so blandly accepted.

Troubles involved in the construction of the C–5A airplane, the enormous military transport that is six stories high and nearly the length of a football field, are the principal causes of Lockheed's financial peril. The company contends that inflation—for which, after all, it is not responsible—is the chief factor in the overrun of costs for the C–5A.

That may or may not be, but the fact remains that the Government is uniquely dependent on companies like Lockheed for the products they make that nobody else makes. And Lockheed, in turn, is uniquely dependent on the Government as its market, the sole buyer of those products. No private demand is in play to push the price up, as it does for goods on the open market. Since a defense supplier like Lockheed cannot look to the forces of the market to enable it to catch up with rising costs, the Government must be prepared to "subsidize" those costs. After all, defense goods made to special specifications, as the transport plane, is, are paid for by what is in effect a subsidy. If we subsidize the merchant marine and the farmers, to name but two industries drawing large Federal subventions, why not defense aircraft manufacturers also?

In this case, that which is added on to the original contract price is to be regarded as simply an increase in the unforeseen cost of subsidizing the defense establishment.

[From the New Republic, Dec. 26, 1970]

MILITARY MANEUVERS

Shortly after Pearl Harbor, President Roosevelt was asked by a Naval commander whether it was true, as reported in the newspapers, that Congress had authorized and appropriated money for such and such number of new ships. The President was amused. Yes, he said, the report was accurate. Then, lifting his arm off his desk and shaking an imaginary number of additional warships out of his sleeve, he added, "But I have a few more up here." That is the way it was and is. The difference is that today, the military and the President ask for more and get more, and if the Congress and the public don't always know exactly what they're going to get, so what? Whenever the Congress does become nervous that the military may be about to produce another unwanted and very expensive child, it is reassured by being told that the lady is only a little pregnant. That is what it was told during the debate over the Antiballistic Missile system. That is what it is being told about the Supersonic Transport. And there are occasions when it is not even told that.

Taking alarm, Senator Fulbright is now warning us that "the military establishment runs nearly the whole country." They, as Fulbright puts it, have the money, machinery for influencing opinion and the clout with the President and the Congress to carry the day any day, in any week. Their successes are so stunning that the exaggeration is forgivable. Fulbright's remark was made on "Face the Nation" less than a month ago. Since then, several things have happened which illustrate how military-industrial interests manage to get most of what they want, with or without explicit legislative assent.

On December 7, *The New York Times* reported that the Defense Department, without consulting Congress, had directed the Air Force to begin "hardening" 500 Minuteman missile silos against possible attack. The complete process, which involves reinforcing the silos with concrete and steel while they are being fitted with the new Minuteman III, would make the missiles less vulnerable to destruction while they are still on the ground. The project will cost as much as $1 billion. The Defense Department, however, was skittish about discussing the green light which Deputy Secretary of Defense David Packard had given the Air Force: DoD lacked congressional authorization to go ahead; moreover, there was some fear that the news might have an unsettling effect on arms talks with the Russians. The Pentagon was so hesitant that Secretary Laird forgot to mention the matter to the Senate Defense Appropriations Subcommittee when, last November, he pleaded for reinstatement of $50-million in "research" funds that had been cut from the Defense budget. The research money, he said, "would be particularly essential *if* we decided to upgrade the hardness of the existing silos" [italics added]. But the decision had already been made; the Air Force had told Boeing to proceed with such things as hiring, lining up subcontractors, equipping the project and preparing for work at Ellsworth Air Force Base in South Dakota and Warren Air Force Base in Wyoming.

Since the bulk of the cost of "hardening" will ultimately have to be specifically approved by Congress, the Defense Department will, someday, be obliged to stop denying that it is doing what it is doing. Meanwhile, the work can proceed. The occasion for an announcement and a specific explanation of the project will probably come in the fiscal 1972 budget that is to be presented to Congress in January. Following the *Times* report, the Pentagon denied that it had in fact "authorized a start on this proposed hardening program at this time," but the newspaper stood by its sources. Once the project is underway and "research" dollars or whatever else they may be called have been invested, there is little possibility of the process being reversed.

The Supersonic Transport shows how difficult it is to stop once a substantial amount of money has been put into going forward. President Kennedy promised in 1963 that the government's investment in the SST would not be allowed to exceed $750 million. We've already spent $780 million on it, and estimates of total cost now run to $4 billion. Never mind that a great many economists and most environmentalists think the SST was a blunder from the start, and that it's foolish to throw good money after bad. To the President (and Boeing) calling it off would be like "stopping construction of a house when it was time to put in the doors."

A solid hunk of the $210 million contained in the SST "compromise" that has been worked out between the House (which approved the $290 million requested) and the Senate (which voted no money) was spent before Congress even began to deliberate the question. $105 million of it has been expended so far this year—approved by the government's General Accounting Office and drawn from what are called "available unobligated balances." The President said it would cost $278 million to terminate the SST contracts—nearly as much as it would cost to go forward—but he didn't say that his figure includes the $105 million.

This sort of commitment on the installment plan—buy now and pay later—is becoming settled practice, though we would have thought the "military establishment" could get just about all it wanted without resorting to the device of a foot in the door. The military is not without powerful friends in Congress. Nevertheless Congress is frequently ignored, to facilitate things.

When, without advance warning to the legislators, Mr. Nixon decided to invade Cam-

bodia last April, he was able to divert to that operation $100 million in military assistance intended for Taiwan, Greece, Turkey, Indonesia and Latin America. The Military Assistance Act of 1961 gives the President considerable latitude in transferring funds from one category to another—from military aid to economic, from economic to military. He can, on national interest grounds, take up to $300-million from Defense Department stocks and give it to any country he chooses. Subsequently it must be accounted for, Congress must be informed within 30 days (in the case of Cambodia it was the 30th day), and money must be restored to its original purpose. Some $100 million of the $255 million in the military assistance authorization for Cambodia thus will go not to Cambodia but to Taiwan, Greece and Turkey, from which it was summarily snatched last spring. The remaining $155 million is new money ($85 million for military assistance; $70 million for economic aid) for use in Cambodia during the remainder of the current fiscal year.

The military assistance bill, including funds for Cambodia, cleared the Foreign Relations Committee only after that committee added a prohibition against U.S. ground troops and military advisers in Cambodia. But lest the Foreign Relations Committee take unto itself too much authority, there were veiled threats from the State Department and from military spokesmen in the House that the Cambodia bill would be brought up for a vote, whether or not the committee went along. The immediate threat was a rule change that would permit money to be appropriated without an authorization. A "friend" of the committee at State, phoning a committee staff member to urge clearance of the military assistance bill, emphasized how important it is that policy control over military assistance be kept at State and in the Foreign Relations Committee; and those jurisdictions are threatened by the Defense Department and its Senate counterpart, the Armed Services Committee. So don't rock the boat. The gist of the telephoned threat, if it was that, is that if Foreign Relations doesn't play ball with the military, then bills will be drafted for consideration by Armed Services.

The Lockheed affair is a further example of how the military maneuvers to get its way. Top Pentagon officials, reportedly on the verge of approving a multi-million-dollar bailout arrangement to save the Lockheed Aircraft Corp. from bankruptcy, are bullying the General Accounting Office to make sure that the government's watchdog agency doesn't pry loose any last-minute information that endangers Lockheed's welfare package on Capitol Hill. Although present law gives the GAO authority to investigate "all matters relating to the receipt, disbursement and application of public funds," the Pentagon has refused steadfastly to let GAO conduct a meaningful audit of Lockheed's trouble-plagued military programs. The information blackout applies to the C–5A cargo plane, SRAM (short-range attack) missile, Cheyenne helicopter and various shipbuilding projects—programs that may cost the taxpayer more than $10 billion if all are completed.

In the type of charade that has become customary in the Pentagon's dealings with its critics, Defense officials first refused to talk with the GAO at all but later modified their position slightly to permit the agency to review the records of the Lockheed programs but only on grounds that the GAO not remove any records from the Pentagon and that GAO auditors not write down any numbers. Although there is no apparent precedent or authority for the Pentagon's ruling, Defense officials say the prohibitions are necessary because of the "sensitivity" of the disputed programs.

Pressures for a full GAO audit have come from Sen. William Proxmire (D, Wis.) and Rep. William S. Moorhead (D, Pa.), who are unsure that Lockheed can deliver the 42 C–5As due by next year even if the company gets the full $640 million in relief money it is seeking. Proxmire has expressed apprehensions that the giant contractor's real problem is with the L–1011 Trijet airbus, which is taking a severe beating from McDonnell Douglas' DC–10 in purchase orders from commercial airlines. Proxmire has been pressing the Pentagon all year, without success, for a cash flow statement breaking down Lockheed's current expenditures, program by program, to make sure no government agency money is being shifted to the L–1011. The proposed GAO audit was a last-minute gambit designed to arm Congress with full information on Lockheed's financial status before the bailout package emerges from the Pentagon. Congress already has voted the first $200 million of bailout money but none can be obligated until the Pentagon informs the Armed Services and Appropriations Committees on how it plans to resolve its differences with Lockheed. Pentagon negotiators are thought to be willing to pay the company all but about $150 million of the $640 million now in dispute.

What is surprising about the GAO's position is the agency's refusal to demand a full audit of the Pentagon's records, unencumbered by any of the silly restrictions the Pentagon has laid down. The GAO has a reputation for toughness in its reviews of domestic programs, a reputation recently bolstered by scathing criticisms of the Job Corps program, rulings that practically dismantled the "Philadelphia Plan" for hiring of minority workers on government construction jobs, and the discovery last summer that Walter J Hickel, the recently ousted Interior Secretary, had spent $40,000 to remodel his government office. The agency is particularly hard-nosed in its dealings with small firms on fixed-price contracts—the same type of contractual arrangement involved in the C–5 dispute. Consider the GAO's ruling last year when a small black-owned firm in Pittsburgh—Darrow, Darrow and Associates—sought an additional $22,174 on an HEW contract to produce a film for "minority group sensitivity training" (HEW had ordered the film expanded from 30 to 60 minutes but in so doing increased the original $35,000 contract by only $15,000): "Your acceptance of the contract with no exception to any of its provisions fixed the rights and liabilities of the parties thereto. You assumed the responsibility of furnishing the required services at the agreed upon price, and the government is not obligated to pay additional amounts for contract performance solely by reason of difficulties you might have experienced in performing the contract."

Yet the GAO is apparently unconcerned with military boondoggling in the billions. Because of the GAO's double standard, the Defense Department may be able to rewrite not only the existing C–5 contract but every other fixed-price weapons contract (all executed under the McNamara and Clifford regimes—new ones are cost plus fixed fee) into timely settlements for ailing military contractors. That the Pentagon has no intention of holding contractors' feet to the fire was indicated in the remarks of Deputy Secretary of Defense David Packard before the House Military Operations Subcommittee last September: "Fixed price doesn't mean a thing. If he [the weapons maker] doesn't have the funds, he doesn't finish. I don't see how we can use this [a fixed-price contract] on some of these big programs." Get set for a long welfare line of hungry defense contractors.

[From the Milwaukee Journal, Jan. 6, 1971]

SAVING LOCKHEED

The perplexing problem of Lockheed again is before the public. The Pentagon, after months of negotiating with the financially troubled defense contractor, has proposed a settlement of contract disputes that will keep the company from going under—at least for the present. Lockheed has rejected the offer as inadequate and says it will seek a larger settlement through litigation.

At stake are the differences between what Lockheed claims it is owed and what the Pentagon says it owes for four military contracts.

The Pentagon would make Lockheed take some lumps but not enough so that it would have to throw in the towel, or jeopardize outside private financing. Thus of the $758 million in debate over the C–5A, the government would absorb $558 million and Lockheed would pay back $200 million—over a long period of time.

David Packard, deputy defense secretary, justified this by saying that the Lockheed "operations are so entwined with many other companies, which also contribute to our national defense effort, that it was necessary for us to consider the chain reaction upon other companies as well."

Wisconsin's Sen. Proxmire says that the Pentagon's "soft" attitude sets a dangerous precedent for bailing out distressed defense firms with public money. Defense cuts have hurt deeply Boeing and General Dynamics. If Boeing loses the SST—of which there is an even chance—it will be in very serious trouble. Should the government step in and help these companies, too?

One definite need is development of better procurement and management techniques on both sides so that disputes on the Lockheed scale do not occur. Efforts should be made also to get these large, technology heavy firms less dependent on defense business. This might take government incentives to stimulate conservative management to take risks in other high technology fields where markets are not as secure or sure as the military.

The immediate problem, however, is Lockheed. Collapse of the largest U.S. defense contractor would weaken national security. It would have bad effects on the business world. There is probably no choice but to bail the firm out. Such action should not be a precedent.

[From the Omaha World-Herald, Jan. 6, 1971]

BAND-AID FOR LOCKHEED

Does the federal government have an obligation to help giant defense-oriented firms in great financial difficulties? If so, how far does that obligation extend? What are the probable results of such "bailing out" operations?

Such questions have been brought to a head in recent days by the troubles of the Lockheed Aircraft Co., which the Pentagon proposes to help, provided that Lockheed accepts a "fixed loss" amounting to half the deficit incurred in the C5A transport plane program.

Under the rescue plan submitted to concongressional committees by Deputy Defense Secretary David Packard, Lockheed would have until the end of this month to accept or reject the proposal. The government would pay the company $200 million, which would let it continue C5A production after Feb. 1, but it would not preclude the possibility that the company will go bankrupt anyhow.

Lockheed would also have to take a loss on the Cheyenne helicopter gunship, production of which has been canceled, and to settle with the Navy on other plane and ship construction.

So Lockheed would forego all profit on the C5A, which is costing twice as much as the original estimate, and would split its losses 50–50 with government. Lockheed is shaky not only because of its defense programs, but, as Packard pointed out, further financial support from the private sector for its commercial programs is uncertain.

It would seem manifestly unfair to use taxpayer money for a complete bail-out if private money has insufficient faith to support Lockheed. Yet the military needs the C5A. In the administration's view, the obligation to try to save the company extends to splitting the losses for cost overruns.

For the long term, however, government would do well to face up to the prospects that if present trends continue:

Original cost estimates will often be unrealistic.

Congress and the citizens will become increasingly restless about supplementary payments, whatever the reason for them.

Rescue operations for floundering firms will run into increasing public opposition.

The maligned "military-industrial complex" is important to the country's security and perhaps its very survival. Errors and weaknesses provide ammunition for those who would weaken or destroy the country's capacity to defend itself.

What we need are procedures that can anticipate the problems of tottering industries important to defense and deal with them without resorting to $200 million Band-Aids applied in an atmosphere of crisis.

[From the Wall Street Journal, Jan. 7, 1971]

LOCKHEED OPTS TO LITIGATE SOLUTION TO C5A DISPUTE WITH THE PENTAGON

WASHINGTON.—Lockheed Aircraft Corp. has decided to hold out for a better deal on its troubled C5A cargo jet than the Pentagon offered.

Rejecting a Defense Department proposal that the company accept a $200 million loss on the C5A program, Lockheed said it will seek a solution to its financial dispute with the Government through legal channels.

At an hour-long news conference yesterday, Lockheed's chairman, Daniel J. Haughton, said the company believes it has a "strong legal position." Litigation of the case, he said in a letter to Deputy Defense Secretary David Packard, "should ultimately permit Lockheed to substantially recover its costs expended on the program—with even the possibility of a profit."

Under this approach, Mr. Haughton maintained, the controversial and complex C5A contract would have to be "revised," and the Government would have to "fund completion of the 81-aircraft program pending the resolution of the legal disputes." He estimated litigation could take a minimum of two years and a maximum of five.

BROADENING OF ISSUES

Last week, in outlining a Government plan designed to aid the ailing defense contractor, Mr. Packard said litigation could produce a settlement ranging anywhere from a $25 million profit for Lockheed to a $480 million loss. However, in his response to the Pentagon official, Mr. Haughton indicated the company wanted to broaden the issues that could be litigated. Presumably such a broadening would change this range.

The C5A is at the heart of Lockheed's financial dispute with the Pentagon, which originally involved three other programs: Motors for the short-range attack missile, known as the SRAM; the Army's Cheyenne attack helicopter, and several Navy shipbuilding projects.

On the shipbuilding projects, Mr. Haughton said the company isn't "prepared to accept the Navy offer of $58 million" against claims of $159.8 million. However, he added, Lockheed believes "if both parties continue to pursue negotiations diligently, a mutually acceptable solution can be achieved within a reasonable period of time."

On the Cheyenne helicopter, Mr. Haughton informed Mr. Packard that the Government's proposals were acceptable and that the company would, as a result, "withdraw from litigation" its claims under the Cheyenne production contract. That contract was canceled by the Pentagon in 1969.

CHEYENNE LOSSES

In a separate letter to shareholders, the Lockheed chairman said the Cheyenne agreement with the Government would result in before-tax losses of $75 million on the development contract and $45 million on the production contract—"all of which was provided for through the third quarter of 1970."

Mr. Haughton also told Mr. Packard that the company agreed with the Pentagon that its dispute on the SRAM had been resolved when it settled last October for $20 million against a claim of $54 million.

"Our assessments of the C5A and the shipyard programs are under review as we close our books for 1970 and begin the usual year-end audit," Mr. Haughton said at the press conference. "We are currently unable to predict the possible impact of these two programs on earnings."

Mr. Packard's rescue plan for Lockheed offered the company two alternatives for resolving the dispute over how much money the Government owes the contractor for the C5A cargo-jet program—litigation or acceptance of a $200 million "fixed-loss" settlement. Mr. Packard, the chief Pentagon procurement officer, said he personally preferred the fixed-loss route.

COMPROMISE UNACCEPTABLE

Such a settlement would "remove once and for all the contention of both parties," he said. "It has the advantage of finality and would facilitate management improvements in the remainder of the program," he added. However, he added that he recognized the possibility that Lockheed might prefer litigation.

Yesterday, Mr. Haughton told Mr. Packard that the company couldn't accept "a compromise which entails such an excessive and unwarranted penalty to Lockheed at $200 million." To do so, he said, wouldn't be fair to Lockheed's employees, subcontractors and more than 55,000 shareholders.

The Lockheed official repeatedly refused to state what he thought an equitable settlement would be or what kind of settlement he believes litigation is likely to produce.

At one point under questioning, he did say, "I think we should have very little penalty" for the C5A program. At another point in the news conference, he said the company wouldn't be going to litigation unless it thought it would do significantly better than a $200 million loss. He even suggested Lockheed might get a settlement that would allow the company "to pay attorneys' fees and have something left over for our shareholders."

TOTAL FIGURE UNCLEAR

Mr. Haughton, like Government officials, also declined to estimate what a settlement of the four military-program disputes is likely to cost the Government and ultimately the taxpayer. Indeed, it remains unclear exactly what Lockheed believes it is owed on the C5A and what the Air Force believes it owes. Company and Pentagon officials alike stress it's very difficult to put exact cost figures on the C5A unless you carefully specify what's included.

Last week, however, the Pentagon did say it currently estimates that Lockheed's work on 81 aircraft plus spare parts will cost about $3.7 billion. The original ceiling price, the Government says, was $2.3 billion for 115 planes.

Lockheed's financial problems with the four military programs fully emerged last March, when Mr. Haughton informed the Pentagon that the company needed some $600 million in interim financing to continue work beyond early 1971. At the time, Defense Secretary Laird said the difference between what Lockheed contended it was due and what the Pentagon said it was owed was "almost $1 billion."

In appearances before Congressional committees, Mr. Packard said that unless the company got financial help from both the Government and the private sector it faced the possibility of bankruptcy. At one point, he suggested that the company look around for a merger partner.

MERGER WAS EXPLORED

At his news conference yesterday, Mr. Haughton said he "didn't really ever have any fears" of bankruptcy. As for merger, the chairman said he "did explore it with several companies." He declined to name the companies, saying that it would be "improper" to do so. "I am not actively pursuing a merger at the present time" or "negotiating" with any company, he added.

Throughout the news conference, Mr. Haughton stressed that in the near future Lockheed will "have to have money from some place" to pay its bills. * * *

[From the Washington Post, Jan. 7, 1971]

LOCKHEED REJECTS DEFENSE DEPT. BID FOR C–5A COMPROMISE, PLANS LITIGATION

(By Michael Getler)

Lockheed Aircraft Corp. has rejected a Pentagon proposal that the firm accept a fixed $200 million loss on its disputed C–5A contract and has chosen instead to take the cost-overrun matter to court.

Lockheed Board Chairman Daniel J. Haughton, at a news conference yesterday, estimated that the litigation would take at least two years and perhaps five.

In the interim, Lockheed proposes that the Defense Department continue to provide the money to complete the 81 jet transports the Air Force says it needs. The Pentagon's initial reaction was non-committal.

The Pentagon has estimated that Lockheed will need another $1.2 billion to complete the C–5A fleet and provide initial spare parts and ground support equipment.

Haughton said the company could not accept a compromise settlement, as was offered by Deputy Defense Secretary David Packard on Dec. 30, "which entails such an excessive and unwarranted penalty to Lockheed as $200 million."

He said he felt that the firm held "a strong legal position" and that a court settlement "should ultimately permit Lockheed to substantially recover its costs . . . with even the possibility of a profit for our nearly eight years of effort."

When questioned, Haughton admitted that Lockheed might accept some fixed loss, "but not $200 million."

The Lockheed chief executive stressed that at the core of the dispute was the total package procurement form of contracting that was used for the first time by the government on the C–5A. This system, Haughton stated, "is now conceded universally to be unworkable . . . but the fact remains that our company and its shareholders have been left with its consequences."

The original 1965 contract called for 115 planes, 58 initially and then 57 more several years later, at a cost of $1.9 billion, according to Packard. The government's liability was to be limited to $2.3 billion.

The program went through numerous changes, and it is now estimated by the Pentagon that Lockheed's cost for the 81 planes, plus some spares and ground equipment, will be $3.7 billion.

An additional $802.6 million is being spent with General Electric Co. for 467 jet engines. There will also be additional spare engines and electronic gear bought, plus support costs estimated by the Secretary of the Air Force at about $800 million.

According to Air Force estimates made in February, but supplied only yesterday, the excess costs to the government on the Lock-

heed work run from $595 million, in a contract interpretation most favorable to the government, to about $53 million when the agreement is interpreted most favorably for Lockheed.

Packard, last week, foresaw the outcome of litigation as between a loss of $480 million for Lockheed and a profit of $25 million.

Yesterday, Haughton refused to provide Lockheed's estimate of how much is in dispute.

Haughton noted that Packard, though favoring the fixed-loss settlement, also posed the legal alternative Lockheed has chosen.

However, Haughton said the firm will not necessarily limit litigation to the one central issue that Packard suggested: Whether the Air Force, by cutting back its order from 115 to 81 planes after costs had skyrocketed, was still bound to higher payments by a controversial contract clause that permits repricing.

Haughton also announced yesterday that Lockheed would not accept Packard's offer to settle company claims of $159.8 million on disputed Navy ship costs for $58 million, and would negotiate further.

Lockheed did accept proposals for what is claimed to be a net loss of $120 million on the Army's Cheyenne helicopter.

Packard yesterday said he would study the Lockheed response before making a recommendation to Congress when it returns later this month.

Pentagon officials said Packard would no doubt sound out congressional willingness to continue to appropriate funds for the C–5A if the possible excess cost to the taxpayer would remain uncertain for years.

Packard, himself, had raised the question of whether Lockheed would be in a position to repay the government, with interest, several years hence if litigation went heavily in the government's favor.

Haughton's tone yesterday was generally optimistic.

The Lockheed executive believes that an acceptable agreement can be reached that will satisfy Congress. Some $200 million in extra C–5A funds was voted by Congress last month, contingent on a proposed settlement. Defense officials see little likelihood of this money being stopped even if the controversy lingers. Rather, the test will come in considering next year's budget, if Congress is unhappy.

[From the New York Times, Jan. 8, 1971]

ARROGANCE OF POWER

As a result of huge cost overruns on four military programs, of which the most important is the C–5A cargo jet, the Lockheed Aircraft Corporation is on the verge of bankruptcy. In an effort to keep the company from going under, the Pentagon has proposed to pay an extra $758 million to Lockheed, provided that the company agrees to pay $200 million of this back as a fixed loss on the C–5A contract.

But this proposal is not good enough to satisfy Lockheed's chairman, Daniel J. Haughton. He declared at a press conference this week that Lockheed would instead go to litigation with the Government to settle its four disputes, totaling about $1 billion. Mr. Haughton confidently said, "I think a way will be found for the Defense Department to fund us while litigation is under way." He expects the litigation would take two to five years.

The Lockheed chairman apparently feels blameless for his company's performance on a contract on which it agreed to produce 115 aircraft at a ceiling price of $2.3 billion, but which will cost the taxpayers $3.7 billion for only 81 planes. In a letter to Deputy Secretary of Defense Packard, Mr. Haughton said that through litigation Lockheed expects to recover substantially all these costs "with even the possibility of a profit."

Lockheed's management is apparently confident that the company's financial obligations are so huge—especially to many banks and airlines—and the fallout of its collapse on subcontractors, its employes and stockholders, and the Pentagon, would be so great, that nothing could happen. Mr. Haughton told reporters he had no fear of bankruptcy and was looking for no merger.

The public interest will be badly served if the Pentagon yields to this bluff. Lockheed has demonstrated a degree of managerial inefficiency unusual even for defense contractors. Rather than rescue Lockheed's existing management, it would be better for the Government to let the company go under and, as was done in the case of Penn Central, reorganize in bankruptcy.

This course not only will facilitate a basic overhaul of the company, but it will serve as a warning to other defense producers that there is a penalty for inefficiency and that no corporation has a claim to survive just because it is huge and works for the Government.

[From the New York Times, Jan. 13, 1971]

MERITS OF LOCKHEED'S CASE ON THE C–5A

To the EDITOR:

Your Jan. 8 editorial "Arrogance of Power" is antagonistic and misleading.

You challenge our right to select litigation as the most suitable of two alternatives offered by Deputy Defense Secretary David Packard to resolve our contract differences on the C–5A transport. The courts exist to provide the individual citizen—and big or little corporations as well—the right to judicial review. Without this protection, the Government could impose its will not only on a large corporation but upon every citizen without regard to the merits of a case.

You have failed to recognize that there may be any possible legal merit to Lockheed's case. Obviously we are convinced we have a strong case or we would not have chosen this alternative. It seems apparent that without knowledge of the merits of the case, you would force Lockheed to accept a $200-million loss on the C–5A. And you must have overlooked the announced plan that Lockheed would repay to the Government, plus interest, whatever a court might decide Lockheed should pay.

You quote me as telling a press conference that Lockheed would seek litigation to settle its four major disputes. This is a gross error. One of the disputes, on the SRAM motor, was settled last October. On a second, covering the Cheyenne helicopter, we have agreed to accept the Department of Defense proposal for settlement. On the third, covering Navy shipbuilding claims, we plan to continue negotiations. Only on the C–5A dispute have we chosen the litigation course.

You say that I apparently feel blameless for Lockheed's performance. Again, not true. Twice during the press conference and on numerous other occasions I have admitted that there were many things that in hindsight we believe could have been handled better.

You say that we agreed to produce 115 aircraft at a ceiling price of $2.3-billion, but which will cost the tax-payers $3.7 billion for only 81 airplanes. Again, not correct. We agreed to produce the airplanes under terms of the contract, which provided for the price to be adjusted.

The fact is our C–5A dispute is a legal one and we are following a logical, business-like procedure. All defense contracts provide an avenue for settling contract disagreements. There is nothing unusual about the litigation alternative that Mr. Packard offered for the resolution of the Defense Department dispute with Lockheed.

It is surprising you would choose to describe our company position as a "bluff." Let me assure you that this is no bluff and that we are determined to protect our rights through litigation rather than take the inequitable penalty which was offered.

Secretary Packard has offered Lockheed two alternative approaches to resolve the dispute—either through litigation or by Lockheed's accepting a fixed loss to resolve all issues. He recognized that Lockheed cannot provide the funds and that under either alternative it would be necessary for the Air Force to fund completion of the C–5A program. Congress late last year voted the funds Mr. Packard had requested to continue C–5A production.

Would The Times deny us the right to our day in court? Are we arrogant for seeking it? Perhaps the arrogance is on the part of The Times when it recommends that Lockheed be forced into bankruptcy as a warning to other defense producers.

D. J. HAUGHTON,
Chairman of the Board,
Lockheed Aircraft Corp.

[From the Washington Post, Jan. 10, 1971]

THE LOCKHEED BAIL-OUT

When Rolls-Royce got into financial trouble recently (mainly because of an egregious error on an engine contract for Lockheed's air bus), the British government bailed it out at a cost of nearly $300 million. In so doing, the chairman and chief executive of the company, Sir Denning Pearson, was sacked, replaced by Lord Cole.

Now we see that the Pentagon is going to bail out Lockheed, at a cost variously estimated from $757 million to $1.45 billion. But is Daniel Haughton, president of Lockheed, to be fired? No. The very people who got Lockheed into its financial mess on the C–5A airplane, for which the American taxpayers are now asked to pay, are in effect to be rewarded for their shortcomings. That sort of Orwellian logic may make sense in Deputy Secretary of Defense Packard's office, but one may hope that Congress will see through it, particularly since other companies will no doubt start lining up at that trough.

Congress should also ask whether it is in fact so vitally necessary to the country—to national security—for Lockheed to be kept from bankruptcy. Surely other companies, hopefully better managed, could also produce the C–5A—if it is really needed (which may be doubtful). Penn Central is in bankruptcy; surely it is as important, if not more so, to the country than is Lockheed. But the most it will get is a government-guaranteed loan. (I do not comment on the merits of even that aid.) Furthermore, the American people are entitled to a full statement of the reasons for the Lockheed bail-out, not the bald statement of Mr. Packard that it is "in the national interest." The $200 million "loss" that Lockheed supposedly will sustain looks more like a "paper" transaction than an actuality.

The Lockheed bail-out, finally, reveals starkly the problems involved when an industrial manager of a major defense contractor (Mr. Packard) is in charge of the Pentagon's purse. Are not the taxpayers entitled to an independent evaluation of this grotesquely expensive gadget (the C–5A)? Such an evaluation is not possible when the effective decision-makers come from the very segment of the American economy that is ostensibly being regulated.

Last August Mr. Packard called defense procurement "a mess." So it is. But is it any less so with this bail-out?

ARTHUR S. MILLER,
Professor of Law, The National Law Center, George Washington University.
WASHINGTON.

[From Newsweek, Jan. 11, 1971]

BAILING OUT LOCKHEED

As the newest wrinkle dreamed up by Defense Secretary Robert McNamara and his Whiz Kids, the "total package procurement

plan" looked like a sure winner back in 1965. Its first application was to be in the Pentagon's contract for the world's largest plane, the C–5A freighter—and in essence, the new concept pinned Lockheed Aircraft Corp. to a fixed price of not more than $2.3 billion for building 115 of the giant planes. There would be control over the creeping extras that had inexorably inflated defense contracts ever since George Washington's day.

That was the theory. By last spring economic inflation, management, inefficiency and several major redesign programs had rocketed the total cost of the program to more than $3.7 billion, even though the number of planes ordered had been cut back to 81. Since roughly the same process had inflated three other Lockheed defense projects, the company was in deep financial trouble.

The whole fiasco threw a major strain on the tangled web of relationships that is the U.S. military-industrial complex. As the nation's biggest defense contractor, Lockheed could be said to be a vital resource in itself. Further, if it went broke, so huge a bankruptcy might well topple other contractors that had been supplying Lockheed. And to complicate matters even more, the government itself was at least partly to blame for permitting the runaway escalation of costs.

Burial: Thus, when Deputy Defense Secretary David Packard last week disclosed the Pentagon's proposals for settling the issue, the plan amounted to a bailout for Lockheed couched in terms designed to bury the whole unhappy mess as inconspicuously as possible. Packard carefully refrained from disclosing the total cost of his plan to the nation's taxpayers, but outside estimates ranged from $750 million to $1.4 billion, while the loss to Lockheed was put at some $500 million.

First, Packard offered to pick up about $220 million in cost overruns on three smaller programs: the Cheyenne helicopter, five Navy ship contracts and a short-range missile motor. This would leave Lockheed with losses of more than $300 million.

Next, Packard said, the government would pay the full costs of the C–5A program as they came due. Lockheed could then choose one of two courses: either accept a fixed loss of $200 million, to be repaid to the government over several years, or try to sue for a better deal.

How had the formula been calculated? Packard would say only that it "represents my best judgment," adding: "Some will think it too low, others too high." But he stressed that even this deal didn't guarantee Lockheed against bankruptcy, since the company still had to obtain sufficient financing to deliver commercial contracts—notably the L–1011 jetliner.

A Lockheed spokesman in Burbank, Calif., said the company was studying its options under the plan. But he was clearly among those who thought Packard was on the low side. Just as clearly, there would be many in Congress—where the deal must be approved—who would call it a giveaway. Wisconsin Sen. William Proxmire, for one, called it a "loss plus" for the government—"a soft government loan on the most favorable terms."

[From the Philadelphia Inquirer, Jan. 13, 1971]

LOCKHEED: A RISKY BAIL-OUT

The Federal Government will be setting a perilous precedent if it yields to the contemptuous demand of Lockheed Aircraft Corp. for a billion-dollar bail-out.

Because of costs it failed to foresee, Lockheed has taken a financial licking on four military contracts, the most notable of which is for the C–5A transport plane. Somehow the firm has got the idea that the taxpayers have a responsibility to pay for its mistakes.

The Pentagon, understandably, doesn't want to see one of its biggest contractors crash. So it generously offered $758 million to keep Lockheed aloft—with the provision that the firm eventually pay back $200 million as a "fixed loss" on the C–5A.

Lockheed sneered at the offer. It is going into litigation and, according to board chairman Daniel J. Haughton, not only expects to recover costs of more than $1 billion but possibly turn a profit.

What Lockheed is asking, it seems to us, is that the government change the rules of contracting so that anybody doing business with Uncle Sam is guaranteed a profit.

The system doesn't work that way, and we don't think it should.

Obviously, no contractor tackles a project with the idea of losing his shirt. But, in government contracting as in private business there is an element of risk that a miscalculation, unforeseen costs or plain inefficiency will turn a paper profit into a staggering loss.

It's a safeguard which puts the responsibility on the contractor to enter a realistic bid and perform to the best of his ability.

The controversial C–5A contract was not a good one, but it was good enough for Lockheed at the time. Under it, the firm agreed to produce 120 planes at a ceiling price of $2.3 billion. Because of cost overruns, only partly attributable to inflation, it's going to cost $3.7 billion for only 81 planes.

Far more important than whether Lockheed is grounded economically is what other contractors will expect of Uncle Sam if they get stung on some future project.

The question before the Pentagon and Congress is whether the government can afford to establish a policy of guaranteed profits that invites and, ultimately, rewards inefficiency.

[From Newsweek, Jan. 18, 1971]

LOCKHEED SAYS NO

Lockheed Aircraft Corp., the nation's largest defense contractor, has endured nothing but hard luck and red ink for two years—mainly because the cost of producing giant C–5A transports for the Air Force ran a staggering $1.4 billion over the contract price. The company lost $32.6 million in 1969 and is expected to rack up another loss when 1970 results are tallied. Last week, however, Lockheed demonstrated that while it may be poor, it is still feisty.

At a Washington news conference, Lockheed chairman Daniel J. Haughton announced that his company was turning down the Pentagon's offer to absorb all but $200 million of the huge cost overrun on the C–5A. He said Lockheed planned to take the case to the Armed Services Board of Contract Appeals and, if necessary, to the U.S. Court of Claims.

In Haughton's view, Lockheed was trapped financially by the "total package" defense contract concept, which set a limit on both the product's cost and the contractor's profit, leaving no room for cost increases. According to Haughton, the total package concept is "now conceded universally to be virtually unworkable," and Lockheed has "been left with the consequences." Then he continued: "You hear a great deal of misleading talk about a 'charity bailout' for Lockheed and about the possibility of a bankruptcy. We have never believed bankruptcy is either necessary or desirable from anyone's point of view, and we have never asked for charity."

How much does Lockheed want? Haughton repeatedly refused to name a figure. But in making the original offer to limit Lockheed's loss to $200 million, Deputy Defense Secretary David Packard estimated that a court action could bring anything from a $480 million loss to a profit of $25 million—enough, perhaps, to pay the lawyers' fees.

SEA DISPOSAL OF MUNITIONS

Mr. HOLLINGS. Mr. President, I was very concerned to learn that the Navy is again seeking to dispose of munitions in the ocean. While it has been publicly reported that at least 50,000 tons of conventional munitions are proposed to be dumped in the Atlantic and Pacific Oceans, I have learned that there may be more than twice that amount involved. Once again we are faced with a proposed Government operation which ignores the basic tenets of common sense and scientific evidence on the potentially harmful effects of sea dumping and the unnecessary risks to our oceans future and, consequently, our own future. On August 5, 1970, the Subcommittee on Oceanography held the first public Senate hearings on Government disposal of munitions at sea as it related to the secret decision of the Army to dump 65 tons of liquid nerve agent into the Atlantic Ocean. Although we were assured that no more sea-dump operations were planned by the Army, we are faced with essentially the identical problem by another branch of the armed services.

Military dumping of munitions in the oceans dates back many years. The justification was that it is the cheapest way to dispose of munitions that were designed not to be demilitarized, but the dumping has not always worked as planned. In theory, the munitions are to be placed in old ships from the mothball fleet, towed to an ocean dumping site, and sunk by opening special valves. But there have been instances when the ships have not sunk as planned, but drifted off, and later sank in water too shallow to set off the pressure fuses that were to detonate the munitions. There is at least one such vessel on the bottom still unexploded, and it is simply marked on charts as a hazard to navigation!

Many other questions must be considered. For example, what information do we have on the physical, chemical, biological conditions of the area where the dumping is to take place? What would be the result on these factors if the planned dumping aborted? What facilities and alternatives are available for land disposal? These are but a few of the questions that must be asked, and must be answered in the environmental impact statement that the Navy must file before approval can be granted. As I stated on August 13, 1970, in the CONGRESSIONAL RECORD, the nerve gas situation was one where we were already locked in concrete but we could halt future steps which would imperil the ecology of the ocean. As I mentioned at that time, there were a total of over 123 approved dumping areas, approved in a vacuum of ignorance.

Mr. President, I wish to announce that the Subcommittee on Oceanography will hold an inquiry into the proposed dumping in the near future, and that we expect a full public airing of the Navy's proposal. Shortly, I intend to introduce legislation to prevent further unilateral decisions of this nature. The fate of our oceans cannot continue to be entrusted to those whose past record is largely one of failure. We have the power and determina-

tion to stop the needless wasting of our marine resources.

I ask unanimous consent that Roberta Hornig's article, "Sea Disposal of Munitions Asked by Navy," in the Evening Star of January 25, 1971, be printed in the RECORD.

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

SEA DISPOSAL OF MUNITIONS ASKED BY NAVY

(By Roberta Hornig)

The Navy is trying to get permission to dump at least 50,000 tons of "conventional" munitions—explosives, rockets, propellant-type boosters, projectiles and scrap—into the Atlantic and Pacific oceans

No nerve gas is involved

Two-thirds of the outmoded and, in some cases, potentially dangerous weapons, would go into the Atlantic in one of the designated munitions dumping areas, the rest would be dumped off the West Coast

A Navy spokesman said yesterday, however, that the proposed operation would not be carried out without permission of President Nixon's Council on Environmental Quality.

When asked what the Navy would do if the administration environmentalists rejected the dumping project, he replied: "Then we'll have to think of something else."

In October, Nixon endorsed a report by his council urging a ban on unregulated dumping and strict limitations on dumping materials harmful to marine environment. Legislation based on this report is expected to go to Congress this year.

The Navy spokesman said the President was talking about "controlled dumping, not no dumping."

The munitions the Navy wants to dump are stored in arsenals throughout the country, including New Jersey and South Carolina. Another 50,000 tons the Navy says must go for reasons of safety and lack of storage space can be destroyed at their storage depots, the spokesman said.

The potentially hazardous weapons involved in the proposal are propellants that become unstable with age and are capable of exploding. The spokesman emphasized that "we are well ahead of any real danger and want to stay ahead."

Ocean dumping became an emotionally charged public issue in August when the Army surprised everyone by saying it had to get rid of 14,500 concrete-encased rockets containing nerve gas because they were in danger of exploding. Hearings in both the House and Senate were called, but the nerve gas was finally dumped off the Florida coast because no one could come up with a better solution.

During the furor that followed its dumping announcement, the Army promised it would end such practices.

HEALTH RISKS IN CIGARETTE SMOKING

Mr. MOSS. Mr. President, the crescendo of proof that cigarette smoking is harmful to health continued to mount this week with the announcement that U.S. Public Health studies indicate people who are prone to heart disease increase the risk by smoking because the nicotine in cigarettes makes the heart work harder.

I ask unanimous consent that the news story which appears in the Washington Post today, detailing the results of a recent study on the effects of nicotine in cigarettes on health, be printed in the RECORD.

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

CIGARETTES LINKED TO HEART ILLS

(By Stuart Auerbach)

New experiments have pinpointed the ways that cigarette smoking increases the risk of fatal heart attacks, the U.S. Surgeon General said yesterday.

These new studies in animals and humans show that the nicotine in cigarettes increases the work of the heart and its demands for oxygen, Dr. Jesse L. Steinfeld said in his 1971 report on The Health Consequences of Smoking.

This increases the risk of heart attacks among people who are prone to coronary disease, the report said.

While other factors—including diet, obesity and high levels of blood fats—are closely linked to fatal heart attacks, Steinfeld said that cigarette smoking is an independent cause that can accelerate other risks.

"The more risk factors a given individual has, the greater the chance of his developing coronary heart disease," the report said.

Besides causing the heart to work harder, the nicotine in cigarettes also stimulates the release of a chemical called catecholamine from the adrenal glands. This causes an increase in fatty acids in the blood, the report said.

Nicotine may also alter the heart's rhythm so as to cause ventricular fibrillation, the wild uncontrolled beating of the heart that is the most common causes of death among heart attack victims.

Other studies cited in the report suggest that cigarette smoking may contribute to the clogging of the arteries that often preceeds heart attacks.

Many scientists have thought that smoking is related to the whole range of heart diseases but the studies cited in this report provide the clearest evidence to date.

Steinfeld predicted that new evidence may be just around the corner in a lowering of the death rate among groups of Americans who have stopped smoking in the past four years.

A survey last spring, he said, showed that more people stopped smoking between 1966 and 1970 than in the 11 years preceeding that. And while the earlier decrease in smokers had been concentrated among younger men, the new survey showed that the decrease extended to men between 55 and 64 years old.

"With the massive changes in smoking behavior which have taken place among adults in the past few years, largely as an expression of the desire to protect health, changes should be expected in mortality rates among those groups" who have stopped smoking, the report said.

If the death rates fail to drop, however, the tobacco industry will have powerful new ammunition in its fight to discredit the Surgeon General's contention that smoking is unhealthy.

In a statement released yesterday, The Tobacco Institute said the latest Surgeon General report merely "provides more conflicting scientific evidence on the subject."

Horace R. Kornegay, president of the Tobacco Institute, said the report omitted important studies that disagree with the Surgeon General's view.

SENATOR COOK SPEAKS ON HUNGER

Mr. HOLLINGS. Mr. President, on December 17, 1970, Senator MARLOW W. COOK of Kentucky addressed the national convention of the National Farmers Organization in Louisville, Ky. Agriculture, is of course, one of the most basic industries to any organized society, and certainly a viable and critical one within the United States. Senator COOK, in addressing his remarks, graphically and forcefully focused upon the national tragedy of hunger. Even with our overabundance of agricultural products and the scientific advances made in that industry, there is still real hunger within our nation. As Senator COOK correctly pointed out, this is through no fault of the farmer. The fact is, however, that we must enlist all our resources to initiate affirmative action to eradicate the blight of hunger.

I ask unanimous consent that the text of Senator COOK's address be printed in its entirety in the RECORD.

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

ADDRESS BY SENATOR MARLOW W. COOK

As both a Senator and an individual I welcome you to the Commonwealth of Kentucky. Indeed, we are honored that you have once more chosen the "Bluegrass State" for your annual national convention.

There are a number of subjects which might be appropriate for discussion this evening. The recent passage of the Agricultural Act of 1970—and its effect on the American farmer—would itself provide us with hours of discussion.

Of course, you have spent the better part of your time these last few days discussing such matters with experts. There is little that I could say with which you are not already intimately familiar.

In my mind the N.F.O. has always been associated not only with the need of the farmer—but the improvement of life for all men through the advancement of agriculture and the values of rural life. Perhaps then, this evening is a time to reflect upon the most basic and primitive of all human needs—hunger.

Farming and the science of agriculture developed in response to this basic need. In the United States it developed to such an extent as to have become an embarrassment of riches. Unfortunately, this development, through no fault of the farmer, did not eradicate hunger or its more sophisticated companion—malnutrition.

In early 1969 the Senate Select Committee on Nutrition and Human Needs was established drawing its membership from a number of existing committees. From my seat on the Senate Agriculture Committee I was selected to serve on what became known as the "Hunger Committee". President Nixon in a message to Congress on May 6, 1969, stated "That hunger and malnutrition should persist in a land such as ours is embarrassing and intolerable". He recommended to the Congress a comprehensive and ambitious plan to put an end to hunger in America.

Secretary of Agriculture, Clifford Hardin, pledged his support in streamlining and expanding food help programs to better meet the need for improved nutrition. The Department reorganized its family and nutrition programs by creating the Food and Nutrition Service.

In December of 1969, the War on Hunger was given added momentum by the convening of the White House Conference of Food, Nutrition and Health. Its purpose was to forge a new national policy on food and nutrition.

While there was much interest in this subject during the first Session of the 91st Congress, there was little follow-up in 1970 in the second Session.

During this holiday season many millions of Americans remain undernourished and underfed. In his recently published book,

The Case Against Hunger, a Demand for a National Policy, Senator Fritz Hollings reminds us all of the devastating effect of hunger on the American people, especially our very young. Hunger is a disgrace wherever it is found but it is especially harmful to the next generation—our children. As my colleague points out, "Current thinking is that brain cell development becomes virtually complete six months after birth". The effect of malnutrition on the very young child in many cases is irreparable brain damage, a life of mental retardation and a loss to our society. Surprisingly, it has only been recently that we have realized the full extent of malnutrition in our nation and its devastating effects on the productive life potential of our young, not to mention our older citizens.

The existence of widespread hunger and malnutrition in America has now been redundantly documented by hearings of the House Education and Labor Committee, the Senate Subcommittee on Employment, Manpower and Poverty, the Office of Economic Opportunity, the White House Conference on Food, Nutrition and Health and my own Senate Nutrition Committee.

It has been estimated that 5 to 10% of the American population is eating either irregularly or inadequately. Current responsibility for meeting the food needs of these Americans lies between the Departments of Agriculture, H.E.W. and O.E.O. The Administration has now recommended that all food programs be transferred to H.E.W., a move I have long advocated. The Welfare Division of H.E.W. extends its benefits to only 9 out of 27 million poor of the nation. The Health Division of H.E.W. until recently has paid little attention to malnutrition in America while studying it in 33 foreign countries. Under the Education Division little or nothing has been done to instruct the recipients in proper nutritional practices. And believe me, without this vital educational program, a large portion of whatever resources and energy the government makes available is wasted.

It was to study and recommend solutions to our nutritional crisis that President Nixon called the White House Conference on Food Nutrition and Health in December of 1969. The President in his introductory remarks to the participants promised full implementation of the recommendations of the Conference where practical.

The Conference was a highly representative group consisting of 26 panels and eight task forces. The panels were made up of academic, medical, industrial and agricultural experts, as well as citizens chosen because of their particular concern rather than expertise. The task forces represented vast segments of our population such as social action groups, women's organizations, industrial and consumer interests, professional organizations and religious denominations. Members of the Conference represented university professors and students, physicians, old and young, industry leaders and technicians, representatives of consumer organizations, members of all main religious denominations and of minority organizations, members of women's organizations with membership totaling over 60 million women, labor leaders, representatives of health organizations, agricultural and trade organizations, social action groups from all economic levels ranging from the National Association of Manufacturers to various organizations dealing with the very poor—and last but not least, over 400 of the very poor themselves; blacks, Mexican-Americans, Puerto Ricans, whites, Indians, Alaskan natives, inhabitants of the Pacific Trust Territories, and of our Caribbean dependencies and migrant laborers were brought together to discuss the recommendations.

The recommendations of the Conference fill 333 government document pages so obviously I will spare you a detailed recitation of its recommendations. I do, however, want to emphasize one key area of my special concern, that is, nutrition education. As you know, the production and supplying of food alone is not enough. There must be some awareness of which foods should be consumed and the will to do it. And poor nutritional practices are not confined to the poor people. The rich and the middle class equally ignore proper nutritional consumption. For example, it is no simple matter to get my teenage daughter to eat properly. The recommendations of the White House Conference in this area are excellent and any which require legislation for implementation will have this Senator's support.

A dynamic nutrition education program that begins in early childhood and continues through the elementary and secondary schools can help young children to acquire positive attitudes toward food. Also, it can help older children to assume responsibility for their own food selections and prepare them for adult and parental responsibility. As future citizens in a democracy, children must develop acceptable nutritional practices and a sense of social consciousness to enable them to participate intelligently in the adoption of public policy affecting the nutrition of people.

Nutrition education in the schools can be effectively integrated into many curricula, or nutrition can be taught separately. School nutrition programs should be extended to include parents and other adults. Learning opportunities should be designed to accommodate individual differences arising from cultural, economic, personal and family conditions. By applying the best of what is known about how people learn, by utilizing new educational techniques, by taking advantage of school feeding services as a laboratory for classroom experiences, by using new resources, by transmitting a feeling of excitement about the world of food, nutrition education programs that are dramatic and vital can be developed in the schools.

As a beginning the Conference recommended and I endorse the following with regard to school children:

(1) That lunch and breakfast to insure good nutrition be provided when needed to all school children including those in pre-kindergarten and day care.

(2) That the administration of food service be a responsibility of school authorities. Regardless of where or by whom food used in school feeding is prepared, school authorities must set standards of sanitation, nutrition and costing, and provide a comfortable pleasant place for eating, and allow time for good eating behavior and social interaction.

(3) That at all levels—federal, state, and local—direction supervision and monitoring of food service must be provided through personnel trained in nutrition and food management. Continuous inservice and workshop training must be provided for employees at all levels.

(4) That maximum use of food service facilities be made for career training and nutrition education for students and adults.

(5) That adequate funding be provided through federal and state legislation to ensure optimum school day meals, including breakfast, lunch and supplementary foods as well as necessary facilities.

(6) That student, parent and community involvement in food services be encouraged.

(7) That school authorities be encouraged to develop innovative ways to feed school children with maximum efficiency compatible with the objectives and rationale as expressed in these recommendations.

These measures alone will not necessarily insure that children or, for that matter, their parents will begin to employ the proper nutritional practices. But they will insure that all have access to the proper information.

Likewise, the entire body of recommendations put forth by the White House Conference will not instantaneously put an end to hunger and malnutrition in America, but it is a beginning. As Senator Hollings put it,

The hungry in America must be fed . . . America, with its great wealth and energy, has the ability to wipe out hunger almost overnight. We can, we just haven't.

The issue is clear. Our duty is obvious. Just as it has been said that there is no Republican or Democratic way to solve the problems of the cities, I say to you this is not a partisan issue, but a responsibility which all Americans must assume. When the cause is just it must be pursued by liberals and conservatives alike. To hesitate in attacking the greatest disgrace of this decade, or even worse, to continue to ignore it, would be to play a cruel hoax on a segment of our society which deserves, at the very least, the opportunity to be physically fit to compete in our free enterprise system.

AMERICA'S ENERGY NEEDS AND RESOURCES

Mr. HANSEN. Mr. President, one of the ablest and most knowledgeable men in the area of the Nation's fuels and energy resources is Hollis M. Dole, Assistant Secretary of Interior for Mineral Resources.

During the past 2 years, and especially the last year Secretary Dole has testified before a number of congressional committees and made several major speeches on the U.S. fuels and energy problem.

One of his more recent addresses at Stanford University put the whole energy problem into a perspective that should serve as a sober warning of the realities of the fuels and energy situation and the vital and immediate need for a concerted effort by the Federal Government toward a realistic fuels and energy policy.

Quoting from a report by the National Coal Policy Conference, Mr. Dole made the following statement to illustrate the difficulties the Nation is experiencing in a rational approach to energy:

The trouble with conscious acts of policy is that often as not they get in the way of each other's objectives. Oil import policy is committed to limiting the share of foreign oil in our total supply to avoid undue dependence upon potentially unreliable sources. Pollution abatement policy limits the sulfur content of fuels, but its side effect is to displace native coal with foreign residual fuel oil. Nuclear development policy is dedicated to cheap, abundant electric power from the peaceful atom, but in achieving this objective it will, to a very substantial degree, succeed only in substituting scarce uranium for abundant coal as the energy supply for electric power generation. The intent of wellhead gas price regulation was to insure that consumers were able to enjoy a premium fuel at a low price. But the price of gas was set so low that trillions of cubic feet of it were burned under boilers for a purpose that coal could have served as well, and, increasingly, consumers are unable to get gas at any price.

Mr. Dole also warned of the need to "arrest the steady drift toward greater dependence upon foreign energy sources"—an objective that can be accomplished only if:

"We—provide a climate attractive to those who must invest the huge sum of money required to develop "an adequate, secure supply of energy here at home."

This means—if it means anything at all—a stable, clear, coherent, long-range policy which provides the opportunity for each of these sources to make its appropriate contribution to the Nation's energy supply. This climate is unlikely to materialize in the absence of such a policy, and our dependence upon foreign sources will, in consequence, increase. Achieving such a climate will be extraordinarily hard to do, but I remain hopeful that, having for so long attempted to deal separately with the various sources which comprise our energy supply, we may now be ready to view them as the integral parts of a single structure. If we can do this, we shall be in a fair way to develop the necessary guidance—not direction, but guidance—that will vouchsafe to investors in our energy industries a degree of confidence that has been conspicuously lacking until the present time, and which is critical to the future development of our domestic energy resources. But the time to begin is now.

Mr. Dole also warned that—

"The relatively comfortable balance" between supply and demand which now exists is "both ephemeral and illusory."

My concern is that having warned the public of an energy crisis that has not materialized, those who did so may be accused of crying wolf. The wolf was indeed at the door earlier this winter; he has merely gone away for a time. But he will surely be back, and he may bring a whole pack with him. For beyond this winter loom the peak load demands for electricity of next summer; the steadily diminishing capability of the gas industry to meet the demands made on it; the ever-increasing dependency upon foreign oil, particularly along the East Coast; the tenuous supply of fission fuels available at reasonable cost for burner reactors; and the mounting constraints upon the use of coal in metropolitan areas.

Mr. President, because of the urgency of the need for a rational energy and fuels policy and as a convincing testament to that need, I ask unanimous consent that Secretary Dole's speech at Stanford University be printed in the RECORD.

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

AMERICA'S ENERGY NEEDS AND RESOURCES

(Figures referred to in article not printed in the RECORD)

Every so often in the course of our affairs as a people we come to one of those critical points where we are forced to recognize that something we had long taken for granted is no longer true. These collisions with reality usually do not arrive unannounced; more often than not they are foretold years in advance by warning signs whose existence is noted, even if their meaning is not. But such is the strength of commitment to established formulas and relationships that the realization that they no longer apply still comes as a shock and surprise to many people.

I refer, of course, to the subject of energy. After years of supposing that we could count on all the energy we needed, we are now finding that the focus of our concern has suddenly moved from the disposal of abundance to the rationing of scarcity. The newspapers and magazines in recent months have been full of references to the oncoming energy shortage, and in the interest of saving time, I am simply going to stipulate as the major premise of my remarks what has been the concensus of these many separate articles and reports: namely, that the United States is facing an energy gap of major proportions which is now opening between its needs for energy and its capacity to supply them.

The long-term reality of this energy gap is in no way diminished by the President's statement last month that the danger of an energy shortage this winter is substantially behind us. For the moment, at any rate, we have been rescued by a fortuitous combination of events which served to dampen energy demand enough to allow supply to catch up with it: namely, the exceedingly mild weather conditions that prevailed over most of the country almost until Christmas; the general slowdown in business activity; and the General Motors strike. On the supply side, the deficit in crude oil imports caused by the most recent disruption of foreign oil supply is being made up by calling on our spare capacity at home. A concerted effort by both government and the railroad industry to improve the management of hopper car fleets and more settled labor conditions in the coal industry have also boosted coal production.

But the relatively comfortable balance we now happen to enjoy between energy supply and demand is, I submit, both ephemeral and illusory, and my concern is that having warned the public of an energy crisis that has not yet materialized, those who did so may now be accused of crying wolf. The wolf was indeed at the door earlier this winter; he has merely gone away for a time. But he will surely be back, and he may well bring the whole pack with him. For beyond this winter loom the peak load demands for electricity of next summer; the steadily diminishing capability of the gas industry to meet the demands made on it; the ever-increasing dependency upon foreign oil, particularly along the East Coast; the tenuous supply of fission fuels available at reasonable cost for burner reactors; and the mounting constraints upon the use of coal in metropolitan areas.

These are the realities which measure the scope of our predicament over the foreseeable future with regard to meeting our requirements for energy. Accordingly, it is my purpose here to look beyond the immediate concerns of this winter, to the longer term outlook for energy supply and demand in the United States; to discuss some problems and issues that arise out of it; and to venture some remedies that may be available to ameliorate its worst aspects.

Let me begin with that most basic of all economic indicators, the Gross National Product. Last month President Nixon noted that our gross national product is currently running at an annual rate exceeding one trillion dollars. Real product has been rising, irregularly but steadily, ever since the trough of the depression back in the Thirties, and gives every promise of continuing to do so over the foreseeable future. There are a number of reasons for this, the two most important being an assured growth of the labor force and a predictable increase in productive efficiency which has averaged about three percent annually since the beginning of the Twentieth Century. Beyond these economic verities there are political objective that require a steady growth of the economy. We want full employment, as nearly as it is possible to achieve it; we want a mass transit system; we want to clean up our streams and lakes and air and landscape; we want to rebuild the cities and rehabilitate the poor. We want all these things and many more, but we can have them only to the extent permitted by a steadily expanding economic base.

Thus, insofar as it is possible to achieve such an objective, we are going to have a continually expanding real gross national product, which looks to be of the order of about four percent per annum. Now because Gross National Product is essentially a measurement of work accomplished, there is a close correlation between GNP and energy consumption. (Figure 1) Figure 1 shows this relationship as it has existed since 1920 and projects it to 1985. What it says, basically, is that if we are to enjoy a growth in real GNP of 4 percent per annum between now and 1985, we are going to have to expand our energy supply at roughly the same rate. This particular projection shows energy expanding at an annual rate of 3.4 percent—slightly less than that shown for GNP.

I would like to add a caveat here: namely, that our energy requirements may expand at a rate substantially greater than the one projected here. I shall let Dr. Paul McCracken, Chairman of the President's Council of Economic Advisors, speak for me on this point. Quoting Dr. McCracken:

"For most of the past 50 years the consumption of energy in the U.S. has been growing at a rate slower than gross national product in real terms. Energy was in a sense being used more efficiently. About 1966, however, a dogleg seemed to occur, and energy consumption since that year has risen at a rate faster than GNP. Whether this growth in the use of energy per unit of economic output represents a fundamental change in the long-term relationship between energy consumption and economic activity, or whether it represents merely a short-term deviation from the long historical trend is a matter of basic importance to our national planning for fuel and energy. If it is not a temporary deviation, we must then plan for a larger capability to supply energy than orthodox projections have heretofore implied."

So we start with the premise that by 1985 the United States is going to require—at the very least—almost double the amount of energy it used last year to heat its homes, power its factories, mines and transportation systems, and in general to accomplish the work that must go on in a large industrialized high-consumption society. This says nothing at all about the sources from which this energy must come, or the form in which it will be used. But it is upon these critically important matters of form and source of our energy supplies that the strength, growth, and security of our nation depends. Increasingly, the availability of certain energy forms is becoming dependent upon the location and character of the sources from which they originate, and it is this reality which frames the economic, political, and strategic questions which so closely beset us today.

This being the case, I think it would be useful to examine each of the principal forms of energy in terms of the factors which bear upon its availability and continuity of supply, beginning with oil, which meets nearly half of our total requirements.

OIL

Oil in its various forms supplies a fourth of our industrial energy, nearly half of our household and commercial heating needs, and virtually all energy employed in moving goods and people. All in all, it contributes some 44 percent of our total energy supply. We consume it in enormous volumes: the current rate is 15 million barrels a day.

The recent history of our domestic oil supply is the story of a gradual transition from abundance to scarcity. Until 1948 the United States was a net exporter of oil; since then we have imported oil, not out of necessity, but as a matter of economic advantage under a program which limited the volume of certain oils that could enter our markets. Since 1967, however, our field of choice in the matter of imports has dramatically narrowed: the truth is that today our domestic industry cannot produce our full requirements for petroleum.

Figure 2

Figure 2, which measures idle productive capacity of oil fields in the United States against net imports, depicts this rapid decline in self-sufficiency beginning in 1964. By 1967 our net imports exceeded the amount of surplus capacity in the United States that could be called upon to replace them, and the resulting deficit has continued to widen ever since. By 1969 it approximated 1 million barrels a day, and it has increased greatly over the past year.

This growth in dependence upon foreign oil sources is linked to the use of residual fuel oil in a very direct way. This is the heavy black oil used mainly by power plants, factories, and for heating large buildings. For years, residual was the unwanted by-product of refining operations in the United States, and was sold at prices well below the cost of the crude oil from which it was made. Over the years, refiners cut back the production of residual oil as rapidly as they could to provide more yield in the higher valued products. As a result, a steadily increasing portion of the market had to be satisfied by imported residual fuel, as shown in Figure 3.

Figure 3

As domestic supply shrank, demand expanded rapidly over the past few years, so that where imports supplied only one-fifth of residual fuel in 1950, they now provide nearly two-thirds. The contrast between domestic and foreign shares is much more stark on the East Coast, which now depends upon imports for 93 percent of its residual fuel supply. Residual fuel provides about 45 percent of all industrial energy used in this region, which consumed three-fourths of all residual fuel used in the U.S.

The result has been an instructive example on how drift and indecision and a certain predilection for double-think have created a national security problem. Despite the announced purpose of the oil import control program to prevent critical dependence upon foreign sources of oil, the East Coast is now critically dependent upon foreign sources for the oil which supplies nearly half its industrial energy. Domestic refiners did not produce enough residual fuel oil to supply the market, so imports were permitted to the extent needed to fill the gap, despite the fact that domestic coal could have done so, but at a higher price. But forcing consumers to pay the higher price for coal was painful and unpopular, so the officials in charge of the program during that period swallowed hard and concluded that while unrestricted imports of crude oil from overseas sources would be against the national interest, it was perfectly in order to permit the free entry of residual oil from the same areas.

Now the patterns of both supply and demand for residual are changing. Primarily because of air quality standards imposed by large metropolitan areas, demand for residual fuel oil is expanding rapidly. This is a worldwide phenomenon, and is not confined to our own country.

Here at home, East Coast consumption is running 20 percent above last year's levels, and residual fuel oil is entering the Midwest under licenses to supply areas where it never before was a significant factor. This growth is coming at the expense of coal which is being forced out of markets specifying sulfur content of one percent or less. But the largest supply of low-sulfur oil on the world market comes from Africa by way of refineries in Europe and the Caribbean, so that not only is the share of imported oil in the total energy balance going up, but the share of relatively insecure Eastern Hemisphere oil is going up, too. I should add parenthetically here that due to the current disruptions to world oil trade, this trend toward greater reliance on Eastern Hemisphere oils has momentarily abated. This is a temporary condition, however, and there is every reason to expect that our dependence on these sources will increase over the long term. This will, in turn, exacerbate the problem of excessive dependence upon foreign sources for a critical energy source.

We now find ourselves in very much the same situation with regard to oil imports in general as we did several years ago in the case of residual fuel oil. Demand is rising and domestic supply is failing. And again the choice is before us. Do we opt for the easy out of permitting imports—in whatever volume they are needed—to fill the gap? Or do we bite the bullet and bear the necessary costs of programs designed to provide the measure of security we consider essential, which includes limiting imports to assure some semblance of an orderly market for domestic fuels?

These are pertinent questions to ask ourselves at this point. While overall demand for energy continues relentlessly upward, the use of coal is hobbled by air quality standards and natural gas is in increasingly short supply. The contribution of nuclear power will be limited until well past 1980. Meantime, the bulk of unsatisfied demands that would ordinarily be met by these fuels will be transferred to oil. But with domestic oil production approaching capacity, these supplemental demands will increasingly be met by foreign oil. Unless positive action is taken to forestall it, imports will become the sink into which all unmet demands for energy will will be dumped, regardless of form and kind.

Let me elaborate a bit on my basic premise of domestic oil insufficiency.

Figure 4

This chart shows the long-term trend of oil production in the United States measured against productive capacity. The production curve is the lower of the two continuous lines extending from 1940 to the present. The upper continuous line depicts the capacity of the domestic oil fields to deliver oil as defined by the Independent Petroleum Association of America. (The broken lines show estimates made at various times by other sources.) The difference between gross capacity and actual production is the amount of spare capacity that could have been used had it been needed. As you will note, the idle capacity with which we entered World War II served us well as a source of additional production during the war, and it has done so on at least four occasions since: specifically, the Korean War; the Suez crisis of 1956 and 1957; the Arab-Israeli War in 1967, and the disruptions of last summer caused by the closure of the Trans-Arabian pipeline and the production cutbacks ordered by the government of Libya. The effects of this last are still with us, as we shall see later.

For many years our idle, or shut-in capacity has been regarded as a mixed blessing. It gave the nation a handy reserve of spare production with which to deal with sudden interruptions to our foreign oil supplies, but it was a costly burden upon the petroleum industry. More importantly, it became the focus of a bitter controversy over the propriety of State governments to employ their police powers to limit production below the maximum efficient rate of which the reservoirs were capable. The dirty word in this case was "proration."

At this point, both the problems and the advantages conveyed by the excess of productive capacity are fast disappearing. Production has been rising strongly since 1965, while gross capacity has actually been declining since 1967. As a result, spare capacity—the difference between the two—has dropped by a million barrels a day since 1965, and as projected on the chart, will be gone entirely by 1974 or 1975.

It would be difficult, if not impossible, for me to state the full importance of this event. We have never, since the early 1920's, been without a cushion of spare capacity to call upon in the event of a sudden failure of our normal petroleum supply sources. Time and again we have been bailed out of difficulty by the facility with which the valve could be turned to increase domestic oil supply. After this is no longer possible, we shall feel—for the first time—the full force of foreign oil supply interruptions directly as they occur. This will be something totally new to our experience: to be dependent upon foreign oil sources not only for a substantial and growing part of our normal oil supply, but for *all* our emergency supply. Yet ironically, it has been the failure of foreign oil supply that has been the cause of all our emergency needs for oil since the end of World War II!

The outlook, then, is for domestic production in the lower 48 States to peak out in the next few years at about 13 million barrels a day, counting natural gas liquids, after which it will begin a slow decline. To the extent that production from the North Slope of Alaska is developed and brought to market, the drift toward steadily greater reliance upon imports can be slowed down. The delays in getting the Trans-Alaskan pipeline underway make it improbable that oil from the North Slope can be expected before 1974 at the earliest. Assuming that 500,000 barrels a day can be brought on stream by 1975, rising to 2,000,000 barrels a day by 1980, we can postulate the balance between domestic oil and imports shown on the next chart.

Figure 5

We estimate the total share of imports to be about 23 percent for the year just ended, 1970. By 1975, North Slope production will have the effect of reducing the share of imports from 28 percent to 25 percent. By 1980, imports in the absence of North Slope production would be 44 percent; with it, the share of imports drops to 35 percent.

Of much more significance, however, is the impact of Alaskan oil on the share of total supply provided by Eastern Hemisphere sources. Because the ability of Western Hemisphere sources to expand production is limited, most of the incremental supply from foreign sources will be provided by Eastern Hemisphere nations, notably those of North Africa and the Middle East. In the absence of North Slope production, the share of our total oil supply provided by these sources would expand from a modest 2 percent in 1970 to some 22 percent by 1980. This could be reduced to 13 percent by the flow of 2,000,000 barrels a day from the North Slope.

Personally, however, I can draw scant comfort from the prospect that even as little as 13 percent of our oil supply may come from Eastern Hemisphere sources in 1980. The absolute amount involved would be very nearly three million barrels a day. This is ten times the deficit in Eastern Hemisphere oil imports we are currently having to make up from domestic production. Moreover, to the extent that other sources of energy are unable to meet requirements, the demand for oil will be proportionately more than the 22 million barrels a day projected for 1980. In this case the share of Eastern Hemisphere oil might be substantially greater than 13 percent of total supply.

With this thought in mind, let us now examine the other energy fuels. Of these none presents a more intractible set of supply problems than natural gas.

NATURAL GAS

Over the past two decades, gas demand has grown strongly, at an average annual rate of about six percent. This was half again as fast as total energy consumption grew, which meant that gas displaced other fuels in the market during this period. By 1969, gas was contributing a third of our energy supply, and accounted for half of the energy used for household heating, nearly half of that

used for industrial heat and power, and supplied a fourth of the energy consumed to generate electricity.

This long period of differential growth is now at an end, and the outlook is for gas to lose market position steadily over the coming years. It is not in the realm of reality to suppose that gas supply can expand at even the 3.4 percent annual rate projected for energy as a whole over the coming 15 years; this would mean an increase from the current annual rate of 22 trillion cubic feet to 31 trillion cubic feet in 1980. The average yearly supply implied by this calculation would be 26½ trillion cubic feet. This is half again the average rate of additions to proved reserves in the past five years. In the best year of our entire experience we added somewhat less than 25 trillion cubic feet to our reserves.

The hard truth of the matter is, in fact, that the finding rate for gas in 1968 and 1969 was the worst in our experience of which there is any record, and the 1970 results will continue this discouraging pattern. Since 1967 we have used up 18 trillion cubic feet more gas than we have found. This is nearly a year's supply. Even if a strong revival in gas exploration began this year, it would be several eyars before the results showed in increased availability to the consumer.

Beyond these disappointing figures is a long term decline in both exploratory activity and in returns per unit of effort expended in looking for oil and gas in the lower 48 States. For whatever reason, the fact is simply that a foot of exploratory hole finds far less oil and gas than it found prior to 1950. This is the more discouraging in view of steady advances that have been made in the technology of discovery and the discipline imposed by austere drilling budgets.

Paralleling this decline in discovery success is a decline in exploratory drilling that is now in its fourteenth year. The combination of these two trends has resulted in a steady erosion of the ratio between the amount of oil and gas found and the amount withdrawn for production. In the next chart, which shows five-year moving averages of additions to proved reserves measured against production, this decline is readily apparent in the case of both oil and gas.

Figure 6

In the early 1950's, well over a barrel and a half of oil was found for each barrel taken out of the ground. In the case of gas, about two cubic feet were proved up for each foot withdrawn. Now, the ratio has dropped below unity for both. We are using up our reserves of both oil and gas faster than we are replacing them.

Meanwhile, gas demand continues to rise by roughly 1 trillion cubic feet a year—somewhat more than that over the past two or three years. This means that once the effective delivery capacity of domestic gas fields has been reached—and I make this to be 1973 or before—we shall have to find additional energy sources—foreign or domestic; gaseous, liquid, or solid—to the equivalent of at least one trillion cubic feet of gas each year. The interplay of economic factors will of course determine the balance among these competitive sources for us even if we do not supply any direction from government. To the extent this is accomplished within acceptable criteria of national security, this is all to the good. But I submit that we ought to know what is happening, and be ready to apply such direction as may be indicated by the concerns of our national interest.

To a far greater degree than we could wish, however, policy must make the best bargain it can with the realities of where and when that govern the availability of certain important alternate energy sources. Gas from Alaska will not be available before 1975. Gas from Canada is available now, but only in limited amounts; larger volume imports from that source await discovery and development—at least another six years away even granting the success of current exploration efforts. Liquefied natural gas is already an item in world trade, and will begin to enter our own supply channels in 1974. But most of it will come from the Eastern Hemisphere. Let me elaborate a bit.

Currently, about 700 billion cubic feet of gas a year are imported from Canada by pipeline. This comprises about 3 percent of our total supply. The Canadian National Energy Board has indicated that this figure might be no more than double its present volume, say 1.4 trillion cubic feet annually, by 1985, if no new producing areas are found outside the Western Canadian Basin. If, on the other hand, discoveries of gas comparable to those on the North Slope of Alaska are made in the Canadian Arctic, gas imports from Canada might reach 3.7 trillion cubic feet annually by 1985—equal to the required annual increments of about three years.

Gas from Alaskan North Slope could begin perhaps as early as 1975 with an initial flow of, let us say, 700 billion cubic feet a year—approximately the volume we are now receiving from Canada. This could triple by the end of the period we are considering, which assumes that something on the order of 40 trillion cubic feet of non-associated reserves will be proved up on the North Slope.

Applications were filed recently with the Federal Power Commission to import 1 billion cubic feet a day of liquefied natural gas from Algeria and another 425 million cubic feet a day from Venezuela into the East Coast, with deliveries to begin in the 1974–75 period. Negotiations are under way for an additional 2 billion cubic feet a day for the East Coast, with initial delivery dates unannounced. Thus, on a yearly basis, we might expect at a minimum, some 1¼ trillion cubic feet of imported LNG to enter gas mains of the Northeastern states during the latter half of this decade. I am sure that further increments will follow. Since the total consumption of this region was just under 2 trillion cubic feet in 1969, it is easy to conclude that in the absence of any countervailing influence, the Northeast could become dependent on foreign natural gas for as much as half its supply by the end of this decade.

If this should happen, another step will have been taken in the isolation of the East Coast from the energy economy of the rest of the United States. I spoke of our concern about the national security implications of the East Coast's heavy reliance upon outside sources for residual fuel. Now we see the process starting all over again in the case of gas, which carries forty percent of the residential heating load and provides one-fourth of all energy for industrial heat and power in that region. It therefore becomes pertinent to raise the question as to whether the East Coast is to become as dependent on foreign sources for gas as it now is for residual fuel oil.

The outlook for gas is accordingly for a gap to open between demand and supply from domestic sources. Whether this gap is filled in part by foreign LNG or subsumed as an added requirement in the demand for oil matters little: the essential truth remains that increased consumption of natural gas means greater reliance upon foreign sources, just as increased consumption of oil means greater reliance upon foreign sources.

NUCLEAR POWER

In 1969, nuclear-generated electric power supplied two-tenths of one percent of the energy consumed by the United States. Between now and 1980 the nuclear contribution will expand enormously in terms of its present small base. In Interior we estimate that by the end of the current decade, online nuclear generating capacity will probably reach 148 million kilowatts, providing some 900 billion kilowatt-hours of electricity. This translates to ten percent of the nation's anticipated energy supply in 1980. The share of energy provided by nuclear power will therefore be relatively modest until after 1980. Its usefulness in preventing further increases in our dependence upon foreign energy sources will moreover be circumscribed by the nature of its invasion of the electric power generation market. To the extent that nuclear power plants displace those fired by oil and gas, the result is a net gain in the share of energy provided by domestic resources. But the displacement of coal by nuclear power makes no contribution at all in this respect, since coal is our most abundant energy resource; our exports of it in 1970 are estimated at one billion dollars. In short, a nuclear power plant in Dallas or New York reduces our reliance on foreign energy sources; in Chicago or Cleveland it does not.

In contrast to coal, the amount of known uranium reserves mineable at competitive costs is limited. While new reserves are certain to be added in response to the great expansion in exploratory activity over the past few years, the demands of projected nuclear plants will continue to press hard against supply until the breeder reactor is an accomplished reality. This is not expected at any time before the latter years of the 1980's.

To summarize, nuclear power can be expected to provide a limited and partial solution to the problems of our growing reliance upon foreign energy sources during the foreseeable future. It should be borne in mind, however, that in the absence of the breeder reactor, the supply-demand position of domestic uranium is not notably better than that of domestic oil and gas.

COAL

We come now to coal. Depending on such criteria as depth of deposit and thickness of seam, we have hundreds of years' supply of coal in discovered, measured, recoverable reserves in the United States. The numbers are not especially important here; authoritative estimates are in agreement that our coal resources are ample for as far into the future as we can reasonably foresee.

In view of this reality, it is something of a parodox that our scarce resources of oil and gas have to largely replace our abundant coal in the market over the past half century.

Figure 7

In 1910 coal supplied over three-fourths of our energy. In fact, both oil and gas combined contributed a smaller share than fuel wood in that year. As the years passed, coal was rapidly displaced, first by oil, then by gas, until currently it provides barely one-fifth of our total energy supply. By contrast, three-fourths of the nation's energy is now contributed by oil and gas.

Ironically, however, both oil and gas from coal were items of trade in this country before oil was first discovered in 1859. But the naturally occurring fluids were cheaper and better than the synthetics derived from coal, and eventually displaced them from the marketplace. At the same time oil and gas invaded markets held by coal as a solid fuel: today coal supplies less than 4 percent of the energy used for household and commercial heating, virtually none of the transportation market, and about 26 percent of power and process heat for industry. Only the electric power generation market remained as the logical preserve of coal, and in 1969 accounted for 60 percent of all coal consumption.

Now, coal is beset by two powerful inhibitors to its projected growth: the advent of nuclear power, and air quality standards which have effectively bared large volumes of high-sulfur coal from the market.

To date, the threat from nuclear competition has been more shadow than substance, as nuclear plants accounted for less than one percent of electricity production last year.

But there has been a great deal of substance in the imposition by a steadily growing number of metropolitan areas of sulfur content limitations which most eastern steam coals simply cannot meet. There is, to be sure, plenty of low-sulfur coal in the Western states. Its development will require several years, however, and the transportation costs of moving Wyoming coal to Chicago will, of course, be very much greater than moving it from southern Illinois.

These restrictions on sulfur content of fuels came before any of the affected industries were ready for them. In the absence of any commercially feasible means for removing sulfur from stack gases, utility plants and other consumers began to scramble for low-sulfur alternatives. In the nature of the present case, this meant residual fuel oil, which could be desulfurized or blended to get under the prescribed standards. As a result, utility use of residual fuel oil on the East Coast has doubled since 1967, while the use of coal has actually declined.

The immediate prospect, therefore, is for further erosion of coal's position in the energy mix as air quality standards continue to spread to more and more states and municipalities. While much research has been done on the removal of sulfur from stack gases, this course is not yet a commercially feasible alternative to burning low-sulfur fuels. Given time and strong support from both government and industry, it can be. But it will require a conscious act of policy to insure its success.

The trouble with conscious acts of policy is that often as not they get in the way of each other's objectives. Oil import policy is committed to limiting the share of foreign oil in our total supply to avoid undue dependence upon potentially unreliable sources. Pollution abatement policy limits the sulfur content of fuels, but its side effects is to displace native coal with foreign residual fuel oil. Nuclear development policy is dedicated to cheap, abundant electric power from the peaceful atom, but in achieving this objective it will to a very substantial degree succeed only in substituting scarce uranium for abundant coal as the energy supply for electric power generation. The intent of wellhead gas price regulation was to insure that consumers were able to enjoy a premium fuel at a low price. But the price of gas was set so low that trillions of cubic feet of it were burned under boilers for a purpose that coal could have served as well, and increasingly consumers are unable to get gas at any price.

Plainly, there needs to be some mechanism, some way, where the objectives of policies bearing upon energy supply and demand can be harmonized so as to achieve a realistic balance between the conflicting goals so often sought without regard to their effects upon one another. This is the more essential in view of the extensive dislocations to conventional energy economics that will attend the imposition of full cost accounting upon the production and use of energy. For the first time, the portion of true energy costs that has been sluffed off upon society as a whole will begin to show on the books of the producing companies, and in the bills paid by consumers. As we have already seen, these newly-accounted-for costs are heavily affecting the demand and supply patterns for industrial fuels, and we have only begun to view their effects upon other sectors of the energy market.

For the next few years we shall virtually be in irons as to the pattern our energy supply will take. Beyond that time, however, we have a great capacity to influence the form and source of our energy supplies. There are many choices to be made. The art of effective policy is to reconcile their objectives and effects.

We can, for example, make oil and gas out of coal. Both have been demonstrated as technically possible. Economic feasibility must wait upon the resolution of cost barriers through further research.

Much the same can be said of the prospect for obtaining oil from the enormous shale resources in Western Colorado, Utah and Wyoming. This is another route we might take.

While prospectors have had increasing difficulty in locating worthwhile deposits of oil and gas in the lower 48 States, this represents the exhaustion of technology, rather than resources. Investment and effort in genuinely new approaches to petroleum exploration have been small. This might be a fertile field indeed for imaginative research and inquiry.

On average, less than 35 percent of the oil that has been found in the United States has been produced. Each one percentile by which this recovery rate can be increased means four billion barrels of oil that can be reclaimed from known fields. We could profitably direct research toward this objective.

Similarly, many trillions of cubic feet of natural gas remain locked up in the tight formations of the Rocky Mountains. We are presently awaiting the test results of efforts to loosen these formations by nuclear fracturing. Their success may help narrow the gap between gas requirements and domestic supply.

The $800 million which the Federal government collected in lease bonuses last month for the tracts offered offshore western Louisiana was the largest amount ever obtained at a single sale on the Outer Continental Shelf. It speaks loudly of the value placed by producers on these tracts, and we earnestly hope their high expectations are fully justified. If so, gas consumers may expect to benefit by the middle of the decade. Meanwhile, the astonishing success of this sale serves as a reminder of the unexploited potential of the Outer Continental Shelf. An aggressive program of regularly scheduled OCS leasing could re-activate the interest of the domestic oil industry in the petroleum prospects of the lower 48 States.

This is a partial, but by no means inclusive, list of the things that might be done to arrest the steady drift toward ever greater dependence upon foreign energy sources. But if we truly intend to develop an adequate, secure supply of energy here at home, we must provide a climate attractive to those who must invest the huge sum of money required to bring them to reality.

This means—if it means anything at all—a stable, clear, coherent, long-range policy which provides the opportunity for each of these sources to make its appropriate contribution to the nation's energy supply. This climate is unlikely to materialize in the absence of such a policy, and our dependence upon foreign sources will in consequence increase. Achieving such a climate will be extraordinarily hard to do, but I remain hopeful that having for so long attempted to deal separately with the various sources which comprise our energy supply, we may now be ready to view them as the integral parts of a single structure. If we can do this, we shall be in a fair way to develop the necessary guidance—not direction, but guidance—that will vouchsafe to investors in our energy industries a degree of confidence that has been conspicuously lacking until the present time, and which is critical to the future development of our domestic energy resources. But the time to begin is now.

NATIONAL LEGISLATIVE CONFERENCE POLICY POSITIONS

Mr. PERCY. Mr. President, I ask unanimous consent to place in the RECORD the 1970 Policy Positions and Report of the Committee on Intergovernmental Relations of the National Legislative Conference, the representative body of State legislators.

The policy positions are grouped according to six subject matter task forces. The committee's task forces developed these policy positions during 1969 and the first half of 1970, and submitted them to the full conference for consideration at its annual meeting in Salt Lake City, Utah, August 25–28, 1970. The conference approved these policy statements after open debate at the meeting.

Because these policy positions represent a significantly important consensus of the thinking and attitudes of the State legislators throughout the Nation, I commend them to the attention of all Senators and Congressmen.

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

POLICY POSITIONS AND FINAL REPORT

REPORT OF THE INTERGOVERNMENTAL RELATIONS COMMITTEE

Introduction

Within the past year, we have witnessed a pronounced strengthening of the state legislatures' voice in intergovernmental affairs. Herein lies both challenge and responsibility, for as legislatures fortify their institutonal position, they are even more on trial in proving the competency of state legislative agencies to meet critical problems. In recognition of the expanding role demanded of States in the Federal partnership, the National Legislative Conference created a Committee to study the broad question of Federal-State relationships with a view toward clarifying powers delegated to the Federal government and those reserved to the States. Since its creation in 1957, the Committee has developed a dual function: it reports to and is guided by the National Legislative Conference on issues of importance to Federal-State relations; it is also authorized by the Conference to take policy positions between Conference meetings on matters of urgent and current significance to the States.

The importance of this role has led to the expansion of the Committee to include legislative members of the Executive Committee of the Conference and members of the Executive Committee of the National Conference of State Legislative Leaders.

Organization and procedures

During 1969–1970, the Committee met quarterly in Washington, D.C. and in Salt Lake City. At the outset, six subject matter task forces were created to assist the parent Committee in analyzing issues and developing policies. Each task force consists of seven legislators and is staffed by an area specialist from the Washington Office of the Council of State Governments. At present, the Committee is composed of 42 state legislators representing 37 States. The Committee is reconstituted ever year at the prerogative of the incoming National Legislative Conference President.

Policy statements developed by the task forces receive final consideration by the full Committee. In formulating these policies, the task forces utilize significant resources at both the federal and state levels. Approved policy statements are communicated through testimony and informal contracts to congressional committees and federal agencies.

It is important to emphasize that the Committee does not purport to speak for all 7,700 state legislators; this is an impossibility. Instead, through a carefully selected group, the Committee hopes to communicate a representative state legislative view to the Federal Government. This input is of course

in addition to federal-state policies developed by the respective legislatures and communicated to congressional delegations.

Legislative Federal-State coordinators

The Committee has long been dissatisfied with the inability of most legislatures to relate to federal-state issues on a level sufficient enough to make a significant contribution to the ultimate decision. In addition, few legislatures have the institutional means to assimilate properly the meaningful information distributed by the Council's Washington Office. In light of this situation, all speakers and presidents pro tem were asked to designate an individual to serve as legislative federal-state coordinator. Such a person serves as the prime contact for the Committee and the Washington Office for communication with the particular legislature. As such, he receives all informational mailings as well as requests from the Washington staff for in-state information having a bearing on a particular issue. To date, legislative leaders in 43 States have appointed coordinators. The coordinators met for the first time during the annual meeting of the National Legislative Conference.

To compliment the work of the federal-state coordinator, the Committee has recommended that legislatures create a permanent committee focal point for intergovernmental relations. To implement this policy a concurrent resolution was drafted and recommended to the Council of State Governments' Committee on Suggested State Legislation. The resolution, which will be published in *Suggested State Legislation for 1971*, recognizes the importance of state legislative contributions on federal-state issues and suggests that each legislature alternatively establish a staffed Joint Committee on Federal-State Relations or staff a functioning Commission on Interstate Cooperation.

Federal grants to legislatures

At its 1969 meeting, the National Legislative Conference, acting upon the recommendation of its Intergovernmental Relations Committee, resolved that federal research grants should be available to state legislative agencies and committees and that such legislative bodies should not automatically be excluded from competing for these grants merely because they are legislative instrumentalities.

In an effort to secure equal treatment of legislative applications for federal grants, Chairman Conolly wrote legislative leaders in all the States urging that they contact the Vice President on this issue. In addition, our Washington staff worked closely with the Bureau of the Budget in an effort to gain the Bureau's support. We are pleased to report that on December 22, 1969, Mr. Robert Mayo, Director of the Bureau of the Budget, released a memo to federal executive departments clarifying the eligibility of state legislatures and legislative agencies for federal research grants. Since that time, numerous grant applications have been submitted by state legislative agencies. At our request the Office of Management and Budget surveyed the disposition of these applications; results of which were discussed with our federal-state coordinators at the National Legislative Conference Annual Meeting. The Committee believes it is not enough that legislatures are now clearly eligible for federal grants; they must now acquire the requisite in-house expertise needed to develop an application that can strongly compete for federal funds. At the August meeting, the coordinators devoted substantial time to suggested procedures for grant applications. It was also suggested that a National Legislative Conference In-Service Training Seminar be devoted to the subject of federal grant applications.

REPORT OF THE TASK FORCE OF COMMERCE AND TRANSPORTATION

The Department of Transportation is presently developing the first draft of a National Transportation Policy. This document is designed to be a broad policy covering all aspects of transportation, and would govern federal, and possible state and local action, in the field of transportation for many years to come.

Initial contacts have been made by the Council of State Governments to insure that state officials will have an appropriate role in the formulation of the policy.

The Intergovernmental Relations Committee of the National Legislative Conference endorses the development of a "National Transportation Policy." The Committee believes that it is essential that appropriate state officials be involved at all stages in the formulation of this national policy. We call upon the President and the Secretary of Transportation to insure that consultation with the States becomes a continuous process in policy formation at the national level.

The Senate has passed S. 3154, the "Urban Mass Transportation Assistance Act of 1969" which provides for a 12-year, $10 billion program of aid to local governments for mass transit facilities. The bill provides that funds will be available on a contracting authority basis to localities. Up to $3.1 billion can be obligated during each fiscal year.

The legislation provides for direct grants to state agencies operating mass transit facilities, but it does not provide for any coordination of local projects by an appropriate state agency.

The Intergovernmental Relations Committee of the National Legislative Conference urges the Congress to enact legislation providing financial aid to state and local mass transit programs. This Committee recommends that such legislation should provide for coordination of local mass transit projects by an appropriate state agency, with such agencies being eligible for planning and coordination grants.

The Senate has passed S. 1933, "The Railroad Safety and Research Act of 1970." The legislation calls for federal regulation of railroad safety but limits action to moving stock and employee safety. Under an amendment authored by Senator Winston Prouty of Vermont, the bill would provide states with authority to regulate the stations, switches, permanent roadbed, and grade crossings for safety. The bill further provides that by agreement with the Secretary of Transportation the Federal Government will pay up to 50 percent of the state's cost for railroad safety regulations.

The Intergovernmental Relations Committee of the National Legislative Conference commends the United States Senate for its swift action in dealing with the serious problems of railroad safety. The increasing number of railroad accidents emphasizes the need for speedy action by the House of Representatives in enacting "The Railroad Safety and Research Act of 1970."

Senator William Proxmire of Wisconsin has proposed the creation of a Highway Safety Trust Fund supported by the federal tax on alcohol.

Congressman John Kluczynski of Illinois, Chairman of the Roads Subcommittee of the House Public Works Committee, has proposed the creation of a Highway Safety Trust Fund, but has not yet identified a specific source of revenues for it.

The Congress has failed to fulfill its responsibility in adequately funding the Highway Safety Act. The burden has fallen to the States which must carry out the federal standards mandated by the National Highway Safety Bureau.

Some state officials have discussed the possibility of using part of the Highway Trust Fund for Highway Safety programs. This would be done at the state's discretion.

The Intergovernmental Relations Committee of the National Legislative Conference urges the Congress to fulfill its responsibility to adequately fund the Highway Safety program by allocating bloc grants to the States for this purpose.

This is the year in which Congress must determine the future of the Federal Highway Aid program, and the continuation of the Highway Trust Fund. Many proposals are now being considered for the future use of the nearly $5 billion annually which is available from the Trust Fund.

Senator Jennings Randolph of West Virginia, Chairman of the Senate Public Works Committee, has proposed that a small portion of the Fund be used for the operation of buses in public service.

The American Association of State Highway Officials has proposed use of trust funds for building special lanes for buses and use of trust funds for construction of housing for those relocated because of highway projects. AASHO opposes use of the Fund for maintenance of highways by States.

Secretary of Transportation John Volpe announced recently that his Department is studying the proposal for creation of a common transportation trust fund, fed by revenues from all transportation sources, and then allocated to the States for use at their own discretion on transportation facilities most needed in the State. This proposal has received support in the Congress, and in some States as well.

The Intergovernmental Relations Committee of the National Legislative Conference recommends the continuation of the Federal Highway Aid Program, and the Highway Trust Fund with the following modifications:

That Trust Funds be available to a State for use in the maintenance of existing highways according to state standards.

That Trust Funds be available for use by a State to construct public bus service facilities such as terminals, special road lanes, and adjacent parking lots for commuters.

The Intergovernmental Relations Committee of the National Legislative Conference commends the Secretary of Transportation for his efforts to determine the feasibility of a Common Transportation Trust Fund supported by revenues from all modes of transportation, and made available to the States on an appropriate basis, for use according to the priority and needs of the State, as determined by its own authorities.

State regulation of the insurance industry has come into question in two proposed bills now before two separate congressional hearings.

The Administration, in the final day of Senate Commerce Committee hearings on legislation to establish a federal insurance insolvency fund and agency, testified "strongly in support of Federal legislation" in the area of insurance insolvencies. Presently, this area is under state control.

Assistant Attorney General McLaren of the Justice Department Antitrust Division testified that insurance services would be subject to the jurisdiction of the Federal Trade Commission and a newly created Consumer Protection Division in Justice. This would pre-empt areas now within the jurisdiction of state unfair and deceptive practices laws.

S. 2236, introduced by Senator Magnuson of Washington, would create a Federal Insurance Guaranty Corporation. The FIGC seeks to minimize the policyholder's loss in the event of an insurance company insolvency, by way of a Federal insurance fund, similar to the Federal Deposit Insurance Corporation. This bill, and its companion measure H.R. 15557 by Representative Moor-

head of Pennsylvania, would usurp powers and responsibilities presently held by the States.

The Intergovernmental Relations Committee of the National Legislative Conference supports the principle of state regulation of the insurance industry, as embodied in the McCarran-Ferguson Act of 1945. The Committee opposes a federal legislation that would pre-empt areas of state regulation and responsibility such as insolvency of companies, and consumer protection. States must enact and enforce laws to prevent unfair and deceptive practices in the insurance business. We support the efforts of concerned state officials, working through the Council of State Governments, to develop new laws to meet new problems affecting the consumer-citizen.

REPORT OF THE GOVERNMENT OPERATIONS TASK FORCE

The main goal of the Government Operations Task Force, as mandated by both the National Legislative Conference and its Intergovernmental Relations Committee, was to develop specifications for a revenue sharing proposal in accordance with criteria specified by the National Legislative Conference. In light of this mandate, the Task Force developed the following criteria:

The National Legislative Conference has consistently supported the principle that the Federal Government share a portion of its revenue with the States. The Intergovernmental Relations Committee of the National Legislative Conference reiterates its stand on this issue, and further recommends, consistent with criteria approved by the Conference in 1968, that a revenue sharing plan be formulated on the following basis:

(1) Congressional appropriations for revenue sharing should be made on the basis of a fixed percentage of the federal individual income tax base.

(2) Congressional appropriations for revenue sharing should be made to a trust fund established in the Treasury of the United States.

(3) A specified proportion of shared revenues should not be reserved for the (17) poorest States.

(4) The sums appropriated should be allocated among the States based on state population modified by state tax effort. State tax effort would include state and local taxes and net profits from state liquor stores relative to personal income.

(5) Congress in its appropriations to the States should specify a pass-through formula to local governments which will indicate the state and local share of the federal monies allocated to the States.

(6) The pass-through allocation by formula should be made to relatively populous cities and counties based on population and revenue effort.

(7) An alternative state allocation plan of distribution should be accepted if (a) each city and county receives an amount equal to or greater than that allocated by formula, or (b) city and county councils or governing bodies representing fifty percent of those entities entitled to receive at least fifty percent of payments by formula concur in the state's alternative plan.

(8) The federal pass-through formula should provide for sharing revenue only with general purpose units of government.

(9) State and local taxes levied for education should be included in ascertaining the state-local effort of individual States.

(10) Any federal revenue sharing bill should not include a provision that any unit of government entitled to funds under the provisions of the bill maintain its present level of tax effort in order to retain an interest in the funds allocated.

(11) No functions should be excluded from expenditures made from shared funds.

Further consideration is being given the issue as to whether a federal tax credit for state and local personnel income taxes should be included in the proposal.

"The need for revenue sharing between the Federal government and the States is essential to the continued vitality of the federal system and has grown more acute each year. The failure of the Congress to act on revenue sharing is so destructive to the future of federalism that action must be taken by the States themselves to accomplish this goal.

The National Legislative Conference calls upon the Legislatures of the several States to act pursuant to Article V of the United States Constitution to make application to the Congress which shall call a Convention on application of two-thirds of the States for the purpose of amending the United States Constitution.

Such call shall be for the sole and exclusive purpose of proposing to the several States a Constitutional Amendment which shall provide that a portion of the taxes on income levied pursuant to Amendment XVI of the United States Constitution shall be made available each year to state governments and political subdivisions thereof without limiting directly or indirectly any use of such monies for any purpose not inconsistent with any other provision of the Constitution.

To implement this policy statement, the Task Force on Government Operations, in conjunction with other interested State legislative organizations as may be appropriate is directed to develop a suggested resolution requesting the calling of such a Constitutional Convention.

The Committee has been actively encouraging state legislators to contact their congressional delegations urging hearings to be held on the revenue sharing bills. Also in pursuit of this aim, Representative Conolly and Senator Hughes Brockbank, then President of the National Legislative Conference, joined mayors, governors and county officials in a joint press conference calling the attention of Congress to the revenue sharing bills. In conjunction with this press conference, an action program for encouraging interest in the States for revenue sharing was developed. Copies were sent to a number of legislators and this report is available from the Washington office of the Council of State Governments.

In regard to future work, the task force will work with the Office of Management and Budget and Congress regarding problems the budgeting-appropriation gap causes the States. In addition, we will continue to work for the passage of the Intergovernmental Cooperation Act of 1969. An item of long-term importance and study is to work within the state legislatures, with the cooperation of the executive branch, on simplifying and equalizing state aid to local governments.

REPORT OF THE HUMAN RESOURCES TASK FORCE

Federal assumption of the cost of welfare

During the past year, since its organization in March, the Human Resources Task Force has concentrated its discussions on the two major intergovernmental relations issues of welfare reform and Medicaid. Current federal discussion and decisions which are imminent will have a major fiscal and program impact on States.

The committee has held discussions on the provisions and ramifications of the welfare reform proposal originally proposed by the Nixon Administration Family Assistance Act of 1970 (HR 16311). In addition to material prepared by the Washington Office staff of the Council of State Governments, the committee had the opportunity to discuss the proposed bill with representatives of the Administration and congressional committee staffs.

The problem of welfare is of major concern to state legislators because of its fiscal impact on the States and the serious social consequences of the problem. Welfare is a national problem and given the extent of federal control over states' welfare programs, States are left very little control over the fiscal resources they are required to commit to the welfare program. In fact, the growth and direction of welfare programs is pretty much controlled by the Federal Government. The Human Resources Task Force feels that the continuing growth of welfare costs has caused a fiscal crisis in state and local government. Therefore, the Human Resources Task Force recommended to the Intergovernmental Relations Committee the following policy statement:

1. The Federal Government should, on a phased basis, assume the total cost of welfare cash assistance programs for families, the aged, the blind, and disabled and the present general assistance programs in States.

Administration of welfare programs

In the Family Assistance Act, which has passed the House of Representatives and is now being considered by the Senate Finance Committee, there are financial incentives to encourage the federal administration of state programs of aid to families and adults. Provisions are included in the bill to encourage new unified administration of the Family Assistance payments and the states' supplementary payments. The bill contains three alternative arrangements with various levels of federal participation in the cost of administration which are aimed at providing incentives for federalizing the administration of the federal assistance payments and state supplementation. The alternatives are:

a. The Secretary of Health, Education, and Welfare may enter into an agreement with a State to have the Federal Government administer the state's supplementary payment program. Under such an agreement, the Federal Government would pay all the costs of administering the family assistance payment and all the costs of administering the state's supplementary program.

b. If a State chooses to administer its own supplementary program, the Federal Government would pay one-half of the state's cost of administering its supplementary program.

c. If a State agrees to administer the family assistance payments for the Federal Government, the Federal Government would pay one-half the administrative costs of the supplementary program and all the administrative costs of the federal family assistance payments program.

On June 10 and 18 the Administration proposed additional amendments to the Family Assistance Act. Included in these proposed amendments was an additional incentive for federal administration of state welfare programs. These provisions provide that a State may also contract with the Federal Government for federal administration of the state's general assistance and food stamps program and for eligibility determination for medical assistance and surplus food commodities.

It was the feeling of the committee that States should have the option to continue to administer its welfare programs without being penalized for choosing this option. Therefore, the Human Resources Task Force presented to the full committee the following policy statements:

2. The Family Assistance Act of 1970, HR 16311, should provide for 100 percent federal assumption of the cost of administering the Family Assistance Plan state supplementation and aid to the aged, blind, and disabled regardless of whether or not a State chooses to contract with the Federal Government to administer any or all of these programs.

Work incentives and encouraging family stability

The Human Resources Task Force felt that any welfare program developed should provide optimum encouragement for recipients to seek employment and for family stability. Therefore, the Task Force recommended the following policy statement:

3. Total cash assistance benefits to families should be provided in an equitable manner so as to provide work incentives to encourage recipients to seek employment and to encourage fathers to remain with their families.

A. Policy Statement Number 3 is amended by adding at the end of the policy statement:

"Laudable efforts to cover the working poor can and must be implemented in such a way as to fulfill these goals. This will require assistance to families where the husband remains in the home."

Federal assumption of the cost of medical assistance

As with the welfare cash assistance programs, the cost of providing medical assistance to the poor through the Medicaid program has resulted in a onerous fiscal burden to States. This program, as originally conceived, was seriously underestimated as to its costs both as to the amount of use by the consumer and the resultant inflationary costs for health care. Just as in the welfare cash assistance program, the Medicaid program is a national problem and the control of the growth and direction of this program is heavily dependent on national legislative and administrative action. Therefore, the Human Resources Committee recommended the following policy statement:

4. The cost of medical assistance programs to the poor should be assumed on a phased basis by the Federal Government.

Federal participation in the cost of long-term care under medicaid

In the Social Security Act of 1970, HR 17550, which has passed the U.S. House of Representatives and is now being considered by the Senate Finance Committee, amendments to Medicaid legislation are included which would in effect shift from the Federal Government to the State over $200 million of the cost of Medicaid by reducing the federal participation in the cost of long-term institutional care under Medicaid. These proposals are:

a. After an individual's first 90 days of care in a skilled nursing home and after 60 days in a general or TB hospital, the federal share of the cost would be reduced by one-third.

b. Federal share of the treatment cost for mental hospital patients would be reduced by one-third after 90 days with no federal participation after 365 days of care for the lifetime of a particular individual.

The legislation that has passed the House would increase the federal 19 percent matching percentage for outpatient hospital services, clinic services and home health services by 25 percent. The stated intent of these provisions is to provide incentives for States to improve their utilization review procedures; i.e., insuring that institutional care is actually needed by patients and encouraging the use of alternative, less expensive modes of care, such as outpatient hospital services.

5. It is recognized that there is a need in the Medicaid program for improved utilization review procedures and independent medical audits to insure a certain level and kind of care is actually needed by patients. However, proposals to reduce federal matching of long-term care are opposed because the time periods are arbitrary, do not recognize variable patient needs, and would increase costs to States. It is recommended instead, that the Secretary of Health, Education, and Welfare evaluate in cooperation with the States, the barriers and problems involved in making utilization review, independent medical audit procedures more effective in controlling Medicaid costs and recommend means to overcome such barriers and problems.

B. A new section is added as follows:

Social services to combat dependency

The Administration has proposed Social Services reform amendments to the Family Assistance Act. It is agreed that genuine welfare reform must also emphasize the necessity of coordinating and unifying all services which can help fight dependency. Provision for federal funds to the Governor of each State for planning and coordination of services is essential. However, two other features are also crucial:

A. Arbitrary limitation on federal funding of needed dependency combating services would be to the detriment of the over-all welfare reform effort.

B. Suggestion that cities of any size may opt to do their own planning, funding, and designation of the service delivery agency would be disastrous to any continuing concept of statewide responsibility and accountability, and would contribute to the undermining of both the legislative and executive branches. Furthermore, grave constitutional questions may be raised with regard to the powers of the Federal Government to confer authority on the cities without regard to the States. Included among services which should be administered on a statewide basis are job training and day care.

Unless these changes are made, the current provisions of Title IV–A and IV–B of the Social Security Act should be retained in preference to these particular features of the proposed Social Services Amendments to the Family Assistance Act of HR 16311.

6. a. The Federal Government should encourage state initiative in the provision of social services that will alleviate the dependency of families and individuals on welfare by continuing the open-ended availability of federal matching funds for state social services and administration of welfare cash assistance programs.

b. The administration of federal grants for social services under the Social Security Act should continue to utilize the States as the primary focal point for the administration of social services and should not by-pass State Governments in the planning and administration of such services as is proposed in the federal social services reform amendments.

The Human Resources Task Force also discussed with representatives of the federal Office of Economic Opportunity increased roles for the States in the administration of programs under the Economic Opportunity Act.

The Education Commission of the States presented information to the Human Resources Task Force on its current activities related to higher education and vocational education.

REPORT OF THE NATURAL RESOURCES TASK FORCE

The Task Force on Natural Resources has been charged with the responsibility of assisting the Intergovernmental Relations Committee in analyzing issues and developing policies relating to the quality of the environment, and to the wise and rational development of the nation's natural resources. In carrying out this mandate, the task force has sought to identify the major federal-state issues and to assign priorities and courses for action.

The problems that beset the environment have been amply documented. There is no need to elaborate here on the indiscriminate use and abuse of limited natural resources which has visited so great and deleterious a burden upon the air, the water, and the land. What does bear repeating, however, is the interdependent nature of all problems, whatever their classification. If the pleasure of living is adversely affected by one problem, the resolution of others will not provide the quality of life necessary to a happy and fruitful existence.

The task force recognizes the dual nature of environmental problems, embracing as they do the intrinsic conflict between the development of natural resources and the control of pollution. In this light, it accepts the challenge of achieving full utilization of natural resources within the limitations imposed by sound and effective conservation practices. To that end, it has structured its own activities to focus independently on natural resources and environmental management and to provide the forum for synthesizing opposing interests.

Within the context of this responsibility, the Committee wishes to express genuine concern for the integrity of the American political system in the face of the inevitable strains that will be put upon it as a result of the extraordinary efforts that are necessary to achieving the goal of enhanced environmental quality. Inherent in the urgent public thrust for action is a tremendous risk of neglecting those basic principles which are built into the structure of government for the preservation of American federalism. This danger derives principally from the nature of initial government response to the need for environmental control, which is almost wholly regulatory in character, and so dependent upon the police power of the State. Whatever means this Committee finds requisite to the accomplishment of its ends, they must accord with the principle that, insofar as it is possible, primary responsibility should be placed at the lowest administrative level commensurate with the efficient dispatch of the assignment.

Federal funding of water projects within the States

1. The cost/benefit ratio analysis taken alone and in narrow context, as the basis for funding water projects within the States, has outlived its usefulness, and hence must be broadened in concept.

2. There is need for a new formula (basis) for federal funding of water projects within the States; a formula which includes factors other than economic factors imposed upon the primary users of the water. These factors must be agreed upon by the States and the Federal Government, and must encompass regional, national and international perspectives.

3. New concepts should be inculcated into the formula which serve the public interest including:

a. Water pollution environmental control factors,

b. Recreational factors,

c. Aesthetic factors,

d. Regional and national considerations.

4. Additional consideration should be given to:

a. Reduced interest rates in the pay back plans,

b. A longer pay back period.

Federal-State-local programs for environmental management

The effective management of the environment can become so restrictive of traditional personal rights, that support should be given to the establishment of programs for planning and implementation at the lowest level of government capable of carrying out assigned responsibilities.

In this respect, the States should be in the position of being the prime planners, implementors, and policemen of the environment; utilizing local administration and federal funding where appropriate. The development of a program of this type in States would prevent a federal takeover of environmental con-

trol, with all its accompanying police power, which is inconsistent with the American concept of federalism.

Therefore, federal legislation should develop grant assistance programs to encourage, but not require, state efforts to:

1. Establish a state planning and supervisory pollution control agency.
2. Provide assistance to local agencies in developing bond or other financing for capital programming.
3. Institute state supervision of standards enforcement at the local level.
4. Utilize interstate cooperation to achieve these ends.

Coastal zone management

The need for coastal zone management legislation derives from the inestimable importance of the estuarine and coastal environment to the Nation's economy, environmental health and quality of life. The overwhelming pressures of modern industrial society threaten the complete degradation of these vital areas. The development of a coordinated federal-state approach to the solution of coastal problems began only recently with pilot studies conducted by the Marine Sciences Council.

While federal and local government involvement is essential to any effective coastal management program, States must assume primary responsibility for assuring that the public interest is served in the multiple use of the land and water of the coastal zone.

In this context, the optimal state role should include the following propositions:

1. A coastal zone coordinating council consisting of any agency heads possibly involved in coastal zone management should draw a state plan for the zone following an inventory. Management plans should be flexible enough to involve multiple agencies.
2. A coastal zoning board within the framework of state constitutions should be given the statutory power to implement the plan by assigning wet lands and affected uplands to specific management authorities. The board should have power of eminent domain.
3. In areas where interstate activities must be involved interstate agreement should be reached spelling out zoning for maximal protection of the involved coastal resources.

The Federal role should adhere to the following criteria which must apply to any federal legislation:

Criteria for evaluation of Federal legislation

The key to evaluating any legislation which attempts to establish a coastal program lies in the flexibility it allows States for creating management instruments most suited to their own specific conditions. States should not be bound, for example, to the creation of one powerful agency for performing all coastal management functions. This is particularly important with regard to the implementation of state plans. Providing flexibility does not foreclose the designation of a single agency as the state authority for receiving and administering federal coastal grants.

No matter how well a coastal authority bill is drawn, lack of money to implement it expeditiously will drastically reduce its effectiveness. Action in this area has such great consequences for the Nation, and moneys available to the States are so limited, that a matching ratio of ⅔ federal, ⅓ state funding is clearly needed. Thus coastal legislation must be adequately funded and properly apportioned if it is to be successful. Anything less may prove dysfunctional to the stated goal.

Localities must participate fully in the planning process. Legislation which seeks to completely override local autonomy can only invite determined opposition instead of needed cooperation, particularly in the initial planning stages. All levels of government must be built into the planning process in the most efficacious manner to achieve the requisite ends of enlightened resource management.

To summarize these criteria, federal coastal zone management legislation should be:

1. Flexible. No special state coastal agency.
2. Non pre-emptive. No blanket pre-emption of local zoning authority.
3. Adequately funded. No lightly funded, heavily worded project grants.
4. Properly share. ⅔ federal—⅓ state to provide incentive.

Multiple use of water

The Intergovernmental Relations Committee of the National Legislative Conference urges that States study and implement the Multiple Use Concept for water, including use, re-use and priority controls over such use by individual States and on a multi-state basis thru interstate compacts and international treaties, where applicable.

State air pollution control

It has been asserted that: "All civilization will pass away, not from a sudden cataclysm like a nuclear war, but from gradual suffocation in its own wastes." While this statement may be somewhat dramatic, the facts of one form of waste alone, air pollution, are nothing less than astounding. The hundreds of millions of tons of aerial garbage dumped into the U.S. atmosphere each year constitute a prodigious waste of potentially valuable resources. These pollutants are damaging health, defacing buildings, and despoiling crops. They cannot be tolerated.

The States assume primary responsibility for the health and well being of their citizens. They accept the challenge of providing clean air for people, whatever their number or density.

To achieve this end, they must be able to plan for the control of air pollution from all sources, to implement the requisite programs, and to enforce compliance with standards established to meet their respective needs. Such intent implies that States must be allowed to:

1. Establish air quality control regions of appropriate dimension, whether regional, state or interstate.
2. Federal standard setting authority in regard to stationary sources should be limited to ambient air quality.
3. Establish ambient or emission standards stricter than those set by the Federal Government, where warranted.
4. Retain the authority to enforce regulations which they promulgate.
5. Develop multi-jurisdictional approaches to the solution of common air pollution control problems and urge that Congress expedite action on any necessary, state approved interstate compacts.
6. Federal air pollution control programs should be funded to the full extent of authorization to provide grant assistance to the States for planning and implementing programs for the control of air pollution.

REPORT OF THE TASK FORCE ON PUBLIC SAFETY

In recent weeks, numerous attacks have been made on the bloc grant provisions of the Omnibus Crime Control and Safe Streets Act of 1968, and upon the states role in carrying out the provisions of this Act. The Omnibus Act requires that 85 percent of all Federal action funds be allocated directly to the States according to population; the remaining 15 percent of such funds are to be allocated at the discretion of the Law Enforcement Assistance Administration within the U.S. Department of Justice. The present statutory "pass through" provisions require States to channel 40 percent of all planning grants and 75 percent of all action grants directly to local governments.

The National League of Cities has recently issued a report accusing the States of failing to grant anti-crime funds to large cities with high crime rates. They urge direct federal control of grants to all local governments. Investigations by the Law Enforcement Assistance Administration, the federal agency charged with over-all responsibility for the program, have shown that in fact the bloc grant money is being awarded to urban areas of high crime incidence, and is producing a comprehensive, systematic attack on crime. Moreover, testimony before congressional committees indicates that States have more than fulfilled their responsibilities under the Act, and that any changes in the basic law would be premature.

After review of this situation, and after meeting Mr. Richard Velde of LEAA, your task force recommends the following policy statements:

The Intergovernmental Relations Committee of the National Legislative Conference is committee to comprehensive action to control crime in the urban areas of our States. Because crime knows no jurisdictional boundaries, and because of the statewide scope of law enforcement problems involving the police, courts, and correctional services, this Committee continues to give its support to the intergovernmental action called for in the Omnibus Crime Control and Safe Streets Act of 1968. The facts indicate that state administration of this Act has resulted for the first time, in a coordinated, systematic attack on crime. The Committee representing State Legislators strongly opposes any modification of the present bloc grant approach which might dissipate the objective of an intergovernmental crime control effort. This Committee further urges the Congress to provide increased funding for the Omnibus Act to insure increased action at all levels of government.

The Intergovernmental Relations Committee of the National Legislative Conference urges the Law Enforcement Assistance Administration (LEAA) to create a liaison with state legislatures within each of the LEAA regions. Because state legislatures must appropriate state matching funds for programs funded under the Omnibus Crime Control Act, it is essential that legislators be adequately informed and advised of model state plans and the work product of the National Institute of Law Enforcement and Criminal Justice. The Committee therefore requests the LEAA, in conjunction with the Council of State Governments, to take the initiative in establishing appropriate lines of communication with state legislatures and legislative research agencies.

The Juvenile Delinquency Prevention and Control Act of 1968 was enacted by Congress as a companion to the Omnibus Crime Control Act. Unfortunately, the act provided two equally unacceptable alternatives for state participation. The modified bloc grant approach, which mandated a comprehensive, state prepared juvenile delinquency prevention and control plan, required that all allocated action funds go to local juvenile delinquency programs—when in a great many States, the juvenile courts, institutions, and services operate on a statewide basis. If the States chose the other option—to receive money under specific program grants from the Secretary of HEW—the state and local programs would have to compete for funding, with no state level planning being required nor apparently desired. With no authority to establish priorities among competing state and local projects, with the only role open to the State that of a program monitor, and with a set of detailed, restrictive guidelines received very late, some States decided not to even apply for funds. Moreover, the Congress voted just $5 million for the entire program in its first year, most of which was consumed by federal administrative costs. This resulted in a maximum of only $50,000 being allocated to each State.

State administrators have voiced considerable criticism of the Department of Health, Education and Welfare in its handling of the program. The Office of Juvenile Delinquency, which is responsible for the program, has gone without a permanent director until one month ago. The federal guidelines for the program took nine months to write and are twice as long as those for the much more comprehensive Omnibus Crime Control program. No elected state officials were consulted in the drafting of the legislation or of the guidelines.

There are six separate agencies in HEW responsible for juvenile delinquency programs. The congressional concern is growing over the confused approach to a serious national problem.

The following policy statement is recommended:

The Intergovernmental Relations Committee of the National Legislative Conference reaffirms its concern with the growing problem of juvenile delinquency. State and local efforts to control and prevent juvenile crime have been frustrated by the uncoordinated administration of multiple federal programs designed to deal with the problem. We urge the Congress to make a comprehensive study of all existing legislation and programs dealing with juvenile delinquency with a view to creating a single, comprehensive agency to administer and coordinate the federal effort.

The task force agenda for the next meeting includes:

(1) Consideration of LEAA approved state crime control plans under the Omnibus Act;

(2) Suggested models for criminal state planning agencies;

(3) Analysis of the 1967 Report of the President's Commission on Crime, "The Challenge of Crime in a Free Society," with specific consideration to intergovernmental aspects of the included recommendations.

REPORT OF THE TASK FORCE ON URBAN AFFAIRS

Community growth policy

The Nation has never developed identifiable and articulated goals toward which urban growth efforts of federal agencies and state and local government can be directed to enhance maximum utilization of private enterprise in community development. There is little or no coordination between the sporadic and uncoordinated federal agency planning and that being carried out by the states and local government.

It is, therefore, necessary to:

1. Identify and articulate a National Community Growth Policy.

2. Direct and coordinate federal agencies in their planning activity with a high level federal planning agency which is cognizant of our national goals.

3. Provide for and encourage the voluntary meshing of state and local government planning efforts with a federal planning effort on the national level.

Any effective urbanization policy and planning legislation should embrace these concepts and:

1. Recognize the role of State Legislature in overseeing planning for urban growth as an integral part of a national urbanization program;

2. Provide the State Legislature with considerable responsibility in the coordination of Federal and state-local urban planning;

3. Specifically include legislative eligibility for grants under the planning aid sections; and

4. Establish a high level federal planning agency as an independent body responsible directly to the President and not included in any particular department.

New communities

The Federal "new communities" program should seek achievement of the following objectives:

1. The relief of population pressures on large and growing urban centers.

2. The improvement of the quality of life for urban dwellers.

3. The expansion of new employment and investment opportunities.

A truly comprehensive new communities program must be accompanied by a large financial commitment by the Federal Government. Only the larger states may be able to commit long-term financial resources for the construction associated with a new communities project.

The comprehensive nature of new communities demands an equally comprehensive service response from government. Financial commitments to a new communities program must be accompanied by an equally strong public service delivery system.

Modifications to achieve a comprehensive new communities program must contain a series of alternative public and private financial mechanisms which state governments could mix so as to target financial resources to achieve optimum impact.

Such legislation should make it possible for state and local governments to choose between totally new communities, new towns-in-towns or revitalized small communities.

State governments have the requisite constitutional powers and capabilities to make a new communities program effective. Through their powers of eminent domain they can acquire land in necessary quantities. They are the best means for the identification of growth centers. They have the capacity to provide seed money and technical assistance to project sponsors. State governments must be recognized as qualified sponsors of new communities projects and eligible recipients of program grants.

Obstacles to new technologies

Congress and the Administration should continue their vigorous support of programs designed to increase housing production through the introduction of new technologies such as mass production. The potential for such programs as "Operation Breakthrough" appears great. State governments are the best focal points for the reform of standards and practices which may impede the introduction of new technologies. State government agencies with primary responsibility for assisting local governments to respond to community problems are well along in the process of identifying and securing sizable future housing markets. Many States have already passed legislation which revises building code certification processes for industrialized housing systems. The largest remaining obstacle is restrictive zoning practices. State legislatures should consider this issue as a high priority item.

Housing

The goals of federal housing programs should be:

1. To provide assistance to all persons who need help to afford decent housing;

2. To insure a stable financial market so as to continually expand housing production;

3. To encourage States to assume more responsibility for housing; and

4. To provide all citizens with a safe and sanitary environment in which to live.

Congress and the Administration should immediately revise existing housing programs so as to increase the availability of housing by (1) simplifying program and eligibility requirements, (2) adapting finance procedures to regional market variations, and (3) expanding the opportunities for home ownership.

Congress and the Administration should establish a comprehensive program to make better use of the existing housing stock. Such a program should:

1. Include a home counseling service for prospective homeowners and home improvers;

2. Establish a government sponsored institution to increase the volume of mortgage credit in slum areas;

3. Authorize below-market rehabilitation loans for families living in designated "improvement districts;"

4. Authorize a Presidential Commission to study the impact present federal, state, and local taxes have on housing maintenance; and especially to study the impact of real estate taxes on housing maintenance, and

5. Encourage States to develop their own housing redevelopment programs.

Urban renewal

Congress has authorized, but not appropriated, a total of $2.287 billion for the Urban Renewal Program under Title I of the Housing Act of 1949. The fully authorized $2.287 billion should be appropriated for fiscal 1971. Congress should mandate the Administration to determine the capacity of state and local governments to effectively utilize urban renewal funds. Appropriations for fiscal 1972 and succeeding years for the urban renewal program should not be less than the "capacity" figure identified in the study.

Uniform Federal relocation and land acquisition policies

There is a demonstrated need for uniform relocation assistance for persons and businesses displaced by federal and federally-assisted projects. This concept is presently embodied in S. 1. Such assistance should be provided in the spirit of helping those who are dislocated and incentives to rapid resolution of conflicts should be provided.

The Uniform Relocation and Land Acquisition Act of 1969 (S. 1) should be enacted as soon as possible, but with the following amendments: (1) deletion of all cut-off dates for the federal funding of the first $25,000 of relocation expenses; (2) retention of shared funding for all costs above $25,000; (3) provision of matching grant funds to all states that create uniform statewide relocation and land acquisition policies and programs covering all public programs; (4) deletion of the July 1, 1970, cut-off date in the Highway Act of 1968 for federal assumption of the first $25,000 in relocation costs; and (5) change the effective date of Section 323 from July 1, 1971 to July 1, 1972 to give the States adequate time to enact the appropriate state enabling legislation.

Intergovernmental Personnel Act

States, with Federal assistance, must actively promote personnel improvement, and modernize personnel systems to provide career promotional opportunities and more sophisticated recruitment techniques. In-service training must also be made available on a large scale.

Through financial support, direct action, and the sharing of skilled personnel, the state and federal governments could perform useful functions in resolving local government manpower problems.

The Committee fully endorses the Intergovernmental Personnel Act (S. 11), which is now before Congress, having passed the Senate. This bill will establish a Federal Advisory Council on Intergovernmental Personnel to (1) recommend public administrative improvements at state and local levels funded by the Federal Government, (2) to provide aid for training state and local employees, (3) aid for personnel administration improvement and (4) permitting temporary assignment of personnel between levels of government.

State and local governments may not be now maximally encouraging the attraction of highly educated young people into government service. Consideration might be given to a program providing funds to students for studies in government. Repayment of such funds might be waived as the student enters government service at the Federal, state or local levels.

Model cities

Congress and the Administration should amend the Demonstration Cities and Metropolitan Development Act of 1966, to provide for:

1. Administration of the Model Cities Program within the Executive Office of the President;

2. Expansion of the role of state governments in the program to include approval or disapproval of local plans;

3. Increased financial assistance to States to employ additional manpower to administer the program; and

4. Authorization for a system of financial grants and awards to States successfully employing the process of coordinated social service delivery systems in communities other than "model cities."

CONCLUSION

The accomplishments of your Committee this year lucidly exemplify the value of a functioning state legislative arm in Washington. The challenge to state governments has been succinctly articulated: "The States no longer have the option to choose whether they want to assume responsibility and become involved; nor does the Federal Government have the option to choose whether it will involve the States if creative federalism is to have any meaning." Your Committee reemphasizes the need for State legislators to participate more directly in activities affecting intergovernmental relations. It is essential to continue to build on the enthusiasm which stimulated the creation of six subject matter task forces, and encouraged the development of legislative federal-state coordinators and permanent committee focal points for federal-state relations. We hope these concepts will prove to be durable vehicles for vigorous legislator involvement in intergovernmental relations—vehicles that will enable state legislators to fufill their role in a stronger, more responsive federal system.

TRIBUTE TO THE LATE SENATOR RUSSELL

Mr. SPONG. Mr. President, I wish to join with my colleagues in expressing my great respect for Senator Richard B. Russell and my sense of loss at his death.

Senator Russell was an extraordinary man. He devoted his life to public service and earned the respect of all who knew him.

Virginians greatly admired Senator Russell and I ask unanimous consent to have printed in the RECORD editorials published in the Norfolk Virginian-Pilot and the Richmond Times-Dispatch on January 23.

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

RICHARD BREVARD RUSSELL

As long as 35 years ago they were saying in Georgia: "Don't run against Dick Russell unless you're just looking for the publicity."

Richard B. Russell was not as popular, politically, in all the rest of the nation, but he enjoyed a greater honor. He was held in high respect, even by those who sharply disagreed with him.

Russell fought Harry Truman hard on some major issues—civil rights and labor laws, particularly—and he was the South's candidate at the 1948 Democratic National Convention which nominated the Missourian. But Truman called him "one of the ablest men in the Senate."

In the early 1950's, Truman, who had fired Gen. Douglas MacArthur as commander of our forces in the Far East, saw Russell conduct hearings on that highly controversial and explosive action that were a model of fairness and propriety. Years later, Russell was one of the relatively few Americans in high places who expressed grave doubts about our involvement in another area of the Far East—Vietnam. But when the U.S. became committed there, the Georgian gave his full and loyal support.

Russell was dedicated to the cause of military preparedness, and his influence may have helped spare us a terrible disaster. He was among the first to urge that the U.S. prepare for aggression from Hitler, then marching in Europe. He opposed the arms embargo that was keeping materiel of war from our friends, and he supported enactment of selective service and the adoption of lend-lease. And after the war he backed the Marshall Plan to help rebuild and strengthen Western Europe.

Perhaps Russell's biggest mistake in public life was his attempt to win the presidential nomination in 1952. It was in this unsuccessful campaign that he did something uncharacteristic of Richard Russell, though commonplace among politicians seeking a broad spectrum of support. Contrary to everything he had said and done before and to the great consternation of his Southern supporters, Russell issued a campaign statement that seemed to favor repeal of the Taft-Hartley labor law and to accept the idea of a Federal Employment Practices Commission. Seldom, though, was Richard Russell guilty of such inconsistency.

It was also in that 1952 campaign that the Georgia senator made this statement:

"I believe in states' rights because the principle of dual government is the only thing that supports freedom of local self-government. If it weren't for the doctrine of states' rights, we in Congress today would be passing laws to run your school boards, telling you what kind of city government and county government you must have and how it should be run."

How prophetic was this warning from the eminent Southern, and American, statesman! And what a loss it is to the entire nation that his death removes from the U.S. Senate a man of such vision, character and dedication to fundamental principles on which America was founded.

RICHARD B. RUSSELL

Richard Brevard Russell, Democrat, of Winder, Ga. That is all the biography to identify the dean of the United States Senate in the Congressional Directory, but enough for a man whose name was a reputation.

Mr. Russell was always and essentially a man of the Senate. The institution was his life (he never married) and he became an institution within the institution. He was 35, the youngest member, when he entered the Senate on January 12, 1933, just prior to the inauguration of Franklin D. Roosevelt. (He had been elected Governor of Georgia at 33, the youngest in the history of the state.) Only Arizona's Carl Hayden (1926–1968) ever enjoyed a longer tenure, and at his death Thursday Mr. Russell was undoubtedly the most respected man in the Senate.

It was sometimes said that he could have been President if he had not been a Southerner, and perhaps so. Certainly, he can be compared to another quintessential Senator who was denied the Presidency but earned a great reputation in the Senate, Ohio's "Mr. Republican," Robert Taft. Each was an austere patrician who was ambitious for the Presidency at the peak of his powers and embittered by his party's rejection. Each was hugely influential in a quiet way within the Senate. Each was fated to failing health in his last years. Each life was marked by a kind of splendid tragedy.

It was Mr. Russell's special tragedy, as the acknowledged leader of the South, to command its Gettysburg in the Senate, when filibusters failed to block the passage of the civil rights bills that he opposed. (He was not a racist, but rather a traditionalist—a distinction respected in the Senate.) Mr. Russell was a champion of military preparedness and an internationalist (that was where the so-called "conservative coalition" of Republicans and Southerners often parted ways) in the mold of his fellow Georgian, Senator Walter George. Although he was chairman of the Armed Services Committee for more than 15 years, Mr. Russell was anything but a militarist.

He was never the Mendel Rivers of the Senate. He and Lyndon Johnson, then the Majority Leader, opposed the military's recommendation to President Eisenhower to intervene in Indochina to assist the French at the time of Dienbienphu in 1954, and he persistently sought an honorable way out of Vietnam; his opposition was also crucial in forestalling intervention in the Congo. (It is one of the ironies of politics that Lyndon Johnson rose to power as a protege of Mr. Russell's in the Senate, that he broke the unwritten law that had barred his patron from the Presidency as a Southerner, and that he was broken, in the end, by the very war he earlier had opposed.)

What was perhaps Mr. Russell's finest moment in the Senate is all but forgotten now. In April 1951 General MacArthur returned to the United States after he had been relieved by President Truman and received a hero's welcome. The emotion of the moment obscured the Constitutional crisis that the defiance of General MacArthur represented, and it is a measure of its seriousness that the combined membership of the Senate Foreign Relations and Armed Services Committees conducted an investigation under the chairmanship of Mr. Russell. The proceedings were conducted with a decorum and thoroughness that brought the country to its senses. As William S. White wrote in *Citadel*, an affectionate biography of the Senate, the hearings succeeded in dissipating the emotionalism, "protected . . . the American tradition of the pre-eminent civil authority, (and) halted what was then an almost runaway movement toward rejection of the United Nations . . . It was a historic achievement, the finest service alike of Russell and all who served with him."

PRESERVING A BEAUTIFUL LANGUAGE

Mr. PERCY. Mr. President, an article by Mary G. Salidis in the Greek Star of Chicago, January 7, 1971, tells of efforts in the United States to increase the use of the beautiful Greek language. The Greek Orthodox parishes are especially active in these efforts and their leadership, both clerical and lay, deserves much credit.

In view of the tremendous influence that the Greek language, Greek history, and Greek literature have had on our own institutions and way of life, I consider the expansion of Greek language training in this country to be highly significant and desirable.

I ask unanimous consent to have printed in the RECORD at this point the excellent article by Mary G. Salidis in the Greek Star, January 7, 1971.

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

MODERN GREEK IS GOING STRONG IN AMERICA

(By Mary G. Salidis)

Greek stands alone as the oldest, spoken, living language in Europe. Americans of Greek descent possess, in their mother tongue the golden key that can unlock the treasures of antiquity and, at the same time, expand the modern mind. They are anxious to contribute to the cultural life of today's America by retaining their language and spreading its use.

The Greek Orthodox Parishes in the United States have taken a leading role. Intensive language instruction is an important part of the curriculum in the churches' parochial schools, all financed by the local Greek communities. The Diocese of North and South America has 400 afternoon schools, 17 parochial schools, 55 nurseries and 50 evening schools, with a total student enrollment of 24,700 taught by 640 teachers.

Most parishes hold two-hour sessions of Greek school two afternoons a week. The student is faced with grammatical structure more complex, and vocabulary far greater, than that contained in any other Western tongue. The younger he is, of course, the easier it is for him to learn. Eventually, he might attend The Hellenic College in Brookline, Massachusetts, a fulfillment of the long range hopes of perpetuating the Greek language in America.

One of the largest parish schools in this country, Saints Constantine and Helen in Washington, D.C., conducts unique Kindergarten classes: English curriculum in the morning, then lunch, naps—and in the afternoon, Greek conversation, songs, hymns, prayers, games, stories, poems, religion and handwriting. Through these classes, about two hundred youngsters learn their Greek without difficulty and at a minimum of expense.

On Sunday, in the Orthodox church, the entire service is chanted in Greek. The children know The Creed and The Lord's Prayer in Greek as well as in English, and they enjoy this bilingual accomplishment.

To further a speaking knowledge of Greek in the United States, the Byzantine Fellowship has set up the "Ionian City," a Children's Summer Camp in Greece. It is situated near Athens on land donated by the Greek Government. American youngsters are flown there for the summer months, to study the Greek language, culture and heritage firsthand. All formal classes are conducted in Greek.

In the United States, 35 Greek newspapers and magazines are currently being published. One of the largest dailies, the *National Herald* of New York, is used by many parents to teach their children the language. They read paragraphs together and discuss the subjects at the dinner table, in Greek, if possible. It is one more way to instill an awareness of cultural roots in the past.

Many active Greek societies in this country are also devoted to preserving their beautiful language for today's generation and for generations to come!

YOUNG RANCHERS FEEL SQUEEZE OF UNREALISTIC FEES

Mr. HANSEN. Mr. President, I received in December a letter from a young rancher on the Sweetwater River of Wyoming, that expresses a viewpoint to which I believe most young ranch families would subscribe in regard to the public land grazing fee increases.

The rancher, Mr. John G. Corbett, said simply:

I believe that this raise in grazing fee costs is just one more step toward putting the family ranch in the western states out of reach for young people and creating a climate where no one except ranchers running 500 head of cattle or more will be in business.

This is the message I have tried to convey to the Senate, to the White House, and to the news media—that it is the small rancher, the marginal operator, who will suffer most from the inequities of the new fee schedule.

I believe Mr. Corbett's letter puts the problem in terms that will not be misunderstood, and I ask unanimous consent that the letter be printed in the RECORD.

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

LANDER, WYO.,
December 21, 1970.

HON. CLIFFORD HANSEN,
U.S. Senate,
Washington, D.C.

SIR: In view of the fact that the raise in grazing fees seems to be a reality and something that we must live with, if in fact, live we can, and that future raises in the cost of grazing on public land seems to be a certainty, I feel that I must write this letter.

I am not an alarmist given to writing to someone every time things do not happen to lean my way, but perhaps the small rancher should put forward his views in the hope that his dilemma will be brought into public notice.

First, some background: my wife and I live on the Sweetwater River where we have leased a small ranch where we hope to build up our cattle in order to go on to something larger as time goes by. I know that we are part of a vanishing breed, one reason being that it is next to impossible for someone with limited capital such as ours to ever be able to purchase land this day and age.

I believe that this raise in grazing fee costs is just one more step toward putting the family ranch in the western states out of reach for young people and creating a climate where no one except ranchers running 500 head of cattle or more will be in business. Thus there will be more and more young people forced to move to urban or suburban communities which I, for one, think is a grave mistake.

It seems to me that the rancher who uses public land for grazing is carrying more than his share of the burden as far as use of these lands, when recreationists, mining and oil interests for a nominal fee (or in certain cases for nothing) can tear huge holes in the earth with no concern for grass, water or natural beauty of the land. You will agree that the stockman must be a conservationist for sheer survival, if for no other reason, and in an overwhelming majority they are, I am sure.

Please continue to do your utmost to resist any more raises in the grazing fees, so those of us who want to stay in the ranching business and want to make it a way of life, have the chance.

Very truly yours,

JOHN G. CORBETT.

CONCLUSION OF MORNING BUSINESS

The VICE PRESIDENT. Is there further morning business? If not, morning business is concluded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

PROPOSED LEGISLATION — MESSAGE FROM THE PRESIDENT (H. DOC. NO. 92–36)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

This first special message to the Ninety-second Congress concerns itself not with the new, but with the familiar. As indicated in my State of the Union Message, this first request is that the unfinished business of the Ninety-first Congress be made the first business of the Ninety-second.

With this message, I am proposing to the Ninety-second Congress more than three dozen items of legislation which were previously submitted to the Ninety-first Congress. Some were acted on favorably by either the Senate or the House of Representatives. Some are being resubmitted in their original form. Others have been modified to meet legitimate concerns expressed by members of the Congress. Most will be in the hands of Congress today. All are bills which I consider to be in the national interest.

Although lengthy, this list does not contain all the measures proposed over the past two years which will be resubmitted to the Congress in this session.

There are other measures—measures to deal with strikes creating national emergencies, Social Security amendments, bail reform, aid for higher education, reform of the draft and steps to move toward an all-volunteer armed force, and other initiatives—which the Congress must also consider. I will deal with these separately.

In my message on the State of the Union, I outlined six great goals—goals which, by their accomplishment, could make this the greatest Congress in America's history as a nation.

These included one especially urgent item of unfinished business which I proposed to the 91st Congress: welfare reform. In fairness to the taxpayers, to the communities, and also to the children, we can afford to delay no longer in discarding the present system and replacing it with a new one.

In due course, I will be making more detailed proposals to the Congress for achieving the other goals that I outlined. Meanwhile, I believe that the items of unfinished business I propose today merit the prompt and careful consideration of the Congress. I believe they are good measures. I believe they are wise proposals. I believe they are necessary legislation. I urge the Congress to act favorably upon them.

ECONOMIC JUSTICE

Two proposals being resubmitted would promote economic justice. One would provide broader opportunities for Americans entering into new small businesses—especially black Americans and members of other minorities who need, but cannot acquire, the seed capital to go into business for themselves. The other would provide improved benefits for certain American workers.

AID TO SMALL BUSINESS

Ten months ago, several proposals were sent to the Congress to promote the prospects for success of small businesses in the United States. They included:

—Allowing private and corporate lenders an income tax deduction equal to twenty percent of the interest earned on

Small Business Administration guaranteed loans, which would act as an incentive for loans to small businesses and minority enterprises;

—Providing managerial training to disadvantaged persons going into business for themselves;

—Authorizing banks to become sole sponsors of Minority Enterprise Small Business Investment Companies (MESBIC's);

—Authorizing SBA to pay interest subsidies on loans it guarantees, in cases of demonstrated need;

—Liberalizing the net operating loss carryover rules and stock option provisions for qualified small businesses;

—Allowing tax deduction for contributions to nonprofit MESBIC's.

Many of these amendments passed the Senate in the 91st Congress. I urge this Congress to give them a favorable response.

LONGSHOREMEN'S DISABILITY COMPENSATION

The existing minimum disability compensation for longshoremen and harbor workers was established in 1956—the maximum a decade ago. I am renewing the administration's proposal that these benefits be increased to a level more in line with the increased wages and living costs since the present levels were set. Other liberalizing provisions of the Longshoremen's and Harbor Workers' Compensation Act are being resubmitted as part of this proposal.

Under this legislation the recovery of damages by employees from their employers, including shipowners, would be limited to those specified under the Act. We seek to eliminate situations in which longshoremen are permitted to recover damages in suits against shipowners, which usually require the longshore employer to indemnify the shipowner for the damages paid.

AMERICA'S OVERDUE DEBTS

There are three groups of peoples, two of them among the earliest inhabitants of the Western Hemisphere, to whom this nation has outstanding obligations that ought to be met.

AMERICAN INDIANS AND ALASKA NATIVES

The first two of these are the American Indians and the Alaska Natives. After full consultation with Indian leaders is complete, the unenacted legislation outlined in my Message of last July 8 will be reviewed and promptly submitted again. An Alaska Native Claims bill will also be submitted which I believe will equitably resolve the Native claims in that State. These legislative proposals would take America in a new more hopeful direction in dealing with the problems of a terribly neglected minority of our people.

THE MICRONESIANS

Under the Executive Agreement of April 18, 1969 between Japan and the United States, inhabitants of the Trust Territory of the Pacific Islands are to be compensated for damages suffered during World War II. The agreement stipulates that each government will make ex gratia contributions of $5 million for the welfare of the people of Micronesia.

I am renewing the administration's request that the Congress authorize appropriations of $5 million to meet that commitment, and also that the Congress establish a five-member commission to settle the claims of individual Micronesians resulting from World War II and to determine the validity of additional claims for property damage arising after the war.

Congressional action on these matters would render overdue justice to the people of Micronesia.

PURE FOOD AND DRUGS

Two pieces of "preventive" legislation are being resubmitted dealing with the health of the American people. The first has to do with the wholesomeness of fish and fish products which form so significant a segment of the American diet; the second with preventing illness and death from accidental misuse of prescription drugs.

FISH INSPECTION

Fish and fish products, a major source of protein in the American diet, are highly perishable foods. Improperly handled, they become a medium for bacterial growth. The Wholesome Fish and Fishery Products Act, which is being resubmitted, would establish a broad surveillance and inspection system to assure the wholesomeness and quality of both domestic and imported fishery products.

Recent reports of mercury residues in both inland and deep sea fish provide urgent and concurring arguments for immediate passage of this legislation.

DRUG IDENTIFICATION

Every year some Americans, in times of medical emergency, are poisoned by drugs of unidentified composition. Some of these men, women, and children die from these poisonings; others suffer lasting physical harm. While these occurrences are not commonplace, their number can and should be reduced to an absolute minimum. To achieve that objective—to permit the rapid identification of prescription drugs in emergency situations—this administration again proposes the coding of all drugs. Such coding will also facilitate recalls of drugs when necessary to protect public health.

Some manufacturers already use coding systems for immediate identification and inventory control. A universal system of coding of drugs would benefit the entire drug industry—and perhaps save the lives of scores of Americans and their children in years ahead.

TOWARD A MORE SECURE AND DECENT SOCIETY

Within this broad category, I again urge action on five previously submitted measures. One of them would provide new and needed protection for the orderly processes of government in the event of disruptive activities conducted in or near Federal offices. Passed by the Senate, this measure should be viewed favorably by the House. It is needed to protect government workers as they carry out their duties. The wagering tax and the administration's proposal to give law enforcement officers the right to gather non-testimonial evidence are reforms which would provide us with new weapons in the war against crime. The final proposals, dealing with obscenity and pornography, I believe to be essential at a time when the tide of offensive materials seem yet to be rising.

PROTECTION OF PUBLIC BUILDINGS

If the Federal Government is to discharge its duties, the employees of government must cease being victimized by raucous and disorderly demonstrations in the offices where they work. Such disruptions have occurred too frequently in recent years.

To help end this harassment, I propose that the General Services Administration's authority to police Federal property be extended to all buildings leased or occupied by Federal agencies.

Further, I ask Congress to prohibit specifically:

—The obstruction of passage into or out of a government office;

—The use of loud, abusive, or threatening language, or any disorderly conduct that has as its goal the disruption of government business; and,

—Any act of physical violence within a GSA facility.

These are similar to the safeguards which the Congress provided for its own employees in the U.S. Capitol Buildings and Grounds Security Act of 1967.

Under this proposal the maximum penalties for violation of the rules promulgated by GSA would be raised from a $50 fine or thirty days in jail to a $500 fine or six months in prison.

Passage of this legislation would help divert future protests back into the legitimate democratic channels where they belong.

FEDERAL WAGERING TAX

The Federal wagering tax can be a useful tool in our increasingly successful effort against organized crime. Some of its provisions, however, were ruled unconstitutional in 1968 as violative of the Fifth Amendment right against self-incrimination. Both to retain this needed weapon and to bring the law into accord with the rulings of the Supreme Court, I again propose a prohibition on any use—against the taxpayer—of information obtained through his compliance with this statute. At the same time, the new amendments would broaden the coverage of the wagering tax and increase the level of taxation.

NON-TESTIMONIAL IDENTIFICATION

Currently, law enforcement officers are often handicapped in obtaining significant non-testimonial evidence—such as blood samples or fingerprints—in a way to qualify it for use as legal evidence. Under this proposal, a judicial officer could, under prescribed conditions, issue an order *requiring* that a suspect give such kinds of evidence. This is a constitutionally sound step that would advance the cause of criminal justice without infringing upon any of the legitimate rights of suspects and defendants.

OBSCENITY AND PORNOGRAPHY

The overwhelming majority of Americans is rightly appalled at the burgeoning growth of the pornography industry here in the United States. Though Court

rulings have restricted some government countermeasures, in other instances they have left us the freedom to act. They have both recognized the right to protect minors from the products of this obnoxious enterprise, and reaffirmed the right to restrict pandering through advertising. I propose anew that Congress pass measures, with stiff penalties, prohibiting the use of interstate facilities to transport unsolicited salacious advertising, or to deliver any harmful and offensive matter to youngsters. It would be difficult to overstate the strength of my support for these two pieces of legislation.

EDUCATION: REFORM AND OPPORTUNITY

Under this broad category, I have included three measures submitted to the Ninety-first Congress, all of which I believe have great merit and would serve great needs. The first is for a National Institute of Education, the need for which is becoming increasingly apparent; the second is a measure to provide financial assistance to those school districts carrying the strain of desegregation; the third is to encourage and assist the men coming home from Vietnam to make better use of the educational opportunity the country affords them. Higher education proposals will be resubmitted later to the new Congress.

NATIONAL INSTITUTE OF EDUCATION

A National Institute of Education—to bring to education the intensity and quality of research now developed in the fields of space and health—is truly a national need. Year by year, the American people grow more disenchanted with the returns on their education tax dollars. The schools of the nation are in growing need of new counsel and new ideas. Here is the opportunity to find the answers, by bringing to bear on the problems the wisdom, the knowledge and the experience of the most able men and women in the field. This Institute was a key part of my education proposals of last year. Today I again urge the Congress to act favorably upon this request.

EMERGENCY SCHOOL AID

Last year, both to encourage and to expedite desegregation of the public schools in the United States, I asked the Congress for a two-year Emergency School Aid Act. Although great progress has been made, the need for such aid remains. Therefore, today I reissue this request. The changes needed to desegregate our schools—either under court order or through voluntary action—place a heavy strain upon local school systems, and the Federal Government should assist the school systems in this effort. The measure I propose today is similar to the one which passed the House of Representatives in the closing days of the Ninety-first Congress. I urge the Congress to complete action at an early date.

VIETNAM VETERANS EDUCATION ALLOWANCE

It is this administration's hope that more veterans coming home from Vietnam will take advantage of the educational opportunities the nation affords them. The bill I now again recommend will help achieve that objective.

Under the GI Bill, the monthly allowances received by veterans begin only after they have enrolled and completed at least a month of their education or training. This deferral of payment often deters veterans from taking training or additional schooling because they lack the initial funds to meet tuition and living expenses.

This legislation would enable the Veterans Administration to make advance payments to veterans as soon as they submit evidence they have registered. This will provide them with funds when their need for funds is most pressing.

THE FEDERAL CITY

Two proposals being resubmitted deal with the nation's capital. The first envisions a corporation to carry out the revitalization of the heart of Washington. The second would give the District Government a new measure of freedom and control over its own capital outlay programs, reducing District dependency on the Federal Government.

FEDERAL CITY BICENTENNIAL DEVELOPMENT CORPORATION

The American Bicentennial—midway through the present decade—presents a powerful incentive and a realistic deadline for realization of Pierre L'Enfant's vision for the Federal City. The proposal being resubmitted would create a public corporation to prepare plans for carrying forward the revitalization of the heart of Washington, and for generating the maximum private and commercial investment for the fulfillment of that dream. I urge the Congress not to allow any more time to be lost in completing this promising enterprise.

D.C. CAPITOL PROGRAM FINANCING ACT

Currently, when the District of Columbia Government is confronted with the need to borrow for major new building and construction, it must turn to the United States Treasury; and it can borrow only up to a temporary formula limit set by the Congress.

I now renew this administration's proposal that the Congress grant the District of Columbia Government the authority to issue its own local bonds, and that the future limit on borrowing be set according to a permanent flexible formula based on District revenues. Removing the District's capital spending requirements from the Federal budget would mean savings to the Treasury. Further, it would give Washington responsibilities and rights commensurate with those of other great American cities.

TRANSPORTATION

Under this heading, two proposals are being resubmitted. They relate to waterways safety, the need for which has become increasingly apparent as more and more great vessels ply the navigable waters of the United States. Decreasing accidents at sea is an important part of our overall program to provide greater safety to the traveling public. In addition, these bills enhance our efforts to prevent the damaging pollution of the Nation's waterways which often results from collisions at sea.

PORTS AND WATERWAYS SAFETY ACT

As commerce grows, and as world trade expands, more and more great ships use American waters. Many carry hazardous cargoes—potential dangers to America's ports, harbors, waterfront areas, the waters themselves and the resources they contain. There would, I believe, be a substantial benefit in the creation of a coordinated safety program. And I again ask that the Secretary of Transportation be empowered to prescribe standards and regulations, and to act upon them, to give the protection the Nation increasingly needs.

VESSEL-TO-VESSEL RADIOPHONES

With the increasing number of vessels operating on inland and coastal waterways, the danger of accidents and collisions has become more serious. To help prevent unnecessary loss of life and property in future years, I am again proposing to the Congress legislation requiring that certain vessels transiting these waterways carry equipment for direct bridge-to-bridge contact. While most vessels today carry radio equipment, there is not always a compatible and open communication channel between two ships—and hence, they often cannot communicate even the most basic navigational information. Many vessels are already adequately equipped to meet the new requirements; the cost to the remaining shipowners would not be great.

RURAL AMERICA

Two measures again being proposed concern Americans living in the countryside or on farms. One would establish a mixed-ownership bank to make loans to telephone borrowers, along the lines of the Farm Credit Administration; the other would reduce Federal expenditures by replacing direct loans to some farmers with government guaranteed loans.

THE TELEPHONE BANK

I propose creation of a mixed-ownership bank to make loans—at from 4 percent to market interest rates—to telephone companies and cooperatives which now rely almost exclusively on the Rural Electrification Administration for their financing.

The bank would be partially capitalized through Treasury purchase of stock at a rate of up to $30 million annually until the Treasury holdings reached $300 million.

When total capital stock plus paid-in surplus reached $400 million, the bank would begin to retire the Federal investment. Further, the bank would be empowered to sell stock to its borrowers, and to borrow from private investors up to eight times the paid-in capital and retained earnings of the bank. This could bring about bank loans during Fiscal Year 1972 of $94.5 million to telephone borrowers—and the 1972 budget assumes timely enactment of this legislation.

INSURED FARM OPERATING LOANS

This proposal would permit the Farmers Home Administration to substitute insured for direct loans to farmers up to a level of $275 million for the coming fiscal year.

This could reduce Treasury outlays by $275 million, while leaving a Federal guarantee for the loans. It is consistent with our belief in maximum use of the private sector in achieving public purposes, and its enactment is assumed in our 1972 Budget.

GOVERNMENT AND ADMINISTRATIVE REFORM

A number of proposals being resubmitted deal with the smoother, more efficient and more responsive operation of the Federal Government. They argue for themselves on their own considerable merits.

GRANT CONSOLIDATION

First, I urge the Congress to enact legislation permitting the President to merge related Federal assistance programs, subject to Congressional review and concurrence. This authority, similar to presidential power to reorganize the Executive Branch, would be a vital part of our total effort to simplify the Federal system and make the delivery of goods and services at the regional, State and local level more effective. The consolidation of programs will make possible broader and more flexible use of funds and facilitate program administration at all levels of government. Originally submitted almost two years ago, this request for authority is thoroughly in keeping with the administration's unprecedented revenue sharing proposals contained in my State of the Union Message. The time has come to move on this bill.

JOINT FUNDING

Often when States, communities, or even individuals apply for Federal grants, the funds must be drawn from more than a single agency. To answer these requests more quickly, more simply and more efficiently, I recommend that the Congress authorize Federal agencies to pool certain related funds—and to adopt common administrative procedures, to be carried out by a lead agency. The House passed this joint funding measure last year. I again urge both Houses to act favorably upon it early in the Ninety-second Congress.

AEC AMENDMENTS

This proposal would authorize the Atomic Energy Commission to collect license fees from any other government agency engaged in generating electric power on the same basis it now charges other electric utility systems for licensing nuclear powerplants. The cost of a license for a nuclear powerplant is part of the cost of doing business. Thus, it is appropriate that Federal power agencies should be placed on the same footing.

CLARIFYING CERTAIN PRESIDENTIAL AUTHORITY

Under Reorganization Plan No. 9 of 1950, the President was given authority to designate the Chairman of the Federal Power Commission. However, because the basic statute has not been amended to accord precisely with that plan, the President's authority is not crystal clear. This resulted, some time ago, in certain ambiguities when one of my predecessors sought to designate a new FPC Chairman.

The Ninety-first Congress was urged to clarify this situation, and I now request that the Ninety-second Congress enact the necessary clarifying legislation.

NATURAL GAS ACT AMENDMENT

The Federal Power Commission has asked the Congress for broader authority to gather and publish information on the natural gas industry. This would benefit the industry, its consumers and investors, government agencies and the Congress itself, as well as enable the FPC to exercise more effectively its own regulatory powers. The proposal is comparable to existing provisions of the Federal Power Act concerning the electric power industry—and in no way would it expand the regulatory responsibilities of the FPC. I urge the Congress to act favorably upon this request.

COST ACCOUNTING STANDARDS BOARD

Last year, in extending the Defense Production Act, the Congress established a Cost Accounting Standards Board—and then placed that Board under the authority of the legislative branch.

This Board is responsible for establishing cost accounting standards, rules and regulations for use by defense contractors and subcontractors. Since these standards necessarily affect the negotiation and administration of government contracts, and since government contracts are the responsibility of the Executive Branch under the Constitution, placing this board under the Legislative Branch violates the fundamental principle of the separation of powers.

On August 17, 1970, we asked Congress to remedy this situation. With this message I am reissuing that request.

DEFENSE PRODUCTION ACT AMENDMENTS

Under the Defense Production Act, the nation's industrial capacity is expanded and critical materials are produced and allocated in times of national emergency. I now renew the administration's proposal that this Act be extended for another two years and needed changes be made. These include:

—A new method of financing the production expansion provisions.

—Elimination of the unnecessary and undesirable restriction on guaranteed transactions imposed last year.

—Authority for the President to make adjustments in civilian pay and personnel administration to assure the effective functioning of government agencies in a civil defense emergency.

STOCKPILE DISPOSALS

Proposed legislation will be resubmitted which would authorize GSA to sell off from the government's stockpiles quantities of sixteen commodities which we now hold in excess of our needs for national security. The sales would bring substantial returns to the Treasury. In the near future, new legislation will be submitted to the Congress for authority to dispose of other commodities—authority which I urge the Congress to grant as consistent with both sound government and a sound economic policy.

LOST CURRENCY WRITE-OFF

Millions of dollars in U.S. currency and silver certificates issued since 1929 have been lost or destroyed, or are held permanently in collections—and will never be presented for redemption. I now renew the administration's proposal that the Department of the Treasury be authorized to write off these Federal Reserve bank notes and national bank notes, and to remove the limitation of $200 million on such write-offs. In anticipation of favorable Congressional action, the Fiscal Year 1972 budget reflects these write-offs as a receipt of $228 million.

REFORM OF VETERANS' PROGRAMS

Three separate reforms can be made in veterans' programs which would lift an unwarranted burden from the general taxpayer without in any way diminishing the legitimate rights or privileges of veterans. I am again asking the Congress to enact them, along with a proposal to facilitate sale of direct loans by the Veterans Administration.

BURIAL ALLOWANCE

The first deals with the veterans burial allowance which runs to $250. This allowance was established before the existence of other Federal programs—such as social security and railroad retirement—which often provide similar or greater burial benefits to the same eligible veterans. The legislation proposed would eliminate duplication by limiting the Veterans Administration's burial payment to the difference between $250 and the non-VA burial payment.

TUBERCULOSIS DISABILITY COMPENSATION

Secondly, some veterans are still receiving disability compensation for tuberculosis long after the disease has reached a stage of complete arrest. The Congress has enacted legislation prohibiting future awards of compensation for arrested tuberculosis, recognizing that such awards no longer reflect medical reality. However, those on the rolls before that law was enacted continue to receive monthly payments, although their disease has been cured. This preferential treatment of a relatively few veterans should be terminated.

MEDICAL INSURANCE

My third proposal deals with the cost of caring in VA hospitals for veterans who have non-service connected ailments and who have private health insurance.

Generally, veterans who are over 65 or have war-time service, and who state that they cannot afford hospitalization, are entitled to VA care on a bed-available basis.

In many cases, the private insurance could pay part or all of the cost of hospitalization. But the insurance contracts often bar reimbursement to a veteran hospitalized in a VA hospital. This represents both an unwarranted windfall to the insurance company, and an unnecessary burden on the Federal Treasury.

Veterans should not be barred from receiving care in a VA hospital. But there is no reason why insurance companies should not reimburse the Federal Government in the same manner in which they pay a non-Federal private hospital. The proposed legislation will correct this discriminatory situation.

SALE OF VA DIRECT LOANS

Under present law, the Veterans Administration can sell direct loans from its portfolio only if the price received is at least 98 percent of par. Recent market conditions have resulted in prices below that level and this proposal would remove the statutory price limitation, allowing the Veterans Administration, when necessary, to sell loans if "reasonable prices" prevail.

USER TAXES

Two of my proposals deal with a more equitable allocation of user costs of transportation services. Under one proposal, the cost of providing security against aircraft hijackers would be borne by the passengers themselves and not by the general public. Under the other, the large trucks which use our national highway system would be made to bear a more appropriate share of the cost of highway construction.

AIRLINER USER TAXES

The number of airline hijackings that seemed to be taking place almost daily months ago has been reduced. Partly, this is due to the civil air and ground security program, particularly the sky marshals, established by the Federal Government. This program should be continued and strengthened—but its cost should be borne, not by the entire taxpaying public, but by the airline users themselves. For that reason I urge approval of legislation the administration is resubmitting to provide for an increase of one-half of one percent in the eight percent airline passenger ticket tax, and for an additional charge of $2 to be added to the present $3 departure tax on all international flights. Those who use our airlines are the principal beneficiaries of this new security service, and it is appropriate, therefore, that they should bear the cost.

HIGHWAY USER TAXES

Believing that the burden of highway taxes should be more equitably distributed between larger trucks and smaller vehicles and automobiles, I again ask that the Federal tax on diesel fuel be raised from four cents per gallon to six cents, and that the present $3 per thousand pounds annual use tax on trucks weighing over 26,000 pounds, be changed to a graduated tax schedule ranging from $3.50 to $9.50 per thousand pounds. This new tax would be applied only to those truck combinations weighing in excess of 26,000 pounds.

IMMIGRATION AND FOREIGN ASSISTANCE

Finally, I urge passage of several measures which are being resubmitted dealing with the immigration policies of the United States, and with American contributions to international banks to assist the economic development of friendly nations.

REFORM IN THE IMMIGRATION LAW

To improve our immigration laws and to enlarge upon our national tradition as an open nation and an open society, legislation is being resubmitted which would, among other reforms, provide:

—A higher percentage of immigrant visas for professionals, needed workers and refugees.

—Additional visas for the Western hemisphere, with special provisions for our nearest neighbors, Mexico and Canada.

Further, to encourage travel and tourism in the United States, the requirement for a visa would be waived for all business and pleasure visits of ninety days or less by nationals of countries designated by the Secretary of State.

CONTRIBUTIONS TO ASIAN DEVELOPMENT BANK AND INTER-AMERICAN DEVELOPMENT BANK

In recent years, the benefits of increased multilateral aid to developing countries have become more and more manifest. Multilateral aid enables a pooling of the assistance of the donor nations; it reduces political frictions inherent in some bilateral programs; it strengthens international institutions; it is preferred by man recipient nations.

Thus, I again urge the Congress to authorize $100 million in United States contributions to the Special Fund of the Asian Development Bank, and $900 million to the corresponding fund of the Inter-American Development Bank. The former will enable the nations of free Asia to assume greater responsibility for the success of their own development. The latter, along with the $100 million first installment authorized by the last Congress, will make possible significant advances in the economic development of the hemisphere, in which we ourselves have so vital a stake, and also give substance to the partnership of the Americas.

To the veterans of the Ninety-first Congress, the measures proposed once again in this message will of course be familiar. In the case of many of them, the work begun by the Ninety-first Congress should aid prompt consideration by the Ninety-second. Each is worthy, and by moving promptly and favorably on these matters of unfinished business this Congress will make an auspicious beginning on what could become a record of splendid achievement.

RICHARD NIXON.

THE WHITE HOUSE, *January 26, 1971.*

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The VICE PRESIDENT. The Chair lays before the Senate the resolution of the Senator from Idaho which comes over "under the rule" from the previous day. The clerk will state the resolution by title.

The assistant legislative clerk read as follows: A resolution (S. Res. 9) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The resolution reads as follows:

S. RES. 9

Resolved, That rule XXII of the Standing Rules of the Senate is amended to read as follows:

"1. When a question is pending, no motion shall be received but—

"To adjourn.

"To adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain.

"To take a recess.

"To proceed to the consideration of executive business.

"To lay on the table.

"To postpone indefinitely.

"To postpone to a day certain.

"To commit.

"To amend.

Which several motions shall have precedence as they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table, shall be decided without debate.

"2. Notwithstanding the provisions of Rule III or Rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by three-fifths of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points or order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"3. The provisions of the last paragraph of Rule VIII (prohibiting debate on motions made before 2 o'clock) shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate."

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. ALLEN. Mr. President, with this resolution coming up at this time, the junior Senator from Alabama would like to inquire if this resolution will be considered only until 1:15 this afternoon, and that if final action has not been taken on the resolution at that time, it will go to the calendar. Is that correct?

The VICE PRESIDENT. The Senator is correct.

Mr. ALLEN. To be removed from the calendar, it would have to be done either by unanimous consent or by a motion to take up, which motion would be debatable.

The VICE PRESIDENT. The Senator is correct.

Mr. ALLEN. I thank the Chair.

The VICE PRESIDENT. The question is on the adoption of the resolution.

Mr. PEARSON. Mr. President, today we begin consideration of what may prove to be yet another milestone in the historic evolution of the U.S. Senate. I consider it a privilege as well as a duty to join with my distinguished colleague, the senior Senator from Idaho (Mr. CHURCH), and the other cosponsors in offering a resolution to modify rule XXII

of the Standing Rules of the U.S. Senate to provide that cloture may be invoked by an affirmative vote of three-fifths instead of two-thirds of those Senators present and voting. Two years ago we introduced a similar measure which obtained majority support on principle, but unfortunately met an untimely parliamentary end following the reversal by the Senate of the then Vice President's ruling. This year, following the object lesson of the session just ended, we feel the prospects of success are brighter than at any other time in the past. And as the greatly increased number and variety of cosponsors indicates, support for a reasonable adjustment in the cloture procedure is both broad and deep and we anticipate that it will make its full weight felt before this matter is finally determined by the Senate.

Among the questions that will be raised in the forthcoming debate are such diverse matters as whether or not a majority of the Senate has the right to adopt or change the standing rules at the beginning of a session and whether the Senate itself is a continuing body. Aside from the basic issue of whether the three-fifths formula we suggest represents both an effective and equitable alternative to the current rule, the question of the beneficial versus the harmful effects of filibustering will also merit and receive thorough examination in the weeks ahead.

Mr. President, the two most fundamental rights possessed by Members of the Senate are the right to debate and the right to vote. And if this body is to fully meet its weighty responsibilities, these two great rights must both be protected and a just balance struck between them. But where does that proper balance lie? This question has periodically vexed the Senate since its inception and is at the core of the debate we begin today. What are the relative weights that must be assigned these two indispensable functions that will preserve them while also providing for the effective conduct of public business? Which should be given greater consideration? If one must choose the answer should clearly be the right to vote. That is why we were elected to the Senate—to deliberate and then act. If we fail to resolve an issue, even though the action taken might often be in the negative; if we fail to bring the matter to a vote, then each of us fails in his obligation to his constituents to obtain equal consideration of their interests. When a few can deny representation to the many through endless debate, then the relationship between the right of discussion and the right to vote is obviously imbalanced. As Senator Henry Cabot Lodge of Massachusetts observed more than 75 years ago:

> If the courtesy of unlimited debate is granted, it must carry with it the reciprocal courtesy of permitting a vote after due discussion. If this not the case, the system is impossible. Of the two rights, moreover, that of voting is the higher and more important. We ought to have both, and debate certainly in ample measure, but if we are forced to choose between them, the right of action must prevail over the right of discussion. To vote without debating is perilous, but to debate and never vote is imbecile.

Are we really so severely handicapped by the current provisions of rule XXII as to make the invocation of cloture a virtually impossible task? The events of the past 54 years would seem to indicate that unfortunately this is indeed the case. Since the two-thirds rule was first adopted in 1917 there have been 49 formal attempts at cloture of which only eight have succeeded. No one knows how many informal efforts were made that faded away before that awesome 66 percent barrier. And who can say how many legislative surrenders of substance have occurred at the mere threat of a filibuster?

Mr. President, how is this imbalance to be corrected? Certainly not by majority cloture. In my years of service in this body I have seen many times the wisdom of extended debate in preventing hasty or ill-conceived action that could have wrought much mischief for our country. As a result of this experience I cherish the right of full debate as much as anyone and will fight to preserve that right as long as I am privileged to continue to serve here. I know the vast majority of the other cosponsors of this resolution feel the same way. Thus to argue that the modification of rule XXII we suggest will end full discussion of every issue that comes before us for deliberation is to greatly misread both our intent and the effect of the proposal.

A shift from 66 to 60 percent of the Senate to invoke cloture will not eliminate the precious right of full debate. But it will make it somewhat easier to provide for the more efficient conduct of public business by striking a better balance between the right of debate and the right to vote at some time. If a three-fifths cloture rule had been in effect for the past 54 years, 15 not just eight of those 49 cloture petitions would have been successful—a considerable improvement, but hardly any "gag" on free speech.

Mr. President, a substantial majority of the Senate should be allowed to work its will at some point. Not to allow it to do so is to admit that the constitutional guarantee of equal representation will not apply and that a relative handful of Senators may exercise a legislative veto power never contemplated by our Founding Fathers that is clearly pernicious to the democratic principles that are the genius of our political system.

How substantial should that majority be to invoke cloture? Here is where honest men can disagree as they did when the present rule XXII was first adopted. There is no great magic to the current two-thirds formula now used to invoke cloture. It is no sacred equation representing the wisdom of the ages. Rather it is merely the result of well-intentioned men constructing what they hoped would be an effective compromise between the one extreme of majority cloture on the one hand and unlimited debate on the other. It was an honest attempt to find that fair balance of which I spoke earlier. Yet, as the evidence of the past 54 years indicates, this worthwhile effort has failed by making the majority necessary for cloture so substantial as to be nearly impossible to obtain. What we are suggesting here today is a further modification of their original effort based on the experience of the past five decades. We feel that three-fifths of the Senate present and voting constitutes an ample majority that should have the right to act. But we also feel that three-fifths is not a majority so substantial as to be impractical of attainment and thus be the equivalent of having no debate limitation at all.

Mr. President, article I, section 5 of the Constitution clearly gives a majority of the Senate convened today the right to modify and adopt its rules of procedure. To claim otherwise would be to claim that this constitutional right obtained only to the First Congress based on the supposition that the Senate is a continuing body bound to obey the rules of earlier Senates even if they restrict the rights of this Senate in an unconstitutional manner simply because two-thirds of the Senators carry over. The illogic behind the proposition that two-thirds of the Senate constitutes grounds for making it a continuing body even though the new one-third can radically alter its philosophy, partisan composition, and committee hierarchies has never ceased to amaze me. It is no doubt true that the framers of the Constitution hoped each succeeding Congress would be guided by the experience and collective wisdom of its predecessors, thereby concurring in those rules of procedure which had stood well the test of time. It is incredible to believe, however, that they intended succeeding Congresses to be unjustly restricted by any formulae their predecessors might wisely or unwisely choose to devise. That is why they wrote article I, section 5.

Thus, though the current rule XXII may have endured in one sense the test of time, it has clearly endured it badly and is in need of repair. And though it may be encrusted with tradition, close examination reveals that while the form created in 1917 still remains, the substance has turned out to be something quite different from what many of the original architects of that rule anticipated.

Mr. President, the issues at stake here are large and merit the extended consideration they will no doubt receive. They go right to the heart of Senate tradition and purpose. Cloaked in the guise of a complicated parliamentary device, the question of cloture relates directly to the ability of the Senate to function fairly, effectively, and above all representatively. As I said earlier when Senator CHURCH and I announced our intention to pursue this matter before the Senate, the proposal we espouse is "a reasonable, carefully balanced compromise that offers some hope of moving forward to preserve that which is best in Senate tradition while eliminating or at least ameliorating part of that which is worst." The need for some reform of congressional procedures has long been evident. And I know of no other area that could use more immediate attention than the matter now before us. The Senate was severely embarrassed last year when it became trapped in a procedural thicket so tangled that it made it difficult to de-

termine who was talking against what. Public confidence in the effectiveness of our national political institutions was further shaken, and the need for change was once again made apparent to the Nation. I hope it is now apparent to the Senate.

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

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I would like to make a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. ALLEN. Mr. President, when this matter was under debate while the present President of the United States was Vice President, an advisory opinion was issued or given to the Senate by the Presiding Officer, then Vice President Nixon, as to how he would rule on parliamentary questions regarding this proposal; and, in effect, a similar policy was followed by Vice President HUMPHREY, because he announced in advance what his ruling would be on the question of whether cloture should be applied if two-thirds did not vote in the affirmative but a majority did vote in the affirmative. His statement was that he would rule that cloture had been applied.

The question that the junior Senator from Alabama would like to propound is: Does the present President of the Senate plan to issue any advisory opinions as to the action he will take on parliamentary questions concerning this debate?

The VICE PRESIDENT. The Chair wishes to state at this time that he has no intention of issuing advisory opinions on hypothetical cases. If it is an inquiry involving immediate disposition of a pending matter, the Chair will judge each on its own merit. Advisory opinions or responses to parliamentary inquiries of the Chair are not subject to appeal by the Senate. Hence, the Senate would have no opportunity to work its will thereon. Under the circumstances stated, such opinions could serve no useful purpose other than to give a particular conclusion of the Chair.

On the other hand, if points of order are made, the Chair is ready to rule or to submit the same to the Senate for decision. As you know, any ruling by the Chair is subject to appeal by the Senate and the Senate, in such instances, has an opportunity to work its will.

Likewise, the Chair will try to be helpful in responding to inquiries relating directly to pending questions. In response to any point of order as to the constitutionality of the procedure or as to whether or not the Senate is a continuing body which involves a constitutional question, the Chair under the uniform precedents of the Senate, will submit the same to the Senate for decision.

Mr. ALLEN. I thank the distinguished President of the Senate for this information.

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

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHURCH and Mr. BYRD of West Virginia addressed the Chair.

Mr. CHURCH. I defer to the Senator from West Virginia.

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

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PEARSON AT 1:15 P.M. TODAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the close of the morning hour today, at 1:15 p.m., the able Senator from Kansas (Mr. PEARSON) be recognized for the purpose of making a motion.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator from Idaho is recognized.

AMENDMENT OF RULE XXII

Mr. CHURCH. Mr. President, opposition to the existing Senate cloture rule, which has given the filibuster such formidable fortification, has increased to the point that 2 years ago our effort to alter it was nearly successful. Since that time, there is reason to believe that the movement within the Senate to modify rule XXII has gained additional strength. Senator PEARSON and I have, therefore, concluded that we should offer, as a first item of business in the 92d Congress, the same resolution we offered 2 years ago.

As now written, rule XXII provides that the affirmative vote of two-thirds of the Senators present and voting is required to limit debate. This two-thirds formula has proved a virtually insurmountable barrier. Since the rule was adopted 54 years ago, there have been 49 attempts to invoke cloture, and only eight have been successful. However, even these figures fail to portray the full picture. The record cannot disclose the many times that cloture has not even been attempted, due to the foreknowledge that the attempt would prove futile.

The joint resolution Senator PEARSON and I have introduced is not directed at decimating rule XXII, but on reducing its requirement of a two-thirds vote. We believe that a reduction to a three-fifths vote, or 60 percent of the Senators present and voting, is the most suitable alteration of the rule for which there is any likelihood of approval. This proposal was cosponsored by 38 Senators of both political parties when offered 2 years ago. It advanced further than any previous effort to modify the rule, since the last change in it was made 12 years ago.

Mr. President, at this point I should like to announce the list of sponsors of the resolution we have offered, comprising a total of 51 Members of the Senate, 32 Democrats and 19 Republicans, and representing 32 States of the Union.

In addition to myself and the distinguished Senator from Kansas (Mr. PEARSON), those Senators who have affixed their names as cosponsors of this resolution are as follows:

The Senator from Colorado (Mr. ALLOTT), the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Massachusetts (Mr. BROOKE), the Senator from Maryland (Mr. BEALL), the Senator from North Dakota (Mr. BURDICK), the Senator from New Jersey (Mr. CASE), the Senator from Kentucky (Mr. COOK), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. FONG), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from New York (Mr. JAVITS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. MANSFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Oregon (Mr. PACKWOOD), the Senators from Rhode Island (Mr. PASTORE and Mr. PELL), the Senator from Illinois (Mr. PERCY), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Ohio (Mr. SAXBE), the Senators from Pennsylvania (Mr. SCHWEIKER and Mr. SCOTT), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. SYMINGTON), the Senator from Ohio (Mr. TAFT), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS).

The proposed modification from two-thirds to three-fifths is modest in its purpose and reach—and is so intended. Adoption of the change would not seriously weaken the role of the Senate as a deliberative body nor would it unduly diminish the right to extended debate. It would produce no revolutionary change in the character of the Senate, whose uniqueness among legislative bodies should be safeguarded and preserved.

If rule XXII were modified as we propose, a substantial majority of the Senate would still be required to enact any legislation against which there was strong and determined opposition. Because we believe this traditional requirement well serves the interests of the country, we oppose those far-reaching revisions of rule XXII which would permit cloture to be invoked by a mere majority.

There is little likelihood, in the foreseeable future, that the Senate will ever adopt a majority cloture rule. I think that most of us in this body fully appreciate the peculiar role played by the Senate. We see that role safeguarded by the right of extended debate and by a cloture rule which prevents questions of great moment, which provoke very strong and determined opposition, from being decided by a mere majority. So, to those who argue that any tampering with rule XXII opens the floodgates leading toward majority cloture, I can only say that this is not the purpose of the resolution, nor do I believe that such a movement has any likelihood of success either now or in the years immediately ahead.

Although modest in its conception, the three-fifths rule we advocate would have, if adopted, a significant effect. Had such a rule obtained in the last Congress, for example we could have reached a vote on the proposed constitutional amendment to elect the President by direct popular vote. During the past 54 years, the three-fifths formula would have yielded cloture nearly twice as often as the two-thirds rule has permitted. Consequently, we believe that the adoption of the three-fifths formula would strike a proper balance, and could well set to rest the controversy over cloture for many years to come.

With rule XXII thus modified, the Senate, as an institution, would become more effective; its Members would be enabled to discharge more fully their legislative responsibilities—whether they be Republicans or Democrats, liberals or conservatives.

The climate for making such a change has improved, for the memory of the bruising experience which nearly immobilized the Senate in the closing weeks of the last session is still fresh. There is reason to believe that some Senators, hitherto opposed to any modification of rule XXII, may now be reconsidering their position.

Therefore, we are optimistic, though past history instructs us as to the difficulty in changing rule XXII. Knowing our own proposal to be moderate and reasonable, we shall fight hard to secure its approval. Much important legislation in the new Congress, both foreign and domestic, could well hinge upon the outcome of this effort.

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

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. MANSFIELD. Mr. President, I understand that there is at the desk a special message from the President of the United States which is a compilation of a number of proposals which would necessarily go to various committees rather than to one.

I, therefore, ask unanimous consent that the appropriate parts of the President's message be sent to the following committees:

Agriculture and Forestry. Armed Services. Banking, Housing, and Urban Affairs. Commerce. District of Columbia. Finance. Foreign Relations. Government. Operations. Interior and Insular Affairs. Judiciary. Labor and Public Welfare. Public Works. Veterans' Affairs. Joint Committee on Atomic Energy.

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

ORDER OF BUSINESS

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

The PRESIDING OFFICER (Mr. STEVENSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in recess until the hour of 11 o'clock tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATORS PERCY, RANDOLPH, AND TALMADGE TOMORROW MORNING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on tomorrow morning, immediately after the prayer and disposition of the Journal, the able Senator from Illinois (Mr. PERCY) be recognized for not to exceed 15 minutes; that he be followed by the able Senator from West Virginia (Mr. RANDOLPH) for not to exceed 15 minutes; and that he be followed by the able Senator from Georgia (Mr. TALMADGE) for not to exceed 10 minutes.

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

THE MINE HEALTH AND SAFETY ACT OF 1969

Mr. RANDOLPH subsequently said: Mr. President, I rise to call to the attention of my colleagues, and so that the RECORD may reflect as published tomorrow morning, the fact that at approximately 11:15 a.m. Wednesday, by the order previously granted, I will be addressing the Senate on the subject of the Mine Health and Safety Act. It is a subject in which there is considerable interest in this body and throughout the country, and, of course, in those States in which mining is an important industry.

Mr. President, there has been in recent days a further disaster and there have been other disasters of a lesser nature. In the disaster at Hyden, Ky., 38 miners perished in their place of work underground.

The act which was passed with almost the solid endorsement of the membership of both the House and the Senate, the Mine Health and Safety Act of 1969, was necessary. We react often in this country after the fact more readily than before the fact. We did so in a sense in this case, although there had been prior attempts and some progress. The approval of the Mine Health and Safety Act was the result of a tragic disaster near Farmington, W. Va., in November 1968. That brought the impetus, the thrust, and the facts into focus. It gave Congress the opportunity and the responsibility to pass this far-reaching legislation to improve the health and safety of coal miners everywhere in the country.

There have been from time to time in recent weeks, and especially after the Hyden tragedy, certain attacks upon the U.S. Bureau of Mines which I believe were exaggerated.

The act not only calls for the hiring of several hundred additional inspectors, but also requires that these inspectors be capable men, who will make the inspections in the mines where the health and safety of the workers are involved.

So, I shall have tomorrow to offer with my speech charts and graphs which indicate what has been done and what is being done to implement the intent of Congress in the passage of this necessary legislation. I say, however, that we must work, and work assiduously, toward that hour when these disasters cease and the fatalities are at a minimum. The U.S. Bureau of Mines must do more than it has been doing or is doing now to effectuate the program which was set in motion by Congress in the act of last year that I have mentioned. Also, in fairness and in all candor, we must not allow unwarranted attacks on the U.S. Bureau of Mines to injure the program or prevent the intent of the act and the provisions of the law from being carried out.

It is for this reason that I take this time to call attention to my discussion tomorrow in the hope that the material I shall present will not only have interest but also an appeal to the Members of this body who certainly want the act carried out as it was passed by Congress.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

Two hours having transpired, the

morning hour is concluded and the resolution goes to the calendar.

Under the previous order, the Senator from Kansas is recognized.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. PEARSON. Mr. President, I now move that the Senate proceed to the consideration of Senate Resolution 9.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 9) amending Rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ALLEN. Mr. President, does the Senator from Kansas wish to discuss the motion?

Mr. PEARSON. Mr. President, in response to the Senator from Alabama, I have no further intention of speaking in relation to the motion today.

Mr. ALLEN. Mr. President, I move that the pending motion be postponed to the next legislative day.

The PRESIDING OFFICER (Mr. STEVENSON). The question is on the motion of the Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. Mr. President, the resolution offered by the distinguished Senator from Kansas (Mr. PEARSON) and the distinguished Senator from Idaho (Mr. CHURCH) came up for consideration today during the morning hour.

Under the rules of the Senate, the resolution itself could be discussed at that time following the close of morning business and prior to 1:15 this afternoon, which is 2 hours after the Senate convened. The matter was discussed until 1:15. At that time the resolution went to the calendar, and the distinguished Senator from Kansas (Mr. PEARSON) has now moved that the resolution be considered at this time so that instead of considering the resolution itself, the effect of the motion of the Senator from Kansas was to seek to bring the resolution up for discussion.

The effect of the motion of the junior Senator from Alabama is to postpone until the next legislative day the consideration of the motion of the distinguished Senator from Kansas.

Mr. President, the question before the Senate at this time is: Shall debate in the Senate be cut off by a vote of three-fifths of the Senators present and voting, or shall the present rule calling for a two-thirds vote of the Senators present and voting be required before debate can be cut off?

The distinguished Senator from Kansas (Mr. PEARSON) has cited section 5 of article I of the Constitution in support of the proposition that the Senate is not a continuing body and that at the start of each new session of the Senate, each new Congress, a majority of the Members of the Senate can change the rules, notwithstanding the fact that the Senate rules state in rule XXXII that the rules of the Senate shall continue over the suceeding Congresses unless amended in accordance with the rules, which require a vote of the Senate subject to extended debate on the part of the Senate, which could be cut off only by a two-thirds vote.

Let us examine section 5 of article I to see the basis for this contention:

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the concurrence of two-thirds, expel a Member.

As I have just read, "Each House may determine the rules of its proceedings." Well, the Senate has determined the rules of this Senate and it has provided that debate can be cut off only by a two-thirds vote of a quorum of the Senate present and voting. So the Senate has made its rules; the rules of the Senate carry over to succeeding Senates, succeeding Congresses.

Let us refer to rule XXXII in support of that proposition. Section 2 of rule XXXII states:

The Rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

So the rules provide that on any matter before the Senate, except matters expressly exempt therefrom, debate can continue until cut off by a two-thirds vote of the Senate.

Now, let us examine "Senate Procedure," by Charles L. Watkins, the former Parliamentarian of this body, and Dr. Floyd M. Riddick, the present Parliamentarian. On page 616 of this work, under the heading "Continuity of Senate Rules," we find this language:

Since 1789, the Senate has readopted or made only six general revisions of its rules, as follows: March 26, 1806; January 3, 1820; February 14, 1828; March 25, 1868; January 17, 1877; and January 11, 1884.

On two occasions in recent years—

And that was prior to 1953, I believe, the date of this work—

at the beginning of the last two Congresses, motions to proceed to the consideration of the adoption of new rules were tabled and the Senate proceeded under the old rules which has been the practice and custom of the entire history of the Senate.

Mr. President, according to the work "Senate Procedure," the Senate "proceeded under the old rules which has been the practice and custom for the entire history of the Senate."

Mr. President, this morning I received a letter from the distinguished senior Senator from North Carolina (Mr. ERVIN) dated January 26, 1971, in which he sets out his reasoning in opposition to changing rule XXII to make it easier to cut off extended discussion in the Senate. I would like to read that letter, as expressing in much more forceful language than the junior Senator from Alabama is capable of expressing the case in favor of not changing rule XXII and not making it easier to cut off debate in the Senate. The distinguished Senator from North Carolina stated as follows in his letter:

I am writing to express my views about the effort of several Senators to weaken or repeal Senate Rule XXII.

As you know, there has been an attempt to reduce the number of Senators required to invoke cloture in almost every Congress for the past twenty years. Since 1959, when the most recent amendment to rule XXII was adopted, there have been two repeated proposals for change. One proposal would permit a simple majority of the Senate membership to shut off debate; another proposal would permit three-fifths of those present and voting to terminate debate.

Since becoming a member of this body, I have always opposed efforts to place in the hands of any temporary majority the power to deny other Senators their constitutional right to debate the issues before the Senate. I intend to oppose such efforts in the 92nd Congress.

In my judgment, the Senate's tradition of careful and thorough deliberation of legislation is one of the important safeguards of constitutional government. The Senate's history is replete with examples of hasty, temporary, and short-sighted majorities being tempered by the historic commitment of this body to rational debate. Since its adoption in 1917, rule XXII has protected the Senate's ability to function in a deliberative manner, while yet enabling it to overcome the opposition of a minority should the Senate be determined to do so.

The present rule strikes a desirable balance between majority and minority interests. Extended debate often serves to test the true depth and strength of what appears at first glance to be a majority position. Thoroughgoing debate frequently uncovers weaknesses in the majority position and provides the time for cooler heads to prevail. The mere possibility of extended debate moderates the appetite of the majority and induces an accommodation with opposing interests. This facilitates compromise and makes for a much better final legislative product.

In cases where rule XXII has generated the most emotional feelings, the right of the minority to speak and defend itself at length has been of the utmost importance in assuring the minority that it is not being tyrannized by the majority. No one can doubt that the ultimate acceptance of the majority position in these critical cases is directly related to the conviction that the minority has made its case fully and at length—that it has had its "day in court." The corollary to "majority rule" is "minority acceptance," and rule XXII serves that corollary as few other institutions can.

In the last Congress—

The Congress that closed out here on January 2 of this year—and I think this is the most significant paragraph in the letter—

In the last Congress the debate over the President's Supreme Court nominations, the extended discussion on America's commitments in Southeast Asia, the efforts to defeat the conference report on the District of Columbia crime bill, the consideration of two controversial proposals to amend the Constitution, the refusal of Senators to embrace a host of amendments to the Social Security bill, and the efforts to oppose further funding of the SST are excellent case histories of the Senate's wise and continuing determination to exercise its constitutional powers with thoughtfulness and care. These debates dramatically illustrate the value of rule XXII as it presently stands.

I think it is interesting to add parenthetically that as the 91st Congress neared its close, the very Senators who were making use of extended debate, as limited by rule XXII, are some of the very Senators who are now seeking to make it easier to cut off debate. The junior Senator from Alabama did not participate in a single one of those extended discussions that erupted in the closing days of the 91st Congress, but he

did support and defend the right of the Senators to speak. I do not think they would object to the designation of liberal Senators; the very liberal Senators who made use of the filibuster are the very ones who are now seeking to make it easier to cut off debate in the U.S. Senate. I supported then their right to speak.

I do not believe that the country has suffered any irreparable damage as a result of those filibusters, those extended discussions.

The social security measure which finally passed the Senate, but it did not pass in time to get action in the House, will doubtless be passed by the Congress in the coming next few weeks. The increased benefits will date back to January 1. So the social security beneficiaries will not lose anything.

The trade bill, which was filibustered in the 91st Congress and in the closing days of that Congress, has an excellent change of passing both Houses of Congress.

The President's family assistance plan will be given consideration, I dare say, by the House and by the Senate during this Congress. As I recall, the administration was willing to accept a bill that would provide for a trial run in certain areas on the family assistance plan.

So I do not believe that anyone is going to be damaged irreparably over the extended debate that took place in the closing days of the 91st Congress.

Also, in the closing days of the 91st Congress the distinguished Senator from West Virginia (Mr. BYRD), the assistant majority leader in this body, made an excellent presentation here on the floor of some needed changes in the Senate rules. He said, do not change the wrong rule—change the right rule; provide, I believe in rule XVI, that debate might be cut off with fewer votes as regards appropriation bills and as regards revenue bills.

I notice that Senator Oscar W. Underwood, of Alabama, who enjoyed the distinction of being the only person, I believe, who was the Democratic leader in the House and later the Democratic leader in the U.S. Senate, proposed back in 1926 a resolution to limit debate by majority vote on appropriation and revenue bills.

So possibly that is one way out of this dilemma—to provide a lower percentage of votes to cut off debate regarding appropriation and revenue bills, and not every single piece of legislation that comes before the U.S. Senate.

Mr. President, what is a minority today may be the majority position tomorrow, or next year, or next decade. Rule XXII, as presently drafted, protects a minority from the onslaught of an arrogant majority. Now, in the public mind, it is felt that rule XXII is insisted upon by Senators from Southern States to prevent the passage of civil rights legislation. But nothing could be farther from the truth; because every single piece of civil rights legislation that the junior Senator from Alabama knows of has been passed. As far as I know, there is little further legislation in this field that is being proposed. Even if it is proposed, Mr. President, the Senate has proved time and again that it will invoke two-thirds vote cloture to pass so-called civil rights bills.

What, then, is the reason? Why hold out for insistence on a two-thirds vote in order to end debate in the U.S. Senate?

Mr. President, as I have said, the two-thirds rule protects what is the minority today from an arrogant majority. That majority today might, in the next decade, become the minority. But whichever position is in the minority, its rights should be protected.

Rule XXII offers about the only defense that I know of against further concentration of power in the Federal Government, against further mushrooming of the Federal bureaucracy, against big government getting bigger, against the power of the Executive and the increasing of the power of the Executive and the lessening of the power of the Senate and the power collectively of Congress. Rule XXII protects the U.S. Senate as what many have been pleased to rightly call the greatest deliberative body in the world.

In recent hours I have heard Senators, not on this floor but assembled elsewhere in the Capitol, speak for majority cloture. Mr. President, if we ever get to the point where we are going to have cloture invoked and debate cut off by a majority vote, the Senate might just as well close its doors. Its usefulness will be at an end.

We have seen legislation ramrodded through the other body. It comes over to this Chamber, and usually it is going to have a pretty thorough going over. That is the purpose and essence of extended debate. You can point out, in extended debate, the flaws, the pitfalls, the dangers of pending legislation. You can alert the country to the dangers of pending legislation. You cannot do that if you have majority cloture. You cannot do it if you have 60 percent cloture. But you can do it on things that matter if we continue to require a fair two-thirds vote for cloture.

Mr. President, this same effort was tried by, I believe, the very same Senators who are pushing this measure, at the start of the 91st Congress. I believe the resolution then was introduced by the distinguished Senator from Idaho (Mr. CHURCH) and the distinguished Senator from Michigan (Mr. HART). It came to a vote. The cloture motion was filed, and on the second day thereafter a vote was taken to decide whether or not cloture would be invoked.

Well, the vote was, I believe, some 53 to 47—that would not miss it more than one or two on either side—some 53 to 47 in favor of invoking cloture.

The distinguished junior Senator from Minnesota, who at that time was presiding with distinction as Vice President of the United States and President of the Senate, ruled that cloture had been invoked because the majority of the Senators had voted to apply cloture, that the Senate rule requiring a two-thirds vote was unconstitutional as depriving a majority in the Senate of the right to set their rules.

An appeal was taken from that ruling, and by practically the same vote, but in reverse, the Senate ruled that cloture had not been invoked because the two-thirds vote required by the rules had not been obtained.

So, Mr. President, not only is that the Senate rule, but it is the rule as interpreted by the Senate. Not only the rulebook, but a majority of the Senate itself, held that it required a two-thirds vote to invoke cloture on a rules change.

Mr. President, if we can get a two-thirds vote to invoke cloture, or if the proponents of a measure can get a two-thirds vote to invoke cloture, then debate will end in a short, specified time, and a vote will then be taken on the resolution.

The Senate has ruled that it takes a two-thirds vote to invoke cloture at the start of a session or at any other time, that there is no difference between the time. The same rule applies in the middle of a session as at the start of a session. That is what the Senate has ruled. That is what the Senate rulebook provides.

Mr. President, we did not even have cloture until 1917. Rule XXII actually is not a delegation of power to the Senate. It is a limitation on a power or limitation on a right, by providing for shutting off debate, no matter how serious. It provides for shutting off debate by a two-thirds vote of the Senators present. At one time, rule XXII provided for the necessity of a constitutional two-thirds, which today would be 67 votes. Now all it takes to end debate in the U.S. Senate is a two-thirds vote of a quorum of the Senators present. So that, if my arithmetic is correct, if 51 Senators are present and 34 Senators vote for cloture and 17 vote against it, cloture is applied in the U.S. Senate. Conceivably, 34 Senators can cut off debate in the U.S. Senate, under the present rule. And they want to modify it and make it even easier to cut off debate.

What was the situation that existed prior to 1917, when the original version of rule XXII was adopted by the U.S. Senate? There was no limitation on debate. It will be recalled that the circumstance that brought on rule XXII was when President Wilson, right before the start of our participation in World War I, sought to have a bill passed by Congress providing for arming the merchant marine. President Wilson thought it necessary to go to Congress to get such a bill passed, to get such authority.

Mr. President, consider what a Chief Executive today would do under like or similar circumstances. If he wanted to arm the merchant marine, he would do it some morning before breakfast and think nothing about it. That is the power of the Executive in our Government. President Wilson, more a stickler for the separation of powers, more a respecter of the right of Congress, of the legislative branch, sought to get Congress to pass a bill providing for arming merchant marine vessels.

The Germans had a submarine blockade. One would think that almost everybody would feel that these merchant vessels ought to be able to be armed to protect themselves. Well, we all recall from history that a group of Senators filibustered that measure to death, and I do not believe there were more than 12 of them. They were Senators who today, I assume, would be classed as liberals. They

were great Senators. They were such men as Norris, I believe, possibly LaFollette—men of that standing, at any rate. But President Wilson was highly critical of this group of Senators, and he called them—we see the phrase often now in referring to that time, that period—a little group of willful men, representing no opinion but their own, who had brought the great Government of the United States to a halt.

So there was a special session of Congress the following year, I believe, or possibly later on that year, and President Wilson had some of his legislators put in a resolution to provide a Senate rule, which comes down to us today as rule XXII, and it provided that debate could be cut off in the U.S. Senate. I believe that at that time a two-thirds majority was provided for. Later it was amended to require a constitutional two-thirds majority.

So rule XXII, far from providing for a filibuster, provides ways and means of cutting off a filibuster.

Any measure pending in the Senate which the people of the country support, which is sound, which is in the best interests of this country, can receive the necessary two-thirds vote to cut off debate, to apply cloture. It has proved no handicap up to now. Why make it easier to cut off debate, to cut off the very quality, the very ingredient, that sets the U.S. Senate apart among legislative bodies—the right to extended debate?

Mr. President, a great deal has been said about the logjam of legislation that we are said to have had in the Senate during the closing days of the 91st Congress. Well, following the suggestion of the distinguished Senator from West Virginia (Mr. BYRD) that if we are going to do something to eliminate this, let us not change the wrong rule. There is nothing wrong with rule XXII. That is fine. Let us amend other rules. Let us divide the measures that are not protected by the two-thirds vote.

The circumstance that caused the logjam in the Senate during the closing days of the 91st Congress was the fact that consideration on the floor of the Senate of these measures had necessarily been delayed because of the tremendous volume of work entailed by consideration of the measures in committee, plus the fact that Senate rules permit nongermane amendments to pending legislation.

The social security bill that has very substantial support in the Senate and throughout the country was taken as a vehicle by which to seek to pass at least two items of legislation that had strong opposition in the Senate. If the Senate rules had not permitted the adding of these nongermane matters, social security would have sailed on through and final action of one sort or another would have been taken, in all likelihood, on the other two measures, which does not mean that they would have passed, or one would have passed and the other would have been defeated. But it was not rule XXII that caused the logjam. Other Senate rules did.

The suggestion was made—and I do not feel I am divulging any confidence as to what took place in one of the caucuses of the majority party—by one Senator that the chairmen of the various committees should make reports at least monthly to the Democratic caucus of the progress that important legislation is making in the respective committees, so that the caucus could observe what progress is being made and could urge committee chairmen to get in behind the legislation and get it out to the floor where it could be voted on.

Also, Mr. President, we get many messages from the President of the United States regarding his program and his suggestions on the legislation that he recommends. All too often, it is in the form of generalities. It does not carry with it specific bills that are recommended. It might be several months after a legislative recommendation is made by the President before a specific bill is prepared and introduced.

So, Mr. President, I believe that there are many ways to tighten up the existing Senate rules, thus getting quicker, better and more responsible action by the committees and by the membership of the Senate itself.

So, why tamper with rule XXII, which merely provides the method by which debate can be cut off if a two-thirds majority of the Senate sees fit so to do?

Now they are talking about some seven filibusters that were going on or were threatening to go on in the closing days of the 91st Congress.

I recall that one of those filibusters was a one-man filibuster by the distinguished then Senator from Tennessee, Mr. Gore, in opposition to the subscribing by the U.S. Treasury to and contributions by the Treasury of some billions of dollars to various international corporations—banks, the International Monetary Fund, the World Bank, the Interdevelopment Association—and the Senator from Tennessee pointed out that there was provision for $1.1 billion in so-called soft loans to be made by one of these foreign financial corporations, whereas there was no money in any of the programs to finance cities and towns in America building water plants, water lines, sewage lines, and so forth—although they would not have been soft loans, they would have been loans that would have been repaid at whatever the current interest rate is.

So Senator Gore discussed that bill at length on several occasions and it seemed quite obvious that he would be able to hold up consideration of the bill for some days. So it was agreed that this $1.1 billion in soft loans—and I guess, actually, soft loans means loans where there is no chance whatsoever of them being repaid, Mr. President—but Senator Gore got the agreement out of the administration sponsors of the bill that this amount would be cut from $1.1 billion down to $100 million, saving this country and the taxpayers $1 billion.

That effort alone, according to Senator Gore, resulting in this $1 billion saving, certainly would justify retention of rule XXII because it was definitely known that they could not get a two-thirds vote to apply cloture.

So, Mr. President, rule XXII has served this country well. It has served the Senate well.

If we are going to get to the point that a majority of the Senate or a 60 percent majority of the Senate is able to apply its will against an out-voted minority without debate at any time it so desires, our country is in great danger. If we are going to get to the point that a majority or a 60 percent majority can cut off debate in the U.S. Senate, the rights of the people are in serious danger.

What is the use of having the Senate if a majority without debate can decide on matters of legislation? Why not take a straw vote? Why not take a poll? Why not send out a questionnaire to the members of the Senate? Why bother to come to the U.S. Chamber if no debate can take place?

If we can count noses and find that we have a majority and that the other side cannot even debate or that no attention will be paid to the debate because we have a majority, we do not need the minority or the majority, either one, to find what we are for and just rubberstamp the legislation.

Mr. President, it has been my sincere hope that the Senate would not permit itself again to become entangled in the spider web of extended debate by reason of an effort to amend rule XXII to further restrict debate on nationally important issues presented to the Senate.

I am convinced that current "gag rule" efforts will prove futile and thus a needless waste of time. Much important legislation cries out for prompt Senate action.

If we had such a logjam of legislation at the close of the last session why is something not being done to bring it out, expedite it, get it on the Calendar, and get some action on it, rather than going through these motions of seeking to amend rule XXII, which does not need amendment, whereas much legislation does need to be enacted.

Moreover, no issue of greater importance will come before the Senate in this session than that which recommends an unwarranted limitation on the right of the Senate to debate important issues.

Mr. President, I said on several occasions that the vote taken in the early days of 91st Congress, where an appeal was taken from the ruling of the Vice President that a majority but less than a two-thirds majority by their votes had applied cloture to a debate on the amendment of rule XXII, was the most important vote that was taken in the entire 91st Congress because it decided whether this Senate was to remain a deliberative body, a body with the power to protect the rights of the minority, a body with the power to defend against the onslaughts of the majority, the onslaughts of big government, and the further taking over of legislative powers by the executive.

The opponents of the rules change, the opponents of a three-fifth cloture, those who seek to uphold rule XXII were successful in the last session of Congress but only because they had the independence, the fairness, and the courage of their convictions to vote to overrule the Chair which had made a previous contrary ruling. I believe that is the only occasion that I saw the Chair overruled in the 91st Congress. It is possible there were other occasions. I do not recall any other occasions and I believe it was the only time the Chair was overruled.

What was that ruling? Possibly we may

be faced with it again. The argument of the distinguished Senator from Kansas (Mr. PEARSON) indicated that one side or the other may be faced with an appeal at this point. That ruling was that a majority of the Senate could apply cloture, could cut off debate in the face of an expressed provision of the rules that it takes a two-thirds majority to apply cloture.

The reason assigned was the fact that it was insisted that the Senate rule was unconstitutional and the Vice President ruled on that question himself when actually he had no power from the rules, the Constitution, or from any statute to make any such ruling on a constitutional question. The Senate summarily reversed the Vice President on that occasion and said, in effect, that the Senate rules carry over from Congress to Congress unless amended in accordance with the rules of the Senate.

Of course, any effort to amend the rules is subject to extended debate which can be cut off only by the application of cloture through a two-thirds vote of a quorum of Senators present.

So, Mr. President, the Senate has ruled on that question and I trust that Senators will abide by that rule as found in the rule book, and as passed on by the Senate itself.

Section 5 of article I of the Constitution does give to each House of Congress the right to set its own rules. The Senate has complied with that section. They set their own rules. They said in those rules that they carry forward from Congress to Congress unless amended as provided by the rules.

Mr. President, when I was serving as lieutenant governor of the State of Alabama I had a similar question come before me as presiding officer of that body. It had to do with the bill providing for the right of a Governor of Alabama to succeed himself in office for another 4-year term. The constitution of the State of Alabama has since been amended but at that time it provided that a Governor could serve for one 4-year term and that he could not succeed himself. The constitutional amendment was introduced in the House and passed overwhelmingly. It came to the Alabama State Senate. The Alabama constitution provides that a constitutional amendment can be submitted only with the votes of three-fifths of the elected members of both parties, which would be the constitutional three-fifths. The Senate rules provided that cloture in the Alabama State Senate could be applied only by a two-thirds majority of the 35 member body. So it took 24 votes to apply cloture. It took 21 votes to submit a constitutional amendment. The argument was made that the rule of the Alabama State Senate requiring a two-thirds vote or 24 Senators to cut off debate was unconstitutional as regards a constitutional amendment because the constitution of Alabama provided that a constitutional amendment could be submitted by the votes of three-fifths of the members, which would be 21.

The proponents of the amendment could get 21 votes to apply cloture, but not 24. So it came to me to rule on the matter of whether the constitutional provision was that a constitutional amendment could be submitted with 21 votes, when it took 24 votes to apply cloture. I had to pass on almost the exact question that can be raised with respect to this resolution—Did the constitutional provision for 21 votes to submit a constitutional amendment take precedence over the 24-vote requirement for cloture? It was the ruling of the Chair that the 24-vote requirement on the application of cloture applied irrespective of the constitutional amendment.

They asked the advisory opinion of the Supreme Court of Alabama. The court followed the same reasoning that the presiding officer followed, which was that if the rules called for a 24-vote cloture, it did not matter whether the constitution said that 21 votes were enough to submit a constitutional amendment.

So the amendment was not submitted to the people of Alabama, and it resulted in the candidacy of the Governor's wife for Governor of Alabama, and she was elected. It was almost exactly the same point we have here, and the fractions also are the same.

But the ruling of the Senate itself is to the effect that, no matter when an effort is sought to amend the rules, whether it be in the opening days of the Congress, whether it be in the middle of the Congress, whether it be at the end of the Congress, the same rule applied—that debate on an effort to amend the rules can be cut off only with a two-thirds vote.

However, no issue of greater importance will come before the Senate in this session than that which recommends an unwarranted limitation on the right of the Senate to debate important issues. And to do so free from the ominous threat of a Damocleian sword hanging over the heads of Senators—one that can be triggered by cloture—cloture voted in some instances by less than a constitutional majority of the Senate.

I say constitutional majority of the Senate, which, of course, would be 51. It could be less than a constitutional majority. As I pointed out earlier in my discussion, it could be by as few as 34 Senators that debate could conceivably be cut off in the Senate, because it takes only two-thirds of a majority of a quorum of Senators under the rule. Now efforts are being made to liberalize that rule and make it easier to cut off debate.

Consequently, if proponents of further weakening rule XXII persist, the issue will be debated—extensively debated. The proponents know it. They know that they are inviting a needless, time-consuming, and futile paralysis of the U.S. Senate at a most critical time.

The people of the United States expect the Senate to get down to business and to do it promptly. However, if proponents of "gag rule" persist in their folly, let the finger of blame point directly to those who pursue that folly and let them answer to the people for their folly.

In this connection, the distinguished majority leader (Mr. MANSFIELD), has said that he knows of "no suave parliamentary tactics by which to bring legislation to a vote."

Mr. President, the above quotation is from the Congressional Quarterly of February 21, 1964. In the nearly 7 years since then every suave parliamentary tactic in the book and every tactic and device that could be conceived in the fertile minds of the most experienced and brilliant liberal membership of the Senate have been forged into weapons to strike a mortal blow at the constitutional right of U.S. Senators freely and publicly to analyze, evaluate, criticize, debate, and educate the American public from the floor of this forum on issues of vital importance to our Nation. Most of these efforts have failed in the past and I am confident that they will prove futile in this instance.

In the main, most recent efforts in past Congresses to limit debate have centered around ingenious efforts to obtain a particular ruling from the Chair—without which even proponents of "gag rule" have conceded that the present two-thirds vote rule to cut off debate could not be changed.

Mr. President, let me comment first on the novel proposition previously advanced that the U.S. Senate is not, in fact, a continuing body. If one were to accept this idea as a premise, it might reasonably be argued that the Senate at the beginning of a new Congress should determine the rules by which it proposed to conduct its business. However, the premise has been thoroughly demolished. All such inferences drawn from the premise were demolished with it.

As I pointed out earlier, rule XXXII of the U.S. Senate provides that the rules of one Congress carry over to subsequent Congresses, unless amended. That in itself would show that the Senators who put together these rules—and they come down to us from a century or more ago—realized that the Senate was a continuing body. This particular paragraph was added many years later, however.

As a commonsense proposition, the mere idea that the U.S. Senate could consider de novo all of its rules and change them every 2 years, including rule XXII which protects the right of debate, approaches the ludicrous. It would be hard to conceive of any circumstance more disruptive of the continuity of the legislative process than any such power in a simple majority of the Members of the Senate. Yet, proponents of "gag rule" call this a constitutional right in a majority. And as such, one that must be determined by the Senate every 2 years.

Mr. President, I submit that the very method by which the proponents of rule change have proceeded in introducing a resolution applicable only to rule XXII shows, in and of itself, that every other rule is being accepted. If that were not so, all we would have, when we got through, even if they succeeded, would be rule XXII, and nothing else. So it is quite obvious that the proponents of rule change have adopted every single rule in the rule book. They offer an amendment to rule XXII, thereby adopting and accepting, as in full force and effect, every rule of the U.S. Senate, including rule XXII.

The very procedure which was followed with respect to this resolution

shows that they were following the rules of the U.S. Senate for the 92d Congress, continuing over from the 91st Congress. Else why would they not put in a resolution, saying that "For the 92d Congress, the following shall be the rules"? Instead they put in a resolution seeking to amend only rule XXII.

Well, rule XXII must be a rule, or what is there to amend? It has got to be accepted that it is a rule if you are going to amend it. How can you amend a rule that is not in existence, Mr. President?

So, by offering an amendment to rule XXII, they admit that rule XXII is in full force and effect.

Mr. President, I submit Senate Resolution 9, 92d Congress, first session, reading as follows:

In the Senate of the United States, January 25, 1971, Mr. CHURCH (for himself and Mr. PEARSON) submitted the following resolution; which was ordered to lie over under the rule.

What rule? If we have got to start new rules when the 92d Congress convenes, what rules do we travel under? The very manner and method by which the proponents of the amendment have proceeded shows that they recognize that the rules of the 91st Congress are in full force and effect in the 92d Congress, and therefore they must be amended.

As the distinguished Senator from Kansas stated, the Senate has authority to set its own rules under section 5 of article 1 of the Constitution. That is quite true; but if he had even thought that the rules of the 91st Congress did not come over to the 92d Congress, why did not he and the distinguished Senator from Idaho put in a full and complete new set of rules? The answer is that they knew that all of the rules carried forward, and it was incumbent upon them to do what they seek to do by the resolution under discussion—that is, to amend rule XXII.

Let us go on with the reading:

Resolution amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

What rules of the Senate? If we have to establish new rules at each Congress, what rules are we amending?

Resolved, That rule XXII of the Standing Rules of the Senate is amended to read as follows:

Mr. President, I am submitting this examination and analysis of Senate Resolution 9 to prove without question that it is accepted by the proponents of the pending resolution that the rules of the 91st Congress are in full force and effect, and that they have filed their resolution, not as new Senate rules, but as an amendment to rule XXII. Therefore, the present rules of the Senate, coming over from the 91st Congress, would control as regards the limitation upon debate on any matter properly coming before the Senate under the rules.

So the Senate rules for the 91st Congress give any Senator or any group of Senators the right to debate a change in the rules until that debate is cut off under the rule; and the only rule by which debate can be cut off is rule XXII, requiring a two-thirds vote of a quorum of the Senate present.

So, Mr. President, it has been insisted by the proponents that you have to have new rules at each session of the Senate, under the right of the Senate to make its rules. We would have to have rules de novo, then. We would not amend a rule that did not exist. But if, on the 26th day of January, we are considering a resolution to amend rule XXII, where does that rule come from except as a carryover from the 91st Congress? And, by offering an amendment to rule XXII, does that not prove beyond the peradventure of a doubt that the present rules have been accepted, and that the amendment offered is an amendment to the present rules which are now in full force and effect, requiring a two-thirds vote of a quorum of the Senate present, to cut off debate?

If one were to accept this idea that the Senate is not a continuing body, it might reasonably be argued that the Senate, at the beginning of a new Congress, could determine the rules by which it proposes to conduct its business. So obviously we have selected the rules of the 91st Congress, since it is provided by our rules that they carry over, and they have recognized that fact by offering an amendment to those rules.

However, the premise has been thoroughly demolished that the U.S. Senate is not in fact a continuing body. As a commonsense proposition, the mere idea that the U.S. Senate should consider de novo all its rules and change them every 2 years, including rule XXII, which protects the right of debate, approaches the ludicrous. It would be hard to conceive of any circumstance more disruptive of the continuity of the legislative process than any such power in a simple majority of the Members of the Senate.

Now, Mr. President, we go to the proposition that we do not have rule XXII. Admit that for the sake of argument, and we will revert back to the days when there was no cloture provision. How are they going to cut off debate in any fashion, if rule XXII is not a delegation of rights, but a limitation of rights? And that is exactly what it is. Without rule XXII, there is no right to cut off debate. So they have to accept rule XXII in order to have any vehicle by which to cut off debate. So they are seeking to amend that rule, a rule which they say does not exist, because they are making new rules in the Senate.

Yet, the proponents of the gag rule call this a constitutional right in a majority and as such one that must be determined by the Senate every 2 years.

Mr. President, let me comment on just one more discredited argument previously presented by the proponents of "gag rule." I have reference to a motion to move the previous question, a rule we do not have in the Senate. There has been some talk that an effort is going to be made to provide for this method of procedure. This bearded motion had slept, like Rip Van Winkle, well over 100 years, and is as inappropriate to modern senatorial procedures as the horse and buggy is to modern transportation.

Imagine what would happen were this motion revived. What would be the results if a simple majority of the Senators present and voting could put an end to debate? Of course, those who suggest a revival of the Rip Van Winkle motion would presumably limit its application to the opening days of a new Congress. But consider the effects. Every rule in the book could be changed on the whim or caprice of a bare majority every 2 years, without debate.

Mr. President, I heartily concur in the previously cited observation of the majority leader that there are no suave parliamentary tactics to shut off debate, and I applaud the distinguished majority leader when he states that even if there were parliamentary tricks and tactics to silence the opposition, he would not employ them.

I recall very vividly that when the appeal was taken from the ruling of the first session of the last Congress, the ruling of the then President of the Senate (Mr. HUMPHREY) the distinguished majority leader (Mr. MANSFIELD) voted to overrule the ruling of the chair, by his vote stating that he felt that the rules of the preceeding Congress did carry over and had to be amended as provided by the rules before they were supplanted.

It will be said, of course, that the Senate needs to revise its rules to facilitate the transaction of business. In this judgment, I heartily concur. But I concur with the reservation expressed by the distinguished Senator from West Virginia (Mr. BYRD), who has studiously addressed his extraordinary talents and energies to this problem and who has invoked the wisdom of his vast experience to finding a solution. I have alluded to this earlier in my extemporaneous remarks.

On December 31, 1970, Senator BYRD acknowledged a need for certain changes in the Senate rule, but observed:

We do not have to change Rule XXII to get to the neck of that problem . . . the Senate does look bad when it is caught in a log-jam and it cannot extricate itself. But let us not change the wrong rule.

The distinguished Senator from West Virginia (Mr. BYRD) went on to suggest a series of proposed changes that would do much to avoid a repetition of the experience of the last day of the past session of Congress. He proposed an amendment to rule XVI by adding a new paragraph which deals primarily with appropriation bills. Senator BYRD has indicated his intention to resubmit his resolution in this Congress and an intent to conduct hearings to explore the feasibility of his proposal or any other proposal of rules changes that Senators may wish to submit.

Mr. President, reason and practicality argue the wisdom of referring any proposed change in rule XXII to the Committee on Rules and Administration. There, again, we have this very matter before us, as a result of the application of the Senate rules, as provided in the Senate rules, that a resolution to amend the rules of the Senate can be considered only after 1 day's notice. It was on the last legislative day, on Monday, that the distinguished Senator from Idaho (Mr. CHURCH) and the distinguished Senator from Kansas (Mr. PEARSON) filed their resolution together with a notice that today the matter would be called up for consideration. Where did they get that

rule, to proceed in that fashion? If we had had no rules, if each Congress would have to provide new rules, what were they proceeding under when they filed that resolution of 1 day's notice? That is provided in the Senate rules, the rules of the 91st Congress, which have now, under rule XXXII of the Senate rules, become the rules of the 92d Congress.

This very morning, during the morning hour, the resolution was motioned up under the rules, under the rules of the 92d Congress, which are carried over from the 91st Congress, and then, at 15 minutes after the hour of 1 o'clock, under the rules of the 92d Congress, which carried over to us from the rules of the 91st Congress, the resolution was withdrawn from consideration by the Senate under the rule, because it could be considered only for a period of 2 hours after the convening of the Senate. It was at that time that the distinguished Senator from Kansas, also under the rules, moved to bring up for consideration this resolution. It was then that the junior Senator from Alabama made a motion to postpone the important question of the motion to bring up the rules change resolution by moving to postpone the consideration of that motion to the next legislative day, which is the motion we are now discussing.

All these procedures, every single one of them, were taken under the rules of the 92d Congress. They were taken in the 92d Congress under the rules, I submit, of the 91st Congress, which, under rule XXXII of the Senate rules, have now become the rules of the 92d Congress.

The proponents of this rules change show that they recognize that that is correct by their proceeding under the Senate rules.

Mr. President, I sincerely urge the leadership of both parties to get behind a motion to refer any proposed change of the standing rules to the Committee on Rules and Administration.

Now, Mr. President, there again, we are proceeding under the rules of the 91st Congress which allowed this resolution to be considered by the Senate without ever going to the Committee on Rules and Administration. It is the usual custom, except under a special rule of the 91st and 92d Congresses, that a resolution shall go to the Committee on Rules and Administration, but by following the rules of the 92d Congress, formerly the rules of the 91st Congress, it was possible to bring this resolution to the Senate without ever being referred to the Committee on Rules and Administration.

Mr. President, let me urge Senators of both parties to forego this needless waste of time. Let us face it, there is no such thing as unlimited debate. Under standing rules of the Senate, cloture may be invoked by simple procedures. These rules are in effect, one of which—Senate rule XXII—provides in part that:

> 2. The Rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these Rules.

This last rule should not be changed by resort to parliamentary tricks or tactics. For, once again, quoting the distinguished majority leader, Mr. MANSFIELD:

> I can think of nothing better designed to bring this institution into public disrepute and derision than a test of this profound and tragic issue by an exercise in parliamentary pyrotechnics.

We have witnessed over the past few years a series of quantitative changes in Senate rule XXII. Most of these changes have been in the direction of establishing absolute majority rule in the Senate. The adoption of an additional limitation on the right of debate in the Senate in my judgment would lead us dangeriously close to a revolutionary qualitative change in the U.S. Senate as an institution.

It is no secret that some Senators view the prospect of majority rule as "a consumation devoutly to be wished." I shudder to think of the consequences. But let there be no doubt that a qualitative change in the Senate is the ultimate goal and that any further weakening of the protection provided by extended debate will move us closer to that end. Closer also to such far-reaching dangers as to stagger the imagination.

I hope most sincerely that it will not be necessary to discuss at length these possibilities. Yet, it is an unavoidable duty of Senators who foresee dangerous consequences to alert the American people to the issues involved and to do their best to educate the public in the values which would be sacrificed if we further restrict the right of a minority to debate issues which are important to the welfare of this Nation and to the welfare of posterity.

Well, Mr. President, I feel that the force and effect of the Senate rules, as carried over to the 92d Congress from the 91st Congress has been clearly recognized, that any amendment to the Senate rules can be debated at length and that any cutting off of debate will have to be under the rules as they now exist, because the very resolution seeking to amend the rule, amends rule XXII of the Senate, which is now in full force and effect, and will remain in full force and effect in all its particulars until it is amended by action of the Senate in accordance with the rules.

In furtherance, then, of my motion that the motion to proceed to the consideration of the resolution be postponed to the next legislative day, I do hope that the motion will be agreed to, and that on the coming legislative day we will take action on this most important question.

Mr. President, an interesting booklet, a committee print, has been prepared by the Committee on Rules and Administration of the Senate, having to do with the Senate cloture rule. It sets out in chronological order the history of some of the efforts to limit debate in the Senate, going all the way back to 1789.

The first rules in the Senate were adopted, of course, in 1789. The first Senate adopted 20 rules. We have about twice that number at this time.

The rules were modified in 1806. At that time, reference to the "previous question," which had been provided for in the rules of 1789, was omitted. It had been used only three times during the 17 years from 1789 to 1806, and has never since been a rule of the Senate in 164 years.

1807—In the following year, 1807, debate on an amendment at the third reading of a bill was forbidden. From this time until 1846 there were no further limitations on debate in the Senate.

1841—On July 12, 1841, Henry Clay brought forth a proposal for the introduction of the "previous question," which he stated was necessary by the abuse which the minority had made of the privilege of unlimited debate. In opposing Clay's motion, Senator Calhoun said:

> There never had been a body in this or any other country in which, for such a length of time, so much dignity and decorum of debate had been maintained.

He was talking about the Senate prior to 1841 when he was handing out these compliments. Clay's proposition met with very considerable opposition and was abandoned. Clay also proposed adoption of the "hour rule" for the same purpose, but that proposal was also abandoned.

1846—A species of cloture is the unanimous-consent agreement used frequently in this body to request unanimous consent that certain measures will be voted on at a particular time, or at such and such a time a Senator will be allowed to speak for a certain length of time, which does expedite proceedings in the Senate. This is a device for limiting debate and expediting the passage of legislation which dates back to 1846 when it was used to fix a day for a vote on the Oregon bill. Such agreements are frequently used to fix an hour at which the Senate will vote, without further debate, on a pending proposal.

1850—On July 27, 1850, Senator Douglas submitted a resolution permitting the use of the "previous question." The resolution was debated and laid on the table after considerable opposition had been expressed.

This was back in 1850, no limitation whatever on debate in the Senate, whereas rule XXII provides for a very definite and reasonable limitation on debate.

1862—As the business to be transacted by the Senate increased, proposals to limit debate were introduced frequently in the following Congresses, but none was adopted.

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

Mr. ALLEN. For what purpose?

Mr. JAVITS. So that I might ask unanimous consent that the Senator yield to me for the purpose of submitting a substitute for the pending rule change without losing his right to the floor.

Mr. ALLEN. Mr. President, I ask unanimous consent that I might yield to the Senator from New York for the purpose of his submitting an amendment to the pending resolution without losing my right to the floor.

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

PROPOSED AMENDMENT OF STANDING RULES OF THE SENATE—AMENDMENT

AMENDMENT NO. 1

Mr. JAVITS. Mr. President, on behalf of the senior Senator from Michigan (Mr. HART) and myself, I send to the

desk an amendment amending rule XXII of the standing rules of the Senate in the nature of a substitute to Senate Resolution 9.

The Presiding Officer. The amendment will be received and printed, and will lie on the table.

Mr. JAVITS. Mr. President, our proposal would change the rule so that a majority of Senators can vote to limit debate, rather than the two-thirds now required.

This is hardly a new issue for Senator HART and me—and numerous other Senators who have sought for more than a decade to amend rule XXII. We believe that since the Constitution makes no provision for two-thirds votes except in cases of confirmation and constitutional amendments, any rule which imposes these conditions thwarts the intent of the Founding Fathers. During the 1960's, the filibuster enabled opponents to delay the passage of vitally needed civil rights legislation. More recently, it has been used equally successfully by liberals to prevent or delay the passage of legislation of a very different kind. But no matter whether one approves or opposes the end legislative result of the tactic it is clear that as a parliamentary device, it has subjected the Senate to diminution in the people's confidence, and creates in the minds of the press and the public the impression that we cannot get our work done. Americans are wearying of being told that the Senate cannot come to grips with the urgent issues of the 1970's because of the opposition of one-third of its Members. The questions which face our Nation today are too profound to be left unsolved without even a vote.

The beginning of a new Congress is the only opportunity we will have for 2 years to amend this anachronistic rule—XXII. Because we believe that a proposal for three-fifths cloture—as introduced by Senators CHURCH and PEARSON—has a far better chance of adoption than our majority cloture resolution, we will give our full support to the three-fifths proposal and will not call up our resolution for consideration.

Mr. President, we do this so that the membership will be apprised of our view. If the Church-Pearson proposal is not acted upon affirmatively, we reserve the right to call up our proposal.

Mr. President, I ask unanimous consent that my remarks appear in a different place in the RECORD.

Mr. ALLEN. Mr. President, I ask unanimous consent that the remarks of the distinguished senior Senator from New York be printed in the RECORD where given.

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

Mr. ALLEN. Mr. President, the substitute amendment submitted by the senior Senator from New York (Mr. JAVITS) confirms what the junior Senator from Alabama has been suggesting during the course of his remarks, that the change from two-thirds cloture to three-fifths, or 60 percent, cloture is merely the forerunner or an opening wedge for what is really sought, and that is majority cloture.

As a matter of courtesy, the junior Senator from Alabama did yield to the distinguished Senator from New York (Mr. JAVITS) in order that he might submit his substitute proposal. Of course, the junior Senator from Alabama opposes majority cloture or a constitutional majority, 51 percent, just as strongly and more so than he does the pending resolution.

Mr. ERVIN. Mr. President, will the Senator from Alabama yield to me for an inquiry and perhaps a colloquy with the understanding that by his doing so, he will not lose his right to the floor and will not have subsequent remarks that he may make after the interruption count as a second speech?

Mr. ALLEN. Mr. President, I would be delighted to yield under those circumstances. I ask unanimous consent, Mr. President, that I may yield to the Senator from North Carolina under those circumstances.

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

Mr. ERVIN. Mr. President, as I understand it, the Senator from Alabama takes the position that the proposal to change the cloture rule from the present requirement that two-thirds of those present and voting may invoke cloture to 60 percent is merely a way station on the way to having majority cloture.

Mr. ALLEN. So it would seem to the junior Senator from Alabama.

Mr. ERVIN. Mr. President, does not the Senator from Alabama think that the action of the distinguished Senator from New York affords conclusive proof of that fact?

Mr. ALLEN. Yes, I do.

Mr. ERVIN. Does not the Senator from Alabama agree with the Senator from North Carolina that these proposals to act in these various stages bring to mind the story of the man who had a long-tailed dog and cut off a little of the dog's tail at a time to keep it from hurting too much.

Mr. ALLEN. There is a similarity.

Mr. ERVIN. Mr. President, does not the Senator from Alabama infer, as does the Senator from North Carolina, that the proposal presented by the Senator from New York in behalf of himself and the distinguished senior Senator from Michigan (Mr. HART) is based mainly upon the proposition that section 5 of article I of the Constitution provides that each House shall be the judge of the elections, returns, and qualifications of its own Members, and a majority of each shall constitute a quorum to do business, and that any rule that prevents a majority from acting at any time amends the Constitution?

Mr. ALLEN. Mr. President, I agree with the Senator from North Carolina.

Mr. ERVIN. Mr. President, in other words, the provisions of section 5 of article I of the Constitution would be interpreted as depriving the Senate of the power to make a rule that would restrict action by the majority to be valid, then it would be invalid for the Senate to adopt any rules which would have the effect of keeping the Senate from acting at any time and inhibiting the majority.

Mr. ALLEN. Mr. President, it looks like that would follow.

Mr. ERVIN. So any rule of the Senate except those that might have constitutional sanction like the rule which requires two-thirds of the Senate to expel a Member, all other rules of the Senate would be unconstitutional if they provided that a majority were delayed for as much as a single second in imposing its will upon the Senate and the country.

Mr. ALLEN. That would seem to me to be true.

Mr. ERVIN. So the result of the theory which underlies the proposal of the distinguished Senators from New York and Michigan is that notwithstanding the provision that says that each House may determine the rules of its proceedings, neither the Senate nor the House can ever adopt a rule which says anything except that the majority of the Senate or the majority of the House can act at any time on any proposition without any inhibitions or any delays.

Mr. ALLEN. That seems to me to be true.

Mr. ERVIN. So, that theory would negative the theory of the Constitution that each House may determine the rules for its own proceedings and it would be a vain thing to adopt any rule unless it says that the majority can act at any time.

Mr. ALLEN. That appears to the Senator from Alabama to be true.

Mr. ERVIN. Mr. President, can the Senator from Alabama imagine greater chaos and greater bedlam than would prevail in a legislative body that could have no constitutional rule for its government except the rule that the majority could act at any time without any delay?

Mr. ALLEN. It would certainly make for chaos.

Mr. ERVIN. I thank the Senator. I commend the Senator for his very fine exposition of the constitutional basis of the power of the Senate to adopt as a continuing body continuing rules. The Senate could not be a continuing body unless it had the power to adopt continuing rules.

Mr. ALLEN. That is correct. I appreciate the comments of the distinguished Senator from North Carolina.

Mr. President, at this time I wish to make a parliamentary inquiry as to the exact status of the amendment presented by the distinguished Senator from New York with respect to his amendment.

The PRESIDING OFFICER (Mr. CHURCH). The Senator will state it.

Mr. ALLEN. Has it been offered as a substitute to the pending Church-Pearson resolution? Does it merely lie on the Secretary's desk to be called up by the distinguished Senator from New York?

The PRESIDING OFFICER. The amendment has been submitted for printing, to lie on the table, and it has not been offered as a substitute.

Mr. ALLEN. As to that, I would raise the point of order that if it has been offered separately, it does not comply with the 1-day notice rule of the Senate.

The PRESIDING OFFICER. It has not been offered as an amendment to the pending measure or as a separate resolution.

Mr. ALLEN. Yet the distinguished Senator from New York said he would insist upon the amendment if the resolution offered by the distinguished Senator from Idaho and the distinguished Senator from Kansas was not adopted, indicating it occupies an independent status.

The PRESIDING OFFICER. At this point, it occupies no status at all. It was submitted to be printed. Until it is called up as an amendment, it has no status.

Mr. ALLEN. Mr. President, could it be submitted at all in the absence of the 1-day notice, since it amends the rules and a 1-day notice is required?

The PRESIDING OFFICER. If it were submitted as a separate resolution, that would be required.

Mr. ALLEN. He said he would not insist upon it unless the present resolution failed of adoption.

I was asking a question as to the exact status of the Senator's resolution or amendment.

Mr. JAVITS. Mr. President, will the Senator yield without losing his right to the floor?

The PRESIDING OFFICER. The Chair will state that the Senator from New York was speaking in futuro. He has simply submitted the amendment in the form of a substitute for the purpose of having it printed. But it has not been called up, and it has no status.

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

Mr. ALLEN. I yield.

Mr. JAVITS. That is exactly correct. The Chair has stated it correctly. I submit it in the nature of an amendment, but I do not call it up.

Mr. ERVIN. Mr. President, a parliamentary inquiry, if the Senator from Alabama will yield.

Mr. ALLEN. I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. ERVIN. Mr. President, the Senator from New York stated, if the hearing apparatus of the Senator from North Carolina is in working order, that he would not call it up at all unless the resolution proposed by the distinguished Senator from Idaho and the distinguished Senator from Kansas was defeated. Therefore, it cannot be an amendment.

Mr. JAVITS. Mr. President, will the Senator yield without losing his right to the floor?

Mr. ERVIN. I am asking a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BELLMON). The Senator is correct. Once the resolution is acted on, the amendment would not be in order.

Mr. JAVITS. Mr. President, I suggest two instances to the Senator where my words are accurate. First, if this should be tabled entirely, then I could call it up independently; second, if it should be talked to death, we might decide at that time that is the end of it, and it is defeated for practical purposes, and we could call it up as a substitute. I do not see any legal validity of a position on that particular subject so long as I have not called it up and have just asked that it be printed.

The PRESIDING OFFICER. The Senator would not be precluded from offering it as a separate resolution.

Mr. JAVITS. I thank my colleague.

Mr. ALLEN. At what point would it not require 1 day's notice, since it changes the rules?

The PRESIDING OFFICER. The Chair will state that introducing it and calling it up for vote are two separate things. He could introduce it. Then it could be acted on under the Senate rules.

Mr. ALLEN. I thank the Chair for clarifying the question.

I wish to point out some of the efforts in the last 100 years or more to change some of the procedures in the Senate with respect to choking off or closing debate in the Senate.

On July 27, 1850, Senator Douglas submitted a resolution permitting the use of the "previous question." The resolution was debated and laid on the table after considerable opposition had been expressed.

In 1862, as the business to be transacted by the Senate increased, proposals to limit debate were introduced frequently in the following Congresses but none was adopted until the Civil War. On January 21, 1862, Senator Wade introduced a resolution stating that:

> In consideration in secret session of subjects relating to the rebellion, debate should be confined to the subject matter and limited to 5 minutes, except that 5 minutes be allowed any member to explain or oppose a pertinent amendment.

On January 29, 1862, the resolution was debated and adopted.

In 1868 a rule was adopted providing that:

> Motions to take up or to proceed to the consideration of any question shall be determined without debate, upon the merits of the question proposed to be considered.

Subequent to that the Senate very wisely amended its rule and provided that motions to take up could be debated and once the motion that the junior Senator from Alabama made to postpone consideration of the motion to take up is disposed of, we will get down to the motion to take up. Then, if that is ever passed, we will get to the resolution having to do with the rules change.

Back in 1868, though, they did have a rule that the motion to take up or proceed to the consideration of any question shall be determined without debate. The Senate has very wisely changed that provision.

The object of this rule, according to Senator Edmunds, was to prevent a practice which had grown up in the Senate:

> When a question was pending, and a Senator wished to deliver a speech on some other question, to move to postpone the pending order to deliver the speech on the other question.

Of course, in the Senate now it is not necessary to postpone or substitute motions because a Senator can discuss any matter, whether germane or not, after 3 hours following the laying down of the unfinished business and the transaction of any business—only during that first 3 hours must discussion be germane. However, we have been discussing this for quite a few hours, and it would be my thought that discussion should be germane. I do not think we will have any difficulty making all of our discussions germane to the question of whether or not the Senate rules should be amended and whether or not it should be made easier to choke off or to gag debate in the Senate.

According to Mr. Turnbull, the object of the rule was to prevent the consumption of time in debate over business to be taken up. The rule was interpreted as preventing debate on the merits of a question when a proposal to postpone it was made.

In 1869, a resolution pertaining to the adoption of the "previous question" was introduced, and three other resolutions limiting debate in some form were introduced in the first half of 1870; but there is no indication that they were accepted. They were only introduced.

In 1870, the Senate, on appeal, sustained the decision of the Chair that a Senator may read in debate a paper that is irrelevant to the subject matter under consideration.

On December 6, 1870, in the third session of the 41st Congress, Senator Anthony, of Rhode Island, introduced the following resolution:

> On Monday next, at 1 o'clock, the Senate will proceed to the consideration of the Calendar and bills that are not objected to shall be taken up in their order; and each Senator shall be entitled to speak once and for 5 minutes, only, on each question; and this order shall be enforced daily at 1 o'clock till the end of the Calendar is reached, unless upon motion, the Senate should at any time otherwise order.

I am sure most Senators recognize that as the basis or substance of what is now rule VIII of the U.S. Senate.

On the following day, December 7, 1870, the resolution was adopted. This so-called Anthony rule for the expedition of business was the most important limitation of debate yet adopted by the Senate. But, as we all recall, rule VIII is very, very seldom used here in the Senate.

The rule was interpreted as placing no restraints upon the minority, however, inasmuch as a single objection could prevent its application to the subject under consideration. So this limitation would not apply if one Senator made an objection.

On February 22, 1871, another important motion was adopted which had been introduced by Senator Pomeroy and which allowed amendments to appropriation bills to be laid on the table without prejudice to the bill.

Since a precedent established in 1872, the practice has been that a Senator cannot be taken from the floor for irrelevancy in debate.

I am sure that that ruling gave rise to the so-called Pastore rule, which, as I said a moment ago, provides that for the first 3 hours after the unfinished business is laid before the Senate or any business is transacted in the Senate, debate must begermane on the question before the Senate. It is a very fine rule and does expedite the business of the Senate, which certainly we all are striving to achieve—to expedite the business here in the Senate and bring matters up for

discussion and final decision at the earliest possible moment.

I feel sure, as we have discussed this matter to the point of postponing it to the next legislative day, after a reasonable amount of debate on the next legislative day we will get down to the consideration of the question pending at that time before the Senate.

On April 19, 1872, a resolution was introduced "that during the remainder of the session it should be in order, in the consideration of appropriation bills, to move to confine debate by any Senator, on the pending motion, to 5 minutes." On April 29, 1872, this resolution was finally adopted, 33 yeas to 13 nays. The necessity for some limitation of debate to expedite action on these annual supply measures caused the adoption of similar resolutions at most of the succeeding sessions of Congress.

I believe this is one area the Senate is overlooking, and I believe that there is a fairly general feeling that some more reasonable or less stringent requirement than a two-thirds majority be applied to such matters as appropriation bills and revenue bills. As I pointed out earlier, one of my own predecessors in the office of U.S. Senator from the State of Alabama, Senator Oscar W. Underwood, did propose, way back in 1926, a resolution to limit debate by majority vote on appropriation and revenue bills. I am not absolutely sure that I would be willing to go along on that, because huge appropriation bills are part and parcel of the effort to make big government bigger, to add to the mushrooming of Federal bureaucracy, to concentrate power in the executive government, to concentrate power in Washington.

I noticed that one of the Members of the other body, in commenting on the President's state of the Union address, said that after listening to it and reading it he still did not know what the state of the Union was; that nowhere in the state of the Union address did the President state what the state of the Union was.

And he commented on the proposition that the President is talking about sending money back to the people back home from Washington. He offered the simple, and I fear all too simple, suggestion that instead of collecting money from the people and then sending it back home, we just ought to collect less from the people back home, and that would accomplish the same thing. But I have no feeling that that policy will be pursued.

But there is reason for feeling that appropriation bills and revenue bills might possibly have a little stronger case in the matter of closing out debate than other matters.

The distinguished Senator from West Virginia (Mr. BYRD) made that suggestion during the closing days of the last Congress. I believe, certainly with respect to appropriation bills, that was one type of bill that did hold the Senate up in the final days of the 91st Congress.

In March 1873 Senator Wright submitted a resolution reading in part that debate shall be confined to and be relevant to the subject matter before the Senate, and that the previous question may be demanded by a majority vote or in some modified form. On a vote in the Senate to consider this resolution the nays were 30 and the yeas 25—thereupon turning down the use of the previous question, which would close off the right to debate at any time.

In 1879 the Chair counted a quorum to determine whether enough Senators were present to do business.

Mr. ERVIN. Mr. President, will the Senator from Alabama yield to me to give a quotation from Senator Moses, of New Hampshire, on the question of the previous question, with the understanding that by so doing he will not lose the floor or have his subsequent remarks counted as a separate speech?

Mr. ALLEN. I will be glad to yield under those conditions.

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

Mr. ERVIN. Senator George H. Moses of New Hampshire had this to say about the use of the previous question in the early days of the Senate, which shows that the previous question, as used in the Senate in those days, was quite different and had quite a different effect from the previous question as used in other legislative bodies:

> Debate in the Senate in its early days had few restraints. The previous question existed, but in a rudimentary form only as modern parliamentarians would regard it. It was itself debatable; it could not be used upon amendments; nor could it be applied while sitting in Committee of the Whole. In this form it stood in the Senate rules for 17 years, during which it was moved only 4 times and only 3 times carried.

In other words, he pointed out in this statement that while the Senate had a procedure called the previous question, it was not the previous question at all in the modern sense of that term, in that when you moved the previous question in those days in the Senate, the motion itself was debatable; so it was not really the previous question in its present form at all, according to Senator Moses.

Mr. ALLEN. I appreciate that information. Certainly, if the previous question should be debatable, you would be back exactly where you were before with the main question before you. So certainly even the adoption now of the previous question would be no different from debating the main issue, as we have a right to do now. I appreciate that information.

It is stated that from 1873 to 1880, nine other resolutions were introduced confining and limiting debate in some form. I say all of this, Mr. President, to point out that the matter of limiting debate has been up time and time again in the U.S. Senate, and, as a result of the experience of this body—this continuing body, Mr. President, if you please—based upon looking back through the decades to the early days of this Nation, way back to 1789, when the Constitution was adopted by the requisite number of States, and we had the first Congress—you know, you can always tell the age of our Nation under the Constitution by multiplying the number of the Congress that you have just completed by two, and you get the age of the Nation under the Constitution. We have just completed the 91st Congress, so we are 182 years old under the Constitution.

Based on this 182 years of experience of the Senate as a constitutional body, and with the scores of great men who have sat in this Chamber—and I believe this very Chamber here was first occupied in 1859, after the Senate had stayed in the old Supreme Court room just down the hall 40 years, from 1819 to 1859. I was interested in reading just the other day that one of the very first acts of the U.S. Senate after occupying the Chamber just down the hall back in 1819 was to pass a resolution admitting the State of Alabama to the Union of States.

The Senate sat there from 1819 to 1859, and then in this Chamber here, I assume with the same outline of the present Chamber, since 1859, during which time we have had such great Senators as those whose portraits appear out in the reception room, Webster, Clay, Calhoun, Robert A. Taft, and Bob LaFollette, who were chosen as the five greatest Senators of all time. We have had the advantages of their experience, their legislative know-how, and their political philosophies to guide us, and the attempts that have been made all through these decades, through these 182 years, to limit debate; and we have refined those various efforts and those various thoughts, and now we can reach in and pull out the finished product, which is what we have ended up with as rule XXII. I have read all these efforts that have been made in past times to limit debate in the U.S. Senate, and what we finally have come up with as being fair to the majority and fair to the minority, based on this experience that the Senate has had. It is not something that we just passed hurriedly last session or the session before; it is a refinement of all of the thoughts of great Senators in the past having to do with limitation of debate in this body, the protection of minorities, the recognition of the rights of majorities, the general welfare of all the people of this country, and we have come up with a provision saying that we do not have unlimited debate in the U.S. Senate.

We speak sometimes of there being unlimited debate. I guess the only way you could actually have unlimited debate would be that if someone gains the floor on a debatable subject, he has the right to speak without limitation; he can talk as long as the words will come forth from his mouth, and as long as his physical stamina will permit him. That is the only type of unlimited debate that we have in the Senate, because debate as a whole can be cut off, with a very reasonable requirement that if the merits of the proposal are so preponderant that they are obvious to two-thirds of the Members of this body, then that two-thirds can say to the one-third, "We are going to let you debate a reasonable length of time, and then we are going to close off debate," and that is the provision that is made by rule XXII, far from granting unlimited debate. We do not have unlimited debate in the U.S. Senate. Based on our experiences in the past and the refinement of all of the suggestions that have been made down through the generations from 1789 to the present time, what has been concluded to be right and fair is rule XXII.

Now, as the distinguished Senator from New York seeks to do, and as I suggested in my early remarks what is really sought by the resolution under consideration, is whether this is an entering wedge to majority cloture by a constitutional majority, which would be 51. And if we ever get to where 51 Senators can shut off debate, we shall have absolute rule by a majority, with no protection for the rights of minorities. Minorities today may be majorities later, and if the majority today in years to come becomes a minority, it will certainly regret ever having run roughshod over the rights of the minority.

The distinguished Senator from New York (Mr. JAVITS) was violently opposed to the trade bill, and served notice that he was going to debate it at length. I do not know whether he spoke of filibustering it, because it has been the observation of the junior senator from Alabama that when a Senator from one of the Southern States speaks at length, or even not so much at length, on a question, he is said to be filibustering, but that is not always the word that is applied to Senators from other sections of the country. But the Senator from New York did state that he was going to speak at length against the trade bill.

The Senator from Wisconsin was able to defeat the full funding of the SST by a filibuster. Yet, I understand that he favors the pending resolution.

The very people who made use of the extended discussion in the 91st Congress are some of the very people who are seeking now to make it easier to cut off debate.

So I would say to the distinguished Senator from New York (Mr. JAVITS) that if we get this constitutional majority cloture, we are going to see enacted by the Senate the trade bill that he opposes so adamantly. I say to the distinguished Senator from Wisconsin, who is fighting the SST, that if we get majority cloture in the Senate, we are going to see the executive department, the administration, put through whatever requested appropriations they want, whether it be for the SST, whether it be for foreign aid, or whatever it may be for.

So I would say to them that, whereas in the past it has been southerners who have been discussing at length any change in the filibuster rule, it is the Senators of liberal thought, as he, himself, said in his short statement when he submitted an amendment to the pending resolution, who used the filibuster toward the end of the 91st Congress.

Mr. President, those who are going to seek to modify and change the cloture rule to provide for majority rule cloture are going to find that the devices they were able to use and employ in defeating proposed legislation they wanted to defeat are no longer going to be available to them.

Rule XXII, as I have stated, is not a conferring of the right to unlimited discussion or extended discussion. It is a limitation on the right to extended discussion. So if we fix it to where a majority can cut off debate, we are going to have no rights whatever in the minority that cannot be trampled upon by a simple majority vote.

On February 16, 1881, a resolution to amend the Anthony rule was introduced. The Anthony rule was the forerunner of rule VIII. This proposed to require the objection of at least five Senators to pass over a bill on the calendar. The resolution was objected to as a form of "previous question" and defeated. Senators did not like the previous question debate in those days, and I trust that they have the same regard for the previous question.

Senator Edmunds, in opposing the resolution, said:

> I would rather that not a single bill shall pass between now and the 4th day of March than to introduce into this body (which is the only one where there is free debate and the only one which can under its rules discuss freely measures of importance or otherwise) a provision which does in effect operate to carry a bill either to defeat or success with only a 5 or 15 minutes' debate and one or two Senators on a side speaking.

Mr. President, those words, uttered February 16, 1881, 90 years ago, could very well have been uttered here on the floor of the Senate in connection with this debate. He refers to the Senate as the only one—the only legislative body, that is—"where there is free debate and the only one which can under its rules discuss freely measures of importance or otherwise." Right there, Senator Edmunds put his finger on the fact that makes for the greatness of the U.S. Senate. It is the only legislative body "where there is free debate and the only one which can under its rules discuss freely measures of importance or otherwise."

So he said he would rather not a single bill pass between February 16 and March 4 than to introduce into this body a provision which does in effect operate to carry a bill either to defeat or success with only a 5 or 15 minutes' debate and one or two Senators on a side speaking. That is a danger that he foresaw if this type of rules change should be made, to limit debate in that fashion. He said:

> I think it is of greater importance to the public interest, in the long run and in the short run, that every bill on your Calendar should fail than that any Senator should be cut off from the right of expressing his opinion and the grounds of it upon every measure that is to be voted upon here * * *.

Mr. President, if we do provide for majority cloture in the Senate, if we do provide for three-fifths or 60 percent cloture in the Senate, and later move to majority vote, the Senate is going to lose its greatness as a legislative body. It is going to be a slow moving computer. That is what the Senate would degenerate into. We might as well set up a computer center on this floor for the Senators back in their home States to feed into the computer the information as to how they stand on various bills, make this Chamber into a big computer, and Senators would never have to leave their home States. We would just grind out these bills, tabulate them, press the button on the computer, and find out whether this bill passed or that bill passed or the other bill passed. We would not need the Senators here in person to express their views, to express the views of their constituents, to express the opinions of their home folks on measures pending before the U.S. Senate. That is where we are headed if we go to majority vote cloture.

In 1881, the Senate agreed, for the remainder of that session, to limit debate to 15 minutes on a motion to consider a bill or resolution, with no Senator to speak more than once or for longer than 5 minutes. That was February 12, 1881, when doubtless, at that time, the Congress went on up to possibly the 3d of March so that only 20 days were left in the session, and the Senate agreed to remain in session to limit debate. That was a temporary expedient for the purpose of limiting debate for the next 20 days of that session—not a permanent rule of the Senate.

1882—On February 27, 1882, the Anthony rule was amended by the Senate, so that if the majority decided to take up a bill on the calendar after objection was made the ordinary rules of debate without limitation would apply. The Anthony rule could only work when there was no objection whatever to any bill under consideration. When the regular morning hour was not found sufficient for the consideration of all unobjected cases on the calendar, special times were often set aside for the consideration of the calendar under the Anthony rule.

1882—On March 15, 1882, a rule was considered whereby "a vote to lay on the table a proposed amendment shall not carry with it the pending measure." In reference to this rule Senator Hoar of Massachusetts, said:

> Under the present rule it is in the power of a single Member of the Senate to compel practically the Senate to discuss any question whether it wants to or not and whether it be germane to the pending measure or not * * *. The proposed amendment to the rules simply permits, after the mover of the amendment, who of course has the privilege, in the first place, has made his speech, a majority of the Senate if it sees fit to dissever that amendment from the pending measure and to require it to be brought up separately at some other time or not at all.

This proposed rule is now rule XVII, of the present Standing Rules of the Senate.

1883—On December 10, 1883, Senator Frye of Maine, chairman of the Committee on Rules, reported a general revision of the Senate rules. This revision included a provision for the "previous question." Amendments in the Senate struck this provision out—they did not want the "previous question." That was in 1884, a period when they were seeking to amend the rules right and left. I believe Grover Cleveland was President then. He was the reform minded President of that day although he would not be so considered today.

1884—On January 11, 1884, the present Senate rules were revised and adopted. So, in effect, since 1884, we have had the present rules of the Senate—87 years.

On March 19, 1884, two resolutions introduced by Senator Harris were considered and agreed to by the Senate as follows:

> (1) That the eighth rule of the Senate be amended by adding thereto: All motions made before 2 o'clock to proceed to the consideration of any matter shall be determined without debate.

That rule, which was employed this morning, was put in in 1884. The Senator from Idaho (Mr. CHURCH) used that rule this morning when he moved to ask consideration of his resolution seeking to amend rule XXII. There was no debate at that time. That shows how intricate the Senate Rules are. The rule said before 2 o'clock and that was because the Senate traditionally meets at 12 and any time before 2 o'clock, according to this rule, one can move to bring up a matter and have it decided without debate whether he could bring it up and we could discuss it and debate the question itself for 2 hours, or until 2 o'clock. In the case of today it was to 1:15 p.m. because we met at 11:15 a.m.

Then when the hour of 1:15 p.m. came today, just like Cinderella in her carriage, the resolution turned into something else. It dropped down and went to the calendar and then one would have to move to bring it up. Then, at that time, the motion was made to carry over until tomorrow the question of whether the measure should be brought up. This rule was put in back in 1884, and it was employed this morning, and for a short time we did discuss the resolution itself. We are removed from it now a couple of degrees, because now the motion is made to bring it up for consideration, a motion made to carry that over until the next legislative day, so that we are a couple of degrees off on the resolution itself at this time.

(2) That the tenth rule of the Senate be amended by adding thereto: All motions to change such order or to proceed to the consideration of other business shall be decided without debate.

From this time until 1890 there were 15 different resolutions introduced to amend the Senate rules as to limitations of debate, all of which failed of adoption.

So the Senate has been jealous of its rules. It has been jealous of the great name the Senate has, as the greatest deliberative body in the world. It wants to see every Senator, representing one of our sovereign States, have the right to speak for his constituents and for the people of this country on any matter pending before the Senate.

So the Senate has taken a dim view of amendments to its rules. As I stated, from 1884 to 1890, 15 different resolutions to amend the Senate rules as to a limitation of debate were introduced, all of which failed of adoption.

1884—Senate agreed—March 17—to amend rule VII by adding thereto the following words:

The Presiding Officer may at any time lay, and it shall be in order at any time for a Senator to move to lay, before the Senate any bill or other matter sent to the Senate by the President or the House of Representatives, and any question pending at that time shall be suspended for this purpose. Any motion so made shall be determined without debate.

That is still one of the Senate's rules adopted in 1884.

1886—Senate agreed to strike out the words, "without debate," from that part of rule XIII which provided that "every motion to reconsider shall be decided by a majority vote."—June 21, 1886.

Of course, that is used when a measure, bill, or resolution is up for passage and whether it passes or fails, any Senator who voted with the prevailing side, or who was absent at the time has the right to move to reconsider the vote by which the action of the Senate took was taken, whether it was passing the bill or resolution or defeating it.

Prior to 1886, a motion to reconsider had to be voted upon without debate. In 1886, the Senate wisely struck out the provision "without debate," leaving that open for debate.

So, when a measure is passed and someone that voted on the prevailing side feels that he voted wrong, he has a right to move to reconsider, and that matter is then up for consideration and debate in the Senate. That is as it should be, because if he changes his mind and decides that he voted wrong and does move to reconsider, he should have a right to explain his reasoning in changing his vote or in voting differently from the way he did before.

1890—Hoar, Blair, Edmunds, and Quay submitted various resolutions for limiting debate in various ways—August 1890.

1890—On December 29, 1890. Senator Aldrich introduced a cloture resolution in connection with Lodge's "force bill," which was being filibustered against. The resolution read, in part, as follows:

When any bill, resolution, or other question shall have been under consideration for a considerable time, it shall be in order for any Senator to demand that debate, thereon be closed. On such demand no debate shall be in order, and pending such demand no other motion, except one motion to adjourn, shall be made * * *.

There were five test votes on the cloture proposal which "commanded various majorities, but in the end it could not be carried in the Senate because of a filibuster against it which merged into a filibuster on the 'force bill.' "

The force bill was where they were going to suspend the election laws of certain States of the Union.

1893—Platt, Hoar, Hill, and Gallinger introduced resolutions for cloture by majority action during a filibuster against repeal of the silver purchase law, which evoked extended discussion.

1893—Sherman of Ohio urged a study of Senate rules with a view to their revision and the careful limitation of debate.

1897—Chair ruled on March 3, 1897, that quorum calls could not be ordered unless business had intervened.

1902—Senate agreed—April 8—to amend rule XIX by inserting at the beginning of clause 2 thereof the following:

No Senator in debate shall directly or indirectly by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

No Senator in debate shall refer offensively to any State of the Union.

1908—Three important interpretations of the rules were adopted in the course of the filibuster against the Aldrich-Vreeland currency bill: one, the Chair might count a quorum, if one were physically present, even on a vote, whether or not Senators answered to their names; two, mere debate would not be considered business, and therefore more than debate must take place between quorum calls.

Mr. President, I do not understand that is the rule in the Senate today. Quorum calls can be asked for even without intervening business according to this Senator's understanding.

Third, Senators could by enforcement of the rules be restrained from speaking on the same subject more than twice in the same day.

1911—April 6, 1911, Senator Root of New York, submitted a resolution requesting the Committee on Rules to suggest an amendment to the Senate Rules whereby the Senate could obtain more effective control over its procedure. No action was taken on the resolution.

Back in 1911 they were talking about more effective control of the procedure. That is 60 years ago. So, some of the circumstances we have had in the U.S. Senate recently are not altogether novel procedures by any matter or means.

In 1914—Smith of Georgia proposed a rule of relevancy.

I assume that had to do with relevancy of debate. As I suggested earlier, we do have a Pastore rule which does require relevancy of debate for the first 3 hours of debate on a question or, more particularly, for 3 hours after the unfinished business is laid down or any business transacted in the Senate. So, we do have a rule of relevancy now. It is the hope of the junior Senator from Alabama that all debate on this question will be relevant. He points out the various efforts to amend the Senate rules back in time past to show that the present Senate rule is an outgrowth of the work and the efforts and the abilities of great Senators that we have had in the past who have studied this question and that we have had the opportunity and have availed ourselves of the opportunity in the Senate by the adoption of rule XXII back in 1917.

All of this information and all of this experience and all of this dedication of the great Senators in the past, this distilled information, this perfected information, has emerged as Senate rule XXII today.

So the junior Senator from Alabama feels that any discussion of past efforts to limit debate in the Senate is relevant to a question of whether debate should now be further limited under the rules of the Senate.

September 17, 1914—Senate decreed that Senators could not yield for any purpose, even for a question, without unanimous consent; but reversed itself on this ruling the next day, September 18.

The Senate was not very consistent in its actions on the different days.

1915—February 8, 1915, Senator Reed of Missouri introduced a resolution to amend rule XXII whereby debate on the ship purchase bill:

S. 6845 shall cease, and the Senate shall proceed to vote thereon * * *.

The resolution did not pass in this session.

In 1916 it said that from December 15 to September 8, 1916, the first or "long"

session of the 64th Congress, there were five resolutions introduced to amend rule XXII. Those terms are going to fall into disuse, I believe. I think we will have to confine ourselves to using the term, the first session or the first year of the Congress, because I do not believe we properly identify it when we speak of the long session of Congress. They are all 12-month sessions. So, we will have to drop the word "long" because that might just as well refer to the second session or the second year of a 2-year session of Congress.

The notes here say that from December 1915, to September 8, 1916, the first or "long" session of the 64th Congress, there were five resolutions introduced to amend rule XXII.

They are always attacking rule XXII. There are many attacks, but few successes.

The resolutions acted upon were Senate Resolution 131 and Senate Resolution 149. On May 16, 1916, the Committee on Rules reported out favorably Senate Resolution 195 as a substitute for Senate Resolution 131 and Senate Resolution 149, which had been referred to it, and submitted a report—No. 447. The resolution, providing for two-thirds' cloture by those voting, was debated but did not come to a vote.

Mr. President, this was the start of the effort that later culminated in the adoption of the cloture provision of rule XXII. In 1916 the resolution providing for two-thirds cloture by those voting was debated but did not come to a vote. That is the provision we now have in rule XXII. It did not pass in 1916.

In 1916 and 1920 the Democratic national platforms for both years included a statement that—

> We favor such alteration of the rules of procedure of the Senate of the United States as will permit the prompt transaction of the Nation's legislative business.

They were shooting at that time for two-thirds cloture which we now have.

On March 4, 1917, President Wilson made a speech in which he referred to the armed ship bill, defeated by filibustering. The President said in part:

> The Senate has no rules by which debate can be limited or brought to an end, no rules by which debating motions of any kind can be prevented. * * * The Senate of the U.S. is the only legislative body in the world which cannot act when its majority is ready for action. * * * The only remedy is that the rules of the Senate shall be altered that it can act. * * *

As I stated in earlier remarks during my brief discussion here this afternoon on this subject, the effort by President Wilson to obtain a cloture provision in the rules of the Senate was occasioned by a filibuster that was held, had, or resorted to the armed ship bill. This was just before the United States went into World War I. The President proposed the arming of the merchant marine to allow these vessels to defend themselves against attacks by German submarines, certainly a most reasonable request by the Executive.

As I pointed out earlier today, it is a typical example of the great growth of the executive department, the great growth of the Presidency, and the added strength or assumption of rights and authority by the President in recent years. It illustrates very forcefully the great growth in Presidential power and Presidential prerogatives in the time from 1917 down to the present time.

If in hostilities, certainly a declared war, or certainly under conditions that might exist today, a President on being met with the need to authorize the merchant marine to arm itself, would make that decision himself before breakfast if the matter were presented to him. He would not consult with anyone because it would be so elementary that it should be done. But back in 1917 President Wilson felt he needed to go to Congress to get this authorization.

A certain number of Senators—it could have been 12, but I believe it was fewer than 12—filibustered against that measure feeling that it would take America into war against Germany and the central powers. The bill was defeated. President Nixon castigated the Senators who had killed the bill. He referred to them as—

> This little group of willful men representing no opinion but their own have caused the government of the great United States to come to a halt.

And he said:

> We have to get the rules in the Senate changed so this will not happen again.

If they had the present two-thirds cloture provision in rule XXII they would not have had any trouble back then closing the debate because, as I have said, there were only some 12 Senators out of 96 who participated in the filibuster. There would have been no difficulty if we had had the cloture provision of rule XXII at that time.

So what was adopted was the present rule, with possibly some modest change. One time it required a constitutional two-thirds to cut off debate, but in recent years that number has been changed to two-thirds of those present and voting. Prior to 1917 there was no cloture in the Senate. But through the efforts of President Wilson the present cloture provision was provided for in the Senate. That was sufficient to accomplish the requirements of the President. It is sufficient now to get action on any bill that two-thirds of the membership of the Senate desires; and you should have at least a two-thirds majority of the Senators agreeing on the merits of a bill before arbitrarily cutting off rights of the remaining one-third of the Senators to speak their convictions on the floor of the Senate. Without this right, the Senate ceases to be the great deliberative body it is. Without this right, legislation can be rammed through this body just as it is in the other body.

Mr. President, you are not going to have any separation of powers as between the executive and the legislative branch. You are going to have the bureaucracy of the national government in complete control of this body whenever you provide for majority cloture or whenever you allow the opening wedge of 60 percent cloture to be provided for.

So, Mr. President, rule XXII limiting debate and not providing for debate is a sufficient limitation upon the Members of this body. If we do not have some measure of extended debate by minorities in the Senate we will see the Senate, as was said just this morning by the distinguished Senator from Arkansas (Mr. FULBRIGHT), degenerate to the point that it will become merely a ceremonial body, not unlike the House of Lords in England or the Upper Body in Canada.

If we are going to maintain separation of powers, if we are going to offer any resistance to the continued escalation and enlargement of big government, Federal bureaucracy, concentration of power in the hands of the Executive and in the hands of the National Government, we need what little protection is left to us in the Senate by rule XXII. Rule XXII does not give us the right of debate; it merely puts a limitation on that right. It is a sufficient limitation. It should not be changed.

Going on with the history of the effort to limit debate in the Senate—and I shall digress from time to time in this discussion—in 1917, on March 5, the Senate was called in extraordinary session by the President because of the failure of the armed ship bill in the 46th Congress, the bill to which I just referred.

On March 7, 1917, Senator Walsh of Montana introduced a cloture resolution (S. Res. 5), authorizing a committee to draft a substitute for rule XXII, limiting debate. Senator Martin also introduced a resolution amending rule XXII—similar to Senate Resolution 195, favorably reported by the Committee on Rules in the 64th Congress. The Martin resolution was debated at length and adopted March 8, 1917, 76 yeas and 3 nays. It provided for cloture on a "pending measure" if two-thirds of those present and voting so voted. That is the very provision that we now have in the U.S. Senate.

On May 4, 1918, Senator Underwood, of Alabama—and I believe at that time he was Democratic leader in the Senate—introduced a resolution (S. Res. 235) further amending rule XXII, reestablishing the use of the "previous question," and limiting debate during the war period.

On May 31, 1918, the Committee on Rules favorably reported out Senate Resolution 235 with a report (No. 472).

June 3, 1918, the Senate debated the resolution and Senator Borah offered an amendment.

June 11, 1918, the Senate further debated the resolution and a unanimous-consent agreement was reached to vote on the measure.

June 12, 1918, the resolution was further amended by Senator Cummins.

June 13, 1918, the Senate rejected the resolution; nays, 41, and yeas, 34.

That was for the use of the previous question to limit debate during the war period, and even then the Senate turned it down.

From March 4, 1921, to March 4, 1923, during the 67th Congress, five resolutions were introduced to limit debate in some form. These were referred to the Committee on Rules.

As I suggested earlier, the very fact that this resolution is up for considera-

tion at this time is because of the rules of the 92d Congress, which come to us from the 91st Congress and are carried over. It is in recognition of those rules that this measure is up for consideration at this time, rather than having gone to the Rules Committee itself.

Mr. President, I do not recall ever, possibly as a routine matter, the readoption of the rules every 2 years. As far as I know, we just observe rule XXII, which says the rules of one Congress carry over to the next Congress. And it was in recognition of that rule, apparently, that the present resolution was submitted as an amendment to rule XXII. It did not say rule XXII of the 91st Congress. It said rule XXII. We are not operating under the 91st Congress rules. We are operating under the 92d Congress rules, which are the 91st Congress rules carried over.

So if they wanted to change the rules, they should have come forward with a complete set of rules saying we have not got any rules; let us adopt some rules. Instead of that, they offer an amendment to rule XXII saying that even the proponents of the change admit that rule XXII, as of this minute, is in full force and effect—rule XXII of the 91st Congress, carried over as a part and parcel of our present rules of the 92d Congress.

Are we operating under the rules? I assume we are. We have had the Parliamentarian busy there ever since we have been in session. He is looking at these rules. What rules do we have? We are not in complete chaos. We have had rulings from the Chair, one after another, based on what? Based on the rules under which we are operating. That is very important. That is going to be the gist of the entire argument before the matter is decided finally. Are we operating now under rules? Do those rules permit debate? Can debate only be cut off by two-thirds vote of those present? That is what the rules provide.

We are under some rules. No suspension of rule XXII has been suggested. It is in full force and effect, else they would not have sought to amend it.

So the very actions of the proponents of the resolution show that they recognize rule XXII, as printed in the rule book, as a part of the rules of the 91st Congress, as coming to us and carried over under rule XXXII as the rules of the 92d Congress. They are in full force and effect and they are seeking to amend that rule.

We are not adopting new rules. An effort is being made to amend existing rules, rules of the 92d Congress, which do not need to be adopted again. They carry over under rule XXXII.

From March 4, 1921, to March 4, 1923, during the 67th Congress, five resolutions were introduced to limit debate in some form. These were referred to the Committee on Rules.

As I suggested, if we had no rules, if we were just a meeting of 100 Senators, we would not have had this procedure with respect to the pending resolution, where notice was given by the proponents of the resolution. If we had no rules, they could just have handed the resolution up and asked that it be read.

They would not have had to give one day's notice. But that is what was done, in compliance with the existing rules of the Senate.

We either have rules or we do not have rules. If we have rules, they are those that have come over from the 91st Congress, because we have adopted no other rules. We do not have to, under rule XXXII.

On November 29, 1922, upon the occasion of the famous filibuster against the Dyer antilynching bill, a point of order was raised by the Republican floor leader against the methods of delay employed by the obstructionists which, had the Chair sustained it, would have established a significant precedent in the Senate as it had in the House.

You know, the use of that word "obstructionist" there strikes me as of more than passing interest. Why should any person operating under the rules and discussing the matter be referred to as an obstructionist? It looks as though they would either be proponents or opponents rather than obstructionists. So it would seem to me that possibly the authors of this document may have had a fixed opinion on the subject. But in any event, the information they bring to light is informative.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I am delighted to yield.

Mr. ERVIN. Is it not possible that those who filibustered on that occasion were called obstructionists because they happened to be southerners, rather than liberals from some other area of the country?

Mr. ALLEN. It may well be. I have noticed that different labels are applied to the same type of efforts by Senators from different sections of the country.

Mr. ERVIN. Would it have occurred to the Senator from Alabama—I am sure it would not have occurred to the Senator from North Carolina—to denounce Senators from other areas of the country who filibustered against the appropriation for the SST last fall, or who have filibustered against various other things, such as the communications satellite when that was before the Senate?

Mr. ALLEN. No, it would not have occurred to this Senator to call them that. I voted with those who wished to have extended discussion, when an effort was made to cut off the debate.

Mr. ERVIN. Is it not true that they were doing exactly like those who opposed the passage of the Dyer antilynching bill; they were merely exercising their rights under the Senate rules as Members of the U.S. Senate?

Mr. ALLEN. Very definitely, yes.

Mr. ERVIN. Then, certainly, they did not deserve to be called obstructionists.

Mr. ALLEN. No. That struck the eye of the Senator from Alabama as being a strange choice of words.

Mr. ERVIN. I ask the Senator from Alabama if he does not agree with me that that was a very strange choice of words, to call a man an obstructionist when he takes advantage of a legal right?

Mr. ALLEN. Yes, indeed, it is a strange choice.

Mr. ERVIN. It is sort of like saying a man obstructs the courts of justice when he pleads not guilty when he is charged with a criminal offense, is it not?

Mr. ALLEN. Yes; it certainly is. I thank the Senator from North Carolina.

The incident occurred as follows:

Immediately upon the convening of the Senate, the leader of the filibuster made a motion to adjourn. Mr. CURTIS made the point of order that under rule III no motion was in order until the Journal had been read. He also made the additional point of order that the motion to adjourn was dilatory. To sustain his point, Mr. CURTIS said:

I know we have no rule of the Senate with reference to dilatory motions. We are a legislative body, and we are here to do business and not to retard business. It is a well-stated principle that in any legislative body where the rules do not cover questions that may arise general parliamentary rules must apply.

The same question was raised in the House of Representatives when they had no rule on the question of dilatory motions. It was submitted to the Speaker of the House Mr. Reed. Mr. Speaker Reed held that, notwithstanding there was no rule of the House upon the question, general parliamentary law applied, and he sustained the point of order.

The Vice President sustained Mr. CURTIS' first point of order in regard to rule III, but did not rule on the point that the motion was dilatory.

In 1922 Senate Republicans voted 32 to 1 in party conference on May 25 for majority cloture on revenue and appropriation bills.

As I suggested earlier in my remarks, there is some reason for feeling that possibly a different rule might apply to revenue and appropriations bills from other types of legislation, because such bills are necessary for the conduct of the National Government, and, for that matter, for the conduct of some of the local governments as well.

On March 4, 1925, the Vice President, Charles G. Dawes, delivered his inaugural address to the Senate, in which he recommended that debate be further limited in the Senate.

I believe that is a practice that possibly no longer obtains, of the Vice President delivering an inaugural address to the Senate. Possibly he does, but I do not believe I have heard such an address.

On March 5, 1925, Senator Underwood introduced the following cloture resolution—I did not know that my predecessor in the Senate offered so many debate limiting resolutions, but it seems that he did.

On March 5, 1925, Senator Underwood introduced the following cloture resolution (S. Res. 3) embodying the Vice President's recommendation on further limitation of debate, which was referred to the Committee on Rules.

Resolved, That the rules of the Senate be amended by adding thereto, in lieu of the rule adopted by the Senate for the limitation of debate on March 8, 1917, the following:

1. There shall be a motion for the previous question which, being offered by a majority of Senators voting, if a quorum be present, shall have the effect to cut off all debate and bring the Senate to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment

or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after previous question shall have been ordered on its passage, for the Presiding Officer to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

2. All motions for the previous question shall, before being submitted to the Senate, be seconded by a majority by tellers if demanded.

3. When a motion for the previous question has been seconded, it shall be in order, before final vote is taken thereon, for each Senator to debate the proposition to be voted for one hour.

Other resolutions introduced in the first session of the 69th Congress limiting debate were Senate Resolution 25; Senate Resolution 59; Senate Resolution 76; Senate Resolution 77; Senate Resolution 217; Senate Resolution 225; which were also referred to the Committee on Rules.

I do not believe they saw the light of day after that. There is no record, at any rate, of their being passed.

In 1925, Mr. Robinson of Arkansas said:

No change in the written rules of the Senate is necessary to prevent irrelevant debate. Parliamentary procedure everywhere contemplates that a speaker shall limit his remarks to the subject under consideration. The difficulty grows out of the failure of the Presiding Officer of the Senate to enforce this rule.

In 1925, Senator Jones of Washington proposed a threefold plan of reform:

First, to extend the existing rule which forbids amendments not germane to the appropriation bills to general legislation. That might be a really good amendment. I talked about that a little earlier in my discussion. But that is one of the factors that caused the so-called logjam in the closing days of the 91st Congress—the fact that nongermane amendments were added to the social security bill. The trade bill was offered as an amendment, and the President's family assistance plan was offered as an amendment, both measures seeking more or less a free ride through the Senate. But it caused an eruption of filibusters and signaled the ultimate defeat of all the measures, even though the social security measure, stripped of the other two, did pass in the closing days of the session, but not in time to receive action in the House.

Mr. ERVIN. Mr. President, will the Senator from Alabama yield for a question?

Mr. ALLEN. I yield.

Mr. ERVIN. I invite the attention of the Senator from Alabama to page 41 of the committee print on the Senate cloture rule, particularly to a statement to the effect that there was a filibuster on the family assistance plan. I was here all the time that was going on, and I do not recall any filibuster on the family assistance plan. As a matter of fact, the chief opponent of that plan was the Senator from Delaware, Mr. Williams, and he expressly stated on all occasions that he was not filibustering and was perfectly willing to be able to come to a vote.

Is that not the recollection of the Senator from Alabama?

Mr. ALLEN. Yes, indeed. I do not recall it being a filibuster.

Mr. ERVIN. There is also here a statement to the effect that there was a filibuster against the shoe and textile import quotas during the closing days of the last session. I should like to ask the Senator from Alabama whether his recollection does not coincide with that of the Senator from North Carolina and that a device was utilized, in the form of amendments by the Senator from Pennsylvania and the Senator from Connecticut, which prevented any consideration of the amendment dealing with shoe and textile import quotas?

Mr. ALLEN. That is correct.

Mr. ERVIN. So, not only was there not a filibuster against that, but also, no consideration was given to it beyond the mere matter of its introduction by, I believe, the distinguished Senator from South Carolina (Mr. HOLLINGS).

Mr. ALLEN. That is correct.

Mr. ERVIN. So there is error so far as those filibusters are concerned.

Does the Senator recall, in the closing days of the last session of Congress, any filibuster at all except the filibuster or the educational debate—whatever the proponents might choose to call it—against the SST?

Mr. ALLEN. No. There was a threatened filibuster on the trade bill. It never materialized, because it was never necessary.

Mr. ERVIN. Does the Senator from Alabama have a recollection similar to that of the Senator from North Carolina, that the able and distinguished Senator from New York made some statements which indicated that, without confessing that he was prepared to engage in a filibuster on the subject, he was going to engage in very long and extended and exhausting discussion of matters relevant to that proposal?

Mr. ALLEN. Yes. That is the understanding of the junior Senator from Alabama, that he was threatening to have quite a lot to say on the subject.

Mr. ERVIN. Does not the Senator from Alabama agree that if the Senator from North Carolina and the Senator from Alabama spoke in language just 1 percent as prognosticative in nature as the Senator from New York spoke on that occasion, they undoubtedly would be accused of threatening a filibuster?

Mr. ALLEN. Yes. I think that is true.

Mr. ERVIN. Does not the Senator from Alabama agree that one of the principal troubles during the last days of the last Congress was the fact that, as I recall, approximately 2 weeks before Christmas the Senate Finance Committee reported to the Senate a bill to increase social security benefits to the recipients of social security, and that thereupon a multitude of amendments, including the family assistance plan, totaling at least 675 pages, including the original bill, were handed to the Senate, in somewhat mentally indigestible form, for our consideration?

Mr. ALLEN. Yes.

Mr. ERVIN. And does the Senator from Alabama agree that there is a strong probability that most of the Members of the Senate, despite their diligent efforts, were virtually ignorant of the contents of some of those propositions?

Mr. ALLEN. I think that is a fair assumption.

Mr. ERVIN. Does not the Senator from Alabama agree with the Senator from North Carolina that, instead of being condemned for action in the closing days of the 91st Congress in failing to enact those measures, the Senate of the United States rendered a real service to the American people?

Mr. ALLEN. By and large, on balance, I would state that.

Mr. ERVIN. In other words, was not the Senate, in effect, called upon to pass proposed legislation covering hundreds and hundreds of pages of proposals, containing in at least each sentence a case of mental indigestion, and to do that before they ate their Christmas turkey?

Mr. ALLEN. That is correct.

Mr. ERVIN. I thank the Senator.

Mr. ALLEN. I thank the distinguished Senator from North Carolina.

The second of the threefold plan of reforms suggested by Senator Jones of Washington in 1925 provided for compelling Senators to confine their remarks to the subject under consideration unless permitted by unanimous consent to do otherwise. As I suggested on several occasions, the Pastore rule pretty well meets this requirement here.

Mr. ERVIN. Will the Senator yield, so that I may correct an implication in one of the questions I put to him?

Mr. ALLEN. I yield.

Mr. ERVIN. Upon reflection, the Senator from North Carolina asks the Senator from Alabama whether he agrees with the Senator from North Carolina that the shoe import protection amendment was offered by the distinguished Senator from Georgia (Mr. TALMADGE), rather than by the distinguished Senator from South Carolina (Mr. HOLLINGS), notwithstanding the fact that Senator HOLLINGS has always been a strong supporter of that proposal and has always been one of its chief advocates?

Mr. ALLEN. That is correct. The junior Senator from Alabama recalls that the distinguished Senator from South Carolina (Mr. HOLLINGS) did have a trade bill and also that he stated that he was going to seek to add it to the family assistance plan. I recall him making that statement on the floor of the Senate. I believe that is correct.

Mr. ERVIN. Mr. President, will the Senator yield for another question?

Mr. ALLEN. I yield.

Mr. ERVIN. Then, it perhaps was offered by the cosponsorship of the Senator from South Carolina and the Senator from Georgia (Mr. TALMADGE).

Mr. HOLLINGS. That is correct.

Mr. ALLEN. Yes. I regarded the distinguished Senator from South Carolina as one of the chief sponsors, if not the chief sponsor, in the Senate of that proposed legislation.

Mr. ERVIN. He certainly has done yeoman work on it.

I ask the Senator from Alabama if the Senator from Alabama and the Senator from North Carolina have not been try-

ing to uphold the hands of the Senator from South Carolina in his great fight to get some reasonable measure of protection for the hundreds of thousands of Americans who labor in the textile industry.

Mr. ALLEN. Yes, indeed.

Mr. HOLLINGS. If the Senator from Alabama will yield, I can provide some accuracy.

Mr. ALLEN. I yield.

Mr. HOLLINGS. It was really the leadership of the distinguished Senator from North Carolina that the distinguished Senator from Alabama and I, as newcomers, have been following, in trying to really drive and bring to the attention of the executive branch the need for fair treatment and the acute problem of unemployment in the textile industry, which was recognized on the same Senate floor by then Senator John F. Kennedy, in 1960, when, after a 10-year period they had lost 400,000 jobs. Of course we lost almost a consequent amount during the ensuing 10 years from 1960, but it was the leadership of the Senator from North Carolina and of the Senator from Rhode Island (Mr. PASTORE), and on the other side of the aisle of our distinguished colleague from New Hampshire (Mr. COTTON).

Mr. ALLEN. I thank the distinguished Senator from South Carolina.

Mr. ERVIN. Mr. President, will the Senator from Alabama yield for a question?

Mr. ALLEN. I yield.

Mr. ERVIN. Does not the distinguished Senator from Alabama agree with the Senator from North Carolina that it can be truly said the Senator from South Carolina has been very vigorous in fighting for the rights of the textile manufacturers to retain their domestic markets, for the right of investors in the textile industry to receive a fair return on their investment, as well as for the right of those who labor in the textile industry to retain their jobs instead of having them exported beyond the seas?

Mr. ALLEN. Yes, indeed.

I might add the further suggestion, that if the able Senator from New York (Mr. JAVITS) prevails in his efforts to get a 51 vote on cloture applied, he may have his efforts turned upon him and we may succeed in enacting an import quota law by the application of the very majority vote on cloture he is seeking to get.

Now, Mr. President, (3) limit debate on measures other than revenue or appropriation bills after they have been under consideration 10 days and it has been impossible to reach a unanimous consent agreement for their disposal.

1925—Fess and Jones introduced resolutions for a rule of relevancy.

1926—Underwood (Alabama) offered a resolution to limit debate by majority vote on appropriation and revenue bills.

1933—Adoption of 20th amendment—February 6, 1933—by doing away with short sessions, would eliminate filibusters, so Norris believed. But subsequent events demonstrated that filibustering minorities are still able to delay urgent legislation. The final sessions of the 73d and 74th Congresses, the first two to function under the amendment, ended in filibusters.

1935—Chair ruled that a quorum call is the transaction of business and that Senators who yield for that purpose lose the floor. Under this ruling, a speaker yielding twice for quorum calls, if they are in order, while the same question is before the Senate is unable to regain the floor on that question during the same legislative day.

So, Mr. President, I hope that still is the rule and that we will have the forethought to ask unanimous consent that the junior Senator from Alabama not be deprived of the floor if he does yield for the purpose of asking for a quorum call, but he sees no need to request a quorum call at this time. We may be a little short quantitatively, but we are on the long side qualitatively in the Senate Chamber at this time. [Laughter.]

1939—Reorganization Act of 1939—Public Law 19, 76th Congress, 1st session—limited debate to 10 hours, to be divided equally between those for and against, upon a resolution to disapprove a Presidential reorganization proposal.

1945—The Reorganization Act of 1945—Public Law 263, 79th Congress, 1st session—contained the same "antifilibuster rule" as the Reorganization Act of 1939. This rule read:

> 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

Subsequent extensions of the Reorganization Act, including the most recent—Public Law 91-5, 91st Congress—have contained this proscription on debate.

1946—Republican Steering Committee delegated Senator Saltonstall to prepare an amendment to Rule XXII "so that the various dilatory methods or preventing its application can be eliminated." (May 21, 1946.)

Well, there is no dilatory provision that the junior Senator from Alabama knows of, because it is expressly provided in rule XXII that when 16 Senators file a cloture motion, that on the next calendar day but one—in other words, the second day—thereafter, 1 hour after the Senate convenes, there would be a rollcall vote on the question. So that there could be no dilatory practice with respect to the application of cloture, because when the cloture motion is filed, that guarantees there will be a vote on the second calendar day thereafter, 1 hour after the Senate convenes.

1946—Knowland proposed (S. Res. 312) new standing rule prohibiting the receipt or consideration of any amendment to any bill or resolution which is not germane or relevant to the subject matter thereof.

Now, Mr. President, that provision would probably have eliminated the so-called logjam which existed in the closing days of the 91st Congress in the Senate, to provide that an amendment has to be germane to the bill under consideration, because the social security bill was under consideration, and under the Senate rules that allowed a nongermane amendment to be offered, the so-called trade bill and the President's Family Assistance Plan, and they were added to the social security bill, weighting it down to such an extent that it was only in the last couple of days of the session the two extraneous amendments were stripped from the bill, and it was passed too late for the House to agree to it. So, if the Senate should pass a rule that would forbid the adding of nongermane amendments to a pending bill, it would go a long way toward expediting the business of the Senate and getting legislation through the Senate and bills acted on.

That resolution apparently died in the Committee on Rules and Administration.

1946—Moses urged thorough study of the rules of the Senate "to the end of completely revising them." He also submitted a resolution (S. Res. 314) directing the Parliamentarian of the Senate to "prepare a complete and annotated digest" of its precedents (July 25, 1946). Referred to Rules Committee. (The precedents and practices of the Senate have been compiled by the Parliamentarians of the Senate and published. See Senate Procedures by Charles L. Watkins and Floyd M. Riddick, S. Doc. 44, 88th Cong., 2d sess., 1964.)

That is the document I hold in my hand and from which I have quoted during my remarks today.

1947—Saltonstall, Knowland, Morse, and Pepper introduced resolutions to amend rule XXII so as to make cloture apply to any measure or motion or other matter pending before the Senate by a majority vote of those voting or by a majority vote of the entire membership of the Senate. Rules Committee on April 3, 1947, reported a resolution (S. Res. 25) amending rule XXII by making cloture apply to "any measure, motion, or other matter pending before the Senate or the unfinished business," but making no change in the current voting requirements of rule XXII or in the limitation of debate after cloture is invoked.

The junior Senator from Alabama may be in error at this point, but I believe that this amendment was brought about by the ruling that a motion to proceed to the consideration of a measure not a measure and therefore was not subject to the cloture provisions of rule XXII.

This amendment to the rules would provide that any measure, motion, or other matter pending before the Senate, or the unfinished business, would be subject to the cutoff of debate provision of rule XXII. So, before that time a motion to take up could be debated interminably as not being covered by the cloture provision.

This being a motion to take up, being subject to the cloture provisions of rule XXII, at this time, Mr. President, what we have under consideration is a motion to postpone to the next legislative day the motion of the distinguished Senator from Kansas (Mr. PEARSON) that the Senate proceed to the consideration of the Church-Pearson resolution seeking to amend rule XXII.

What we are discussing at this time is

the motion to postpone to the next legislative day the motion to consider the resolution providing for the rule change.

As I have suggested, the very procedure under which we are working in the Senate is positive proof that we are proceeding under the rules of the 92d Congress which under rule XXXII come to us from the 91st Congress. Rule XXXII provides that the rules of Congress carry forward to the next Congress except as amended in accordance with the rule.

So, at some point in the proceeding we will have to determine whether rule XXII is now in full force and effect, whether we have rules, or whether we are now voting on new rules and are not governed by the right of extended debate which is limited only by the cloture provision of rule XXII.

The very proceedings we are operating under are positive proof that we do have in effect rules in the Senate and that they are not seeking to put in an entirely new set of rules, but to merely amend one of the rules, that being rule XXII which they concede is in full force and effect, or they would not seek to amend it.

Since it is in full force and effect, the only way that debate on the resolution can be cut off is by the application of the two-thirds vote for cloture. That will be the question that will eventually come on the matter now pending before the Senate.

Mr. President, going on with the history of the efforts to limit debate in the U.S. Senate, I call attention to these efforts and this history of changes sought in the debate rule in the Senate to point out that the present rule XXII is an outgrowth of the efforts over the last 182 years to control or limit debate in the U.S. Senate. It is the result of the thinking, the work, and the efforts of scores of distinguished Senators who have served in this body over the years. We take the best of all that has been suggested on this subject for the last 182 years. That is all crystallized in rule XXII because we have the benefit of 182 years of the experience of Senators who have served in the U.S. Senate. We have distilled all of those suggestions, thoughts, and efforts into the present rule XXII providing for a two-thirds vote for cloture.

1947—Pepper (Florida) revived suggestion that Senate adopt a new rule making irrelevant debate out of order. He also proposed to limit debate on a motion to make any subject the unfinished business of the Senate, to make such a motion privileged, and have it decided by majority vote.

Mr. President, possibly on tomorrow I will have an opportunity to continue my remarks. It is an important subject, the question of whether we should consider this motion tonight, whether we should pass it over until tomorrow, and if we do vote down the motion to pass it over until tomorrow, then we will have the opportunity to discuss the motion to consider the resolution.

So, hoping that sometime before the final vote is taken on the motion to consider, the junior Senator from Alabama will have an opportunity to make further remarks on this subject, I yield the floor at this time.

S. 307—INTRODUCTION OF THE NATIONAL OCEANIC AND ENVIRONMENTAL RESEARCH ACT OF 1971

Mr. HOLLINGS. Mr. President, I introduce the National Oceanic and Environmental Research Act of 1971, a bill to foster oceanic and related environmental research and development. This bill provides for the understanding and means required to support this Nation's efforts to stop ocean pollution, and provides for the capability to predict natural and manmade ocean environmental hazards. In the areas bordering the oceans and Great Lakes of the United States intense development has taken place, using the coastal and estuarine waters for food, minerals, power, transportation, recreation, and other activities. But the wise development and use of the oceans, coastal and estuarine waters has been seriously hindered. It has been caused by a lack of understanding and knowledge of the physical, chemical, and biological processes that take place in these waters, and by a lack of knowledge of the consequences of man's activities. Population growth and economic development in these areas have already resulted in serious loss of living marine resources, wildlife, recreational areas, and much of the loss has been permanent.

I offer this bill as a means to gain that understanding and knowledge. Coupled with the coastal and estuarine zone management bill that I shall introduce next week, it will provide the information needed to proper management in the coastal and estuarine zones of the United States. In addition, it will enhance our programs to gain information about the global oceans and their interaction with the atmosphere.

This authority to be given to the National Oceanic and Atmospheric Administration will allow them to issue clearance of permit applications for disposal of materials at sea. Under the terms of the bill, before a municipality, government or military authority or private company could dump at sea, NOAA would have to clear the environmental aspects of the action.

The bill will provide the oceanic and related environmental research and development both to understand and to deal with our Nation's efforts to halt ocean pollution and allow us to predict more accurately the natural and manmade oceanic environmental hazards of dumping at sea.

The dumping is continuing and the military has not put a stop to it yet.

We experienced this in August of last year when the dumping of nerve gas got into the "never-never land" of who had given the authority and who should have given the authority. In the hearings we held at that time we found there were over 123 approved dumping sites in the Gulf, the Atlantic, and the Pacific Oceans where all sorts of waste materials are dumped regularly. And sometimes it has an adverse effect on our ability to exploit marine resources. For example, one particular Federal permittee on the west coast who wanted to exercise his permit to search for minerals on the Continental Shelf, was caused to sue the Government because the Department of the Interior had issued a permit right in the middle of a munitions dumping site.

Now we see by last night's Evening Star that the Navy proposes to dump at least 50,000 tons of conventional munitions, grenades, and other type shells of warfare, without any consideration whatever to the potential damage to marine biota. We are still waiting for the Navy to file its environmental impact statement on these proposed dumpings.

Mr. President, I recommend this national oceanic and environmental research bill to my colleagues, and urge its early adoption.

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

The bill (S. 307) to foster oceanic and environmental research and development, and for other purposes, introduced by Mr. HOLLINGS, was received, read twice by its title, and referred to the Committee on Commerce.

SENATE JOINT RESOLUTION 17—INTRODUCTION OF A JOINT RESOLUTION CONCERNING THE CREATION OF A JOINT COMMITTEE ON THE ENVIRONMENT

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Maine (Mr. MUSKIE) I introduce a joint resolution concerning the creation of a Joint Commitee on the Environment.

This resolution is identical to the resolution adopted unanimously by the Senate in the last Congress. Its appearance on the Senate Calendar has been cleared by all parties, and I ask that it accordingly be placed on the calendar and that a statement in its behalf by the Senator from Maine (Mr. MUSKIE) be printed at this point in the RECORD.

The PRESIDING OFFICER. The joint resolution will be received and, without objection, will be placed on the calendar; and, without objection, the statement will be printed in the RECORD.

The joint resolution (S.J. Res. 17) to establish a Joint Committee on the Environment, introduced by Mr. MANSFIELD (for Mr. MUSKIE) (for himself and other Senators), was received, read twice by its title, and placed on the calendar, by unanimous consent.

The statement by Senator MUSKIE is as follows:

JOINT COMMITTEE ON THE ENVIRONMENT

Mr. MUSKIE. Mr. President, I offer for introduction in the Senate this morning a joint resolution which would establish a non-legislative committee of Senate and House members to be known as the Joint Committee on Environment.

The resolution, with the exception of minor changes for clarification, is identical to the joint resolution approved by the Senate last year. That resolution, as Senators will recall, died in conference when the 91st Congress adjourned.

There was in 1970, among the conferees of the other body, a certain reluctance to allow the members of the Joint Cimmittee to select their own first chairman. The

resolution died because agreement could not be reached on this issue.

The language concerning the chairmanship flows freely and clearly. As has been the case with previously established Joint Committees, the chairman would be determined by the members and alternate between the Senate and House of Representatives with each Congress.

I would hope that the certain reluctance among certain conferees of the other body concerning a selection of the chairman has disappeared. We should proceed with the important work in the environment.

Mr. President, I think it is fair to say that during the past three sessions of the Congress, the Senate has come to agree on two, major purposes for establishing a Joint Committee on Environment.

1. The Senate recognizes that it needs to improve the congressional capacity for collecting relevant information on present and emerging environmental problems; and

2. The Senate recognizes that it needs to create a well-staffed congressional institution which can conduct a continuing assessment of the relationship between human beings and their environment.

It is no secret that the standing committees are increasingly burdened by legislative proposals in their special fields. The committee staffs have little or no opportunity to test relationships between their fields, those of other committees, and the total environment.

During the 91st Congress, more than 40 bills and resolutions were introduced in the Senate alone to restructure the legislative branch so that it might deal more effectively with environmental problems.

The questions of jurisdiction also became more numerous. During 1970 alone, there were jurisdictional conflicts in the Senate over ocean dumping, land use planning, coastal zone management, pesticides, radiation standards, low emission vehicle development, noise pollution, power plant siting, and environmental class actions.

Let me emphasize that it is not my intent to establish a joint committee which will infringe the substantive jurisdiction of any standing committee. What I am seeking is a source of information and analysis which the standing committees do not have time or authority to produce for themselves.

The joint committee also should help us to keep a record of our accomplishments and failures in the handling of environmental problems. No legislative mechanism exists, for example, to evaluate the criticisms and recommendations of Federal programs sent to the Senate by the Comptroller General. Yet the number of such criticisms and recommendations are bound to increase as the programs mature and progress.

Finally, Mr. President, a joint committee on environment should assist the Congress to maintain its proper role as a balance to the executive and judicial branches in the Federal system.

During the past year, the Congress through new legislation helped the Executive to reorganize its efforts against environmental problems. The Council on Environmental Quality was established; an Office of Environmental Quality was authorized. The Congress approved the reorganization plans which set up the Environmental Protection Agency and the National Oceanic and Atmospheric Administration.

Now, we need, as the Senate report on last year's resolution observed, "the creation of a non-legislative Joint Committee on the Environment (to) provide the legislative branch with a parallel overview capacity on a continuing basis . . .

"It is clear that none of the existing congressional committees is equipped, or has the jurisdictional authority, to provide a comprehensive overview which will identify the emerging problems which threaten the deterioration of man's environment."

SOUTH VIETNAM OFFERS TO RELEASE ALL SICK AND WOUNDED PRISONERS

Mr. GRIFFIN. Mr. President, the Government of South Vietnam today made a dramatic offer to release unilaterally all sick and wounded prisoners of war now being held in South Vietnam who express a desire to be released to the North.

The Foreign Minister of South Vietnam, Tran Van Lam, told newsmen today that there are 783 North Vietnamese, 1,267 Vietcong, and 30 "regroupees—South Vietnamese whose loyalties lie with North Vietnam—who are eligible to be sent to North Vietnam.

The announcement came on the eve of Tet, the Vietnamese New Year holiday, which begins tomorrow.

Foreign Minister Lam said the offer was made in the spirit of the season:

> When it is customary for all Vietnamese, wherever they happen to be, to join their families for celebration of the New Year.

At the same time, Foreign Minister Lam proposed that:

> In this humane spirit . . . the other side release immediately all sick and wounded Vietnamese and allied prisoners of war.

Mr. President, last Sunday the Government of South Vietnam released 37 sick and wounded prisoners of war in the demilitarized zone so that they could return to their homes in North Vietnam in time for Tet.

These encouraging and significant South Vietnamese initiatives follow a suggestion which I made in the Senate last month calling for the unilateral release by our side of all sick and wounded, along with 1,500 other North Vietnamese prisoners.

At the time, I said that such a dramatic, humanitarian gesture should create, worldwide, an expectation of response in kind by the Communist side.

The Government of South Vietnam deserves the commendation of the Senate and of this Nation, Mr. President, for its forthcoming attitude and its willingness to comply with the Geneva Convention on prisoners of war despite the refusal, so far, of North Vietnam to reciprocate.

Foreign Minister Lam explained his Government's failure to offer the unilateral release of prisoners previously in forthright terms:

> Such a decision, consonant with the Geneva Convention of 1949, would have been made earlier and carried out fully and entirely, had it not been for the consistent refusal of the North Vietnamese leaders to adopt a humane attitude on all matters relating to prisoners of war. They have refused even to cooperate in working out the safest and most convenient measures for the return of their own prisoners to the North. It is therefore understandable that prisoners of war held in South Vietnam should entertain the greatest fears for their security upon being released to the North.

The Government of South Vietnam expressed its readiness to welcome "here and now" all prisoners of war released by the authorities in North Vietnam.

Prisoners held by South Vietnam are now being interviewed, Foreign Minister Lam said, indicating that a series of unilateral releases can be expected in the future.

Certainly these South Vietnamese initiatives provide impressive evidence of the good faith of our side in seeking to end the misery and hardships for all prisoners on both sides in the war.

Now we look to the Communist side for a response.

If the other side desires to improve its tarnished reputation for mistreatment of prisoners, they should respond to the South Vietnamese initiative by releasing at least some of the American and other free world prisoners they hold, particularly those who are sick or wounded.

Mr. President, I ask unanimous consent to insert into the RECORD a report by the American Embassy in Saigon transmitted to the State Department concerning Foreign Minister Lam's press conference today.

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

AMERICAN EMBASSY REPORT

At press conference, January 26, GVN Foreign Minister Lam released following statement:

A. On January 24, 1971, thirty-seven disabled and incurably sick North Vietnamese prisoners of war were released across the Ben Hai River at the 17th parallel, in accordance with the communication given to North Vietnam at the Paris conference table by the delegation of the Republic of Vietnam. The release operation has been achieved.

B. Confident in the correctness of its humanitarian policy, and on the special occasion of the Vietnamese new year, the government of the Republic of Vietnam is launching today another new initiative. This is the third initiative since last month, put forward with a view to improving the lot of prisoners of war detained by both sides.

C. In this season, when it is customary for all Vietnamese wherever they happen to be to join their families for the celebration of the New Year, the Government of the Republic of Vietnam proposes to release all sick and wounded prisoners of war now being held in South Vietnam who express a desire to be released to the North.

D. Such a decision, consonant with the Geneva Convention of 1949, would have been made earlier and carried out fully and entirely, had it not been for the consistent refusal of the North Vietnamese leaders to adopt a humane attitude on all matters relating to prisoners of war. They have refused even to cooperate in working out the safest and most convenient measures for the return of their own prisoners to the North. It is therefore understandable that prisoners of war held in South Vietnam should entertain the greatest fears for their security upon being released to the North.

E. The Government of the Republic of Vietnam hopes that the Hanoi authorities will clearly manifest their agreement to warmly welcome and treat well all sick and wounded prisoners of war who express their desire to be released to the North.

F. In this humane spirit, the Government of the Republic of Vietnam proposes that the other side release immediately all sick and wounded Vietnamese and allied prisoners of war.

G. The Government of the Republic of Vietnam declares that it is ready here and now to welcome all prisoners of war released by the authorities of the North.

H. In view of the condition of the sick

and wounded prisoners of war, it is eminently desirable that the other side promptly give its agreement so that the long internment of the prisoners of war on both sides can be ended in the shortest possible time.

During press conference LAM made following additional points:

A. GVN will convey proposal to the other side via liaison officers in Paris, and to ICRC in Geneva.

B. There are 783 NVA, 30 regroupees, and 1267 VC sick and wounded who are eligible for sending to NVN.

C. Asked how many want to go North, LAM said GVN is "asking gradually" NVA and regroupees. Process is complicated by "danger of retaliation".

THE PENDING BUSINESS

Mr. BYRD of West Virginia. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to postpone until the next legislative day the consideration of the motion of the Senator from Kansas (Mr. PEARSON) that the Senate proceed to the consideration of Senate Resolution 9, a resolution to amend rule XXII of the standing rules of the Senate with respect to the limitation of debate.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

RECESS TO 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in recess until 11 a.m. tomorrow.

The motion was agreed to; and (at 5 o'clock and 26 minutes p.m.) the Senate took a recess until tomorrow, Wednesday, January 27, 1971, at 11 a.m.

EXTENSIONS OF REMARKS

METROPOLITAN AREA CITIZEN OF THE YEAR

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, January 25, 1971

Mr. HOGAN. Mr. Speaker, Joseph B. Danzansky, the newly elected president of the Metropolitan Washington Board of Trade, was honored recently by the Metropolitan Council of Governments as the "Metropolitan Area Citizen of the Year."

The council of governments could not have made a better choice. Joe Danzansky has, for years, been known as a man who always does his best for the Washington metropolitan area and I am pleased that the council of governments has recognized his merits and awarded him this citation.

On accepting his award, Mr. Danzansky addressed himself to some of the problems which confront metropolitan areas. His remarks are very thoughtful and timely and warrant our consideration. Many sections of the United States are presently faced with the problems of burgeoning metropolitan areas—the problems of the innercity and the burgeoning suburbs.

Mr. Speaker, I insert Mr. Danzansky's remarks in the RECORD at this point for the perusal of our colleagues who represent similar areas and face similar problems:

POOL AREA RESOURCES, DANZANSKY SUGGESTS

(By Joseph B. Danzansky)

Much remains to be done in the governmental field, in the private and voluntary sector, and in the hearts of our people.

Probably the most important hurdle to master is to convince people of the need for a true metropolitan approach to today's problems.

Boundaries wander haphazardly through communities with little regard for economics or the characteristics of the neighborhood. Taxes are a crazy quilt. Those who use services do not pay for them, and vice versa. Few jurisdictions have the size or the scale to amass the resources necessary to provide important public services.

Crime, and drinking water, and waste disposal, and transportation, and health problems know no boundaries, yet boundaries frivolously determine which of our citizens are to be properly served and which shall not.

The political organization of the Washington Metropolitan area was designed for the horse and buggy days, and nothing but habit and suspicion of change stand in the way of a badly needed overhauling.

But now the time has come, in my humble opinion, to reexamine the structure and the interrelationships of our local governments. It is time to set up additional regional authorities such as the Metro Authority, to permit a coherent unified attack on the unprecedented problems of jobs, air and water pollution, sewage disposal, overall regional transportation, schooling, economic development, and much more.

Although much remains to be done to modernize government's ability to deal with today's problems, at least a start has been made. Regretably, however, business, other non-government organizations, and the rest of the citizenry have lagged woefully behind.

So we proliferate our business organizations. We have the Metropolitan Washington Board of Trade, the D.C. Chamber of Commerce, the Federal City Council, Down Town Progress, Up Town Progress, and innumerable local chambers of commerce in the counties and townships served by the Council of Governments—all jealously guarding their respective pieces of the action.

There is no logical reason why all these business organizations cannot pool their energies and their resources in one federated effort to address the social, economic and political problems facing this community. The same proliferation exists among community groups, voluntary agencies, and social improvement organizations.

We must recognize that we need less organizations—not more; that we need to come together—not split apart; that there is strength in unity—the kind of unity that comes from a willingness to compromise and to seek a common goal and to trust each other.

Organizations proliferate when we lose faith in ourselves and with each other—when we convince ourselves that the groups that already exist are incapable of dealing see nearly everyone else as an adversary in that battle we call life.

But the fundamental change must take place not in the organizational charter, but in the human heart. I know these are difficult times to change the status quo. America's traditional self-confidence is shaken to its roots, and we're in the grip of pervasive fear. When people are afraid, we tend to cling to the familiar, and that is not the best atmosphere for needed change.

A couple of years ago we suddenly got a message, written in the midst of searing, scorching, screaming agonies which spread like a flaming plague across the great cities of the nation.

Obscenely insistent voices screamed an indictment at all of us and at our pernicious innocence of the gap between the traditions and the reality of America. The weak and the despised found their voice, and it was transmitted loud and clear through the new electronic media. This is what shook us loose from our moorings, tearing at our innermost guilt. This is when we became a nation of fearful, suspicious, and very unhappy people. It is an awesome thing that when we expose people to hatred they tend to become hateful. Hate polarizes—not only the original objects of our distrust, but ultimately it polarizes us from each other, because we do not always agree with the degree of hatred displayed by our peers.

Rhetoric has had its day, and from now on every person must be as responsible for his words as he is for his acts.

When a parent defies a court order, no matter how distasteful to his personal prejudices, he is teaching his children that law is worthless and can and should be broken with impunity. The child in turn either agrees with his parent or, as in so many cases today, violently disagrees. In either event, polarization sets in, and more often than not, the polarization is in the family unit itself, and the heretofore inviolate castle of American greatness, the family, then crumbles.

And when a radical shouts, "Kill the Pigs!," and a policeman is shot, rhetoric kills, and that man is a murderer. Rhetoric can no longer be forgiven or condoned on the basis that the demagogue is merely "doing his thing." It matters not whether his "thing" happens to coincide with our own feelings and prejudices at the moment.

The Supreme Court ruled a long time ago that freedom of speech does not include the right to yell "Fire" in a crowded theatre.

President Kennedy observed that civility is not a sign of weakness. We must all learn this lesson soon if there is to be any future.

THE ENERGY GAP—A NATIONAL CRISIS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 25, 1971

Mr. PICKLE. Mr. Speaker, with a little help from above and an unusually mild autumn, this Nation narrowly averted a fuel shortage this winter which would have been tragic.

Fortunately, the projections now indicate we can make it through these last few bitter months of winter. We cannot, however, continue this desperate gamble.

Mr. Speaker, there are many proposals under active consideration which would alter this country's approach to all fuels—the shortage and the transportation. Because of this interest on several fronts, I ask permission to include in the CONGRESSIONAL RECORD the following publication from Petroleum Today, writ-