SENATE—*Thursday, January 28, 1971*

(Legislative day of Tuesday, January 26, 1971)

The Senate met at 11:30 o'clock a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. ELLENDER).

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

Eternal God, before whom the nations rise and fall, keep us close to Thee in all our ways that we go not astray. Help us to repent of what is wrong. Spare us from repeating old mistakes. Let Thy cleansing grace be with us day by day.

We give Thee thanks for this land which Thou didst give to our fathers as a home for free men. Show us that there is no liberty apart from Thee. Draw us together at this time to do Thy will that our land may be a light to many nations, fulfilling the vision of the holy city on earth where death and pain and crying are no more; where peace abides and nations gather in the light of Thy presence in the one kingdom that is without end.

We pray in the name of the Lord of Life. Amen.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The PRESIDENT pro tempore proceeded to lay before the Senate the pending motion.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be not called up until the conclusion of the morning business.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I do this because commitments have been made, by means of which the distinguished Senator from Oklahoma (Mr. HARRIS) and the distinguished Senator from Maryland (Mr. MATHIAS) will each be recognized for not to exceed 15 minutes.

ORDER FOR RECOGNITION OF SENATOR GRAVEL

Mr. MANSFIELD. Mr. President, I also ask unanimous consent that at the conclusion of their remarks, the distinguished Senator from Alaska (Mr. GRAVEL) be recognized for not to exceed 10 minutes.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I make the latter request because of the fact that the majority leader, who was aware of the request yesterday, failed to make it. It is not to be considered a precedent, because we will try to start work anew.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Wednesday, January 27, 1971, be approved.

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

AUTHORIZATION FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT OF THE UNITED STATES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the President of the United States during the recess of the Senate until January 29, 1971.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, if the Senator from Oklahoma will yield to me, with none of his time being taken, would the Senator like the joint leadership to specify the committee assignments now or after he and the Senator from Maryland speak?

Mr. HARRIS. Mr. President, if we might, without taking away any of our time which has been set aside by special order, the Senator from Maryland and I would like to enter into a discussion at the present time with the distinguished majority leader as to what he plans to do with regard to committee chairmen.

We want jointly to submit today a resolution which would amend Senate rule XXIV to provide for the individual nomination, by the relevant caucus, of chairmen and ranking minority members of all Senate committees each 2 years. If we could be assured that this matter would go to the calendar and be voted upon—and I will have the Senator from Maryland speak for himself—we would be willing then to stand aside so that this routine matter of Senate organization, which is a foregone conclusion, might proceed.

If I might, I would yield to the Senator from Maryland at this time to state his plans and intentions.

The PRESIDENT pro tempore. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the Senator from Oklahoma. I think he has stated what is a fair proposition that if we can be assured by the leadership that the proposal that we have discussed over the period of the past several weeks—a proposal in which we invited every Member of the Senate to join with us in formulating before the end of this session—would be given an opportunity to be discussed and determined by a vote of the Senate, we would have no objection to the orderly conduct of the Senate's business as, I think, proposed by the majority leader.

The PRESIDENT pro tempore. What is the pleasure of the Senator from Montana?

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

The PRESIDENT pro tempore. Does the Senator from Oklahoma yield for that purpose?

Mr. MANSFIELD. Mr. President, did the Senator ask me a question?

Mr. MATHIAS. Mr. President, I merely say to the majority leader that I would not ask him to defer his normal course of business if we could be assured that we would be given time to discuss this proposal and an opportunity for the Senate to vote on it.

Mr. MANSFIELD. Mr. President, I wish I could give a sure-fire answer to that question at this time, but I would like to suggest to the distinguished Senators from Maryland and Oklahoma if they would consider this possibility: That the change in rule XXIV, which they propose, be referred to the Committee on Rules with a stipulation that it be reported back to the floor within a time certain. If that is done, then the joint leadership, as soon as possible, would bring it up on the calendar and bring it to the attention of the Senate for consideration and debate.

This is something in addition to what I have discussed with the Senator from Oklahoma, but since that time I have had other conversations, and I wondered what the reaction of the Senators would be.

Mr. HARRIS. Mr. President, did the Senator have some particular time in mind as to when that resolution might be required to be reported back?

Mr. MANSFIELD. I would say within 10 days or 2 weeks.

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

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

Mr. HARRIS. Mr. President, may I just respond to what the majority leader has said?

When this resolution is called up, if we can have unanimous consent that it be referred to the Rules Committee and reported back to the Senate in not later than 2 weeks, in line with the recommendation of the majority leader, and with his assurance and the assurance of the leadership generally that at that time they would try to call it up as soon as possible, then, for our part, the Senator from Maryland (Mr. MATHIAS) and I are willing to stand aside for the orderly organization of the Senate.

Perhaps Senator MATHIAS would like to respond further to the majority leader in that regard. I am glad to yield to him.

Mr. MATHIAS. No, I feel exactly as does the Senator from Oklahoma. I have utmost confidence in the good faith and sagacity of the majority leader, and I would depend entirely on his assurance in this matter. We all understand there are difficulties and pitfalls in parliamentary procedure, but I am sure we can depend on that assurance, and I would like to go forward on that basis.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. MANSFIELD. May I ask the distinguished acting minority leader for his views?

Mr. GRIFFIN. As I understand, this applies to the selection of chairmen of committees; is that correct?

Mr. HARRIS. And ranking minority members.

Mr. GRIFFIN. And ranking minority members? And the proposal is that there be reference to the Rules Committee, and there be a report within 10 days?

Mr. HARRIS. Two weeks. That is the proposal of the majority leader.

Mr. GRIFFIN. Yes. Well, I am very much interested in this. I had some question in my mind, especially since the committees are not yet established and will take a little while to get underway, as to how quickly they might act in an adequate way on it, but I would assume if they needed some more time, that probably would not be too difficult to achieve.

On the majority side, the greatest interest would naturally lie in the selection of the chairmen. If the majority side is agreeable to that, I certainly think we would have no objection on this side.

Mr. MANSFIELD. May I say I appreciate the remarks of the distinguished acting majority leader, and would point out that this would give us a chance to get the committees established and the names approved.

Mr. President, I send to the desk two resolutions, and ask that they be considered separately.

The PRESIDENT pro tempore. Does the majority leader want the Senate to act on this unanimous-consent request?

Mr. MANSFIELD. Oh, pardon me. What is the unanimous-consent request?

Mr. HARRIS. Mr. President, we could state it if the majority leader wishes. We are in agreement on it. In the meantime, let me make this request:

Mr. President, I ask unanimous consent that the Senator from Maryland (Mr. MATHIAS) and I may yield, despite our special order assigning us 30 minutes time, to the majority leader for taking care of this business, and that immediately thereafter our time begin to run, and we at that time be recognized under the special order.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Oklahoma? The Chair hears none, and it is so ordered.

NUMERICAL MAKEUP OF COMMITTEES

The PRESIDENT pro tempore. The clerk will state the first resolution.

The legislative clerk read as follows:

S. RES. 15

Resolved, That paragraph 1 of rule XXV of the Standing Rules of the Senate is modified to read as follows:

2. Except as otherwise provided by paragraph 6 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

Committee:	*Members*
Aeronautical and Space Sciences	11
Agriculture and Forestry	14
Appropriations	24
Armed Services	16
Banking, Housing, and Urban Affairs	15
Commerce	18
Finance	16
Foreign Relations	16
Government Operations	18
Interior and Insular Affairs	16
Judiciary	16
Labor and Public Welfare	17
Public Works	16

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

There being no objection, the resolution was considered and agreed to.

The PRESIDENT pro tempore. The clerk will state the second resolution.

The legislative clerk read as follows:

S. RES. 16

Resolved, That the following shall constitute the majority party's membership on the standing committees, the Select Committee on Equal Educational Opportunity, and the Select Committee on Small Business of the Senate for the Ninety-second Congress:

Committee on Aeronautical and Space Sciences: Mr. Anderson (chairman), Mr. Magnuson, Mr. Symington, Mr. Stennis, Mr. Cannon.

Committee on Agriculture and Forestry: Mr. Talmadge (chairman), Mr. Ellender, Mr. Eastland, Mr. Jordan, Mr. McGovern, Mr. Allen, Mr. Humphrey, Mr. Chiles.

Committee on Appropriations: Mr. Ellender (chairman), Mr. McClellan, Mr. Magnuson, Mr. Stennis, Mr. Pastore, Mr. Bible, Mr. Byrd of West Virginia, Mr. McGee, Mr. Mansfield, Mr. Proxmire, Mr. Montoya, Mr. Inouye, Mr. Hollings.

Committee on Armed Services: Mr. Stennis (chairman), Mr. Symington, Mr. Jackson, Mr. Ervin, Mr. Cannon, Mr. McIntyre, Mr. Byrd of Virginia, Mr. Hughes, Mr. Bentsen.

Committee on Banking, Housing and Urban Affairs: Mr. Sparkman (chairman), Mr. Proxmire, Mr. Williams, Mr. McIntyre, Mr. Mondale, Mr. Cranston, Mr. Stevenson.

Committee on Commerce: Mr. Magnuson (chairman), Mr. Pastore, Mr. Hartke, Mr. Hart, Mr. Cannon, Mr. Long, Mr. Moss, Mr. Hollings, Mr. Inouye, Mr. Spong.

Committee on the District of Columbia: Mr. Eagleton (chairman), Mr. Inouye, Mr. Stevenson, Mr. Tunney.

Select Committee on Equal Educational Opportunity: Mr. Mondale (chairman), Mr. McClellan, Mr. Magnuson, Mr. Ervin, Mr. Randolph, Mr. Inouye, Mr. Bayh, Mr. Hughes, Mr. Spong.

Committee on Finance: Mr. Long (chairman), Mr. Anderson, Mr. Talmadge, Mr. Hartke, Mr. Fulbright, Mr. Ribicoff, Mr. Harris, Mr. Byrd of Virginia, Mr. Nelson.

Committee on Foreign Relations: Mr. Fulbright (chairman), Mr. Sparkman, Mr. Mansfield, Mr. Church, Mr. Symington, Mr. Pell, Mr. McGee, Mr. Muskie, Mr. Spong.

Committee on Government Operations: Mr. McClellan (chairman), Mr. Jackson, Mr. Ervin, Mr. Muskie, Mr. Ribicoff, Mr. Harris, Mr. Metcalf, Mr. Allen, Mr. Humphrey, Mr. Chiles.

Committee on Interior and Insular Affairs: Mr. Jackson (chairman), Mr. Anderson, Mr. Bible, Mr. Church, Mr. Moss, Mr. Burdick, Mr. McGovern, Mr. Metcalf, Mr. Gravel.

Committee on the Judiciary: Mr. Eastland (chairman), Mr. McClelland, Mr. Ervin, Mr. Hart, Mr. Kennedy, Mr. Bayh, Mr. Burdick, Mr. Byrd of West Virginia, Mr. Tunney.

Committee on Labor and Public Welfare: Mr. Williams (chairman), Mr. Randolph, Mr. Pell, Mr. Kennedy, Mr. Nelson, Mr. Mondale, Mr. Eagleton, Mr. Cranston, Mr. Hughes, Mr. Stevenson.

Committee on Post Office and Civil Service: Mr. McGee (chairman), Mr. Randolph, Mr. Burdick, Mr. Hollings, Mr. Moss.

Committee on Public Works: Mr. Randolph (chairman), Mr. Muskie, Mr. Jordan, Mr. Bayh, Mr. Montoya, Mr. Eagleton, Mr. Gravel, Mr. Tunney, Mr. Bentsen.

Committee on Rules and Administration: Mr. Jordan (chairman), Mr. Cannon, Mr. Pell, Mr. Byrd of West Virginia, Mr. Allen.

Select Committee on Small Business: Mr. Bible (chairman), Mr. Sparkman, Mr. Long, Mr. Williams, Mr. Nelson, Mr. Montoya, Mr. Harris, Mr. McIntyre.

Committee on Veterans' Affairs: Mr. Hartke (chairman), Mr. Talmadge, Mr. Randolph, Mr. Hughes, Mr. Cranston.

Mr. HARRIS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. HARRIS. Under rule XXIV, if a Senator requests it, will there be individual votes on the several chairmen, individually and separately?

The PRESIDENT pro tempore. When the resolution is adopted, it is acted upon as a whole.

Mr. HARRIS. Mr. President, a further parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. HARRIS. Does not rule XXIV provide that there be a vote by ballot on each of the chairmen, if that is requested by a Senator?

The PRESIDENT pro tempore. If it is demanded, of course.

Mr. HARRIS. That can be by voice vote.

The PRESIDENT pro tempore. Yes.

Mr. HARRIS. Mr. President, I do so require, saying in advance that I do not intend to vote against any chairman. But I do think it is important to point up this procedure for the future. No effort has been made by anyone to make a case against any individual chairman, but I think the procedure is important. I do not think it is as useful as it would be if the Mathias-Harris rule is adopted, so that individual votes will hereafter be required in the caucuses, where the real choices are made, but to point up the fact that the Senate does elect its chairmen and is responsible for them, and they to the Senate, I think this procedure should be undertaken.

I do require, if I may, under rule XXIV, an individual vote on each chairman listed in the resolution.

The PRESIDENT pro tempore. The Senator is asking for a division of the vote on the resolution as to the chairmanships?

Mr. HARRIS. I invoke rule XXIV of the Senate and thereby require an individual vote on each chairman, again stating to the Senate that I do not intend to vote against any chairman at this time. No effort has been made to make a case against any chairman, but I think the procedure is important.

The PRESIDENT pro tempore. Does the Senator want a voice vote?

Mr. HARRIS. I ask unanimous consent that the votes be by voice vote instead of by ballot.

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

Mr. MANSFIELD. Mr. President, I had not anticipated that this would come up in this fashion. Otherwise, I would have suggested the absence of a quorum and had a live quorum present.

It is my understanding that the move now contemplated would be incorporated in part, in addition to rule XXIV, in the resolution which is to be presented shortly by the two Senators.

The Senator, of course, as the Chair has indicated, is perfectly within his right. The selection of chairmen is subject to a vote in the Senate if it is so desired. But I wonder whether the two Senators at this time would consider the possibility of a unanimous-consent request that all the chairmen be voted on en bloc.

Mr. HARRIS. Let me say, Mr. President, that I do not think it would take long to put those individual questions to the Senate. I certainly did not intend to surprise the majority leader. As I say, I do not intend to try to make any case for stating opposition or casting any vote against an individual chairman. I just thought it was important that we begin this procedure, the kind of procedure which I hope we will follow in the future, and perhaps adopt even in the caucuses.

Mr. MANSFIELD. Mr. President, I withdraw my suggestion. I ask for a vote on each one.

The PRESIDENT pro tempore. The first vote is with respect to the Committee on Aeronautical and Space Sciences, Mr. ANDERSON, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. ANDERSON's appointment as chairman is agreed to.

The Committee on Agriculture and Forestry, Mr. TALMADGE of Georgia, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. TALMADGE's appointment as chairman is agreed to.

The Committee on Appropriations, Mr. ELLENDER, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. ELLENDER's appointment as chairman is agreed to.

The Committee on Armed Services, Mr. STENNIS, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. STENNIS' appointment as chairman is agreed to.

The Committee on Banking, Housing and Urban Affairs, Mr. SPARKMAN, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. SPARKMAN's appointment as chairman is agreed to.

The Committee on Commerce, Mr. MAGNUSON, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. MAGNUSON's appointment as chairman is agreed to.

The Committee on the District of Columbia, Mr. EAGLETON, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. EAGLETON's appointment as chairman is agreed to.

The Select Committee on Equal Educational Opportunity, Mr. MONDALE, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. MONDALE's appointment as chairman is agreed to.

The Committee on Finance, Mr. LONG, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. LONG's appointment as chairman is agreed to.

The Committee on Foreign Relations, Mr. FULBRIGHT, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. FULBRIGHT's appointment as chairman is agreed to.

The Committee on Government Operations, Mr. MCCLELLAN, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. MCCLELLAN's appointment as chairman is agreed to.

The Committee on Interior and Insular Affairs, Mr. JACKSON, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. JACKSON's appointment as chairman is agreed to.

The Committee on the Judiciary, Mr. EASTLAND, chairman. As many as favor the appointment will say "aye"; opposed "no."

The ayes have it. Mr. EASTLAND's appointment as chairman is agreed to.

The Committee on Labor and Public Welfare, Mr. WILLIAMS, chairman. As many as favor the appointment will say "aye"; opposed "no."

The ayes have it. Mr. WILLIAMS' appointment as chairman is agreed to.

The Committee on Post Office and Civil Service, Mr. MCGEE, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. MCGEE's appointment as chairman is agreed to.

The Committee on Public Works, Mr. RANDOLPH, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. RANDOLPH's appointment as chairman is agreed to.

The Committee on Rules and Administration, Mr. JORDAN of North Carolina chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. The appointment of Mr. JORDAN of North Carolina as chairman is agreed to.

The Select Committee on Small Business, Mr. BIBLE, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. BIBLE's appointment as chairman is agreed to.

The Committee on Veterans' Affairs, Mr. HARTKE, chairman. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. HARTKE's appointment as chairman is agreed to.

With respect to the remaining membership on each committee, does the Senator from Oklahoma desire that they be voted on separately or en bloc?

Mr. BYRD of West Virginia. Mr. President, before the Senator responds, would he allow me to say one thing?

Mr. President, let the RECORD show that no negative vote was cast with respect to any chairman.

The PRESIDENT pro tempore. Very well.

What is the pleasure of the Senate?

Mr. MATHIAS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. MATHIAS. May I inquire what the Senator from West Virginia just said?

Mr. BYRD of West Virginia. I simply asked that the RECORD show that there was no negative vote—certainly, not audible—with respect to any chairman.

Mr. MANSFIELD. Against any chairman.

Mr. MATHIAS. I am not disposed to question the Senator's hearing. I am wondering whether the Senator from West Virginia would not withdraw that request.

Mr. BYRD of West Virginia. Mr. President, I withdraw my statement. I ask unanimous consent that my statement be withdrawn, at the request of the Senator from Maryland.

The PRESIDENT pro tempore. Very well; the RECORD will so show.

Mr. SCOTT. Mr. President, reserving the right to object, before the Chair rules, I just use this occasion to say that I am not interposing an objection. This is a function of the majority party. The minority party may or may not have a different point of view. Nothing is to be inferred from this occurrence on the floor whatsoever.

The minority party is in process of preparing its committee list by action of the chairman of the Committee on Committees and the members. That is expected to be reported shortly, and I am unable to state the exact time.

These committees are submitted to our conference for approval, and I hope we can get them in very quickly. But there are certain small, technical matters which need to be developed first, and I make the statement simply so that the RECORD will show that the full committee list on both sides shortly will be ready, so that the Senate can continue to function.

The PRESIDENT pro tempore. It is the understanding of the Chair that the full committee list of the majority is before the Senate, and the Chair wishes to ask the distinguished Senator——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the membership of all the committees in the resolution be approved en bloc.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

APPOINTMENTS TO FILL CERTAIN VACANCIES ON COMMITTEES

The PRESIDENT pro tempore. The Chair makes the following announcement on behalf of the Vice President:

Under the provisions of section 2251 of title 42, United States Code, the following Senators are to be appointed to

fill vacancies of the majority party membership on the Joint Committee on Atomic Energy: Mr. SYMINGTON and Mr. BIBLE.

Under the provisions of section 1024 of title 15, United States Code, the following Senators are to be appointed to fill vacancies of the majority party membership on the Joint Economic Committee: Mr. HUMPHREY and Mr. BENTSEN.

Under the provisions of Senate Resolution 33, 87th Congress, agreed to on February 13, 1961, as amended and supplemented, the following Senators are to be appointed to fill vacancies on the majority party membership on the Special Committee on Aging: Mr. PELL and Mr. EAGLETON.

Under the provisions of Senate Resolution 281 of the 90th Congress, as amended and supplemented, the following Senators are to be appointed to fill vacancies on the majority party membership on the Select Committee on Nutrition and Human Needs: Mr. NELSON and Mr. CRANSTON.

The Chair makes the following announcement:

Under the provisions of section 401 of the Legislative Reorganization Act of 1970, the following Senators are to be appointed as the majority party membership on the Joint Committee on Congressional Operations; Mr. METCALF. Mr. GRAVEL, and Mr. CHILES.

EXECUTIVE SESSION

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

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

The PRESIDING OFFICER (Mr. HUMPHREY). The nomination on the Executive Calendar will be stated.

DEPARTMENT OF THE INTERIOR

The legislative clerk read the nomination of ROGERS C. B. MORTON of Maryland, to be Secretary of the Interior.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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

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

Mr. SCOTT. Mr. President, I rise only to speak of the very high regard I have for ROGERS C. B. MORTON, whom I have known a very long time.

I am strongly of the opinion that his administration as Secretary of the Interior will reflect the same credit on the Government and the Nation as the constructive things made possible by former Secretary of the Interior Hickel.

I wish the new Secretary of the Interior, Mr. MORTON, success in his administration of this position. I am sure that the conservationists, the natural resources people, and all those who have just concerns in this field will find that they are met with complete understanding and cooperation.

I thank the Senator from Maryland for yielding to me.

Mr. MATHIAS. Mr. President, I join the Senator from Pennsylvania in his high regard for ROGERS MORTON as the new Secretary of the Interior. I feel that this is a very important nomination and I am very glad it received the unanimous confirmation of the Senate.

Dr. Samuel Johnson once said:

> In lapidary inscriptions a man is not upon oath.

So it is with many of the things, good and bad, that we in public life say about each other. Many times, what is said is a reflection of the amenities, appropriate for the occasion, rather than a conviction about the facts.

But I do not ask any such latitude today, because it is unnecesary. When I talk about ROG MORTON, I can do so with so much conviction and so much enthusiasm that to say everything I would like to tell you about him would trespass on your patience and on his time. But there are a few things I would like to tell you that may serve as examples of ROG MORTON'S dedication and drive and deep-felt devotion to his country.

When I speak of devotion to America I do not speak in abstract terms. ROG is a man who loves the soil, understands its secrets, the springs of its bounty and the discipline it requires. His concern for the earth and all that grows on it and from it is perhaps best encompassed by the word "husbandry" and I cannot think of a better man to lead the Nation in the practice of good husbandry.

ROG MORTON has had experience in nearly all aspects of good husbandry. As a citizen of the Chesapeake Bay country, and later as its representative in Congress, he has learned and practiced the principles of conservation so necessary for a great natural resource that is endangered by the threatening expansion of metropolitan areas. He has become one of the foremost experts in the country on the management and protection of estuarine areas. While he has defined and defended ancient and traditional values, he has been progressive in seeking new and progressive instruments. He has, for instance, been among the first and most vigorous champions of the concept of hydraulic models of vital and endangered bodies of water to scientifically probe the nature of their problems and the sources of their cures.

He has devoted himself to a study of waterfowl and their protection. He and I have drifted on the bay in a silent boat near the thousands of ducks, geese, and swans that come to the Chesapeake and we have shared the pleasure and excitment of recognizing the different species, watching their activity and listening to their calls. Only a man who cares very deeply about nature and appreciates its endless mystery and beauty could respond as he did.

There is a legend on the Eastern Shore of Maryland that when he came there from Kentucky his name was ROGERS CLARK BALLARD MORTON, but that by a process of gradual mutation it has become ROGERS "CHESAPEAKE BAY" MORTON. The mere fact that the legend exists speaks more than any public record about the way his neighbors judge the depth and sincerity of his interest and concern with regard to the bay and the creatures that live in its environment.

But it is not enough to care. It is necessary to know what to do about it. The Department of the Interior is one of the world's larger institutions with sprawling agencies that reach across and beyond the Nation. The ability to administer such an organization is essential to reaching the goals of preserving the earth, the water, and the wildlife of America.

Here again, ROG MORTON has a record of achievement. He has been associated with progressive and successful American business. He knows the patterns of modern management that have given American business its lead over every other national economy. His success in business administration has been recognized by the number of colleges, universities, and foundations that have sought his help as trustee or director at a time when they need to attain the highest level of efficiency and effectiveness.

His record in Government is a further pledge of his prospect for success as Secretary of the Interior. He is a Republican who represents an overwhelmingly Democratic congressional district which gave him 75 percent of the vote in 1970. That means that he has enjoyed unprecedented popularity and must reflect his rare perception of human concerns and the sure touch of his warm responses. Such a man will be able to comprehend the legitimate concern and apprehension of both the Congress and the country about the preservation of the national domain, and will be able to give us both the assurance and the action that will merit our confidence.

President Nixon has found a great source of strength and talent in ROG MORTON. I am convinced that as Secretary MORTON he will provide thoughtful counsel as a member of the Cabinet and vigorous leadership as the head of the Interior Department.

Mr. CASE. Mr. President, I ask unanimous consent to have printed in the RECORD a statement on this subject by the Senator from Colorado (Mr. ALLOTT).

There being no objection, Mr. ALLOTT'S statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ALLOTT

Mr. President, it is my extreme pleasure to rise in support of President Nixon's nomination of Rogers C. B. Morton as Secretary of the Interior.

The Interior and Insular Affairs Committee voted unanimously on Tuesday to recommend confirmation of this appointment and wisely so.

If there were questions about Congressman Morton's qualifications when the hearings commenced, they were quickly dispelled by his knowledge and ability evidenced during the many hours of questioning that ensued.

I heartily recommend confirmation of this nomination.

I am convinced that the Congressional background and experience of Congressman Morton, including, but not limited to, his service on the House Interior and Insular Affairs Committee and the Public Land Law

Review Commission has provided him with a broad comprehension and appreciation of the responsibilities he will assume. Seldom if ever has a nominee come before our Committee who is so well qualified for carrying out the laws enacted by Congress and for achieving the necessary cooperation between the Executive and Legislative branches which must exist if we are truly going to solve the many problems facing our country within the jurisdiction of the Department of the Interior.

It is of utmost importance that, as Secretary of the Interior, Congressman Morton will have the confidence of, and working rapport with, the President.

The experience of Congressman Morton as National Chairman of the Republican Party has contributed to his ability to be a good administrator of the Department of the Interior and its myriad of activities. It will serve him to good stead in performing those duties which he will assume.

One of those responsibilities is overseeing the affairs of the Territories of the United States.

Many problems have arisen in connection with our territorial responsibilities and there no doubt will be many more.

I was, therefore, impressed that the citizens of the Territory of Guam through their representative took the initiative and filed with the Committee a statement in support of Congressman Morton.

Their appraisal of Congressman Morton is that "he is eminently qualified by character, experience and temperament to assume the duties of this high office". I agree with their conclusion.

The President has nominated a man whose background, experience and ability is well known and broadly respected. I am confident that Mr. Morton will serve in this post with distinction.

LEGISLATIVE SESSION

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

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

NOMINATION AND APPOINTMENT OF COMMITTEE MEMBERS

Mr. MATHIAS. Mr. President, I send to the desk a resolution to amend rule XXIV at this time.

The PRESIDING OFFICER (Mr. HUMPHREY). The resolution will be received.

The resolution reads as follows:

S. RES. 17

Resolved, That the Senate of the United States strike out the existing language of Rule XXIV and insert in lieu thereof the following:

1. In the appointment of the standing committees, the Senate shall proceed by ballot to appoint severally the chairman and ranking minority member of each committee, and the other members necessary to complete the same. A majority of the whole number of votes given shall be necessary to the choice of a chairman and a ranking minority member of a standing committee, but a plurality of votes shall elect the other members thereof. All other committees shall be appointed by ballot in the same manner, and a plurality of votes shall appoint. No one shall be appointed chairman or ranking minority member of more than one standing committee.

2. When a chairman, ranking minority member or other member of a committee shall resign or cease to serve on a committee, the vacancy shall be filled in the manner prescribed by Sections 1 and 3 of this rule.

3. The chairman of each standing committee and the other members of the majority party necessary to complete its membership on each committee shall be nominated severally by ballot in a conference of members of the Senate who are members of the majority party. The ranking minority members of each standing committee and the other members of the minority party necessary to complete its membership on each committee shall be nominated severally by ballot in a conference of members of the Senate who are members of the minority party. In all such nominations, neither conference shall be bound by any tradition, custom, or principle of seniority. A majority of the whole number of votes given shall be necessary to nominate a chairman and a ranking minority member of a standing committee, but a plurality of votes shall nominate the other members thereof. A plurality shall nominate a chairman, a ranking minority member and other members of all other committees.

Mr. HARRIS. Mr. President, for myself and the Senator from Maryland (Mr. MATHIAS), I ask unanimous consent that this resolution may be referred to the Committee on Rules and Administration, to be reported back to the Senate within 2 weeks.

Mr. BYRD of West Virginia. Mr. President——

The PRESIDING OFFICER. Without objection, the resolution will be received and referred to the Committee on Rules and Administration, to be reported back in 2 weeks.

The Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, as chairman of the Subcommittee on Rules of the Committee on Rules and Administration, I offer every assurance to the able Senator from Oklahoma and the able Senator from Maryland, who are the authors of this resolution, that I shall do everything in my power to conduct a day of hearings and will, of course, be bound by the unanimous consent request, if it is agreed to, to report the resolution back to the Senate. I think this is the proper procedure, and the procedure would not circumvent the jurisdiction of the Rules Committee. I think the Committee on Rules and Administration, chaired by the distinguished Senator from North Carolina (Mr. JORDAN) and the Subcommittee on Rules, of which I have the honor of being chairman, certainly should have the opportunity to study any proposed change in rule XXIV.

Mr. STENNIS. Mr. President, reserving the right to object, I am in sympathy with the committee considering this proposed change, but I am not a member of the Committee on Rules and Administration. But I do remember that all these resolutions have to be considered by that committee with reference to committee funds. That is no formality, by any means. The case has to be stated. It has to be proved. I know by experience that they very carefully weigh the situation and by no means approve it as a formality. Sometimes it takes days and days and even weeks——

Mr. SCOTT. Will the Senator from Mississippi yield, as I think I could——

Mr. STENNIS. I yield.

Mr. SCOTT. Add some clarification here. As a member of the Committee on Rules, by virtue of the recent rule adopted by the Republican conference, it is necessary that we work out who is to be the ranking member of the Committee on Rules and Administration. We also have to add a new member on that committee. Therefore, at this point, we cannot state with certitude who would be the opposite number to the distinguished Senator from West Virginia on this very important subcommittee handling these matters.

I think early action is imperative, but 2 weeks will take us into the Lincoln-Washington recess. Perhaps we could work out some agreement, say, for March 1.

I do not want to delay it at all, but there are two delays already built in; namely, the recess, plus the new Republican rule, which has to be implemented and will take perhaps a matter of 2 or 3 days to do.

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

Mr. SCOTT. I spoke to the Senator from Michigan who will want to reserve his right to object——

Mr. STENNIS. Mr. President, I continue to reserve the right to object just to point out that the chairman of the Committee on Rules and Administration has not been advised of this, as I understand. The minority ranking member does not know of it yet. In deference to the Senator from Oklahoma, under those conditions, I would be compelled to object, but I would not object to a request of more time.

Mr. HARRIS. Mr. President, I hope that the Senator will not object. These matters were discussed here a while ago and both leaders—the distinguished Senator from Michigan (Mr. GRIFFIN) for the minority and the distinguished Senator from Montana (Mr. MANSFIELD) for the majority—suggested 10 days to 2 weeks, and we took the longer period. We agreed to 2 weeks rather than 10 days. I wonder whether we could not handle it that way. We are not being unreasonable if we could go ahead now with what was a gentleman's agreement, before the Senator from Maryland (Mr. MATHIAS) and I stood aside to allow the Senate to proceed with some matters. I see no reason for more delay in appointing the minority Republican Member and these other matters coming in there, for instance. If there is reason to lengthen the period, and the distinguished Senator from West Virginia (Mr. BYRD) the chairman of the subcommittee, comes in and says so, then the Senator from Maryland and I will be reasonable in agreeing to some kind of extension, but I wish that we could go ahead now.

We could have protected our rights by not working out any agreement at all until this request was agreed to. We assumed that what the leadership stated would be followed by making this gentleman's agreement with the other Members of the Senate.

I just wonder if we could not follow that kind of procedure.

Mr. BYRD of West Virginia. Mr. Pres-

ident, will the Senator yield to me without losing his right to the floor?

Mr. HARRIS. I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the able Senator from Alaska (Mr. GRAVEL) and the two able Senators who presently hold the floor will not be prejudiced by this continued discussion which is already eating into the time of the Senator from Alaska, previously ordered. The senior Senators from Oklahoma and Maryland have yielded part of their time for other purposes.

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

Mr. BYRD of West Virginia. Mr. President, again I say that this is not to be considered as a precedent, as the majority leader stated earlier.

I wonder if the Senator from Oklahoma and his coauthor would consider revising the unanimous-consent request to state that not later than March 1 the resolution be reported back to the Senate from the Rules Committee, which does have jurisdiction. I ask them to request this additional extension in view of what the minority leader has said. I think he was quite correct in interposing the suggestion. If they will do that, I assure them that I will do everything I possibly can to have at least a day of hearings on this proposal and report back to the Senate well in advance, if I possibly can do so, of March 1. I feel that under the prevailing circumstances, the chairman of the full committee, Mr. JORDAN of North Carolina, will approve the procedure which I am proposing to the two Senators.

I have a proposal of my own for a change in the standing rules but I will not offer it until the majority leader gives his approval. My own proposal will be referred to the Rules Committee, and I intend to hold some hearings on my own proposal after the chairman, Mr. JORDAN, authorizes me to do so. So, as the Senator from Oklahoma will see, there will be action in the rules subcommittee.

Mr. HARRIS. Mr. President, I modify my unanimous-consent request as follows: I ask unanimous consent that the resolution be referred to the Committee on Rules and Administration and be reported back not later than March 1.

The PRESIDING OFFICER. Without objection, the resolution will be referred to the Committee on Rules and Administration and be reported back not later than March 1.

Under the previous order, the Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, the Senator from Oklahoma (Mr. HARRIS) and I have offered the resolution which has been the subject of this discussion after a great deal of thought, after having invited each Member of the Senate to participate in the discussions, after hearing distinguished witnesses from the public, and, let me say very frankly, after hearing the criticisms leveled at the Congress and at the Senate by the President of the United States who was disappointed by the failure of this body to resolve certain questions he had posed to it.

This is not hasty action. We think it is action that is seasonable and necessary.

Mr. President, I think that we did not have as bad a record in the 91st Congress as has sometimes been portrayed to the country. I do not agree with all the criticisms that have been leveled at us. But I would say that a large part of the American public shares with the President some of the doubts he expressed about our operation.

I think this kind of criticism forces us to look at ourselves and to see what we can do to assure that we will be more efficient than we have been in the past, if indeed we have been guilty of this offense. I think that all of us would admit that it is important that this self-examination occur.

One of the most distinguished witnesses appearing before us was the Senator from Arizona (Mr. GOLDWATER). He in his statement recounted his experience covering three terms in the Senate. He felt that the talents and abilities of Senators were not being used as effectively as they could be because of the custom or tradition known as the seniority system. He said that of all the changes that should be made in the Senate, this was the one fundamental change that had to be addressed squarely and honestly. I share those views. I think we have to address them squarely and honestly. That is exactly what the amendment to rule XXIV proposes to do. It gives every Senator a chance to do so.

Aside from this change, let me say that we on the Republican side have been working, effectively, I believe, to bring our side of the aisle into conformity with the wind of change which I sense is blowing.

We have done two very significant things in the Republican caucus. We have brought our conference rules into substantial compliance with the Reorganization Act of 1970 so that the minority leadership has a chance to make minority committee assignments, which will be divided more equally between the minority members.

This has an iceberg aspect to it.

The immediate change would appear to be only a leadership substitution on three standing committees of the Senate. But, in fact, the change is very fundamental. It will not be fully appreciated until the minority committee assignments are announced. It will go all the way through the committee structure on the minority side.

It will give new opportunities to a great many Republican Members of the Senate. It is a change which was adopted by a vote of 35 to 2 in the Republican caucus. I believe that this near unanimity demonstrates not only that the idea was one which was generally accepted, but I think it also demonstrates that many of the Members who might be adversely affected by the change were willing to accept it in the interest of changing not only the image but also the substantive organizational effectiveness of Congress.

I personally would like to pay tribute to those senior members of the Republican Party who did objectively face the challenge and who resolved it despite the impact on their own personal interests.

In addition to this fundamental change on our side, the Republican caucus considered a resolution I offered which points toward the abolition or fundamental change in the seniority system as it deals with any chairmanships and ranking minority memberships.

That resolution was referred to a subcommittee to be appointed by the chairman of our conference. Again it was dealt with objectively and openly. I think there is a real opportunity to bring the congressional machinery into line with the tremendous responsibility every one of us bears. It is paramount that the kind of criticisms that have been leveled against us, to the effect that we are not attending to our business and to the business of the country in the best possible way, cannot and will not be leveled at us in the future.

People will always disagree. There will always be someone who will take a different view on a given issue. But there is no reason why any one of us on either side of the aisle should be forced to plead guilty to a charge that we are not working as effectively and efficiently as the people of America want us to work.

Mr. President, I am happy to yield to the distinguished Senator from Oklahoma who has shown such leadership and has participated so much in considering this difficult and delicate problem in the Senate.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. HARRIS. Mr. President, I am honored to join with the distinguished senior Senator from Maryland in the joint effort we have undertaken in the way of reform as we see it.

I commend the Senator from Maryland for the excellent work he has done in this field. The resolution which he and I have introduced would continue our joint effort to achieve reform of what we feel is the outmoded seniority system of the Senate.

The senior Senator from Maryland has already outlined some rather major changes that have been made on the minority side of the Senate in the direction of reform.

On the majority side of the Senate we have made some similar advances. The Senate Democratic caucus agreed, on the recommendation of the distinguished majority leader, to regular meetings of the Senate Democratic caucus on the second Wednesday of every month, the first meeting to be held on February 10 next. I think that will prove to be a major step forward toward reform, as has been true in the House.

Second, the majority leader, as he said, at the urging of some of us, for the first time this year submitted for approval by the Democratic caucus in the Senate, all chairmen of the various committees, although en bloc, before those names were submitted by the Steering Committee to the Senate. That is a step forward because it emphasizes the responsibility of chairmen to the majority caucus which selects them.

Third, we have made some advance in the Senate today. Earlier I invoked rule

XXIV requiring a separate and individual vote on each of the committee chairmen in the Senate. This emphasizes that chairmen of committees are officers of and Senate and chosen by a majority of the Senate. I believe that action, together with the new procedure for approval of chairmen in the majority caucus, will have a salutary effect.

The changes which the distinguished Senator from Maryland and I now propose in rule XXIV would require the Senate to go a step forward and elect, one by one, every chairman and ranking minority member of each committee, having first had that kind of separate and individual vote in each of the relevant caucuses. The caucuses under this rule change would nominate each chairman and ranking minority member, and a separate vote on each choice would be required.

I think the issue is public accountability and responsibility in all of these questions of reform; and individual Senators are responsible and accountable for their votes in the Senate. I think the times require there be such things as party responsibility and party accountability and, therefore, by this rule change we want to recognize the existence of the majority and the minority caucuses.

Our proposed change also states that the rule of seniority may not bind the majority and minority caucuses in their decisions.

At our next meeting on February 10 I intend to propose the creation of a committee on seniority reform, and I intend to propose the creation of a committee on qualifications for membership in the Democratic caucus, a matter which is presented to us this year, and I hope the caucus will be willing to establish such committees.

Taken together, these changes go a long way toward opening up the process of choosing committee chairmen and ranking minority members to the direct influence of the full membership of the Senate. The resolution would grant the membership of each caucus and then the full membership of the Senate a real opportunity, not the present illusory opportunity, to decide whether an incumbent chairman had been doing a satisfactory job, whether he had been responding to his own committee members, and to the will of his caucus and the Senate itself on issues and legislation and selection of staff under his committee's jurisdiction.

I believe this resolution will be adopted if the Senate has the opportunity to study it, consider its implications, and vote on it. If we do so quickly—and Senator MATHIAS and I will be seeking a vote on it just as soon as possible—I believe the very fact of its adoption will have a salutary effect on the way the Senate operates and the way chairmen run their committees, during the 92d Congress.

Mr. MATHIAS. I yield back the remainder of my time.

Mr. HARRIS. I yield back the remainder of my time.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska for 10 minutes.

SENATE RESOLUTION 18—SUBMISSION OF A RESOLUTION RELATIVE TO A NEW UNITED STATES-CHINA POLICY

Mr. GRAVEL. Mr. President, the China problem is now closing on the quarter century mark.

A great deal of water has, of course, flowed over the dam since those frightening days in 1949 when the cold war earned its name. For all the rhetoric and emotion, this period has witnessed less enlightened change on the China issue than perhaps on any other major subject of international affairs. Positions formed in the early 1950's have merely hardened with the passing years to a point where they now approach atrophy. Bloodied if unbowed, the China lobby pursues its dreary vision of the PRC as a "non-thing" despite its unquestioned control of over 750,000,000 people, its thermonuclear capability and its fledgling intercontinental delivery system.

After the evacuation of the Nationalist Government to Taiwan in 1949, it appeared likely that the U.S. Government would adopt an essentially hands off position in the matter, whatever our preferences, and would allow the situation to settle as it might. We had no 7th Fleet in the Straits of Formosa and no massive American military presence on Taiwan. Even John Foster Dulles, later a champion of a hard "nonrecognition, no U.N. membership" policy toward the PRC, at the time apparently felt that recognition and U.N. membership would follow in due course, sooner rather than later. The Korean war, of course, changed all of this and our policy quickly became one of maintaining the PRC in a position of international diplomatic quarantine, a pariah among states in the international community. In its essentials, that policy remains the position of the U.S. Government to this day.

It is not, as I have said, my intention to reopen the past or to weigh the arguments, pro and con, which earlier formed our present policy. This has been done in the considerable literature on the subject. I should like, rather, to focus my attention on the present and to view our policy in terms of current international realities.

When the present administration assumed office 2 years ago, it was widely hoped and assumed that the change offered a unique opportunity for a new look and a new direction in our relations with the PRC. The administration has largely ignored the opportunity and has hewed closely to the pattern established nearly 20 years ago. However, on July 21, 1969, the administration did announce a slight easing of travel and trade restrictions with mainland China, thereby relaxing the total embargo which had been in effect since 1950. Six months later, this was followed by limited permission given to subsidiaries of U.S. firms abroad to trade with mainland China in a limited category of nonstrategic goods. These do represent, in theory at least, some gains but have resulted in only a token increase in trade and travel between the two countries when compared, for example, with the volume of trade and travel between our Western European allies and mainland China.

We have also attempted to maintain at least some dialog with the Chinese through the periodic talks at Warsaw which this administration, to its credit, has tried to keep going. But the record of the talks themselves reveal their inadequacy and, indeed, the dangerous limitations of our China policy. In February of 1969, the Chinese canceled the next scheduled meeting, ostensibly over the earlier defection of Liao Ho-Shu, their charge d'affairs in the Netherlands. Nearly a year later, the talks were resumed only to be canceled, once again, by the Chinese after our incursion in Cambodia in April of 1970.

Such an ad hoc approach to serious consideration of crucial problems is nearly as ludicrous as it is uncertain. An entirely unsatisfactory substitute for a continuing discussion in an international forum. These are, moreover, nothing more than a part of our overall efforts to maintain the Chinese cordon sanitaire; to deal with the PRC, when at all, only reluctantly and as second-class citizens in world affairs. How can one fault the Chinese for deeply resenting this disparaging treatment by the United States and tailoring their actions accordingly?

Even as this administration has stood in place, our policy has been overtaken by events as is all to often and unhappily the case. And even as our diplomats have held fast, the people on this country have correctly sensed the need for forward movement and change. In January 1966, 67 percent of those Americans responding to a Gallup poll were opposed to the admission of the PRC to the United Nations. In October 1970, sentiment had come nearly full circle and the figure had dropped to 49 percent. Of those with a college education, 52 percent favored admission. Nonetheless, we continue to perform our yearly dance of the sandchabs at the U.N., barring the PRC from admission while support for our position dwindles away and even our close allies abandon our cause. In the most recent vote in the U.N. General Assembly in November 1970, for the first time a majority of members voting, 51 to be exact, voted to seat the PRC and to expel the ROC. Yes, while all serious observers agree that we will lose this vote within the next several years, and suffer the consequent diplomatic humiliation, we continue to go our increasingly lonely way, self-righteous to be sure but unrealistic most assuredly.

There are still, of course, those who will hold steadfast to that tired old standby that the PRC is not "entitled" to U.N. membership. The PRC has by its

conduct, they assert, not measured up to the membership criteria in the U.N. Charter.

If one were to cast stones about the General Assembly, based on the membership criteria, one would strike more than a few of the present members including some of our closest allies. This might result in a smaller and more wieldy forum but one hardly representative of a world organization.

These critics would also have it that the disruptive tactics of the PRC would bring the affairs of the U.N. to a standstill. This, I submit, reveals an unwarranted lack of confidence in the U.N. which has, in the past, survived truly outrageous conduct—the shoe-banging incident comes immediately to mind—and a series of vetoes designed specifically to impede its progress. Such arguments, I suspect, are designed more to cover intense hostility to the PRC than to pass international judgment on a membership question.

If anything, friends of the United Nations should welcome PRC membership as likely to prevent that body from drifting into irrelevance even if the Chinese were disposed to bang their shoes.

Finally, there has been a noticeable and significant change in the apparent outlook of the PRC in recent years while our official attitudes have firmly withstood change.

We are all familiar with the loud attacks by Peking on "American Imperialism" which continue in some degree to this day. Beneath the sound and the fury, however, there has often—one might even say "usually"—been considerable flexibilty. There is, for example, mounting evidence that China in 1965 and 1966 refused to go to the brink with the Soviet Union in responding to escalation by the United States of bombing of North Vietnam. China experts in the United States and elsewhere are now generally agreed that the Soviet Union suggested then that China provide bases from which Soviet planes would defend North Vietnamese Air space. There are also signs that certain Soviet and Chinese officials wanted to cooperate in rattling nuclear missiles at the United States and its allies. In the end, however, the Chinese opted for a stress on long term guerilla warfare as both a safer policy and one which, by getting the United States bogged down on the ground would in the long run be more successful.

Much of the inflation in rherotic and Mao buttons during the cultural revolution, both at home in China and overseas, grew out of the belief that "Soviet revisionists" were trying to use schemes for the defense of Hanoi as a cover to restore their influence inside China by building up a professional military establishment dependent on Soviet money and technology.

Whatever the real reasons behind the cultural revolution, we must not overlook the fact that it covered a policy of great caution toward the Vietnam war. And, since the cultural revolution, Chinese foreign policy generally has begun to stress the value of regular diplomatic relations with foreign nations. As the Members of this body are well aware, in the past year China established diplomatic relations with Italy, Ethiopia, Chile, and equatorial Guinea, as well as with Canada. At least that many other countries are actively exploring the matter.

She has continued to express the warmest friendship for Pakistan despite that nation's long standing military association with the United States and with declared enemies of the People's Republic elsewhere in Asia, a policy which was, incidentally, insulated from attack by China's own McCarthy-like witch hunt during the cultural revolution. Her quiet but consistent expression of continued interest in U.N. membership from the autumn of 1969 onward has been in marked contrast to her statements in 1965 when she endorsed Sukarno's attacks on the U.N. and on the use of U.N. machinery to settle Indonesian-Malaysian territorial disputes in favor of the latter.

The PRESIDING OFFICER. The Senator's time has expired, as agreed to in the previous order.

Mr. GRAVEL. Mr. President, I ask unanimous consent to proceed for 3 additional minutes.

The PRESIDING OFFICER. May the Chair say that under the previous order the Senate will now proceed to the transaction of routine morning business, with a limitation on statements of 3 minutes, for not to exceed 30 minutes.

Without objection to the previous request, the Senator may proceed.

Mr. GRAVEL. While responding to North Korea's movement away from the U.S.S.R. and closer to her, the People's Republic—in statements, for example, by her military chief of staff, Huang Yung-Sheng—has in the past year carefully refused to associate herself with beligerent remarks by North Korea. Elsewhere in what used to be called the Soviet Bloc, she has resumed ambassadorial relations with those most revisionist of revisionists, the Yugoslavs, and has taken very strong stands against Soviet intervention in Czechoslovakia and other Communist States whatever her reservations about the domestic policies of those states.

The international situation has, moreover, not stood still. China is no longer the "sick man" of Asia but is, rather, one of the five most powerful military nations on this earth. Her standing army is far and away the most powerful in Asia.

Recall that the PRC joined the select nuclear club some 6 years ago in October 1964, and advanced to thermonuclear capability on June 17, 1967.

Current estimates indicate that she is on the verge of deploying medium range ballistic missiles and assuredly intercontinental ballistic missiles will not be far behind. The threat has been sufficiently dangerous for us to prepare for an enormously costly ABM system, at least in part as a defense against China. This action, by maintaining our first strike capacity against China, can only serve to increase Chinese suspicions of and hostility to our intentions. Thus, while our efforts should be directed at bringing the PRC into the international community and, specifically, into international arms control and limitation discussions, our policy of containment and forced isolation works at direct cross purposes to our best interests.

China, to date, has been a party to virtually no arms control and limitation discussions within or without the affairs of the United Nations. Certainly this is, in part, a matter of choice by the Chinese but, by the same token our policy has provided no incentive for the Chinese to reexamine their views. She remains here as in other matters an outsider and potentially a most ominous one.

An adjunct to the overall military situation is the relationship of the PRC with the Soviet Union. Relations between the two deteriorated sharply between 1966 and 1969, bathed in cross vituperation exceeding even that usually reserved for capitalist countries. Whereas the exchange of new Ambassadors signaled a decrease in animosity, current indications are that tensions are again growing with troop buildups on both sides of the 4,200-mile border. And there is even talk of elements in the Kremlin advocating a nuclear preemptive strike. Only the most foolhardy would suggest that the military possibilities of the Sino-Soviet dispute could redound to anything but the disadvantage of the United States and our Government has correctly rejected any such idea. This is, in any case, the type of dispute which might—just might—be defused in the course of consideration in an international milieu. But this, of course, requires at the very least that the parties be brought into an international forum where such discussion might take place. The United Nations could provide the forum.

Sino-Soviet relations then, must be viewed in terms of a three-cornered proposition with ourselves providing the third part of the equation. Both the Chinese and the Soviets view with the greatest interest the state of our relations with the other party. And each positive step we take with one may be interpreted by the other as a provocation. The balance, in short, is a delicate one. All the more reason, I submit, why it is all important to bring our relations with both, to the extent feasible, out of the secretive atmosphere of such as the Warsaw talks and into a multilateral international context.

Whether we like it or not, this country must face the world and the China of 1971. We no longer have the luxury of choosing whether we should adopt a new approach. Indeed, we now scarcely have an option of when to adopt a new policy. China is a thermonuclear power and is now or soon will be capable of triggering nuclear devastation. China will be admitted to the United Nations regardless of our delaying tactics which can only serve to increase her hostility to us and to our efforts to secure peace. China will not remain in economic or diplomatic isolation as even our closest allies have already recognized. The parts will soon be reversed and ours will be the position of isolation.

This administration has not seized the opportunity to build a new policy. I believe it to be of the utmost importance therefore that this body should exercise its traditional role in the formulation of foreign policy and I should like to introduce the following resolution as representing the sense of the Senate:

SENATE RESOLUTION FOR A NEW UNITED STATES-CHINA POLICY

Whereas the People's Republic of China has, for more than twenty years, demonstrated its effective control of the 750,000,000 people on mainland China, representing ¼ of the entire population of the world, and gives every indication of maintaining such control within the foreseeable future; and

Whereas the People's Republic of China is even now among the most powerful nations on earth not only in terms of demographic and economic strength but also, as one of the five thermonuclear states and one on the threshold of possessing an independently developed intercontinental delivery system, in terms of military capability; and

Whereas the People's Republic of China has by its conduct demonstrated increasing willingness to join in both the concerns and activities of the world community of nations; and

Whereas it is in the interest of the United States in support of world peace to encourage this evolution; and

Whereas each year more states of all political persuasions, including some of our firmest free world allies, acknowledge this situation by extending diplomatic recognition to the People's Republic of China or by supporting the admission of the People's Republic of China to the United Nations, or both; and

Whereas the People's Republic of China will be admitted to membership in the United Nations within several years even as the sole representative of China and despite efforts of the United States to bar membership; and

Whereas the United States should exercise its influence in the United Nations through progressive leadership and should not subject itself, through inertia or attachment to the status quo of a vastly different and earlier era, to the role of follower, through a course of diplomatic humiliation; therefore be it

Resolved, That the United States inform both the People's Republic of China and the Republic of China that it is not committed to the indefinite separation of Taiwan from mainland China, and that it shares the expressed interest of both governments in eventual reunification, and that it proposes that those governments attempt by and between themselves to reach a settlement of disputes dividing them and to seek means for accomplishing the eventual peaceful unification of the Chinese people; and be it further

Resolved, That the United States introduce in the twenty-sixth United Nations General Assembly a draft resolution proposing that the People's Republic of China be admitted to membership in the United Nations and all organizations related to it; and be it further

Resolved, That the United States as a permanent member of the Security Council request that the Secretary General of the United Nations consult member nations with respect to the designation of the permanent Security Council seat now occupied by the Republic of China as a permanent Asian seat to be occupied by such Asian countries as the membership may at regular intervals determine.

Mr. President, one part of this resolution you will note, offers directly to seat the PRC in the General Assembly. What it calls for in effect is not the admission of a new member but the return of Communist Chinese representatives. I say "return" for good reasons:

It may surprise some to recall the fact that the 12-man delegation representing the state of China at the San Francisco conference was actually in the nature of a coalition of different parties and one representative, Tung Pi-Wu, was a member of the Communist Party. And the entire Chinese delegation, participated in the signing of the U.N. Charter at the closing plenary session of the San Francisco conference on June 26, 1945.

The representation problem first arose on November 18, 1949, when the newly proclaimed Central People's Government of the People's Republic of China requested the United Nations to divest the ROC of the right to represent the Chinese people in the U.N. It has, of course, been a problem ever since. Between 1950 and 1960, the United States successfully sponsored a resolution to keep the representation issue off the agenda of the General Assembly. Then, in 1961, we adopted a different position, allowing the matter to be placed on the agenda but cosponsoring successfully a resolution declaring the issue an "important question" under article 18 of the Charter requiring a two-thirds-vote for passage. That year, the vote on the substantive issue of seating the PRC and expelling the ROC was 36 in favor, 48 opposed, and 20 abstaining. In the most recent vote on the same question, in November 1970, the vote was 51 in favor, 49 opposed, and 25 abstaining.

Now the resolution which a majority of the GA members voted for last fall explicitly calls for the expulsion of the ROC representatives as well as for the seating of the PRC. You will note that my resolution does not make specific mention at all of the Republic of China, which is already a member of the General Assembly and a permanent member of the Security Council. It is my hope and I am sure it is the hope of other Members of this body to see the continued presence of the Republic of China in the United Nations. The question at hand, however, is how we can in fact take a further step in that direction.

During the two decades the issue has been before the General Assembly, the possibility of a "two China" policy with dual representation in the General Assembly has been treated in almost endless variation by scholars and officials in the field. Some of the proposals have been exceedingly ingenious while others have been simple and straightforward. But all have suffered from one basic and unavoidable flaw. Both the PRC and the ROC have made it abundantly clear on numerous occasions that dual representation is out of the question. Each firmly maintains its claim to represent all of the Chinese people and refuses to sit with the other in the U.N.

In the face of such intransigence on both sides, what then can the Senate and the United States do without further alienating both Chinas and continuing down the road to a defeat on this issue in the U.N.?

As I consider the many varied proposals, it strikes me that one approach has been largely neglected. In their Asia have truly lost sight of this particular forest. We have in the past concentrated largely on what the United States can and should do to provide a careful and by now nearly 20-year study of all the trees, many commentators on solution to the China problem; we have concentrated on questions of how we could exert our strength and influence, perhaps with other outside powers, to reduce the tensions in the area,

Practically nothing has been said about what the Chinese themselves on the mainland and on Taiwan might do toward reaching a settlement. The President did say, in his report to the Congress on a new strategy for peace, that "we have no desire to impose our own prescriptions for relationships in Asia." Yet, our actions have not fully borne out that resolve. Our hand has been in virtually every facet of the relationship between Taiwan and the mainland. And it is my impression that the presence of that hand causes mistrust and fear of domination not only in Peking but in Taipei as well. The Chinese people of whatever era or political persuasion have traditionally resented outside interference and feared outside domination. And history indicates that their fear and resentment have usually been well founded.

This is why the first part of the resolution calls on both Chinas themselves to come up with some solutions. I think we must recognize that ROC fears—in view of the whole history of U.S. involvement in Asia—the day when we might go behind her back to help bring into power on Taiwan a government which is easier to deal with. I do not think any U.S. Government—that I can foresee for the near future—would do such a thing, considering its costs in further and deeper involvement in Taiwan, yet I can understand ROC fears of the possibility. I do not need to elaborate on parallel PRC fears that we might increase rather than decrease our involvement in Taiwan. Why not take a step toward quieting the fears on this point of both parties by taking them at their word and endorsing the eventual reunification of China so long as it is peaceful?

I think that once we have cleared the air on this matter things might eventually begin to move toward the kind of accommodation between both Chinas—whether or not its spelled in some document or open talks—that would allow them to accept each other's presence in the U.N.

The more the United States tries to dictate the terms of a two-China solution to the U.N. problem, the less likely we are, I think, to see such a solution. I do not suggest that the Republic of China now desires the withdrawal of our economic and military presence from Taiwan or the termination of our treaty commitments. I do suggest that in view

of their fears of our real intentions that they would likely welcome a statement of our desire that they by themselves seek ways of lessening the tensions in the area, even leading to a peaceful accommodation between the two Chinas. Our stated desire and no more. Beyond that, we should make it clear that we would not interfere. Our position might be conveyed publicly or perhaps privately, whichever the administration feels is most appropriate. But the message should be passed and this resolution would declare it the sense of this body that the administration should so proceed. We have learned from tragic experience in Indochina that Asian solutions are not always best formulated in Washington. Here, I submit, is another area where our bitter experience can be put to good use.

What the first part of my resolution does is make clear to both Chinas that we agree with them on the desirability of their reunification. It promises them that we will not use the Mutual Security Treaty to upset the existing order to the disadvantage of either or both. The second part of the resolution, in this light, is simply an affirmation of our desire to get moving toward better relations with the CPR on terms consistent with our commitments to the ROC.

Both parts move the United States away from efforts to dictate the precise terms of any "two China" solution for the General Assembly. They move in the direction of the kind of atmosphere in which the two Chinas themselves might seek such a solution. The third and final part of my resolution then calls on members of the U.N. apart from the United States to turn their serious attention to the related matter of Security Council membership. Many of these members retain relations with the ROC as well as knowing her in the U.N.; increasing numbers now have relations with the CPR. Neither China has reason to fear their honest suggestions on these matters in the way they both suspect U.S. intentions. Let the United States, then, invite the assistance of other U.N. members in seeking solutions possibly acceptable to both Chinas.

We, therefore, propose, in the resolution, that the Secretary General consult with the U.N. membership about the transformation of the permanent Asian Security Council seat now held by the Republic of China into a permanent Asian seat. Let me elaborate briefly on this proposal.

The Chinese seat has, as I have said, plagued those who advance a balanced solution to the representation question. It may present little difficulty to such as the Albanians who would merely have the People's Republic in and the Republic of China out. But even the Albanians probably realize that the problem is not as simple as they would have it. The issue is loaded with complex legal and technical ramifications. While no one can predict with assurance that will actually happen, it is entirely possible that the problem could provoke a serious crisis by bringing the affairs of the Security Council to a standstill.

There is also the conceptual problem that this presents to Americans dealing with the subject. The simplest solution is to advocate the seating of the People's Republic and the expulsion of the Republic of China on the theory that the People's Republic will accept no other status. The United Nations Association of the United States has, for example, adopted this view. But certainly this treatment of an ally leaves a bad taste even if reason points to its necessity. Is it indeed necessary? I am convinced that it is not.

Creation of an Asian seat in lieu of the Chinese seat is desirable from several points of view. It avoids the either/or dilemma of a continued Chinese seat. But obviously the proposal must be more than simply an easy out for the United States. The proposition has considerable appeal to the other Asian nations who may share in this seating arrangement. The Japanese Government has, for example, already suggested an Asian seat. The growing trend of regionalism in Asia is a factor which we have supported and the creation of a regional seat is in keeping with this trend. The People's Republic has, moreover, rightfully assumed a growing role in the Asian regional context and one can safely assume that it would exert significant influence in determining the representation schema. The Republic of China, as an Asian power, presumably should also play a role. But it is not ours to suggest the constituency for the seat. Let the Asian nations decide this by and between themselves. We have stated our intention of not dictating the "prescriptions for relationships in Asia." We have also supported the growth of Asian regionalism. Here is an opportunity for us to match our actions with our deeds.

We shared last week a feeling of personal loss at the passing of one of the most distinguished Americans ever to serve in this Chamber—Senator Richard Russell. And I can think of no better way to stress the need for this resolution than to use his words. As he put it:

> It's seldom that you cause wars by talking to people, and you sometimes avoid it.

For 20 years we have refused to talk to the People's Republic of China in the United Nations. Let us start talking.

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

The resolution (S. Res. 18) relative to a new U.S.-China policy, submitted by Mr. GRAVEL, was referred to the Committee on Foreign Relations.

S. 382—INTRODUCTION OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Nevada (Mr. CANNON), the distinguished Senator from Rhode Island (Mr. PASTORE), and myself, I introduce a bill identical to S. 4607 of the 91st Congress—with only minor technical changes—and ask unanimous consent that it be referred simultaneously to the Committee on Finance, the Committee on Commerce, and the Committee on Rules and Administration under the same conditions and terms as the referral of last Congress.

The PRESIDING OFFICER (Mr. HUMPHREY). The bill will be received and appropriately referred; and, by unanimous consent the bill will be referred jointly to the Committees on Finance, Commerce, and Rules and Administration.

The bill (S. 382) to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes, introduced by Mr. MANSFIELD, for himself and other Senators, was received, read twice by its title and referred jointly to the Committees on Finance, Commerce, and Rules and Administration, by unanimous consent.

Mr. CANNON. Mr. President, I am very pleased to be a coauthor and sponsor of the Federal Election Campaign Act of 1971. This bill represents the latest in a long series of legislative proposals designed to strengthen and modernize Federal laws pertaining to election campaigns.

It is common knowledge that the Federal Corrupt Practices Act is obsolete and totally inadequate. Limitations on contributions and expenditures are ignored and the disclosure provisions accomplish nothing of value.

Most campaign money today is used to purchase broadcast time and yet there is neither a limit upon the amount which may be spent nor any required accounting for such expenditures.

Campaign costs are rising astronomically but little energy has been expended in finding new sources of political money. Citizens of the United States should be encouraged to support parties and candidates of their choice.

One method for obtaining greater citizen support is to offer moderate tax credits or deductions. Tax credits and deductions do not place the entire cost upon the Treasury of the United States, as in the case of direct appropriations of funds for the use of political parties and candidates.

Instead, these tax incentives bring about a sharing of the loss in revenues—part of the cost is borne by the taxpayer-contributor and the balance by the Government.

Finally, this Federal Election Campaign Act of 1971 requires full and detailed public disclosure by every candidate and every political committee or organization of all money raised and all money expended.

Information would be available readily concerning the sources from which campaign finances are derived and the manner in which it is spent.

Controls over expenditures for the use of broadcast communications media and nonbroadcast media, coupled with tax benefits to broaden the base of contributions and a complete and open reporting of all political money, will result in

greater confidence in the integrity of the Government.

It is my hope that early action will be taken on this bill so that it will be in full force and effect for the elections of 1972.

S. 400—INTRODUCTION OF A BILL TO BE KNOWN AS THE CRIMINAL JUSTICE REFORM ACT

Mr. SAXBE. Mr. President, I, together with Senators MONDALE, BROOKE, and EAGLETON, introduce a bill to be known as the Criminal Justice Reform Act, and ask that it be referred to the Committee on Government Operations and, when reported by that committee, to the Committee on the Judiciary.

The PRESIDING OFFICER (Mr. HUMPHREY). Without objection, the bill will be received and referred as requested.

The bill (S. 400) to establish a Criminal Justice Reform Administration in order to provide assistance to encourage States and localities to undertake comprehensive criminal justice reform in order to strengthen police protection, improve the prosecution of offenders, expedite overcrowded court criminal calendars and strengthen correctional systems, and for other purposes; introduced by Mr. SAXBE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Government Operations, by unanimous consent, and then to be referred to the Committee on the Judiciary when reported by the Committee on Government Operations.

Mr. SAXBE. Mr. President, in introducing this bill, I would like to state that the four of us who introduce the bill are former attorneys general in our States, and we have introduced the bill because we feel that the Federal Government and the States have not undertaken the job of criminal justice and law enforcement to the extent that we feel necessary. This is an effort to bring them into this fight.

When we recognize that only two out of every 100 who are arrested are ever sent to any institution for correction, and when we recognize that at the present felony rate, approximately 3 percent are apprehended, we can see that we are not moving in this area of criminal justice.

This is an inclusive bill, to upgrade law enforcement, to upgrade the courts, and to upgrade the correctional institutions. It indicates an interest on behalf of the Federal Government in meeting this important problem. It is a national problem, and one we must undertake to solve if we are to live without anarchy in this country.

We have worked on this bill almost a year before introducing it. We feel that it does give the incentive to the States that is required to move into this area. It offers financial help. It is a model State program; in other words, it is entirely voluntary, and any State that would be interested could undertake to adopt the plans and to proceed with revamping their entire law enforcement, judicial, and correctional systems.

We want to professionalize the police departments, and we want to make our courts speedy and just, and to make our correctional institutions effective in stopping the spread of crime, and not in spreading it.

THE MODEL CRIMINAL JUSTICE REFORM ACT

Mr. MONDALE. Mr. President, I am joining my colleagues, Senator SAXBE, Senator BROOKE, and Senator EAGLETON, in introducing the Model Criminal Justice Reform Act.

Each of us served as the attorney general of our State. Based on our experience in law enforcement, we know that the best deterrence to crime is an excellent criminal justice system—well-trained and well-paid police, fair and efficient courts, and a modern and flexible corrections program.

Our bipartisan legislation is designed to establish a model criminal justice system in several States voluntarily choosing to participate under this program. Those States would agree to undertake comprehensive reform of their entire criminal justice system, and the Federal Government would pay most of the costs of such reform.

The principle here is simple: Criminal justice must remain primarily the responsibility of State and local governments; but the Federal Government can play a vital role in encouraging and financing reform.

The need for a new attack on crime is clear.

In 1967, the President's Commission on Law Enforcement and Administration of Justice made this gloomy assessment of crime in America:

> There is much crime in America, more than ever is reported, far more than ever is solved, far too much for the health of the Nation. Every American knows that. Every American is, in a sense, a victim of crime. Violence and theft have not only injured, often irreparably, hundreds of thousands of citizens, but have directly affected everyone. Some people have been impelled to uproot themselves and find new homes. Some have been made afraid to use public streets and parks. Some have come to doubt the worth of a society in which so many people behave so badly. Some have become distrustful of the Government's ability, or even desire, to protect them.

The situation is no better today. Sundown often brings fear to the streets of our cities. Once peaceful rural areas are now beginning to know this fear.

Each year, crime in America takes its toll in lives, injury, and tension. It has been estimated that crime costs our country between $50 and $100 billion every year.

We have been aware of these frightening facts and statistics for some time. But despite our knowledge, the crime rate continues to spiral.

There are no quick and easy solutions. The causes of crime are complex, and no single proposal will eliminate crime.

Most authorities do agree, however, that crime could be substantially reduced with more well trained and better paid police, speedy and efficient disposition of criminal cases, and corrections programs which rehabilitate offenders. In short, fundamental improvements in the entire criminal justice system of our States and localities would have a direct and dramatic impact on the crime rate in this country.

But the failures and inadequacies of the criminal justice system in most States has been well documented.

The report of the President's Commission on Law Enforcement and Administration of Justice noted this failure:

> The increasing volume of crime in America establishes conclusively that many of the old ways are not good enough. Innovation and experimentation in all parts of the criminal justice system are clearly imperative. They are imperative with respect both to entire agencies and to specific procedures. Court systems need reorganization and case-docketing methods need improvement; police-community relations programs are needed and so are ways of relieving detectives from the duty of typing their own reports; community-based correctional programs must be organized and the pay of prison guards must be raised. Recruitment and training, organization and management, research and development all require re-examination and reform.

A 1969 staff report to the National Commission on the Causes and Prevention of Violence contains the following critical—but I believe accurate—portrayal of the criminal justice process in many States:

> A system implies some unity of purpose and organized interrelationship among component parts. In the typical American city and state, and under federal jurisdiction as well, no such relationship exists. There is, instead, a reasonably well-defined criminal process, a continuum through which each accused offender may pass: from the hands of the police, to the jurisdiction of the courts, behind the walls of a prison, then back into the street. The inefficiency, fallout, and failure of purpose during this process is notorious. . . .

If any one part of the criminal justice system functions badly the entire system will be adversely affected. An excellent police force is hampered in preventing crime if there are long delays in bringing a defendant to trial; speedy disposition of criminal cases will not prove effective if a convicted defendant is sent to a prison which is only a breeding place for more crime.

As former State law enforcement officials, we realize that most of the crime plaguing this country falls within the jurisdiction of State and local governments—and that the responsibility for law enforcement and the maintenance of an effective criminal justice system begins and ends with those State and local governments. We are firmly committed to the principle that law enforcement must remain a State and local responsibility.

It is difficult to carry out this responsibility without adequate funds, and it is clear that most States and cities simply do not have the resources for meeting the increasingly complex demands being placed on them—from preventing crime to eliminating pollution. Consequently, Federal financial assistance to States and their cities is essential in combating crime. This principle was recognized with the passage of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

Unfortunately, title I of the Safe Streets Act was not designed to remedy the basic defects of the criminal justice system as it exists in most States. This legislation—with its triumvirate leadership in the Law Enforcement Assistance Administration and its use of the block grant funding mechanism with virtually no strings attached—provides little Federal leadership for reform.

Under the Safe Streets Act, grants often have been distributed on a piecemeal basis, and the problems inherent in the overall system generally remain. The Safe Street Act's major omission is its failure to encourage comprehensive reform of a State's criminal justice system with broad Federal assistance.

Without this type of incentive, basic reforms which most experts agree are essential may not be implemented in most States.

As the President's Crime Commission observed:

> Many of the criminal justice system's difficulties stem from its reluctance to change old ways, or to put the same proposition in reverse, its reluctance to try new ones.

It is our belief that with a sufficient financial incentive for undertaking these reforms, some States and their localities would be willing and eager to overhaul their criminal justice system. That is why we have introduced this legislation.

The aim of our legislation is to establish model and experimental programs—hopefully in three or four States—to determine the effect of full-scale and comprehensive reform of the criminal justice system on the crime rate in those States. The program is of course completely voluntary, and no State will be affected by this legislation if it does not choose to enter the program.

There are three essential parts of this bill designed to accomplish meaningful reform. The first is the establishment of broad and flexible standards for reform of each aspect of a State's criminal justice system. The second is the requirement that no State can qualify for this model program unless its plan meets all the standards contained in the bill. And finally, there are the provisions of the bill which specify that the Federal Government will pay most of the total costs incurred in making these reforms.

Title I of this legislation outlines a comprehensive program for reform, with emphasis on law enforcement, the criminal courts, and corrections. States desiring to participate in the program will, with Federal financial assistance, develop and submit a State agenda for the specific implementation of these reforms within their States. Safeguards are built into the legislation to assure that the Federal money is used for the purposes agreed upon by the States and the Federal Government.

Reforms which a State can implement without new legislation or ordinances are classified as "phase I" and those requiring new legislation are classified as "phase II." The State will be given more time to implement phase II reforms, but in no event will a State be given more than 4 years to implement its total plan. The Federal Government will pay 75 percent of the costs of implementing phase I and 90 percent of the cost of implementing phase II.

The State plans will be administered by the chief executive of each State, or by a public agency designated or created for that purpose. At the discretion of participating States, State advisory councils may be appointed to advise the chief executive on the preparation and administration of the State plans, and to evaluate programs assisted under this legislation.

Title II of the bill establishes a new Federal independent agency within the executive branch—the Criminal Justice Reform Administration—to be headed by a single administrator, appointed by the President with the advice and consent of the Senate. This agency will provide technical assistance as needed to the States and localities regarding all aspects of the program. It will also provide for the widest possible dissemination of information obtained under the program—including an annual report to the President on the activities of the Criminal Justice Reform Act.

It should be emphasized that we are not necessarily wedded to all the provisions of this bill in its present form. Rather, it is our hope that the bill will be the subject of extensive hearings; where appropriate, we expect that changes will be made.

We are committed to the basic premises underlying this legislation: That the crime rate will not be significantly reduced unless there is comprehensive reform of every aspect of a State's criminal justice system and that such reform must be planned and implemented by State and local governments with substantial Federal financial and technical assistance.

The standards in our bill are derived from the recommendations of the President's Commission on Law Enforcement and Administration of Justice, various State crime commissions, and studies by those experienced in law enforcement. We believe that they embody broad goals of reform with which most of those involved in law enforcement and the administration of criminal justice can agree.

In introducing this legislation, we do not assume that these standards are cast in bronze. They are, of course, subject to change after hearings and comments by interested individuals and organizations.

Since the standards are crucial to this bill, it might be helpful to summarize some of the more important ones and the problems they were designed to overcome.

LAW ENFORCEMENT

The bill requires uniform standards for recruitment throughout each State seeking to participate in the program. The need for such uniform standards was endorsed by the task force on the police of the President's Commission on Law Enforcement and Administration of Justice:

> Many [police] departments provide little or no training, use ineffectual selection and screening techniques, and have no organized recruiting programs. This results in substantial variation in the quality of police service, not only in different areas of the country, but within the same State.

In Minnesota, the Governor's Commission on Crime Prevention and Control encouraged the use of uniform standards in hiring peace officers.

The bill also calls for appropriate educational requirements for advancement which are uniform throughout each State. Linking education with promotion will simultaneously encourage police officers to pursue advanced education, and improve the quality of the upper ranks of the police service. The Presidents Commission on Law Enforcement and Administration of Justice recommended this approach to improving the quality of law enforcement personnel.

Another important standard would require beginning compensation and increases in compensation which are appropriate for a professional—considering the size of the community for law enforcement personnel and the cost of living in the community in which such individuals serve.

In 1967, the President's Crime Commission produced statistics which showed that the median annual salary for a patrolman in a large city was $5,300; typically, the maximum salary was less than $1,000 more than the starting salary. This was contrasted with the starting salary for nonsupervisory FBI agents of $8,421, with a high of $16,905.

While salaries of the Nation's police have increased since 1967, they are still inadequate. As former U.S. Attorney General Ramsey Clark recently noted:

> Police salaries are woefully low. The average salary of the full-time officer is roughly three-fourths what is required to maintain a family of four at an acceptable standard of living.

The national situation is reflected in Minnesota. According to the task force on law enforcement of the Governor's Commission on Crime Prevention and Control:

> Problems of police compensation hinge to a large extent on the public's attitude toward the police as a profession. Generally speaking, policemen are underpaid in this State. The underpayment, however, is not always reflected in the starting salary, but frequently relates to the top level of salary to which an aspiring policeman can advance.
>
> This is especially true in the large metropolitan area police departments. In the rural areas both the starting salaries and the top salaries tend to be extremely low which, in turn, reflects on the capabilities of officers in small jurisdictions.

Because of their present inadequate level of pay, many policemen in Minnesota and throughout the country are forced to moolight with other jobs in order to support their families. If we want full-time policemen who can concentrate on their law enforcement duties, we must pay a decent wage for such demanding work.

The bill also requires general State standards in a number of other areas relating to police service. For example, several standards are intended to improve existing retirement systems and pension plans.

Finally, the bill calls for a central facility in each State offering short-term

preservice and inservice training for all police personnel within the State.

The President's Crime Commission observed that—

Small rural departments often provide recruits with no training at all. By and large this is a question of money. Training programs are expensive, and they cannot be provided on a local basis for two or three officers at a time.

In Minnesota, the task force on law enforcement of the Governors commission stressed the need for better training facilities. They placed highest priority on the need for quality training—

Quality training—basic, in-service, and advanced—is in our opinion, the keystone for professional law enforcement.

While the task force lauded the Minnesota Legislature's passage of a bill in 1967 making mandatory the training of new officers who will police a jurisdiction of over 1,000 population, they also noted the lack of both general training funds and facilities:

Training is now carried on to a limited extent in a few of the larger individual departments or by the training division of the State Bureau of Criminal Apprehension. Needless to say, facilities are inadequate, agencies are woefully understaffed, and there is a gross lack of funds to carry out training programs.

DISPOSITION OF CRIMINAL CASES

The bill contains one basic standard designed to accomplish the expeditious disposition of criminal cases in those States participating in the program. This standard requires that a State—and its localities—implement whatever reforms necessary to insure that the trial of all criminal cases will be commenced no later than 60 days from the date of a defendant's arrest or the initiation of prosecution—whichever occurs first. Failure to meet this standard will result in dismissal with prejudice of the charges against the defendant.

The administrator of this program will specify those periods of delay to be excluded in computing the time for commencement of a trial. For example, delays due to the absence or unavailability of a defendant or hearings on defense motions would probably be excluded from this 60-day limitation.

Underlying this basic standard is the need for States and localities to reform their judicial system in whatever way they deem appropriate to meet the 60-day deadline. Some States might have to increase the number of judges and clerks, and build more courthouses; other States might be able to reach this goal by streamlining their judicial system through the use of professional court administrators and more efficient court procedures. Increasing personnel engaged in prosecuting criminal cases and defending indigents may be another means of reaching this goal.

In any event, the administrator of this act would simply determine whether a State's reform proposals were adequate to insure a speedy trial; the Federal Government would not be dictating a particular scheme for reform.

The speedy disposition of criminal cases is one of the most vital reforms in this bill.

A speedy trial eliminates the unfairness inherent in the lengthy pretrial detention of a defendant—presumed innocent under our system—who cannot raise bail or who is denied bail. Pretrial detention often hampers a defendant in adequately preparing his defense, and while awaiting trial he will usually be confined in an overcrowded institution.

A recent survey by the U.S. Census Bureau revealed the shocking fact that more than one-half of 160,000 inmates in city and county jails throughout the country were being held for reasons other than conviction of a crime. Almost all of the inmates in this category were awaiting trial. These individuals are the proof of inadequate and overburdened judicial systems.

But far more than unfairness to individual defendants results from long delays in disposing of criminal cases. It is clear that such delays are a major cause of our increasing crime rate.

Long delays in bringing a defendant to trial often make it more difficult for the Government to obtain a conviction. Witnesses tend to be less reliable after such delays, and some witnesses are no longer available. And it is the repeat criminal offender who is usually aware of the advantages of a long delay between arrest and trial.

Studies have shown that the longer it takes to bring to trial a defendant out on bail, the more likely it is he will commit a crime while awaiting trial. The pressure for some form of preventive detention would be reduced by more speedy trials.

Finally, it is a truism of criminology that the surest deterrent to crime is the knowledge that its commission will be followed by swift and appropriate punishment. The delays in most judicial systems have obviously negated the impact of this important type of deterrence.

Chief Justice Burger, recognizing the link between increasing crime and court delays, has also recommended a 60-day limit for the commencement of all criminal trials. In a recent interview, the Chief Justice was asked whether delay has been a major factor underlying the rise of crime over the last decade; he responded as follows:

I cannot think of any judicial factor more important than delay and uncertainty. It's always difficult to assign priorities in this sort of thing, but I know of none I can think of more important than the absence of the sure knowledge that a criminal act will be followed by a speedy trial and punishment.

And that's why I have said that if we could have every criminal trial ready to be presented within 60 days after the arrest or the charge, I think you'd see a very, very sharp drop in the crime rate. It would surely put an end to the large number of crimes committed by men out on bail waiting six months to 18 months to be brought to trial.

As the Chief Justice pointed out, "we cannot blindly cling to methods and forms designed for the 17th and 18th centuries."

CORRECTIONS

In recent congressional testimony, Ramsey Clark described the relationship between our corrections system and crime:

Of all the activities within the process of criminal justice, corrections has by far the greatest potential to reduce crime, if that is what we want.

The reason is clear. Probably four-fifths of all serious crime is committed by repeaters, persons convicted before of crime, persons identified by the system as having a potential for further crime. At least half of these people, from studies that have now been made, we know could have been rehabilitated, and most of the others could have been kept out of harm's way, if we had cared. But we failed even to try.

Ninety-five cents of every dollar in this Nation that has been spent in penology has been spent for pure custody, iron bars and stone walls, and they don't do the job. We spent 5 cents out of every dollar for rehabilitation, which is crime reduction, and we have manufactured crime in the prisons and jails throughout the Nation. Little wonder we suffer so much crime.

Most authorities would agree with this assessment. As the President's Commission on Law Enforcement and Administration of Justice observed:

For a great many offenders . . . corrections does not correct. Indeed, experts are increasingly coming to feel that the conditions under which many offenders are handled, particularly in institutions, are often a positive detriment to rehabilitation.

But in corrections, just as in other aspects of the criminal justice system, the recognition of major defects does not automatically lead to meaningful reform.

The President's Crime Commission and other experts have called for the development of a far broader range of alternatives for dealing with offenders. As the Commission pointed out:

While there are some who must be completely segregated from society, there are many instances in which segregation does more harm than good.

For the incorrigible offender who poses a clear danger to society, maximum security prisons are necessary. But it makes no sense to build an entire prison system designed to serve only the most hardened criminals—thereby forcing all other classes of inmates to adapt to such an institution.

The importance of properly classifying offenders was underlined by the disturbing finding of the President's Crime Commission "that approximately one-fourth of the 400,000 children detained in 1965—for a variety of causes but including truancy, smoking, and running away from home—were held in adult jails and lockups, often with hardened criminals."

As the President's Commission and others have emphasized, a variety of penal institutions and programs are required to meet the special needs of various types of offenders. In particular, the development of community-based correctional facilities—designed to avoid the use of far-removed and isolated insitutions—is considered an extremely valuable rehabilitation tool.

But regardless of how an inmate is classified, it is important that institutions be adequately equipped and staffed to treat the inmates assigned there. Too many of our prisons and jails are overcrowded and understaffed. A recent study of over 3,000 jails by the U.S. Census Bureau found that about 85 percent had no recreational or educational facilities of any kind; about 50

percent had no medical facilities; and about 25 percent had no visiting facilities.

One of the most critical problems in many institutions is the lack of adequate education and vocational training programs. As the President's Crime Commission observed, ex-offenders often cannot secure the jobs for which they were trained in prisons and juvenile institutions. And while more than half of adult inmates in all prisons have not completed elementary school, education programs in our prisons are inadequate.

The President's Crime Commission noted that there are about 6,000 academic and vocational teachers now employed in the Nation's correctional institutions. It was estimated in 1967 that an additional 10,700 were needed immediately to develop effective academic and vocational programs.

Meaningful alternatives to incarceration must be available for various offenders—particularly juveniles and misdemeanants. But parole and probation services in many States do not provide suitable alternatives to incarceration.

In 1967, the President's Crime Commission found that to meet the requirements of both correctional agencies and the courts, there was an immediate need to double the Nation's pool of juvenile probation officers, triple the number of probation officers working with adult felons, and increase sevenfold the number of officers working with misdemeanants.

And as the Commission pointed out:

> These inadequacies can have serious consequences. Lack of community treatment facilities for misdemeanants and juveniles means the neglect of one of the most important lines of defense against serious crimes, since many persons with juvenile or misdemeanant records graduate to graver offenses. Lack of probation facilities also may mean that many minor and first-time offenders, who would be more suitably and economically dealt with in the community, are instead institutionalized. And lack of supervision, particularly through parole, means that the community is being exposed to unnecessary risks and that offenders are going without assistance in reestablishing themselves in jobs and schools.

Another important aspect of corrections reform concerns the treatment and rehabilitation of alcoholics and drug addicts.

In 1965, according to the President's Crime Commission, public drunkenness accounted for one out of every three arrests in America. Since these arrests burden the police, clog the lower courts, and crowd penal institutions, the Commission recommended that communities develop civil detoxification units and comprehensive aftercare programs.

In regard to drug addiction, the President's Crime Commission found that—

> Drug addicts, to support their habits, were stealing millions of dollars worth of property every year and contributing to the public's fear of robbery and burglary. The police, the courts, the jails and prisons and social-service agencies of all kinds were devoting great amounts of time, money and manpower to attempts to control drug abuse. Worst of all, thousands of human lives were being wasted.

It is obvious that many of the old methods for dealing with narcotics addicts simply do not work. Whether an addict is assigned to a prison or to a special treatment facility, he will more often than not return to addiction—and crime to support it—after release.

Some programs—such as methadone maintenance—have proved successful in treating drug addicts. However, a great deal of research must be done before we will know the best methods of eliminating this terrible problem.

It is clear that States and local governments—with Federal assistance—must put more emphasis on programs for treatment and rehabilitation of drug addicts and alcoholics. Such programs should be available both to inmates in institutions and as alternatives to incarceration.

With these problems in mind, our bill provides some broad standards for corrections reform. A State seeking to enter this program must show that it has:

Established a system for classifying persons charged with, or convicted of, criminal offenses so as to permit individualized treatment and security standards appropriate to the individual;

Established a range of correctional facilities that are adequately equipped and staffed to treat the particular classifications of inmates assigned there, including small-unit, community-based correctional institutions;

Provided comprehensive vocational and educational programs designed for the special needs of rehabilitating each class of criminal offenders;

Provided separate detention facilities for juveniles including shelter facilities outside the correctional system for abandoned, neglected, or runaway children;

Established standards applicable throughout the State for local jails and misdemeanant institutions to be enforced by the appropriate State corrections agency;

Provided parole and probation services for felons, for juveniles, for adult misdemeanants who need or can profit from community treatment, and for offenders who are released from correctional institutions without parole;

Established caseload standards for parole and probation officers that vary in size and in type and intensity of treatment according to the needs and problems of the offender;

Established statewide job qualifications and compensation schedules for correctional officers, including probation and parole officers, along with a mandatory system of inservice training;

Developed and operated programs of treatment and rehabilitation for persons suffering from alcoholism and drug abuse, available both to inmates and as an alternative to incarceration.

There are those who may argue that merely establishing standards for criminal justice reform in congressional legislation will inevitably lead to Federal control over all law enforcement. There are several reasons why this fear is unjustified.

To begin with, the purpose of this legislation is only to establish model criminal justice systems in those few States voluntarily choosing to participate. The legislation is not designed to impose a single type of criminal justice system on the entire country; rather, its aim is to determine the impact of truly comprehensive reform on a statewide basis.

Furthermore, we have insured that the standards contained in this legislation are as flexible and as noncontroversial as possible. There may be some people, for instance, who still believe—in the face of abundant and indisputable evidence to the contrary—that the best way to rehabilitate criminals is to incarcerate them in dungeonlike prisons built in the 19th century and put them to work breaking rocks and digging holes. These people, it is true, will be offended by our recommendations for reform of our dismally unsuccessful corrections programs. But I believe that most will agree that the bill's standards for corrections—like the other standards in the bill—represent the consensus of the best thinking in the field, and that they point to much-needed and long-overdue reforms.

These standards are very broadly drawn—in such a way that the specifics of implementation must be left to the States. And different States can qualify under the bill's standards by implementing entirely different reforms—suited to the particular problems in those States.

For example, the standard for speedy disposition of criminal cases simply establishes a 60-day limit in which a trial must be commenced. To meet this standard, some States may hire court administrators to make their court system more efficient; others might find it necessary in its plan to call for additional judges and court personnel. But whatever the actual reforms, they will be chosen by the State and they will be uniquely designed to solve that State's problems.

Finally, if we are to avoid anything approaching a national responsibility for all law enforcement—which I believe would be disastrous—it is imperative that State and local governments begin the job of reforming their outmoded criminal justice systems. Many Americans are increasingly looking to Congress and the Federal Government for a solution to the problem of crime. And if the crime rate of the 1970's repeats the pattern of the 1960's, there will be greater public pressure to enact Federal criminal laws with an increasingly broad reach, as well as to expand the powers of the Federal Bureau of Investigation. The only way to check this tendency is to strengthen State and local law enforcement.

Our bill, then, is not an effort to make the Federal Government responsible for all law enforcement. Instead, it is based on the assumption that the States and localities—with substantial Federal assistance—can sharply reduce their crime rate by comprehensive criminal justice reforms.

Justice Felix Frankfurter reminded us some years ago that—

> There is no inevitability in history except as men make it.

And yet, for too long, Government has acted as if an increasing rate of crime was inevitable and beyond its reach. We have been overwhelmed by the apparent complexity of the problem, ignoring the obvious relationship between rising crime, on the one hand, and low police salaries,

long court delays, and disgraceful prisons, on the other.

Many of the reforms which this bill seeks to encourage are relatively easy to implement; others will take time and require the investment of money and other resources.

But we clearly have the means to carry through all of these reforms and to make them work.

Rising crime need not be a fact of life during the next decade. Only our inaction and inertia will make it so.

Mr. EAGLETON. Mr. President, I am pleased to join today with the senior Senator from Ohio (Mr. SAXBE), the senior Senator from Minnesota (Mr. MONDALE), and the junior Senator from Massachusetts (Mr. BROOKE) in introducing the Model Criminal Justice Reform Act of 1971. This bill is the product of many months of work by these three Senators and myself.

Each of us has served as the attorney general—the chief law enforcement officer—of our respective States. Each of us has witnessed the ever-increasing rise in crime and the continuing inability of local and State governments to stem it.

Despite claims to the contrary, FBI statistics show that crime is on the increase this year—as it was last year—as it has been nearly every year since the 1940's.

Last year, a national Gallup poll found that Americans rate crime as the most serious domestic problem and the problem that should be given the top priority by Government during 1970 and 1971.

Clearly, the Federal Government, on its own, cannot stop street crime—the kind of crime that most affects our citizens and imprisons them in a cage of fear. We do not need, nor do we want, a national police force. Law enforcement is, and must continue to be, primarily the responsibility of State and local agencies. Yet the near bankruptcy of local government in many areas is a demonstrated fact. Our States and cities are having a difficult time even maintaining present essential services, much less improving them.

So the Federal Government can help in this effort—and it can help a great deal. Federal support of local law enforcement began on a small scale in 1965, but the real effort dates from 1967 with the publication of the report of the President's Commission on Law Enforcement and the Administration of Justice. This report, with its far-reaching analyses and recommendations, gave impetus to the movement for large-scale Federal action, culminating in the enactment of the Safe Streets Act in 1968.

Under this act, substantial sums have been funneled to the States through the Law Enforcement Assistance Administration—LEAA—within the Department of Justice. Appropriations for this program have risen from $63 million in fiscal 1969 to $480 million in fiscal 1971. This afternoon the Department of Justice will brief the press on the budget request for fiscal 1972. I am not going to anticipate this event but I will say that the Administration will seek a very sizable increase in LEAA funds.

In sum, nearly $800 million has been distributed to State and local law enforcement agencies since the inception of LEAA. It would be a mistake to claim that these funds have not been useful—in fact, they have.

But it is equally certain that these funds have not brought about the changes in our law enforcement system recommended by the President's Crime Commission that are essential if we are going to do a real job of stopping crime. Under LEAA, Federal assistance has been used simply to reinforce the criminal justice system in its traditional modes of operation.

The bill we are introducing today also envisions the expenditure of substantial sums to assist local law enforcement but it differs from the LEAA program in that the funds must be used to bring about necessary change. Federal funds will be used to pay for improvements—comprehensive reforms of the criminal justice system in every State that elects to participate on a voluntary basis.

The bill does not mandate change in every State. No State is required to participate. But if a State wishes to avail itself of the benefits provided under this bill—payment of up to 90 percent of the total cost of improving its criminal justice system—then the State must undertake to meet certain goals spelled out in the bill.

These goals are based upon the recommendations of a number of law enforcement experts. They encompass the entire criminal justice system—standards for police and other law enforcement personnel, for courts, for corrections, for treating juvenile offenders, and so forth.

The principal source for the goals—or standards, if you will—expressed in this bill is the President's Crime Commission report. We have also utilized the recommendations of a number of State crime commissions. We have been fortunate to have the advice of individuals in the top rank of those who prepared the President's Crime Commission report and also look forward to the assistance offered by the American Bar Association's Special Committee on Crime Prevention and Control, under the chairmanship of Mr. Edward Bennett Williams of Washington, D.C.

No one expects this or any other bill to reform human nature. The causes of crime are many and diverse and I doubt that any legislative program can deal with all of them. Yet there are two things that we know can be done and we know how to do them: First, law enforcement agencies can be improved so that more offenders are apprehended and brought into the criminal justice system; and second, the system can be improved so that punishment will have greater meaning as a deterrent and incarceration will work as rehabilitation.

We are confident that this result can be obtained, Mr. President, if comprehensive reform is instituted. Our experience as law enforcement officers has taught us that the present system is not working. That experience, along with the experience of many other authorities in this field, has taught us what needs to be done. The Model Criminal Justice Reform Act which we introduce today embodies this collective wisdom. We urge its early consideration by the Senate.

S. 397—INTRODUCTION OF A BILL TO EXTEND THE ECONOMIC OPPORTUNITY ACT OF 1964

Mr. JAVITS. Mr. President, for myself and Senators CASE, SCHWEIKER, and MATHIAS, I introduce a bill to authorize appropriations for the programs under the Economic Opportunity Act of 1964, for an additional 2-year period through June 30, 1973; without an extension the authorization will run out this June 30, 1971. In keeping with past practice, the bill which I introduce would also extend for 2 years the general provisions of the act itself; these "durations of program provisions" would expire June 30, 1972.

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

The bill (S. 397) to extend for 2 additional years the authorization of appropriations contained in the Economic Opportunity Act of 1964, introduced by Mr. JAVITS, for himself and other Senators, was received, read twice by its title and referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, I speak as the ranking minority Member of the Labor and Public Welfare Committee, which handles this legislation. I have heard the President's proposals for reorganization.

The President's state of the Union message suggests what has been expected for some time—that the administration will propose substantial changes in the manner in which programs dealing with poverty are to be conducted and indeed in the agencies which are to be entrusted with their administration. It is now generally anticipated that plans will include a "spin-off" of a number of the functions of the Office of Economic Opportunity into the proposed Departments of Human Resources, Community Affairs, and Economic Redevelopment and an assumption of many activities on behalf of the poor by the States and localities under revenue sharing.

While these proposals are being presented and reviewed—and we can expect that consideration of such far-reaching changes will occupy this Congress for most of its term—we cannot afford to have the existing poverty program undermined and demoralized by an insecure tenure.

We must therefore be open to the possibility that it may be in the best interest of the program to effect early this year a simple extension such as I now propose, to allow for a thorough review of any proposed changes to be made over the long term. It is my hope that both the administration and the members of the Committee on Labor and Public Welfare, of which I am the ranking minority member, will keep that possibility in mind as the overall legislative situation evolves.

However, I wish to make clear that this proposal is offered as much more than an interim measure.

The extension is offered with the conviction that the current method of con-

ducting the poverty program—by the Office of Economic Opportunity on the Federal level and through essentially the community action agencies on the local level—is an effective means of attacking poverty.

The burden will be on the administration in its proposed reorganization to show that both benefits to the poor and the involvement of the poor can be preserved and increased in another framework.

Before indicating what new substantive initiatives I shall propose in the context of the consideration of the extension of the Economic Opportunity Act itself, I wish to comment briefly upon the President's state of the Union message in terms of its implications for the poor of the Nation.

Quite clearly, if properly and adequately implemented, three of the six goals stated by the President—welfare reform, full employment and health care—will contribute substantially to eliminating the gap between promise and reality for many poor Americans. These are most commendable initiatives in areas where I have submitted proposals in the past, and in each case I intend to make every effort to insure that the goals are implemented in the most meaningful attainable manner.

However, the dividends for the poor to result from implementation of the fifth goal—revenue sharing—are still unclear. Revenue sharing itself—that is, the President's proposed $5 billion in new and unrestricted funds for fiscal year 1972—is a needed response to State and local fiscal crises; but that part of the plan to replace the existing grant-in-aid programs with revenue sharing under which funds could be applied for any of six broad purposes—urban development, rural development, education, transportation, job training, and law enforcement—leaves me deeply concerned.

The President assured us in his address that neither he nor the Congress "can permit money which comes from the people to be used in a way which discriminates against some of the people." However, it is not merely discrimination in the application of program moneys that raises the potential of damage, but discrimination as between program priorities on the local level. Experience has shown all too well that permitted the opportunity to decide, States and localities would tend to apply disproportionate funds to transportation or law enforcement over job training or redevelopment of poverty neighborhoods. Moreover, it is axiomatic that State and local governments have traditionally been less sympathetic than the Federal Establishment to minorities—who constitute such a large number of the poor—necessitating the strong Federal role which has characterized our social programs over the last decade.

Mr. President, the reason we put the poverty efforts on the Federal level was because the States and cities did not perform their responsibilities. Now, if we are going to go back, we have to go back on the assurance that they will perform. In the meantime, the poor have to eat, they have to live, they have to be rehabilitated. This is going to take a little time, and, as the act expires this June, Mr. President, I feel the most intelligent and fair thing to do is to give us and the poor a chance to breathe.

It will be necessary therefore, to scrutinize carefully the proposal to shift funds from existing grant-in-aid programs to provide the States and localities, in the President's words "with more money and less interference" since so-called "interference" has been necessary in the past to get delivery of services for the poor which can break the poverty syndrome.

Mr. President, in my opinion, the President has quite properly sensed that a large amount of the current frustration of the American people arises from a feeling that the forces shaping their lives have grown more distant and more impersonal. In response he stated:

> We hear you and will give you a chance. We are going to give you a new chance to have more to say about the decisions that affect your future—to participate in government—because we are going to provide more centers of power where what you do can make a difference that you can see and feel in your own life and the life of your own community.

The doctrine that those on the local level can best determine what is in their interest cannot stop at the State house or the mayor's office; it must extend to neighborhoods—which irrespective of political jurisdiction—may be said to constitute a "community" for the poor. For it is true today in our society that those who live in the ghettos, barrios and rural poverty pockets of our Nation are more distant from the mayor's office than from the Federal establishment.

Bridging that gap has been one of the underlying purposes of the poverty program and it must be the continued thrust of future legislative initiatives to deal with the problems of the poor.

If we are serious about "putting the power where the people are"—then we must work up and out from where the poor people are—not backward or "downward" from the Federal Government stopping at the States and cities.

I shall submit in the coming weeks as additional amendments to the Economic Opportunity Act, hopefully with other members of the Committee on Labor and Public Welware, three proposals to strengthen the involvement of those at the community level.

First, I shall reintroduce, as an amendment to the Economic Opportunity Act, the Comprehensive Community Child Development Act of 1971. The act, which I first introduced on December 10, 1970, as S. 4577, is designed to provide a comprehensive program of community-based and coordinated child development programs with substantial funding and with the objective of making such programs universally available throughout the Nation. It is drafted on the underlying principle that the essential decisions with respect to child development programs should be made at the community level and that "community" should be defined for that purpose so as to include not only a local governmental area, but a neighborhood or other portion thereof.

It is structured also on the assumption that we must build on the success of the Headstart program. The act contains a number of provisions insuring that agencies administering Headstart programs have the first opportunity to initiate a community council for child care and to be appointed as the administering agency, as well as to comment on all plans.

Second, Mr. President, I hope to join with Senator NELSON and other members of the Committee on Labor and Public Welfare in developing a new and expanded authorization for community-based economic development, and related minority enterprise activities.

In its report of over 2 years ago, the National Advisory Commission on Civil Disorders—the so-called Kerner Commission—recommended a war on poverty on four fronts:

The first, and largest was employment; the second, economic development of poverty areas and encouragement of ghetto business ownership; the third, reform of the present welfare system; and the fourth, a national system of income supplementation. In the context of the consideration of the proposals for a new comprehensive manpower program and for an historic reform in our welfare system, this Congress has the opportunity to move substantially toward implementation of the Kerner Commission recommendations on three of these four fronts.

However, despite growing interest in the slogans of economic development and of minority enterprise and new initiatives by this and previous administrations, we have not developed a comprehensive economic development or minority enterprise strategy.

In this area, as in child care and other areas, I submit that the key is the mobilization of the community with the assistance of business, industry, and other private sector elements generally.

This was the original intention of the special impact program authorized under title I–D of the Economic Opportunity Act, which I coauthored with the late Senator Robert Kennedy. And it has been the thrust of successful efforts in Bedford-Stuyvesant in my own State and in other parts of the Nation. Yet the appropriation for these programs was only $36.1 million in fiscal year 1971 and these efforts clearly have not been given the priority that their maturity deserves.

The consideration of increased community-based economic development—which I hope the Subcommittee on Employment, Manpower, and Poverty will undertake—should be coupled with a review of the adequacy of current institutions to stimulate the influx of low-interest capital into poverty areas.

In 1967, I proposed the establishment of a Domestic Development Bank, a profitmaking corporation authorized to make and participate in long-term, low-interest loans and guarantees and to provide supportive technical assistance, in order to stimulate employment opportunities and minority entrepreneurship in such areas. The proposal envisions the use of governmental funds and resources essentially as levers to move the private sector into a position that can supple-

ment current strictly governmental efforts to fight poverty. I shall reintroduce that proposal for consideration in this session of the Congress.

Third, Mr. President, I shall propose a number of other changes in the Economic Opportunity Act which I hope will advance the concept of decisionmaking at the community level.

In his July 8, 1970, message to Congress, which set forth widely acclaimed recommendations for Indian Affairs, the President said:

> Even as we reject the goal of forced termination so must we reject the suffocation pattern of paternalism. . . . There should be no reason why Indian communities should be deprived of the privilege of self-determination merely because they receive monetary support from the Federal government.

Mr. President, while there are special circumstances involved in the case of the Indians, the same basic philosophy should underlie our policies as to the Nation's ghettos, barrios, and rural poverty pockets. While we must seek an integration of all people and avoid unhealthy, divisive segregation, we must recognize the need for self-determination on the part of those who are seeking to escape from a life of poverty.

To this end, I shall propose that the highest priority in efforts and funding be given to local initiative activities—those programs and activities developed and conducted by the poor themselves through their community action agencies. There are more than 1,000 such agencies in the Nation. These activities may be distinguished from the so-called national emphasis programs, such as Headstart—which though also conducted by community action agencies—are Government initiated and directed by their essentially indigenous nature. Such programs include efforts to provide food or transportation assistance. Local initiative has been a great source of new solutions for the problems of poverty. Nevertheless, according to information prepared by the Office of Economic Opportunity, the percentage of community action funds allocated to local initiative dropped from 48.7 percent in fiscal year 1965 to 34.2 percent in fiscal 1967 and to 31.2 percent in fiscal 1970.

Mr. President, last year—in the Economic Opportunity Amendments of 1969—the Congress made a basic commitment to local initiative by reserving $328,900,000 for that purpose. It is essential that the commitment be maintained—and indeed expanded. An essential part of this year's legislation must be a specific allocation of local initiative funds.

It is unfortunately clear that whatever legislation priority may be given to funds for local initiative, they will still be substantially unequal to the ideas generated and the efforts that could spring from the local level. Accordingly, I shall submit a number of provisions to increase private financial support of such activities, to supplement the Federal contribution.

I intend to submit also provisions greatly to increase the funds available for related purposes to expand funds for the neighborhood center concept.

I should add that in the context of any proposal of the administration it will be appropriate to review the extent to which the so-called Governor's veto provision of the Economic Opportunity Act is itself consistent with the concept of decisionmaking at the community level.

Mr. President, the President has called for a "new American revolution"—a peaceful revolution in which power is to be turned back to the people—and in which government at all levels is made more responsible. As he noted:

> It can mean that just 5 years from now America will enter its third century as a young nation new in spirit, with all the vigor and freshness with which it began its first century.

We will not enter our third century in the manner hoped for unless we have made substantial headway in achieving the goal set forth in the Economic Opportunity Act:

> To eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity to work and the opportunity to live in decency and dignity.

While pollution may be our principal discomfort—and I yield to no one in concern and efforts to work for a better environment—poverty and discrimination continue to be our principal disgrace.

I hope therefore that the administration—in addition to the goals relating to Federal-State relations and the reorganization of the Federal Government itself—will establish certain goals relating directly to poverty so that we can approach our centennial with justified feeling that we are gaining and will eventually win this crucial battle.

In that connection, I hope that the administration will reinstate the practice of preparing a 5-year poverty plan, indicating what the Federal strategy against poverty will be between now and our bicentennial celebration.

THE PROPOSED DISTRICT OF COLUMBIA "RECIPROCAL INCOME TAX"

Mr. BYRD of Virginia. Mr. President, once again the government of the District of Columbia is attempting to impose a tax on the earnings of citizens of Virginia and Maryland who work in Washington.

Twice before—once in 1967, and again in 1969—the District Government proposed a "commuter tax" on the wages of suburban Virginia and Maryland residents.

This time, the proposed tax has taken a new form and has a new name: it is called a "reciprocal income tax," and under this proposal Maryland and Virginia also could tax the wages of District residents who work in those States.

But this "reciprocal" arrangement, while it has an appearance of fairness, is in fact inequitable.

According to published estimates, the District of Columbia would take in $51 million, while Virginia would lose $17 million in tax revenues and Maryland $28 million.

The States of Virginia and Maryland can do without that kind of reciprocity.

The real result of any such arrangement would be that Virginia and Maryland, already hard-pressed for funds, would have to increase their own taxes to make up for this loss of revenue.

That would mean that every taxpayer in these two States would be paying a special subsidy to the government of the District of Columbia—over and above the subsidy which every American taxpayer pays to the District through Federal taxation.

It must be kept in mind that each year the Federal Government makes a major contribution to the expenses of the District.

This year the amount of the so-called Federal payment is about $125 million. But according to the Senate Appropriations Committee, this figure represents only a small part of Federal support for the District: The actual total is a staggering $537 million.

And in addition to their own share of the national contribution to the District of Columbia budget, Virginia, and Maryland residents pay sales taxes on items they purchase when they shop in Washington.

Advocates of the proposed new District income tax point to the fact that the individual taxpayer in Virginia and Maryland would receive a tax credit against the amount they would normally owe in their own States. Thus the District tax would be deducted from the State income tax bill of the commuters.

But two observations need to be made about this procedure.

First, the District tax is graduated up to a higher level than the income tax of either Virginia or Maryland. The top rate in the District is 10 percent; in the two States, the highest rate is 5 percent.

Thus, many Virginia and Maryland residents would be paying a higher tax bill.

The second point is this: The loss in revenue for Virginia and Maryland would have to be made up in some way.

It may be trite to point out that money does not grow on trees—trite but true.

The only way Virginia and Maryland could compensate for their loss of tax funds would be to create new taxes, or increase old ones, on their own residents.

I recognize that the District of Columbia, like all cities in the United States, faces financial problems.

But to impose special taxes on the residents of Virginia and Maryland to bail out the District of Columbia is unjust.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there

objection? The Chair hears none, and it is so ordered.

The Senator from Idaho is recognized.

SENATE CONCURRENT RESOLUTION 3—SUBMISSION OF A CONCURRENT RESOLUTION PROVIDING FOR INDIVIDUAL AUTHORIZATION FOR CORPS OF ENGINEERS PROJECTS

Mr. CHURCH. Mr. President, at the time the Senate passed the Omnibus Rivers and Harbors Act last year, I served notice that I intended to introduce legislation early in this session of Congress which would require all major Corps of Engineers projects to be approved on a project-by-project basis in lieu of omnibus legislation.

At that time, Mr. President, I pointed out that under the omnibus approach we approve projects which affect areas so geographically diverse that there is no way one Senator can know the effects of these multiple projects upon the ecological system of the Nation. No one Senator can be aware of the opposition expressed by citizens in particular areas of the Nation to particular projects. Even given the increased awareness of environmental problems over the past several years, it is a rare case when a given corps project attracts sufficient public attention to be noticed by Members of Congress. It is just a simple fact that no one can assess properly the projects that are lumped together in so large a package as the omnibus bill.

It is my feeling, Mr. President, that the time has come for a change in this shotgun approach to authorizations for the Corps of Engineers.

So, today, for myself and my colleague, Mr. JORDAN of Idaho, I introduce a concurrent resolution which would require all major Corps of Engineers projects to be approved by Congress on a project-by-project basis.

At present, Corps projects—when they come to the Senate floor—are all packaged together. The present system leaves little room for the Members of Congress as a whole to consider these projects on their individual merits.

At a time when all were agreed on the need to construct—as fast as possible—flood control projects to save life and property, or hydroelectric projects to light our farms, there was a good argument to be made for the omnibus approach. The omnibus bills expedited consideration by Congress.

But those days are largely past. All too often today, projects of the Corps of Engineers are much more marginal in terms of cost-to-benefits ratio, and increasingly controversial.

A list of questionable public works projects could go on for pages, as every Senator knows. Not all of them are Corps projects, but many of them are. That is why, as we move into the last three decades of this century, it is important that we reflect carefully on each new project we build. What will be its impact on the environment? What will it destroy? What will it add? Are economic benefits outweighed by other factors?

To answer these questions wisely, major projects, at least, should be considered individually, as reclamation projects are, so that Senators might vote on them one at a time, after all of the pertinent information is disclosed.

Mr. President, I ask unanimous consent that the text of the concurrent resolution be printed in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER (Mr. HUMPHREY). The concurrent resolution will be received and appropriately referred; and, without objection, the concurrent resolution will be printed in the RECORD.

The concurrent resolution (S. Con. Res. 3) to provide for individual approval of each Corps of Engineers project by the Congress, was referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. CON. RES. 3

Resolved by the Senate (the House of Representatives concurring), That, on and after the date of the approval of this Concurrent Resolution, projects to be carried out by the Secretary of the Army, through the United States Corps of Engineers, shall be approved by the Congress on a project-by-project basis in lieu of omnibus legislation.

Mr. JORDAN of Idaho. Mr. President, I am pleased to join my distinguished colleague, Senator CHURCH, as a cosponsor of a resolution to require separate authorization of Corps of Engineers projects.

Good water resource projects can stand detailed analysis and win acceptance on their merits, without having to be lumped together in an omnibus bill. This has been amply demonstrated in the Federal reclamation program, which has been subjected to separate project authorization since the construction agency was established in 1902. In spite of the requirement for separate authorization by the congressional Interior Committees, the Federal reclamation program has played a major role in helping the arid and semiarid West develop water needed for its rapid growth during the 20th century, and at the same time, accumulating a multibillion-dollar backlog of authorized projects for future funding.

Having served on both the Senate Public Works and Senate Interior Committees, I have no reluctance in urging acceptance of this proposal. Soundly conceived water resource developments are some of the best public investments this Nation makes, returning multiple benefits many times in excess of capital costs. The projects also generally enhance man's environment by providing valuable water-oriented recreational playgrounds, reducing flood damage, providing largely pollution-free power generation and water transportation, and creating oases of irrigated green space in the vast open reaches of our plains and mountain-desert country.

However, when such otherwise soundly conceived projects are combined into an omnibus bill, with projects for every State and congressional district, the public is led to question their validity and to listen to the usually unsubstantiated charges of "pork barrel" legislation.

I urge my colleagues to give this resolution a fair hearing and act to remove the omnibus bill stigma from a most beneficial public works program.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF U.S. NAVY RESEARCH AND DEVELOPMENT PROCUREMENT ACTIONS

A letter from the Deputy Chief of Naval Material (Procurement and Production), transmitting, pursuant to law, the Department of the Navy's semiannual report of research and development procurement actions of $50,000 and over, covering the period 1 July through 31 December 1970 (with an accompanying report); to the Committee on Armed Services.

PROPOSED MILITARY SELECTIVE SERVICE ACT

A letter from the Director, Selective Service System, submitting a draft of proposed legislation to amend the Military Selective Service Act of 1967, and for other purposes (with accompanying papers); to the Committee on Armed Services.

PROPOSED SMALL BUSINESS AMENDMENTS OF 1971

A letter from the Administrator, Small Business Administration, submitting a draft of proposed legislation to clarify and extend the authority of the Small Business Administration, and for other purposes (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED DEFENSE PRODUCTION ACT OF 1950

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, submitting a draft of proposed legislation to amend and extend the Defense Production Act of 1950, as amended (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF RECEIPTS AND EXPENDITURES OF THE CHESAPEAKE & POTOMAC TELEPHONE CO.

A letter from the vice president and general manager, the Chesapeake & Potomac Telephone Co., submitting, pusuant to law, a statement for the year 1970 of receipts and expenditures of the Chesapeake & Potomac Telephone Co. (with accompanying papers); to the Committee on the District of Columbia.

PROPOSED LEGISLATION FROM THE DISTRICT OF COLUMBIA

A letter from the Commissioner of the District of Columbia, submitting a draft of proposed legislation to authorize the Government of the District of Columbia to fix certain fees (with accompanying papers);

A letter from the Commissioner of the District of Columbia, submitting a draft of proposed legislation relating to benefits for employees of the Government of the District of Columbia and for other purposes (with accompanying papers);

A letter from the Commissioner of the District of Columbia, submitting a draft of proposed legislation to amend the District of Columbia Code to increase the jurisdictional amount for the administration of small estates, to increase the family allowance, to provide simplified procedures for the settlement of estates, and to eliminate provisions which discriminate against women in administering estates (with accompanying papers);

A letter from the Commissioner of the District of Columbia, submitting a draft of proposed legislation to amend the District of Columbia Alcoholic Beverage Control Act, and for other purposes (with accompanying papers); and

A letter from the Commissioner of the District of Columbia, submitting a draft of proposed legislation to provide for payment of medical or surgical services or hopsital treatment of certain disabled former members of the Metropolitan Police Department, the Fire Department of the District of Columbia, the United States Park Police force, the Executive Protective Service, and the United States Secret Service Division, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

REPORT OF DISPOSED FOREIGN EXCESS PROPERTY

A letter from the general manager, Atomic Energy Commission, reporting, pursuant to law, on disposed foreign excess property during fiscal year 1970 (with accompanying papers); to the Committee on Government Operations.

REPORT ON DISPOSALS OF FOREIGN EXCESS PROPERTY

A letter from the Assistant Secretary for Administration, Office of the Secretary, Department of Agriculture, reporting, pursuant to law, on the disposals of foreign excess property for the fiscal year ending June 30, 1970 (with accompanying papers); to the Committee on Government Operations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need to improve management of the Army's tactical vehicles development program (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report concerning positions in the United States General Accounting Office in Grades GS–16, 17 and 18 and their incumbents, for the calendar year 1970 (with an accompanying report); to the Committee on Post Office and Civil Service.

PROPOSED MICRONESIAN CLAIMS ACT OF 1971

A letter from the Under Secretary of the Interior, submitting a draft of proposed legislation to authorize an ex gratia contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON ACTIVITIES CARRIED ON BY THE GEOLOGICAL SURVEY

A letter from the Under Secretary of the Interior, reporting, pursuant to law, on the activities carried on by the Geological Survey during the reporting period July 1 through December 31, 1970; to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION TO PROHIBIT INTERSTATE TRANSPORTATION OF MATTERS HARMFUL TO MINORS

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to prohibit the use of interstate facilities, including the mails, for the transportation of certain materials to minors (with an accompanying paper); to the Committee on the Judiciary.

PROPOSED LEGISLATION FROM THE DEPARTMENT OF HEALTH, EEDUCATION, AND WELFARE

Three letters from the Secretary of the Department of Health, Education, and Welfare, transmitting proposed legislation (with accompanying papers); which were referred to the Committee on Labor and Public Welfare, as follows:

A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a code system for the identification of prescription drugs, and for other purposes;

A bill to establish a National Institute of Education, and for other purposes; and

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

PROPOSED LEGISLATION FROM THE VETERANS' ADMINISTRATION

Five letters from the Administrator, Veterans Administration, transmitting drafts of proposed legislation (with accompanying papers); which were referred to the Committee on Veterans' Affairs:

A bill to repeal the savings provision of Public Law 90–493 protecting veterans entitled to disability compensation for arrested tuberculosis;

A bill to amend section 902 of title 38, United States Code, to eliminate certain duplications in Federal benefits now payable for the same, or similar, purpose;

A bill to amend title 38 of the United States Code to require that certain veterans receiving hospital care from the Veterans' Administration for non-service-connected disabilities be charged for such care to the extent that they have health insurance or similar contracts with respect to such care; to prohibit the future exclusion of such coverage from insurance policies or contracts; and for other purposes;

A bill to amend title 38, United States Code, in order to authorize the Administrator to make advance educational assistance payments to certain veterans; and

A bill to authorize the Administrator of Veterans' Affairs to sell at prices which he determines to be reasonable under prevailing mortgage market conditions direct loans made to veterans under chapter 37, title 38, United States Code; to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of New Hampshire; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION 3

"A resolution memorializing the President of the United States

"Whereas, The economy of the state of New Hampshire is substantially affected by the economic health of its shoe industries; and

"Whereas, The percentage of foreign-made shoes imported into the United States continues to increase rapidly; and

"Whereas, The shoe industries in the state of New Hampshire have been adversely affected from the flood of foreign imports; and

"Whereas, Unemployment has increased alarmingly in the state of New Hampshire in shoe industries because of the lack of quotas or tariffs on foreign imports;

"Now therefore be it resolved by the Senate, the House concurring:

"That we, the members of the New Hampshire Senate, and House of Representatives, do memorialize the President of the United States to establish such quotas and approve such tariffs as may be necessary to insure the preservation and economic health of our domestic shoe industries;

"That signed copies of this resolution be certified by the secretary of state and sent to the President of the United States, the President of the United States Senate and Speaker of the United States House of Representatives."

A concurrent resolution of the General Assembly of South Carolina; to the Committee on Finance:

"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."

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. MANSFIELD (for himself, Mr. CANNON, and Mr. PASTORE):

S. 382. A bill to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes; to the Committees on Finance, Commerce, and Rules and Administration jointly, by unanimous consent.

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

By Mr. GURNEY:

S. 383. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Florida; and

S. 384. A bill to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in certain lands located in the State of Florida to the record owner or owners of such lands; to the Committee on Interior and Insular Affairs.

By Mr. GURNEY (for himself, Mr. ALLEN, Mr. SPARKMAN, Mr. TOWER, Mr. THURMOND and Mr. HOLLINGS):

S. 385. A bill to preserve the concept of the neighborhood school in American public elementary and secondary education; to the Committee on Labor and Public Welfare.

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

By Mr. GURNEY:

S. 386. A bill for the relief of beneficiaries of a certain life insurance policy;

S. 387. A bill for the relief of Uhel D. Polly;

S. 388. A bill for the relief of Clara Luisa Meyer y Canton Solaun; and

S. 389. A bill for the relief of Stephen Lance Pender, Patricia Jenifer Pender, and Denese Gene Pender; to the Committee on the Judiciary.

By Mr. DOMINICK:

S. 390. A bill to amend the Higher Education Act of 1965 in order to provide for a United States Foreign Service Scholarship Program; to the Committee on Labor and Public Welfare.

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

By Mr. HATFIELD (for himself, Mr. MOSS, Mr. BENTSEN, Mr. JAVITS, Mr. THURMOND, Mr. HUMPHREY, Mr. JORDAN of Idaho, Mr. PERCY, Mr. TUNNEY, Mr. STEVENS, Mr. RANDOLPH, Mr. GRAVEL, Mr. HOLLINGS, Mr. ALLOTT, Mr. PACKWOOD, Mr. MCINTYRE, Mr. HART, Mr. PEARSON, Mr. INOUYE, Mr. GURNEY, Mr. MCGOVERN, Mr. CHURCH, Mr. MONTOYA, Mr. BURDICK, and Mr. FONG):

S. 391. A bill to amend section 306 of the Consolidated Farmers Home Administration Act to increase the aggregate annual limit on grants for water and waste facilities constructed to serve rural areas and to increase the aggregate annual limit on grants for plans for the development of such facilities; to the Committee on Agriculture and Forestry.

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

By Mr. HATFIELD (for himself, Mr. GOLDWATER, Mr. CHURCH, Mr. CRANSTON, Mr. HART, Mr. JORDAN of Idaho, Mr. MCGOVERN, Mr. MOSS, Mr. PACKWOOD, Mr. PEARSON, Mr. PERCY, Mr. STEVENS, and Mr. TAFT):

S. 392. A bill entitled "The Volunteer Military Act of 1971; to the Committee on Armed Services.

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

By Mr. CANNON (for himself and Mr. BIBLE):

S. 393. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the occupational tax on coin-operated gaming devices for similar taxes presently imposed by a State where the operation of such devices is legal; to the Committee on Finance.

S. 394. A bill to provide for the establishment of a national cemetery in the State of Nevada; to the Committee on Veterans' Affairs.

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

By Mr. CANNON:

S. 395. A bill to amend title 38, United States Code, in order to provide automatic cost-of-living increases in certain benefits for veterans and widows, dependents, and dependent parents of certain veterans; to the Committee on Veterans' Affairs.

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

By Mr. CANNON (for himself and Mr. BIBLE):

S. 396. A bill to provide for the construction of a Veterans' Administration hospital in the State of Nevada; to the Committee on Veterans' Affairs.

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

By Mr. JAVITS (for himself, Mr. CASE, Mr. MATHIAS, and Mr. SCHWEIKER):

S. 397. A bill to extend for 2 additional years the authorization of appropriations contained in the Economic Opportunity Act of 1964; 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. HARTKE:

S. 398. A bill for the relief of Alfred Hudson David; and

S. 399. A bill for the relief of Albana Strani; to the Committee on the Judiciary.

By Mr. SAXBE (for himself, Mr. BROOKE, Mr. EAGLETON, and Mr. MONDALE):

S. 400. A bill to establish a Criminal Justice Reform Administration in order to provide assistance to encourage States and localities to undertake comprehensive criminal justice reform in order to strengthen police protection, improve the prosecution of offenders, expedite overcrowded court criminal calendars and strengthen correctional systems, and for other purposes; to the Committee on Government Operations, by unanimous-consent order, then to the Committee on the Judiciary when reported by the Committee on Government Operations.

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

By Mr. METCALF:

S. 401. A bill to amend section 14 of the Natural Gas Act; to the Committee on Commerce.

S. 402. A bill to provide financial assistance to candidates for President and Vice President and candidates for the Senate and House of Representatives to assist in defraying their election campaign expenses, and to repeal the Presidential Election Campaign Fund Act of 1966; to the Committee on Finance.

S. 403. A bill to prohibit certain combinations and control between electric and gas utilities; to the Committee on the Judiciary.

S. 404. A bill to authorize the U.S. Office of Education to carry out certain activities concerning consumers' education; to the Committee on Labor and Public Welfare.

By Mr. HARTKE:

S. 405. A bill for the relief of Constancia M. Lozano; to the Committee on the Judiciary.

By Mr. COTTON:

S. 406. A bill for the relief of Anna DeAngelis; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 407. A bill to amend section 406(b) of title 37, United States Code, relating to the shipment of household effects; to the Committee on Armed Services.

S. 408. A bill to amend the Internal Revenue Code of 1954 to permit certain employees to establish qualified pension plans for themselves in the same manner as if they were self-employed; to the Committee on Finance.

S. 409. A bill to amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as such retired employees continue to reside in Alaska, and for other purposes;

S. 410. A bill to provide that certain traveltime of a Federal employee on annual leave, having a post of duty in a remote area, be excluded from the period of annual leave granted the employee;

S. 411. A bill to amend the provisions of title 5, United States Code, relating to Federal employees health insurance plans, to require periodic open seasons and to require prior notice of chanegs of rates in such plans;

S. 412. A bill to permit all compensation paid at regular rates to certain employees of the Alaska Railroad to be included in the computation of their civil service retirement annuities; and

S. 413. A bill to provide that time spent by a Federal employee in a travel status shall be considered as hours of employment; to the Committee on Post Office and Civil Service.

(The remarks of Mr. HATFIELD when he introduced S. 408, S. 410, S. 411 and S. 413 appear below under the appropriate headings.)

By Mr. BURDICK (for himself and Mr. YOUNG):

S. 414. A bill to authorize and direct the Secertary of the Interior to convey certain property in the State of North Dakota to the Central Dakota Nursing Home; to the Committee on Interior and Insular Affairs.

S. 415. A bill for the relief of Mr. and Mrs. Arvel Glinz; to the Committee on the Judiciary.

By Mr. CASE:

S. 416. A bill for the relief of Mrs. Barbara Joseph; and

S. 417. A bill for the relief of Nicola Galotto; to the Committee on the Judiciary.

By Mr. BAYH:

S. 418. A bill for the relief of Edwin G. Ost;

S. 419. A bill for the relief of Luigi Fornasier, Lucilla Maria Fornasier, and Lucio Fornasier; and

S. 420. A bill for the relief of Fernando De la Rama and Carmen De la Rama; to the Committee on the Judiciary.

By Mr. STENNIS:

S. 421. A bill to amend title 10, United States Code, to provide special health care benefits for certain surviving dependents; to the Committee on Armed Services.

By Mr. BURDICK:

S. 422. 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.

By Mr. MCINTYRE:

S. 423. A bill to limit Federal payments to individual farm producers to $10,000 per crop per farm; to the Committee on Agriculture and Forestry.

S. 424. A bill to require that certain articles of wearing apparel be permanently labelled with laundering and dry cleaning care instructions; and

S. 425. A bill to provide for the establishment of national standards for warranties made with respect to consumer goods distributed in or affecting interstate commerce, and for other purposes; to the Committee on Commerce.

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

By Mr. RANDOLPH (for himself, Mr. BYRD of West Virginia, Mr. DOMINICK, Mr. GRAVEL, Mr. HART, Mr. JAVITS, Mr. MCINTYRE, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. PEARSON, Mr. PELL, Mr. SCOTT, Mr. STEVENS, and Mr. WILLIAMS):

S. 426. A bill to amend the Public Health Services Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation; to the Committee on Labor and Public Welfare.

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

By Mr. STENNIS (for himself and Mrs. SMITH) (by request):

S. 427. A bill to amend the Military Selec-

tive Service Act of 1967, and for other purposes; to the Committee on Armed Services.

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

By Mr. HRUSKA:

S. 428. A bill to prohibit the use of interstate facilities, including the mails, for the transportation of salacious advertising;

S. 429. A bill to prohibit the use of interstate facilities, including the mails, for the transportation of certain materials to minors; and

S. 430. A bill to amend title 18, United States Code, to provide for the issuance to certain persons of judicial orders to appear for the purpose of conducting nontestimonial identification procedures, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. HRUSKA when he introduced S. 428 and S. 430 appear later in the RECORD under the appropriate heading.)

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

S. 431. A bill to amend the Internal Revenue Code of 1954 to modify the provisions relating to taxes on wagering to insure the constitutional rights of taxpayers, to facilitate the collection of such taxes, and for other purposes; to the Committee on the Judiciary, by unanimous consent, and when reported by that committee to be referred to the Committee on Finance.

(The remarks of Mr. HRUSKA when he introduced S. 428, S. 430, and S. 431 appear later in the RECORD under the appropriate headings.)

By Mr. HATFIELD (for himself and Mr. CRANSTON, Mr. CHURCH, Mr. MCGOVERN, and Mr. PROXMIRE).

S.J. Res. 19. Joint resolution repealing the Military Selective Service Act of 1967; to the Committee on Armed Services.

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

S. 385—INTRODUCTION OF THE NEIGHBORHOOD SCHOOL ACT OF 1971

Mr. GURNEY. Mr. President, today I am introducing the Neighborhood School Act of 1971. This legislation is designed to alleviate some of the problems being faced by our school systems by preserving our traditional neighborhood schools.

It seems to me that as it stands now, our national policy is sacrificing sound educational goals in pursuit of busing and pairing and other ellusive goals. Certainly we cannot discount the fact that our schools were built and supported not by tax dollars alone, but by the combined efforts of parents, teachers, and concerned community citizens. These people look to their local schools and properly so. I am very much afraid that if we continue on our present path, we will succeed in ruining the public school system.

My proposal will allow a student to remain in his neighborhood elementary or secondary school unless he wants to transfer. In other words, no student will be forced to attend a school miles away in a neighborhood where he has no friends or ties for the sole purpose of satisfying a balance of races in the classrooms.

It is evident that however honorable the intention of these HEW policies has been, the only real result has been more confusion, strife and turmoil—and all this at the ultimate expense of the students and parents involved. Furthermore, there has developed a sharp inconsistency in the rules of this game. In many cases, what is permissible in some sections of the country is not allowed in others. The public schools were built to provide education for our young people—this central fact seems to be forgotten in the posturing that is now going on.

Mr. President, I am pleased to note that several of my colleagues who share my interest in this legislation have joined with me in cosponsoring this bill.

The cosponsors are: Senator ALLEN, Senator SPARKMAN, Senator TOWER, Senator THURMOND, and Senator HOLLINGS.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement on this subject by the Senator from Texas (Mr. TOWER).

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

The bill (S. 385) to preserve the concept of the neighborhood schools in American public elementary and secondary education, introduced by Mr. GURNEY, for himself and other Senators, was received, read twice by its title and referred to the Committee on Labor and Public Welfare.

The material furnished by Mr. GURNEY is as follows:

STATEMENT OF SENATOR TOWER

Mr. President, I am pleased to support today the measure introduced by the senior Senator from Florida, believing that it is a constructive step toward solving the crisis that is currently facing our nation's school systems. This measure, the Neighborhood School Act of 1971, recognizes that the Neighborhood School is one of the finest traditions in American education and is one that has served this nation and her students extremely well. Most of us in this body have gone to the Neighborhood School, where our classmates were also our neighbors. It is this basic social pattern which we wish to continue through this measure.

Likewise, Mr. President, the Act recognizes that our children have a right and we, the parents, have a right to expect that they would be allowed to attend the school closest to their home, other things being equal. What this act specifically does is define the criteria under which school boards or other bodies may consider the assignment of pupils. It is indeed unfortunate that we in the Congress are forced to seek the enactment of such measures; however, the actions of the Department of Health, Education and Welfare and the lack of rationality of some court decisions on the subject, make this action imperative.

Mr. President, in the last few years the Congress has passed several laws which would prevent H.E.W. from requiring the bussing of students in order to experiment in social theory. Nevertheless, even with a strict legislative history and clarification after clarification, the Department has refused to carry out the intent of Congress. By one means or another, they have consistently required the bussing of students before they would approve a program and clear the district to receive funds under the School Aid Program. What we will do now, is to strictly forbid H.E.W. from interfering with neighborhood schools and allow such school zone configurations where desirable to the districts and where practicable.

Mr. President, I look forward to early hearings on this bill, so that we may clarify any points in Committee which are not readily apparent at this time. Likewise, should sound educational policies indicate any change in the language, it could be accomplished as a result of such hearings. In the Congress, our voice has been clear on how we stand on the subject of neighborhood schools, but our directives have been too often ignored. It is time to spell out in no uncertain terms what is required under departmental guidelines; it is that which we are seeking to do here today.

S. 390—INTRODUCTION OF THE U.S. FOREIGN SERVICE SCHOLARSHIP PROGRAM

Mr. DOMINICK. Mr. President, I introduce a bill to amend the Higher Education Act of 1965 to provide for a U.S. Foreign Service scholarship program.

The essential concept of this bill—to better equip our Government employees to cope with the increasing demands for international understanding—was not new when I first introduced the bill in the House of Representatives during the 87th Congress. Since that time the mechanics of the bill have evolved from an academy, to a corps, to its present structure of a scholarship program, all the while retaining the same purpose. The bill in its present form represents the end product of prior bills which were twice favorably reported out of the Senate Labor and Public Welfare Committee, but which have not been acted upon by the Senate as a whole.

Before its death, S. 939—last year's bill—received comments from prominent educators and acknowledged experts in the field of international affairs and foreign policy, as follows:

Adm. Arleigh Burke:

I read with keen interest the amendment which you introduced to the Higher Education Act. . . . I hope you are successful in getting it through.

The late Allen Dulles:

I am thoroughly in accord with the objective you have in mind.

Harrison Brown, Foreign Secretary, National Academy of Sciences:

In my opinion this is an important step forward and I congratulate you on your foresight.

Stephen Bailey, chairman, Policy Institute, Syracuse University Research Corp., and former dean, Maxwell School of Citizenship:

I am intrigued and delighted with the notion of a United States Foreign Service Corps which would make use of existing academic institutions in educating and training American citizens for foreign service careers. In my estimation that is a far more efficient way of taking care of the educational needs of existing and prospective foreign service personnel than in the creation of a separate Foreign Service Academy.

Dr. Philip Mosley, associate dean, Faculty of International Affairs, Columbia University:

It is excellent in both its broad purposes and its realistic provisions for execution of the program. Because of the strenuous efforts made since 1945 by universities and colleges, and by several foundations, the institutions of the country offer a wide range of intensive programs on international affairs generally and on the intensive study of most of the areas of the world. Your bill provides a flexible and efficient way of tapping these large resources of training and research. . . . It could make a tremendous difference in the awareness of our people about our responsibilities in world affairs and in the effectiveness of both the study

and the conduct of our foreign policy in its very wide ramifications.

William Langer, professor of history, Harvard University, and former member, advisory board, Foreign Service Institute:

I am well acquainted with the problems of training for service abroad. I have therefore read your bill with great interest. I think it is an excellent bill, that will do much to strengthen our staffs abroad. I trust that it will soon be enacted into law.

T. Keith Glennan, assistant to the chairman, Urban Coalition:

I am in agreement with the proposal you have made and hope that this activity can be included in the Omnibus Education Act of 1968.

In addition, the late George Allen, former Ambassador and Director of the Foreign Service Institute, testified on behalf of the bill and was an active supporter of it up to the moment of his untimely demise.

The present bill contains essentially the same language as S. 939, except for a new title, several technical changes, and two principal deletions. Deleted was section 1211 which transferred control of the Foreign Service Institute from the Secretary of State and the State Department to the Foreign Service Board of Trustees. The deletion insures the continued jurisdiction of the State Department over the Foreign Service Institute and serves to acknowledge the accomplishments of the Institute under State Department leadership in its present field of expertise. The deletion improves the bill by refocusing its thrust on the training of those potential and present government employees involved in foreign affairs work rather than on training Foreign Service officers. The approximately 3,400 active Foreign Service officers and their replacements presently receive training through the Foreign Service Institute, but the approximately 75,000 other Government employees working with and in foreign countries in various capacities generally do not receive any foreign affairs training before going on the job.

To complete the bill's disentanglement from Foreign Service involvement a provision of section 1209(b) of S. 939 was deleted, thereby returning the selection of all Foreign Service officers to the traditional competitive examination process. The deleted provision would have allowed automatic Foreign officer appointment of students enrolled in the program upon the satisfactory completion of graduate degree work and a year of specialized study.

The deletions redefine the scope and intent of the bill and should serve to eliminate any State Department criticism. It should be noted that the scholarships provided in the bill are not limited to Foreign Service officers of the State Department but encompass all personnel who are interested in seeing the U.S. Government abroad in all other fields be they agriculture, commerce, transportation, tourism, or other facets of our responsibilities aboad.

Without enumerating the numerous similar bills introduced by others, suffice it so say that I personally have introduced predecessors of this bill in four separate congresses. In the course of its history, the bill has been refined by compromise and concession to the point that further modifications seem unnecessary and unwise.

The major strength of the Foreign Service scholarship program is that it is just that—a scholarship program. As such, it is not an academy program involving large capital outlays for buildings, grounds, and equipment, but rather a program concentrating Federal investments in people. A factual cost comparison helps to put this statement in perspective—in fiscal year 1967, it cost $40,200 to commission each student at the Naval Academy, $48,697 at the Military Academy, and $50,933 at the Air Force Academy, while the ROTC program—a scholarship system very similar to that in my bill—costs the American taxpayer about $7,500 to commission each student. The program would utilize the existing 77 institutions in 31 States, the District of Columbia, and Puerto Rico which offer career curriculums in international relations and those 41 other institutions in 21 States and the District of Columbia which have curriculums for foreign service and diplomacy training. The advantage of such a program is that it provides access to the full breadth of disciples taught by the top minds in the country while maintaining the flexibility and independence necessary to maximize opportunities for charting new courses in foreign affairs, education and practice, and altering old ones. It utilizes, rather than competes with, the facilities and academic expertise of educational institutions, public and private, while preserving their control and objectiveness.

Through a comprehensive scholarship program, the bill would make readily accessible to two principal groups the best possible education, training, and research facilities in the country. One group to benefit by the program would be those undergraduate and graduate students who are interested in pursuing approved courses of study or research activities in the field of foreign affairs. In addition to providing the obvious student financial aid, the student scholarship program would serve to acknowledge as a national commitment the recognition of foreign affairs training as an educational equivalent to that of training doctors, teachers, military officers, and football players. This recognition is particularly important because it would attract those talented 18- to 20-year-old students interested in a career in foreign affairs which in the past have, of necessity, accepted scholarships in other educational fields. The net result is that the Federal Government has been limited to competing for graduate-level students from a talent pool depleted by those students who committed themselves earlier in their educational careers.

Second, the student scholarship program would represent a Federal commitment to those talented, economically disadvantaged high school students who heretofore never had the opportunity either to enter or to complete college. The Federal Government would be the true beneficiary of the education of such disadvantaged students who, armed with values and concepts unique to their background, would furnish a new and refreshing dimension to our foreign affairs policy.

The undergraduate and graduate scholarship programs would provide compenastion for tuition, texts, laboratory fees, and subsistence payments for as many as 5,000 qualified students pursuing full-time courses of study leading to a degree at a Board-approved institution. In return for the financial assistance rendered by the Government, the student would be obligated to accept employment with the United States for an amount of time as determined by the Board.

Equally important is the program's statement of national commitment to a program of bettering the Nation's foreign affairs personnel by providing scholarships for education, training, or research for officers and employees of the Federal Government. Also section 1204 provides for orientation and language training at program institutions for members of the families of persons admitted to the program and officers and employees soon to be assigned duties in the field of foreign affairs. Those officers and employees selected for admission into the program by the head of their department or agency would receive compensation for travel, packing, storing, and all necessary education expenses. In return, the employee would be obligated to remain in the employ of the Government for a specified amount of time.

The Congress recognizes that the world and universe are growing smaller in terms of time and space, which necessitates now—and will demand in the future—constant contact, knowledge and understanding among all the peoples of the world in diplomatic, cultural, and commercial exchanges. Success of these exchanges and the survival of the world may depend upon the ability, education, training, and intelligence of the men and women charged with the responsibilities relating to the foreign affairs of the United States. This legislation would assure that there is adequate opportunity for the young men and women of the United States to enter this vast field with the best possible training of their abilities and to advance the education and training of the officers and employees of the government currently engaged in the field of foreign affairs.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis of the bill be printed at this point in the RECORD.

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

The bill (S. 390) to amend the Higher Education Act of 1965 in order to provide for a U.S. Foreign Service scholarship program, introduced by Mr. DOMINICK, was received, read twice by its title, referred to the Committee on Labor and Public Welfare and ordered to be printed in the RECORD, as follows:

S. 390

A bill to amend the Higher Education Act of 1965 in order to provide for a United States Foreign Service Scholarship Program

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

(a) This Act may be cited as the "United States Foreign Service Scholarship Program Act."

(b) The Higher Education Act of 1965 is amended (1) by redesignating title XII and sections 1201, 1202, 1204, and 1205, and all references thereto, as title XIII and sections 1301, 1302, 1303, and 1304, respectively, and (2) by inserting after title XI a new title as follows:

"TITLE XII—UNITED STATES FOREIGN SERVICE SCHOLARSHIP PROGRAM

"ESTABLISHMENT OF SCHOLARSHIP PROGRAM

"SEC. 1201. The Congress recognizes that the world and the universe are growing smaller in terms of time and space which necessitates now, and will demand in the future, constant informed contact, knowledge, and understanding among all the peoples of the world in diplomatic, cultural, and commercial exchanges. The success of these exchanges and the survival of the world may depend upon the ability, education, training, and intelligence of the men and women charged with responsibilities relating to the foreign affairs of the United States. To assure that there is adequate opportunity for the young men and women of the United States to enter this vast field with the best possible training of their natural abilities and to advance the professional education and training of the officers and employees of the Government currently engaged in the field of foreign affairs, there is hereby established, as provided in the succeeding provisions of this title, a United States Foreign Services Scholarship Program (hereinafter referred to as the 'Program'). The members of the Program shall be all students admitted to the Program under section 1205, and all officers and employees of the Government admitted to the Program under section 1207, who are enrolled in a program of education, training, or research, or a course of study approved by the Board under section 1204.

"DEFINITIONS

"SEC. 1202. As used in this title—

"(a) 'Government' means the Government of the United States;

"(b) 'non-Federal institution of higher education' means an institution of higher education which is not owned or substantially controlled by the Government of the United States;

"(c) 'Board' means the Board of Trustees of the Program;

"(d) 'department or agency' means an executive department, a military department, an independent establishment, or a Government corporation as specified in chapter 1 of title 5, United States Code;

"(e) 'training month' means any month during which a member of the Program admitted under section 1205 is taking at least the minimum level of credit hours in a full-time course of study prescribed by the Board, or is taking field training as assigned by the Board; and

"(f) 'dependent', when used in relation to a dependent of a member of the Program admitted under section 1205, means an individual who qualifies as a dependent of such member under section 152 of the Internal Revenue Code of 1954, as amended.

"BOARD OF TRUSTEES

"SEC. 1203. (a) The management and supervision of the Program shall be vested in a Board of Trustees. The Board shall develop and support, as provided hereinafter, programs of education, training, and research in the field of foreign affairs designed to prepare, or advance the qualifications of members of the Program for service with the United States in positions or programs related to such field.

"(b) The Board shall consist of the Secretary of State, four persons experienced in higher education or training and education in foreign affairs, to be appointed by the President, two members of the United States Senate to be appointed by the Vice President, and two members of the House of Representatives to be appointed by the Speaker of the House of Representatives. Not more than one of the trustees appointed from the Senate nor one of the trustees appointed from the House of Representatives shall be of the same political party.

"(c) (1) The term of each member of the Board appointed from the Senate and the House of Representatives shall be two years.

"(2) The term of each member of the Board appointed by the President shall be four years; except that of the first four persons appointed by the President two shall be designated to serve for two years and two shall be designated to serve for four years.

"(3) Members of the Board shall be eligible for reappointment.

"(d) Vacancies created by death or resignation shall be filled in the same manner in which the original appointment was made, except that the person appointed to fill the vacancy shall be appointed only for the unexpired term of the trustee whom he shall succeed.

"(e) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

"ESTABLISHMENT OF SCHOLARSHIP PROGRAMS

"SEC. 1204. (a) In order to carry out the purposes of this title, the Board is authorized and directed to make arrangements with qualified non-Federal institutions of higher education providing for the admission of qualified members of the Program to such institutions for their enrollment in programs operated by and at such institutions which are designed to—

"(1) enable qualified students who are admitted to the Program pursuant to section 1205 to pursue full-time courses of study approved by the Board relating to the field of foreign affairs and leading to the granting of an undergraduate or graduate degree;

"(2) enable qualified officers and employees of the Government having duties or responsibilities in the field of foreign affairs who are admitted to the Program pursuant to section 1207 to pursue, on a voluntary basis and on such terms and conditions as the Board may prescribe, professional education, training and research activities approved by the Board relating to the field of foreign affairs, including selected subjects from a general curriculum, or to pursue full-time courses of study approved by the Board relating to the field of foreign affairs and leading to an undergraduate or graduate degree; and

"(3) enable selected members of the Program to engage in research activities approved by the Board relating to the field of foreign affairs.

In addition, such arrangements shall provide for a program of appropriate orientation and language training by and at such institutions for members of the families of persons admitted to the Program or of officers and employees of the Government who are not members of the Program, but have duties or responsibilities in the field of foreign affairs, in anticipation of, or on account of, the assignment of such members of the Program or officers or employees of the Government to a foreign country or area.

"(b) In carrying out its functions under subsection (a), the Board shall not enter into any arrangement with a non-Federal institution of higher education unless such arrangement provides that such institution will offer to members of the Program, as a part of its curriculum, courses of study or activities of education, training, or research in the field of foreign affairs approved by the Board as satisfactory of, in order to prepare, or advance the qualifications of members of the Program for service with the United States in positions or programs related to the field of foreign affairs.

"(c) The Board shall, pursuant to guidelines established, after consultation with departments and agencies of the Government concerned with future personnel needs in the field of foreign affairs, determining the number of persons who may receive instructions and training under the Program. Not more than three thousand five hundred students may be admitted under section 1205 as new members of the Program in any academic year for the purpose of pursuing courses of study leading to an undergraduate degree, and not more than fifteen hundred students may be admitted under section 1205 as new members of the Program in any academic year for the purpose of pursuing courses of study leading to a graduate degree.

"NOMINATION AND ADMISSION OF STUDENTS INTO PROGRAM

"SEC. 1205. (a) The Board shall provide for the holding of annual competitive undergraduate and graduate examinations to determine the admission of applicants into the Program from among students who are nominated pursuant to subsection (c). Such examinations shall test the intellectual capacities and training of the applicant and his aptitude for service in the field of foreign affairs. The Board shall develop such examinations in consultation with non-Federal institutions of higher education with which it has made arrangements under section 1204.

"(b) Applicants for the annual undergraduate examination held by the Board shall be citizens of the United States who are graduates of, or attending, a public secondary school in, or any private secondary school accredited by, a State, or a public or private secondary school in a foreign country which in the judgment of the Board provides an educational program for which it awards a certificate of graduation generally accepted as constituting the equivalent of that awarded by secondary schools accredited by a State. Applicants for the annual graduate examination held by the Board shall be citizens of the United States who are graduates of, or attending, an institution of higher education in the United States or of an institution of higher education in a foreign country which provides an educational program for which it awards a degree which in the judgment of the Board is generally accepted as constituting the equivalent of a bachelor's degree awarded by similar institutions in the United States. No applicant shall be eligible to take any such examination unless he has first been nominated pursuant to subsection (c).

"(c) (1) A total of eight thousand four hundred and twenty-four applicants shall be nominated each year to take the annual competitive examinations held by the Board as follows:

"(A) two hundred and twenty from the United States at large as follows:

"(i) one hundred nominated by the President,

"(ii) sixty-six nominated by the Vice President, and

"(iii) fifty-four nominated by the Secretary of State;

"(B) thirty from each State, fifteen nominated by each Senator from the State;

"(C) fifteen from each congressional district, nominated by the Representative from the district;

"(D) three from each State nominated by the Governor of the State;

"(E) seven from the Commonwealth of Puerto Rico nominated by the resident Commissioner from Puerto Rico;

"(F) ten from the District of Columbia, nominated by the Commissioner of the District of Columbia;

"(G) three from the Virgin Islands, nominated by the Governor of the Virgin Islands;

"(H) three from Americans Samoa, nominated by the Governor of American Samoa;

"(I) three from Guam, nominated by the Governor of Guam; and

"(J) three from the Canal Zone, nominated by the Governor of the Canal Zone.

"(2) No person may be nominated under clauses (B) through (I), inclusive, of paragraph (1) unless such person is domiciled in the State, or in the congressional district, from which such person is nominated, or in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam if nominated from one of those places. To be eligible for nomination by the Governor of the Canal Zone, a person must be a resident of the Canal Zone, or a member of the family of a resident of the Canal Zone, or a member of the family of a civilian officer or employee of the United States or the Panama Canal Company residing in the Republic of Panama.

"(3) After the initial three years of operation of the program, if the Board determines that the total number of applicants who will be qualified and admitted as new members in the Program prior to the beginning of any academic year under this section for the purpose of pursuing courses of study during such academic year leading to undergraduate or graduate degrees, respectively, will be below the total number of applicants who may be so admitted to the Program in accordance with section 1204(c), the Board may nominate to take a competitive examination held prior to such academic year, and select for admission to the Program, in the order of merit established by such examination, such additional number of eligible applicants as the Board finds will be necessary to meet the needs of the Program in such academic year and will not exceed the limitations set forth in section 1204(c).

"(d) Applicants under this section shall be selected for membership in the Program in the order of merit established by the annual examinations held by the Board pursuant to this section, but no person shall be eligible for admission as a member of the Program unless he is a graduate of a public or private secondary school described in subsection (b) in the case of a student intending to pursue a course of study leading to an undergraduate degree or a graduate of an institution of higher education described in subsection (b) in the case of a student intending to pursue a course of study leading to a graduate degree.

"(e) Except as provided in this section, no competitive or other similar examination shall be required for admission of any person as a member of the Program under this section.

"COMPENSATION AND PAYMENT OF EXPENSES AND SUBSISTENCE FOR STUDENT MEMBERS

"SEC. 1206. (a) Members of the Program who are admitted under section 1205 and are maintaining satisfactory progress in, and taking at least the minimum level of credit hours in, full-time courses of study as prescribed by the Board shall be compensated for tuition, texts, laboratory fees and associated course materials, and shall receive subsistence payments as provided in this section. No compensation or payments shall be made except in accordance with procedures established by the Board to assure their accuracy and appropriateness.

"(b) The subsistance payments which shall be payable under this section are as follows:

"(1) A single student member shall receive $200 subsistence pay per training month.

"(2) A married student member having a dependent spouse shall receive $250 subsistence pay per training month, and if they have a dependent child or children an additional allowance of $30 for each dependent child shall be paid per training month.

"(3) Where both a husband and wife member are students under the program and are cohabiting, their joint subsistence pay shall be $300 per training month, and if they have a dependent child or children an additional allowance of $30 for each dependent child shall be paid per training month.

"(4) Where both a husband and a wife member are students under the Program and are legally separated they each shall receive the same subsistence pay per training month as would a single student, but if either spouse has a dependent child or children an additional allowance of $30 per training month shall be paid to the entitled spouse for each dependent child.

"(5) Student members shall be granted an additional allowance of $30 per training month for each dependent not a spouse or a child of such student member.

"ADMISSION OF GOVERNMENT OFFICERS AND EMPLOYEES INTO THE PROGRAM; EXPENSES AND COMPENSATION

"SEC. 1207. (a) The head of each Government department or agency is authorized (1) to select officers and employees of such department or agency who may volunteer to be admitted to the Program to pursue education, training or research or a course of study within the Program, (2) to pay all or any part of the pay (except overtime, holiday, or night differential pay) of any such officer or employee so selected for the period of such education, training or research, or course of study, as a member of the Program, and (3) to pay or reimburse such officer or employee for all or part of the necessary expenses of such education, training, or research, or course of study, without regard to section 529 of title 31, United States Code, including the necessary costs of (A) the travel expenses of such officer or employee and the transportation expenses of his immediate family, (B) the expenses of packing, crating, transporting, and temporarily storing, draying, and unpacking his household goods and personal effects to the extent authorized by section 5724 of title 5, United States Code, (C) purchase or rental of books, materials and supplies, and (D) all other services or facilities directly related to the education, training, or research, or course of study of such officer or employee within the Program. The head of each government department or agency shall prescribe, with the approval of the Board, limitations concerning the number of officers and employees of such department or agency who may be selected for admission to the Program at the same time and the period of time which may be spent by such officers and employees in study, training, or research, or a course of study within the Program. The provisions of section 1206 shall not apply to any Government officers or employees admitted to the Program under this section.

"(b) Appropriations made available to any Government department or agency or the payment of salaries and expenses of officers and employees of such department or agency shall be available for making payments under this section to members of the Program selected from such department or agency.

"(c) During any period for which any Government officer or employee who is admitted to the Program under this section is separated from his usual duties of employment with any Government department or agency for the purpose of education, training, or research or a course of study within the Program, such officer or employee shall be considered to have performed service, as an officer or employee of such department or agency at the rate of compensation received immediately prior to commencing such education, training, or research or course of study (including any increase in compensation provided by law during the period of such activity) for the purposes of (1) retirement pensions including when applicable civil service retirement pensions as provided in subchapter III of chapter 83 of title 5, United States Code, (2) life insurance including when applicable Federal employees group life insurance as provided in chapter 87 of title 5, United States Code, and (3) health insurance including when applicable Federal employees group health insurance as provided in chapter 89 of title 5, United States Code.

"(d) Each Government officer or employee who is admitted to the Program under this section shall, on completion of the period of education, training, or research or a course of study within the Program, be entitled to continue service in his former position or a position of at least like seniority and status in the department or agency from which he was selected for such education, training, or research or course of study and shall be entitled to at least the rate of basic pay to which he would have been entitled had he continued in his usual service with such department or agency. On resumption of his usual duties with such department or agency, the department or agency shall restore such officer's or employee's sick leave account, by credit or charge, to its status at the time he commenced education, training, or research or a course of study within the Program.

"AGREEMENT TO ENTER INTO OR CONTINUE GOVERNMENT SERVICE AFTER COMPLETING THE SCHOLARSHIP PROGRAM

"SEC. 1208. The Board shall obtain from each person admitted to the Program, other than members of a family receiving orientation or language training under section 1204(a), such agreement as the Board may deem necessary to assure that such person will accept employment with the United States, unless already so employed, and will remain in the employ of the United States, wherever assigned by the employing department or agency, for such period after completion of their education, training, research, or course of study within the Program as is prescribed by (1) the Board in the case of students admitted to the Program under section 1205, or (2) the head of the employing department or agency in the case of Government officers and employees selected for admission to the Program from such department or agency under section 1207.

"ASSIGNMENT OF STUDENT MEMBERS FOR FIELD TRAINING AND GOVERNMENT SERVICE

"SEC. 1209. (a) During the course of study leading to an undergraduate or graduate degree, each student admitted to the Program under section 1205 may be assigned at the discretion of the Board for field training with any program of the Government relating to the field of foreign relations conducted by any department or agency of the Government. The period of field training assignment for a member of the Program under this subsection may not exceed two consecutive months in any calendar year during the first three years of undergraduate study, nor more than six consecutive months during the fourth year of undergraduate study or any academic year of graduate study.

"(b) Except as otherwise provided by any law of the United States or regulation prescribed by the Board, each student admitted to the Program under section 1205 shall, upon satisfactory completion of his course of study leading to an undergraduate or graduate degree, or within such period of time there-

after as the Board finds to be reasonable to prepare and submit any thesis or dissertation related to his course of study, be available for assignment in the discretion of and by the Board (1) for hiring or appointment by the United States in connection with any program of the Government relating to the field of foreign affairs conducted by any department or agency of the Government, or (2) if such member has completed a course of study leading to a graduate degree, for one year of specialized study in a particular foreign country or area in which he may later be assigned for Government service.

"(c) Prior to making any assignments under this section, the Board shall consult with interested departments and agencies of the Government to determine the personnel requirements of their programs relating to the field of foreign affairs. To the extent practicable, members of the Program shall be assigned in accordance with their preferences for a particular Government program.

"ROTATION FOR SERVICE IN THE UNITED STATES

"SEC. 1210. All members of the Program who have satisfactorily completed their education, training, or research, or course of study within the Program and are employed by, or remain in the employment of, the United States under this title shall be assigned to Government duties within the United States for a minimum of one year during every five that they are employed in any Government program in the field of foreign affairs; except that the provisions of this subsection may be waived when the United States is at war as declared by Congress.

"STAFF OF BOARD

"SEC. 1211. (a) The Board may appoint and fix the compensation of a staff consisting of not more than five professional staff members, and such clerical staff members as may be necessary. Such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) The Board may designate one member from the professional staff who shall serve as the chief staff officer of the Board and shall exercise, under the supervision and in accordance with the policies of the Board, such of the powers and duties granted to the Board as it deems appropriate.

"(c) The Board may procure such temporary and intermittent services as are authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

"ACQUISITION OF REAL OR PERSONAL PROPERTY BY BOARD

"SEC. 1212. The Board shall have the power to acquire and hold property, real or personal, and to receive and accept money or other property, real or personal, bequeathed, devised, or donated, and to use, sell, or otherwise dispose of such property for the purpose of carrying out this title.

"PROHIBITION AGAINST ESTABLISHMENT OF ACADEMY

"SEC. 1213. Nothing in this title shall be construed to authorize the Board to establish any educational institution, or to appoint or hire any person to serve on the faculty or staff of any educational institution.

"AUTHORIZATION

"SEC. 1214. There are hereby authorized to be appropriated to the Board to carry out the purposes of this title (other than section 1207), $15,000,000 for the fiscal year ending June 30, 1972; $30,000,000 for the fiscal year ending June 30, 1973; $45,000,000 for the fiscal year ending June 30, 1974; and $60,000,000 for the fiscal year ending June 30, 1975; but for the fiscal year ending June 30, 1975, and each succeeding fiscal year, only such sums may be appropriated as the Congress may hereafter authorize by law."

The analysis presented by Mr. DOMINICK is as follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1201—ESTABLISHMENT OF PROGRAM

To provide more widespread opportunity for entering and more adequate training of persons already engaged in the field of foreign affairs, a foreign scholarship program would be established, consisting of students and Government employees selected for admission under the provisions of this title, and enrolled in a program of education, training, or research approved by the board of trustees established hereunder.

SECTION 1202—DEFINITIONS

This section defines the following terms for the purposes of the bill:

(1) Government—the Government of the United States;

(2) non-Federal institution of higher education—an institution of higher education which is not owned or substantially controlled by the Government of the United States. Expressly intended to exempt institutions such as the Armed Service Academies;

(3) Board—the board of trustees of the program;

(4) department or agency—an executive department, a military department, an independent establishment, or a Government corporation as specified in chapter 1 of title 5, United States Code;

(5) training month—any month during which a member of the program admitted under section 1205 is taking at least the minimum level of credit hours in a full-time course of study prescribed by the Board, or is taking field training as assigned by the Board; and

(6) dependent, when used in relation to a dependent of a member of the program admitted under section 1205—an individual who qualifies as a dependent of such member under section 152 of the Internal Revenue Code of 1954, as amended.

SECTION 1203—BOARD OF TRUSTEES

A Board of Trustees consisting of the Secretary of State, four persons experienced in higher education or training and education in foreign relations appointed by the President, two Senators, not of the same political party, appointed by the Vice President, and two Representatives, not of the same political party, appointed by the Speaker of the House. The Board would be charged with management and supervision of the program, and development and support of programs of education, training, and research, designed to prepare, or advance the qualifications of, members of the program for service with the United States in positions or programs related to foreign affairs. Members of the Board would serve without pay, but with reimbursement for travel, subsistence, and other necessary expenses, for terms of 2 years (Senate, House, and first two educator appointees of the President) or 4 years (all other educator appointees of the President, of which two would be appointed every 2 years), and might be reappointed.

SECTION 1204—ESTABLISHMENT OF SCHOLARSHIP PROGRAMS

The Board would be authorized to make arrangements with qualified non-Federal institutions of higher education to admit qualified members of the program to institutions approved by the Board, including—

(1) in any academic year, not more than 3,500 undergraduate and not more than 1,500 graduate student members, for full-time courses of study leading to, respectively; undergraduate or graduate degrees in foreign affairs;

(2) Government employee members for professional education, training, and research activities or for full-time courses of study leading to an undergraduate or graduate degree in foreign affairs;

(3) selected members of the program for research activities in the field of foreign affairs.

The arrangements must include a program for appropriate orientation and language training at the institution for members of the families of persons admitted to the program if it is anticipated the program member will be assigned to a foreign country or area. Such orientation and language training must also be available for members of the families of officers and employees of the Federal Government who are not program members, but who have duties or responsibilities in the field of foreign affairs, when it becomes apparent the officer or employee will be assigned to a foreign country or area.

SECTION 1205—NOMINATION AND ADMISSION OF STUDENTS INTO PROGRAM

The total of 3,500 undergraduate and 1,500 graduate student members of the program authorized for admission in any year would be selected in order of merit by annual competitive undergraduate and graduate examinations held by the Board, to test the intellectual capacity, training, and aptitude for foreign affairs of 8,424 persons eligible to take the examination and nominated in accordance with provisions of this section. (After 3 years, if it appeared in any year that this procedure would not qualify for admission into the program the number of student members who might be admitted, an additional competitive examination would be given to nominees of the Board.)

Applicants for the annual undergraduate examination would be required to be citizens of the United States who had graduated from, or were attending, a public secondary school in, or a private secondary school accredited by, a State or a secondary school in a foreign country with an educational program approved by the Board. Applicants for the annual graduate examination would be required to be citizens of the United States who had graduated from, or were attending, an institution of higher education in the United States or an institution of higher education in a foreign country which awards a degree which in the Board's judgment is generally accepted as equivalent to a bachelor's degree in the United States. (Before admission into the program, a student member would need to have graduated from such secondary school or institution of higher learning, as the case might be.)

The annual competitive examination could be taken only by applicants nominated as follows:

(1) 220 nominated from the United States at large (100 by the President, 66 by the Vice President, 54 by the Secretary of State);

(2) 1,650 nominated from the 50 States (15 by each Senator, three by each Governor);

(3) 6,525 nominated from the 435 Congressional districts (15 by the Representative from each district);

(4) Ten from the District of Columbia, nominated by the Commissioner of the District of Columbia;

(5) Nineteen from outlying areas (seven nominated by the Resident Commissioner from Puerto Rico, three by the Governor of the Virgin Islands, three by the Governor of American Samoa, three by the Governor of Guam, and three by the Governor of the Canal Zone)

Total 8,424.

Except with respect to nominees at large, and from the Canal Zone, nominations could be made only from among persons domiciled in the State, congressional district, or geographical area from which nominated.

SECTION 1206—COMPENSATION AND PAYMENT OF EXPENSES AND SUBSISTENCE FOR STUDENT MEMBERS

Student members of the program admitted under section 1205 and maintaining satisfactory progress in courses of study prescribed by the Board would be compensated for tuition, texts, laboratory fees, and associated course materials and would be eligible to receive subsistence payments in accordance with procedures established by the Board. Subsistence payments per training month would be $200 for a single student or a student legally separated; $250 for a married student with a dependent spouse, and $300 for husband and wife student members who are living together. An additional $30 per training month would be paid for each dependent child of a student member, or for a dependent other than his spouse or child.

SECTION 1207—ADMISSION OF GOVERNMENT OFFICERS AND EMPLOYEES INTO THE PROGRAM; EXPENSES AND COMPENSATION

The head of each Government department or agency would be authorized to select from among its employees volunteering for admission into the program, to prescribe limitations on the number of employees selected, and the length of their course of study. From appropriations made available for the payment of salaries and expenses of employees of such department or agency, employees so selected would be authorized to be paid their regular salaries, and (without regard to 31 U.S.C. 529) to be reimbursed for necessary expenses of such education, training, or research (including travel expense of such employee, transportation expenses of his immediate family, cost of transporting or storing his household goods and personal effects to the extent authorized by 5 U.S.C. 5724, purchase or rental of books, materials, and supplies, and other services or facilities related to his education, training, or research). A Government employee's period of education, training, or research within a program would be deemed to be Government service for purposes of civil service retirement, Federal employees' group life and health insurance, and at the completion thereof, the employee would have reemployment rights to a position of at least like seniority and status in the department or agency from which he was selected, with restoration of sick leave credit, and at the rate of pay to which he would have been entitled if he had continued his usual service in such department or agency.

SECTION 1208—AGREEMENT TO ENTER INTO OR CONTINUE GOVERNMENT SERVICE AFTER COMPLETING THE PROGRAM

Each person admitted to the program (other than a family member receiving language or orientation training under sec. 1204) would make such agreement as the Board deemed necessary to insure that, after completion of his education, training, or research within the program, such person would accept Federal employment, unless already so employed, and remain in Federal employment, wherever assigned by the employing department or agency and for such period as would be prescribed by the Board, in the case of students admitted under section 1205, or by the head of the employing department or agency in the case of Government employees admitted under section 1207.

SECTION 1209—ASSIGNMENT OF STUDENT MEMBERS FOR FIELD TRAINING AND GOVERNMENT SERVICE

The Board might assign any student member of the program admitted under section 1205 for field training with any Government program relating to foreign affairs for not more than 2 consecutive months in any of the first 3 calendar years of his undergraduate study, and for not more than 6 consecutive months during the fourth year of undergraduate study or any academic year of graduate study. Except as otherwise provided by law or by regulation of the Board, a student member who received an undergraduate or graduate degree under the program would be available for assignment by the Board in consultation with interested departments and agencies of Government and, to the extent practicable, in accordance with the student's preferences (1) to be hired by any department or agency of Government for a program relating to the field of foreign affairs, or (2) in the case of a student member who received a graduate degree under the Program, for 1 year of specialized study in a foreign country or area in which he might later be assigned for Government service. As previously discussed, the portion of the section was deleted because of State Department objections to Foreign Service officership upon successful completion of graduate degree study and specialized study without competitive examination.

SECTION 1210—ROTATION FOR SERVICE IN THE UNITED STATES

Except in time of war declared by Congress, program members who satisfactorily completed education, training, or research, or course of study within a program, and who were employed by the United States in the field of foreign affairs, would be assigned Government duties within the United States for at least 1 of every 5 years of such employment.

SECTION 1211—STAFF OF BOARD

Original section 1211 completely deleted with succeeding sections redesignated accordingly and all references thereto because of State Department complaint about transfer of Foreign Service Institute, discussed infra. The Board would be authorized to make appointments in the competitive service and to fix the compensation, in accordance with civil service classification and general schedule pay rates, of not more than five professional staff members (including a chief staff officer of the Board) and such clerical staff members as might be necessary.

The Board would be authorized to procure temporary or intermittent services pursuant to 5 U.S.C. 3109, at rates not to exceed $100 per day for individuals.

SECTION 1212—ACQUISITION OF REAL OR PERSONAL PROPERTY BY BOARD

The Board would have the power to acquire, hold, use, sell, or otherwise dispose of property, real or personal, and to accept gifts or bequests, to carry out the purposes of this title.

SECTION 1213—PROHIBITION AGAINST ESTABLISHMENT OF ACADEMY

The Board would have no authority to establish any educational institution, nor to appoint any person to serve on the faculty or staff of any educational institution.

SECTION 1214—AUTHORIZATION

To carry out the purposes of title XII (except Sec. 1207), appropriations to the Board would be authorized in the amount of $15 million in fiscal 1972, $30 million in fiscal 1973, $45 million in fiscal 1974, $60 million in fiscal 1975, and in fiscal 1976 and each succeeding fiscal year, such sums as Congress might authorize.

S. 391—INTRODUCTION OF A BILL RELATING TO ADEQUATE SEWERS IN SMALL TOWN AND RURAL AREAS

Mr. HATFIELD. Mr. President, in the rural areas and small towns across the country, adequate sewers are not merely an environmental nicety—they are an economic necessity. The problem of adequate sewers in small towns is troublesome to me, as I am sure it is to other Senators.

Adequate sewage treatment plants have received much attention lately, as environmental protection needs are headline items. While I certainly share this concern, I must once again emphasize that it is not for environmental reasons alone that we must assist our small towns and rural areas. We must recognize that adequate water and sewer systems are needed if our small towns are to prosper or survive.

Without satisfactory sewage treatment plants in these areas, economic growth is stifled and economic decay receives unwitting assistance. Small town officials in Oregon have discussed with me the monumental problems they have in attracting any new construction in areas without reliable sewer systems. Mayors, chamber of commerce presidents, economic development officials, and others in Oregon have told me that they are handcuffed in attempting to lure any new enterprises to their areas when no adequate sewer systems exist.

The lack of sewers strangles efforts to introduce new industry, construct new motels, build new homes—anything that would make the area a better place to live. One Oregon small town cannot even build a new park because there is no sewer service for restrooms needed at the park.

Mr. President, I wish today to point out that what has happened is happening, and will continue to happen in small towns and rural areas that are without adequate water and sewer systems.

This lack of facilities strangles local efforts for economic growth. The effects of this are easy to see: young people migrate to large urban centers, where jobs are more plentiful. This lack of a younger population means that the average age of residents rises. Not only are new payrolls lost when younger people move, but also those who remain are more likely to be on fixed retirement incomes.

The lack of a growing tax base serves as a further shackle, for residents often will reject costly bond issues to help solve these problems at the local level.

The problems of rural areas and small towns, however, are not isolated. A man without a job in the country moves to the city. Every person who leaves a small town and moves to a large city adds to the many urban pressures we have discussed so many times on this floor. He may put another car in a city street, he may live in a sprawling suburb, he may be unable to find work and add to the city's welfare rolls.

We discuss urban problems many times in as isolated a framework as we discuss problems in rural areas. The two are intertwined, as I have tried to point out today in these remarks. This relationship between urban-rural problems should receive more attention.

Is a massive infusion of funding to solve urban problems the only way to attack this problem? I think not, and this is one area where I think dollars spent in rural areas can have a multiple effect.

Is overpopulation the problem that some consider it? I think a better way to phrase that would be: Is population concentration a pressing problem? Of course, to this I would say "Yes."

Small towns are pleasant places to live, raise children, work, and retire. We must encourage people to live in these areas. President Nixon stated, in transmitting his Report on Environmental Quality, that—

> First: It is essential that we make rural life itself more attractive, thus encouraging orderly growth in rural areas.

I concur with the President's objectives. We must see that we do not add to urban pressures by avoiding rural problems.

In Oregon, 10 percent of our population lives in areas of under 5,500 population. The Farmers Home Administration reported that 73 percent of all rural communities do not have adequate sewage systems. In addition, 118 new community water systems are needed. This need is compounded by the fact that 64 percent of the rural households have annual incomes of less than $7,000.

Mr. President, we must recognize that these problems are not particular to Oregon alone. Rather, they are representative examples of the problems afflicting rural communities throughout the country.

I believe that Congress should provide substantially increased Federal funding to assist small towns and rural areas in providing adequate water and sewer systems. We owe this to the residents of our small towns and rural areas. If we fail to meet this challenge, we will only have to deal with this neglect in different forms in the future. If we solve this problem, adequate water and sewer systems can provide a stimulus to attract people from the cities back to small towns.

As one example of what happens when young people leave an area, and the average age of the population increases, I quote from a letter referred to twice earlier in statements regarding Rogue River, Oreg.:

> Two thirds of the inhabitants of Rogue River are over age 65 and living on fixed incomes. Five hundred thirty-eight social security checks were mailed to zip code 97537 of which Rogue River is the major part; these checks average $71.46.

This is a good example of the results of young people leaving an area and fixed-income, retired peoples' inability to finance sewer projects and break out of this vicious circle.

Under the bill which I introduced, the authorization ceiling on grants under the Farmers Home Administration for planning and development would be doubled, from $115 to $230 million. This increase, while doubling the present program, represents a modest step toward solving these problems. The money figure is small, when compared to other money amounts—particularly those we are considering under the military procurement bill we currently are debating.

When I looked at the need across the country in rural areas and small towns, I considered a more extensive program with greater funding. I decided that a more modest increase, working within the framework of an established program, represents a better initial step.

In conclusion, I hope that this bill will receive expeditious consideration by this body. I introduced this legislation initially on August 19, 1970, and 20 Senators joined as cosponsors. On the bill I introduce today, 24 Senators have joined in cosponsoring this needed legislation. I hope other of my colleagues will join us in this effort to improve the living and working conditions of the Americans who live in our rural areas and small towns.

I ask unanimous consent that the original cosponsors of this bill be listed in the RECORD at this point, followed by the language of the bill.

The PRESIDING OFFICER (Mr. HUMPHREY). The bill will be received and appropriately referred; and, without objection, the original bill (S. 4265) along with its cosponsors will be printed in the RECORD.

The bill (S. 391) to amend section 306 of the Consolidated Farmers Home Administration Act to increase the aggregate annual limit on grants for water and waste facilities constructed to serve rural areas and to increase the aggregate annual limit on grants for plans for the development of such facilities, introduced by Mr. HATFIELD, for himself and other Senators, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

The cosponsors and original bill are as follows:

Mr. Moss, Mr. Bentsen, Mr. Javits, Mr. Thurmond, Mr. Humphrey, Mr. Jordan of Idaho, Mr. Percy, Mr. Tunney, Mr. Stevens, Mr. Randolph, Mr. Gravel, Mr. Hollings.

Mr. Allott, Mr. Packwood, Mr. McIntyre, Mr. Hart, Mr. Pearson, Mr. Inouye, Mr. Gurney, Mr. McGovern, Mr. Church, Mr. Montoya, Mr. Burdick, Mr. Fong.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 306(a)(2) of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1926 (a)(2)), is amended by striking out $100,000,000" and inserting in lieu thereof "$200,000,000".

(b) Section 306(a)(6) of such Act (7 U.S.C. 1926 (a)(6)) is amended by striking out "$15,000,000" and inserting in lieu thereof "$30,000,000".

S. 392—INTRODUCTION OF THE VOLUNTEER MILITARY ACT OF 1971

Mr. HATFIELD. Mr. President, I rise for the fourth time in as many years to introduce legislation which would form the basis of an all-volunteer military. I ask unanimous consent that at the conclusion of my remarks the remarks of Senator BARRY GOLDWATER, Republican of Arizona, with whom I have the pleasure of cosponsoring this legislation, be printed in the RECORD.

I would also ask unanimous consent that after the conclusion of the remarks of the distinguished Senator from Arizona (Mr. GOLDWATER) the full text of the legislation which I am introducing today be printed in the RECORD.

Mr. President, three times in our history, we have had national military conscription, and each time it has met with strong opposition from those directly affected by it. In response to President Lincoln's announcement in 1863 that a draft was being instituted, there were 10 days of rioting in New York alone, with over 1,000 fatalities resulting. Conscription was again introduced for a short period of time during World War I, and 250,000 draftees failed to appear for induction. The first time that conscription had virtually universal acceptance was during World War II when it was instituted for a third time. The past two decades, however, have marked a new era in American history with the advent of peacetime conscription. Today an estimated 60,000 young men have left this country for Canada and hundreds have gone to prison because of the draft. Yet, the desirability of the draft or any possible alternative has generally gone unquestioned, and our Government has reflected the complacency of the public.

In March of this year a Commission appointed by President Nixon over 1 year ago to study an alternative to the draft, made its findings public. The Commission was headed by former Secretary of Defense Thomas Gates and was composed of individuals from various walks of life, including the economist Milton Friedman, the executive director of the NAACP, Roy Wilkins, and two former Supreme Allied Commanders, Gen. Lauris Norstad, and Gen. Alfred Guenther. Their conclusions were unanimous: the draft is not the best method of maintaining our Armed Forces. It is inefficient, inequitable, and unjust. Their report stated, further, that the best alternative to conscription is an all-volunteer system, which is not only more ideologically compatible with our traditions, but economically preferable as well.

It has been generally assumed that conscription has been and is needed to maintain our Armed Forces, thus perpetuating the idea that the draft is a necessary evil whereby a small percent of our young men are compelled to join the military.

According to the Gates Commission report:

> During the early 1960's, 95 percent of those between the ages of 18 and 35 were excluded from the 1–A and 1–A–O pool. . . . The escalation of the Vietnam War in 1965 once again focused attention on the draft. . . . Of the 6 million men who have served in the Armed Forces during the Vietnam War, 25 percent have been draftees.

But is this a needed inequity? Is conscription absolutely necessary to maintain our national security? The Gates Commission concluded that an all-volunteer military is feasible regardless of the manpower requirements of Vietnam. Today we have approximately 3 million men in our Armed Forces. It is anticipated by the Department of Defense that within 1 year the total force level will be 2.5 million or less. Our present mixed force, draftees, draft-induced volunteers, and volunteers, requires 584,000 annual accessions with 184,000 annual Army draft calls. The Gates Com-

mission projects that the required accessions for the same total strength force, 3 million men, would be 410,000 with 193,000 going to the Army. This lower rate of accessions in an all-volunteer force would be the result of higher retention rates. Higher retention would result from numerous factors, including higher pay, higher reenlistment rates, and the absence of draftees, more than 90 percent of whom leave the Army after serving only 2 years. Furthermore, the report states:

> The higher retention rate for true volunteers inevitably produces a more experienced force. . . . Projections indicate that by 1980 (in an all volunteer force), 45 percent of Army enlisted men will have four years or more of service experience, as compared with 31 percent for a mixed force of the same size. Since experience involves on-the-job training, a more experienced force is more productive than a less experienced one.

Thus, a 3-million-man volunteer force would be more effective than a mixed force of the same number. In other words, because a volunteer force would have fewer noneffective men, it can be smaller than a mixed force and be just as effective.

What must be done to effect an all-volunteer military? The move cannot occur overnight, but the transition can occur within the next year. However, to accomplish this by July 1971, we need to have improved conditions within the military, sufficiently to induce 75,000 more men annually, in addition to the 250,000 true volunteers who are presently enlisting each year. That assumes a force level of 2.5 million men by July 1971. There is an excellent possibility, based upon various statements and possible projections of the Defense Department, that the manpower level will be significantly less than 2.5 million.

Further, Congress could, of course, choose to reduce the manpower requirements. In either case, reductions below the 2.5-million level would reduce further the number of additional needed enlistees above the current 250,000 true volunteers. The additional men will come predominantly from the 1.5 million men who annually turn 19 and who meet the mental, moral, and physical requirements of the Armed Forces. Raising the accession rate to the necessary level will result from reasonable improvements in pay and benefits which, states the Commission, and in which I concur, should occur regardless of the fate of the draft.

To better comprehend this situation one must understand the difference between two methods of taxation that any government may use. The first, which can be called tax-in-kind, is the compulsory rendering of services or property by citizens on the behalf of the government. The other method of taxation is that of bearing the government's cost of goods and services through monetary taxes levied on the general public. Conscription is the first method of taxation—a tax-in-kind. There are few such taxes today in our Nation, and most governments no longer tax through the means of coercing the services of their citizens, or directly acquiring portions of their property. Such tax-in-kind is generally regarded as a medieval and outmoded form of taxation. The draft, however, is a modern-day continuation of such a form of taxation.

In 1970, the average level of basic pay for military personnel was $180 per month. This is approximately 60 percent of what he could be earning in civilian life. In other words, the average first-term enlistee is being taxed 40 percent of what he could and would normally earn. And taking into account the income tax and indirect costs imposed on the enlistee, his total tax rate is in the neighborhood of 51 percent.

The Commission recommended increasing the pay of the first-term enlistee to $315 per month. Including fringe benefits, clothing, food and lodging, the total compensation would rise from $301 per month to $437 per month. This would make the pay within the military roughly comparable to that of civilian life, which, as I stated earlier, should occur irrespective of the fate of the draft. The budgetary cost to effect an all-volunteer force by July of next year would be a maximum of $3.24 billion for fiscal 1971. That is assuming that we maintain the high manpower force level of 2.5 million men by that date. Reductions in this force level would result in significantly lower costs. This maximum estimate of costs would include increases in basic pay of $2.68 billion, proficiency pay increase of $210 million, reserve pay increases of $150 million, additional medical corps expense of $120 million, and recruiting, ROTC and miscellaneous increases of $80 million. Further, this cost does not take into account substantial savings in operation that would be created by a voluntary military.

But one must consider the difference between budgetary cost and actual cost. The first-term enlistee is bearing the burden of 60 percent of the cost of his service. And, as the Commission states in its report:

> When the hidden costs of conscription are fully recognized, the cost of an all-volunteer armed force is unquestionably less than the cost of a force of equal size and quality manned wholly or partly through conscription.

The draft often results in the inefficient use of manpower by the military. A recently released study by the Defense Department points to one aspect of this problem. This report indicated that of the 41,974 college graduates entering the Army in 1969, 5,722 had acquired academic training that would have qualified them for certain military specialties with little or no further training. Of these 5,722 qualified men, only 222, approximately 4 percent, were assigned to the specialty for which they were qualified, while approximately one-third of them were assigned to combat infantry training. Specific examples which the study held to be generally valid included the following:

Of the college graduates who entered the Army last year, 270 had degrees in architecture. Eight were placed in this specialty while the Army had a need for 394 architects.

Sixty-two men who qualified for the Army accounting specialty were placed in those slots, while the Army had 463 openings for accountants and had inducted 912 men who had accounting degrees.

Generally stated, because budget expenses are presently underestimated for the cost of the first-term enlistees, the armed services, as the Commission points out, "are led to use more of them than they otherwise would." With compensation raised to equitable levels, the service would be forced to economize.

Perhaps the most costly factor of the present system is the low reenlistment rates among first-term servicemen, creating unduly high turnover rates. Two factors affect this: First, most inductees and draft-induced volunteers are not interested in military careers; second, the inductees' tour of duty is only 2 years in contrast to 3- and 4-year terms for enlistees.

With an all-volunteer force—

The Commission concluded—

these longer terms of enlistment will also reduce turnovers and the need for accessions.

The Commission estimates that the annual turnover rate for a volunteer force would be approximately 325,000 men in contrast to roughly 440,000 for a mixed force of 2.5 million men.

Consequently, real savings will be generated. In terms of dollars, the annual savings caused by increased retention for a peacetime force of 2.5 million men is estimated to be $675 million. Furthermore, there would be an annual savings of $61 million for the same force due to reduced transportation and administrative costs. In terms of manpower, a volunteer military would reduce the required size of the forces, thus reducing the number of men needed. For instance, it is estimated by the Commission that a 2.5-million man force of conscripts and volunteers would be effectively equivalent to an all-volunteer force of 2.44 million men.

Yet there are additional savings that a volunteer force would induce. These would result in eliminating what the Commission calls "subtle costs" of the present system. Although these are difficult to estimate in monetary terms, we can still analyze their potential influence. As the Gates Commission report states:

> The draft erodes ideals of patriotism and service by alienating many of the young who bear the burden. . . . It thwarts the natural desire of youths to commit themselves to society. . . .
>
> Young men distort their career and personal plans to take advantage of opportunities to postpone or avoid being drafted. . . . channeling young men into college, occupations, marriage or fatherhood is not in their best interests, nor those of society in general.

It is these factors and others that indicate the great loss to society that the draft generates. One indirect method of gaging this in economic terms was stated in the Commission's report:

> Prospective inductees also incur costs in their efforts to escape conscription—costs which manifest themselves in a variety of ways such as additional college attendance, movement into occupations which carry deferments, immigration, etc. Indirect evidence suggests these costs may be 1.5 times the implicit tax (i.e., the tax-in-kind borne

by the draftee) . . . Thus for each $1.00 of tax-in-kind collected, an average of $2.50 is forgone by the public. Quite apart from considerations of equity and freedom, this feature of conscription is enough to call it into question.

The institution of an all-volunteer military is desirable not only from economic and moral points of view, but also from a governmental and constitutional perspective. According to article I, section 8 of the Constitution, the Congress has the power—and the responsibility—to raise the armies and provide for the common defense. A volunteer military is a direct extension of this constitutional responsibility and would draw the military closer to the civilian population in general.

A volunteer force will be highly flexible, as conceived by the Commission, although the need for a great influx of men into the military such as required during World War II is not a realistic possibility because of the highly technical nature of warfare today—whether guerrilla or nuclear war. Nevertheless, the Commission recommended a limited standby registration should a sudden influx of men be required.

Aside from economic questions, one of the most often heard objections to a volunteer military is that it would put an undue burden on the black and the poverty stricken within our society. The assumption here is that with increased pay and benefits in a volunteer system a disproportionate number of our minority groups and depressed people would join the military. The Gates Commission report and other studies before it have amply demonstrated that this would not be the case.

Presently there are more than two times as many whites classified below the poverty line as blacks—17.6 million white compared to 8.3 million blacks by 1967 figures. This year it is estimated that up to 63 percent, 628,740, of the black male population between the ages of 17 and 20—the age group from which first-term enlistments usually originate—will be eligible for military duty—that is, they will pass the physical, moral, and mental requirements for entrance into the Armed Forces. Under our present mixed recruitment system, blacks comprise 10.6 percent of the total force or slightly less than their proportion to the total population.

The Commission, taking these figures into consideration, projects that in a volunteer force of comparable effectiveness to a mixed force of 2.5 million men, blacks would comprise approximately 15 percent of that population—between 5,000 and 10,000 more blacks than a mixed force of the same effective size. In other words, the racial composition of the military will change very little between a mixed force and an all-volunteer force.

Monetary compensation is only one factor in attracting potential employees. Job security, opportunity for advancement, and fringe benefits are other considerations which influence a potential employee. While the attractiveness of the military will increase for the black in a volunteer force, it will increase more greatly among whites.

With present mental, moral, and physical standards of eligibility for military service, 30 percent of the men examined are not acceptable. Of this group a disproportionate number comes from the lower socioeconomic sector of our society. And although a recent study indicates there are over 12,000 military personnel on welfare today, compensation within the Armed Forces in most cases is above the income level of those below the poverty line. Consequently, the monetary attraction to the Armed Forces with regard to those individuals below the poverty level is already existent. To increase pay and benefits regardless of the method of recruitment will induce more qualified individuals to join than are presently attracted. Thus, the general composition of a volunteer military would not be significantly different from a conscripted force.

These facts notwithstanding, objections to an all-volunteer military based on fear of its creating an unfair burden on the black and poverty stricken are misdirected. Not only do these objections question the poor and the black's capacity to make decisions in their own best interest but they also ignore the fact that it is the causes of racism and poverty in our country which should be attacked and not the military or any other institution that may provide people an opportunity for greater economic gain and increased social status.

Just as these questions are ill conceived and shortsighted so are those that assert an all-volunteer armed force would be a group of unquestioning mercenaries who would be loyal only to their commanders, isolated from civilian control, pose a threat to the internal security of our country, and increase the likelihood of foreign adventurism. A mercenary is a foreigner who is hired by another country to fight its wars. This certainly is not the case with a volunteer military. And to argue that there is something regrettable about a professional, equitably paid enlistee is overlooking the fact that our officer corps have been well paid and virtually totally voluntary. To question the loyalty of a soldier because he is paid a fair salary is like questioning the loyalty of doctors, lawyers or any other professionals who are well paid for the services they render. If the country is to have an effective military force, its members should be paid in an equitable manner. And an all-volunteer method of recruitment is one method of insuring this equity.

Critics have argued that a volunteer military would somehow increase the isolation of the military, and that conscription is an effective means of maintaining a civilian influence in the military. The Constitution could not be more explicit about its intention to insure that the army be fully under civilian control. However, it never intended that this be accomplished through military conscription. In fact, appropriations for the military have to be approved every 2 years specifically because the Founding Fathers wanted the entire idea of a standing army to be reviewed that often. The very thought of a peacetime conscription would have been viewed by them as reminiscent of the tyranny of European kings and contrary to the ideals of freedom which caused them to travel to the New World.

Civilian control over the military, as provided for by the Constitution, is to be maintained by the Chief Executive serving as Commander in Chief, and by the very broad powers and responsibilities given to the Congress for raising and supporting the armies. Civilian control should not and cannot be maintained by forcing unwilling citizens to serve for 2 years in the lowest ranks of the army. Further, a volunteer military will not mean that our Armed Forces are suddenly put into some kind of total isolation from civilian life. As I pointed out earlier, the annual turnover rate under a volunteer military a year from now would be approximately 325,000 men. That is a reduction of only about 115,000 from the turnover rate of 440,000 under a mixed force of equal size. Thus, there would still be a very significant flow of men in and out of the Armed Forces each year. So it is fictitious and contrary to evidence to suggest that a volunteer military will in any way create an armed force that is isolated from civilian influence or control.

It may well be that the principle of civilian control over the military is in danger of eroding in our land today. But if that is true, the issue must be solved by perfecting the constitutional relationship between the Congress and the executive branch, and between the Chief Executive and the Armed Forces. Maintaining conscription as a means to preserve civilian control is not only ineffective, but completely contrary to the spirit and the intention of the Constitution.

This is also the case with regard to foreign adventurism. One aspect of the question as to the commitment of troops to war is the preparedness of those troops, and admittedly a volunteer force would be more effective than a conscripted force. However, as the Gates Commission points out:

Decisions by a government to use force or to threaten the use of force during crises are extremely difficult. The high cost of military resources, the moral burden of risking human lives, political costs at home and overseas, and the overshadowing risk of nuclear confrontation . . . enter into such decisions. It is absurd to argue that issues of such importance would be ignored . . . To the extent that there is pressure to seek military solutions to foreign policy problems, such pressure already exists and will not be affected by ending conscription.

This pressure is in the form of foreign policy and the already totally volunteer officers corps which makes policy decisions within the Armed Forces. Today we have the worst of two worlds: conscription at the lower ranks and isolation at the upper—to the extent that our officer corps are isolated. An all-volunteer military would have two controls inherent within it that are not present in a conscription force.

First, Congress would control the manpower level of the military by regulating the budget; the economic incentives to join would diminish beyond a certain manpower limit agreed upon by the

President and the Congress. The military could have only a certain number of men in its ranks, which would be an additional constraint on the scope of foreign military involvement. With conscription the President has virtually unlimited manpower resources directly at his command.

This would not be the case with an all-volunteer force. To reinstitute the draft the President would have to make a request to Congress, and conscription could then be reinstituted by the joint resolution of the Senate and House of Representatives. This would be well within the purview of article I, section 8 of the Constitution and be a significant contribution to Congress reassertion of its rights and responsibilities in the area of raising armies, declaring war, and influencing foreign policy.

Another frequently encountered argument is that the abolition of the draft and the institution of an all-volunteer military is important but not as high a priority as eliminating poverty, crime, racism, and other inequities our society needs to resolve. Consequently, the argument continues, we cannot afford at this time to spend the money necessary to create a volunteer armed force. This argument, however, overlooks the major differences between the draft on one hand and the other forms of inequities on the other; conscription is a government institution, created and sustained by the Government which bears the primary responsibility for the Selective Service System, its inequities, injustices, and inefficiencies.

It has been suggested that some form of universal service be implemented in order to equalize the burden among our youth. I favor the concept of service as long as it is voluntary in nature. But compulsory service is not only a contradiction in terms; it is inimical to the fiber of our Republic as well. Compulsory national service, assuming there were no deferments and that it were for 1 year's tour of duty, would mean the employment of 8 million people, if women were to serve, and 4 million if only men. With a conservatively estimated expense of between $4,000 and $5,000 per person, the total annual cost of universal national service would range between $16 billion and $40 billion. As the Gates Commission points out, this would be an amount greater than the entire manpower budget of the Department of Defense and would be highly economically prohibitive.

If universal military training were to be adopted with no deferments, more than 2 million men in noncareer positions would have to be employed in the Armed Forces at any one time, assuming the current eligibility standards and a 2-year tour of duty. One year's service would be unrealistic because most of that year would be spent training. Universal military training would be a radical departure from our founding traditions. It would spread the burden of the tax-in-kind to all of our young men and give the military more men than could be productively employed.

Several sections of the legislation I am introducing today deal with important aspects of a volunteer military. These have not received much attention in the past, but the Gates Commission dealt with them in a very thorough and consistent manner. The military is similar in many ways to a business firm. And some of its jobs could be easily performed by civilian personnel requiring no special military training. Consequently, it is recommended that the Armed Forces increase and expand utilization of civilian personnel through lateral hiring, saving an estimated $100 million.

Furthermore, the Commission proposes an improved and expanded recruiting program for not only enlisted personnel but officers as well. In this connection, ROTC scholarships should be increased from 5,500 to 10,000 per service and specialist educational programs should be expanded as well.

Another important change recommended by the Commission is the formulation of a new pay structure which would provide salary schedules combining basic pay, and quarters and subsistance allowances. The new pay structure should also include another much needed benefit—cash contributions to a retirement system similar to Federal civilian employees. Directions to the Secretary of Defense within this legislation instruct him to have a basic pay table for enlisted personnel and officers developed which will be utilized until the salary system is implemented, although I am hopeful that within the next month and before the final vote on this legislation I will be able to provide such a pay table.

The Gates Commission also called for an increase in combat pay from $65 to $200 for those who are actually taking the primary risks and not merely physically present in a combat zone. This would make combat pay more meaningful for those bearing the primary burden of war—those actually participating in combat—while avoiding some of the misuses of the present method of compensating those in combat zones.

One other aspect of military compensation and organization to which the Gates Commission directed its attention was medical treatment. Within its report the Commission recommends that those physicians serving in the military receive special pay increases, that the utilization of civilian medical facilities be maximized, and that a medical insurance program be created for all military personnel. If implemented, these changes would greatly enhance the medical treatment of military personnel while keeping costs to a minimum.

It is ironic that so unjust and inequitable an institution as peacetime conscription, with all of its inefficiencies, should be maintained by unproven assumptions, groundless fears, and the mere momentum of the past 20 years. Even more unfortunate is how the focus of concern is so easily lost when the issue of conscription is discussed. We always proceed by assuming that the status quo is naturally virtuous and preferable, unless proven otherwise. But in this case especially, the first question to ask should not be, will a volunteer military work, or how much will it cost, or what advantages would it have—rather, the first question to ask is why should we maintain conscription?

There is no institution of our Government more contrary to our democratic ideals, more limiting of our freedom, and more disruptive to the lives of our youth than the draft. Further, the draft is laden with inherent inefficiencies, and seems to be a clearly ineffective manner to provide for our Armed Forces and their needs. This opinion now has the support of a Presidential Commission. At long last, the time has arrived to take the first steps toward restoring military service to the degree of respect and regard and prestige it deserves, and to insure that such service will be the free choice of its citizens. In June of 1971, the Selective Service Act will expire. If we act now, and begin the process of building a volunteer military force, it will not be necessary to perpetuate conscription beyond that time. That must be the aim of all Americans who cherish freedom and value our democratic traditions and who want to meet the needs of our military organization.

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

The bill (S. 392) entitled "The Volunteer Military Act of 1971," was received, read twice by its title, and referred to the Committee on Armed Services.

The statement and text of the bill follow:

TOWARD A VOLUNTEER MILITARY

(Statement by Senator GOLDWATER)

Mr. President, it is with a great deal of pleasure that I again join with the distinguished Senator from Oregon in proposing legislation to establish the goal and foundation for a totally voluntary military service. I might say that I have lived with the idea for many years now that we can have a volunteer military force in this country. I shall explain my reasons briefly today; then once hearings are opened on the draft issue, I hope to develop further thought on it.

Mr. President, the legislation which we are introducing today will implement all the essential recommendations given to the President by the Gates Commission. You will recall this group was charged by President Nixon with developing "a comprehensive plan for eliminating conscription and moving toward an all-volunteer armed force." On February 20, 1970, the members of the Commission unanimously concluded the voluntary military concept is feasible and desirable. You may also recall that on April 23, 1970, President Nixon announced his agreement with "the basic conclusion of the Commission." The President unequivocally announced "I agree that we should move now toward ending the draft."

Accordingly, Mr. President, I believe the proposal we present to the Senate today is consistent with the goals and philosophy of the Administration. As I explain the details of our legislation, further areas of agreement will become apparent between the position held by the White House and the Department of Defense and the one suggested today.

First, it is important to emphasize what this bill will not do. It will not end the draft immediately. It will not leave the country defenseless in time of sudden emergency. It will not bankrupt the national treasury. And it will not injure the national security.

It will improve the conditions of military service. It will end the need for the draft. It will provide for the continued registration of all young men after the draft itself expires.

And it will establish a real basis on which to build a working Reserve.

Mr. President, first and foremost, our legislation provides for an immediate 50% increase in the value of basic pay for first term enlistees and a 28% increase for officers in their first 3 years of service. The increase for those in their second term of service is 9%. These increases will give individuals in their first years of service about the same pay as their civilian counterparts are receiving.

Mr. President, before going any further, I will state that this change is needed whether or not we move to an all volunteer military. The hidden tax which is imposed on Americans who are valiantly serving their country should be eliminated whether or not we end the draft. The idea of regarding military personnel as some kind of feudal slaves who are expected to work at 40%—which is what they are now getting—of what the civilian market will pay is unworthy of a modern civilized nation.

Our proposal will also put into effect immediately after its enactment other changes which will make military life more satisfying. For example, there will be an increase in special pay for physicians and dentists; there will be an increase in hostile fire pay from $65 to $200 for those individuals who bear the greatest risk; and there will be a broader basis for payment of special pay to those who are serving in a combat zone but who are not at the front lines. There is an extension of time within which reenlistment bonuses may be paid from 3 months to 6 months. Furthermore, travel and transportation allowances and dislocation allowances will be provided to enlisted members in the lower grades.

In addition, there are other reforms which will go into effect within 3 months after the proposal becomes law. These features are designed to improve the attractiveness of military life and to increase the motivation of persons to regard military services as a rewarding and important profession. They include the expansion of educational opportunities provided for military members, easing the problem of family separation, and providing better housing opportunities. They also include the wider use of proficiency pay and the establishment of an improved retirement program.

Mr. President, the purpose of making all these revisions is twofold. First, they are the essential elements for creating a fully volunteer force. Second, they are required as a matter of equity. Military members deserve to receive the same benefits and life style, as nearly as possible, as that enjoyed by our civilian population.

Mr. President, I have no doubt in my mind that the enactment of this plan will lead to a totally volunteer military. What is often forgotten is the fact that we very nearly have a volunteer force at present. The Gates Commission reported that at least half, or 250,000, or all enlistments are now made up of "true volunteers" each year. A recent Department of Defense study came up with much the same finding. This survey, which was conducted by the University of Michigan in 1968, estimates that "40 to 45 per cent of those who are enlisting are true volunteers." Thus both the Gates Commission and DOD agree there is a sizable group of men who would enlist in the Services even without the pressures of the draft. What is more, the Gates Commission found there are in the military today over 1 million persons who have reenlisted beyond their first term of service. All these individuals are true volunteers.

In fact, the Gates Commission concluded that a completely volunteer force of 2.5 million men can be achieved by inducing merely 75,000 additional men to enlist each year. Surely, the changes we have recommended today would achieve this much of a rise in enlistments if not a great deal more.

Mr. President, this fact bears repeating. No one need fear that we will be forced to attract 2.5 million volunteers all at one time in order to maintain our military force. All it's going to take is an extra 75,000 volunteers a year over what we already are getting.

And let me emphasize that the standard of 2.5 million men is a reasonable guide to test our proposal. The current active duty strength of our forces is already down to 2.9 million men, and the President's budget to be released next week will undoubtedly contain an even lower figure. These reduced numbers are well ahead of the Gates Commission's conservative projections.

What will our proposal cost? Well, starting from a higher Service strength than the actual present figure, the Gates Commission developed an extremely conservative estimate of $3.2 billion in the transition years and $2.1 billion once the volunteer force is operating as a stable system.

Also, it must be understood that the $3.2 billion estimate does not take account of the increased tax collections which will flow into the Federal Treasury. When we consider that the United States will recover $540 million each year in Federal income tax collections, the net cost of implementing the Commission's improvements will drop to $2.7 billion.

Mr. President, it appears to me these cost projections are in the same ball park with the budget increases recommended by President Nixon. If I recall correctly, President Nixon sent a message to Congress less than a year ago in which he promised to request a 20% pay increase for enlisted men with less than 2 years of service, effective January 1, 1971. This action alone was estimated to cost $500 million each fiscal year. In addition, the President pledged to recommend to Congress in January of 1971 an additional $2 billion for added military pay and other benefits.

Therefore, Mr. President, when we compare these 2 sets of recommendations, the one proposed by the Gates Commission and the program outlined by President Nixon, we see they are extremely consistent, both in purpose and cost. The Administration's two requests would add $2.5 billion a year to the budget. The Gates Commission's recommendations would cost $2.7 billion net. Both programs are suggested in order to proceed toward the elimination of the draft.

When we look at the tremendous similarity in these related plans, we can see how truly close the nation is to achieving success for this goal. If all who are interested in ending the draft will only keep their sights on the common goal we share, I am certain this will be the year of victory for the voluntary military proposal.

Mr. President, I might state again that the basic reason for my endorsement of this concept is the element of freedom which is involved. As a conservative, I believe that the most precious and fundamental right of man is his right to live his own life. When force is used to tell a young man how he shall spend several years of his life, I consider this to invade his basic personal liberty.

In this context, I would like to point out something today that many people in the country overlook. We hear the young persons in America say "We want to do our own thing." This is expressing what conservatives have been trying to say for hundreds and hundreds of years; namely "We want to live our lives unoppressed by a central government. We want to choose what we will do with our lives except in times of emergency when it becomes obvious that we have to resort to a tactic such as the draft."

That is the clear lesson I learn as I travel across America and visit with our young people in grade schools, high schools, and colleges. What I am finding in America today is not young people in opposition to the military per se, inasmuch as it might mean serving their country. They are patriotic. They are loyal Americans. I just believe they have become imbued with the one central thought of what began the United States of America: Freedom. The freedom to do what one wants as long as in doing it he does not hurt someone else.

To me, it is as plain as the sun coming up above my Arizona desert. These young people are ahead of us. We older people have got so used to oppressive government, so used to the government running our lives, that we begin to think we can help it no longer. But not these young people, and I admire them for it.

Mr. President, in closing I would like to repeat my feeling that our proposal is practical. By adopting pay increases, and the fringe increases our plan provides, we will have an improved, more attractive, military service. We will not destroy the military by this proposal. We will restore it to its traditional free nature as it has existed throughout most of this nation's history. The bill by itself will not repeal the draft. The draft will end automatically the end of June this year. However, if Congress hopes to allow the draft to expire or ever intends it to end, then we must lay the kind of groundwork which our bill will provide.

S. 392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act shall be cited as the Volunteer Military Act of 1971.

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) the Armed Forces of the United States can be materially improved and strengthened by increasing and improving the economic and educational benefits of the members thereof, by elevating the status of military personnel generally, and by developing and maintaining a system of military manpower procurement based on the free choice of the individual;

(2) involuntary service in the Armed Forces is a discriminatory tax-in-kind upon those persons required to serve because it falls upon a relatively small number of the total population;

(3) the military manpower requirements of the Nation can be adequately met through the effective administration of a voluntary system;

(4) a voluntary system should be instituted and given a fair test as soon as practicable while providing necessary safeguards in the event that unforeseen circumstances create a need for additional military manpower;

(5) the President, the Secretary of Defense, and the Secretaries of the military departments should exercise all authority available to them to promote the success of a voluntary system of meeting the military manpower needs of the Nation; and

(6) the Reserve forces should be maintained at adequate strength levels and should be better trained and equipped to meet emergency combat assignments.

CONTROLLED REGISTRATION

SEC. 3. Notwithstanding the delimiting date specified in section 17(e) of the Military Selective Service Act of 1969, the President shall provide for continued registration under such Act of all male persons in the United States between the ages of eighteen and twenty-six years in order that the involuntary induction of persons under such Act may be reinstituted without serious delay in the event the President determines pursuant to section 4 that such action is necessary and legislation authorizing conscription is enacted pursuant to such determination.

ACTION FOR REINSTITUTING CONSCRIPTION

SEC. 4. If at any time after the termination of induction of persons into the Armed Forces under the Military Selective Service Act of 1967 the President determines that the military manpower needs of the Nation

are not being adequately met through a voluntary system and that conscription is necessary for the national security, he shall promptly notify the Congress of such determination, and of the facts upon which such determination is based, and submit to the Congress such recommendations for legislation as he deems necessary and desirable to provide for the involuntary induction of persons into the Armed Forces.

CONGRESSIONAL DIRECTIVES RELATING TO THE IMPROVEMENT OF THE ARMED FORCES

SEC. 5(a) The President, the Secretary of Defense, and the Secretaries of the military departments shall exercise the authority vested in them by law to provide for the military manpower needs of the Nation through a voluntary program of enlistments. In the exercise of such authority, the Secretaries of the military departments shall, not later than 3 months after the date of enactment of this Act, under the direction and supervision of the Secretary of Defense, specifically provide for—

(1) the inducements necessary to take fullest advantage of career selection motivations in attracting persons to military careers;

(2) the improvement and expansion of the program for utilizing civilian personnel in lieu of military personnel for noncombatant service;

(3) the improvement and expansion of programs under which the education of specialists, such as doctors and dentists, is paid for by the Armed Forces in return for an obligated period of military service by the person receiving the educational assistance;

(4) the improvement and expansion of officer training programs, particularly programs to facilitate the qualifying and training of enlisted members who wish to become officers;

(5) the improvement and expansion of military recruiting programs;

(6) a more effective incentive program for recruiting personnel under which (A) successful recruiting personnel would be afforded the opportunity to earn extra pay or bonuses as well as accelerated promotions, and (B) quota systems would no longer be in effect;

(7) the improvement and expansion of educational opportunities, including associate degree programs and off-duty courses;

(8) ways to alleviate or prevent the problem of family separation for married members of the military services;

(9) the improvement and expansion of housing opportunities; and

(10) the institution of any other appropriate actions designed to upgrade the conditions of military service and the status of military personnel generally.

(b) In implementing subsection (a)(2) of this section, relating to increased utilization of civilian personnel, the Secretary of Defense shall, as soon as practicable, (1) conduct a position-by-position analysis of all military jobs within the Department of Defense with a view to determining which jobs shall be performed by military personnel and which should be performed by civilian personnel, and (2) develop accurate and current data for determining whether it is less expensive to have any such job performed by military or civilian personnel. The position-by-position analysis and the development of data required under this subsection shall be completed not later than three months after the date of enactment of this Act.

(c) Not later than eighteen months after the date of enactment of this Act, the Secretary of Defense shall submit to the Congress a detailed report regarding the operation of the voluntary system of meeting the military manpower needs of the Nation and for the improvement of the Armed Forces, and shall include in such report such recommendations for legislation to improve such system as he deems appropriate.

INCREASE IN PAY RATES FOR MEMBERS OF THE UNIFORMED SERVICES

SEC. 6. The Secretary of Defense shall formulate not later than the first day of the first calendar month after which this Act is enacted a revised basic pay schedule for members of the uniformed services incorporating the increases in the basic pay of enlisted personnel and officers listed in the table below and such adjustments in the basic pay of other personnel as the Secretary deems necessary and appropriate to insure equitable pay differences between grades. The revised basic pay schedule formulated by the Secretary pursuant to this section shall become effective on the first day of the first calendar month after which this Act is enacted.

ANNUAL INCREASE

	Enlisted personnel	Officer personnel
Years of service:		
1	$1,700	$1,504
2	1,544	2,031
3	804	1,142
4	727	
5	347	
6	344	
7	233	
8	344	
9–10	258	

SPECIAL PAY FOR PHYSICIANS, DENTISTS, AND VETERINARIANS MADE PERMANENT, INCREASE IN SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 7. (a) Sections 302 and 303 of title 32, United States Code, are amended by striking out "and before July 1, 1971." each time it appears in such sections.

(b) Section 302(1) of such title is amended by deleting the comma after "1947" the second time such date appears therein.

(c) Section 302(b) of such title is amended to read as follows:

"(b) The amount of special pay to which an officer covered by subsection (a) of this section is entitled is—

"(1) $150 a month for each month of active duty if he has not completed two years of active duty in a category named in that subsection;

"(2) $200 a month for each month of active duty if he has completed two years of active duty in a category named in that subsection;

"(3) $450 a month for each month of active duty if he has completed three years of active duty in a category named in that subsection;

"(4) $600 a month for each month of active duty if he has completed four years of active duty in a category named in that subsection;

"(5) $750 a month for each month of active duty if he has completed five years of active duty in a category named in that subsection;

"(6) $900 a month for each month of active duty if he has completed six years of active duty in a category named in that subsection; or

"(7) $1,050 a month for each month of active duty if he has completed seven years of active duty in a category named in that subsection."

MORE EFFECTIVE USE OF PROFICIENCY PAY FOR ENLISTED MEMBERS

SEC. 8 (a) The Secretary of Defense shall, not later than three months after the date of enactment of this Act, promulgate regulations under which the Armed Forces will increase the utilization of proficiency pay authorized by section 307 of title 37, United States Code, for the purpose of attracting and retaining enlished members who are specially proficient in military skills.

(b) Section 307 of title 37, United States Code, is amended by redesignating subsection (d) as subsection (e) and inserting after subsction (c) a new subsection (d) as follows:

"(d) Proficiency pay under subsection (a)(1) or (a)(2) of this section shall be made available to enlisted members with critical skills after such members have satisfactorily completed their training in such skill. Proficiency pay under this section shall be paid to enlisted members who qualify therefor without regard to whether they are career members or not."

HOSTILE FIRE PAY INCREASE

SEC. 9. Section 310 (a) of title 37, United States Code, is amended by striking out "$65" and inserting in lieu thereof "$200."

COMBAT ZONE PAY

SEC. 10. (a) Chapter 5 of title 37, United States Code, is amended by adding after section 310 a new section as follows:

"310a. Special pay: duty in a combat zone."

"(a) Except in time of war declared by Congress, and under regulations prescribed by the Secretary of Defense, a member of the uniformed services may be paid at the rate of $65 a month for any month in which he was entitled to basic pay and was serving in a combat zone.

"(b) A member may not be paid special pay under this section for any month for which he receives special pay under section 310 of this title, but may be paid special pay under this section in addition to any other pay and allowances to which he may be entitled.

"(c) The provisions of section 310(c) of this title relating to determination of fact under that section shall apply in the case of the determination of fact under this section.

"(d) The Secretary of Defense shall report to the Congress by March 1 of each year on the administration of this section during the preceding calendar year.

"(e) As used in this section the term 'combat zone' means any area which the President by Executive order designates as an area in which Armed Forces of the United States are engaged in combat."

(b) The table of sections at the beginning of chapter 5 of such title is amended by inserting immediately below "310. Special pay: duty subject to hostile file." the following:

EXTENSION OF TIME WITHIN WHICH REENLISTMENT BONUSES MAY BE PAID

SEC. 11. Section 308(a) of title 37, United States Code, is amended by striking out "within three months" and inserting in lieu thereof "within six months".

TRAVEL AND TRANSPORTATION ALLOWANCES AND DISLOCATION ALLOWANCES FOR ENLISTED MEMBERS IN LOWER GRADES

SEC. 12. (a) Section 406(a) of title 37, United States Code, is amended by inserting ", including a member in pay grade E–4 (four years or less service), E–3, E–2, or E–1," immediately after "A member of a uniformed service".

(b) Section 407(a) of such title is amended by striking out "uniformed service—" and inserting in lieu thereof "uniformed service, including a member in pay grade E–4 (four years or less service), E–3, E–2, or E–1—".

ENLISTMENTS AND DISCHARGES

SEC. 13. (a) Section 505 (c) of title 10, United States Code, is amended to read as follows:

"(c) The Secretary concerned may accept original enlistments in the Regular Army, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, (1) of male persons for the duration of their minority or for a period of two years, and (2) of female persons for a period of two years.

The Secretary concerned may accept an original enlistment in the case of any person for a specified period longer than two years, but not more than four years, where the cost of special education or training to be afforded such person would make a shorter enlistment period impracticable."

(b) Section 505(e) of such title is amended to read as follows:

"(e) The Secretary concerned may accept reenlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard, as the case may be, for unspecified periods and for periods commensurate with the cost of any special education or training to be received by any member, as may be prescribed in regulations of the Secretary concerned. In no case shall the Secretary concerned specify a period of more than four years of obligated service because of special education or training to be received by any member."

(c) Section 509(a) of such title is amended by striking out "Under" and inserting in lieu thereof "Subject to the provisions of section 505(e) and".

(d) The Secretary of Defense shall promptly conduct a comprehensive study to determine the term of service which should be required of enlisted members who receive various types of special education or training programs. The Secretary concerned shall, on the basis of the conclusions reached in such study, prescribe by regulation the term of service required to be performed by enlisted members who receive special education or training.

(e) Section 1169 of such title is amended to read as follows: "§ 1169. Regular enlisted members: limitations on discharge.

"Any enlisted member who has completed his original period of enlistment and who has been reenlisted for an unspecified period shall be discharged upon written request, except that—

"(1) the Secretary concerned may refuse to grant a discharge during any period of war or national emergency;

"(2) a member shall be required to fulfill a term of service commensurate with the cost of any special education or training received by him, as prescribed in regulations of the Secretary concerned;

"(3) the Secretary concerned may refuse to grant a discharge to any enlisted member who has been assigned to sea duty or duty outside the United States; or

"(4) as otherwise provided by law."

RESERVE OFFICER TRAINING CORPS SCHOLARSHIP PROGRAM INCREASE

SEC. 14. Section 2107(h) of title 10, United States Code, is amended to read as follows:

"(h) Not more than the following number of cadets and midshipmen may be in the financial assistance programs under this section at any one time:

"Army program: 10,000

"Navy program: 10,000

"Air Force program: 10,000."

GREATER UTILIZATION OF CIVILIAN MEDICAL FACILITIES AND PERSONNEL

SEC. 614. (a) The Secretary of Defense shall, as soon as practicable after the date of enactment of this Act, formulate plans for utilization, to the maximum extent practicable, of civilian medical facilities and personnel to serve the medical needs of military personnel and their dependents. In formulating such plans the Secretary shall give consideration to more extensive use of a medical insurance program for retired personnel and their dependents and for the dependents of active duty personnel.

(b) The Secretary of Defense shall submit to the Congress the plans formulated pursuant to this section not more than three months after the date of enactment of this Act, together with such recommendations for legislation as may be necessary to effectuate such plans.

FORMULATION OF NEW SALARY STRUCTURE FOR UNIFORMED SERVICES

SEC. 16. (a) The Secretary of Defense shall formulate as soon as practicable after the date of enactment of this Act a new pay structure for the uniformed services. Such pay structure shall—

(1) provide salary schedules of pay which combine basic pay rates and present allowances for quarters and subsistence;

(2) provide for cash contributions to a retirement system similar to the civil service retirement system provided for Federal civilian employees; and

(3) take into account the amount lost as the result of the termination of separate allowances for quarters and subsistence and the amount which will be contributed to a retirement system, including loss of any tax advantage realized under current law.

The Secretary is authorized to include such other features in any new pay structure as he determines necessary or appropriate to make such pay structure fair and equitable and to attract qualified personnel to the uniformed services.

(b) The Secretary of Defense shall submit to the Congress the new pay structure formulated by him pursuant to this section not later than three months after the date of enactment of this Act.

EFFECTIVE DATE

SEC. 17. This title shall become effective upon the date of enactment, except that sections 6, 7, 8, 9, 10, 11 and 12 shall become effective on the first day of the first calendar month after which this Act is enacted.

S. 393—INTRODUCTION OF A BILL TO REMEDY A TAX INEQUITY IN NEVADA

Mr. CANNON. Mr. President, on behalf of myself and Senator BIBLE, I send to the desk, for appropriate reference, a bill designed to remedy a longstanding tax inequity that exists in Nevada.

I first made this proposal, with my colleague, Mr. BIBLE, in 1965. Our proposal recognizes that since Federal legislation in the field of coin-operated gaming devices is designed for purposes of regulation rather than for the raising of revenue, a more realistic formula should be instituted.

Our proposal stipulates that 80 percent of the occupational taxes collected on these devices be credited for similar taxes imposed by a State where the operation of such devices is legal. In our opinion, this proposal is consistent with the 1965 action taken by the Congress on the New Hampshire lottery. Like New Hampshire and New York, Nevada urgently needs more locally raised revenue to meet the increasing costs of government, especially the demands of our schools.

For several years, the Nevada Legislature has sought to impose an additional tax on coin-operated gaming devices, and I ask that a relevant document from the Nevada Legislature, as well as the text of the bill I am introducing be printed in the RECORD following my remarks.

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

The bill (S. 393) to amend the Internal Revenue Code of 1954 to allow a credit against the occupational tax on coin-operated gaming devices for similar taxes presently imposed by a State where the operation of such devices is legal; introduced by Mr. CANNON (for himself and Mr. BIBLE) was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter B of chapter 36 of the Internal Revenue Code of 1954 (relating to occupational tax on coin-operated devices) is amended by adding at the end thereof the following new section:

"SEC. 4464. CREDIT FOR STATE-IMPOSED TAXES.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by section 4461 with respect to any coin-operated gaming device for any year an amount equal to the amount of State tax paid for such year with respect to such device by the person liable for the tax imposed by section 4461, if such State tax (1) is paid under a law of the State in which the place or premises on which such device is maintained or used is located, and (2) is similar to the tax imposed by section 4461 (including a tax, other than a general personal property tax, imposed on such device).

"(b) LIMITATIONS.—

"(1) DEVICES MUST BE LEGAL UNDER STATE LAW.—Credit shall be allowed under subsection (a) for a tax imposed by a State only if the maintenance of the coin-operated gaming device by the person liable for the tax imposed by section 4461 on the place or premises occupied by him does not violate any law of such State.

"(2) CREDIT NOT TO EXCEED 80 PERCENT OF TAX.—The credit under subsection (a) with respect to any coin-operated gaming device shall not exceed 80 percent of the tax imposed by section 4461 with respect to such device.

"(3) CREDIT NOT TO APPLY TO NEW TAXES.—Credit shall be allowed under subsection (a) for a tax imposed by a State only if such State imposed such tax or a substantially similar tax (whether or not conditionally) on the date of the enactment of this section.

"(c) SPECIAL PROVISION FOR PAYMENT OF TAX.—Under regulations prescribed by the Secretary or his delegate, a person who believes he will be entitled to a credit under subsection (a) with respect to any coin-operated gaming device for any year shall, for purposes of this subtitle and subtitle F, satisfy his liability for the tax imposed by section 4461 with respect to such device for such year if—

"(1) on or before the date prescribed by law for payment of the tax imposed by section 4461 with respect to such device for such year, he has paid the amount of such tax reduced by the amount of the credit which he estimates will be allowable under subsection (a) with respect to such device for such year, and

"(2) on or before the last day of such year, pays the amount (if any) by which the credit for such year is less than the credit estimated under paragraph (1)."

(b) The table of sections for subchapter B of chapter 36 of such Code is amended by adding at the end thereof the following new item:

"SEC. 4464. Credit for State-imposed taxes."

(c) The amendments made by subsections (a) and (b) shall apply on and after July 1, 1969.

The document presented by Mr. CANNON is as follows:

An act to amend chapter 463 of NRS, relating to the licensing and control of gambling, by adding a new section imposing an additional tax upon slot machines contingent upon the allowance of an offsetting federal tax credit and providing other matters properly relating thereto

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 463 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. In addition to any other license fees and taxes imposed by this chapter, there is hereby imposed upon each slot machine operated in this state a tax equal to the amount of any credit which may be allowed against the tax imposed on slot machines by 26 U.S.C. § 4461 for the payment of a state tax. If no such credit is allowed, no tax is payable under this subsection.

2. The commission shall:

(a) Collect the tax annually in advance, prior to June 20, as a condition precedent to the issuance of a state gaming license to operate any slot machine.

(b) Include the proceeds of the tax in its reports of state gaming taxes collected.

3. The commission shall pay over the tax as collected to the state treasurer to be deposited to the credit of the state distributive school fund.

SEC. 2. If the Congress of the United States enacts legislation after January 10 of any calendar year by virtue of which a credit against the tax on slot machines by 26 U.S.C. § 4461 is allowable for a state tax paid during such calendar year, the Nevada gaming commission shall charge and collect, as soon as practicable after the effective date of such federal legislation, a tax on each slot machine licensed in this state equal to the amount of such credit allowable.

SEC. 3. This act shall become effective upon passage and approval.

S. 394—INTRODUCTION OF A BILL TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL CEMETERY IN THE STATE OF NEVADA

Mr. CANNON. Mr. President, on behalf of myself and Senator BIBLE, I introduce, for appropriate reference, a bill to establish a national cemetery in the State of Nevada. At present there is no national cemetery in Nevada to provide for the burial of deceased veterans. Although national cemeteries came into being during the Civil War to provide for the burial of soldiers who had died in service, most of them are situated where battles occurred and therefore are not evenly distributed in the various States. For this reason the western part of the United States has few national cemeteries, and the many veterans who served during World War II have no place within reasonable proximity to their domicile for burial. During the last World War we had approximately 16 million men under arms, and when you consider their dependents we have a total of about 50 million people who are eligible for burial. Due to the inexorable march of time, the need for this legislation is increasing in urgency. I, therefore, urge that this bill be given serious consideration.

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

The bill (S. 394) to provide for the establishment of a national cemetery in the State of Nevada, introduced by Mr. CANNON, for himself and Mr. BIBLE, was received, read twice by its title, and referred to the Committee on Veterans' Affairs.

S. 395—INTRODUCTION OF A BILL TO PROVIDE AUTOMATIC COST-OF-LIVING INCREASES IN CERTAIN BENEFITS FOR VETERANS AND WIDOWS, DEPENDENTS, AND DEPENDENT PARENTS OF CERTAIN VETERANS

Mr. CANNON. Mr. President, I introduce for appropriate reference a bill entitled "a bill to amend title 38, United States Code, in order to provide automatic cost-of-living increases in certain benefits for veterans and widows, dependents, and dependent parents of certain veterans."

The bill proposes to empower the Administrator of the Veterans' Administration to increase veterans' benefits annually by the amount of the cost-of-living index when it has increased by 3 percent for a 3-month period. It would become effective in January 1971, and would have to have had a 3-month consumer index rise prior to September 30 of each year.

It would increase veterans' payments for those who are entitled to compensation benefits. Mr. President, a similar proposal was made last year for social security recipients in H.R. 17550.

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

The bill (S. 395) to amend title 38, United States Code, in order to provide automatic cost-of-living increases in certain benefits for veterans and widows, dependents, and dependent parents of certain veterans, introduced by Mr. CANNON, was received, read twice by its title, and referred to the Committee on Veterans' Affairs.

S. 396—INTRODUCTION OF A BILL TO PROVIDE FOR CONSTRUCTION OF VETERANS' HOSPITAL IN STATE OF NEVADA

Mr. CANNON. Mr. President, I am introducing a bill today for myself and my Nevada colleague, Senator BIBLE, to provide for the construction of a Veterans' Administration hospital in the southern part of the State of Nevada.

At the present time veterans in Nevada are served by only one VA hospital, located in Reno, in northwest Nevada.

Veterans in more populous southern Nevada, 500 miles to the southeast, have no VA facilities whatsoever and are completely dependent on VA hospitals in crowded Los Angeles, 300 miles away.

I think it is a gross disservice to our veterans to force them to travel to Los Angeles to get treatment for service-related disabilities. In addition, it certainly is not fair to make the veterans of southern California wait for treatment because their facilities are overcrowded.

It is just this inequity that my legislation is designed to overcome. I urge early consideration and passage of this bill.

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

The bill (S. 396) to provide for the construction of a Veterans' Administration hospital in the State of Nevada, introduced by Mr. CANNON, for himself and Mr. BIBLE, was received, read twice by its title, and referred to the Committee on Veterans' Affairs.

S. 408—INTRODUCTION OF A BILL TO EXTEND THE KEOGH PLAN TO ALL EMPLOYEES IN AMERICA

Mr. STEVENS. Mr. President, today I am introducing a bill to amend the Internal Revenue Code to provide incentives for private individuals who are neither self-employed nor employed by an employer, either corporate or noncorporate, who provides his employees with a retirement plan. The incentive this bill would provide would be in the form of a tax incentive. The tax incentive in the plan I am proposing actually brings about an equity in the present law for persons who neither have tax-free moneys placed into a retirement fund by their employers for them nor have the option of placing a certain portion of their earnings into a pension plan without paying taxes on those moneys. This bill is a logical extension of the Keogh plan sponsored by former Congressman Keogh, of New York, and will equalize the tax treatment of income set aside for retirement by persons not now qualified for such tax treatment and income set aside for retirement by those who participate in either corporate or self-employed plans.

According to an article in the April 1968 issue of the Social Security Bulletin, private pension and deferred profit-sharing plans covered 27.6 million workers as of the end of 1967. Using the average number of workers in private employment during 1967 as a standard—54.4 million—this means some 30.8 million employees do not have any private pension coverage. It should be pointed out that 80 percent of those covered were in manufacturing, transportation, public utilities, and mining, and coverage is generally found in the case of employees of the larger employers. By contrast, a relatively small proportion of employees were protected by pension plans in the trade and service industries at least partly because of such factors as the smaller size of the business involved and the higher rate of turnover.

This bill would particularly benefit employees in my home State of Alaska. Alaska is a growing frontier area in which small business does the major share of employing. In addition, employment in Alaska is seasonal and in many cases is of marginal return to the employer and hence he cannot afford to provide pension plans and hire people at the same time. I feel that it is unfair to residents of my State not to extend the kind of tax treatment enjoyed by em-

ployees of larger employers in the rest of the country. In addition, this plan would allow lower income employees, both in Alaska and the rest of the country, to enjoy the same tax treatment that is now enjoyed by more well-to-do employees.

It is the case that the availability of pension coverage with tax benefits becomes more probable as the individual needs it less and less and almost nonexistent for those for whom a pension plan would do the most good. I introduce this bill in hopes that its passage will extend the benefits of tax sheltered retirement plans to those who can least afford to pay taxes on money they set aside for their senior years. It is the individual who works long hours at low pay and who has the most difficult saving for the future, and it is this very group that does not have access to the same kinds of advantages that individuals in the moderately well-to-do sectors of our economy do in saving for retirement. I offer this bill in hopes that we can end these inequities.

Under the plan as I propose it, any individual who wishes to participate may set up a retirement savings plan with any financial institution subject to the approval of the Secretary of the Treasury or he may purchase retirement plan bonds from the Treasury Department as now qualified individuals are presently doing.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

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

The bill (S. 408) to amend the Internal Revenue Code of 1954 to permit certain employees to establish qualified pension plans for themselves in the same manner as if they were self-employed, introduced by Mr. STEVENS, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 401 of the Internal Revenue Code of 1954 (relating to qualified pension, profit sharing, and stock bonus plans) is amended by redesignating subsection (j) as (k), and by inserting after subsection (i) the following new subsection:

"(j) CERTAIN EMPLOYEES.—

"(1) GENERAL RULE.—An individual who is not covered under a plan of any employer which meets the requirements of subsection (a) and, if applicable, subsection (d), may elect (at such time, in such manner, and subject to such conditions as the Secretary or his delegate shall prescribe by regulations) to become entitled to the benefits provided by this part to the same extent as if he were a self-employed individual.

"(2) EFFECT OF ELECTION.—For purposes of applying the provisions of this part to an individual who makes an election under paragraph (1), such individual shall be treated—

"(A) as an employee within the meaning of subsection (c)(1), as owning the entire interest in an unincorporated trade or business, and as his own employer, and

"(B) as receiving earned income in an amount equal to the compensation paid to him by the employer described in paragraph (1)(A).

"(3) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(b) The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

S. 410—INTRODUCTION OF A BILL RELATING TO TRAVELTIME FOR FEDERAL EMPLOYEES

Mr. STEVENS. Mr. President, across the vast land area of my State are scattered a number of Federal installations. These include naval airbases and radar defense sites, civilian weather stations, flight service stations, and navigation aids. Employees on these sites share an isolation from normal transportation. There are no roads, no railways, and airlines are infrequently scheduled to allow these Federal employees access to the rest of the United States.

Along the outer edges of this country, these employees and their families may have to wait days until a plane arrives to take them to a city with regularly scheduled service to the "outside." As an example, Adak Naval Station on the Aleutian Islands employs 162 civilians. With their dependents, this group comprises 400 civilians who are isolated from regular travel connections.

Leave time is a treasure for these people. Under the current regulations, leave time of Federal employees is consumed even while they are awaiting a flight from their post.

Their return to the base is much more unpredictable. Precious amounts of time must be taken from their vacations to find a flight back to Adak. The bill which I am introducing will insure that Federal employees in all remote areas of the country will enjoy the full amount of their leave time away from their isolated outposts. Under this bill, leave will not include time lost in travel from posts more than 200 miles distant from a city or town with regular transportation access to the "outside."

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

The bill (S. 410), a bill to provide that certain traveltime of a Federal employee on annual leave, having a post of duty in a remote area, be excluded from the period of annual leave granted the employee, introduced by Mr. STEVENS, was received, read twice by its title and referred to the Committee on Post Office and Civil Service.

S. 411—INTRODUCTION OF A BILL RELATING TO OPEN-SEASON HEALTH INSURANCE

Mr. STEVENS. Mr. President, I am today introducing for appropriate reference a bill which would assure Federal employees fair treatment under current health insurance programs provided by the Federal Government.

My bill would require that any rate increase provided by a health insurance company offering protection to Government employees would have to be announced at least 30 days before the period during which employees can change programs.

According to the Civil Service Commission in each of the last 5 years, four of the five health insurance programs available to Federal employees have increased their rates immediately following the close of the open selection period.

Another feature of this bill would require that an open period be held at least once every 2 years. Between March 1966 and November 1969, Federal employees were unable to change their health insurance programs because no open period was provided.

I ask unanimous consent that this bill be printed in the RECORD immediately following my remarks.

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

The bill (S. 411) to amend the provisions of title 5, United States Code, relating to Federal employees health insurance plans, to require periodic open seasons and to require prior notice of changes of rates in such plans, introduced by Mr. STEVENS, was received, read twice by its title, referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

S. 411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8902 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) No rate charged under any health benefits plan described by section 8903 of this title may be readjusted unless the readjustment is announced at least 30 days prior to the beginning of any time that all eligible employees and annuitants are allowed to enroll in, change their cover under, or transfer their enrollment under, such plans."

SEC. 2. Subsections (d) and (e) of section 8905 of title 5, United States Code, are amended to read as follows:

"(d) An employee or annuitant enrolled in a health benefits plan under this chapter may change his coverage or that of himself or members of his family—

"(1) by an application filed within 60 days after a change in family status;

"(2) at other times (which shall be not less frequently than once every 2 years) and under conditions prescribed by regulations of the Commission; or

"(3) under conditions prescribed by regulations of the Commission, at other times requested by carriers having at least 30 percent of all the employees and annuitants enrolled under all health benefits plans under this chapter.

"(e) An employee or annuitant may transfer his enrollment from a health benefits plan described by section 8903 of this title to another plan described by that section—

"(1) at the times (which shall be not less than once every 2 years) and under the conditions prescribed by regulations of the Commission; or

"(2) under conditions prescribed by the Commission, at other times requested by carriers having at least 30 percent of all the employees and annuitants enrolled under all health benefits plans under this chapter."

SEC. 3. The first sentence of section 8913 (b) of title 5; United States Code, is amended—

(1) by striking out "time" and inserting in lieu thereof "times"; and

(2) by inserting before the period at the end thereof a comma and the following: "except that the times so prescribed shall be not less than once every 2 years or shall be at other times requested by carriers having at least 30 percent of all the employees and annuitants enrolled under all health benefits plans under this chapter".

S. 412—INTRODUCTION OF A BILL TO PERMIT ALL COMPENSATION PAID AT REGULAR RATES TO CERTAIN EMPLOYEES OF THE ALASKA RAILROAD TO BE INCLUDED IN THE COMPUTATION OF THEIR CIVIL SERVICE RETIREMENT ANNUITIES

Mr. STEVENS. Mr. President, today I am introducing a bill that will allow all compensation at regular rates to be used in figuring civil service retirement annuities for trainmen and enginemen of the Alaska Railroad.

Under the present method of civil service compensation, hours worked in excess of 40 hours per week are not subject pay for retirement purposes. However, the trainmen and enginemen of the Alaska Railroad are paid under the mileage system in which a 12½-mile run equals 1 hour of pay.

Because of the system, the trainmen and enginemen make comparable salary, but in many cases must work more than 40 hours a week to do so. By using the 40 hours to figure subject pay, for retirement purposes, these men are being deprived of their right to a proper retirement annuity.

Mr. President, my bill will rectify this situation and allow the trainmen and enginemen to receive proper credit of their wages toward retirement benefits.

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

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

The bill (S. 412) to permit all compensation paid at regular rates to certain employees of the Alaska Railroad to be included in the computation of their civil service retirement annuities, introduced by Mr. STEVENS, was received, read twice by its title, referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

S. 412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (3) of section 8331 of title 5, United States Code, is amended—

(1) by striking out the word "and" at the end of subparagraph (B)(ii);

(2) by inserting the word "and" at the end of subparagraph (C);

(3) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) all compensation paid at straight time, regular rates and received by an employee of the Alaska Railroad who is paid under a dual system based on both hours and mileage;" and

(4) by striking out the phrase "subparagraphs (B) and (C)" and inserting in lieu thereof the following: "subparagraphs (B), (C), and (D)".

S. 413—INTRODUCTION OF A BILL RELATING TO TIME SPENT IN TRAVEL STATUS BY FEDERAL EMPLOYEES

Mr. STEVENS. Mr. President, today I am introducing a bill that will treat that time spent in travel status by a Federal employee as hours of employment.

Too often in the past a Federal employee has been required to travel, while on Government business, on his own time. Many instances are documented in which an employee is required to be in a distant city on a Monday morning, necessitating his traveling on Sunday and many times on Saturdays in order to make his business appointments.

In many areas, such as my home State of Alaska, it is difficult to arrange convenient travel schedules to allow travel during normal working hours. In these cases, in order to carry out his job responsibilities, the employee must travel on a weekend or after regularly designated working hours.

Mr. President, it seems to me to be inconsistent to require an employee to sacrifice his personal time, time that could be spent with his family and friends, in order to meet Federal employment commitments.

My bill will correct this glaring deficiency by counting that time spent in travel status, outside of normal working hours, as hours of employment.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD following these remarks.

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

The bill (S. 413) to provide that time spent by a Federal employee in a travel status shall be considered as hours of employment, introduced by Mr. STEVENS, was received, read twice by its title, referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

S. 413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5542(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) time spent in a travel status away from the official duty station of an employee is hours of employment only if an employee is directed to undertake such travel as part of his employment responsibilities."

(b) The last sentence of section 5544(a) of such title is amended to read as follows: "Time spent in a travel status away from the official duty station of an employee subject to this subsection is hours of work only if an employee is directed to undertake such travel as part of his employment responsibilities."

S. 423—INTRODUCTION OF A BILL RELATING TO LIMITATIONS ON FARM PAYMENTS

Mr. McINTYRE. Mr. President, I introduce a bill to limit price support payments under our farm programs.

This bill would amend Public Law 91–524 to limit Federal payments to individual farm producers to $10,000 per crop per farm.

This bill, if enacted, could save as much as $200 million of the taxpayers money.

The basic purpose of farm subsidies is to compensate producers for limiting production. Unlimited production would produce a glut which, in turn, could destroy the entire farm economy.

But, I do not believe the bulk of farm subsidies should wind up in the billfolds of just the major producers. And this is becoming more and more the pattern.

The number of individuals and corporations receiving large farm payments has increased alarmingly year by year.

From 1968 to 1969, for example, there was a 30 percent increase in the number of producers getting farm payments of $25,000 or more for all crops, and the increase since 1966 has been an alarming 60 percent.

This pattern will continue at an accelerated rate unless limitations are imposed.

The big producers collect most of the farm payments. With such a lucrative subsidy for their operations, they are able to buy out smaller producers and collect even larger subsidies on their increased acreage.

The 91st Congress took a step in the direction of the bill I am introducing by providing a $55,000 limitation of payments per crop per farm. But, I do not believe this goes far enough. The law passed last year could still allow payments of as much as $165,000 per farm. The bulk of the Federal funds would still continue to end up in the hands of the major producers, the large farm corporations, and absentee landowners.

In 1969 seven farm companies received in excess of $1 million each in farm payments, 14 received between a half a million and a million, and 54 between a quarter and a half a million dollars.

Obviously these are not small farmers. The J. G. Boswell Co. of California, for example, collected more than $4 million in farm payments in 1969. And we paid the Queen of England $120,000 for not planting cotton on the farmland she owns in Mississippi.

The big producers collect big farm payments and are thus able to buy out smaller producers and collect even larger subsidies on even larger acreage.

This is an unfair, economically wasteful, and discriminating cycle that can only be broken by imposing equitable payment limitations.

I am convinced that we can achieve the same farm production restraint under payment limitations as we do without limitations.

If this is true, and I am certain it is, then there is absolutely no justification for continuing to give more to the "haves" than to the "have-nots." At a time when many other domestic needs are crying out for attention, there is no reason we should continue to make the fat farm cats fatter.

At a time when inflation continues to threaten our economy, I cannot see justification for this unneeded expenditure of Federal funds.

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

The bill (S. 423) to limit Federal payments to individual farm producers to $10,000 per crop per farm introduced by Mr. McINTYRE, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

S. 424—INTRODUCTION OF A BILL TO HELP THE CONSUMER PROTECT HIS WEARING APPAREL

Mr. McINTYRE. Mr. President, I introduce for appropriate reference, a bill designed to help the consumer get the best use out of his wearing apparel.

In the maze in which the modern day consumer lives the care of his wearing apparel is often a difficult, and confusing problem. Yet every time we try to get a new dress, a new suit, or a new coat cleaned, or a new shirt laundered, we face the possibility that the process we use will not properly clean the garment and in too many cases may shorten its life or actually ruin it for further wear.

Nearly every garment purchased has some form of care labeling attached to it. These cover either washing instructions or drycleaning procedures. But, in all but a very few cases these instructions are attached with a temporary tag which is removed the first time the garment is worn. And, despite the best of intentions the proper instructions for care are quickly forgotten.

This matter has been considered by the President's consumer advisers under both Presidents Johnson and Nixon. The Federal Trade Commission has held extensive hearings on this matter which it has had under consideration since 1966. The FTC is still considering the matter, and I am informed that it is doubtful that the Commission may soon come forth with a ruling and even if such a ruling is made whether it may have the teeth necessary to properly protect the consumer.

Mrs. Virginia H. Knauer, special assistant to President Nixon, recently presented extensive and most significant testimony before the FTC on this subject. I think her testimony is so important, Mr. President, that I ask unanimous consent that it be printed in the RECORD at this point.

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

TESTIMONY OF VIRGINIA KNAUER

Thank you for the opportunity to be here today to discuss a problem of great concern to American consumers.

The need for proper care labeling on textile products has been a concern of the President's Committee on Consumer Interests since 1965. In the fall of that year, several representatives of the textile industry approached Mrs. Esther Peterson, then Special Assistant for Consumer Affairs, to discuss how the industry could best advance the interests of the consumer. In January of 1966 an Industry Advisory Committee on Textile Information was appointed. The Advisory Committee planned, as its initial assignment, to research how the industry, on a voluntary basis, could provide consumers with permanent care labels on textile products.

After considerable discussion, the Advisory Committee published its "Voluntary Industry Guide for Permanent Care Labeling." The Guide was approved by Mrs. Peterson's successor Betty Furness on September 5, 1967. Miss Furness urged enthusiastic endorsement of the guide from the industry. She also said, and I quote from her letter of endorsement, "The efforts that have gone into the creation and circulation of the Guide will be unavailing if it is not adopted and implemented by the entire industry. Indeed, the utility and rationale of the Guide are premised on industry-wide acceptance, and spotty usage of the Guide by industry might well produce confusion rather than enlightenment of the public."

Since it is never too late to praise when praise is due, I also would like to commend the Advisory Committee for its work. The Guide has been a necessary first step. But, since I must say clearly what I see clearly, the evidence at the point of sale would certainly seem to indicate a rather slow implementation of the good work of the Guide. I hope that, as a result of these hearings, the industry will be able to furnish the FTC with precise current statistics regarding the use of permanent care labels. I believe that until the information gap between the producer and the consumer is bridged, the miracle fabrics developed by our technological cornucopia will bring mixed blessings.

The Federal Trade Commission is attempting to close that gap. I believe that harried housewives and busy businessmen agree that action is necessary. But results so far dim the hope that a solution will come in the near future through voluntary industry action.

Before considering the proposed trade regulation from the viewpoint of the consumer, I would like to consider the business point of view.

When a manufacturer sells a textile product without permanent care labeling, he is in effect competing unfairly with manufacturers of competitive products who do provide such labeling. We are told that some textile products are virtually uncleanable, such as garments made of incompatible materials; in such cases, either a drycleaning or a washing treatment may be disastrous.

If the consumer can't compare cleanability factors, he may purchase such a textile product (unlabeled as to cleaning instructions) with the erroneous impression that it can be cleaned and refurbished. The frustrated purchaser and embarrassed owner of the drycleaning establishment are not the only adversely affected parties. Manufacturers of competing products also lose, since the unlabeled product appeared to be a better buy than it really was. If there is a legitimate market for second-class products whose colors run and whose fabrics separate upon cleaning, it should compete on a fair basis with products capable of withstanding cleaning procedures. If a garment is transformed into a shapeless rag by any and all cleaning procedures, it ought not to be represented as an easy-to-clean garment. To do so is unfair to the buyer and to the competition, whether it is accomplished by inaccurate labeling or by no care labeling at all.

To quote Dr. George S. Wham, Technical Director of the Good Housekeeping Institute, "We believe that a lot of problems could be resolved if manufacturers would spend more time and money in educating consumers. And one of the best ways this can be done is with good informative labeling of garments."[1]

And now I would like to look at the Commission's proposal solely from the standpoint of the consumer.

I do not quarrel with the argument that permanent care labeling is not needed for textile products for which cleaning procedures are already known by consumers. My problem is with the relevance of the statement in light of the many new fabrics, blends of new and old fabrics, chemical treatments of new and old fabrics, permanent press fabrics, and countless new cleaning materials confronting new housewives and future housewives.

If I may quote another expert, Miss Josephine Blandford, the textile technologist for the National Bureau of Standards, "To many consumers the listing of the generic names of fibers and the terms 'wash-and-wear' or 'durable press' on the label only suggest certain charactertistics and minimum care. Without care instructions, the information on this label is insufficient."[2]

For the sake of the consumer, I hope that the Commission will not decide on a "guideline" approach instead of trade regulation rules. If guides using an exception labeling plan are in effect, the absence of labeling may mean one of three things. First, that the manufacturer believes most consumers are aware of the proper refurbishing procedures. Second, that the manufacturer simply does not care to attach the special instructions needed for the particular textile product. Third, that, while special instructions are required to clean the article, the Commission has accepted the view that most consumers would not normally clean the article and that, therefore, it should be exempt from the labeling requirement. It is difficult to simultaneously maintain a case for an exception labeling scheme with exceptions to the exceptions, and yet, at the same time, argue for voluntary guides over mandatory rules.

Lest my comments on the question of guides versus rules be misconstrued, let me say plainly that the competitive reasons for avoiding acceptance of the voluntary industry guide argue strongly for rules rather than "guidelines." Manufacturers who do not know how well their textile products will withstand cleaning procedures, or who know that such products cannot be cleaned properly, are not likely to accept the guide adopted voluntarily by their competitors.

We do perceive some problems if the record of these hearings supports the issuance of trade regulation rules.

For example, there are details regarding the most informative type of labeling which must be worked out before any general labeling rquirement proposed by the Commission could be implemented. A delayed effective date for the rules will, I believe, be justified. It seems unlikely that a sudden demand for permanent care labels throughout the industry could be met and satisfied by the existing facilities. I believe that the expertise and capabilities of the industry will be equal to these two problems given a reasonable period of time. No doubt the Commission will be in a better position to judge a reasonable time for implementing permanent care labeling after the textile industry has been able to testify on the degree of acceptance of the voluntary labeling guide.

Whatever the decision on the timing for implementing a scheme of care labeling, I think it is beyond argument that the consumer is in need of the permanent type label as opposed to any other type. Housewives are not usually skilled in filing or bookkeeping. To expect them to file away and resort to a catalog of labels is unrealistic in the extreme.

I am aware that the Commission has received comment on Rule #2 with regard to the proposed certification required of the manufacturer to the ultimate consumer-purchaser. The view has been expressed that, where the manufacturer has an agreement

[1] Dr. George S. Wham, Technical Director, Good Housekeeping Institute, New York, New York; An Address to The Apparel Research Foundation, Inc., October 14, 1969, p. 6.

[2] Josephine M. Blandford, Product Evaluation Division, National Bureau of Standards, Washington, D.C.; an Address to the Apparel Research Foundation, Inc., October 14, 1969, p. 6.

with the retailer to accept return of articles not performing as represented, it may be redundant to require the certification to run to the consumer-purchaser. I would like to know how many agreements of this type presently exist, and how the consumer's rights are determined. I do not want the consumer to be caught in a cross-fire between the manufacturer and the retailer.

I also regard as reasonable the requests that any rules not be made retroactive or be made to prohibit the consumption of labels developed as a result of industry voluntary care labeling programs. It is obvious too that many textile products are not usually refurbished by consumers and as such should be eligible for exemption from the labeling rules. I am sure that these and other special labeling problems can and should be solved before a rule is made effective.

Before I close, I would like to say that I am sure the textile industry will use the opportunity afforded by this hearing to look closely into the technical factors involved. How can the manufacturer best match the care instructions to the garment? At the heart of this problem is the fact that a good many manufacturers of finished textiles evidently do not know the performance factors of the fabrics used in their products, and thus have a natural hesitation to represent the proper way of care. I therefore wonder why more manufacturers do not adopt at the very least the minimum testing policy advocated by the National Bureau of Standards and the Apparel Research Foundation. It has been reported that for under $900 the manufacturer can buy equipment that will test garments for durability, dimensional stability, colorfastness, and strength.[3] And once the manufacturer has tested his product so that he can meet the wear criteria demanded by customers, it is a logical and certainly not an impossible step to determine the care criteria. And once these criteria are established, the translation into a meaningful terminology can be readily made. Nine hundred dollars is a ridiculously low price to pay for insuring quality.

I recommend that interested manufacturers contact the NBS or the Apparel Research Foundation or, at least read pages 28 and 29 of The November 1969 Issue of the trade Journal *Apparel Manufacturer* describing what even a small manufacturer can do.

Thank you again for the opportunity to be here. It is high time that the textile consumer receives necessary care information in a usable form. The only answer is a permanent care label.

Mr. McINTYRE. Mr. President, this strong appeal for care labeling has been echoed by many consumer experts. Charlotte Montgomery, the consumer columnist for the Good Housekeeping magazine recently returned from an extensive tour around the Nation in which she queried consumers on their greatest needs. She reported:

Most frequent wish-for by consumers: care labels sewn in clothing.

The bill I am introducing would require that the proper cleaning, washing, and care instructions be permanently affixed to each piece of wearing apparel, moving in interstate commerce, excluding only hosiery, boots, shoes, and other footwear, and jewelry.

I am most hopeful that this legislation can receive early hearings. I hope these hearings will explore this problem in detail. It may well be that these hearings will find that instead of a label on each piece of wearing apparel detailing the care needs for that particular garment, that the most satisfactory arrangement would be to use "exclusion labeling." Under this system labels would only be necessary for garments which might be damaged by ordinary laundering or drycleaning processes. In other words, if the wearing apparel can be cared for with the normal means, no label would be required. If it needs special handling, then a permanent label would have to be affixed.

There is the problem of language difficulties which exist in some communities such as New York City. It may be that the Canadian system of symbols which are used to designate the kind of care needed might be considered.

Mr. President, I do not suggest this bill is the perfect solution. I will be most agreeable to changes if the hearings suggest the need for modifications and if these revisions do not weaken the purpose for which this legislation is drafted.

This is a beginning. The goal is to take another step in helping the consumer.

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

The bill (S. 424) to require that certain articles of wearing apparel be permanently labeled with laundering and drycleaning care instructions, introduced by Mr. MCINTYRE, was received, read twice by its title, and referred to the Committee on Commerce.

S. 425—INTRODUCTION OF A BILL TO PROTECT THE CONSUMER THROUGH MEANINGFUL WARRANTIES ON THE PRODUCTS HE BUYS

Mr. McINTYRE. Mr. President, I introduce for appropriate reference, a bill to be called the National Warranty Standards and Performance Act of 1961.

Mr. President, this year American consumers will purchase millions of automobiles, many kinds of electrical appliances, transistorized equipment, and scores of varieties of personal products. Most of these items will be accompanied by some kind of warranty in which the manufacturer makes some kind of pledge as to what he will do in case there are defects in the product.

The best lawyer in the largest law firm in the Nation would be hard pressed to decipher the meaning on many of these warranties. The average consumer is completely at a loss as to whether the product he has purchased is guaranteed to give responsible service and will be repaired in some responsible way in case it fails to perform properly.

Too often the purchaser sees some official-looking language under the heading "warranty" and in his optimism believes that this warranty guarantees the reliability of the product and its easy and rapid repair.

His optimism is often ill founded.

In many cases, small type, appropriately hidden at the bottom of the large type, disclaims any implied warranty or fitness of the product for use and establishes all kinds of preconditions for obtaining the services listed. This is hardly consistent with the popular belief that warranties, whether implied or stated, mean that a manufacturer will stand behind his product.

When something does go awry with a warranted item the impact on the consumer is often disastrous. There may be unreasonable and excessive delays in providing repair service. Often, completely unrealistic procedures must be followed in order to obtain repair. For example, there have been warranties which require the return of the item in the original box in which the product was sold to the consumer. That box usually goes in the waste container on the night of the purchase or, at least, is destroyed before the warranty is read and understood.

In some instances, warranties require that the imperfect product must be returned to a distant and difficult to reach specific location to obtain repair under the guarantee. There are many instances of the unavailability of the proper parts to make needed repairs. Often there are unexpected "service charges." In other cases, even after repairs have supposedly been provided, the product still does not perform properly.

Public attention and concern has prompted some improvement in this area and many companies are attempting to improve the understandability of warranties and to fulfill the promises made under them. But such efforts are neither universal nor completely effective. As a result the consumer still does not know how long a product will last, nor can he have full confidence in the manufacturer's ability and willingness to provide repair service.

There were several bills on warranties introduced in the last Congress including the bill I am introducing today. Hearings were held on a bill introduced by the distinguished and able Senator from Washington (Mr. MAGNUSON) the chairman of the Senate Commerce Committee. The bill was reported and finally passed by the Senate. The House did not act on this measure.

I supported the bill by the Senator from Washington. It was another indication of the real dedication the chairman has to protecting the interests of the consumer.

But, Mr. President, I believe that there are some problems consumers face with respect to warranties that even the excellent bill introduced and passed in the Senate by the Senator from Washington would not completely solve.

Most of the previous proposals authorize the setting and publication of standards of warranties. However, there appears to be some question as to whether such standards would have the force and effect of law. My bill, I believe, would provide the force and effect of law and offers a feasible means for enforcement.

Additionally, the standards proposed in most of the legislation previously offered will, I believe, hardly be pervasive enough to insure full disclosure on the myriad of products which might be covered. Another drawback to these proposals is that the regulations would have to be on a case-by-case basis using the cease-and-desist mechanism of the Federal Trade Commission. It would cer-

[3] November 1968 Issue Apparel Manufacturer, pp. 28 & 29.

tainly be difficult to prove in court that a warranty is not clear and concise when serious attention is focused upon it and, indeed, there also seems room for argument as to what is clear and concise and to whom.

Another area not sufficiently defined in previous legislation is what amount of service on a product is necessary in order to be considered adequate and whether a manufacturer can be prosecuted because one of several areas of service falls below accepted standards.

The bill I am introducing today would have as its principal goal to enable the purchaser to understand a warranty and to insure that the manufacturer fulfills his obligations thereunder. This legislation would require clear and concise language as to what is covered and what is not covered in each warranty. The caveats, exclusions, and disclaimers by the manufacturers and the responsibilities of the purchaser will be readily apparent and understood under the provisions of this legislation.

This legislation would also protect against the now common practice of inserting a disclaimer of any implied warranty into an express warranty. I do not believe that manufacturers should be able to avoid in this manner legal obligations which they might otherwise have. I was happy to note that the Chairman of the Federal Trade Commission testified in this same vein when he appeared before the Consumer Subcommittee of the Senate Commerce Committee.

I believe that the bill I am offering today alleviates many of the difficulties implicit in a regulatory program based on generalities. Registration of all warranties, such as I propose, giving the Federal Trade Commission a chance to review them for clarity, conciseness, and full disclosure appears to me to be an efficient, easily administered, and expeditious means of dealing with warranty problems. It would place the major responsibility on the manufacturers, where it belongs, to provide meaningful warranties which they could be required to back up.

Administrative safeguards would be provided to avoid arbitrary decisions by the FTC. There would be an initial period during which all existing warranties would be conditionally registered, pending review. I believe that this initial period for review by the FTC and the knowledge that registration could be revoked if warranties were found lacking would stimulate immediate improvements and accomplish much in a short time.

Mr. President, many of my colleagues joined with me last year in cosponsoring this identical bill. I hope they will join again this year.

I believe this consumer protection is great now, as it was previously. We should take action to assure that the purchaser of goods flowing in interstate commerce is properly guaranteed and that in buying these products the consumer has a reasonable chance of obtaining a product that will give him the service he should have the right to expect.

Mr. President, I ask that the full text of the National Warranty Standards and Performance Act of 1971 be printed in the RECORD at this point.

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

The bill (S. 425) to provide for the establishment of national standards for warranties made with respect to consumer goods distributed in or affecting interstate commerce, and for other purposes, introduced by Mr. MCINTYRE, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 425

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 "National Warranty Standards and Performance Act of 1971."

DECLARATION OF POLICY

SEC. 2. The warranty accompanying an article of sale frequently comprises a major element of the total value represented to the consumer. Informative, accurate, clear and fair warranties, backed up by warrantors with quality replacement parts or efficient services warranted, are essential elements of our free market economy. The presentation and content of the warranty prior to sale, and the consistency of performance of warranty obligations after sale, should facilitate value comparisons and promote fair competition. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and business in reaching these goals in the marketing of consumer goods.

FINDINGS OF FACT

SEC. 3. The Congress finds that—

(1) those who warrant goods in an unfair manner or fail to provide for the performance, or fail to perform the warranty made, inhibit fair competition, frustrate value comparisons by consumers and promote disharmony between consumers and business;

(2) in order to facilitate value comparisons by consumers, promote fair competition within the business community, and promote harmony between consumers and the business community it is necessary to provide for the promulgation of standards governing the presentation, accuracy, clarity and elements of disclosure of warranties, and to provide for the registration of warranties accompanying consumer goods;

(3) compliance with the standards set and provisions for performance of obligations of the warranty made should be conditions precedent to the granting of approval of any warranty accompanying consumer goods;

(4) actual performance of the obligations of a warranty should be a condition precedent of the continued registration of any warranty accompanying consumer goods;

(5) to make regulation of warranties for consumer goods in interstate commerce effective, it is necessary to provide for the standardization and registration of all warranties accompanying consumer goods which are likely to enter the channels of interstate commerce and directly affect such commerce; and

(6) regulation of warranties for consumer goods in interstate commerce without provision for standards and registration of warranties for consumer goods distributed only in intrastate commerce would discriminate against and depress interstate commerce in such goods and would adversely burden, obstruct, and affect such interstate commerce.

REQUIREMENTS AND PROHIBITIONS

SEC. 4. (a) Except as otherwise provided by this Act, it shall be unlawful for any person engaged in the manufacture or sale of consumer goods in interstate commerce or affecting interstate commerce to make with respect to such goods any oral or written representation purporting to be a guaranty or warranty unless (1) such representation is a warranty which has been determined by the Federal Trade Commission to conform to standards for presentation, accuracy, clarity and disclosure for warranties which shall be established by the Federal Trade Commission under this Act, (2) such warranty has been registered with the Federal Trade Commission after its determination that the terms and conditions thereof, and the provisions made by the warrantor for the performance of the obligations thereof, conform to the requirements of this Act and of regulations which shall be promulgated by the Commission thereunder, and (3) such registration has not been revoked or suspended.

(b) The Federal Trade Commission shall promulgate such regulations as it shall determine to be necessary to provide effective notice to consumers as to the identity of particular items of consumer goods manufactured or sold in interstate commerce or affecting interstate commerce which, when offered for sale to consumers, are not subject to a registered warranty which is in effect in compliance with the requirement of subsection (a). Such regulations shall specify the identity of the parties required to furnish such notice, the manner in which such notice is to be given, and the contents or substance of such notice. Whenever any person is obligated by such regulations to give that notice, it shall be unlawful for such person to fail to give that notice in compliance with such regulations.

(c) If the Federal Trade Commission determines that, because of the nature, form, or quantity of any category of consumer goods or for any other reason which it determines to be good and sufficient, full compliance with all the requirements prescribed by this Act is impracticable or is not necessary for the adequate protection of consumers, the Commission may promulagte regulations exempting such category of consumer goods and warranties given with respect thereto from those requirements to the extent and under such conditions as it determines to be consistent with the purposes of this Act.

(d) Under such regulations as the Federal Trade Commission shall promulgate in conformity with the provisions of this Act, any person engaged in the manufacture or sale of any item of consumer goods may apply to the Commission for the registration of a warranty which such person intends to offer in connection with the sale of that item to consumers and for which such person proposes to assume responsibility for performance. Each such application shall be accompanied by five copies of the proposed warranty and such evidence of the willingness and capacity of the applicant to fulfill the obligations of the warranty as the Commission may require by regulation. After notice and an opportunity for hearing, the Commission at the earliest practicable time shall enter its order granting or denying the application and transmit a copy thereof to the applicant by registered mail. If the Commission grants the application made as to a warranty, it shall assign to that warranty a serial number which shall be placed upon each copy of the warranty furnished to consumers.

WARRANTY STANDARDS

SEC. 5. (a) Subject to the provisions of section 4(c), no warranty may be approved by the Federal Trade Commission for registration under this Act unless that warranty—

(1) is expressed in simple and readily understandable terms;

(2) clearly and conspicuously discloses the name and address of the warrantor and, where applicable, the name and address of

any person or persons, or the identification of any class of persons, authorized to perform the obligations set forth in the warranty;

(3) contains a detailed statement of the terms and conditions of the warranty, including any limitations on parts covered, the nature of damage or defects covered, the duration of the warranty, any obligations imposed upon the purchaser, and the time and manner of the warrantor's performance of his obligations under the warranty; and

(4) fulfills such other requirements as the Commission may determine to be necessary to provide a full and complete disclosure to consumers of the meaning of the warranty and the remedies provided thereby for the benefit of consumers.

(b) Subject to the provisions of section 4(c), no warranty may be approved by the Federal Trade Commission for registration under this Act if that warranty—

(1) provides or purports to provide for the transfer, by contract or otherwise, to any person other than the warrantor of the obligation of the warrantor to fulfill the terms and conditions of the warranty;

(2) relieves or purports to relieve the warrantor of any obligation—

(A) to correct any damage to or defect in any item of consumer goods which is present at the time of transfer of possession thereof to the first purchaser who is a consumer;

(B) arising under the law of any State with respect to any implied warranty of merchantability or fitness for a particular use; or

(C) with respect to the death of or personal injury to any person, resulting proximately from any damage to or defect attributable to the warrantor;

(3) imposes any legal obligation on a consumer of the product to indemnify or otherwise hold the warrantor harmless from any injury or harm which might arise from the use of any item of consumer goods; or

(4) imposes upon a consumer the responsibility for paying all or a portion of the cost of repairs or replacement which may be necessary within a reasonable period of time after the sale of the product to the first purchaser who is a consumer and which are required because of defects in design, material, or workmanship.

(c) The Federal Trade Commission shall determine, upon the basis of good manufacturing practice within each industry engaged in the production of consumer goods, and prescribe by regulations as to each category of consumer goods, the period of time which shall be deemed to be a reasonable period of time after such sale in which items of each category should not require repair or replacement.

PERFORMANCE STANDARDS

SEC. 6. (a) Subject to the provisions of this section and of section 4 (c), no warranty may be approved by the Federal Trade Commission for registration under this Act unless—

(1) the Commission determines that the applicant for such approval has made adequate advance arrangements to insure that the obligations expressed in the warranty will be expeditiously performed;

(2) the Commission determines that such applicant is currently performing adequately the obligations expressed in the warranty;

(3) the applicant for such approval agrees, as a condition for registration, to take all reasonable measures prescribed by the Commission to inform potential retail purchasers of any limited or complete revocation, or limited approval, of the warranty registration directly affecting such a potential purchaser; and

(4) the applicant for such approval agrees to any special conditions or limitations on the manner of presentation, or reference to the approved registration in advertising or other promotional material, as the Commission shall determine to be required for the protection of consumers.

(b) Whenever the Commission determines that the capacity of an applicant to perform the obligations of a warranty is limited to particular geographical areas or sales outlets, the Commission may approve the warranty for registration subject to the limitation that it may be used only with respect to items of consumer goods which are offered for sale at retail in geographical areas in which, or through sales outlets at which, adequate facilities are maintained for the performance of the obligations of the warranty by or on behalf of the applicant.

(c) Whenever the Commission determines, after notice and an opportunity for hearing, that any person who has registered with the Commission a warranty approved under this Act has refused or failed to perform the obligations of that warranty, the Commission may order the revocation of that registration or the suspension thereof for such period of time as the Commission shall determine to be required to assure future fulfillment of the obligations of the warranty.

PENALTIES

SEC. 7. (a) The making, by any person engaged in the manufacture or distribution of any item of consumer goods in interstate commerce or affecting interstate commerce, of any oral or written representation purporting to be a guaranty or warranty of such item shall constitute an unfair or deceptive act or practice in commerce in violation of section 5 (a) of the Federal Trade Commission Act (15 U.S.C. 45 (a)), and shall be subject to enforcement under section 5 (b) of that Act, unless that item is offered for sale to consumers subject to a warranty approved by and registered with the Federal Trade Commission under this Act and the registration of that warranty has not been revoked or suspended.

(b) Whoever, being a person obligated by regulations promulgated under section 4(b) to furnish any notice described therein, willfully fails to give such notice in compliance with such regulations shall be punished (1) for a first offense under this subsection by imprisonment for not more than one year, or a fine of not more than $1,000, or both, and (2) for each offense under this subsection committed subsequent to final conviction for a first such offense by imprisonment for not more than three years, or a fine of not more than $10,000, or both.

FEDERAL-STATE COOPERATION AND ENFORCEMENT

SEC. 8. (a) In carrying into effect the provisions of this Act the Federal Trade Commission is authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

(b) The Chairman of the Federal Trade Commission is authorized to conduct examinations of facilities for warranty service and investigations into the performance by warrantors of their obligations under warranties through the employment of officers, employees and procedures of the Commission, or through the use of the services of any law enforcement officer of any State, Commonwealth, or possession of the United States, or any political subdivision thereof, made available to the Commission by such State, Commonwealth, possession, or political subdivision.

PROCEEDINGS OF THE COMMISSION

SEC. 9. (a) The promulgation of rules and regulations by the Federal Trade Commission under this Act shall be subject to the provisions of section 553, title 5, United States Code.

(b) Proceedings before the Federal Trade Commission upon applications made under this Act for the approval and registration of warranties, and for the revocation or suspension of warranty registrations under this Act, shall be taken in conformity with provisions of law governing proceedings for the issuance of cease and desist orders under section 15 of the Federal Trade Commission Act (15 U.S.C. 45). Any order of the Commission denying an application for the approval or registration of a warranty under this Act, or revoking or suspending the registration of a warranty under this Act, shall be subject to judicial review in the manner provided by that section with respect to orders issued thereunder.

(c) For the purpose of conducting surveys and investigations under this Act, the Commission shall have all powers which are conferred upon it by section 9 of the Federal Trade Commission Act with respect to the conduct of investigations made by that Commission under that Act. The provisions of section 10 of the Federal Trade Commission Act (15 U.S.C. 50) shall apply to the act or omission of any person with regard to any subpena, order, or requirement of the Commission under this Act to the same extent, and with the same effect, as if such act or omission had occurred with regard to a like subpena, order, or requirement issued under the Federal Trade Commission Act.

REPORTS TO THE CONGRESS

SEC. 10. The Federal Trade Commission shall transmit to the Congress beginning in the first January after enactment of this Act and in each January thereafter a full and complete description of the activities of the Commission for the administration and enforcement of this Act during the preceding calendar year.

DEFINITIONS

SEC. 11. For the purposes of this Act—

(1) "Commission" means the Federal Trade Commission.

(2) "Interstate commerce" means commerce within the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States, or between any place in a State and any place in another State, or between places in the same State through another State.

(3) "Warranty" means a written instrument by which a manufacturer or distributor assumes legally enforceable liability to refund the purchase price or repair or replace without cost to the consumer, or upon specified terms, any damage to or defects in any item of consumer goods at or after the time of delivery of possession of such item to the first purchaser who is a consumer.

(4) "Warrantor" means a person who gives or has given a warranty respecting a consumer product.

(5) "Person" means an individual and any partnership, corporation, association, or other legal entity.

(6) "Consumer" means the retail purchaser of consumer goods to whom a warranty is given and any other person who is entitled by the terms of the warranty to enforce against the warrantor the obligations stated therein.

(7) "Consumer goods" means any motor vehicle, appliance, device, article or other product which is intended for use primarily by individuals, and which is normally sold at retail for $10 or more.

SAVING PROVISION

SEC. 12. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act (15 U.S.C. 41 et seq) or any statute defined therein as an antitrust Act.

EFFECTIVE DATE

SEC. 13. This Act shall take effect six calendar months from the date of enactment; provided, however, that warranties in existence before the effective date shall be conditionally registered until such time as they can be reviewed by the Commission; provided further, that such conditional registration is in the interest of the public and will not continue any frauds, deceptions or

misrepresentations. In no event shall a conditional registration be extended for more than 18 months from the effective date of this Act.

S. 426—INTRODUCTION OF THE RADIATION HEALTH AND SAFETY ACT OF 1971

Mr. RANDOLPH. Mr. President, last year, on June 16, I introduced the Radiation Health and Safety Act in response to a growing awareness among public health officials that patients are subjected to more radiation exposure than is necessary.

A recent report in "Modern Hospitals," August 1970, suggests a 27-percent increase between 1964 and 1971 in the X-ray exposure an individual in the United States receives. Should the current nationwide X-ray exposure study verify this increase, then an individual may well be receiving four times as much radiation from a diagnostic X-ray exposure as is necessary or approximately three times the radiation exposure an individual in England receives or 50 times as much radiation exposure from medical X-rays as from the nuclear power industry.

As I mentioned last year, Dr. Karl Morgan, an internationally known scientist and founder of the American Health Physics Society, reports there is strong evidence that there are between 3,000 and 30,000 needless deaths per year in the United States as a consequence of genetic mutations and several forms of somatic damage from these same techniques. Significant benefits are derived from the diagnostic and therapeutic use of radiation; however, to allow overexposures to continue, reflects little credit on our society.

Considering the public health and safety implications of unnecessary human exposure to ionizing radiation, it seems unrealistic to allow the pursuit of professional excellence in radiation technology to remain voluntary. National guidelines for the training and licensure of radiologic technologists are needed. Professional excellence in radiologic technology can only be served by State legislation if the ultimate impact on the profession is national in scope and substance. Therefore, on behalf of myself and Senators DOMINICK, GRAVEL, HART, JAVITS, MCINTYRE, MONDALE, MOSS, MUSKIE, PEARSON, PELL, SCOTT, STEVENS, and WILLIAMS, I introduce the Radiation Health and Safety Act of 1971 and ask that it be referred to the Committee on Labor and Public Welfare.

Mr. President, I ask unanimous consent that the text of this bill and copies of relevant correspondence on this subject be printed in the RECORD following my remarks.

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

The bill (S. 426) to amend the Public Health Services Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation, introduced by Mr. RANDOLPH, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 426

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 "Radiation Health and Safety Act of 1971".

SEC. 2. It is the purpose of this Act to—

(a) assure adequate training of radiologic technologists by providing for the establishment of criteria and minimum standards for accrediting schools for the training of radiologic technologists;

(b) provide for the establishment of criteria and minimum standards for the licensure of radiologic technologists; and

(c) provide for State adoption and administration of programs for the accreditations of education institutions training radiologic technologists and programs for the licensure of radiologic technologists, with authority for the Secretary to take necessary action in the absence of State action.

SEC. 3. Title III of the Public Health Service Act is amended by inserting after part F, subpart 3, section 360F, the following:

"SUBPART 4.—RADIOLOGIC TECHNICIANS

"DECLARATION OF PURPOSE

"SEC. 360G. The Congress finds and declares—

"(a) that, consistent with the recommendations of the National Council on Radiation Protection and the International Commission on Radiological Protection and Measurement, it is in the national interest and in the interest of public health and safety to minimize exposures of the public to ionizing radiation from all sources;

"(b) while the operation and use of radiologic equipment and methods is essential in modern medicine, even the most advanced equipment and methods will not adequately protect the health and safety of patients subjected to radiologic diagnosis or therapy and the health and safety of radiologic technologists applying radiologic equipment and methods, including their progeny, unless these technologists are fully trained and qualified in the operation of such equipment or the application of such methods so as to avoid unnecessary exposure to ionizing radiation;

"(c) that it is in the overall public health interest to have an adequate and continuing supply of well-trained radiologic technicians and that any person who operated radiologic equipment or employs radiologic methods should be required to demonstrate competence by training, experience, and examination; and

"(d) that the protection of the public health and safety from unnecessary exposure to ionizing radiation from all sources is the primary responsibility of State and local government, within minimum criteria and standards established by the Federal Government."

"RECOMMENDED CRITERIA AND STANDARDS

"SEC. 360H. (a) The Secretary shall, as soon as practicable, but not later than one year after the date of enactment of the Radiation Health and Safety Act of 1971, develop and issue to the States criteria and minimum standards for the accreditation of education institutions conducting programs for the training of radiologic, technologists and minimum criteria for education institutions conducting programs for the training of medical practitioners. Such criteria and standards shall be published in the Federal Register.

"(b) The Secretary shall, as soon as practicable, but not later than one year after the date of enactment of the Radiation Health and Safety Act of 1971, develop and issue to the States criteria and minimum standards for licensure of radiologic technologists, and such other advice and assistance as he deems necessary. Such criteria and minimum standards may distinguish between medical and dental technologists, radiation therapy technologists, nuclear medicine technologists, photo-roentgen technician, and technologist-in-training. Such criteria and standards shall be published in the Federal Register.

"(c) In establishing criteria and minimum standards under this section the Secretary shall consult with State health departments and appropriate professional organizations including, but not limited to, the American Society of Radiologic Technologists, the American Dental Association, the American Medical Association, the American College of Radiology, the American Osteopathic College of Radiology, the American Osteopathic Association, the American Board of Health Physicists, the American Association of Physicists in Medicine, and the Health Physics Society.

"(d) The Secretary shall give to the States such other advice and assistance as will encourage them to enact and enforce appropriate laws and standards. Such advice and assistance may include model laws and training curriculums, and training aids.

"(e) The Secretary shall, from time to time, devise the criteria and standards material issued by him pursuant to this section.

"STATE ACCREDITATION AND LICENSURE

"SEC. 3601. (a) The training and licensure of radiologic technologists who intend to apply ionizing radiation to humans for diagnostic or therapeutic purposes in any State or States shall be subject to the provisions of this section.

"(b) Consistent with the policy declaration of this subpart, State and local government shall be encouraged to minimize exposure of the public to ionizing radiation from all sources and shall not be displaced by Federal action except as otherwise provided under subsection (c) or (d).

"(c) After receiving any criteria and minimum standards issued pursuant to section 360H for the accreditation of educational institutions conducting programs for the training of radiologic technologists, the Governor of a State may file with the Secretary a letter of intent that such State will within two years of the issuance of the criteria and minimum standards adopt as a minimum, the standards for accreditation of educational institutions conducting programs for the training of radiologic technologists issued by the Secretary. If, after two years, a Governor fails to adopt such standards, or is unable to adopt such standards or more stringent standards, the minimum standards issued by the Secretary for the accreditation of educational institutions for the training of radiologic technologists shall become the standards in such State. If the Secretary determines that such State standards are consistent with the criteria and minimum standards issued pursuant to section 360H; that an adequate means of enforcement by State action is provided, and that the State program is consistent with the purposes of the subpart, such State standards shall be the standards applicable to such State.

"(d) Upon application of a Governor, the Secretary may grant an extension under subsection (c) for not more than two years if after review the Secretary determines that good faith efforts have been made by the State and reasonable assurance is provided that an effective program to implement the purposes of this Act will be provided by the State within the period of the extension.

"(e) After receiving any criteria and minimum standards issued pursuant to section 360H for the licensure of radiologic technologist or technologists-in-training, the Governor of a State may file a letter of intent that such State will within two years

of the issuance of the criteria and minimum standards adopt as a minimum the standards for licensure of radiologic technologists and technologists-in-training issued by the Secretary. If, after two years, a Governor fails to adopt such standards, or is unable to adopt such standards or more stringent standards, the minimum standards issued by the Secretary for licensure of radiologic technologists shall become the standards in such State. If the Secretary determines that such State standards are consistent with the criteria and minimum standards issued pursuant to section 360H; that an adequate means of enforcement by State action is provided; and that the State program is consistent with the purposes of this Act, such State standards shall be the standards applicable to such State.

"(f) For the purpose of implementing licensure of radiologic technologists, the Secretary may certify appropriate State or professional licensing organizations.

"(g) The Secretary may make grants to States in an amount up to two-thirds of the first year and one-third of the second year costs of planning, developing, or establishing programs to carry out the purposes of the Radiation Health and Safety Act of 1971.

"(h) The Secretary may make grants to educational institutions under section 314 (E) of this Act—Partnership for Health Amendments of 1967, Public Law 90–174—or the Health Manpower Act of 1968—Public Law 90–490—to carry out the purposes of the Radiation Health and Safety Act of 1971.

"(i) The Secretary shall annually review programs established pursuant to this subpart and shall suspend the effectiveness of any standards or regulations as to accreditation or as to licensure with respect to any State or certified professional licensing organization when he determines that administration of such State program is inconsistent with the purposes of this subpart or revised criteria and minimum standards issued pursuant to subsection 360H(e)."

"PROHIBITED ACTS

"SEC. 360J. (a) Upon the effective date of regulations and standards established pursuant to the subpart, it shall be unlawful for any institution to conduct a program for training of radiologic technologists unless accredited by the Secretary or a State program approved by the Secretary, or for any individual to apply ionizing radiation to humans for diagnostic or therapeutic purposes unless he is a licensed medical practitioner, a licensed dentist, a licensed dental hygienist, holds a valid radiologic technologist's license, or holds a valid photo-roentgen technician or technologist-in-training license and is under the immediate supervision of a radiologist or licensed radiologic technologist.

"(b) The district courts of the United States shall have jurisdiction, for cause shown, to restrain violations of this section. The district courts of the United States shall also have jurisdiction in accordance with section 1355 of title 28 of the United States Code to enforce the provisions of this section.

"(c)(1) Any violation of this subsection by the owner or operator of an educational institution, or an individual applying radiation to human beings for diagnostic or therapeutic purposes shall be subject to a civil penalty of not more than $1,000. For the purposes of this section, any such violation shall be with respect to each act or omission made unlawful by this section.

"(2) Any such civil penalty may on application be remitted or mitigated by the Secretary. In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be deducted from any sums owing by the United States to the person charged.

"(d) Actions under this section may be brought in the district court of the United States for the district wherein any act or omission or transaction constituting the violation occurred, or in such court for the district where the defendant is found or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

"(e) Nothing in this subpart shall be construed as requiring the Secretary to report for the institution of proceedings minor violations of this subpart whenever he believes that the public interest will be adequately served by a suitable written notice or warning.

"(f) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law."

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

THE AMERICAN SOCIETY OF RADIOLOGIC TECHNOLOGISTS,
Chicago, Ill., August 5, 1870.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.:

Thank you for your letter of July 31 concerning S. 3973 and your interest in upgrading the availability and quality of health practices and personnel in the United States. I am a layman but I have been privileged to work for the past eight years as the Executive Director of professional organizations in medicine, dentistry, and pharmacy, as well as the para-medical field. By virtue of my position, I have had the opportunity to see and hear many things that are not available to the general public. To relate them to you would be a violation of trust.

However, I am convinced that the voluntary systems of certification of health professionals is a less effective approach, for the benefit of the public, than a mandatory system. I realize that a mandatory system is not the perfect solution, but by virtue of statute authority it is more effective.

In my opinion, the basic need for S. 3973 stems from the fact that people are what they are before they receive degrees and titles. As a result, these people make their decisions based on what they are, not upon the meaning of any degrees or title.

Based upon my experience the enactment of S. 3973 is desirable and necessary to deliver quality health care to all the people in our country.

Cordially,

ROBERT C. BEST,
Executive Director.

AMERICAN SOCIETY OF MEDICAL TECHNOLOGISTS,
October 31, 1970.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
U.S. Senate, Washington, D.C.

DEAR SENATOR RANDOLPH: As one of your constituents serving in the capacity of Administrative Technologist in the Appalachian Regional Hospital of Beckley, West Virginia, I am most pleased that you have introduced bill S–39–73.

As president of the American Society of Medical Technologists, an organization representing 17,000 of the largest one group of professionals in the current field of allied health, I am most interested in this bill entitled, "Radiation Health and Safety Act of 1970."

The field of medical technology is not directly involved in the practice of Radiologic Techniques other than in the use of nuclear medicine materials in specialized laboratory procedures, but the passage of this bill can do much to open the door to similar legislation in our profession. Medical Technology is the only baccalaureate level allied health profession with accreditation and certification processes under the control of the vested interests of physicians, specifically those specialists in laboratory medicine identified as pathologists.

We feel the vested interests of the physicians prevent the *guarantee* of the highest quality laboratory service in the delivery of health care. We have found it very difficult to overcome these interests in control through individual state governments. The only answer lies in the establishment of the minimum standards through national legislation.

For these reasons, I request the opportunity for our Society to present testimony supporting bill S–30–73. If the date for such a hearing does not interfere with previous presidential commitments, I will give the testimony; otherwise, I will appoint a substitute representative.

Thank you for any consideration you can give to my request.

Yours very truly,

THELMA M. WILSON,
President.

PHILADELPHIA SOCIETY OF RADIOLOGIC TECHNOLOGISTS,
Philadelphia, Pa., August 3, 1970.

Hon. JENNINGS RANDOLPH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR RANDOLPH: Please accept my sincere gratitude for introducing Senate Bill S. 3973. Public health and safety, with regard to radiation exposure and treatment, has long been of key interest to qualified and responsible radiologic technologists throughout this country. We personally are of the opinion that federal legislation, with individual state administration, will ultimately serve the public interest.

Please continue to strive for the passage of this bill. Concerned technologists support you and are grateful for your efforts in our behalf.

Sincerely,

WANDA E. WESOLOWSKI, R.T. (A.R.R.T.),
Member, Executive Committee.

THE WEST VIRGINIA SOCIETY OF RADIOLOGIC TECHNOLOGISTS,
New Martinsville, W. Va., August 3, 1970.

Hon. JENNINGS RANDOLPH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR RANDOLPH: Would you be kind enough to send me a few copies of S. 3973, which you have introduced. As a Radiologic Technologist it gives me a great deal of pride that a fellow West Virginian sponsors legislation that will upgrade the standards of Radiologic Technology throughout the nation as well as protect the health and well being of all Americans.

Perhaps you have forgotten your stay in Wetzel County Hospital, following your unfortunate accident with Senator Byrd. I had the pleasure of taking your X-rays, and conversing with you while you were there. As you know, my wife, Frances, claims some kinship with you. She sends her regards to you, and also to Louise and Miss Morgan, who we met at Pioneer Days in Marlinton a couple of weeks ago.

The reason I am requesting additional copies of your bill is to get support from our local League of Women Voters, PTA, Rotary, Lion's Club, and other civic minded organizations.

I certainly hope this measure receives favorable action in both Houses, and that it may speedily be acted into law. With kindest personal regards,

Sincerely yours,

HENRY D. CASTILOW, R.T.

THE WEST VIRGINIA SOCIETY OF
RADIOLOGIC TECHNOLOGISTS,
Mullens, W. Va., September 22, 1970.

Hon. JENNINGS RANDOLPH,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR RANDOLPH: I want to express my appreciation for your kindness in granting audience to myself, Mr. Leslie Wilson, President of the American Society of Radiologic Technologists, and Mr. Robert Best, Executive Director of the American Society of Radiologic Technologists, giving us an opportunity to express our support of S. 3973.

We understand that the possibility of Senate action on this bill at this time is unlikely, but we do feel that hearings to obtain formal commentary on the bill within the next few weeks would be very beneficial. I cannot overstate the urgency of the need for the establishment of federal minimum standards for personnel administering ionizing radiation at the earliest possible time. The advent of exposure to the masses of American population has only come about in the last thirty years, thus the genetic problems have not had time to manifest themselves. The continued administration of ionizing radiation by untrained personnel causes frightening possibilities of a mathematical generic hazard that is too large to comprehend. Even if this bill were to move with all possible speed, the time of its passage to time of complete implementation still leaves a period where millions of Americans would be subjected to radiological examinations of questionable quality and with questionable safeguards to excessive radiation. With this in mind and despite your very busy schedule, I would ask that you prevail upon Senator Yarborough to help arrange hearings on S. 3973 in this Senate session.

In talking with my fellow West Virginians, both technologists and nontechnologists, we are very proud that you have been the one to take this very needed step in the field of radiological health and protection for the American public.

A point that may be of interest to you is, of thirteen institutions in Southern West Virginia that I have surveyed, only five have a full staff of Registered Radiologic Technologists. The other eight are staffed partially with Registered Technologists and partially with personnel ranging from no formal training upward to two years. Five of these institutions do not have daily supervision by a Radiologist for consultation and advice for the untrained personnel. This is not a new nor an unusual occurrence and is a demonstration of the urgent need of the bill you have introduced.

If I, or any member of the West Virginia Society of Radiologic Technologists can be of assistance to you on behalf of this bill, please feel free to call on us.

Thanking you very much, I remain,

Sincerely yours,

RAYMOND T. BUTLER, R.T., *President.*

STATE OF MICHIGAN,
DEPARTMENT OF PUBLIC HEALTH,
Lansing, Mich., August 13, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Thank you for the opportunity to comment on Senate Bill #3973 "Radiation Health and Safety Act of 1970". Legislation with regard to uniformity of state statutes is desirable where such state statutes are enacted.

With regard to Bill S. 3973 as it applies to the principal stated above I support the concept of the bill. However, there are practical problems in certain provisions which I feel would do a disservice to a sizable cross section of the public. Modifications could rectify these disadvantages.

My comments relative to the bill are as follows:

SECTION 360 G

(a) "to minimize exposures of the public to ionizing radiation from all sources." While this bill is directed to this end a more significant source of unnecessary public radiation exposure involves the liability, insurance, and profit motive complex and their interdependency. For example, x-rays are taken to "reduce medical liability" without check and balance since x-ray service is also profitable to the hospital and/or the physician. Hospital standing orders are given in event of suspected fracture to not only x-ray the appendage where the suspected fracture occurred but also the opposite one for comparison. While physicians tell us this may be necessary in a limited number of cases, it is also profitable and therefore often becomes a standing order. Dealing with these types of problem effectively would reduce radiation exposure more than any other single radiation control measure.

(b) "unless these technicians are fully trained and qualified in the operation of such equipment so as to avoid unnecessary exposure to ionizing radiation." The basic problem resulting in unnecessary radiation exposure with regard to the practice of radiologic technicians does not, in my opinion, involve academic training or general training using various types of X-ray machines but rather it lies in two areas.

1. Inadequate training on specific X-ray machines. This could result because such a machine just recently came on the market and the salesman spent half an hour showing the technician which buttons to push to operate it or it could be that the machine is so obsolete that the technician's training has not qualified him. Could this problem be handled similiar to pilots requiring checkout on each type of plane by the licensing agency?

2. The problem of attitude. "I don't give a darn." "Who will know the difference?" "I am too busy to take the time." "I have been doing it this way for twenty years", etc. Policing with penalties could cause a change in practice attitudes. Education does not seem to be an effective solution for attitude adjustment and the security of licensure could make adjustment even more difficult.

(c) "any person who operates radiologic equipment should be required to demonstrate competence by training, experience, and examination." How does a chiropractor, a podiatrist, a general physician become trained and tested? Changes in curriculum for these professions are just now taking place to cover the use of X-ray and could be required by law.

(d) "primary responsibility of state and local government, within minimum criteria and standards established by the Federal Government." Having made the above statement the bill proceeds to require the state to enact legislative control in the matter of radiologic technician licensing at states expense, or relinquish its right in favor of federal control.

SECTION 360J(a)

The bill would reduce medical service to rural and small town residents making it more costly or inaccessible. For example, many hundreds of rural or small town physicians have x-ray machines for the convenience of their patients, to provide this diagnostic aid without sending the patient on a 100 mile trip to x-ray a limb which may or may not be fractured. These practitioners for the most part limit x-ray diagnostic techniques to possible fractures and an occasional chest. The volume of their x-ray work does not warrant the hire of an x-ray technician and the demand on the physician's time does not permit his operation of the x-ray machine. In Michigan we have about 600 office x-ray machines used in this manner. Additional licensure categories could correct this problem.

SECTION 360L (c) AND (d)

The bill places radiation health and safety into the political arena since it requires action by the governor of the state at several points. My experience has indicated that such a provision in other legislation has worked to the disadvantage of the public, first, but also to all levels of governmental agencies.

Please pardon the frankness of these remarks. We in state government have a different prospective when it involves federal legislation. We often have a closer look at the effect of legislation on its subjects. I am pleased that you and your colleagues are concerned about matters related to radiation protection. If I can be of further help with redrafting this bill or in any other way, I would be pleased.

Very truly yours,

D. E. VAN FAROWE,
Chief, Radiation Section.

THE CITY OF NEW YORK,
DEPARTMENT OF HEALTH,
New York, N.Y., August 12, 1970.

The HONORABLE JENNINGS RANDOLPH,
Committee on Labor and Public Welfare,
Washington, D.C.

DEAR SENATOR RANDOLPH: Thank you for your letter of July 31, 1970. It discusses the Radiation Health and Safety Act of 1970 (S. 3973) recently introduced by you and requests my comments.

I am, indeed, very much interested in any efforts to improve the quality of medical practices and personnel and have been spending many years of my professional life in attempting to do so. I have watched carefully the development of regulations to license X-ray technicians and am much in favor of it. On the other hand, there has been a tendency to draft some regulations in such a manner that it results in a critical shortage of licensed technicians available and permitted to practice and possibly causes some evasion of the regulations. One of my concerns is the increased financial burden and resulting increase in the cost of medical care that could result from an enforced shortage of para-medical health practitioners. I believe that lines 24 and 25 on page 7 of S. 3973 referring to a technician-in-training license would help avoid this.

Another cause of concern to me is the fact that some of the regulations make it virtually impossible for a person to obtain a license to practice technology and also to obtain a college degree within a reasonable time. It is my belief that the technology of many para-medical professions has reached the point where a general scientific college background is advantageous. The same two lines would help permit this.

I do believe that on line 25 (p. 7) I would prefer to see the word "immediate" inserted, to read "under the immediate supervision of a licensed technician", with immediate understood to mean on the premises". This would help to preclude abuses.

I should be very glad to review any other proposed legislation and possibly comment in detail.

Our experience indicates that a licensing program for x-ray equipment installers and servicemen should be considered seriously. We have found some x-ray equipment dangerously installed and often lacking the necessary protective accessories thru the ignorance of the installers or servicemen about basic radiation safety principles and regulations. The same sometimes applies to the designers and installers of structural shielding materials used for x-ray protection. Radioisotopes technicians, I believe should also be licensed but these may already be covered by S. 3973.

I am somewhat concerned about including the American Medical Association among several professional societies that the

Secretary is directed to consult. All of the other societies are truly professional scientific societies but the American Medical Association seems to me to be primarily politically oriented. Besides, it has taken a strong position categorically opposing the licensing of any para-medical health practitioners. The American Dental Association is somewhat marginal in this respect but has made an active effort to promote the protection of patients and practitioners against radiation exposure, and could offer valuable technical comments. I presume that the bill is intended to include dental x-ray use, which I believe is needed.

Should you hold a public hearing on the subject, I shall be quite willing to testify both on the basis of my personal experience and also representing the Conference of Radiation Control Program Directors, of which I am chairman.

Thank you for letting me know of this development and for sending me a copy of S. 3973 which I will study further and discuss with my colleagues.

Sincerely yours,

HANSON BLATZ,
Director.

P.S.—The reference on lines 17 and 18 (page 2) is incorrect. It should be the "National Council on Radiation Protection and Measurements". The next reference on lines 18 and 19 should be the "International Commission on Radiological Protection".

NORTH DAKOTA DEPARTMENT OF HEALTH,
Bismarck, September 10, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Referenced is your letter to this office inviting comments on S. 3973.

In North Dakota, we have long recognized that correction of x-ray equipment deficiencies does not provide assurance that radiation exposure to the operator and the general public is at its lowest practical level. In my estimation, education of the operator to the need for and the means of eliminating unnecessary radiation is the key to obtaining the maximum benefits from the use of diagnostic x-ray with the least human radiation exposure.

A North Dakota X-ray Technician Manpower Survey performed in 1968 found that 49 percent of the x-ray technicians in this State have not attended a planned program of training in a school of radiologic technology and/or are not registered with the American Registry of Radiologic Technologists. Presumably, this group of 49 percent would have received on-the-job training with the emphasis on how to obtain a readable radiograph. The preponderance of these technicians would be out in the more rural areas of this, a rural oriented State. These people serve the small medical facilities across the State with equally small diagnostic x-ray workloads. The workloads are such that a formally trained and registered technologist is not financially attainable. Contrasted to the problems we have observed in the more rural areas, the larger cities of the State have the qualified staff, equipment, and training to provide the medical benefits associated with radiographic and fluoroscopic diagnostic x-ray services as well as to perform x-ray therapy. Our "medical center" cities provide x-ray services equal, from the standpoint of medical and radiation protection aspects, to the best of any of the other 49 states.

In my opinion, the licensing of x-ray operators will not provide an immediate answer to the upgrading of the x-ray operator. The currently registered x-ray technologists, working in the modern medical centers in the State, would have little difficulty in becoming licensed and also in my opinion, a limited effect in upgrading would be observed. Out in the more rural areas, licensing would be a troublesome problem. The licensing organization would either have to issue special permits to the x-ray operators who cannot meet the minimum requirements or effectively deny adequate medical care in some of our more rural areas. It is my opinion, that the licensing of x-ray operators in North Dakota would serve to provide additional paper work with only a limited return in upgrading medical and dental usage of x-ray for diagnostic purposes.

I am in full concurrence with the need and purposes as conveyed in your S. 3973, however, I do have reservations as to the effectiveness of licensing of x-ray operators in North Dakota as a means of achieving these goals. An alternative which has, by our experience, been effective in upgrading the x-ray operator is to, at the time of the physical inspection of an x-ray facility, devote time to explaining what can be done to reduce unnecessary radiation exposure. It has been a long standing policy that in addition to inspecting the facility or equipment for compliance with our regulations that we also educate as well. Another alternative could be statewide regional short courses or seminars on radiological health and/or x-ray protection. In our 1968 survey, over 85 percent of the x-ray technicians responded favorably to this proposal. Regretably we have been unable to follow-up on this or pursue it further due to the traditional "state" problem of lack of staff and funds.

I sincerely appreciate your invitation to comment on S. 3973 and your interest in a nationwide upgrading of medical and dental usage of x-ray.

Sincerely,

GENE A. CHRISTIANSON, *Director.*

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF HEALTH,
Harrisburg, August 10, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: I have received your letter of July 31, 1970 concerning Senate Bill 3973, the Radiation Health and Safety Act of 1970. Thank you for the opportunity to comment.

I agree with you completely on the need to upgrade standards in the field of radiologic technology. I also feel that, since other licensure programs have been carried out at the state level for medical and paramedical professions, the states should be given the opportunity to continue to do so in this area also.

Presently, many state health departments are working on proposed legislation and subsequent licensing programs. However, as you are aware, the wheels of state government turn slowly, especially where there may be conflicting interests relating to future programs. In addition, we all are suffering from budgetary problems, thereby limiting the resources for such a venture.

Turning to specific comments on the legislation, as you may guess from my previous statements, I would suggest a longer period of time for state implementation, i.e., up to four years from the enactment of specific regulations by the Secretary of Health, Education & Welfare. Some legislatures meet only every other year or for very short periods of time during a year. In those cases only high priority legislation can be enacted.

I would also like to suggest that an appropriation be attached to the legislation, directing the Secretary of Health, Education, and Welfare to provide direct monetary assistance to states for a period of one year to set the wheels of progress in motion. Although the program may be self-supporting through license fees when in complete operation, the machinery needed to begin will require considerable funds for proper execution. Adding this burden to the over-burdened state budgets may be the one reason for lack of state enthusiasm concerning such a program.

With those minor changes, I would wholeheartedly support the legislation.

Thank you for your interest in radiological health. The problem of reducing unnecessary radiation exposure of the citizens of this country is indeed a complicated one. Your proposed legislation is one major step toward that goal.

Sincerely,

THOMAS M. GERUSKY, *Director,*
Office of Radiological Health.

AMERICAN COLLEGE OF RADIOLOGY,
Chevy Chase, Md., September 9, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: On July 31 you addressed the American College of Radiology in regard to S. 3973, the Radiation Health and Safety Act of 1970. We appreciate the opportunity to comment.

The College does not believe that federal legislation is required for the licensure of radiologic technologists. In states in which radiologic technologists and the general medical profession believe that licensure of those working with radiation in medicine is needed and in the public interest, the College supports such local licensure efforts.

In the event that hearings are to be held in regard to this legislation, we will very much appreciate the opportunity of making a presentation and further developing our thoughts.

Sincerely yours,

WILLIAM C. STRONACH,
Executive Director.

J. FRANK WALKER, M.D.,
Atlanta, Ga., September 2, 1970.

DEAR SENATOR RANDOLPH: Your letter asking comments upon the broad proposition in your Bill S. 3973 to provide a federal basis for training and licensing x-ray technicians deserves a thoughtful answer. Thus, I have delayed my response to have an opportunity to read the bill and to confer with my colleagues in medicine and in radiology, plus discussing this with a sampling of Georgia technicians.

As you may be aware, the American Registry of Radiologic Technologists, which is a voluntary accreditation agency for individuals in the field, is sponsored jointly by the American Society of Radiologic Technologists and the American College of Radiology. The new joint review committee for schools of radiologic technology is co-sponsored by the Society, the College and the American Medical Association and is administered by the AMA. You may know, as well, that the volume of programs and of graduates in radiologic technology from the more than 1300 schools now approved by the AMA make this area by far the most productive of the several paramedical training programs.

I have been generally conversant with these efforts thru my participation in both the College and the AMA plus my involvement with technologist organizations in my own state. However, this has not been my own area of personal involvement. My opinions concerning licensure should be taken as my own, though the official policy of either of the AMA or the American College of Radiology could be obtained by your request.

In general and in all respect to your honorable intentions, I would oppose the enactment of S. 3973 on several grounds which I state below. A part of these are based upon the feeling that licensure would not solve the current problems and a part are based upon a concern that licensure would render more difficult the solving of future problems already in sight.

As I see it, the major problem in x-ray technology is the recruitment and training

of adequate numbers of well-motivated people to cope with the growing demands for x-ray services. This problem is further complicated because large numbers of young women spend only a short time as technologists before leaving the work force. We have estimated that we are short in raw numbers by 30 to 50 percent of the technologists needed to meet today's demands for x-ray services. Licensure would only make the shortage of people worse by making illegal the accommodation to circumstances which is possible now for physicians and hospitals unable to recruit fully-trained people.

A second significant problem is the variegated needs of health facilities for x-ray technologists to the extent that many of us now seriously question the usefulness of a single standard based upon two years of training.

Those of us who are radiologists must require that level or more to obtain the versatility and often special techniques involved in our practice. Where the technologist must work with isotopes or help to administer radiation therapy, additional training is essential. However, a third of the x-ray services received by Americans are not provided by radiologists. A majority of such services are provided by other physicians with limited facilities and are limited to the simpler procedures, usually not involving fluoroscopy. Many of these physicians practice in rural areas where neither radiologists nor full-trained technologists can be supported by the volume of services needed. This is not to say that persons working in those circumstances should not be trained. However, it is questionable that they should be trained to the same level as the full-time technologist with broader responsibilities. Within the current framework of voluntary standards of training and certification, we can work to adapt our programs to meet our needs. With a single standard for training and licensure, this would be made vastly more difficult.

I should note that I and most radiologists employ only registered technologists and that our organization have supported the upgrading of their training qualifications over the years. Hospital x-ray departments and radiology offices will continue to attract licensed technologists, but many other medical facilities will be unable to find or retain such skilled people for their limited needs.

In a third area of concern, the mandatory requirements that states license schools of x-ray technology are esentially redundant to the existing program of voluntary approval by the American Medical Association. The major problem in expanding schools and starting new ones would not be solved by licensing them or creating procedural difficulties in starting new ones or in changing the curriculum to meet the needs of physicians using x-rays.

Finally, if the imposition of licensure makes an existing shortage even worse, there would be little benefit to the public health in the possibility that some patients would be protected against exposure at the hands of unqualified operators. Regardless of the existence of a licensing law, the main burden of defining and maintaining a standard of good practice must remain with the physician who supervises x-ray examinations and interprets the results. This responsibility cannot be delegated.

It seems to me that your intentions are not inconsistent with our own established objectives and efforts in recruiting and training technologists. It is the nature of legislatures to deal with problems by enacting laws. It is the nature of voluntary organizations to work through education and persuasion. In my opinion, our approach is the preferable one in terms of both the short term and long term needs of the nation.

If I may be of any further help in your consideration of this, please call upon me.

Sincerely,

J. FRANK WALKER, M.D.

AMERICAN HOSPITAL ASSOCIATION,
Washington, D.C., November 12, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Thank you for inviting me to comment on S. 3973, the Radiation Health and Safety Bill, which you have introduced in the Senate. It is, of course, highly desirable that the public be protected from unnecessary exposure to ionizing radiation in connection with medical and dental usage of X-rays. Your interest in helping to insure that only qualified personnel are permitted to operate X-ray equipment indeed is commendable.

A growing number of occupational groups within the broad category of "health care personnel" are seeking licensure, including physicians' assistants, hospital administrators, occupational therapists, operating room technicians, biomedical technicians, etc. It has been estimated that nearly 200 health occupations now exist and that by 1975 each physician will make use of between 20 and 25 supportive personnel. The trend to providing health services by a delegation of certain tasks, which have been performed in the past by doctors and nurses to personnel having less training, has raised a number of complex issues relating to the licensure of health manpower.

There is need to foster the growth and contributions of the various groups of health personnel and to meet the requirement of patient safety through adequately prepared health manpower. At the same time it is desirable and necessary that the providers of health services be able to utilize health manpower in a flexible and efficient manner. Licensure through its control of both entry into a particular field and its restriction of the scope of functions which may be carried out by such individuals often tends to make more rigid the role of a licensed group. Such rigidity can fractionalize the provision of health services, impede job advancement for some employees, and hinder management in the effective use of manpower. For these reasons it is urgent that a broad and intensive review of the problem of licensure be carried out at the federal level in order to develop alternatives to licensure. Such alternatives should accomplish the laudable and desired goal without introducing the real disadvantages cited above.

About a year ago a special Committee on Licensure of Health Personnel was established within the American Hospital Association to study the problems and trends related to licensure of health care personnel and to develop recommendations for improvements in the licensure system for health personnel. An early announcement is expected regarding the work of this committee and the Association's recommendations with respect to licensing of health personnel. I will be pleased to furnish you a copy of the Association's policy statement on the licensure of health care personnel when it has been approved.

I would also note that the "Health Training Improvement Act of 1970" as approved by the Congress directs that the Secretary of the Department of Health, Education, and Welfare—"Shall prepare and submit to the Congress, prior to July 1, 1971, a report identifying the major problems associated with licensure, certification, and other qualifications for practice or employment of health personnel (including group practice of health personnel), together with summaries of the activities (if any) of Federal agencies, professional organizations, or other instrumentalities directed toward the alleviation of such problems and toward maximizing the proper and efficient utilization of health personnel in meeting the health needs of the Nation. Such report shall include specific recommendations by the Secretary for steps to be taken toward the solution of the problems so identified in such report."

This report should bring to the Congress much information that would be invaluable in considering S. 3973 or any similar measure.

I suggest that action on your bill be deferred pending issuance of the Secretary's report on this matter.

I appreciate your providing me the opportunity to express my opinion on your bill.

Sincerely,

KENNETH WILLIAMSON,
Deputy Director.

BERKELEY, CALIF.,
August 10, 1970.

Hon. JENNINGS RANDOLPH,
Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR SIR: Thank you for your letter of July 31st and the copy of Bill S. 3973.

My reply will be lengthy. I will try to keep my arguments organized but on a topic that is so complicated and about which I've thought a great deal (and with so little private time in which to do the actual typing), organization might be one of the virtues sacrificed. And so I request your indulgence.

First, let me introduce myself. I have been an x-ray technician for almost fifteen years, twelve of those fifteen as Chief Technician in the x-ray department at Alta Bates Hospital here in Berkeley. I have served as an instructor at a local college, in the school of x-ray, and am at present serving on the Advisory Committee of that school. During the years I have served on various committees regarding patient-care at Alta Bates and have attended the usual complement of conventions, seminars and workshops, the most important, I would guess, being the national seminar on x-ray technology conducted by the U.S. Public Health Service at the University of Maryland in 1967. I was one of approximately ten technicians invited from California. I helped organize x-ray technicians and for two years was president of the organization which bargained for technicians in eight hospitals in the East Bay. That organization, non-affiliated, has now been replaced by a labor union, of which I am not a member. For about twelve years I have been conducting a lonely battle to expose and stop the practice of over-radiating black patients. Much of my material was used by Ralph Nader two years ago in his own private investigation and his subsequent appearance before the Senate's Commerce Committee. An article on this battle is to be included in a quarterly to be published by Random House later this year or early in 1971. One of my most satisfying accomplishments was participation in organizing and conducting (*helping* to organize and conduct) a two-weekend seminar-workshop devoted to bringing people together from all levels (administrative, medical staff, volunteers, all departments within the hospital and consumers from outside the hospital) to discuss hospital structure and policy, patient-care, work-environment and the improvement of communications and action not just from the top down but from the bottom up. Titled "Project '70", these workshop-seminars have subsequently drawn support and praise from our administration and the officers of the medical staff and also from our fellow-employees.

Now, as to my opinions, most of which will be concerned with your cover-letter and a few of which will be concerned with the Bill itself.

I, too, have been interested in upgrading the availability and quality of para-medical health-practices and personnel in the United States. Naturally my major interest has been

concentrated on X-ray departments and personnel.

I am one of a small group of x-ray technicians who, for about fourteen years, fought a losing battle, annually, to gain state licensure for California's x-ray technicians. I remember attending negotiating sessions with the attorney representing the radiologists and the hospitals and being told we were not professionals so long as we were un-licensed (as were nurses and laboratory-technicians) and then having our efforts to gain licensure defeated by radiologists (and not very openly, or strongly, supported by hospital administrators.) A few years ago the State Society of X-ray Technologists (note, please, for the sake of "image", the decision to change, officially, the title of *technician* to *technologist;* later references will be made to "image",) which had joined the radiologists in opposition to state licensure, switched sides and began to support and then to co-opt the struggle for licensure. The Society of Technologists, sensing that some form of licensure was inevitable, decided that they had better join the struggle so they could at least have a hand in the writing of the bill. For about three years the official policy of the State Society of Technologists has been contrary to that of the radiologists but the power of the radiologists still determined the fate (which was defeat) of every licensure bill submitted to the legislature. Then, also aware of the groundswell in support for licensure, the radiologists, and for the same reasons that motivated the State Technologist Society, decided to put through a licensure bill they would write and they could control. They were successful. Governor Reagan signed the bill and it goes into effect in 1971. Many of us who for so many years have been fighting for state licensure not only refused to support the radiologists' bill but sought to have it defeated. It had, in our opinion, several serious faults, one, unfortunately, repeated in your bill. More on this later.

Before we proceed further you should be aware that it is my opinion (an opinion held quite strongly) that much of the progress you refer to that has already been made has been generated by technicians. This opinion does color many of the suggestions I will be making.

Now, as to *national guidelines.* I believe they are absolutely essential. Radiation and patient-protection (and employee-protection) are delicate topics in medical and paramedical circles. Physicians . . . radiologists and nonradiologists . . . possess an almost congenital sense of threat at the prospect of any watchdog, local or state or federal. They insist dogging themselves. But concerning x-ray technicians specifically and x-ray equipment in general (and including the *practice* of x-ray technology) many thousands of technicians feel as I do, that . . . given the existing system and the probability of its resistance to change . . . federal licensure is the wisest, safest and least chaotic solution. Certainly there would be a risk of politics occasionally affecting decisions. But consider the possibility of fifty different governors enforcing fifty different state licensure bills (if, indeed, there ever are fifty or even forty or even twenty states concerned enough to seek state licensure.) With a federal bill the possibility of politicking is reduced by a factor of 49. The protection of our citizens who might become patients in other states is improved by a factor of 49.

I'd next like to touch on x-ray equipment. Professor Karl Morgan, at Oak Ridge National Laboratory (whose advice I'm certain you must certainly have solicited already) has offered me advice and support over the years as I, and others, fought to obtain state-licensure and as I, personally, sought to provoke action to halt the over-radiation to black patients. He has suggested in many of his papers various techniques by which the producers of x-ray equipment might be made more responsible.

The problems involved in training technicians and in orienting new employees and in reducing the incredible number of "re-takes" common to every x-ray department . . . these problems could be substantially reduced by standardizing equipment, by eliminating exotic but essentially useless and expensive gimmickry, by standardizing quality-control techniques, by designing automated (perhaps computerized) equipment that reduces the growing potential for human error, by designing a fault-free beam-collimator and by generally exploiting the technology that has taken us to the moon but has failed to concern itself, to any great extent, with x-ray equipment and x-ray procedures. (How much effort, for example, has gone into researching the production of a fast film that will reduce exposure to a patient and with fine detail on that film which would increase the information available to the radiologist?)

It is apparent to those of us who have had experience with three-phase equipment (as compared to single phase, which continues to be standard in the United States) that the exposure to a patient can be reduced by approximately a third. In a lumbar spine series, for example, which consists, at our hospital, of seven films, the exposure for *each film* is a third less than it would be were we using single phase equipment.

When we purchased equipment for our new department four years ago we decided to invest in three phase Siemens equipment, which is made in Germany. Why did we not purchase equipment produced in the United States?

At the time we were evaluating equipment I sent survey-questionnaires to 60 hospitals all over the country, 51 were returned. The response to my questions left no doubt that the Siemens equipment (and Phillips, made in Holland) were superior to domestic equipment. Less service was required and when it was required it came sooner than, say, Westinghouse or GE or Picker or Keleket, domestic equipment. The Siemens equipment was designed to endure harsh treatment longer, and possessed greater versatility. In an x-ray department "down-time," the time a unit cannot be used because it is out of service, is not only extremely expensive, it means limiting patient-care. Some U.S. companies offered three-phase equipment but they could not offer the experience Siemens and Phillips had at hand. And so we bought three phase equipment, almost a million dollars worth, from Germany. It cost about 12% more but that has more than been recovered by the almost unbroken service the equipment has offered our patients.

Let me describe what now happens in our new department as contrasted to what happened two short years ago in our old department.

Using the old Westinghouse equipment I would have given a patient's pelvis a third more radiation. Using par-speed film in the old department (as contrasted to high speed film in the new) I would have given about a third more radiation, in addition to the previous third. By using low kilovoltage (as contrasted to the very high that is available in the new department) I would have added another third more radiation. By using phototime techniques (in which a photocell determines the exposure cut-off) in the new department we reduce by almost half the probability of a repeat exposure.

In the thousands of x-ray departments in the state and the hundreds of thousands in the country, there are countless variations of the above choices. A patient venturing into an x-ray department is at the mercy of the person who takes his picture. The same patient, were he to have his pelvis x-rayed in twenty different x-ray departments, could pick up dosages of radiation that might vary by as much as 200%. If the pictures were of inferior diagnostic value and had to be repeated that estimate of 200% would rise higher.

Many of us feel that not only should x-ray equipment be standardized but that all equipment dispensing ionizing radiation should be routinely checked and re-checked. Personnel who currently perform this function for California's Department of Public Health could describe equipment they've found in current use that should have been de-commissioned years ago.

Now to your question of how I would upgrade the availability and quality of paramedical practices and personnel and what I now consider the availability and quality of para-medical personnel to be. Please realize that my discussion is exclusively about x-ray technicians.

The pattern of availability of jobs and/or technicians in the Bay Area (Berkeley, Oakland, San Francisco) will vary from day to day. One day there are more technicians than job-openings and the next day there are more job-openings than there are technicians. I know that much opposition to state licensure came from representatives in rural areas because recruitment in rural areas is almost impossible under the best of circumstances now. I think there are people who would be interested in x-ray training who would prefer to remain in rural areas and I know there are, today, many young people, who, given the choice, would prefer to live in rural areas. Should dispensation be written into any such licensure bill? It might be practical but is it necessary? In rural or isolated areas where transportation of patients present problems could there be a force of mobile technicians who could transport mobile X-ray units to the patient's home and thus often postpone or even cancel the need of moving the patient until after a review of x-rays? In depressed areas, such as Appalachia, select residents from the area might be offered training in x-ray with a living wage during their training. Perhaps a select type of para-medical training could produce an x-ray technician also trained in basic laboratory and basic nursing procedures, so a visit by one person could accomplish several tasks (x-rays, collection of specimens, elementary nursing-care, etc.)

The quality of para-medical personnel. Well, given the system of training and the general environment within most x-ray departments, I am astonished that there are as many capable technicians as there are. It is a testimony, I believe, not to the system that controls the fate of the x-ray profession in this country but to the ingenuity and humanity of young people who not only go into the profession but who remain there. I would not hazard a guess as to the number of extra exposures patients have received in order to enable a badly trained technician to develop into an imaginative and conscientious member of the health-care team. Imagine your response to the suggestion that a nurse, in order to have the exact rates of flow on twenty-four IV flows a day was expected to have two or three incorrect; or that in order to have medications correct in one hundred administrations it would be accepted fact that three or four would be incorrect medications. That is what is occurring today in even the best x-ray departments.

The question it seems to me to be natural to be asked is: how can we dare permit such inadequate and chaotic training for people who, in one day in the state of California dispense more radiation to the public than the public has absorbed from the fall-out from all nuclear devices exploded to date? The standard, or so-called guarantee . . . the "R.T.," which is granted by the National Registry of Radiologic Technologists . . . guarantees only that the person possessing the "R.T." has successfully passed an exam that questions him about much material he has studied and will never use in his practice as a technician. And the so-called "ac-

credited" schools in which these technicians have trained are, at the least inadequate and at the most, criminal. Our own hospital is affiliated with the Registry and we've not been examined for four years. In almost every instance the second and third year students we have received from the local junior college with which we are affiliated have had to receive the orientation and training a beginning student would receive were we to have our own training program in our own hospital (a plan we are considering).

Other questions that must be considered relate to the screening processes that can at least weed out those most likely to prove inadequate technician candidates; that relate to the political in-fighting that goes on between radiologists and technicians and the so-called professional societies (the state and national technician societies, for example, represent far less than a third of the practicing x-ray technicians and yet determine policy for all;) that relate to the image of the technician in the radiologist's eye and the administrator's eye and the eye of the technician himself; that relate to the virtual revolution in health care and its consequent ripple-effects on tradition and change as they exist or do not exist in the machinery that grinds out technicians to serve our citizens.

How would I approach the problem? It would require an appeal to experts in many fields to act with dispatch and authority.

First, I would standardize training in all fifty states. Screening tests that would take into account the needs of the profession, the health-needs of the consumers, the social conflicts current in the United States, the compromises we would be willing and able to make . . . such screening tests have to be designed and utilized. Specialists in the needs of 1970 and 1980 America would, or should, examine current curricula and, once again with an eye to sacrifices safe and wise to make, alter existing plans and priorities.

I would suspect that examinations are necessary but I would also suspect that the current technique must be altered. Right now students cramming for a week before the exam usually answer the questions correctly enough to be granted an "R.T." and then must be hired by a department that spends thousands of dollars and months of another technician's time (not to mention the supply of bodies to be practiced on by the recent graduate) before that "R.T." is really able to function alone in most emergencies or even in most routine cases.

There are students who, like myself, just do not perform well in the exam-environment. There should be other devices, such as the oral exam, the practical exam, a delayed exam (after a year, say, in practice.) As is true with almost all technicians, I did not develop into a first-rate technician until about two years *after* I received my R.T. In the intervening twelve years I have become a very able technician. Of course, since I have diverted my energies to the administration of the department my capacities as a floor technician have suffered. They could be revived in less than a month. And I can say now that during those first two years after I received my "R.T." I was so depressed by my failings that I almost deserted x-ray as a profession. I might add that due to what I consider a reluctance of physicians and administrators and radiologists to face up to the responsibilities hospitals have to the communities they serve (especially hospitals that have been awarded huge federal grants, grants which include your and my tax moneys) I have again considered the move to another field. Many good people have left x-ray and nursing and other para-medical professions because of such frustrations and disenchantments but I suspect I will try to stay and try to have my ideas considered. Many para-medical people such as myself . . . after devoting long years of their life to health-care and finding their age a disadvantage (I, for example, am now 47 and have given almost a third of my life to Alta Bates Hospital alone) . . . many such people have no choice but to remain where they are and just simply shut up and never question rules and procedures.

Second, I would strive to have that board which prepares the guidelines and certifies schools and personnel be composed not just of physicians and technologists but of concerned and qualified representatives from other fields, such as education, labor, clergy, welfare and allied para-medical health fields such as nursing. The Board that will regulate the California State Licensure Bill, for example, has drawn a fair amount of criticism for being weighted so heavily with radiologists and with technicians from the State Society of Technologists, which, as I've already indicated, represents a very small minority of the state's practicing technicians and which, for so long, fought against state-licensure. There is no reason to believe that the new State Licensure bill will temper the strong resentments that exist in the field of x-ray. There is no reason to believe that the bill will alter the current inadequacies of California's training program. And there is certainly no reason to believe that the citizens will benefit in terms of increased protection from radiation hazard.

Third, I would examine and seek to improve the jig-saw training now prevailing in the country. There are as many training-plans as there are states and counties. Within the same county programs will vary from hospital to hospital. I think the use of junior college programs can work, I do not believe it does so now. Academic work should occur on campuses when hospitals can not provide that service. But my own experience, after hiring technicians from all over the country for the last twelve years, has convinced me that hospital-based programs are superior. The current waste of time, the duplication of tasks, the re-training after graduation, is not only very depressing but also very expensive.

Fourth, I would recommend that a student be paid a living wage. This would attract more male technicians into the field. A U.S. Public Health survey of about three years ago indicated that over two-thirds of all technicians are women and these women tend to remain in the field less than three years. Who can estimate what this depletion rate costs the profession, the health-care field, the patient?

The topic of salaries and benefits, which serves to affect the profession's "image", could occupy pages. There have been many studies of "professionals" and "professionalism". The large battle here, I feel, personally, is one of disinfection. Until recently x-ray technicians have been treated as second-class citizens of the paramedical profession. Radiologists and the professional societies determined their fates, totally. The result: apathy, transiency, a self-perpetuating state of physical and professional and moral servitude. The Bay Area (Berkeley, Oakland, San Francisco) has been in the forefront of the battle for state licensure and the battle to attain self-determination. The decision of the technicians in seven hospitals in Berkeley and Oakland to unionize has sent shock-waves through the health-care establishment. In one way my job, as Chief of the department, has been made more difficult, in another way it has been made more simpler and easier. The effect on the sixty or seventy technicians involved is very apparent. They have greater job security than they've ever had, they can not be abused by radiologists or chief technicians, they are being treated with a respect significantly absent until now. The big question no one has asked: why was unionization necessary? What was being said that was not being heard (at least to the satisfaction of the technicians) by those who decide the fate of "professionals", in this case technicians deeply devoted to the care of patients?

Fifth: how do we bridge the gap that exists between physicians and all para-medical personnel, not just between radiologists and technicians? Project '70 demonstrated both the existence of the gap and the resistance to closing it as no recent experience has demonstrated. The problems to a great extent, in Berkeley in 1970, are black-white (as all across the country) but there is a great deal more. The whole system that has defined the deification of physicians for hundreds of years has no relevance in 1970 America. We are not saying that physicians should not earn a great deal of money (though we are saying that para-medical personnel ought to earn more) and we are not saying that we have lost respect for physicians. Our respect, if anything, is greater than it has ever been. But that respect is for them as physicians. The trouble, or the problem, is that in 1970 America the line dividing physician from human-being, or person, or people, is so thin as to almost be invisible. Nurses refuse to be cursed by physicians today (at least they do here, at Alta Bates.) technicians refuse to be dictated to or ordered about or have their entire professional lives determined entirely (remember, I say entirely) by someone who, except for his medical training, has no reason to determine the lives of employees.

More black people are coming into para-medical careers. Many of them are from ghettos, speaking the language of ghettos. The new problems appear within departments, within hospitals, within communities. How do we resolve them? It deserves a study unto itself. *Project '70,* incidentally, grew out of the presence and threatened discontinuance of a sensitivity-training group that was brought to our hospital by what I consider to be the most enlightened hospital administration I've every met. Ours is, in the minds of many of us, of most of us, the *best* of hospitals. If there are so many problems about which so many of us feel so strongly in *our* hospital, imagine the conditions in the so-called inferior hospitals.

As the concept of nationalized health-care becomes more of a reality the problems mentioned above will, if anything, magnify and grow more complex. Health-care will be demanded as a right and health-care workers will demand to be treated with dignity and respect. The number of minority patients seeking care will increase, the number of minority workers giving care will increase. Among the many unforeseeable threats to the system of health-care and human relations as we now know it will be the basic problem: how do you incorporate into the system of para-medical professions people who deserve the jobs and will eventually be able to perform them as well or better than anyone else but who, now, because of their being so excluded, are unable to function as students, (unable or unwilling)? My recommendation: minority trainees, while being trained in the basics, receive a living wage (they're paid, in other words, for being in school.) This would be prior to their going into para-medical or even medical schools. What we would be doing would be under-writing the distribution of skilled minority para-medical and medical personnel among the white communities, yes, but more especially among the minority communities where they are accepted and where they would comprehend problems before they arise. This might be considered comparable to what the so-called Black Nationalists are demanding and it could even be described, perhaps, as contributing to ghettoizing or segregation, but after working with black people on *Project '70,* I would suggest the above. But even before expediting the preliminary work on the above, I would get the advice and recommendations of minority people as to whether such a plan is feasible

or meritorious. They would make the decisions.

I am enclosing with this . . . I guess that by now it can be called a manuscript, though I intended it to be only a letter . . . a list of recommendations made by *Project '70*. I've referred to *Project '70* throughout these pages. Let me digress for a moment (as if I haven't already) to devote a paragraph to *Project '70*. It is an experiment in democracy that is unique in hospitals and it could probably only have occurred at Alta Bates. But it had such an incredible effect on employee morale and brought so many hospital workers from all levels so much closer together and it covered so many topics that fit into your phrase "upgrading . . . of personnel" that I am presumptuous enough to press it on you. It is an experience that will probably be recurring more often here and elsewhere.

When the sensitivity-training sessions (that included, originally, 60 department heads and administration personnel) was threatened with termination, virtually all who had experienced the sessions (black and white) protested. A few of us met and in talking about what we might do to have the sessions continued, we discovered that we had many problems and interests (hospital-oriented) in common. We decided to meet more often. Before many days there were not only five or ten people but fifty and sixty. At first we had no direction, no plan of action. But then, when the sensitivity-sessions were revived our meetings continued. We began to prepare for two all day workshop-seminars on two different Saturdays in July. We invited employees to fill out questionnaires that would pin-point areas of their work-environment and patient-care that could benefit from open discussion by employees from every level and by physicians and by administration personnel and by volunteers and by members from the community (consumers.)

Alta Bates has an enviable reputation in the state not just for the excellence of patient-care but for the excellence of work-environment. *Project '70* brought to light problems that were lying beneath the surface in this best of institutions. At the seminars exchanges (sometimes quite heated) brought all kinds of people with all degrees of feelings (resentments and pride) together. A list of the recommendations is enclosed, along with copies of evaluations by two invited guest-panelists.

The major disclosure . . . one of two major disclosures, I would say . . . was the incredible gap that exists in hospitals between the physician and the employee. In departments such as x-ray, where physicians (radiologists) control the department, I can verify that the gap is possibly even wider than between nurse and physician or LVN or aide and physician. The effect on efficiency, on morale, on patient-care is direct and immediate.

How do we, in preparing a federal bill that will control the training and licensure of x-ray technicians, build into the machinery of legislation, some action that will bridge the gap, that will bring closer together the two groups . . . radiologists and technicians . . . who probably work together more closely than do physicians and employees in any other department? If the action is left to others the delay will be too great. Not only will the bridge widen, all across the country, but those who will suffer will be the patients your bill is so correctly designed to protect.

Sixth, some means must be found for those technicians who have the talent and the will, to move beyond the button-pushing stage in x-ray. Frustration with contemporary management reluctance to assert itself, with the conditions that have driven female technicians back to the kitchen and male technicians into other careers, must be recognized and dealt with. For those technicians who wish to go beyond button-pushing there ought to be some promise of reward. May I suggest just one.

There is, today, an extreme shortage of radiologists. Those who work are usually over-burdened. The future promises little or no relief. Recently, about a year ago (I've been trying, unsuccessfully, to locate the copy), there were press-stories about a program in which cooks, kitchen-helpers, janitors, maids, etc. were given a short training program utilizing computers and programming. The goal was to produce a person who could relieve the radiologist of some of his load by "reading" elementary x-ray studies. Within a very brief period (two months, I believe) the so-called menials were interpreting films with an accuracy that compared very favorably with the interpretations of the radiologists. Technicians could become such medical-aides, with a status and remuneration adjusted accordingly. And thereby offering some relief to the crisis of the brain-drain in radiology.

Seventh: teaching. Most people currently teaching in schools of X-ray technology are, simply, former technicians. Very few have had the training required for teaching, have the qualifications to be provocative and at the same time humane instructors and/or counsellors.

Also involved here is curriculum. To be pertinent, I and many other technicians sincerely believe that many of the subjects required for X-ray training are un-necessary. The program exists, in the main, so as to prepare a student to pass a test that asks questions relating to material he will never use and need never have studied. The argument here is that this is standard procedure, whether we talk about physicians or engineers or architects. But you and I are not concerned about other careers right now. We are concerned about persons trained to expose the people of our country to ionizing radiation.

The current curriculum (or current curriculums, because there must be fifty) must be standardized, modernized and directed to a different purpose than the passing of an exam. In addition I would recommend the creation of a board of appropriate specialists to study the entire spectrum of contemporary health-care with, in this case, special emphasis on the X-ray profession and the training of X-ray technicians.

My recommendations might be expensive and time-consuming. But we are not talking about the production of automobiles now, or the pollution of water, or the waging of a war. We are talking about caring for the injured and ill human beings who are our fellow-citizens. We are talking about the possibly hazardous pollution of the bodies of our people and the saving of their lives.

In a few short years the Health Care industry will be the primary industry in the nation. We would be ill-advised to stint on either money or personnel.

Now, let me refer to your Bill . . . Bill S. 3973 . . . specifically.

Page 3, lines 4–6. There are as many different ideas as to the meaning of "fully trained and qualified" as there are radiologists and technologists. I've known several technicians who did not perform well in the National Registry's exam but who went on to become very capable and human technicians. I also know very many who passed the test, were awarded their "R.T." and who were so incompetent they could not be turned loose on a patient. The make-up of any test is important but a test should be only one part of graduation. In actuality, most technicians are not "fully trained and qualified" until at least two years after they've completed their training and have worked in a busy and complex department.

Page 4, lines 12–20. I am pleased that you will consult with those organizations listed but I am especially pleased that you are *not limited to* those organizations.

Page 7, lines 21–23. Here we are again. Because a person is a licensed medical practitioner he is not, *ipso facto*, qualified to apply ionizing radiation to human beings. It seems to me that your bill, as does California's current bill, cuts the ground out from under itself. Either your committee is intent on protecting the public or it isn't. In California, as well as in the nation, the great majority of x-ray machines are outside hospitals, outside the control of radiologists, in the offices of veterinarians, osteopaths, chiropractors, urologists, orthopedists, internists, etc. A study by the Assembly's Interim Commission of about eight years ago proved this to be the case in California. In those offices the physician himself does not always (in fact very rarely), use the equipment. It is his receptionist or his book-keeper or his nurse, none of whom have had more than the most rudimentary instruction in the use of x-ray equipment and the protection of the patient. In excluding medical practitioners from the bill's coverage you are exposing the public to a very great hazard. Your bill would be protecting less than half of all of our citizens whose bodies are penetrated by ionizing radiation every day.

I know the medical lobby will fight you tooth and nail should you insist that *everyone* who uses x-ray equipment be compelled to be trained and tested in an accredited institution, but you've taken on the medical lobby before and you must do so again.

You should understand that were the radiologists to have insisted, here in California, or in New York, that their fellow-physicians be covered by the bill, the non-radiologist physicians could have (and almost certainly would have) charged them with a monopoly-practice. I can assure you that when and if I or anyone I love has an x-ray of their body I want those films taken by a concerned and skillful technician and I want the films to be read by a radiologist.

I would make one other recommendation. In the more than twelve years that I've been in charge of the x-ray department at Alta Bates I've interviewed hundreds of technicians from all over the United States as well as from all over the world. I believe that technicians trained in England and Denmark and Sweden and Germany are superior not just in the technical ability but in their general attitude toward patient-care. It would seem to me that a thorough study and evaluation of the training programs in those countries could only benefit your committee and the field of x-ray and, thus, the patients of our country.

Before I conclude, I want to clarify what might be construed as harsh antagonism to radiologists. I have great respect for them. Many radiologists have been of real help to me, personally and professionally. It is difficult for someone like myself to predict how I would react were I in a position of power and relative wealth. I would like to believe I would strive for the greater humanizing of relationships between radiologists and technicians than has been the case generally. It is quite apparent that younger physicians (including radiologists) who are products of a new time, so to speak, do promise to step outside the so-called professional confinement in which not just physicians but many professionals (attorneys, professors, etc.) tend to lock themselves.

I hope that this surprisingly (to me) lengthy reply to your letter will be of help. I support your efforts. And I thank you for considering my thoughts and suggestions.

I should add (I should have added in the third paragraph of the first page) that I am also a novelist. McGraw-Hill published a novel in 1967, I am completing a novel for children and I am working on a long hospital-novel which will include, in fictional terms, much of what is stated and implied here.

Sincere regards,

CHESTER AARON, R.T.

HILLCREST OSTEOPATHIC HOSPITAL, INC.,
Oklahoma City, Okla., August 5, 1970.
Hon. JENNINGS RANDOLPH,
Chairman, Committee on Labor and Public Welfare, Washington, D.C.

DEAR MR. RANDOLPH: By virtue of efforts of the Officers of the American Society of Radiologic Technologists, I am aware of the Senate Bill #3973 which was introduced by yourself and other co-authors. As chairman of the Committee on Technician Registration for the American Osteopathic College of Radiology, I am interested in the content of this legislation and of its intent and impact upon my own professional group and upon the American public at large.

It is my understanding that the request of my professional organization be included within that pool of professional organizations to be consulted by the Secretary, has already been received by yourself, and proper corrections scheduled for the next printing of this Bill.

Acknowledging the advances which have been made in the last several years in the training of technical personnel in general and of radiologic technologists in particular, I am fully aware that no group has evolved to a true national status. There is prejudice and limitation in serving the American public. Opposition to the establishment of national guidelines is therefore not possible, however, it is also recognized that this is not the only solution to the problem, but perhaps the most efficient one at this time. It follows that my main concern would be that the Secretary in following the instruction "shall consult" does not automatically transfer limited view points to the national level, but uses the consultations for the establishment of truly national guidelines for training and licensure of technologists.

This general statement is in response to your letter dated July 31, 1970. I would be happy to comment more specifically on any facet of this legislation that could be helped by my so doing. Any comments I would make would be my personal views, as the Osteopathic College of Radiology does not meet until October of this year.

Respectfully yours,

RAY E. BISHOP, D.O.

DAVIS MEMORIAL HOSPITAL,
Elkins, W. Va., August 7, 1970.
Hon. JENNINGS RANDOLPH,
Senate Office Building,
Washington, D.C.

DEAR JENNINGS: I have read the above bill and am somewhat concerned about the requirements that hospitals and doctors who take X-rays in their office be required to have only licensed technicians to take X-rays who have been trained and qualified with minimum criteria and standards established by the Federal Government.

I agree that the quality of technicians should be upgraded and perhaps this bill could include some provisions that would be beneficial, but in its present form I believe it would limit the practice of many small hospitals and doctors on account of the cost that would necessarily be charged to their patients.

I personally know of several small hospitals that would almost be put out of business if they were forced to have registered X-ray technicians because of the extra cost, even if such registered technicians would be available.

With reference to the Davis Memorial Hospital, we have two registered X-ray technicians and a trained nurse aid not registered, all of whom work under the supervision of a qualified radiologist; but many smaller hospitals could not afford that number of registered technicians and a trained non-registered assistant; therefore, would be limited in the service that they now render to their patients.

I believe some of these factors should be seriously considered in your bill, however, I am not trying to dictate to you but to express my views from personal knowledge and twenty-three years experience as a hospital administrator. I feel sure you will understand my interest and intention.

With kindest regards and appreciation of the wonderful service you are rendering to your constituents of which I am proud to be one of.

L. WADE COBERLY,
Administrator.

UNIVERSITY OF NORTH CAROLINA,
SCHOOL OF DENTISTRY,
Chapel Hill, N.C., August 26, 1970.
Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: I have just learned of the introduction of your bill (S. 3973) which provides for the development of criteria and standards for training and licensure in radiology.

I have been teaching in dental radiology for 15 years and I am greatly concerned with using the minimal amount of radiation necessary to effective dental care for the American public. It is my observation that state agencies and national agencies such as the American Dental Association have not done all they can to achieve proper protection for the public by insisting on higher training standards. Since your bill appears to offer partial solution for this problem, I will lend my support.

I would like very much to see a copy of the bill for closer inspection. If I may help you in anyway, please let me know.

Sincerely,

CLIFTON E. CRANDELL,
Professor.

THOMAS JEFFERSON UNIVERSITY,
Philadelphia, Pa., August 7, 1970.
Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: I have your letter of 31 July regarding S. 3973, the Radiation Health and Safety Act of 1970, and I welcome this opportunity to provide you with my personal observations and comments.

While I have certain misgivings and reservations concerning the bill and its implementation, I certainly concur with its basic objective of reducing unnecessary medical exposure to ionizing radiation. I think the bill should explicitly allow the Secretary more latitude in the exercise of his judgment in the application of subsequent regulations in certain gray areas. While I agree that technicians who are expected to operate a wide variety of radiological equipment should meet certain minimum standards of training and experience such as those required by the American Registry of Radiologic Technologists, I do not agree that all technicians must meet the same minimum standards nor must all operators be licensed technicians.

There are several reasons for this opinion. First is the observation that radiologic equipment varies widely as to type and degree of sophistication and degree of competence required of the operator. Some single purpose equipment such as chest photofluorographic units require only a very minimal amount of training to insure minimal exposure to the patient while achieving roentgenograms of adequate diagnostic quality. At the other end of the spectrum is equipment, such as remote controlled image intensified fluoroscopic equipment requiring the degree of competence likely to be achieved only by a highly trained diagnostic radiologist. It is therefore important to recognize on one hand the need for highly trained and educated technologists, with academic degrees in some instances, to carry out the responsibilities for patient care and to participate in all radiological procedures as is frequently required in the larger hospitals and in the offices of private practicing radiologists. Very few technologists today have the formal educational background and radiological training that will be required of those needed to practice at a professional level in the future. Accordingly, if we adopt only a *single* level of minimum standards for the accreditation of educational institutions and for the licensure of radiologic technicians, we may perpetuate a problem that exists today wherein many of the technologists are improperly trained for the responsibility that they are required to assume and other technologists are overtrained or are wasting their training in positions that require very little judgment.

Related to the above problem is the observation that there is at present (and into the forseeable future) an acute shortage of not only highly trained radiologic technologists, but also all other classes of paramedical personnel as well as medical practitioners. Accordingly, if we are to effectively deliver health care while curtailing spiralling costs, we must find more efficient ways of using to the best of their ability all people, including technologists, regardless of their level of training or competence. It seems to me that the only way to accomplish this objective is to provide a range of training levels from the lowest to the most sophisticated so that each individual, regardless of his intellectual or technical limitations, may advance as far up the technical and professional ladder as his ability and initiative permit. By providing a sufficient number of plateaus of training, vertical mobility on the technical and professional ladder will be enhanced and anyone desiring to work in paramedical fields will be able to contribute to the delivery of health care at the level of his training and ability.

It seems to me that the above approach to the problem would help alleviate the high turnover rate of partially or completely trained technologists which are lost to the field for one reason or another. Our present system is very wasteful and inefficient in this regard. A great majority of the radiologic technician trainees are young women fresh out of high school who leave a few years after training to begin raising their families. More men could be attracted into the field if there were a vertical structure for continued advancement. At the same time, many women who leave to raise families might return to the field at appropriate levels, perhaps on a part time basis later in life.

The Congress can constructively contribute to the combined effort of all the radiological professions and organizations to reduce not only unnecessary exposure to the patient, medical, and paramedical personnel, but to reduce also the gross inefficiency and the high cost of the delivery of health care inherent in our present system of modifying S. 3973 to promote the establishment of multiple levels of training and certification or licensure.

There is another gray area that may have been overlooked in the drafting of the bill about which I was reminded recently by several radiological physicists. High energy accelerators for radiation therapy (linear accelerators and betatrons) coming on the market must be operated at least part of the time by highly specialized medical physicists and engineers. While radiation therapy technologists will be trained to carry out most of the routine operation there will be occasions of varying frequency depending upon the sophistication and idiosyncrasies of individual accelerators where the physicist or engineer will have to take over the operation with the concurrence of the responsible radiation therapist if the treatment is to be adequately and safely carried out. Allowance must also be made for the operation of experimental equipment by other than licenses technologists during the

developmental stages and early clinical trials, usually in University Medical Centers. While the technologist may often be an important member of the research and developmental team, it is usually the engineer or medical physicist who must work closely with the radiologist in the design, construction, testing, and preliminary clinical evaluation.

I trust these comments will be of some value to you. If you have any questions, I would be glad to respond further.

Sincerely yours,

ROBERT O. GORSON,
Professor of Medical Physics.

MEMORIAL HOSPITAL FOR CANCER AND ALLIED DISEASES,
New York, N.Y., December 28, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR RANDOLPH: I was pleased to receive a copy of your Senate Bill S. 3973. I have reviewed this bill and hope that it will become law. Its impact would be to upgrade the care and precision with which radiation is administered to patients.

I noted that on page 4 in Section 360H(c) that in the establishment of the criteria, the Secretary shall consult with various professional organizations, including the American Association of Physicists in Medicine and the Health Physics Society. I think that this is extremely important and will help to insure intelligent standards. Many of the advances in the radiation devices being used in therapy and diagnosis have been either created by, or greatly contributed to, by members of the American Association of Physicists in Medicine and their advice should be very pertinent in the proper use of these devices.

I should also like to suggest a qualification with respect to Section 360J(a) on page 7 in which the operation of equipment is limited to defined individuals. In some instances, due to the complexity of the apparatus (linear accelerators, betatrons, heavy particle accelerators, etc.), physicists are sometimes employed in the actual operation of the equipment when patient treatment is carried out. This is particularly true with new machines in the experimental stage. Such a psyhicist would likely be largely responsible for the subsequent training of a radiologic technician. However, in order not to make it impossible for the physicist to operate this equipment I would like to suggest the inclusion of "qualified radiological physicists" as well. The term "qualified radiological physicist" has a fairly well defined meaning and refers to a physicist experienced in radiological physics, usually evidenced by certification by the American Board of Radiology.

The number of instances where the present wording of the bill would be restrictive is not large, but I should like to suggest that at some future time, when appropriate, such a modification be considered since in actual practice, operation of this advanced equipment is sometimes carried out by physicists.

I think that the proposed legislation is greatly needed and I wish to compliment you on its formulation.

Sincerely yours,

JOHN S. LAUGHLIN,
Chairman, Department of Medical Physics.

HARVARD UNIVERSITY,
SCHOOL OF PUBLIC HEALTH,
Boston, Mass., August 5, 1970.

Hon. JENNINGS RANDOLPH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR RANDOLPH: In response to your letter of July 31, 1970, we are pleased to offer the following comments relative to upgrading the availability and quality of medical and para-medical health practices and personnel in the United States.

You are quite correct in citing the need for national guidelines for the training and licensure of radiologic technologists. We support your efforts to develop legislation to provide an opportunity to the States to establish programs to implement these guidelines. In our opinion, however, such efforts should not be limited to the para-medical field. Based on recent data obtained at the Harvard School of Public Health, we believe there is an equal need for the training and upgrading of professional radiation protection personnel in this same area. Since, particularly in larger installations, the professionals are often in charge of the overall radiation protection program, it is just as important that they be aware of proper procedures as it is for the people they supervise.

Recently we issued a preliminary report (copy enclosed) of a study of the backgrounds and experience of 451 candidates who during the past ten years had taken written certification examinations administered by the American Board of Health Physics. Results of this study (which we believe directly relate to S. 3973, the Radiation Health and Safety Act of 1970) are as follows:

1. The need for greater numbers of people working in the field of medical X-ray is well illustrated by the fact that, of the 451 professional radiation protection personnel who have applied for certification, only 9 (about 2%) were employed in hospitals, and only 34 (about 7%) listed "Medical Radiological and Fluoroscopic Installations" as their number one area of competence.

2. On all the written examinations, applicants were given options in selecting questions to answer. The response of candidates to questions on "X-ray Safety" was 54%, the lowest response to any of the twenty subject categories covered. Even though many of the candidates thus "screened out" questions on X-ray Safety," average grades for those who did answer such questions ranked 17th among the 20 categories covered (i.e., grades on only 3 categories were lower).

3. The overall excellence of applicants who had received graduate training support through Federally sponsored programs was clearly demonstrated by the data. For example, students supported through the graduate Radiological Health Specialists program of the U.S. Department of Health, Education and Welfare scored almost 30% higher on questions on "X-ray Safety" than did the total group of applicants. For USDHEW supported applicants, average grades on "X-ray Safety" ranked seventh in the list of twenty categories covered.

In essence then, we see a need for programs of training and certification at all levels within the medical radiation field. We believe the data we have obtained clearly demonstrate the success of Federally supported graduate training programs in this field and we urge that you give consideration to the needs at this level, as well as for para-medical personnel. Additional specific comments on S. 3973 are attached.

Sincerely yours,

DADE W. MOELLER, Ph. D.,
Department Head.

OAK RIDGE NATIONAL LABORATORY,
Oak Ridge, Tenn., August 6, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

SIR: Thank you very much for your letter of July 31, 1970. You are to be congratulated for introducing such a fine bill as S. 3973. I have read it very carefully and see no need for any change. I had received a copy a few weeks earlier and mentioned it in my prepared testimony for the hearings before the Subcommittee on Air and Water Pollution of the Senate Committee on Public Works scheduled for August 4, 1970. Unfortunately, this hearing was canceled at the last minute by Senator Muskie. I did, however, at his request send him a number of copies of this testimony and am enclosing a copy for your use. You will note on page 30 of this testimony that I mention this bill which you introduced. Also, in this testimony many of the things I have said strongly support the need for this bill. I feel it is a very important step toward reducing the principal source of exposure to the population of the United States from man-made sources of ionizing radiation. For your convenience, also, I am enclosing copies of testimony I gave on the medical exposure problem before the Senate Commerce Committee in support of S. 2067 on August 28, 1967, and my testimony before the House of Representatives in support of H.R. 10790 on October 11, 1967. In this testimony, I summarize 63 ways by which this medical exposure can be reduced to less than 10% of its present magnitude while at the same time providing better X-ray diagnoses. Also enclosed is a copy of a paper, "Why the 1968 Act for Radiation Control for Health and Safety Is Required," which I presented before the Symposium on Radiation Legislation of the Radiological Society of North America in Chicago, December 1, 1968, and a paper, "The Need for Standardization Procedures in the Application of Ionizing Radiation to Medical and Dental Patients," which I gave at the seminar before the Bureau of Radiological Health, Public Health Service, in Rockville, Maryland. I have written many other papers dealing with this subject but will not burden you with them unless they are requested especially since there is a great deal of repetition in the subject matter discussed.

Again, I am very proud of your accomplishment and stand ready to assist you in any and every way I can. I am confident the passage of this bill will lead to the saving of man thousands of lives of people now living and children yet to be born. Of even greater importance, it will prevent many persons from suffering throughout a considerable portion of their lives with mental and physical handicaps. I think the next and final giant step remains to be taken, namely, to prepare and pass a similar bill directed toward the medical men (primarily practitioners, chiropractors and others) who at present have essentially no education and training in the use of X-rays and yet prescribe their use and in many cases own and operate this equipment. It seem almost unbelievable that more than 50% of the X-ray machines owned and operated in the United States are in the hands of nonradiologists who are not trained for such operations. It is like having 50% of our school buses operated by drivers who do not know for sure where the brake pedal is located. I am still hoping a leader such as the late Senator Bartlett will come along soon and provide appropriate legislation to bring about this final correction. It would be a very difficult job because I am afraid the American Medical Association and the American College of Radiology would not be very cooperative, at least from the start. However, the more important things in life are the most difficult to accomplish but often turn out to be the most worthwhile of our endeavours.

Sincerely,

KARL Z. MORGAN,
Director,

BATTELLE NORTHWEST,
Richland, Wash., August 7, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Thank you very much for your letter of July 31, 1970, and the copy of Senate Bill S. 3973, and for the invitation to comment on the proposed legislation.

At a recent meeting, I made the observation that when one goes to the barber shop for service, one expects and encounters a certain minimum level of competence due to some system of licensing or accreditation. When one goes for a medical or dental radiological examination, that minimum degree of consumer protection does not exist, although its need is rather more significant. It is the intent of your proposed legislation to provide this protection. This *intent* has my complete support. In my capacity as chairman of the Technical Electronic Product Radiation Safety Standards Committee created by the Radiation Control for Health and Safety Act of 1968, I know that the Committee also strongly supports the need for some type of control over the operation and application of x-ray equipment in the healing arts, without specifying how the need should be met.

Despite the full agreement in principle, I feel that there are some ways in which the legislation could be modified to be more relevant to the common purpose of good protection. My comments on these points are, of course, made as an individual, and not as a representative of TEPRSSC or any other organization.

1. *Persons covered:* S. 3973 relates only to accreditation of radiologic technologists. It is tacitly assumed (e.g. in Sec. 360J(a)) that appropriate competence exists in any licensed medical practitioner, licensed dentist, or licensed dental hygienist. It is impossible to accept this thesis. For this reason, as well as others, I prefer the approach that is being rocemmended by the Bureau of Radiological Health of HEW. Their draft of "Model Legislation for the Use of X-rays in the Healing Arts" satisfactorily addresses itself to minimum standards for practitioner training, as well as technician training.

2. *Graded training of radiologic technicians:* The standard lobbying position of the organizations of technicians is in favor of one national standard of technician accreditation. While I have the highest regard for the contribution that technicians have made to the practice of the healing arts, I do not believe that it is in their best interest to pursue this goal. I am even more convinced that it is contrary to the best interests of the citizens of the United States. Here are some of the factors:

(a) Many of the required x-ray examinations can be performed well from the medical point of view and well from the radiation protection point of view on a routine repetitive basis. This applies to *all* the exposures that should be attempted with the available x-ray equipment in probably a numerical majority of the x-ray offices in the country. To require higher qualification in such cases is wasteful and costly. More importantly, it can be demoralizing to the over-trained technician.

(b) To further reinforce this point, I recommend that you seek the views of Dr. Richard H. Chamberlain, Professor of Radiology, University Hospital, Philadelphia, Pennsylvania. Dr. Chamberlain has recently studied the potential to improve the standard of radiologic performance in developing nations where the possibility of extensive training is negligible. I understand that he is enthusiastic about the relatively high level of performance of radiology that can be achieved with standardized equipment and minimum training, e.g. three months or less.

(c) Such an approach to radiology is needed because of the serious growing shortage of medical and para-medical personnel. Continuing service at a price that the country can afford will only be possible if each para-medical person is used at all times at the full extent of his potential. At one end of the scale, this requires the routine standardized approach whenever that is adequate.

(d) When the routine cases are provided for as above, there is more scope at the other end of the scale for advancement of medicine through complex procedures including highly sophisticated radiology. The technicians in this category should be trained to a level higher than that of the present uniform certification. They are truly irreplaceable para-medics, and their salaries should be in a class commensurate with their services—at least double what is currently available.

(e) Altogether, I would expect that three clearly definable classes of training should be established. With a profession offering this graded opportunity for advancement to those capable of rising to the challenge, I would further expect that in a decade or so there would be a healthier profession.

(f) It is my firm belief that a scheme generally along these lines would have the support of groups (outside the medical profession and outside the present technician ranks) who are best qualified to judge it. Prominent among such groups are many members of the American Association of Physicists in Medicine. Radiological physicists have the advantage of profound personal knowledge of the radiology needs in hospitals and a sound knowledge of radiation protection principles. By contrast, the health physicists generally fail to match their zeal for radiation protection with an equal awareness of the realities of medical service. It would appear appropriate to suggest that the most balanced advice might come from those specialists who are truly experienced in both hospital physics and in health physics.

3. *Operation of equipment by radiological physicists:* S. 3973 currently prohibits the operation of radiologic equipment by trained physicists or engineers, unless they specifically held a technician's license. In general, this would be satisfactory but it could impede the development of new and improved equipment. The beneficial application of cyclotrons, synchrotrons, linear accelerators, and the like would undoubtedly have been impeded if each had not had a period of "electronic weaning" supervised by a trained physicist. I recommend a mechanism to make developmental operation by radiological physicists or engineers permissible.

Very truly yours,

H. M. PARKER,
Senior Staff Consultant.

DAVIS MEMORIAL HOSPITAL,
Elkins, W. Va., August 6, 1970.

Hon. JENNINGS RANDOLPH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR RANDOLPH: In reply to your letter of July 31, 1970, requesting my views on Senate Bill S. 3973, I would like to offer the following comments:

As a practicing Radiologist serving four small hospitals in Elkins, Buckhannon, Weston and Parsons, West Virginia, I too am interested in upgrading the quality and availability of medical and para-medical health practices in the U.S. and particularly in my own central West Virginia area. However, I have serious reservation that this Bill would accomplish the above purpose, but would in effect create more problems than it would solve in its present reputed form.

I have personally trained and supervised most of the x-ray technicians who are now employed in the several small hospitals listed above, and although only a few of them are registered, they are all doing an excellent job in obtaining quality roentgenograms for my interpretation. They are also continually advised and instructed on safety factors necessary to minimize exposure of ionizing radiation both to the personnel and the patient.

The availability of x-ray technicians in small towns for small hospitals has always been a problem, and I am sure the problem would be enhanced if licensed registered technicians were required in all x-ray departments, including those in doctor's offices or in a small hospital.

The cost for diagnostic x-ray studies would be increased considerably in our several small hospitals if all the x-ray departments were required to employ only licensed registered radiology technicians, and, of course the increased costs would have to be passed on to the patients already high cost of medical care.

Finally, and most important, I am fearful that the x-ray departments in the four small hospitals that I am serving as Radiologist, namely; Davis Memorial Hospital in Elkins, St. Joseph Hospital in Buckhannon, Stonewall Jackson Memorial Hospital in Weston and Tucker County Hospital in Parsons, West Virginia, would not be able to operate adequately and effectively without their present non-registered x-ray technicians.

In view of the above comments, I strongly recommend you consider changes in Bill S. 3973 to protect the interests of small hospital x-ray technician personnel, who are well trained and supervised and perform their duties efficiently and conscientiously, but are not duly registered.

Sincerely yours,

HERMAN SELTZ, M.D.

THE UNIVERSITY OF ROCHESTER
SCHOOL OF MEDICINE AND DENTISTRY,
Rochester, N.Y., August 13, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR RANDOLPH: The following is written in response to your letter of July 31 concerning the proposed "Radiation Health and Safety Act of 1970" (S. 3973). I write you as the immediate Past President of the Health Physics Society, as a member of the National Council on Radiation Protection and Measurements and as Chairman of their Scientific Committee #34 which is the Committee charged with setting maximum permissible body burdens of radioisotopes and maximum concentrations for intake of isotopes in occupational exposure and by the general population.

There is no doubt that the largest single source of exposure, above background, of the general public to ionizing radiation is in the use of radiation, particularly x-rays, in the practice of medicine and dentistry. This is not because the exposures are necessarily high individually but because of the large number of individuals who receive x-rays or other radiation exposures for the diagnosis or treatment of disease or in routine health evaluations. There is also no doubt that the total dose to the population could be reduced by a very significant factor by the improvement of techniques and equipment. Since the bulk of such work is done by radiologic technologists or other technological personnel under only the general supervision of a licensed professional practitioner of the healing arts, the proposed bill certainly aims in the right direction. On this basis I personally endorse the intent of S. 3973.

Let me comment now on some specific features of the bill.

(1) I note that it is limited to radiologic technicians in the fields of medicine or dentistry and allows for separate criteria for the dental radiologic technician, the medical radiologic technician and technicians in training. (I assume the term "radiologic technician" refers to the individual who uses x-rays primarily in the diagnosis of disease.) Thus the bill would exclude individuals working in the field of nuclear medicine or in therapeutic radiology. For the present I believe this distinction to be a wise one since the training required and the techniques involved are quite different in these areas from those characteristic of the radiologic technician as defined above. Also it is in the

field of diagnostic radiology that the largest numbers of individuals are exposed.

(2) The bill carefully avoids stating the degree to which educational criteria would be divided between didactic academic type work, and the all-important practical training to be obtained in a hospital in direct contact with patients. Again, I believe this is a wise arrangement. However, it would be desirable to have some way in which the bill could make clear that criteria are needed for *both* these important phases of the education and training and that State or other accreditation would need to be for an *entire* program not for either the academic or the practicuum phase *separately*. It is the combination of these which will bring the desired results.

(3) Under Section 360 "State Accreditation and Licensure", lines 3, 4, 5 on page 7 indicate that the Secretary may certify appropriate federal and state professional licensing organizations. What is the intent of this section? Does this exclude the equally important route of certification by a professional society? This is of course not a federal or state organization except by the coincidence of the particular state or states in which the professional society may be incorporated, etc.

Because of my desire to answer your query promptly and because of plans to leave for a vacation this afternoon, I may have missed some specific features of the bill which longer study would have brought out. However for the present these are the specifics which come to mind.

A more general comment needs to be made. This concerns the effect which licensure of radiologic technicians and the development of approval and certification criteria for these programs may have on the immediate supply of such individuals. As you know there are many quite marginal programs currently in operation. Many would be unlikely to meet the criteria of either federal or state agencies should this bill be enacted. Some of these programs could probably be strengthened, others might not ever meet the criteria and then would have to either continue without accreditation or close down. The dilemma is that the shortage of radiologic technicians is so severe that clinical radiologists and hospitals would undoubtedly feel the pinch if the procedures developed under this bill resulted in significant decreases in the supply even temporarily. Thus the deadline for the licensure and accreditation postulated in this bill must be carefully chosen. I urge that this feature be examined very carefully with the College of Radiology and other groups representing the potential users of radiologic technologists to be sure the adjustment period is sufficient to effect a smooth transition to the new and desirable standards. Without this, organized radiology might have to oppose the bill even though in sympathy with its basic purposes.

If I can answer any specific questions or be of any assistance beyond the above, please call upon me.

Sincerely yours,

J. N. STANNARD,
Professor of Radiation Biology and Biophysics.

COLUMBIA, MO.,
September 10, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate, Washington, D.C.

DEAR SENATOR RANDOLPH: I am sorry to have been delayed in responding to your invitation of July 31, 1970, to comment on S. 3973, The Radiation Health and Safety Act of 1970. My problem was that I could not establish a condition of mind over matter and conceded to the need for corrective surgery from which I am now nearly recovered. From this strained posture, I am ready to supply the comments requested and some not requested.

At the outset, I wish to disqualify myself as an unbiased observer. Radiation control is the means of my livelihood, my career, my profession, but I make no judgments of the value of radiation as a tool. Others, far wiser than I, decide the benefit-versus-risk values, and my function becomes that of attempting to minimize the risk within reasonable and practical economic bounds.

There is no doubt in my mind that people are exposed unnecessarily in medical and dental diagnostic procedures. Furthermore, I have no doubt that the *only* way to effect control of this unnecessary exposure is to control use of radiation sources by the licensed practitioner of the healing arts. He is the only person who can make the benefit-versus-risk evaluation; he is the only person who can decide what kind of procedure is required and how it is to be conducted; and he is the only person who can bear legal responsibility for his clinical decisions.

It is a political fact-of-life that the medical profession is a tough antagonist. I am sure you appreciate that better than I. The medical profession claims to be self-policing and, therefore, above public or private criticism. To a considerable extent, I believe this claim is valid; but I also believe there is a massive inertia and resistance to change within the medical profession as well as a monumental confidence in self that walls off critical comment from the outside.

The response of the medical profession to the charges brought forth by K. Z. Morgan and separately by Ralph Nader has followed a classic pattern from shock and innocent surprise to an increasingly critical self-examination. As an example of the latter, I can cite the editorial by John L. McClenahan, M.D., titled "Wasted X-Rays," published in the August 1970 issue of RADIOLOGY, the journal of the Radiological Society of North America. I commend it to your review as the first admission from within the medical profession, of which I am aware, that some exposures of patients to radiation were and are unnecessary.

About the efforts of the Congress and, in particular, the efforts of individual members such as the late Senator Bartlett, Representative Rogers, yourself, and other contributors to P.L. 90–602 and to S. 3973 to attempt to control medical and dental exposures by legislation, I am not convinced you have accomplished anything. First, I believe the significance of the problem has been magnified out of proportion. Second, I believe the control mechanisms should be directed at the practitioner rather than at his subordinate personnel or the manufacturer. Finally, I believe the intent of the legislation, however well conceived, is aborted if the Congress fails to appropriate funds to support the proposed program.

With regard to the relative significance of the risk of the public to deleterious effects of unnecessary medical and dental exposure, how can anyone devote very much attention to the consequences of a 100 millirem annual gonadal dose when over 40,000 of our young men have been killed in Vietnam, over 50,000 of our citizens are killed every year in automobile accidents, over 50,000 more are killed every year in other accidents of various kinds, and, meanwhile, we are suffering the consequences of overpopulation. We, as a nation, seem to have an uncertain standard for the meaning of life. For myself, I think an ordinary, run-of-the-mill life is overvalued. Or, at least, I am very much confused about what the value of a human life should be.

Each of us must, consciously or not, establish a scale of priorities to govern our actions and decisions about things that influence our lives. The Congress does the same thing when it decides on appropriations, when it schedules action on pending legislation, when it determines appointments to committees, and, for that matter, when it conducts any aspect of its business. At the core of my uncertainty about a response to your request for comment on S. 3973 is a lack of confidence in assigning a priority rank for what is proposed by the content of S. 3973. Clearly, you believe it deserves a high rank or you would not have proposed it, but I am less certain.

It seems to me that we, collectively, ask the medical profession to serve us according to standards simultaneously contradictory and impossible of fulfillment.

We insist that life is precious and its continuance must be maintained regardless of consequence, and then we challenge the mechanisms employed. I have a more simplistic attitude. If the average genetic (or somatic) dose can be reduced by practical and reasonable means, I'm in favor of implementing the means. But I do not always know what are practical and reasonable means. What I do know, or think I know, is that I face far more serious risk of life operating an automobile than I do in my occasional exposure to radiation. I accept willingly the risk of operating the automobile for whatever nebulous benefit is derived thereby, and, on a comparative basis, I cannot bring myself to the point of critical concern about exposure to radiation.

Having said these things, none of which you asked for, I should not be inconsistent and comment in detail on the content of S. 3973. In substance, my reaction to the content is that it is directed to the wrong part of the problem and that the problem itself is not too important. I have the same feeling about P. L. 90–602, which your bill seeks to amend. On the other hand, if legislation is not to be forthcoming to control the practitioner and control of exposure is to be attempted by establishing criteria of training for radiologic technologists, I think you should be more specific about these criteria. You may know that the radiologic technologist occupies a position well down in the pecking order of the medical profession. As a group, radiologic technologists have sought and have attained stature for themselves despite harassment from the medical profession. For this reason, they deserve protection. I recommend for your consideration the following addenda to S. 3973:

1. Add to section 360 H.(a). Criteria and minimum standards for accreditation of educational institutions shall be at least as rigorous as those established by the American Medical Association's Joint Review Committee on Educational Programs in Radiologic Technology.

2. Add to section 360 H.(b.). Criteria and minimum standards for licensure of radiologic technologists shall be at least as rigorous as those established by the American Registry of Radiologic Technologists.

While this letter is much too long already, I have several other general comments to offer. Since these other comments are available in publications, I have taken advantage of the opportunity to include reprints rather than restating them here. Selected sections are marked to draw attention to them.

Very truly yours.

JOHN H. TOLAN.

MAPLEWOOD, N.J.,
August 9, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: I wish to thank you for the opportunity to read your bill, S 3973. I have always felt that there has been a need to protect the patients from unnecessary doses of ionizing radiation. However, I do not feel that licensure of radiologic technologists is the entire answer. I am sure that you are aware of the fact that a large percentage of x-ray equipment is operated by other than trained and competent technologists. As radiologists, we insist on employing only those technologists who are well-trained and who have passed examina-

tions of their parent societies. We, as radiologists, only make up a small percentage of the actual users of x-ray equipment in this country. I have often voiced the opinion that the owner of the equipment (physician, osteopath, chiropractor, podiatrist, etc.,) should be required to demonstrate competence in the use of the equipment. The group just referred to usually performs their own radiologic procedures without the help of competent technologists.

I refer you to a bill which was recently passed in the state of California and will become law in 1971. To my knowledge, the states that now require licensure of technologists do not penalize the owner of the equipment, but, in fact, do penalize the technologist if any violation of the state law should occur. The bills are without teeth, since there is no policing to insure that the letter of the law be carried out. I am not convinced that the Federal Government should become involved in what is really a public health problem of the state. I would like to re-iterate that in Section 360 J "Prohibitive Acts" you are assuming that all licensed medical and dental practitioners are competent and have been trained in the use of x-ray equipment when this is, in fact, not the case. I am sure that you realize that in the practice of medicine, many specialties require intensive training following graduation from medical school and internship. In the past, the competent and qualified x-ray technologists have always been employed in radiologists offices and departments of radiology in hospitals. We will always continue to hire the best and most qualified technologists regardless of whether any provision for state or federal examinations are made. If I can be of any further help in clarifying any of these points, do not hesitate to contact me.

C. RICHARD WEINBERG, M.D.

UNIVERSITY OF ALABAMA IN
BIRMINGHAM
SCHOOL OF DENTISTRY,
Birmingham, Ala., July 27, 1970.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: May I take this opportunity of congratulating you on introducing Senate Bill No. 3973 cosponsored by other senators listed below to whom a copy of this note will be mailed. I would very much like to receive a copy of the bill.

My information indicates that the bill states or implies that "even the most advanced X-ray equipment will not adequately protect the health and safety of patients or technicians unless these technicians are fully trained and qualified to operate the equipment." As a teacher of dental radiology for over twenty-five years and a senior author of a dental radiology textbook, I certainly can agree with these sentiments. However, if my understanding of the present bill is accurate, I would suggest to you that it does not go far enough because the provisions of the bill are not applicable to licensed medical practitioners, dentists, and dental hygienists. The mere fact that an individual is a licentiate in the healing arts does not make him qualified in the use of ionizing radiations on humans. In my opinion, supervisors of technicians, including physicians and dentists, should be certified to oversee as well as to conduct radiological examinations. Such certification should relate to the intended use of ionizing radiation and should not necessarily encompass, and thus demand competency in, aspects of radiation usage not applicable to the individual's practice.

It is my understanding that the Bureau of Radiological Health, United States Public Health Service, has designed model legislation for possible use by state governments which probably would more nearly satisfy legislative needs as I envision them.

If I can be of assistance to you in expanding these concepts, particularly as they relate to dentistry, I would be glad to be of service.

Sincerely yours,

ARTHUR H. WUEHRMANN, D.M.D.

SENATE JOINT RESOLUTION 19—INTRODUCTION OF A JOINT RESOLUTION TO SET AN EXPIRATION DATE FOR THE MILITARY SELECTIVE SERVICE ACT OF 1967

Mr. HATFIELD. Mr. President, in 1948 the fundamental structure of the Selective Service System was established by the Congress. Since that time it has undergone some change, one occurring in 1967 with the renaming of the basic law, the "Military Selective Service Act of 1967." In contrast, the Selective Service Act of 1967 amends the basic law, giving the President authority to induct personnel into the Armed Forces. While the Presidential authority to draft is scheduled to expire June 30, 1971, the Military Selective Service Act of 1967 would continue. In other words, the institution of the Selective Service System would continue whether or not the Congress grants an extension of draft authority to the President.

Conscription in any form or degree is abhorrent to the vitality and strength of our society. For more than 160 years of our national history we have had a volunteer military. There is no more reason for us to conscript Armed Forces personnel against their will than there is to conscript postmen—there is every reason not to. Numerous reports from both private and Government sources assert that if military personnel, particularly first-term enlistees, were paid at levels comparable to what they would earn in civilian life, we could easily maintain an all-volunteer military at current and projected manpower levels. Legislation to effect changes in pay and incentives has been introduced. Two basic facts remain, however. The country as a whole must share the cost of maintaining its employees, in this case military personnel; it should not resort to involuntary servitude to have its goals accomplished. Second, if the foreign or domestic commitments of this country cannot be met by the direct or indirect support of the members of our society, those commitments should not have been made nor should they be continued. A draft can be used to facilitate the entrance of men and women into the Armed Forces, or any other institution for that fact, but there should be no imposed penalty for refusing induction. A draft system should be used to expedite voluntary entrance.

Be that as it may, current and projected military commitments can be met by an equitably paid, all-volunteer armed forces. There is no need, consequently, for a Selective Service System. Even if the Congress found it desirable to continue registration, which I feel is unnecessary, the Selective Service System would not be needed. Therefore, Mr. President, I am introducing a joint resolution today which would set December 31, 1971, as the expiration date for the Military Selective Service Act of 1967 and ask unanimous consent that the text of the legislation be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. HUMPHREY). The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 19) repealing the Military Selective Service Act of 1967, introduced by Mr. HATFIELD, for himself and other Senators, 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.J. RES. 19

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Military Selective Service Act of 1967, as amended, is repealed effective November 1, 1971.

ADDITIONAL COSPONSORS OF BILLS

S. 155

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from North Dakota (Mr. BURDICK), I ask unanimous consent that, at the next printing, the names of the Senators from Montana (Mr. MANSFIELD and Mr. METCALF) be added as cosponsors of S. 155, to amend the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States or Canada at night or a Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees.

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

S. 284

At the request of the Senator from Montana (Mr. METCALF), the Senator from Montana (Mr. MANSFIELD) was added as a cosponsor of S. 284, for the relief of Solomon Simtob.

ADDITIONAL COSPONSOR OF JOINT RESOLUTIONS

SENATE JOINT RESOLUTION 7

Mr. BYRD of West Virginia. Mr. President, at the request of the senior Senator from West Virginia (Mr. RANDOLPH), I ask unanimous consent that at the next printing the name of the senior Senator from Texas (Mr. TOWER) be added as a cosponsor of Senate Joint Resolution 7, proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or more.

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

SENATE JOINT RESOLUTION 17

At the request of the Senator from Montana (Mr. MANSFIELD), the Senator from Michigan (Mr. HART) was added as a cosponsor of Senate Joint Resolution 17, to establish a Joint Committee on the Environment.

SENATE CONCURRENT RESOLUTION 3—SUBMISSION OF A CONCURRENT RESOLUTION TO PROVIDE FOR INDIVIDUAL APPROVAL OF EACH CORPS OF ENGINEERS PROJECT BY CONGRESS

Mr. CHURCH (for himself and Mr. JORDAN of Idaho) submitted a concurrent resolution (S. Con. Res. 3) to provide for individual approval of each Corps of Engineers project by the Congress, which was referred to the Committee on Public Works.

(The remarks of Mr. CHURCH when he submitted the concurrent resolution appear earlier in the RECORD under the appropriate heading.)

SENATE RESOLUTION 15—SUBMISSION OF A RESOLUTION TO AMEND RULE XXV OF THE STANDING RULES OF THE SENATE

Mr. MANSFIELD submitted a resolution (S. Res. 15) to amend paragraph 2 of rule XXV of the Standing Rules of the Senate, which was considered and agreed to.

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

SENATE RESOLUTION 16—SUBMISSION OF A RESOLUTION TO APPOINT CHAIRMEN AND OTHER MEMBERS OF SENATE COMMITTEES

Mr. MANSFIELD submitted a resolution (S. Res. 16) to appoint chairmen and other members of Senate committees, which was considered and agreed to.

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

SENATE RESOLUTION 17—SUBMISSION OF A RESOLUTION AMENDING RULE XXIV OF THE STANDING RULES OF THE SENATE WITH RESPECT TO THE NOMINATION AND APPOINTMENT OF COMMITTEE MEMBERS

Mr. HARRIS (for himself and Mr. MATHIAS) submitted a resolution (S. Res. 17) to amend rule XXIV of the Standing Rules of the Senate with respect to the nomination and appointment of committee members, which was referred to the Committee on Rules and Administration with instructions to report back not later than March 1, 1971, by unanimous consent.

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

SENATE RESOLUTION 18—SUBMISSION OF A RESOLUTION RELATIVE TO A NEW U.S.-CHINA POLICY

Mr. GRAVEL submitted a resolution (S. Res. 18) relative to a new U.S.-China policy, which was referred to the Committee on Foreign Relations.

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

SENATE RESOLUTION 19—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. BIBLE submitted the following resolution (S. Res. 19); which was referred to the Committee on Banking, Housing and Urban Affairs:

S. RES. 19

Resolved, That the Select Committee on Small Business, in carrying out the duties imposed upon it by S. Res. 58, Eighty-first Congress, agreed to February 20, 1950, as amended and supplemented, is authorized to examine, investigate, and make a complete study of the problems of American small and independent business and to make recommendations concerning those problems to the appropriate legislative committees of the Senate.

SEC. 2. For purposes of this resolution, the committee, or any subcommittee thereof, is authorized from February 1, 1971, through February 29, 1972, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, (4) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, and (5) to provide assistance for the members of its professional staff in obtaining specialized training, in the same manner and under the same conditions as any such standing committee may provide that assistance under section 202(j) of such Act.

SEC. 3. The expenses of the committee under this resolution shall not exceed $153,000, of which amount (1) not to exceed $500 shall be available for the procurement of the services of individual consultants, or organizations thereof, and (2) not to exceed $750 shall be available for the training of the professional staff of such committee.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

ADDITIONAL STATEMENTS OF SENATORS

THE CHALLENGE OF CORRECTIONS

Mr. BURDICK. Mr. President, if this Nation is to accomplish anything in its efforts to reduce crime and violence in our society, we must do something to improve our correctional institutions and correctional programs. Until recent months, the public has paid very little attention to corrections. People in jails and prisons and other correctional programs were offenders against society that somehow had been swept under the rug for at least a period of time and there was no public concern about them unless there was a prison riot, a dramatic escape, or a new and violence offense. But the increasing crime rate has taken this luxury away from us. We must examine corrections to see what role it may play in compounding these problems.

As a result of sweeping problems under the rug, at least for a time, certain public myths have grown up about corrections. Among the greatest of these is suggested by the name corrections itself. The simple fact is that there is very solid evidence that the correctional system does not correct. In fact it probably has the latter effect. Many of the people who go through our correctional system—and perhaps as many as two-thirds, according to Chief Justice Burger—are convicted of another crime. They are the repeaters, the recidivists that we talk about.

But this is only part of the problem. Recidivism is like the iceberg, where a large part of it is under the surface and not seen. The larger part in this case may be that our institutions are not revolving doors of crime, but may, in fact, be schools. There is evidence again that the second crime or the third crime may be more violent than the one before. I am suggesting that evidence exists, for example, that the joyrider convicted under the Dyer Act of stealing a car may become sufficiently embittered or educated by the correctional system to return to society as an armed robber.

At the heart of the question of corrections, and the role of corrections in the cause of crime, is the relationship of the individual to his community. When someone commits a crime, it is obvious that something is wrong in that relationship. Something is wrong with his ties to his world, made up of his family and the people and institutions with which he deals.

I believe we can do more to prevent recidivism by strengthening what solid ties an offender may have in his community, and helping him to build the new ones he needs.

We have made some progress in correctional thinking from the time we thought the offender could survive on $30 and a suit of clothes from his release until his first payday. But we still have a great deal to do.

I warn you that there will be no panaceas in corrections. We cannot rebuild a life affected by 30 years in jails and prisons with 30 days of exposure to a modern correctional program.

We must also prevent the breaking of fragile ties to the community that can result from the jailing of someone awaiting trial. Some of the institutions where these people are kept are among the most deplorable. These jails can destroy the community ties of those found innocent, and make the problems of establishing offenders in their communities after release so difficult that the job becomes nearly impossible.

One major problem we face in trying to improve the correctional system is the lack of information. We have few hard

statistics about what kinds of people are in our system, what happens to them after they leave the system, and what kinds of things are most helpful in achieving success.

It should be our responsibility to see that correctional agencies carry out the best programs as we know them today, and at the same time experiment and collect the needed information so that we can improve the programs and innovate ways of dealing with the offenders and those awaiting trial to be sure that they are returned to society in such a way that they can lead constructive lives.

Some past efforts to deal with the question of correction have been oriented toward reciting the horrors of those institutions and programs that are at the bottom of the scale. This technique will again attract public attention, but I think we should be concerned about achieving results.

As a result, I have tentatively planned hearings into some of the phases of corrections which I believe need public examination and legislation.

A man for whom I have had a great respect as a correctional administrator is James V. Bennett, a pioneer of the U.S. Bureau of Prisons. He shared with others the dream that the Federal system would serve as a model in experimentation and program quality for State, county, and local jurisdictions to follow in operating their correctional programs. I will initiate hearings this year with an examination of the status of the Bureau of Prisons and its plans for the future.

Other areas we will examine include the standards of treatment accorded inmates of institutions being held for trial, as well as those convicted, and those in community-based programs. We will examine what resources are available, and what others need to be made available, including education and vocational counseling needed for adjustment to life.

As we begin to learn more about the correctional field, I am sure that other subjects will emerge as important enough to schedule hearings and to introduce and to consider legislation. I look upon the task facing the Subcommittee on National Penitentiaries as being very great, because of these problems. I also look upon it as an exciting challenge as we deal with one of the major problems facing our Nation.

THE ADMINISTRATION'S DOMESTIC RECORD

Mr. SCOTT. Mr. President, in the Philadelphia Inquirer recently a column by the Drummonds, Roscoe and Geoffrey, struck my fancy. I will enter it into the RECORD, but first, Mr. President, I want to extract but a few quotations:

$4 billion more is being spent on education.

Federal civilian employment is down 28,000.

Minority groups' employment is up 4,000.

Median Negro family income is up 12 percent.

Defense spending has dropped from 48 percent 10 years ago to 37 percent for 1971.

The column closes with a quotation by Dr. Patrick Moynihan, who has served the last three Presidents. Dr. Moynihan said that President Nixon is a man of "singular courage and compassion."

Mr. President, I ask unanimous consent to enter this column in the RECORD, because it is so timely and certainly appropriate to the reordering of priorities by this administration as enunciated by the President in his state of the Union address.

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

DEPRESSING, FRIGHTENING THINGS ARE BEING SAID ABOUT THE ADMINISTRATION, BUT AREN'T TRUE

(By Roscoe and Geoffrey Drummond)

WASHINGTON.—Many Americans think the record of the Nixon Administration on the home front is very slim.

This is understandable because the domestic accomplishments of the President during his first two years have made little impress on the country and have failed to come through with any vividness in the mass media. Just bits and pieces, no full-scale range of achievement.

The record is more wide-ranging, more constructive, more positive than most people realize and far more substantial than the critics have ever been willing to admit.

There are several reasons why the Administration has come off so badly in the public mind and why its image is so much poorer than its act:

The running controversy with a Democratic congress over both foreign and domestic issues has blacked out much of the constructive news from Washington.

Nixon has proved not to be a very effective advocate of his own programs and in the November elections he failed to focus on the positive record.

There is more instinctive hostility toward Nixon among Washington correspondents than there is cordiality and this bears somewhat on how the President's motives and acts come over to the people.

Most critics of the Administration center on condemning it for not doing enough but rarely admit that in many vital areas it is doing much more than its predecessors.

We are not suggesting that the Nixon Administration couldn't be doing more than it is. Its programs certainly do not reach—and couldn't—to ending all poverty, meeting all the educational needs, building enough low-cost housing at once, and wiping the whole stain of racial discrimination from the face of the nation.

But it is already doing a lot and it is only fair to recognize it:

It is spending $4 billion more on education than was being spent when it took office.

It has nearly doubled the number of needy people getting food assistance since 1969 and tripled the number getting food stamps. In the spring of 1969, school lunches were reaching 3 million, now they reach 5.3 million.

Total Federal civilian employment is down by 28,000 while minority groups holding government jobs is up 4000.

Median Negro family income was $5360 in 1969. It was $6000 in 1970—a 12 percent increase.

Until recently, unemployment among black male adults ran twice as high as among whites. Last month, white unemployment was 4.5 percent, black unemployment not 9 percent but 7.2 percent.

More school desegregation has taken place since Nixon became President than in the entire period between 1954 and 1970. Since January, 1970, the number of Negro children in school districts in the South which are legally desegregated rose from 6 percent to 90 percent this year.

Social Security benefits have more than kept pace with inflation.

For the first time in 10 years the percentage of the Federal budget devoted to human resources is greater than that devoted to national defense.

Defense spending has dropped from 48 percent in 1961 to 37 percent in 1971. Human resource spending is up from 30 percent to 41 percent. That's re-ordering priorities.

Mr. Patrick Moynihan, a liberal Democrat who has served Mr. Kennedy, Mr. Johnson and Mr. Nixon, remarked recently in his farewell to the Nixon Cabinet:

"Be of good cheer and good conscience. Depressing, even frightening things are being said about the Administration. They are not true. This has been a company of honorable and able men, led by a President of singular courage and compassion."

Each will judge for himself how able and how compassionate. But those who judge should not look only at the distance still to go but also at the distance already covered—and the will to keep going.

REDUCTION OF MORTGAGE RATES

Mr. PELL. Mr. President, at this time when this country is still suffering from its severest recession since 1958, at this time when the unemployment rate is hovering around 6 percent, I am delighted to to bring to the attention of my colleagues a small bit of good news from my own State of Rhode Island.

A bank in the town of Westerly, R.I., has taken an extraordinary step and has voluntarily reduced its interest rates on its outstanding mortgages.

I believe this action by the Washington Trust Co. of Westerly, R.I., reflects a humanitarian concern for the economic well-being of the residents of their community, for many of those citizens, like other Americans across the Nation, are either unemployed or having difficulty handling their debts in this recessionary period.

It is my hope that other banks in Rhode Island and in the Nation will follow the lead of the Washington Trust and provide some relief to the country's overburdened homeowners and reduce their interest rates on outstanding mortgages.

Mr. President, I ask unanimous consent that a news article from the Providence Journal describing the steps taken by the Washington Trust Co. be printed in the RECORD.

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

[From the Providence (R.I.) Journal, Jan. 21, 1971]

WESTERLY BANK TO CUT RATES ON MORTGAGES

The Washington Trust Co. of Westerly is "arbitrarily and voluntarily" reducing interest rates on most of its mortgages, president Robert B. Berry announced last night.

Starting with Feb. 1 payments, the bank is dropping by one half of one per cent the interest on all mortgages carrying an 8¼ per cent or higher rate.

Mortgages with an 8 per cent rate will have it reduced to 7¾ per cent and the bank is going down to a 7½ per cent rate on new mortgages where they involve prime, one-family dwellings in desirable areas, with top credit and with an adequate down payment, Mr. Perry says.

Nearly 40 years ago, Washington Trust set the precedent for such a voluntary rate reduction when it slashed mortgage interest charges from 6 to 5 per cent.

According to recollection, a number of

other Rhode Island banks followed the lead of the relatively small Westerly institution.

"That was in 1933," Mr. Perry says, "Mortgage rates had held at 6 per cent for a number of years but with the economic situation what it was in the early '30s, Washington Trust decided to help where it could and the rate reduction was decided upon."

He says the understanding was that monthly mortgage payments had to be kept up or the bank would reinstate the 6 per cent charge.

Mr. Perry says the 5 per cent rate prevailed throughout the rest of the 1930s and well into the '40s before yielding to the upward trend which brought it, in the late 1960s, to present high levels.

He says that the present cutback will involve close to $5-million in mortgages carrying the 8 per cent rate or higher.

Since the bank's mortgage portfolio is a bit more than $23-million, this means nearly 22 per cent will benefit by the one half of one per cent rate cut. Most of the mortgages are for a 20-year term.

Mr. Perry said last night that since 1933 the bank's mortgages always have been written in such a way as to enable it to lower the rate. He also said the bank traditionally has permitted pre-payment of mortgages without penalty.

TRIBUTE TO SENATOR RUSSELL

Mr. DOMINICK. Mr. President, the passing of Richard B. Russell is a great loss to this Nation, to the U.S. Senate, to the State of Georgia, and to me. He was a committee chairman without peer; a counselor to Presidents; and a friend to whom we could always turn, regardless of the side of the aisle on which we sat.

Dick Russell was a patient teacher to those of us junior to him. He was a great patriot and exemplified loyalty to the highest traditions of statesmanship.

Every American, regardless of party, should mourn the passing of a great champion of our liberties and the safety of our country. America has lost one of her greatest statesmen; the Senate has lost one of its most beloved leaders; the State of Georgia has lost one of her most distinguished sons. I have lost a respected colleague—a cherished friend.

AGENDA FOR A REFORMED FEDERAL TRADE COMMISSION

Mr. PROXMIRE. Mr. President, the Federal Trade Commission is finally beginning to show signs of life. It has begun to actively protect the long neglected consumers. I think such activity ought to be encouraged and expanded.

However, there is so much to do in order to bring consumer protection up to minimally acceptable levels that we must stop fighting brushfires and start fighting the basic blaze which feeds these brushfires. This means a reallocation of resources and priorities.

The Federal Trade Commission must reassume its function as the Federal Government's principal agency for economic investigation and begin an intensive and extensive study of oligopolistic industries. The Federal Trade Commission has already begun to study the energy and cereal industries, but far more resources have to be committed to these studies and to the other industries which are basically oligopolistic.

According to some reputable economists 90 percent of our inflation is due to the behavior of oligopolistic industries, $60 billion or 6.2 percent of total output is lost from the gross national product because of the behavior of the oligopolistic industries, the high unemployment rate is also attributable to the behavior of the oligopolistic industries and finally a good deal of the bigotry and discrimination that still occurs in American industry occurs in the oligopolistic industries.

The Consumers Education & Protective Association, Inc., 6048 Ogontz Ave., Philadelphia, Pa., 19141, has just published an agenda for the Federal Trade Commission. Although, of course, I do not agree with everything in their proposal, I do agree with the general outline they have proposed and would like to call it to the Senate's attention. I ask unanimous consent that it be printed at the conclusion of my remarks.

I think the Federal Trade Commission ought to undertake an immediate investigation of the primary oligopolistic industries and that we should furnish the Commisison with whatever it takes to obtain this vital information. Even if the Congress or the administration fails to take action on the basis of this information, the mere existence of this information from an authoritative Government source would significantly ease the chore of private individuals in protecting themselves from oligopolistic industries.

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

AGENDA FOR A REFORMED FEDERAL TRADE COMMISSION

(Position paper of Consumers Education & Protective Association, Inc., Philadelphia, Pa.)

1. *FTC as Government's Principal Agency for Economic Investigation*—The Federal Trade Commission was once the nation's major economic investigator, its economic investigations having led to the passage of such statutes as the Securities and Exchange Act, the Packers and Stockyards Act, Federal Communications Act, etc., and having been the backbone of such large national inquiries as the TNEC studies.

It should reclaim that key national role. The first step is obviously the development of the necessary economic expertise by (a) acquiring the necessary data on the relevant structure-conduct-performance characteristics of the country's some 430 manufacturing industries (plus the 200 odd industries in the non-manufacturing sector over which the FTC has jurisdiction), particularly the 50 or so major concentrated industries, and (b) orienting and training its personnel, both legal and economic, toward serious economic analysis of important industries rather than legal trivia.

2. *Oligopoly Study*—The Commission should immediately get under way a systematic study of oligopoly in the United States, one that would (a) identify those industries that are non-competitive, i.e., that are charging consumers higher prices than they would be able to charge if they were unconcentrated, and (b) estimate the amount by which each of those industries is overcharging the consumer. (A recent study, Dr. William G. Shepherd, Market Power & Economic Welfare (Random House, 1970), pp. 274–81, lists 94 such industries that are oligopolized and charging super-competitive consumer prices.) One scholar estimates that oligopoly is costing the economy (in terms of lost GNP) some 6.2% of total output, or roughly $60 billion per year. Dr. Frederic M. Scherer, Industrial Market Structure and Economic Performance (Rand McNally, 1970), p. 408. According to Shepherd, supra, approximately $100 billion of the country's total wealth is now in the hands of monopolists (oligopolists) that, if competition was restored in these industries, would return to smaller firms there.

3. *Annual Report to Congress on 'State-of-the-Competitive-Economy'*—The FTC should report to Congress annually at the beginning of each session of Congress on the state of the nation's competitive health, including FTC progress—or lack of it—in reducing the consumer losses associated with the oligopoly industries (see 2, above), together with an appropriate legislative program, including necessary budget. (Made directly to Congress, unmonitored by the Executive.)

4. *Annual Report to Congress and President on Regulated Sector of the Economy*—As the nation's major agency for detailed *economic* investigation (see 1, above), the FTC should report to Congress and the President each year on how well the country's various regulated industries are serving the public interest, *i.e.*, it should assess, along the lines of the oligopoly study mentioned above, the structure-conduct-performance characteristics of those industries such as transportation, energy, regulated agricultural products, etc., that are subject to public regulation. More specifically, the Commission should be prepared to (a) identify those regulated industries that are charging higher-than-competitive prices for their goods and services, and (b) state how much their prices exceed the competitive level, and the total amount the public pays for their regulation.

It has been estimated by reputable scholars, for example, that, by artificially restricting either (a) entry, or (b) output, or (c) both, the Civil Aeronautics Board (CAB) is costing consumers approximately $1 billion annually in higher-than-competitive airline fares (an excess of about 30%); ICC is costing consumers from $2 billion to $6 billion in higher-than-competitive transportation costs; the Agriculture Department is costing consumers approximately $35 billion in higher-than-competitive food prices. (Less than 5% of the population is now on the farms, and no reputable, competent scholar believes this figure can rationally go any way but down still further; we simply have too many people on the farm, living on incomes too small for human decency. The $35 billion subsidy does little to improve the standard of living of the majority of families. The problem of full employment is mentioned below.)

5. *Transfer of "Competition-Monopoly" Problems from Other Agencies to FTC*—As the country's major agency for economic investigation, the FTC should be given jurisdiction to either administer, or at least intervene in other agencies' administration of, economic policy that has a significant "competition-monopoly" aspect to it. For example, it is common ground among serious scholars of the problem that the Agriculture Department, in its role as advocate for its "clients," the farmers, has a plain conflict-of-interest with its supposed role of serving the public at large (the 95% of the population that are non-farmers). Monopolies and cartels thrive under Agriculture Department supervision in such vital industries as milk, orange juice, celery, etc. Hence Capper-Volstead, Packers-Stockyards, etc., should be transferred to FTC or subjected to the discipline of its intervention on behalf of consumers.

6. *"Certification" of Industry "Competitiveness" to Other Public Agencies*—Again as the nation's major economic investigating agency, the FTC should "certify" the state of an industry's competitive health as a precondition to that industry's being eligible

for certain kinds of public subsidy or favoritism. For example, the Tariff Commission maintains entry barriers (import duties) around a host of American oligopolies, thereby giving them the power to charge the consumer prices that greatly exceed competitive levels. Tariff protection should obviously be available only to competitive industries—those not abusing the consumer—not to oligopolies with higher-than-competitive consumer prices.

The FTC should therefore report to Congress, the President, and the Tariff Commission, at least on an annual basis, the degree of competition (or noncompetition) then prevailing in each of the industries protected by tariff barriers. More specifically, the FTC should (a) identify those tariff-protected industries that are charging higher-than-competitive prices to the American consumer, and (b) estimate the amount (10%, 30%, etc.) by which each such industry's prices exceed the competitive level. All tariff-protected industries in which (a) the four-largest firms have 50% or more of domestic sales, or (b) where supply of the product is publicly regulated (e.g., oil), would have to obtain FTC certification of "competitiveness" as a precondition to retaining such tariff (and import quota) protection.

7. *Public Information on Consumer Prices*—Various consumer organizations, public officials, and members of the public have been calling on the FTC in recent months to state whether or not the consumer is in fact paying a competitive price for the goods of certain concentrated industries, e.g., milk, bread, soup, cereals, tires, orange juice, automobiles, gasoline, etc.

Does the FTC, upon inquiry from the public, have a right to say, "We don't know?" It would be hard to name a duty that is more central to the Federal Trade Commission's responsibilities than that of (a) knowing which industries are charging the public higher-than-competitive prices (and by how much) and (b) making that information available to the consuming public. If the citizen does not have the right to expect his government to protect him from monopoly pricing—and to reassure him, on request, that he is so protected—then it seems plain that economic justice is being denied the American public on an unbelievably vast scale.

Can the FTC in fact assure the American consumer that she is paying no more than a competiitve price on the 94 industry-products listed by Dr. Shepherd as being priced at higher-than-the-competitive prices, e.g., bread, milk, cereals, automobiles, gasoline, etc.? It obviously cannot give such assurances, since (a) it is not a fact, and (b) the Commission has not even inquired into the matter.

8. *Advertising, Concentration, and Deception*—The FTC should issue a trade regulation rule requiring the filing with the Commission 60 days in advance of publication all advertisements where:

a. The sponsoring firm is one of the four (4) largest in an industry in which the four largest firms account for 50% or more of a product's total sales; or

b. The percentage of the industry's sales accounted for by the four largest firms has increased by 10 percentage points or more during the preceding 10 years; or

c. The advertising expenditures of the 8 largest firms exceed (say) $10 milion or 1% of their total sales, whichever is smaller; or

d. The sponsoring firm has been found by the FTC to have engaged in false, deceptive, or misleading advertising in the past, i.e., is under an FTC order to stop engaging in false advertising. (Prospective only; should be incorporated in future orders.)

Extensive empirical research of the country's industrial organization economists leaves little doubt that at least half or more of the annual losses of consumers from monopoly (oligopoly) overpricing in the economy is due to a phenomenon called "product differentiation," i.e., to advertising-created monopoly power. The role of high-intensity advertising in creating (a) high concentration, and then (b) higher-than-competitive consumer prices, is now beyond any really serious dispute. See e.g., the FTC's own recent Economic Report on the Influence of Market Structure on the Profit Performance of Food Manufacturing Companies (September 1969). Highly "differentiated" consumer products sold by concentrated industries tend to be, on the average, approximately 20% higher in price than physically comparable products sold under lesser-known or private label brands. See Scherer, *supra*, p. 331.

In short, advertising of a certain kind and intensity has substantially the same concentration-increasing effects as mergers. And should accordingly be treated in the same fashion, i.e., should be prohibited where it has the effect of lessening competition (increasing concentration). The FTC should stringently evaluate the advertising programs of the firms in the above categories and, on a finding that they are likely to increase concentration (maintain an unacceptably high level of concentration), should advise the firms in question that, if published, they will be challenged as contrary to the nation's policy against high concentration as announced in the Supreme Court's merger cases.

9. *Inflation*—The FTC, again as the nation's prime agency for conducting economic investigations, should be prepared to respond promptly to an inquiry from Congress or the President on the inflationary impact, if any, of a given price or wage increase in any industry.

The unemployment rate in the United States has risen some 2.5 percentage points during the past year, from 3.5% in 1969 to over 6% at the present time. With a work force of just over 90 million, a 1-percentage point change in employment means a change of nearly 1 million men. In short, just over 2 million men have been deliberately put out of work in the past year for the sole purpose of fighting inflation. Inflation is caused basically by either (a) excess demand (too much money chasing too few goods), or (b) the presence of monopoly power in certain sectors of the economy. There is currently no excess demand in the American economy—the high unemployment proves that. Knowledgeable industrial organization economists have recently estimated, for example, that as much as 90% of the inflation experienced in the United States in recent years is due almost solely to monopoly (oligopoly). If there was no oligopoly, we could thus have both full employment (about 3% unemployment) and zero inflation.

Put another way, then, we currently have 2 million men unemployed because of our refusal to do anything about the monopoly (oligopoly) pricing power of a handful of giant business firms and their labor-union counterparts in their industries. (Wage gains in excess of productivity gains are possible only because the firms have the power to pass them on in higher prices. And oligopoly-caused "sticky" prices prevent downward price movements in industries which are benefiting most from technological change.)

10. *Pollution, Safety, Racial Discrimination in Employment*—The FTC, as a part of its reporting requirements on economic and industrial matters, should study and report on the association between monopoly (oligopoly) and such current social concerns as pollution, safety, and racial discrimination in employment. Recent empirical studies (e.g., Shepherd, *supra*) have reported that these problems are in fact found almost entirely in the country's highly concentrated industries, rarely in industries that are competitively structured (unconcentrated). Just as the firms in highly oligopolized industries tend to collude (explicitly or implicitly) on price, so they tend to collude on the suppression of technology in matters of health and safety and to indulge the uneconomic preferences of their executives in picking their white-collar employees on the basis of race.

Firms ranking among the 1,000 largest—and all other companies that have a market share in any industry of 10% or more, especially in concentrated industries where the four largest hold 50% or more of total industry sales—should be required to report, as part of their overall social responsibility to the nation, on a product-by-product breakdown of such socially relevant factors as (a) profit rates (as a percent of stockholders' investment), (b) racial composition of employment, (c) advertising expenditures as a percent of sales, (d) research expenditures as a percent of sales, and (e) other facts that the FTC should determine are in the public interest.

11. *Disclosures in Advertising.*—In view of the concentration—increasing effects of certain kinds and degrees of advertising, the FTC should issue rules requiring firms meeting the criteria described in (8), above, to (a) disclose, as suggested in the Chevron matter, prior deceptions; to (b) disclose, as in the recent gasoline "octane" matter, important performance characteristics of their advertised products. In addition, wide publicity should be given to these required disclosures. For example, the Chairman of the FIC should request of the FCC and the TV networks an opportunity to go on the air to the nation on the effective date of the octane-disclosure rule and explain the fact and significance of that ruling to the country's motorists, i.e., the fact that branded gasolines, although costing some 3¢ more, have no more operating utility than unbranded gasolines of the same octane rating.

12. *Concentrated Industries Task Forces*—In view of the significance of certain key industries in the country's overall inflation-unemployment problem (see 9, above), a series of "task forces" of economists, attorneys, and other professionals should be set up immediately, on a "crash" basis, to study the structure-conduct-performance characteristics of the 20 most important industries in this regard. (An estimated 30% of the total amount of the country's inflation in the 1950's was caused solely by the steel industry; automobiles accounted for a very large share of the remainder.) As the preliminary studies of these 20 industries are completed, hearings should be held by the Commission to further explore the competitive performance of those industries. For those that are believed by the Commission to be charging higher-than-competitive prices, the FTC should then either (a) bring whatever antitrust actions might be appropriate to lower prices in those industries to competitive levels, (b) recommend appropriate action by any other public body that might have an effective technique available to it for lowering those prices to competitive levels, (c) recommend appropriate legislation to Congress for securing competitive prices in those industries, and (d) inform the public as to which of those industries are charging higher-than-competitive prices (and the degree of the over-pricing involved), so that the consuming public can take the appropriate steps to minimize its injury therefrom, e.g., by shifting to substitute products, by doing without the products involved, etc.

13. *Top Level Leadership in FTC—Economic Expertise*—The top level staff of the FTC, including a majority of the Commissioners, should be selected on the basis of their capacity to carry out a program oriented toward the nation's major economic problems as outlined above. And this means, of course, that they must have, in addition

to their legal training (for those in the legal bureaus), the appropriate kind and amount of economic training.

Considering the vast stake of consumers in the quality of FTC top staff personnel and Commission members, there should be full consultation with organized consumer groups before such appointments are made. The charge of conflict of interest—of putting business advocates in charge of consumer protection—is too serious to be summarily dismissed.

14. *Overcharging the Poor—Staples (Milk, Bread, etc.)*—It is widely recognized that a wide array of staple food items—milk, bread, cereals, soup, soft drinks, etc.—are thoroughly monopolized either at the national level or in most of the major metropolitan areas. These food items account for a disproportionately large share of the total budgets of the poor. Thus while food accounts for just under 20% of family income for the population as a whole, it totals as much as 50% of the income of many poorer families.

A great deal of economic research has already been done in a number of these staple food industries, particularly bread and milk. These industries are highly concentrated, have been repeatedly convicted of price fixing in various cities around the country, and charge consumer prices that have been repeatedly estimated by knowledgeable economists to be 30% or more above the competitive price that consumers should be paying. Total sales of bread and milk amount to roughly $10 billion each per year, or $20 billion for the two of them—nearly 20% of the consumer's $100 billion national food bill. The poor are obviously hit especially hard by price-fixing conspiracies on these two items. In milk, for example, the high prices maintained in such cities as Philadelphia, New Orleans, and the like have caused per capita consumption to drop by as much as 20%, this suggesting that the children of the poor are being prevented from getting adequate quantities of milk as a result of these collusively-fixed exorbitant prices.

It is inconceivable that in an age of presumably advanced social concern that an agency charged with maintaining competitive pricing in the nation's markets should refuse to respond when told that the country's poorest families are being charged collusive prices running an average of 30% above the competitive price for two of their major food staples, bread and milk.

By restoring competitive pricing in milk and bread alone, consumers as a whole would benefit by an estimated $6 billion (30% of $20 billion). The nation's poor need their share of this stolen money returned to them very badly indeed. Why doesn't the FTC get on with the job of seeing that economic justice is done here?

15. *"Legality" of Monopoly Pricing*—The FTC has refused to act against industries known to be charging super-competitive prices to consumers because, as we understand it, the individual members of the Commission deny that the consumer has any legal right to buy at competitive prices. The Commission's members insist that they have no authority under the law to protect consumers from monopoly pricing. Thus FTC Chairman Miles W. Kirkpatrick was recently quoted in a Washington newspaper as saying that he would not recommend or support legal action against an industry that was overcharging the public by as much as 25%—which amounted to $250 million per year in the $1 billion industry he was asked about—so long as there was no proof of "collusion" or other form of "unfair competition" against competing businessmen.

In brief, monopoly overpricing is considered irrelevant in the FTC's work. No effort is made by the FTC to find out what effect the country's industries are having on consumers; "unfairness," save in the case of demonstrated collusion, is not something an industry does to the consuming public but something one businessman does to another businessman.

Is this the law? Does American business have a "right" to go on building their industries to high-concentration levels (oligopolies) and then using that concentration to engage in quasi-collusive "price leadership" that duplicates the economic effects of price-fixing and monopoly without incurring any opposition at all from the FTC's alleged law enforcement program?

If this is the law, then the FTC and the courts have, in effect, "defined away" the problem of monopoly in America. They say a monopoly is a situation where a single firm has 90% or more of the total sales of some industry (citing some outmoded legal precedent). But in America in 1971, there are virtually no such corporate Neanderthals as this. America's law against monopoly is now, it seems, the intellectural equivalent of declaring dinosaurs illegal. There are none, so the FTC can sit back and complacently say, "See, we've done our job; there are no monopolies." In the meantime, every reputable economist in the country tells us that the nation has at least 100 highly effective monopolies (oligopolies)—constituting some 35% of all American industry—and that they are costing the American consumer, in inflated monopoly prices, something on the order of $100 billion per year.

Do the other four FTC commissioners share Mr. Kirkpatrick's view that consumers have no legal right to buy their necessities of life at competitive prices? If so, then their legal or their economic qualifications to hold their jobs ought to be re-examined.

CONCLUSION

If the FTC does not have the duty to do these things—or to at least conduct the necessary investigations to establish the need for them to be done—then it is clear that the Commission has failed in its major mission, that of the nation's primary agency for economy-wide economic investigation. It will also be clear that there is a wide gap indeed between the promise and the reality of economic justice in America.

THE GENOCIDE CONVENTION AND AN INTERNATIONAL BODY OF LAW

Mr. PROXMIRE. Mr. President, the Genocide Convention, in a very narrow sense, concerns itself with the prevention and punishment of genocide. Yet its message goes beyond this—it is one segment of an entire skeleton of international law. A strong body of international law and justice will best guarantee those inalienable rights—life, liberty, and the pursuit of happiness.

Last year my colleague from Wisconsin—Senator NELSON, introduced the following amendment to the Constitution:

Every person has the inalienable right to a decent environment. The United States and every state shall guarantee this right.

The threat of environmental destruction is as great as the threat of genocide posed in Africa, the Middle East, the Caribbean, the Mediterranean, by ethnic hatred, hunger and famine, war, torture, and repression. If the excesses of World War II have not been repeated, the Genocide Convention may have had a part to play. Certainly, the concerns of this treaty are the concerns of today and tomorrow. It is too late to pretend that this convention does not matter.

The technology that landed men on the moon brought with it clouds of pro-tending doom. The envelope of air surrounding the world became seriously harmed by thick, noxious clouds of pollution. Toxic pesticides and detergents, oil slicks of frightening proportions, uncontrolled waste and effluent spoiled and destroyed our rivers and lakes. Eminent biologists warned us that the precious oceans might be devoid of productive sealife in 50 years at the present rate of pollution.

This policy of trading away the future for the luxurious and easy present led us, perhaps by default rather than by design, to a point where we found ourselves, in the words of Pete Seeger, "standing knee deep in garbage, throwing rockets at the moon."

The issues comprehended within the Genocide convention are almost always associated with threats or breaches of international peace and security because of armed conflict. Yet the threat posed by an environmental catastrophe is just as serious as that posed by genocide or war. The right to a decent environment is protected by the United Nations in its Declaration of Human Rights. Both are vital to preserving human liberty and freedom.

Each day as we read the newspapers, we hear of one more animal being placed on the endangered species list; one more lake or ocean being ravaged by oil; one more timberland being cut to ribbons by the menacing jaws of the lumber industry. We hear of watersheds and grasslands, owned by the public, being destroyed by the hooves and teeth of flocks of sheep. One Member of this body described this tragic state of affairs as buying "environmental disaster on the national installment plan."

Again and again, we hurl crude clubs against the fragile web of life on earth. Again and again, we dismiss the warnings of eminent biologists and scientists. One-third of the world's original forests are gone; over 280 million acres of crop and range land have been degraded in our history as a country one-third of our 9 inches of precious topsoil has been washed away. The industrial nations of the world, like hungry beasts, scour the earth to satisfy their rapacious appetites. In the board rooms of giant corporations, decisions are made that vitally affect the life of millions and the health of Mother Nature herself.

In this decade, it would be wise for us to ponder what it means to go to the moon and still have millions starve; to transplant human hearts, yet continue to refuse "medical aid" for the environment; to travel to Paris a little faster in a giant boondoggle SST, yet find it impossible to travel to work easily and cheaply; to have instant replay for millions of TV viewers, yet find our priceless wilderness areas vanishing from sight, impossible to bring back by any technological feat.

It is clear that international cooperation on an enormous scale is an imperative if mankind is to avert ecological catastrophe. With the ratification of the Genocide Convention, we can take a much needed step toward building a body of international law—a prerequisite

for international cooperation. International cooperation is necessary to prevent genocide and preserve human dignity and freedom, yet it is also so extremely important to prevent environmental destruction.

The challenge before us is one of epic proportions. All the talent, resources, and energy of mankind will have to be harnessed if we are to restore the health of Mother Nature. It requires not only a reordering of priorities, but almost a total change in national outlook and thinking; it requires a concern for the quality and not quantity of life; a society that conserves resources and does not consume them at bizarre rates; a society that values its environment as something more precious than all the trinkets of consumerism; a people that cherish all life, animal or human. The environmental crisis affords us, ironically, the opportunity to engage in far-reaching international cooperation, to harness the common concerns of mankind for a healthy, full, and dignified life. Nations who once only spoke to each other with weapons, can open a dialog of international concern over the destruction of the environment. It is to this hope of international cooperation that the Genocide Convention speaks; it is to this dream of mankind that we must address ourselves.

We cannot speak of preventing genocide and preserving human dignity and freedom and ignore the threat of environmental suicide. The challenge of preserving man's health and that of Mother Nature addresses itself to the question of how far man can use knowledge and human resources in shaping his destiny. For too many years, we have stood aloof from this question as regards the Genocide Convention. I hope the Senate will act on the Genocide Convention at the earliest possible opportunity.

YET ANOTHER QUAGMIRE?

Mr. MONTOYA. Mr. President, it is increasingly obvious that the situation in Cambodia is deteriorating alarmingly in military terms. That nation's armed forces are unable to cope with the military situation. Much, if not most, of its territory is under effective Communist control. Phnom Penh, the capital, is in a virtual state of siege, as vital supply lines are choked off. It is useless to deny the actuality of the situation.

In retrospect, incursions of American strike forces into the so-called sanctuaries last year have proven to be futile from a military viewpoint. Our efforts to assist the Cambodians to defend themselves seem to have emerged as a sterile exercise. Yet now it seems that even more substantial American military involvement is underway. As I read matters, this would be a twin mistake. First, it is a violation of restrictions laid upon such involvement by fiat of the Senate of the United States. Second, it is futile in a strictly military sense. We are throwing good resources after wasted ones. If such steps were useful in a political sense, I could see necessity for it. Yet it is not. We are again thrashing about in the interior of Indochina, gaining no significant geopolitical advantage. Further, we are seemingly exchanging one military battlefield in South Vietnam for another in Cambodia and Laos. Just as we seem to be vacating one area of operations where military success was impossible, we are plunging hip deep into a worse place.

The political stability of Cambodia is far less than that we managed to bring into being in South Vietnam. Any involvement in Cambodia brings about almost immediate intertwinement in Laos. Military ability of this inner tier of Indochineses states is as lacking as their political stability and institutions.

We are plunging into the interior of a vast area replete with more geographical obstacles than South Vietnam. Virtually impenetrable jungles. Rugged mountain ranges. Diseases medicine has rarely even heard of. Wildlife that present uncounted dangers to troops. Is this sensible? Has our decade-long involvement in South Vietnam not taught us anything? Are we doomed to repeat past mistakes?

Mr. President, as the military situation deteriorates, we are faced with an easily predictable timetable. All-out air action by our forces has not allowed the Cambodians, even with substantial South Vietnamese military aid, to turn the military tide. Deepening involvement can only drag us in on the ground.

Reports of an airlift of Thai troops into southern Laos adds another ominous aspect to this total picture. The Red Chinese have a substantial military presence in that area. A road has been built from the Chinese border across much of Laos. Thousands of Red Chinese troops are in segments of Laos, guarding that artery. If our surrogates, the Thais, come into actual contact and conflict with these Red Chinese troops, will we back them? Will we open up another theater of war against Red China? The American people have a right to know of these equations and the decisions they may be asked to make.

I feel strongly that we should not exchange one arena of futile combat for another that may prove even more useless and draining. Congress has spoken firmly against commitment to the Indochinese interior of American forces. The administration can and must heed this solemn drawing of lines. I have no desire to see more billions of dollars hurled away into the teeth of an all-consuming Asian wind. Those boys are needed here. Those dollars are desperately required at home—in a thousand cities and towns.

I am not a peace-at-any-price Member of this body. Yet there is such a consideration as the exercise of elementary commonsense.

America's people want an end to our massive involvement in Southeast Asia. Arms and training for our allies are well and good. But another Vietnam? Never.

LABOR UNIONS

Mr. FANNIN. Mr. President, labor unions hold awesome power in our Nation. Labor officials are virtual dictators in a number of industries.

I am concerned about what these unions have done and are doing to American business. Unreasoning demands have driven wages so high as to wipe out many plants, businesses, and even entire industries.

But more important is the fact that these powerful union leaders hold such power over the economic life and death of individual Americans.

I was appalled that the Supreme Court of the United States recently struck down a Georgia law authorizing a person to get off dues checkoff at any time. It is unreasonable to require a person to continue paying union dues for a year or more after he has declared his desire to quit a union.

Another battle against unreasonable union power has been launched by columnist - commentator William F. Buckley, Jr. He is challenging the American Federation of Television and Radio Artists.

The Tucson Daily Citizen, in its January 15, 1971, editions, ran an editorial concerning this suit. I ask unanimous consent that the editorial be printed in the RECORD.

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

BUCKLEY'S BATTLE

The battle that William F. Buckley, Jr. has undertaken in attacking the constitutionality of forced union membership has meaning for all Americans.

The popular editor and columnist (whose column will begin appearing on this page next Monday) has sued the American Federation of Television and Radio Artists. He charges that FTRA's union shop, of which he is an involuntary member in order to moderate the weekly discussion program "Firing Line," results in a "form of vassalage."

Mr. Buckley told a news conference that "the requirement that an individual pay dues to a private organization in order to work is a modern writ of indenture, the requirement that he do the same in order to express an opinion over the public airways involves an act of coercion by a private organization operating under government sanction."

Because Arizona is a right-to-work state, its citizens are not subject to such coercion. Unfortunately for Mr. Buckley, New York is not one of the 19 states that bans the closed shop.

The right to work simply means that an individual has the right to join a union and a corollary right to refrain from joining a union without losing his job.

It is a right that should be in effect in every state. Perhaps that will be the case if Mr. Buckley succeeds in his suit.

Because Mr. Buckley's suit claims that his constitutional rights under the first, fifth and ninth amendments are being breached, its results could have nationwide impact.

A REVISED PROPOSAL FOR DIRECT POPULAR ELECTION OF THE PRESIDENT

Mr. BAYH. Mr. President, nothing is more important to the confidence of the American people and to the permanence and stability of our Government than the just and equitable selection of the President and Vice President. For 5 years I have fought for enactment of a constitutional amendment allowing direct popular election of the President and Vice President. And in the 92d Congress I am introducing a revision of my proposal for electoral reform, designed to maintain this vital principle while

recognizing the threat of electoral chaos which we must avert before the 1972 presidential election.

My revised proposal contains three major features.

First, the proposal would retain the fundamental principle of election directly by the people, the only system that is truly democratic, truly equitable, and truly reflective of the will of the majority.

Second, the proposal eliminates the feature of direct election which has provoked the most vocal and repeated criticism, the runoff election. Instead, in the unlikely event that no candidate receives 40 percent of the popular vote, the President and Vice President would be selected in the alternative manner originally suggested by Senators GRIFFIN and Tydings.

Third, because direct election would require a 2-year period for the passage of implementing legislation after ratification, it could not be in effect in time to prevent the danger of electoral misfire in 1972. Therefore, my proposed revision applies the so-called automatic plan to any election during this 2-year interval, eliminating the dangers of the faithless elector and the archaic and undemocratic procedure in elections decided by the Congress.

Arthur Krock wryly commented more than 20 years ago:

> The road to reform in the method of choosing the Presidents and Vice Presidents of the United States is littered with the wrecks of previous attempts.

For more than a century and a half, Mr. President, we have recognized the perils of a system that leaves the choice of President to a group of independent electors—electors whose freedom to disregard the will of the people is presently guaranteed by the Constitution. We have recognized the inequities in a scheme that allocates all of a State's electoral votes to the candidate who wins a popular vote plurality in that State, regardless of whether that plurality is one vote or 1 million votes—a scheme, I should add, that is nowhere to be found in the Constitution itself. We have recognized the grave risks that the popular will of the people can easily be thwarted, either by the strange arithmetic of the electoral system or by the mischievous deeds of a handful of power brokers.

Having long recognized these obvious inadequacies, we have yet to correct them. Why? Because repeatedly in the past we have failed to achieve agreement as to the most desirable route to reform.

For that matter, there has always been near unanimous agreement as to the need for reform, but never before has there been a national concensus as to what specific type of reform was needed.

Today we have that elusive national concensus. That is why now is the best time to reform.

In February 1966, Mr. President, the American Bar Association established a special commission on electoral reform. As some Members of this body will recall, the American Bar Association, with a similar commission, was very helpful to us in preparing the groundwork for the consideration of the 25th amendment, and I thought it would be helpful, and indeed it has proved to be very helpful, for the bar association to appoint another such commission to help us with this different constitutional problem.

The commission was composed of distinguished political scientists, lawyers, legal scholars, public officials, and other leaders from every section of the country and reflecting various political views. It studied the present electoral system and considered all of the various proposals for reform. After an extensive 10-month study, the commission concluded that:

> The existing electoral system is archaic, undemocratic, complex, ambiguous, indirect, and dangerous.

The bar assocation's blue-ribbon commission further concluded that:

> While there may be no perfect method of electing a President, we believe that direct, nationwide popular vote is the best of all possible methods. It offers the most direct and democratic way of electing a President and would more accurately reflect the will of the people than any other system.

In urging the abolition of the present electoral system and replacing it with direct popular election, the commission foreshadowed an emerging national concensus on the question of electoral reform.

The Harris and Gallup polls have shown, for example, that 78 percent and 81 percent of the American people, respectively, favor direct popular election. The extent of this feeling, it is important to note—is nationwide—and fairly evenly distributed throughout the country. To quote excerpts from one of Mr. Gallup's polls, the figures reveal that 82 percent of the people in the East, 81 percent in the Midwest, 76 percent in the South, and 81 percent in the West think direct popular election is both desirable and necessary.

In addition, direct popular election has been publicly endorsed by a unique and formidable array of national organizations, among them the American Bar Association, the chamber of commerce, the AFL–CIO, the United Auto Workers, the National Federation of Independent Business, the National Small Business Association, and the League of Women Voters—indeed a rather prestigious group of organizations representing broad philosophical and nationwide support.

For years, one of the arguments often raised against direct popular election was that it could not be ratified by the legislatures of three-fourths of the States. In fact, even a few direct popular election supporters, including the late Senator Estes Kefauver and Senator Henry Cabot Lodge, were deterred from pushing it because of their doubts as to whether direct election could be ratified.

In 1966, the distinguished Senator from North Dakota (Mr. BURDICK) dramatically refuted this argument by polling 8,000 State legislators and finding that of the 2,500 who responded, nearly 60 percent favored direct election. The results, once, again revealed very little variation from State to State. More recently, Senator GRIFFIN polled 4,000 legislators from the 27 States thought most likely to oppose direct election—and 64 percent of those responding endorsed direct election.

In September 1969 the House of Representatives reflected this national consensus by approving a constitutional amendment for direct election by an overwhelming 339-to-70 vote. And during Senate debate on Senate Joint Resolution 1—which was cosponsored by 43 Members of the Senate—we came within a handful of votes of breaking the filibuster which denied the American people even a vote on this crucial issue. I believe that only the extreme time pressures at the end of the session kept us from coming to a vote. I believe that in this Congress we can break the filibuster and gain the support to get final passage of this important reform. The people of the United States will not put up with the electoral roulette of the present system. They want reform. They want direct popular election of the President. Now is the time for reform. Now is the time for direct popular election.

There is another equally compelling reason for acting now, Mr. President—before it is too late. Why not eliminate, once and for all, the ominous prospect of elevating to the Presidency a man who is not the choice of the American voters? Why not take an ounce of prevention now, before the antiquated electoral college backfires, and it is too late for the proverbial pound of cure?

I am sure that some of our colleagues not only will express reservations with respect to certain sections dealing with technicalities and how the mechanics of this proposal is to operate, but also will express broad philosophical disagreement with the right of the people to vote directly on a one-man, one-vote basis for the President.

I think there is room for difference of opinion in this body. But today, perhaps more than ever before in the history of our country—at least, since the great War Between the States—the ability of our system to respond and to be a viable system of governing 200 million people is being tested. Some very critical questions are being asked now that were not asked 20 years ago. Hopefully, they will not be asked 20 years from now. But they are being asked today.

Mr. President, what I should like to do now, if I may, is to touch on and briefly review some of the obvious defects and deficiencies of the electorial college that make it such a clear and ever-present danger.

DEFICITS AND DEFICIENCIES IN THE ELECTORAL COLLEGE

There is no need for me to dwell on the historical accidents that led the framers to compromise on the hybrid electoral college system, but it is interesting to note what a makeshift arrangement the framers were forced to devise.

The appearance of political party candidates as early as 1800, for example, meant Alexander Hamilton's original design of a select assembly of independent electors already had lost its purpose only a decade after its embodiment in the Constitution. Alexander Hamilton was one of the original Founding Fathers and he wanted to create electors to be an elite

group that had complete freedom of choice. He made no apologies for this. But 10 years after the measure was put on the books, parties developed that had not been anticipated by the Founding Fathers. When the party system did develop, Alexander Hamilton's ideas of a select assembly went out the window. A Senate report published in 1826 caustically noted that:

> The free and independent electors had degenerated into mere agents in a case which requires no agency and where the agent must be useless if he is faithful and dangerous if he is not.

But today, more than 125 years later, the elector still retains his constitutionally guaranteed independence.

The elector is to the body politic what the appendix is to the human body. As Henry Cabot Lodge said:

> While it does no good and ordinarily causes no trouble, it continually exposes the body to the danger of political peritonitis.

The prospect of unknown electors auctioning off the Presidency to the highest bidder remain all too real. That is the lesson of 1968, when the present electoral system brought us to the brink of constitutional crisis. With a shift of only 42,000 popular votes in three States no one would have had an electoral majority on election day. It would have given Wallace, with his 46 electoral votes, the balance of power.

Let me add there that a recent study showed that a change of less than 1½ percent of the vote in one State alone—in California—would have produced the same outcome.

Of course, we could avoid this danger simply by eliminating the independence of the elector. And the proposal I am introducing today would do just that for any election scheduled to take place in the period between ratification of the amendment, and its effective date, a period necessary for the State and Federal Governments to put the direct election plan into operation. But eliminating the independent role of the elector is not a cure-all for what ails our present electoral machinery. The elector, in fact, is merely a symptom of more fundamental flaws in our system of electing the President. We desperately need basic and complete reform of this system.

Among other things, the present system can elect a President who has fewer votes than his opponent and thus is not the first choice of the voters. The present system awards all of a State's electoral votes to the winner of the State popular vote, whether his margin is one vote or 1 million votes. It cancels out all of the popular votes cast for the losing candidates in a State and casts these votes for the winner; it assigns to each State a minimum of three electoral votes regardless of population and voter turnout; and provides for a patently undemocratic method for choosing a President in the event no candidate receives an electoral majority. How can we possibly justify the continued use of such a patchwork of inequity and chance?

One of the major difficulties of the present electoral system is the unit rule, which is not even a constitutional provision. I wonder whether all our colleagues realize that this is the way we operate and have been operating for some time. The State of Maine made a change at its last legislature. How permanent that will be, we do not know, but prior to that time all of the States operated on the winner-take-all unit system, although it is not provided for in the Constitution.

In effect, millions of voters are disenfranchised if they vote for the losing candidate in their State because the full voting power of the State—its electoral vote—is awarded to the candidate they opposed. The obvious injustice of this was pointed out by Thomas Hart Benton—a former U.S. Senator—over a century ago. He said:

> To lose their votes is the fate of all minorities, and it is their duty to submit; but this is not a case of votes lost, but of votes taken away, added to those of the majority and given to a person to whom the minority is opposed.

One practical consequence of this disenfranchisement is that it discourages the minority party in traditionally one-party States. Simply stated, where there is no hope of carrying the statewide popular vote, the size of the voter turnout for the likely loser is meaningless. This necessarily leads to the atrophying of the party structure in many States. By the same token, the prospective winner has little incentive to turn out his vote because the margin of victory likewise is meaningless. In sum, the unit rule has the unhealthy political effect of both maintaining weak second parties and discouraging voting. This is reflected most clearly in the poor vote turnout in U.S. presidential elections in comparison to most other democratic nations.

Another byproduct of the unit rule is the distortions it produces in the value of individual popular votes. The unit tends to inflate the voting power of a small number of well-organized voters in the handful of large, closely contested States where blocs of electoral votes can be won on the basis of narrow popular vote margins. A candidate, for example, could win an electoral majority by capturing slim statewide pluralities in the 11 largest States—even if he did not receive a single popular vote in all of the other States. This means, in effect that under the present system in 1968, 25 percent of the popular vote could have elected a President. For these reasons, some of those opposed to direct election urge that the present system be retained because it represents the only effective hold on power that the urban population centers have in the Federal Government today.

On the other hand, some spokesmen for rural America have suggested that the present electoral vote formula should be preserved because it enhances the voting power of citizens of the less populous States. This argument has, I admit, a certain theoretical appeal. The ratio of electoral votes to population indicates that the smaller States would have a voting advantage, because each State is entitled to at least three electoral votes regardless of its size. On this basis, it would appear that a voter in Alaska has five times the power of a voter in California. This argument, however, completely ignores the practical advantage of the unit rule. A careful analysis will show that because of the unit rule an individual voter in a more populous State has greater voting power than his small State neighbor, since his vote could swing a much larger number of electoral votes.

But even if one could conclude—as some apparently have—that the present system favors one citizen over another, one region over another, or one group over another, that would not be the end of the question. There is something more important at stake in the debate over electoral reform—a fundamental question of national fairness. The President represents every American, regardless of region or State, and he should be elected by all Americans, fairly and equitably. Every vote should count the same, urban or rural, black or white, rich or poor, North, South, East, or West. Any system which favors one citizen over another or one State over another is inherently inconsistent with the most fundamental concept of a democratic society.

But despite the seriousness of these defects in the electoral college system, they are not so dangerous as the most fundamental flaw: the fact that the present system cannot guarantee that the candidate with the most popular votes will be elected. This dangerous prospect, more than anything else, condemns the present system as a faulty device for recording the sentiment of American voters. In 1824, 1876, and again in 1888, this system produced Presidents who were not the popular choices of the voters. On seven other occasions in this century, a shift of less than 1 percent of the popular vote would have produced an electoral majority for the candidate who received fewer popular votes.

To give an example of how extreme this can be, in 1948, a shift of less than 30,000 popular votes in three States would have given Governor Dewey an electoral vote majority—despite President Truman's 2 million-plus popular vote margin. I suggest to my colleagues that is the type of malfunctioning which would bring our Nation to its knees.

Good fortune, not design, has produced Presidents who were the popular choices of the people. A glance at past elections reveals that there have been very few elections where the candidates' percentage of the electoral vote reasonably resembled their percentage of the popular vote.

In runaway elections, of course, any system will produce an electoral victory for the popular vote winner. It is the accuracy of the results produced in closely contested elections, however, that determines the true soundness of an electoral system. Based on this criterion, the present system is clearly defective. A recent computer study of Presidential elections over the last 50 years revealed, for example, that in elections as close as 1960 the present system offered only a 50-to-50 chance that the electoral result would agree with the popular vote. For an election as close as 1968, where some 500,000 popular votes separated the candidates, there was one chance in three

that the electoral vote winner would not be the popular vote winner as well. According to the evidence, the danger of an electoral backfire is clear and present. And as President Nixon said during the 1968 campaign:

> If the man who wins the popular vote is denied the Presidency, the man who gets the Presidency would have very great difficulty in governing.

The tests of an equitable modern electoral system are threefold. First, it must insure that the man who receives the most votes is elected President. Second, it must count every vote equally. Third, it must provide the people themselves with the right to make the choice directly. Only direct popular election meets all three tests.

DESCRIPTION OF SENATE JOINT RESOLUTION 1

Senate Joint Resolution 1 proposes an amendment to the Constitution of the United States to abolish the antiquated electoral college system and undemocratic unit vote system and substitute direct popular election of the President and Vice President. The proposed amendment contains several major features worthy of discussion at this time.

First, the amendment requires the winning candidate to obtain at least 40 percent of the total popular vote. During the past 5 years, questions have been raised as to what percentage of the popular vote, if any, should be required for election. On the one hand, it is necessary to establish a reasonable plurality requirement indicating a legitimate mandate to govern. On the other hand, such a requirement should not be set so high that it would disrupt the stability of our political system.

Requiring a majority of the popular vote for election might too easily proliferate the party system and needlessly trigger the runoff. Historically, 15 Presidents have been elected with less than 50 percent of the popular vote. But only once in our history has no candidate for President received 40 percent of the popular vote: In 1860, Lincoln received 39.79 percent of the vote, although his name did not appear on the ballot in 10 States.

Mr. President, I believe that a 40-percent plurality requirement would assure a reasonable mandate to govern, while not unnecessarily triggering the alternative election procedures. It is extremely unlikely that neither major party candidate would receive a 40-percent plurality—even with a third-party candidate in the race. In 1968, for example, the most significant third-party bid since 1924 could only produce 13.5 percent of the popular vote for George Wallace.

Even more to the point, in 1912, in the face of challenges by an incumbent President and a popular former President, Woodrow Wilson still received more than 40 percent of the popular vote. It should be pointed out that in 1912, 1 million votes went to the socialist candidate, Eugene V. Debs. Yet the winner, Woodrow Wilson, had more than the 40-percent mark provided in Senate Joint Resolution 1. The four-way race in 1948, involving Truman, Dewey, Thurmond, and former Vice President Wallace, likewise produced a candidate with well over 40 percent of the popular vote. The likelihood of a major party candidate receiving the required plurality, therefore, is not confined merely to three-party races but to multiparty contests as well.

The 40-percent requirement, in short, is a prudent cutoff point because it avoids the likelihood of frequent standoffs, places reasonable limits on the growth of third parties, and provides a sufficient mandate to govern.

Since a 40-percent plurality requirement was established, a contingent election procedure was necessary in the unlikely event that no candidate received the requisite 40 percent. During the debate last fall it became clear that there was considerable opposition to the runoff originally provided for in Senate Joint Resolution 1. Some people talked of the mechanical problems of staging a second national election on very short notice, although I am convinced that the experience of many individual States—and several foreign countries—demonstrates that this would not be a problem. Other opponents made the claim that the possibility of a runoff election would convince more candidates to join the race on the assumption that they could keep any candidate from gaining 40 percent of the vote. These opponents argued that the runoff would lead to the growth of third parties and the destruction of our two-party system. I believe that this theory has no merit. The overwhelming weight of the evidence we obtained from political scientists and others about the experiences of individual States and foreign countries leads me to conclude that the runoff would not in any way have weakened—but would in the long run have served to strengthen—the growth of a responsive two-party system. However, I realize that in trying to get final passage of any important piece of legislation—and most especially when dealing with a constitutional amendment—those of us in the Congress have a duty not to let our personal views predominate. Instead we must seek out and develop a broad national consensus of support for the best plan which both achieves the necessary reform and which can be adopted.

I for one do not plan to allow the cause of electoral reform to flounder because of disagreement over relatively minor details.

Therefore, the runoff provision has been eliminated, and the alternative plan introduced by Senators GRIFFIN and Tydings, which gathered wide bipartisan support in the last Congress, has been substituted in its place. Under this plan, if a pair of candidates joined together and running for President and Vice President obtains at least 40 percent of the votes cast, they will be elected President and Vice President. If no pair of candidates received 40 percent of the vote, but if the pair of candidates with the largest popular vote won an electoral college majority—with the votes cast automatically under the unit rule on the basis of the popular outcome in each State—that pair of candidates would be elected President and Vice President. This computation would be purely mechanical, and the Office of Presidential Elector would be abolished once direct popular election took effect.

Finally, if no pair of candidates is selected under either of these alternatives, the final selection would be made by the new Congress, meeting in special session for this and only this purpose. Each Member of both Houses would choose between the two pairs of candidates with the largest numbers of popular votes. Allowing the selection to be made in this way by the newly elected Congress would both insure that the popular will of the majority of the voters would be taken into account and also make sure that the President who was elected would be one who was able to work with the new Congress.

Some opponents of direct election have been concerned that the amendment would have diminished the role of the States. While I do not believe that such a result would have arisen, the State electoral vote will continue to play a part in the revised proposal we will be considering in the 92d Congress. Moreover, by employing the electoral vote and the final resolution by Congress in the case of a standoff, the Griffin amendment should offer a clear indication that those of us who support direct election do not intend to break unnecessarily with our historic traditions.

The proposed amendment strikes a necessary balance between traditional State authority and compelling Federal interests in the conduct of presidential elections. I believe such a balance is workable and sound. The proposed amendment empowers the States to establish voter qualifications and election machinery similar to the responsibilities the States now exercise for the election of Senators, Representatives, and for electors of the President and Vice President. Senate Joint Resolution 1 provides that the qualifications for voting in presidential elections are to be prescribed by State law and shall be the same as those voting for members of the most numerous branch of the State legislature. These provisions are identical to the present constitutional requirements spelled out in article I, section 2, relating to the qualifications for voting for Members of the Congress.

The States are further authorized to prescribe less restrictive residence requirements. This authorization is necessary in order to prevent invalidation of relaxed residence requirements already or hereafter adopted by the States for voting in presidential elections. The Congress is also empowered to establish uniform residence qualifications. This provision does not modify or limit in any way existing constitutional powers of the Congress to legislate on the subject of voting qualifications. This authority would in no way alter the provisions dealing with residence requirements in presidential elections adopted as part of the Voting Rights Act of 1970. The Voting Rights Act abolished residence requirements for voting in presidential elections and established nationwide, uniform standards relating to registration, absentee registration, and absentee

voting in presidential elections. See *Oregon* v. *Mitchell* (Dec. 21, 1970, U.S. Sup. Ct.).

The mechanical details of providing for a direct popular election are left to Congress to legislate.

Prescribing the times, places, and manner of holding such elections and provision for inclusion on the ballot remain the primary responsibility of the States. The Congress, however, is given a reserve power to make or alter such regulations. In the event a State attempts to exclude the name of a major party candidate from the ballot, for example, the Congress would have the authority to prevent such arbitrary action. Furthermore, such action appears unlikely in view of the Supreme Court's recent decision in *Williams* v. *Rhodes*, 393 U.S. 23 (1968), holding that the equal protection clause of the 14th amendment and the right of assembly guaranteed by the first amendment impose limitations upon a State's freedom to restrict parties in their access to the ballot.

Mr. President, we must face up to the fact that the State legislatures and the Congress should be given a 2-year period after ratification to pass the legislation necessary to implement direct popular election. Thus we cannot realistically proceed on the assumption that direct election will govern the 1972 election. It is for this reason that I am proposing to utilize the so-called automatic plan for any presidential election occurring more than 90 days after ratification of the amendment but before expiration of a 2-year period for the passage of implementing legislation. This is possible because the automatic plan contained in my proposal can be put into effect, with existing State and Federal implementing laws, very soon after ratification. No further legislation would be required to put it into effect; the 90-day interval between ratification and effective date of the automatic plan is intended to insure time for electors to make appropriate declarations.

As I pointed out earlier, I would not support the automatic plan except as a stopgap element of a broader, more comprehensive scheme designed to bring about true reform in the long run. But it is of value for the near future. The automatic plan I propose for this interim period would eliminate the independence of the presidential elector. All candidates for the office of presidential elector would be required to give a written and sworn public oath as to their choice for President and Vice President. The presidential elector's electoral vote would be counted in accordance with his pledge. The presidential electors would be bound in this manner—rather than abolished altogether—in order to provide the greatest continuity with existing legislation in this area, which is written to apply to individual electors. In case no candidate received a majority of electoral votes, the final choice would be made by a joint session of the new Congress, with each Member of both Houses voting individually. This plan insures that the new President would be a man who could work with the Congress, and would more accurately reflect the will of the populace. While I cannot support the automatic plan for the future, I do support it as an interim measure, to be used until we can put a better plan into effect.

Mr. President, as the chairman of the Senate Subcommittee on Constitutional Amendments, I have been engaged in a thorough study of our electoral system for more than 5 years. As a result of that study, I have concluded that direct popular election is the only authentic reform proposal, the only proposal that guarantees the election of the popular choice, counts every vote equally and works in the manner in which most Americans expect the electoral process to work—directly and democratically.

ALTERNATIVE PLANS

There can be no disagreement that direct popular election would produce these results though some may disagree as to the desirability of such a basic reform. Over the years, several other major plans have been offered. I would like to discuss the drawbacks in these other proposals.

THE DISTRICT PLAN

The district plan would retain the electoral vote, with electors chosen from single-member districts within each State and two electors running at large statewide.

The district plan, like the present electoral system, is based on the winner-take-all principle—merely shifting its application from the State level to the district level. As a result, the district plan would continue to produce significant disparities between the popular vote and the electoral vote. A number of comments have been expressed suggesting that the district plan might even produce a popular vote loser or a minority vote winner. We can play all sorts of games with figures. The best example I have found of the disparity which can be produced in any one election was brought to our attention in the 1964 election. To cite just one example of the consequences of the district plan, compare the returns for the First and 15th Illinois Congressional Districts in 1964. These were adjoining congressional districts. President Johnson carried the first district by 167,458 votes. Senator GOLDWATER, in contrast, won the 15th district by only 71 votes. Under the district plan, each candidate would have received one electoral vote. The unit rule operating at the district level would have wasted a net popular vote margin of 167,387 votes for President Johnson. By wasting large numbers of popular votes, the district system can easily elect a President who is not the popular choice of the voters.

As in the case of the present system, the district plan would discourage the minority party's voters within each electoral district, thus reducing the incentive to work. The district plan, in fact, would operate even more effectively to discourage voters because a larger proportion of congressional districts are safely controlled by one party than are States. Defining a "safe" State or district as one carried by 60 percent of the vote or more, for example, 32 percent of the districts were safe in 1960 and only 10 percent of the States.

Furthermore, despite the specific requirement of the district plan that electoral districts be compact, contiguous, and nearly equal in population it still would be possible for partisan State legislatures to gerrymander electoral units. The impracticality of enforcing this vague constitutional standard is another major obstacle to the district plan.

THE PROPORTIONAL PLAN

The proportional plan would retain the electoral vote, but replace the unit rule with a proportional division of a State's electoral vote on the basis of the popular vote in that State.

Had the proportional system been in effect in 1968, it would have produced the following distortions in two States having the identical number of electoral votes:

First, President Nixon captured 43 percent of the popular vote in Virginia and under the proportional plan this would have produced 5.2 electoral votes. Vice President Humphrey's 43 percent of the popular vote in Missouri, likewise, would have produced 5.2 electoral votes. President Nixon, however, only required 590,315 popular votes, whereas Humphrey had to poll 791,444 votes in order to produce 5.2 electoral votes—a startling difference of 201,129 popular votes.

A similar distortion can be found in both Idaho and Utah, which have four electoral votes. In both States, Nixon captured 56 percent of the statewide popular vote, and this would have entitled him to 2.2 electoral votes under the proportional plan. The interesting point is that it required 238,728 popular votes in Utah to produce the same number of electoral votes as 165,369 popular votes in Idaho.

The practical political consequence of the proportional plan is that it enhances the political influence of the safe States, which traditionally have had poor voter turnouts. Simply, a popular vote in a State where the voter turnout is poor is worth more than a vote in a State of equal size with a heavy voter turnout.

States sharing marked sectional interests, moreover, would have a great incentive to maximize their electoral influence by encouraging one-partyism. As a result, regional third party challenges are likely to be encouraged. In 1948, for example, the States Rights Party polled only 2.4 percent of the total popular vote, but under a proportional plan, it would have received more than three times that percentage of the electoral vote.

Under certain political conditions, the proportional plan would produce a President who was not the popular choice of the voters. If one candidate won handily in most of the States where the turnout was poor and the results in the remaining States were almost evenly divided, it is likely that the electoral winner would have been the popular vote loser. A perfect example of this division occurred in the election of 1896. Bryan captured 46.7 percent of the popular vote and McKinley won 51.1 percent. McKinley's majority of the popular vote under the present system produced 61 percent of the electoral vote. Under a proportional plan, however, Bryan would have won a six-vote electoral victory—despite being a popular vote loser.

A recent computer study presented to the committee examined the electoral results produced under a proportional system in close popular elections. The random survey, based on several thousand two-candidate races with a popular vote distribution varying from a wide 60 to 40 split to a 50 to 50 division, revealed that with a plurality of less than 1 million votes, there was a 14-percent chance of an electoral mishap. In an election as close as 1968, moreover, there was a 25-percent chance—one in four—of electing the popular vote loser.

AUTOMATIC PLAN

The automatic plan would write into the Constitution for the first time the major defect of the present system—the unit rule. It would leave the election of the President to the strange arithmetic of the unit rule and perpetuate the other inequities in the present system—including the distortions in voting power, the built-in advantage for low voter turnout, and above all, the great risk of electing a candidate who is not the first choice of the voters. The adoption of the automatic plan would not only write into the Constitution the evils of the winner-take-all rule, but also would be likely to preclude meaningful reform indefinitely. As I said before, I am only willing to support the automatic plan as a stopgap element—which would end the immediate threat posed by the faithless elector—of a broader, more comprehensive scheme designed to bring about true reform in the long run.

THE FEDERAL SYSTEM PLAN

The Federal system plan would provide that in order for a candidate to be elected he would have to receive at least 40 percent of the popular vote and have confirmed his mandate by achieving a plurality of the votes in more than one-half of the States or in States having at least one-half the total number of voters. If no candidate received such a plurality, the decision would be made on the basis of the distribution of the popular vote in accordance with the present electoral college system. If none of the candidates received a majority of the electoral vote under this proposal, the electoral votes received by candidates other than the two receiving the greatest number of popular votes would be divided among the first two candidates in accordance with the proportion of the popular vote these two candidates received in the State.

This would be an extremely complicated and confusing method of electing the President and Vice President. Moreover, the plan might tend to fragment the presidential election process, with one candidate hoping to confirm his victory by concentrating on the most populous States and the other by concentrating on the smaller States. Such divisiveness should be minimized, not magnified, by the system of selecting our President. Finally, and above all, the plan does not correct the fundamental flaw in the electoral system. It would not prevent the possibility of electing a President and Vice President who had not received the most popular votes.

CONCLUSION

Mr. President, these are the alternative plans. None of them has the support of a significant segment of the American public. None of them has the slightest possibility of securing passage by a vote of two-thirds of the Members of the Senate and the House. None of them would be ratified by three-fourths of the States.

Indeed, Mr. President, if one of these plans were somehow to be adopted, it would in my opinion foreclose all possibility of reform in this Congress—perhaps in this generation.

I recognize that it will be difficult to secure passage of direct popular election in time for ratification before the 1972 election. But there is still a realistic possibility of gaining passage and ratification. At the present time, it appears that at least 35 State legislatures are required by law to meet in 1972. Another five legislatures can easily meet without the calling of a special session. In addition, there are likely to be a number of special sessions in 1972. During 1968 and 1969, there were 38 special sessions in 24 States; the reapportionment required by the 1970 census is likely to make 1972 an even more active year for special sessions.

In any case, these are reforms that the Nation desperately needs. We have stalled too long, we have talked too long, we have fought too long. Now is the time for action. Now is the time to revise our electoral system for 1972, and for generations of Americans to come.

Mr. President, I ask unanimous consent to print in the RECORD the complete text of the amendment and a section-by-section analysis.

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

DIRECT POPULAR ELECTION OF THE PRESIDENT

SENATE JOINT RESOLUTION 1—92D CONGRESS

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

SECTION 1. The people of the several States and the District constituting the seat of government of the United States shall elect the President and Vice President. Each elector shall cast a single vote for two persons who shall have consented to the joining of their names as candidates for the offices of President and Vice President. No candidate shall consent to the joinder of his name with that of more than one other person.

SEC. 2. The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that for electors of President and Vice President, the legislature of any State may prescribe less restrictive residence qualifications and for electors of President and Vice President the Congress may establish uniform residence qualifications.

SEC. 3. The persons joined as candidates for President and Vice President having the greatest number of votes shall be elected President and Vice President, if such number be at least 40 per centum of the total number of votes cast. If none of the persons joined as candidates for President and Vice President shall have at least 40 per centum of the total number of votes, but the persons joined as candidates for President and Vice President having the greatest number of votes cast in the election received the greatest number of votes cast in each of several States which in combination are entitled to a number of Senators and Representatives in the Congress constituting a majority of the whole number of Members of both Houses of the Congress, such persons shall be elected President and Vice President. For the purposes of the preceding sentence, the District of Columbia shall be considered to be a State, and to be entitled to a number of Senators and Representatives in the Congress equal to the number to which it would be entitled if it were a State, but in no event more than the number to which the least populous State is entitled.

If, after any such election, none of the persons joined as candidates for President and Vice President is elected pursuant to the preceding paragraph, the Congress shall assemble in special session, in such manner as the Congress shall prescribe by law, on the thirty-fourth day after the date on which the election occurred. The Congress so assembled in special session shall be composed of those persons who are qualified to serve as Members of the Senate and the House of Representatives for the regular session beginning in the year next following the year in which the election occurred. In that special session the Senate and the House of Representatives so constituted sitting in joint session, each Member having one vote, shall choose immediately, from the two pairs of persons joined as candidates for President and Vice President who received the highest numbers of votes cast in the election, one such pair by ballot. For that purpose a quorum shall consist of three-fourths of the whole number of Senators and Representatives. The vote of each Member of each House shall be publicly announced and recorded. The pair of persons joined as candidates for President and Vice President receiving the greater number of votes shall be elected President and Vice President. Immediately after such choosing, the special session shall be adjourned sine die.

No business other than the choosing of a President and a Vice President shall be transacted in any special session in which the Congress is assembled under this section. A regular session of the Congress shall be adjourned during the period of any such special session, but may be continued after the adjournment of such special session. The assembly of the Congress in special session under this section shall not affect the term of office for which a Member of the Congress theretofore has been elected or appointed, and this section shall not impair the powers of any Member of the Congress with respect to any matter other than proceedings conducted in special session under this section.

SEC. 4. The times, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations. The days for such elections shall be determined by Congress and shall be uniform throughout the United States. The Congress shall prescribe by law the times, places, and manner in which the results of such elections shall be ascertained and declared. No such election shall be held later than the first Tuesday after the first Monday in November, and the results thereof shall be declared no later than the thirtieth day after the date on which the election occurs.

SEC. 5. The Congress may by law provide for the case of the death, inability, or withdrawal

of any candidate for President or Vice President before a President and Vice President have been elected, and for the case of the death of both the President-elect and Vice President-elect.

SEC. 6. The Congress shall have power to enforce this Article by appropriate legislation.

SEC. 7. Sections one through four of this Article shall take effect two years after the ratification of this Article. In any election ninety days after the ratification of this Article and before the effective date of sections one through four of this Article—Each candidate for the office of Elector of President and Vice President shall file in writing under oath a public declaration of the identity of the persons for whom he will vote for President and Vice President, which declaration shall be binding upon him and upon any successor to his office, and his votes shall be counted in accordance with such declaration; if no person voted for as President receives a number of votes constituting a majority of the whole number of Electors appointed, then the Senate and House of Representatives sitting in joint session, each Member having one vote, shall choose immediately from the persons having the two highest numbers of votes for President, by ballot, the President; a quorum for such purpose shall be three-fourths of the whole number of Senators and Representatives, and a majority of the whole number shall be necessary to a choice; if no person voted for as Vice President has such a majority, then the Vice President shall be chosen in the same manner as herein provided for choosing the President.

DIRECT POPULAR ELECTION OF THE PRESIDENT

SECTION-BY-SECTION ANALYSIS OF SENATE JOINT RESOLUTION 1—92D CONGRESS

The resolution contains the customary provisions that the proposed new article to the Constitution shall be valid as part of the Constitution only if ratified by the legislatures of three-fourths of the States within 7 years after it has been submitted to them by the Congress.

Section 1 of the proposed article would abolish the electoral college system of electing the President and Vice President of the United States and provide for their election by direct popular vote. The people of every State and the District of Columbia would vote directly for President and Vice President. This section prevents a candidate for either office from being paired with more than one other person. Candidates must consent to run jointly.

Section 2 provides that voters for President and Vice President in each State must meet the qualifications for voting for the most numerous branch of the State legislature in that State. The term "electors" is retained, but instead of referring to the electoral college, as used in sections 1–6 the term means qualified voters, as it does in existing provisions dealing with popular election of Members of Congress.

This clause also permits the legislature of any State to prescribe less restrictive residence requirements and is necessary in order to prevent invalidation of relaxed residence requirements already or hereafter adopted by the States for voting in presidential elections. The Congress is also empowered to establish uniform residence qualifications. This provision does not modify or limit in any way existing constitutional powers of the Congress to legislate on the subject of voting qualifications. This authority would in no way alter the provisions dealing with residence requirements in presidential elections adopted as part of the Voting Rights Act of 1970. The Voting Rights Act abolished residence requirements for voting in presidential elections and established nationwide, uniform standards relating to registration, absentee registration, and absentee voting in presidential elections. See *Oregon* v. *Mitchell*, (Dec. 21, 1970, U.S. Sup. Ct.).

Section 2 is modeled after the provisions of Article I, section 2, and the 17th amendment to the Constitution regarding the qualifications of those voting for Members of Congress. As a result, general unformity within each State regarding the qualifications for voting for all elected Federal officials is retained. The District of Columbia is not referred to in section 2 because Congress now possesses the legislative power to establish voting qualifications for the District under Article I, section 8, clauses 17 and 18. Use of the expression "electors of the most numerous branch of the State legislature" does not nullify by implication or intent the provisions of the 24th amendment that bar payment of a poll tax or any other tax as a requisite for voting in Federal elections. The Supreme Court, moreover, has held that a poll tax may not be enacted as a requisite for voting in State elections as well, *Harper* v. *Board of Supervisors*, 383 U.S. 663 (1966).

Section 3 deals with the procedure for determining the outcome of the election. If a pair of candidates obtains at least 40 percent of the whole number of votes cast, they will be elected President and Vice President, as a result of the popular vote alone. The expression "whole number of votes cast" refers to all valid votes counted in the final tally. And the term "whole number" is consistent with prior expressions in the Constitution. The 40 percent minimum was established because it is necessary to establish a reasonable plurality requirement indicating a legitimate mandate to govern and consistent with historical experience, although such a requirement should not be set so high that it would disrupt the stability of our political system. The 40 percent figure was incorporated into the runoff requirement in both primary and general elections for the District of Columbia's recently authorized nonvoting delegate to Congress. See D.C. Code, sec. 1–1110(a)(4), added by Pub.L. 91–405 sec. 203(c).

Section 3 also establishes the procedure to be used if no pair of persons received at least 40 percent of the whole number of votes cast. Under this section, even if the pair of candidates with the largest popular vote total did not receive 40 percent of the votes cast, the pair would still be elected if the pair had an electoral vote majority, with the electoral votes cast automatically on the basis of the popular vote outcome in each state. The office of Presidential Elector would not be retained.

Section 3 further provides that if no pair of candidates receives 40 percent of the total vote, and if the popular vote winners do not have an electoral majority, then the incoming Congress is to meet in special session in the fifth week after the election and choose between the two pairs of candidates who received the largest number of popular votes in the election. Each Member of each House is to vote individually, and all votes are to be publicly announced and recorded. The pair of candidates receiving the greater number of votes shall be elected.

Section 4 embodies provisions imposing duties upon the Congress and the States in regard to the conduct of elections. The first part of the section requires the State legislatures to prescribe the times, places and manner of holding presidential elections and entitlement to inclusion on the ballot—subject to a reserve power in Congress to make or alter such regulations. This provision is modeled after similar provisions in Article I and the 17th amendment dealing with elections of members of Congress. States will continue to have the primary responsibility for regulating the ballot. However, if a State sought, for example, to exclude a major party candidate for appearing on the ballot—as happened in 1948 and 1964—the Congress would be empowered to deal with such a situation.

Section 4 also requires Congress to establish by statute the date of the regular election, which must be uniform throughout the United States, and which may not be later than the first Tuesday after the first Monday in November. This conforms to the present constitutional requirement for electoral voting (Article II, section 1), to which Congress has responded by establishing a uniform day for the election of electors (3 U.S.C. 1). Congress is also required to prescribe the time, place, and manner in which the results of such election shall be ascertained and declared within 30 days after election day. In implementing this section, Congress may choose to accept certain final State certifications of the popular vote as it now accepts electoral vote certifications under the provisions of 3 U.S.C. 15.

Section 5 empowers Congress to provide by legislation for the death inability, or withdrawal of any candidate for President or Vice President before a President or Vice President has been elected. Once a President and Vice President have been elected, existed constitutional provisions would apply. The death of the President-elect would be governed by the 20th amendment and the death of the Vice President-elect would be governed by the procedure for filling a Vice Presidential vacancy contained in the 25th amendment. Section 5 also empowers the Congress to provide by legislation for the case of the death of both the President-elect and Vice-President-elect.

Section 6 confers on Congress the power to enforce this article by appropriate legislation. The power conferred upon Congress by this section parallels the reserve power granted to the Congress by numerous amendments to the Constitution. Any exercise of power under this section must not only be "appropriate" to the effectuation of the article but must also be consistent with the Constitution.

Section 7 provides that the direct election plan shall take effect two years after being ratified by the States. Since State and Federal legislation will be necessary to fully implement and effectuate the purposes of the proposed amendment, a reasonable period of time should be provided between the date of ratification and the date on which the amendment is to take effect. Section 6 of the amendment, which grants Congress the power to set up the machinery to implement the amendment, takes effect immediately upon ratification. This was done to make sure that Congress would not be thought to be precluded from legislating in regard to the "automatic" features described below. Such legislation would not be necessary, but it would seem unwise to leave any doubt about Congress's ability to act if it so wished. This would also make it completely clear that Congress would have the power to create the implementing machinery for the direct popular vote plan in advance of the effective date of that part of the amendment.

Section 7 also deals with the case of an election which takes place 90 days after the ratification of the amendment, but before direct election can take effect. This section would put into effect the "automatic" plan, but only for an election within that time period. Pursuant to section 7, candidates for the office of Presidential Elector would be required to declare in writing and under oath the candidates for whom they would vote if elected. To eliminate the problem of the faithless Presidential Elector, each Presidential Elector's electoral vote would be counted in accordance with his declaration. This section would also reform the present contingency procedure by which the Congress picks the President under certain circumstances. If no candidate received a majority of the electoral votes, the final selec-

tion would be made from among the top two candidates by a majority vote of the Members of both Houses of Congress, with each Member voting individually.

The provision would not apply unless ratification were completed at least 90 days before the election, a period intended to ensure time to adjust to the new ground rules and to require appropriate declarations from candidates for Presidential Elector. This section can be effective almost immediately upon ratification because it would require no implementing legislation. Section 7 would make only the changes which are absolutely necessary in order to eliminate the faithless elector and to reform the archaic voting mechanism applicable to Congressional resolution of elections in which no candidate has an electoral majority. Presidential Electors would be bound to their declarations—rather than abolished altogether—in order to provide the greatest continuity with existing legislation in this area which is written to apply to individual electors. See, e.g., Electoral Count Act of 1887, 3 U.S.C. 1 et seq.

PRISONERS OF WAR

Mr. FANNIN. Mr. President, one of the most tragic episodes of our time concerns the plight of American prisoners of war held by the Communists in Southeast Asia.

In addition to the long suffering of these men, there is the mental anguish faced daily by the 1,500 families of those listed as missing in Vietnam and Laos.

President Nixon has made a concerted effort to bring world attention to this problem. It is impossible to gage at this time just how much success has been made in ending the barbaric practices of the North Vietnamese. The enemy still refuses to abide by the minimum regulations which have been agreed on by civilized nations.

Col. Frank Borman, one of our Nation's space heroes, has found foremost in the campaign to win guarantees of humane treatment for American Prisoners of War.

His most recent report is carried as an editorial in the Kiwanis magazine for January 1971. It is appropriate, I believe, that we take another look at this situation during the early days of this new Congress.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

THE FORGOTTEN WARRIORS

(By Col. Frank Borman, U.S. Air Force, retired)

Arma virumque cano—"Of arms and the man I sing"—Virgil began his epic study of warfare, the *Aeneid*, more than two thousand years ago. I, too, have a tale of arms and the man to tell, but the men of whom I speak are those unfortunate combatants left in the nether world between living and dead. They are the prisoners of war—the forgotten warriors left behind when the shooting stops—and seldom in the annals of warfare has their plight been so tragic as in Vietnam today. Indeed, the length of incarceration of many of these men and their wretched existence in imprisonment are humanitarian concerns that all Americans can unite behind, regardless of their opinion of the Vietnam war itself.

Unfortunately, I cannot say exactly how many prisoners share this plight, for never in more than six years have the North Vietnamese issued an official list of any of the men they hold. There are, however, approximately 1500 US citizens missing in Southeast Asia, and from letters, propaganda broadcasts, photographs, and the testimony of returnees we have reason to believe that there are about 376 Americans incarcerated in North Vietnam, seventy-eight in South Vietnam, and three in Laos, a total of 457 of the 1500 missing that we know were at one time alive.

Their conditions of imprisonment are deplorable. After capture prisoners have been beaten, dragged through villages, and in some cases tortured. Those who have been held for any length of time have often lost from 45 to 60 pounds. Like their food, their medical care is designed more to avert death than to promote health.

Many prisoners are held in solitary confinement. Their recreation consists of two daily broadcasts in English by Hanoi radio. Resorting to mental gymnastics, one prisoner constructed a logarithm table mentally. Another was able to salvage bits of paper and make a deck of cards to play solitaire—until it was discovered and destroyed. Meanwhile, at home the wives of these men must somehow be both mother and father to growing children, who in many cases have never seen their father.

In May 1969 President Nixon made a concerted effort to publicize the plight of these American prisoners in hopes that the force of world opinion would encourage more humanitarian treatment of them, and perhaps even lead to their early release. I think this decision was right, and I can confidently say that every member of the executive department and Congress, supported by the overwhelming majority of Americans, are working to insure that our prisoners receive the humanitarian treatment they deserve.

My recent world-wide trip on behalf of these men took me to fourteen world capitals. I wish that I could report that we were able to contact the North Vietnamese or Vietcong directly, but attempts through third parties in three countries were unsuccessful. I did find a vast amount of sympathy around the world, and the North Vietnamese will receive new and additional entreaties from many of these countries.

In the International Red Cross I found an agency that could well serve as a third party for supervising the treatment and release of Vietnam war prisoners, but to date the North Vietnamese have not permitted a representative of the International Red Cross into their country, let alone into their prison camps.

While I was in South Vietnam I visited North Vietnamese and Vietcong prisoners of war and found their treatment in complete accordance with the Geneva Conventions. In addition, representatives of the International Red Cross, both in Geneva and in South Vietnam, are perfectly satisfied with the conditions of the prisoners held by the South Vietnamese. And, in further compliance with the Geneva Conventions the South Vietnamese last July released sixty-two wounded or disabled North Vietnamese prisoners north of the demarcation line.

Why, then, the recalcitrance on the part of the North Vietnamese? In talking with government officials around the world I often heard the comment that the North Vietnamese consider the American prisoners their trump card in the Paris negotiations. In essence, I would say that the prisoners are political hostages. The releases that have been made—nine in the north and twenty-three in the south—have almost always been timed and executed—often through dissident groups in the US—to extract a maximum of propaganda.

On the basis of my trip I can suggest four approaches to the pressing plight of these men. First, it is imperative that every American make a maximum effort to mobilize world opinion in support of humane treatment of prisoners held by North Vietnam and the Vietcong.

Second, we must continue our efforts to convince the North Vietnamese of our sincerity in this regard and of the need to separate the political question of peace in Vietnam from the humanitarian treatment of prisoners.

Third, I believe it is a moral obligation for every American to see that the families of these prisoners receive proper care and support.

Finally, I think that it is important that we continue to press for the use of the International Red Cross to inspect the prison camps in North Vietnam, as they are already doing in the South.

As concerned and involved Americans you in Kiwanis can—and should—play a vital role in this effort, for your support will not only insure the humanitarian treatment of your relatives, friends, and neighbors who have made great sacrifices for you. It will also, I assure you, win for your organization the undying thanks of the men whom you would not allow to be forgotten. Can there be a greater reward?

SENATE JOINT RESOLUTION 8—A CONSTITUTIONAL AMENDMENT TO GUARANTEE EQUAL RIGHTS FOR MEN AND WOMEN

Mr. BAYH. Mr. President, I rise to urge support for my proposed amendment to the Constitution to guarantee equal rights for men and women.

For almost one-half century we have failed to take action on this amendment and by failing to act have allowed the women of our country, in many respects, to suffer the burdens of second-class citizenship—burdens which by no reasonable explanation can be justified or should be tolerated.

This proposed amendment provides that—

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

The language of the amendment warrants careful study, for there is considerable controversy over what it does or does not mean. It would not eliminate the difference between the sexes. Congressional enactment could not and should not eliminate the natural physiological differences between the sexes. But Federal, State, and local governments can be prohibited from imposing legal distinctions based on sex. That is exactly what the equal rights amendment is designed to do—no more, no less.

As Prof. Thomas I. Emerson, of the Yale Law School, pointed out so eloquently at the hearings:

The fundamental legal principle underlying the Equal Rights Amendment, then, is that the law must deal with the individual attributes of the particular person, not with a vast overclassification based on the irrelevant factor of sex.

LEGISLATIVE HISTORY

Mr. President, some complaints have been heard that this amendment has been presented without adequate study. No amendment has been more thoroughly studied than this one. The amendment itself is not new. Resolutions proposing this amendment have been introduced in every Congress since 1923. In earlier years, hearings were held by the House

Judiciary Committee in 1948, and by the Senate Judiciary Committee in 1956. The amendment was reported favorably by the Senate Judiciary Committee in the 80th, 81st, 82d, 83d, 84th, and 86th, 87th, and 88th Congresses.

And in the last Congress the Subcommittee on Constitutional Amendments, which I serve as chairman, held 3 days of extensive hearings on the amendment—on May 5, 6, and 7, 1970. We heard 42 witnesses, representing all possible points of view about the amendment, and compiled a record of printed hearings comprising almost 800 pages. These were the first hearings on the amendment in almost 15 years.

Furthermore, the Judiciary Committee held a series of additional hearings, including comments from a series of distinguished law professors, later in the year.

In addition to committee study, Mr. President, there has also been full and complete debate about this measure on the floor of both Houses. The amendment was debated and passed by the Senate in 1950 and in 1953. However, both times it was amended by the addition of the so-called Hayden rider. That rider provided that the amendment "shall not be construed to impair any rights, benefits, or exemptions now or hereafter conferred by law upon persons of the female sex." All supporters of the amendment agreed that the rider effectively destroyed the intended result of the amendment. For it is under the guise of "rights and benefits" that women have all too often been deprived of rights that are available to men. For this reason in the 86th Congress, after the Hayden rider had again been added during the floor debate, sponsors of the bill agreed to recommit it to committee, rather than have it enacted in that form.

During the last Congress both the House and the Senate debated the equal rights amendment at some length. In the House, it was passed by the overwhelming vote of 350 to 15, after being brought to the floor by means of a discharge petition. The Senate considered the amendment over the period of October 7 to November 17. The debate was long and spirited. However, when the operative language of the amendment was altered—by the very narrow vote of 36 to 33—I agreed not to press for further floor action, in accordance with the advice of the women's groups who supported this measure. Once again the amendment had been killed as a result of changes in language adopted on the floor.

Mr. President, I firmly believe that this record of floor debate in both Houses—together with two separate sets of hearings in the past Congress alone—clearly refutes the charge that the equal rights amendment has never been thoroughly studied. This measure has been before us and the subject of general discussion for more than 48 years. And the time for action is long overdue.

NEED FOR AMENDMENT

Some opponents of the equal rights amendment argue that it is unnecessary. They feel that court decisions based on the 14th amendment together with a series of statutes have effectively eliminated the type of discrimination which the equal rights amendment would make unlawful. I disagree. Let there be no doubt about it. We have made considerable progress. Especially in the last few years the courts have taken great strides toward providing the kind of equality I believe is necessary. Earlier this week, to give but one example, the Supreme Court took such a forward step when it reversed the court of appeals' decision in Philips against Martin-Marietta. It said that the lower court "erred" in reading the statute "as permitting one hiring policy for women and another for men." The Court is absolutely correct in its judgment that the law of the land does not permit one hiring policy for women and another for men. Unfortunately, the Court did not have an opportunity to expand upon the rights of women under the 14th amendment, since this case arose under the 1964 Civil Rights Act. The Supreme Court still has a long way to go in striking down sex discrimination under the 14th amendment, but I am confident that the Court is beginning to recognize and remedy the tragic loss of human dignity and valuable resources which our society has suffered as a result of these inequities.

I believe that if given enough time the Court would eventually hold that the Equal Protection Clause of the 14th amendment demands the kind of equality between sexes which the equal rights amendment would guarantee. But that process would take far too long in my judgment. As Professor Emerson pointed out, Congress should act now because "there is, in short, a certain amount of legal deadwood which must be cleared away before the courts will be prepared to make clear cut and rapid progress." Passage of the equal rights amendment would immediately clear away that "deadwood" and allow the courts to move ahead.

Mr. President, the courts have not been alone. In 1963, Congress passed the Equal Pay Act. It provides that no employer subject to the act shall discriminate in salary "because of sex between different employees for equal work on jobs the performance of which requires equal skill, effort, and responsibility." Another important step was taken in title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the basis of sex, in addition to race and national origin.

The State legislatures have also made great forward strides in recent years. Many of them have worked hard to eliminate discrimination against women in terms of limitations on hours and conditions of work, minimum wages, the age of legal majority, jury service, and many other areas.

Indeed, we have made progress, through Federal and State legislation, through judicial decisions, and through executive action. But much remains to be done.

Let me provide only a few examples. If we are really concerned about these mothers and widows and children, let us look at a few examples of the laws that exist today and see how they treat these women and widows and children.

Until 1966, three States excluded women from juries altogether. In one State, women—but not men—must register specially to be eligible to serve on juries.

In one State, there is a statute allowing women to be committed for up to 3 years in the reformatory for offenses such as "drug using" and "habitual intoxication," although men cannot be sentenced to more than 30 days for drunkenness. That hardly seems like equality.

In at least eight States women cannot contract or sign leases until they are 21, while men can do so at 18.

If women mature at an earlier age than men, why should we give the opposite right to men in these States where men are permitted to contract at the age of 18 and women are not permitted until the age of 21?

California and four other States require a married woman to obtain a court order before establishing an independent business. Eleven States place special restrictions on the right of a married woman to contract. In three States, a married woman cannot become a guarantor or surety.

Women continue to be discriminated against in admissions to public colleges. In the fall of 1968, only 18 percent of the men entering public 4-year colleges had received high school grade averages of B-plus or better. But 41 percent of the freshmen women had attained such grades. One State university had published an admissions brochure saying:

> Admission of women on the freshman level will be restricted to those who are especially well qualified.

There was no such requirement made for men.

Sex discrimination still exists in the labor laws of every State in the Union except Delaware. And despite contrary decisions under title VII of the 1964 Civil Rights Act by the Equal Employment Opportunity Commission, two Federal appeals courts, and several State attorneys general, a recent survey showed that 51 percent of major employers continue to enforce these restrictions.

Thirty-nine States and the District of Columbia impose limitations on the number of hours worked by women. These provisions often preclude women from occupying supervisory jobs requiring overtime.

These so-called protective laws which are supposed to give special privileges and rights to women are really "privileging" them right out of meaningful advancement and opportunities in the employment market.

During the hearings the committee was told that 26 States have laws or regulations which completely bar adult women from certain occupations or professions. For example, in nine States, women are not allowed to mix, sell, or dispense alcoholic beverages.

One witness pointed out that the weight-lifting laws in New York only protect women from lifting weights in foundries.

As Prof. Norman Dorsen of the New York University Law School said:

The theory, apparently, is that some mystical essence in foundry weight lifting will injure women, while lifting the same weights in other industries will not.

Mr. President, those are a few specific examples of some of the discrimination that is going on. I will not bother the Senate with a further list of detailed acts of discrimination, but it is going on.

Mr. President, it is clear that there is a legal need for the equal rights amendment. But to my mind the most important reason for enacting this amendment is its symbolic value. The amendment will not eradicate, immediately upon passage, all the unduly discriminatory habits and customs of this country. No amendment or statute could immediately solve the whole problem of unfair discrimination based on sex.

The bulk of the prejudice and unfairness against women does not stem from the command of specific statutes. It is much more subtle. It comes from socially engrained ideas about the proper role of women. And Justice Marshall, in his excellent concurring opinion in the Phillips case, has warned of the trap of assuming that we can still permit ancient canards about the proper role of women to be a basis for discrimination.

But I believe that passage of this amendment will go a long way toward providing the kind of dignity and legal status to which every American is entitled. It would prod the courts into taking long overdue action. It would prod many employers into reevaluating their employment practices, to see whether they, too, hire, assign work, and determine pay scales on the basis of sex, instead of making those decisions on the basis of an honest evaluation of each individual's personal abilities.

The addition of this amendment to the Constitution will symbolize the dedication of this country to providing true equality for all. It will show the world that all our citizens are in fact equal in the eyes of the law. We must not minimize the importance of such symbolic action. Even if there were no State discrimination which would be made illegal by the passage of this amendment, I would still be an ardent proponent.

For the past hundred years we have been in the midst of a peaceful revolution, to make sure that all our citizens, whether or not part of a minority, are truly equal. An explicit statement in our Constitution that both sexes are equal before the law is long overdue.

EFFECTS OF THE AMENDMENT

Some critics, Mr. President, have charged that this amendment should not be passed by this body because it would cause chaos in the courts, and upset many relationships in our society. I strongly disagree. When this joint resolution was brought before the House of Representatives, Representative GRIFFITHS explained exactly what the amendment would and would not do. I ask to have an extract from her statement printed in the RECORD at this point in my remarks.

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

STATEMENT BY MRS. GRIFFITHS

What will be the effect of the amendment?

The amendment would restrict only governmental action, and would not apply to purely private action. What constitutes "State action" would be the same as under the 14th amendment and as developed in 14th amendment litigation on other subjects. In 1964 Civil Rights Act granted far more rights to women and other minorities that this amendment ever dreamed of. That act applies against private industry. This amendment applies only against government.

Special restrictions on property rights of married women would be unconstitutional; married women could engage in business as freely as a member of the male sex; inheritance rights of widows would be same as for widowers.

Women would be equally subject to jury service and to military service, but women would not be required to serve—in the Armed Forces—where they are not fitted any more than men are required to so serve.

The real effect before this amendment is finally passed would probably be to permit both sexes to volunteer on an equal basis, which is not now the case.

Where the law confers a benefit, privilege or obligation of citizenship, such would be extended to the other sex, i.e. the effect of the amendment would be to strike the words of sex identification. Thus, such laws would not be rendered unconstitutional but would be extended to apply to both sexes by operation of the amendment. We have already gone through this in the 15th and 19th amendments.

Examples of such laws include: minimum wage laws applying only to women; laws requiring lunch periods and rest periods only for women; laws which permit alimony to be awarded under certain circumstances to wives but not to husbands would permit the Judge to determine who gets the alimony. Social security and other social benefits legislation which give greater benefits to one sex than the other would extend the benefits to the other sex.

Any expression of preference in the law for the mother in child custody cases would be extended to both parents—as against claims of third parties. Children are entitled to support from both parents under the existing laws of most States. Child support laws would be affected only if they discriminate on the basis of sex. The amendment would not prohibit the requiring of one parent to provide financial support for children who are in the custody of the other.

Where a law restricts or denies opportunities of women or men, as the case may be, the effect of the equal rights amendment would be to render such laws unconstitutional.

Examples are: hours and weight lifting laws but four States have repealed "so-called" protective legislation which restricts women: Delaware has repealed all restrictive legislation in 1967, and there has never been a lawsuit. The idea that this would cause unlimited lawsuits, is ridiculous. Georgia has repealed its hours law. Oregon and Vermont have repealed their hours laws. Fifteen States have declared such laws unenforceable either through action of their supreme court or by some official of the government: Arizona, District of Columbia, Maryland, Kansas, New Mexico, Michigan, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Dakota, North Dakota, Tennessee, Virginia, and Wyoming.

And let me say that there has never been an hours laws which keeps a woman from working more than 40 hours a week. This is just not true. The law prohibits an employer from employing her. She can work 16 hours a day, and there is nobody that protects that woman—certainly not the AFL–CIO.

Separation of the sexes by law would be forbidden under the amendment except in situations where the separation is shown to be necessary because of an overriding and compelling public interest and does not deny individual rights and liberties.

For example, in our present culture the recognition of the right to privacy would justify separate restroom facilities in public buildings.

The amendment would not change the substance of existing laws, except that those which restrict and deny opportunities to women would be rendered unconstitutional. In all other cases, the laws presently on the books would simply be equalized, and this includes the entire body of family law. Moreover, this amendment does not restrict States from changing their laws. This law does not apply to criminal acts capable of commission by only one sex. It does not have anything to do with the law of rape or prostitution. You are not going to have to change those laws.

Mr. BAYH. Mr. President, the statement points out eloquently what this measure will do and what it will not do. One particular passage of importance, I think, is the discussion of the draft. I do not agree with the contention of some persons that if this measure becomes law women will automatically be drafted.

As Mrs. GRIFFITHS pointed out, in some cases the existing legal distinctions based on sex will be retained because of "an overriding and compelling public interest." I think that such an interest is present here. Combat duty is more dangerous and demanding than any other job. Because combat demands absolutely unique abilities, Congress might justifiably decide that women are not physically suited for it, just as it has decided that men without the requisite physical characteristics are not suited. And since all soldiers must be trained for combat duty, there is no reason to believe that women would be drafted any more than men who are not considered, in the judgment of Congress, to be suited, are drafted.

The only likely effect of the amendment would be to prevent Congress from setting arbitrary limits on the number of women who may enlist, unless those limits are directly related to the proven needs of the military. The amendment would thus allow those women who wanted to serve to volunteer.

Some have charged that this amendment would end the benefits that women, particularly in their role as wives and mothers, enjoy. However, the purpose of the amendment is not to cut down benefits accorded to only one sex, but to extend them to both sexes. Prof. Norman Dorsen of the New York University Law School put it this way:

There is abundant evidence that if the amendment is ratified it would result in the general extension of certain benefits to men that now are available only to women, rather than invalidating them altogether.

I cite but one example, but it is of significance to all of us. What do we do when we have broken families? There has been much discussion of the problem of alimony. Some say if this measure passes it will prevent the proper support of people from broken homes.

The passage of the equal-rights amendment would not make alimony unconstitutional. It would only require a fair allocation of it on a case-by-case

basis. In the great bulk of cases, women would still receive alimony or support payments. I see no reason not to make all men eligible for alimony, as is already the case in nearly one-third of the States. A man might justifiably collect, for example, if the man were disabled and unable to work, and the woman was independently wealthy.

We are suggesting that we should make uniform the practice presently followed in one-third of the States. In those States the questions of who should provide alimony and child support, are decided on a case-by-case basis. In most cases the man would provide it, but in the case I mentioned earlier, if the man were crippled and unable to work, and if the woman has independent sources of income, it seems to me the judge ought to be able to take that into consideration.

One of the most eloquent discussions of the impact of this amendment on family law was given before the full committee hearings by Professor Dorsen.

Mr. President, I ask that excerpts from Professor Dorsen's testimony relative to family law be printed in the RECORD.

There being no objections the excerpts were ordered to be printed in the RECORD, as follows:

STATEMENT OF PROF. NORMAN DORSEN BEFORE THE SENATE JUDICIARY COMMITTEE ABOUT EFFECTS OF THE EQUAL RIGHTS AMENDMENT ON FAMILY LAW

Concern has been voiced that women would lose their right to support and alimony if the Equal Rights Amendment passes. There are several answers to this concern. First, as already noted, the right to alimony and support can be extended to men by legislative act or as a matter of interpretation of the Amendment. Indeed, in one-third of the states alimony can be awarded to either spouse, and is based on the circumstances of the particular case, such as relative economic needs, duration of the marriage, and relative contributions to the marriage.

As for the right to support, although it has been much relied on, it is of somewhat illusory value to women. In the first place, in most jurisdictions not until the parties are separated; or sometimes even divorced, does a wife have the right to get a court order for a specific amount of support money. See H. H. Clark Law of Domestic Relations 181, 186, (1968). More important, the chief legal remedy for the wife during marriage—the ability to purchase household "necessaries" and charge them to the husband—is of far less value than is generally believed. As one authority has stated:

"The doctrine of necessaries may once have been an effective way of supporting wives and children (though one doubts it). Today, however, it is hedged about with so many limitations that few merchants would wish to rely on it. More importantly, it is of least value to those most in need of support, those wives and children too poor to be able to get credit. For these reasons the doctrine is of little practical value in the solution of the non-support problem." Clark, supra at p. 192.

The National Conference of Commissioners on Uniform State Laws recently adopted a Uniform Marriage and Divorce Act which takes an approach similar to that contemplated by the Equal Rights Amendment. It provides for alimony or maintenance for either spouse, and child support by either or both spouses, by defining all duties neutrally in terms of functions and needs of the people involved, rather than in terms of their sex.[1] The action by the Commissioners, a respected and prudent body, deserves special consideration.

Their approach—based on individual circumstances and needs—underlies the Equal Rights Amendment also. Put another way, laws which differentiate on the basis of sex are unjust because they arbitrarily treat all members of a class without looking at individual qualifications. State labor laws are unjust and do not protect women because they arbitrarily assume all women have stereotyped and uniform characteristics, which many individual women do not have. Alimony and support laws also have unjust consequences for both men and women when they assume that all women are weak, dependent, caretakers of children. Just as some men may need alimony, some women may prefer to pay maintenance to allow their husbands to be caretakers of children. In this connection, it is worth observing that several states already require a wife to support a husband unable to support himself.

The Uniform Marriage and Divorce Act eliminates definitions based on sex and substitutes those based on function. This is what the Equal Rights Amendment is intended to do. By passing it, we will help insure more genuine protection for those who really need it, and end the many injustices women still face.

Mr. BAYH. Mr. President, protective labor legislation is also an issue in this debate. It has been said that women workers would be exploited if this legislation were nullified by passage of the equal rights amendment. Of course, protection of workers against unethical or unhealthy labor practices is of the utmost importance. Therefore, we were especially careful to explore this charge carefully at our hearings.

Mr. President, I ask to have printed in the RECORD at this point in my remarks the complete statement of Professor Dorsen relating to the problem of protective labor legislation.

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

[1] Section 308, which deals with maintenance, is typical of the Act's approach:

(a) In a proceeding for dissolution of marriage or legal separation . . ., the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:

(1) lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs, and (2) is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

(b) The maintenance order shall be in such amount and for such periods of time as the court deems just, without regard to marital misconduct, and after considering all relevant factors including:

(1) the financial resources of the party seeking maintenance, . . . and his ability to meet his needs independently . . .; (2) the time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment; (3) the standard of living established during the marriage; (4) the duration of the marriage; (5) the age, and the physical and emotional condition of the spouse seeking maintenance; and (6) the ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

STATEMENT OF PROF. NORMAN DORSEN BFEORE THE SENATE JUDICIARY COMMITTEE ABOUT THE EFFECTS OF THE EQUAL RIGHTS AMENDMENT ON LABOR LEGISLATION

I would like to turn now to the problem most frequently stressed by those opposing the Amendment—the alleged impact on labor laws that protect women but not men. The fact is that the effect of the Amendment on protective labor legislation provides no sound basis for opposing it.

There are three interrelated points here. First, the crazy quilt of existing state protective laws reveal graphically that there is no consensus on what is needed protection for either men or women, and that much of the legislation, instead of providing solutions to the real problems of women workers, actually "protect" them out of jobs they are perfectly capable of fulfilling. Second, under Title VII of the Civil Rights Act of 1964 much state legislation of this type is being invalidated and will be of no long term importance. Third, such laws that confer genuine benefits can and should be extended to men under the Equal Rights Amendment.

First. The pattern across the country of state laws shows that there is no coherent system of protection provided for women. For instance, while women are allowed chairs for rest periods in 45 states, they are given job security for maternity leaves of absence in *no* state and maternity benefits under temporary disability insurance laws in only two states. Women are even excluded from temporary disability benefits for pregnancy leaves in these two states.

Furthermore, in the benefit areas most people would consider most important—a minimum wage and a day of rest—men do receive susbtantial protection already. Only seven states have minimum wage laws for women only, but twenty-nine states, plus the District of Columbia and Puerto Rico, cover both men and women. More important, the federal minimum wage law covers both men and women at *higher* rates than all state laws except one (Alaska).

In contrast, maximum hour laws are a major area where men are not covered. Thirty-eight states cover women only, and three states cover men and women. Since the Supreme Court has upheld the validity of maximum hour legislation for both sexes since 1941, one can only suspect that unions have not pushed for maximum hour legislation, given their success in obtaining nationwide minimum wage laws for both sexes. This analysis would give credence to the EEOC and federal court decisions which have concluded that hour laws have been used as an excuse to keep women out of better-paying jobs.

Opponents of the Equal Rights Amendment often neglect to note the twenty-six states which altogether prohibit women from performing certain jobs. When forty states allow women to be barmaids, but ten bar them from this employment, can anyone seriously propose that women are thereby protected in those ten states? If anyone is protected, it would appear to be male bartenders.

Similar explanations suggest themselves regarding the eighteen states proscribing night work, and the six states prohibiting work for periods before and after childbirth. Women have not campaigned to obtain these "protections." This is for a very good reason.

Women in fact do night work all the time. Nurses, telephone operators, airline reservationists, and scrub women have not been protected from night work. Pregnant women, too, often choose to work right up to the birth date. Who ever heard of a housewife being allowed time off from her housework and small children just because she was pregnant, or of a state law which prohibited her from working.

Weight laws also are of doubtful protec-

tion for women. There are only four states with weight limits applicable to all jobs, and these limits are set so low that, if literally applied, they would prohibit women from doing any serious labor, including carrying an unborn child. In the remaining few states with weight limits, they apply only to certain industries. In New York, for instance, women are "protected" from lifting weights only in the foundries. The theory, apparently, is that some mystical essence in foundry weight lifting will injure women, while lifting the same weight in other industries will not. Possibly it is the male workers in foundries who are being protected—from job competition.

Thus, when all of the state laws applying only to women are examined closely, it becomes clear that they do not provide a coherent system of meaningful protection. Nor do they deal with the real problem for women—exploitation by being underpaid and funneled into the lowest-paying, most menial jobs of our society. State labor laws have never dealt with this problem. Furthermore, the premise that real protection can be based on legislating by sex is fallacious. Sex is an insufficient criterion to predict with accuracy who needs what protection. If injury due to lifting weights is a problem the answer is to forbid employees to fire individuals—both men and women—who refuse to lift weights above a safe limit. If some men and some women don't want to work overtime, laws should be passed forbidding employers to fire those who refuse overtime; both men and women who do want overtime pay should not be penalized.

In short, analysis of state laws that apply exclusively to women does not establish that they protect women in any important way. In fact, these laws do not protect women in the one area clearly applicable to women only—maternity benefits and job security; they are ineffective in dealing with the exploitation of women through lower pay than men; and they are used to discriminate against women in job, promotion, and higher-pay opportunities. They do not furnish a reliable basis for opposition to the Equal Rights Amendment.

Second. In light of the above it is not surprising that the Equal Employment Opportunity Commission, the federal agency charged with interpreting and administering Title VII, has concluded that state "protective" laws were superseded by Title VII and could not lawfully be enforced. The Commission stated that:

"Such State laws and regulations, although originally promulgated for the purpose of protecting females, have ceased to be relevant to our technology or the expanding role of the female worker in our economy. The Commission has found that such laws and regulations do not take into account the capacities, preferences, and abilities of individual females and tend to discriminate rather than protect." 29 C.F.R. § 1604.1(b).

The federal courts are apparently moving in the same direction. These federal district courts—including one within the last month—have now squarely held that Title VII supersedes such restrictive state laws. In addition, both the Fifth and Seventh Circuits have held that company-imposed restriction paralleling state laws—that is, placing private weight limits on women's jobs—also violate Title VII. For instance, in *Weeks v. Southern Bell Telephone & Telegraph Co.*, 408 F. 2d 288 (5th Cir. 1969), the court set a stringent standard for establishing a "bona fide occupational qualification" exception to Title VII. This is the exception under which employers have argued that state laws allow them to discriminate against women workers. The *Weeks* court held that:

The employer has the burden of proving that he has reasonable cause to believe, that is a factual basis for believing, that all or substantially all women would be unable to perform safely and efficiently the duties of the job involved.

Some states have also taken action under Title VII. Delaware has repealed all its labor laws for women only. So far, there has been no outraged cry from women workers. Five states have repealed their hours laws; in six states and the District of Columbia, the Attorneys General have ruled that state laws are superseded by Title VII or state fair Labor Standards Act are exempted from the state laws; in two states, there are no prosecutions under state laws; in two states, there are exemptions from laws if the employee voluntarily agrees; and in one, the weight lifting regulation has been extended to men. In other words, twenty-two states and the District of Columbia have already repealed or greatly weakened the effect of the state labor laws on women.

Given this action of the EEOC, of the Federal courts, and of the States, can we really say that the impact of the proposed amendment on State labor laws furnishes any basis for opposition to it? We must recognize that these laws are already invalidated or being invalidated. It appears that opponents of the amendment are trying to erect bridges which were crossed five years ago, when Title VII went into effect.

Third and finally with respect to State labor legislation. There is abundant evidence that if the amendment is ratified it would result in the general extension of certain benefits to men that are now available only to women rather than invalidating them altogether. I recognize that this issue has been the subject of some controversy before the Committee. Nevertheless, I suggest there is ample precedent already on the books to substantiate the conclusion that the fears of wholesale elimination of benefits for women are unwarranted.

In the first place, until Title VII the EEOC has consistently held that laws giving women benefits—such as a lunch break—must be extended to men. The Seventh Circuit has indicated it would be the same, when it held in *Bowe* v. *Colgate-Palmolive Co.*, 416 F. 2d 711 (7th Cir. 1969), that the company-imposed weight limit could be validly extended to men under Title VII, provided the company allowed members of either sex to show he or she could perform the job in question. And Georgia took a similar approach to its weight-lifting regulation, which was extended to men and rephrased to prohibit "strains or undue fatigue" rather than a set weight limit.

In other areas of the law, courts have also indicated a willingness to extend benefits to a class of people unconstitutionally excluded from the benefit, rather than voiding the law under which the class was improperly excluded. As long ago as 1880, in their mother's wrongful death, the Supreme Court ruled that a state constitution giving whites only the vote was not void under the Fifteenth Amendment, but rather that the right to vote must be extended to blacks. Likewise, in *Levy* v. *Louisiana*, 391 U.S. 68 (1968), when a Louisiana statute denied illegitimate children the right to recover for their mother's wrongful death, the Supreme Court held that the Fourteenth Amendment required the extension of protection to them rather than voiding the legitimate children's right to recover.

Clearly, if the courts have authority to extend benefits to an excluded class under the Fourteenth and Fifteenth Amendments, they will have the same authority to extend benefits under the proposed Equal Rights Amendment. Moreover, courts have a general obligation to interpret instruments reasonably. If this means granting a day of rest to men, rather than destroying this right for women, the courts should and presumably will follow that path, especially in view of the very ample expression of opinion by members of the Congress and witnesses that some protective laws should be extended to both sexes rather than voided.

Finally, with respect to this problem, we should not lose sight of the fact that the Congress and state legislatures will have the opportunity to enforce the Amendment and fashion its general command to specific situations in a comprehensive and reasonable manner.

Mr. BAYH. Mr. President, to my mind these arguments effectively refute the charges that the equal rights amendment would disrupt family law and protective labor legislation in the States. I would also, however, like to call to the attention of the Senate the probing analysis of Prof. Thomas I. Emerson of the Yale Law School. He described the effect of the amendment on our legal system as follows:

First, the courts are entirely capable of laying down the rules for a transitional period in a manner which will not create excessive uncertainty or undue disruption. Actually the courts face similar problems every time they hold that part of a statute is unconstitutional, and they have developed detailed rules for handling these issues under the concept of "separability" (or "severability"). The essential question is whether the legislature would have intended the statute to stand in its modified form. In making this decision the courts have the aid of legislative history, which can be supplied in this case. There is no reason to suppose, therefore, that formulation of a coherent legal theory applicable to the Equal Rights Amendment is too complex or too difficult for the legal system to cope with.

Second, there has been a great deal of talk that passage of the Equal Rights Amendment will cause vast changes in many features of our national life. I am inclined to feel that the alarms and warning are, as usual, overplayed. Whether that be the case or not, however, if such great changes do occur it will be only because they are necessary. Those opponents of the measure who stress this aspect of the Amendment are acknowledging that widespread discrimination against women persists throughout our society.

Third, it has been argued that adoption of a constitutional amendment will bring about, almost inadvertently, drastic alterations in important institutions of society before there has been time to work out the major policy changes required by the new provision. The example most frequently given is the Selective Service system. But one need not conclude that, in those few areas where major new policy must be formulated, there is not adequate time in which to do it. If Congress adopts the Equal Rights Amendment it will surely have full opportunity during the period of ratification by the States to take up amendments to the Selective Service Act. Other areas of our law, such as the marriage and divorce laws, may need similar attention from State legislatures. It is not a weakness but a strength of the Amendment that it will force prompt consideration of some changes that are long overdue.

Mr. President, I think that I have shown that there is indeed a great need for the equal rights amendment. We must make it abundantly clear for future years that we will not tolerate discrimination based on sex, instead of the attributes of each individual. I think, further, Mr. President, that there is ample evidence to show that this measure has been fairly and completely studied. It is legally sound. As Professor Emerson concluded:

My conclusion from this survey of the legal problems raised by the Equal Rights Amendment is that the method chosen is the proper one and the instrument proposed is constitutionally and legally sound. I urge the Senate to accept the pending Resolution and submit the Amendment to the States for ratification.

I can only repeat what Professor Emerson said. The amendment is needed. It is sound. We have delayed too long. Now it is time for the Congress to act.

The full text of the amendment follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

ARTICLE—

SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

SEC. 3. This amendment shall take effect two years after the date of ratification.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. HOLLINGS). Is there further morning business? If not, morning business is concluded.

AMENDMENT OF RULE XXII OF THE STANDNG RULES OF THE SENATE

The PRESIDING OFFICER (Mr. HOLLINGS). The Chair lays before the Senate the pending motion to proceed to the consideration of Senate Resolution 9, which the clerk will report.

The legislative clerk read as follows:

Senate Resolution 9, amending rule XXII of the Standing Rules of the Senate with respect to limitation of debate.

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 to proceed to the consideration of Senate Resolution 9.

ORDER FOR RECESS UNTIL 12 O'CLOCK TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 o'clock meridian tomorrow.

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

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, immediately after the laying before the Senate of the pending business, there be a period for the transaction of routine morning business with statements therein limited to 3 minutes, and that the period itself not extend beyond 30 minutes.

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

The Senator from Georgia is recognized.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to the consideration of the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. TALMADGE. Mr. President, those of us who fully respect the assigned constitutional role of the U.S. Senate come once again to defend the rules of the Senate.

We stand to defend the rule that makes the U.S. Senate the most unique legislative body in the world.

The Senate is the only legislative body in the world made up of representatives from sovereign States that cannot be deprived of equal representation—granted them by the Constitution—without their own consent.

"The Senate is the living symbol of the Union of the States." That is the motto enscribed on the new Senate Office Building.

The British statesman Gladstone described the Senate as "the most remarkable of all inventions of modern politics."

One of the outstanding characteristics of the Senate that makes it the greatest deliberative body in the world is freedom of debate. As conceived by the Founding Fathers there was to be virtually no limitations or restrictions placed on the freedom of debate in the Senate. This did not come till 1917, during the national frenzy of World War I and following the defeat of President Wilson's armed ship bill.

Freedom of debate, then, is what makes the U.S. Senate a distinctive body. It is what makes the U.S. Senate a vital part of the checks and balances system of the American Government.

It is what makes the Senate infinitely more than just an extension of the House of Representatives. Since 1917, freedom of debate has been guaranteed by standing rule XXII. Every new Congress since 1917 has seen repeated assaults on rule XXII. These attacks have become almost ritualistic. It sometimes seems to me that we are being asked to adopt as our legislative code the old newspaperman's credo: "Make it brief, make it simple, but make it fast."

I hold, Mr. President, that what is needed in the Congress and in the Government right now is not greater speed. Judging from the disorder—social and economic—and the confusion that exists in our country today, and, I include many hasty and ill-conceived legislative actions of the past that we are still trying to straighten out, the last thing we need is unrestricted speed in the Senate.

I see no virtue whatsoever in a runaway legislative machine.

What we need more than anything else, especially during this time of stress, strain, and turmoil, is more deliberation, more careful study, and more time to digest and hopefully to improve upon programs we already have, without rushing pell-mell into new and extremely questionable ones.

Now I hear the argument that all this may be true, but nonetheless, they say, the majority must not be thwarted in exercising its will.

And when we talk about the majority exercising its will, what we are really saying is that the majority is imposing, even forcing, that will upon the minority.

So in effect, Mr. President, when we speak of permitting the majority to act without any restraints, we actually are talking about giving the majoriy the power to ride roughshod at will over the minority.

That is precisely what happens, in the final analysis, and that is why there must be restraints upon the majority. There must be limiations, for as we all know, the majority at times can be intemperate, overbearing, and even unwise.

There must be safeguards in our system of government, if the liberty and freedom of the American people are to be preserved.

Rule XXII is one of the few restraints left.

The Founding Fathers of our Republic expressed grave concern about the possibility of minorities being oppressed. James Madison, in the 51st Federalist Paper, spoke up for minorities and warned against their oppression in the free American Republic. He wrote:

It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure.

Madison believed that the Federal system, with its elaborate set of checks and balances was the best method of protecting the rights of minorities.

Madison realized that primary control of government was dependent upon the people. But, more importantly, he very wisely knew that "auxiliary precautions" would be required.

Hence, the U.S. Senate was conceived as one of the most reliable of "auxiliary precautions" in the American Government.

In the 62d Federalist Paper, said to be written by Madison, he wrote at length on the important role of the Senate as

a restraint on passions that can sometimes be unreasonable and misguided.

Thus far I have considered the circumstances which point out the necessity of a well-constructed Senate only as they relate to the representatives of the people. To a people as little blinded by prejudice or corrupted by flattery as those whom I address, I shall not scruple to add that such an institution may sometimes be necessary as a defense to the people against their own temporary errors and delusions. As the cool and deliberate sense of the community ought, in all governments, and actually will, in all free governments, ultimately prevail over the views of its rulers; so there are particular moments in public affairs when the people, stimulated by some irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career and to suspend the blow meditated by the people against themselves, until reason, justice, and truth can regain their authority over the public mind? What bitter anguish would not the people of Athens have often escaped if their government had contained so provident a safeguard against the tyranny of their own passions? Popular liberty might then have escaped the indelible reproach of decreeing to the same citizens the hemlock on one day and statues on the next.

I might add, at this point, that in this day of rapid and even instant communication, public passion can be inflamed very quickly. It can spread across the country like wildfire and be a treacherous thing in the hands of an emotional majority. Under such conditions, majorities can assume a dangerous tendency of demanding more and more changes with less evidence and with less study and consideration.

Lyndon B. Johnson pointed this out when he was a Senator from Texas. In his maiden speech to the U.S. Senate, he was a stanch defender of the rules of the Senate, particularly rule XXII.

He pointed out that majority rule may be good, but it is not all good. Delay may be bad, but it is not all bad.

The point is, there must be safeguards. Such a safeguard is rule XXII of the Senate. Rule XXII has been responsible for defeating legislative actions. But it has never kept the Senate from acting on legislation of far-reaching importance to the people of this country when a substantial majority of the Senate wanted to act. A further fact of the matter is that in several instances very bad measures such as Roosevelt's court-packing plan and President Truman's abortive attempt to draft railway strikers were defeated by virtue of extended debate in the Senate.

Extended debate in the Senate has most assuredly been responsible for delay in legislation. And this has also been advantageous to the country. Probably one of the longest periods of extended debate in the Senate came in 1964 over the Civil Rights Act.

Because of extended debate many serious flaws in the bill were exposed.

Arthur Krock, the distinguished columnist of the New York Times, gave an excellent analysis of the role of the filibuster in the civil rights debate, and especially pointed out how the extended debate insured every citizen's right to trial by jury.

Mr. Krock wrote in the New York Times:

The Senate filibuster, now emphatically terminated by the first invocation in history of closure of debate on equal rights legislation, made possible the exposure and limitation of some of the sumptuary powers granted to the Federal Government in the text approved by the House. The most important check was the requirement of jury trials in the Federal courts for citizens cited in criminal contempt on a judge's finding that they committed acts of discrimination forbidden in the pending measure. (Since this nowhere defines the general offense, the definition is left to the federal judiciary.)

Had it not been for the Senate filibuster the American people would have remained unaware that the very judges who made findings of criminal contempt in enforcing compulsions for a revolutionary change in the social and economic structure of the nation could unilaterally deny to defendants the hard won Anglo-Saxon privilege of trial by jury. And the grave issue presented would not have been effectively projected into the public consciousness if the House measure had been rammed through the Senate without change.

Also, without the filibuster, it would not have been possible for Senator Dirksen to have gained Administration acceptance of his "package" of other amendments. None of these supplies the fundamental limitation of the Federal grant of power that was made by the adoption of the trial-by-jury requirement of the amendment proposed by Senator Morton of Kentucky. But the package temporarily stays the iron hand of the Federal Government where state laws to the same purpose exist and are being enforced.

In forcing the Senate to accept the jury-trial amendment, the filibusters were being faithful to the finest tradition of the Senate as a guardian of minority rights—in this case the ultimate minority, the minority of one. Though he be a minority of one, the right of the defendant to have his trial by a jury of his peers is a cornerstone of the just society. In accepting the Dirksen amendments allowing States to enforce their own civil rights laws, the Senate emphatically demonstrated its role as a forum of the States.

That is what the Senate was intended to be by the Founding Fathers. That is its constitutional assignment. Each State, the large and the small, is equally represented, with each Senator on an equal footing with the other.

The Senator from California has no more power in the Senate than the Senator from Rhode Island, Alaska, Wyoming, or any one of the other least populous States. The few hundred thousand people in these States have the same representation and vested authority in the Senate as the many millions of people who live in New York, California, and Pennsylvania.

If the Senate is to fulfill its constitutional mission as a forum of the States, there must be stability, and there must be safeguards in order to protect the rights of the minority.

The rules of the Senate are its principal guaranty of stability. Stability in the Senate in turn insures stability to the Government, and indeed throughout all the country.

Thomas Jefferson spelled out the importance of rules and procedure in his Manual of Parliamentary Practice. He said:

As it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted as they were found necessary, from time to time.

The Senate was conceived to provide uniformity and order to the U.S. Congress. Because of its rules and adherence to them, the Senate has been able to meet its constitutional responsibilities.

The tragic inconvenience of periodic upheaval in this institution of the Government has been prevented and "uniformity and order" have been insured.

How has this been done?

There can be only one answer in the light of history.

It is that the Senate has functioned through wise and just rules which have withstood the tortuous test of time.

And the guaranty of free debate for all its Members is the most important of them.

If there were any doubt about that point, the Founding Fathers resolved it by writing into the Constitution in article I, section V, paragraph 2 that each House is sole judge in determining the rules of its proceedings.

We have seen from the quotations I have read from "The Federalist" that the Senate is not an "upper house" of the Congress in any sense of the word.

The Senate exercises quasi-executive functions in relation to the treaty-making power.

The Senate sits as a judicial body in impeachment proceedings.

The Senate must give its advice and consent to the appointments of the Executive.

The Senate is the safeguard of state sovereignty on the national level.

The point has been made that the Senate's cloture rule is more liberal than the similar rules of most State senates.

The truth of the matter is that the Senate of the United States cannot legitimately be compared in any terms with either State senates or with assemblies of foreign nations.

To attempt to make such comparisons is to misconstrue totally the unique position which the U.S. Senate occupies in our Federal-State structure.

One who has risen in years past and who rises today to defend the U.S. Senate and its rules is made very much aware of a subtle, but nonetheless devastating, erosion which threatens to undermine this body as the keystone of our republican form of Government.

I refer, Mr. President, to the continuing erosion of the right of freedom of debate in the Senate of which the pending action is a part.

It is an erosion which began as a trickle with the adoption of the Senate's first cloture rule in an atmosphere of war hysteria in 1917.

It is an erosion which reached the

proportions of a washout in 1949, and widened into a gully in 1959.

It is an erosion which, if fed by the flood to which the proposal under consideration would open the gates, can have no conclusion but to render the Senate a parliamentary wasteland in which all opposition will be trampled and gagged by impatient and arrogant majorities of one.

Such an eventuality, Mr. President, would be as disastrous to our form of government as would be the loss of our soil to civilization.

It is the earnest hope of the Senator from Georgia, Mr. President, that this debate will serve to awaken the Senate to the urgent necessity of giving more attention to putting an end to the erosion of constitutional government.

Instead of the broken-record-like agonizings about "majority rule" and "world opinion" which are heard over and over whenever this issue arises, the Senate should give its attention to the historical and constitutional facts of its establishment as one of the principal checks and balances of our unique concept of government.

The distinguished author and columnist, William S. White, who is one of the Nation's foremost contemporary authorities on the constitutional role of the Senate, has observed with great truth that "rarely have so many been so profoundly affected by so grave an issue understood by so few." He puts it into its proper perspective in the following succinct and graphic words:

> The advanced liberals would fundamentally alter the Senate as an institution. This they bitterly deny; but it is historically and demonstrably the truth. For the Senate was deliberately designed, and for nearly two centuries has so operated, as a frank check on unqualified majority rule . . .
>
> The advanced liberals can fairly argue that the Senate ought to be a place of straight majority rule. But they cannot fairly argue that the Constitution has made it such.
>
> The ultimate victims of halting Senate debate by a simple majority would be any or every minority and any or every minority interest or issue, given a favorable atmosphere for the majority.

Over the years, Mr. President, representatives of the various partisan groups advocating gag rule in the Senate have offered lengthy testimony and voluminous briefs purporting to show the circumstances attendant to the adoption of our Constitution and the creation of the U.S. Senate.

No doubt if Thomas Jefferson, Alexander Hamilton, James Madison, and John Jay could return to the scene today they would be shocked at how some of their writings in the Federalist have been distorted out of context.

The entire spirit of the Federalist and its elucidation regarding the foundation of the Senate cries out for the maintenance of freedom of debate in this body.

Properly assaying the true meaning of the Federalist requires an understanding of the times in which the letters comprising it were written.

It must be borne in mind that Hamilton and the other patriots of that day were writing about inadequacies of the loosely drawn Articles of Confederation and in favor of the adoption of a clear-cut new Constitution. In quotations attributed to Hamilton in various briefs offered to support gag rule, he was detracting from the Articles of Confederation in a concerted effort to convince the people that the new Constitution was good for the country and should be ratified by the States.

One of the quotations attributed to Hamilton in one of these briefs was taken from letter 22 in which he stressed the weakness of the requirement that legislation adopted by the Continental Congress receive the approval of three-fourths of all the States.

The quotation, while applicable to that situation, hardly can rightly be applied to free debate in the Senate.

The other quotation attributed to Hamilton, which proponents of majority cloture claim supports their position, refers to the treatymaking power and other "resolutions." There must have been strong sentiment for a constitutional two-thirds requirement before Senate approval, for Hamilton sought to allay the fears of the people by urging the view that a simple two-thirds would be sufficient in such circumstances for protection against abuses.

By no stretch of the imagination can the language quoted from Hamilton in letter 75 be applied to the fundamental right of a State to be heard from fully, through its Senators, in Senate debate.

Thus, Mr. President, it is the grossest distortion when we have those of the present seeking to apply the words of the great patriots of the past in an effort to detract from the Constitution and the principles of government which they established, when, in reality, those quotations when written were in reference to the Articles of Confederation.

It behooves us to examine carefully the Articles of Confederation, the Constitutional Convention, and the Constitution itself. And, if we are to arrive at a proper perspective and present a true reflection of the facts surrounding the origin of our constitutional form of government and the place of the U.S. Senate in it, we must consider each in the light of the other and the conditions prevailing at the time.

The Articles of Confederation, standing alone, proved insufficient for successful operation of a central government.

Each State had one vote in the Continental Congress. And on most major issues a three-fourths vote of all States was required.

The States and their people were wary of the tyranny of central governments and despotic rulers. They were, by instinct, hesitant to surrender any portion of their newly won sovereign powers and their blood-won liberties.

The price at which they agreed to surrender a portion of them was the creation of the U.S. Senate.

We must remember that the delegates to the Constitutional Convention were chosen either by the Governors or the legislatures of their States. They were instructed to press for either revision or amendment of the Articles of Confederation; but, in no event, to give up the principle of sovereignty and equality of the States.

Though the Articles of Confederation afforded no basis for a worthwhile scheme of amendment or revision, many of the delegates nonetheless held fast to the principle that any new Constitution must include equality of state representation.

From first to last the Convention stood for the protection of private economic interests, a stronger central authority, a stabilized monetary system, orderly legal processes and a republican form of government—but not for an unlimited democracy.

The motivating spirit of the Convention—not expressed, but clearly understood—was to make the Nation safe from unlimited democracy. Madison's own notes, as well as the papers of most of the other delegates, make such an intention unmistakable.

Perhaps the clearest exposition of the intention of the Founding Fathers as to the role of the Senate is contained in Madison's own account of his own participating in the debate on the subject. "Madison's Journal" quotes the author, both directly and indirectly, as follows:

> In order to judge of the form to be given to this institution, it will be proper to take a view of the ends to be served by it. These were first to protect the people against their rulers; secondly to protect the people against the transient impressions into which they themselves might be led. A people deliberating in a temperate moment, and with the experience of other nations before them, on the plan of government most likely to secure their happiness, would first be aware, that those charged with the public happiness, might betray their trust. An obvious precaution against this danger would be to divide the trust between different bodies of men, who might watch and check each other. In this they would be governed by the same prudence which has prevailed in organizing the subordinate departments of government, where all business liable to abuses is made to pass through separate hands, the one being a check on the other.

Mr. President, Madison's transcript of his own words, continues thusly:

> It would next occur to such a people, that they themselves were liable to temporary errors, through want of information as to their true interest, and that men chosen for a short term, and employed but a small portion of that in public affairs, might err from the same cause. This reflection would naturally suggest that the government be so constituted as that one of its branches might have an opportunity of acquiring a competent knowledge of the public interests. Another reflection equally becoming a people on such an occasion, would be that they themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. . . .
>
> It ought finally to occur to a people deliberating on a government for themselves, that as different interests necessarily result from the liberty meant to be secured, the major interest might under sudden impluses be tempted to commit injustice on the minority. In all civilized countries the people fall into different classes having a real or supposed difference of interests. There will be creditors and debtors, farmers, merchants and manufacturers. There will be particularly the distinction of rich and poor. It was true as had been observed by Mr. Pinckney we had not among us those heriditary distinctions, of rank which were a great source of the contests in the ancient governments as well as the modern States of Europe, nor those extremes of wealth or poverty which

characterize the latter. We cannot, however, be regarded even at this time, as one homogeneous mass, in which everything that affects a part will affect in the same manner the whole. In framing a system which we wish to last for ages, we should not lose sight of the changes which ages will produce. An increase of population will of necessity increase the proportion of those who will labor under all the hardships of life, and secretly sigh for a more equal distribution of its blessings. These may in time outnumber those who are placed above the feelings of indigence. According to the equal laws of suffrage, the power will slide into the hands of the former. No agrarian attempts have yet been made in this country, but symptoms, of a leveling spirit, as we have understood, have sufficiently appeared in certain quarters to give notice of the future danger. How is this danger to be guarded against on republican principles? How is the danger in all cases of interested coalitions to oppress the minority to be guarded against? Among other means by the establishment of a body in the government sufficiently respectable for its wisdom and virtue, to aid on such emergences, the preponderance of justice by throwing its weight into that scale.

Madison then goes into a third-person account of the remainder of his presentation on the subject, writing:

Such being the objects of the second branch in the proposed government, he thought a considerable duration ought to be given to it. He did not conceive that the term of nine years could threaten any real danger; but in pursuing his particular ideas on the subject, he should require that the long period of life, as would render a perpetual disqualification to be re-elected little inconvenient either in a public or private view. He observed that as it was more than probable we were now digesting a plan which in its operation would decide forever the fate of republican government, we ought not only to provide every guard to liberty that its preservation could require, but be equally careful to supply the defects which our own experience had particularly pointed out.

Mr. President, Madison made it clear in even the early deliberations of the Founding Fathers that they were undertaking to establish an entirely new concept of government—one which be neither pure democracy nor pure republic, but rather a product of compromise in which the interests of all groups, present and future, would be fully protected.

He made it equally plain that the second legislative chamber then being devised—and which we now know as the Senate—would be the safeguard of minority thought and interests.

While the question of the ratification of the new Constitution was before the people of the country, Madison, Alexander Hamilton, and John Jay—over the common pseudonym of "Publius"—wrote and published in the press of that day a series of 94 articles explaining the various passages of the new instrument.

Those essays are unrivaled in the whole mass of constitutional literature for clarity, power and illumination. After their appearance they were brought together and published in one volume entitled "The Federalist," a work to which I have earlier referred. That volume is recognized by historians as the most authoritative source of contemporaneous interpretation and construction of the origin of the U.S. Constitution and the institutions of the U.S. Government.

For an exposition of the precise effects of this new form of government, we must turn to letter 9 written by Alexander Hamilton as it appears in the 1787 edition of "The Federalist." In it he wrote:

The proposed Constitution, so far from implying an abolition of the State governments, makes them constituent parts of the national sovereignty, by allowing them a direct representation in the Senate, and leaves in their possession certain exclusive and very important portions of sovereign power.

Hamilton was joined in that view by Madison who later wrote in letter 45 as follows:

The State governments may be regarded as constituent and essential parts of the federal government; whilst the latter is nowise essential to the operation or organization of the former.

Our Government was not designed or intended to be purely national in character under which unlimited majorities might trample a helpless minority. Madison in letter 39 cited several propositions of constitutional construction to prove that point and concluded in these words:

The proposed Constitution, therefore, even when tested by the rules laid down by its antagonists, is, in strictness, neither a national nor a federal Constitution, but a composition of both.

Madison explained that ratification of the Constitution by sovereign States was a Federal act; representation in the House, a national act; representation in the Senate, a Federal act; election of the Executive, a compound National-Federal act, with emphasis on the former; in exercising its delegated powers, a Federal act; and in amending the Constitution, again, a compound National-Federal act.

Those, Mr. President, are the checks and balances written into the organic law to protect the people, to protect the people's rights and to protect the sovereignty of the several States.

Discussing the sources from which the powers of the Government were to be derived, Madison said of Congress:

The House of Representatives will derive its powers from the people of America, and the people will be represented in the same proportion, and on the same principle as they are in any legislature of a particular State.

The Senate, on the other hand, will derive its powers from the States, as political and co-equal societies; and these will be represented on the principle of equality in the Senate, as they are in the existing Congress.

Mr. President, let us observe closely that part of the language which says: "as they are in the existing Congress."

That reference, Mr. President, is to the Continental Congress and we know that it was based, without exception, on equality of the States as sovereign entities. And that is the heritage of the Senate.

Thus, Mr. President, the Senate was created to be—and is, in fact, today—the great repository of State sovereignty on the national level. So-called majority rule, cloture, and unlimited democracy are as foreign to the constitutional concept of this body as it is possible to be.

The U.S. Senate was created out of compromise.

The delegates to the Constitutional Convention were deadlocked hopelessly over the Virginia plan which was favored by the larger States and the Jersey plan which had the support of the less populous States.

Out of that conflict came a suggestion for resolving the differences. Dr. William Samuel Johnson, of Connecticut, according to the Secret Debates of the Convention, was the first to take the floor; and, in the course of his remarks, made a suggestion which subsequently was adopted and gave a leading character to the Constitution. He observed:

It appears to me that the Jersey Plan has for its principal object, the preservation of state governments . . . I could have wished that the supporters of the Jersey system could have satisfied themselves with the principles of the Virginia Plan; and that the individuality of the states could be supported. It is agreed that on all hands, that a portion of the government is to be left to the states. How can this be done? It can be done by joining the states in their legislative capacity with the right of appointing the second branch of the legislature to represent the states individually.

With those words, Mr. President, was born the plan for the creation within the National Government of a protective repository for the sovereign powers of the sovereign States. The discussion which followed naturally related to the makeup and composition of the Senate.

Madison urged that the Senate be so constituted as to have "permanency and stability."

The Senate is the safeguard of State sovereignty on the national level.

The point has been made that the Senate's cloture rule is more liberal than the similar rules of most State senates.

The truth of the matter is that the Senate of the United States cannot legitimately be compared in any terms with either State senates or with assemblies of foreign nations.

To attempt to make such comparisons is to misconstrue totally the unique position which the U.S. Senate occupies in our Federal-State structure.

It is essential to our interests as a nation that we keep vital and inviolate our system of checks and balances of which the continuing nature of the Senate and freedom of debate within it are integral parts.

With continuity of direction and unlimited debate in the U.S. Senate, all Americans have the assurance that no act jeopardizing their rights ever will be proposed without some Member of the Senate having the opportunity to resist it and to warn the Nation of its consequences.

Jefferson's reverence for protection of minority opinion through the rules of parliamentary procedure is evidenced by the following quotation from the preface to his Manual:

Mr. Onslow, the ablest among the Speakers of the House of Commons, used to say it was a maxim he had often heard when he was a young man, from old and experienced members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the ac-

tions of the majority, and that they were, in many instances, a shelter and protection to the minority against the attempts of power. So far the maxim is certainly true and is founded in good sense; that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted as they were found necessary, from time to time, and have become the law of the House, by a strict adherence to which the weaker party can only be protected from those irregularities and abuses which these forms were intended to check and which the wantonness of power is but too often apt to suggest to large and successful majorities.

And whether these forms be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by, than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or capriciousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body.

On a subsequent occasion, Jefferson had this to say concerning the protection of minority interests:

Bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate would be oppression.

It is a certainty, Mr. President, that the proponents of gag rule in the Senate can obtain little in the way of aid or comfort from the greatest liberal of all times, Thomas Jefferson.

Mr. President, it is important that the Senate not deceive itself as to what is at stake in this debate.

The fact that opponents of free debate come back session after session with their schemes to stifle free speech in the Senate would indicate that their purpose far transcends the mere revision of rules to be followed in this Chamber.

In fact, Mr. President, the issue is one with ramifications which extend to the very heart of our form of government and candor compels the conclusion that the effect—if indeed not the goal—of these repeated efforts, if successful, would be to repudiate the Senate's assigned constitutional role.

In truth, Mr. President, the pending resolution is an attack upon the Senate itself—upon the stature, prerequisites, and prerogatives of each Senator in national affairs and every other responsibility incident to the senatorship.

It is an attack which threatens the whole fabric of our form of government—which strikes at the very vitals of representative government—which aims a death blow to the States as political entities.

It is part of the continuing attack which seeks to destroy the best aspects of our Federal-national system and substitute, therefore, the worst aspects of a national system—an attack which seeks to centralize more and more power in Washington and to make big government bigger and less responsive to the will of the people.

Mr. President, it is the firm conviction of the Senator of Georgia that the Senate, by further weakening rule 22, will be inviting a sustained campaign to destroy it as a unique and essential institution of government and to turn it into a useless appendage to the House of Representatives. A victory for the advocates of gag rule today will be but a signal for an assault on the seniority system and, in turn, all the other safeguards which have given stability and responsibility to the Senate of the United States.

Through the medium of free debate, Mr. President, the Senate provides the machinery by which all measures affecting the lives, fortunes, and sacred honor of the American people can be put to the critical test of unhurried examination by the collective intellect of a body expressly created as one of our governmental checks and balances.

Those who would destroy that right contend it imperils democracy and thwarts the wishes of the majority. In their zeal they forget that its very purpose is to provide a restraint upon the abuses of unbridled majority rule, and, even more important, to protect the rights of the minorities of this Nation.

Our wise Founding Fathers were aware that the excesses of democracy can be as fearful in their consequences as are the excesses of totalitarianism. To safeguard against both extremes, they gave us our republican government with its delicately contrived system of checks and balances, of which freedom of debate in the Senate is at least an implied, if not actual part.

George Haynes in his book, "The Senate of the United States, Its History and Practices," made this point with the following apocryphal story found on page 4 of his first volume:

There is a tradition that on his return from France, Jefferson called Washington to account at the breakfast table for having agreed to a second chamber.

"Why," asked Washington, "did you pour that coffee into the saucer?"

"To cool it," quoted Jefferson.

"Even so," said Washington, "we pour legislation into the senatorial saucer to cool it."

Alexis de Tocqueville in chapter 15 of his book, "Democracy in America," offered this observation on the danger of unbridled majority rule:

If ever the free institutions of America are destroyed, that event may be attributed to the unlimited authority of the majority, which may at some future time urge the minorities to desperation, and oblige them to have recourse to physical force. Anarchy will then be the result, but it will have been brought about by despotism.

All of the great injustices of history have been committed in the name of unchecked and unbridled majority rule.

The late Senator James A. Reed, of Missouri, in one of the most forceful speeches ever delivered before the Senate, observed with great truth that:

The majority crucified Jesus Christ.

The majority burned the Christians at the stake.

The majority drove the Jews into exile and to ghetto.

The majority established slavery.

The majority chained to stakes and surrounded with circles of flame martyrs through all the ages of the world's history.

The majority jeered when Columbus said the world was round.

The majority threw him into a dungeon for having discovered a new world.

The majority said that Galileo must recant or that Galileo must go to prison.

The majority cut off the ears of John Pym because he dared advocate the liberty of the press.

Senator Reed, speaking on the same subject, also declared:

Strike down this safeguard of public discussion, apply the gag, and imagine, if you please, that it is applied only to pass good measures, only to accomplish the virtuous and the wise and the holy, only to bring the thing of rectitude; imagine that if you please. He is a fool, he is every kind of fool that has ever cursed the earth or cursed himself, who thinks that any power will always be used wisely and justly . . . . Why should there not be some place in this country where the virtues or the iniquities of proposed legislation could be exposed without gag, without rule, without limit; some place where every public act must come under the surveillance of men who have complete freedom of speech?

When we hear the cry of majority rule in the Senate, we should take into account a few simple facts about the origin and composition of the Senate.

It is impossible to apply to this body with any degree of accuracy the principle of popular majority rule as we usually consider it. The very composition of the United States where all States have an equal vote prevents such an application.

It is possible for various combinations of 51 Senators to represent anywhere from 20 to 80 percent of the country's population.

The Senate, in the light of history and the Constitution, is much more than another legislative body.

It is, in reality, a continuing council of States sitting as an integral part of the Federal Establishment—a protective repository on the national level for the sovereignty of the sovereign States.

It was with plain design that our Founding Fathers created it as a watchman over all operations of our National Government.

And it was with deliberate intent that they conferred upon it the broadest powers to act as a checkmate on unwarranted centralization of authority.

Our far-seeing forefathers well realized that the House of Representatives would be both too large and too impermanent to fulfill those desired objectives.

They knew there could never be free debate in the House and that important bills would pass that Chamber without sufficient study and deliberation.

And, perceiving those problems, they put their faith in the U.S. Senate and bestowed upon it the major responsibility for keeping faith with posterity.

The Senate has afforded continuity and stability to our Government. The Senate has stood as a bulwark against usurpations of power. Now is no time to forget the lessons of history.

The Senator from Georgia does not share the claim that the United States is "failing freedom" in the world.

The Senator from Georgia does not share their contention that this Senate

is a decadent instrumentality "unresponsive to democracy."

The Senator from Georgia does not admit their assertion that any Member of this Senate lacks either vision or patriotism.

The Senator from Georgia is indignant at the implication that he, or any other Member of this Senate, would consent to serve under, let alone defend, any rule of procedure which could to any degree be as reprehensive and alien to the American concept as opponents of rule 22 would picture it to be.

One wonders, Mr. President, whether those who make such assertions include in their reference the distinguished and respected former President of the United States—Hon. Harry S. Truman—who himself served with honor for many years as a Member of the Senate. Undoubtedly they must because Mr. Truman was quoted only 2 years ago as stating:

The reason I like the Senate and wish I was in it is because it has unlimited debate.

One must also question, Mr. President, whether they also include one of the most outspoken liberals ever to sit in this body—the late Honorable William Langer, of North Dakota—who refused to equate liberalism with advocacy of gag rule.

A cherished letter is one which the Senator from Georgia received from this distinguished public servant several years ago. It is to the point of this debate and, because it summarizes so forcefully the points this speaker would make, I read it as follows:

DEAR SENATOR TALMADGE: I have been advised that another effort will be made to change Rule 22 when the 86th Congress convenes.

After 18 years experience in the United States Senate, I am unalterably opposed to limiting debate in the Senate, the one place left in this world for free and untrampled discussion. My views upon this have been stated so often on the Senate floor that it is not necessary for me to fully restate them here.

Don't you think it mighty strange when old timers like Bob LaFollette and Charles McNary and men of their fine type totally rejected the limitation of debate that some Senators on the pretext of passing some civil rights bill are going to give those opposed to liberal legislation the chance to wreck the passage of liberal bills. As Senator McNary so well stated, "A good bill never has been killed by a filibuster, but many a bad bill has been prevented from becoming law by a few fighting liberals."

To go back even further into the history of unlimited debate in the Senate, I quote Senator Harris of Tennessee, who in 1891, stated as follows: "So I assert with absolute confidence that from the 26th day of March 1806, there has been no proposition to limit general debate in the Senate that has not been rebuked as an attack upon free speech and upon the rights of the States and the legislation as well as to civil liberty. They have been, as they ought to have been invariably defeated."

It is interesting to note from Senator Harris' quotation that unlimited debate is most necessary to protect our civil liberty, whereas today the proponents of the change of Rule 22 would destroy that protection to civil liberties just because they feel that a civil rights bill cannot pass under existing Rule 22.

Mr. President, I interpolate to point out that they are in grave error because we have passed a multiplicity of civil right bills with rule XXII on the books. In fact, we have passed so many that it is doubtful that the mind of man could conceive of any civil rights legislation that the Congress of the United States had not already enacted into law.

I continue reading:

I would like to reiterate what I said on the Senate Floor on March 11, 1949, in discussing Rule 22 when I stated, "I wish to say that during the eight years I have been here, I have voted for every bill, without exception, calling for the establishment of civil rights in this country. So, today, I wish to make it very plain that I vote to override the decision of the Vice President, I am still a firm, fighting friend of civil rights—just as strong a friend of civil rights as I ever was; and if the Democrats will begin tomorrow or Monday with a really serious effort to carry out Mr. Truman's civil rights program, I assure my friend the distinguished majority leader (Mr. Lucas) that he will find me voting with him every single time. I hope the Democratic party will do that. I hope they begin on it right away, and never quit until they secure the enactment of that civil-rights program. I think they will receive a great deal of support from Senators on this side of the aisle."

I believe that we, the members of the Senate, can best understand the great need to have complete debate on the Senate Floor if we would study the speeches of our predecessors in office.

For example, read the speech of Senator LaFollette of March 8, 1917, beginning on page 40 in the Congressional Record in which he also quotes from Senator George Gray (Delaware); Senator John Coit Spooner (Wisconsin); Senator Henry Moore Teller (Colorado) who spoke on this subject on the 22nd day of January 1891. Speeches by other distinguished Senators can be found in Volume 116 of the Congressional Record, 51st Congress, 2nd Session, beginning on page 1670 and running through pages 1740, where, in 1841, many distinguished Senators from all sections of the country expressed the great need for unlimited debate.

In closing, I regret to see such fine men as the proponents for a change of Senate Rule 22 deceiving themselves in doing something, which if they succeed, I believe they will live to regret.

With kindest regards, I am

Sincerely yours,

WILLIAM LANGER.

Mr. President, there is nothing which the Senator from Georgia might add which would make more forceful the convincing argument which this fighting liberal made in defense of unlimited debate in the Senate. It is the considered opinion of this Senator that, in the space of one short letter, the late revered Senator Langer completely shattered every contention which might be made in the name of liberalism for the imposition of gag rule in the Senate of the United States.

The suggestion of the late Senator from North Dakota that the Senate give attention to the great speeches made by Senators of the past on this subject is well taken. And it shall be the purpose of the Senator from Georgia at this time to do just that.

The speech of Senator LaFollette to which Senator Langer referred in his letter is a classic defense of the role of the Senate in its constitutional perspective and the vital part which free speech within the Senate plays in its maintenance. I read from his words as follows:

Believing that I stand for democracy, for the liberties of the people of this country, for the perpetuation of our free institutions, I shall stand while I am a member of this body against any cloture that denies free and unlimited debate. Sir, the moment that the majority imposes the restriction contained in the pending rule upon this body, that moment you will have dealt a blow to Liberty, you will have broken down one of the greatest weapons against wrong and oppression that the members of this body possess. This Senate is the only place in our system where, no matter what may be the organized power behind any measure to rush its consideration and to compel its adoption, there is a chance to be heard, where there is opportunity to speak at length, and where, if need be, under the Constitution of country and the rules as they stand today, the constitutional right is reposed in a member of this body to halt a Congress or a session on a piece of legislation which may undermine the liberties of the people and be a violation of the Constitution which Senators have sworn to support. When you take that power away from the members of this body, you let loose in a democracy forces that in the end will be heard elsewhere, if not here.

This dedicated public servant, Mr. President, who was selected as one of the five outstanding Senators of all times, continued in these words:

The very fact that from its earlier days there has been free discussion in the Senate, and that the ablest and most patriotic statesmanship of the country has overwhelmingly defeated the kind of a rule pending here today, seems to me should make Senators hesitate to bring this resolution and secure its immediate consideration. . . . This rule will furnish an additional incentive to hold back important legislation until the closing hours of a session as it makes the majority certain of success in carrying through its program.

Senator LaFollette then proceeded to quote from the speeches of other great Senators of the past on this subject. He first referred to the words of the late Senator George Gray of Delaware as follows:

It is all a farce to talk about the reasonable limit of debate in the opinion of majorities, if you are to be content that free speech and liberty of debate have any place longer in American institutions.

You say that the power of obstruction must be put down, must be taken from the minority, that it is intolerable, this opportunity and liberty of obstruction that the minority has, when the majority makes up its mind. Very well. Let us destroy the power of obstruction and you have destroyed free parliamentary government. Obstruction is the very weapon of liberty in all English-speaking countries. There is no unimpeded path for a majority to walk in, no unobstructed road for its will to be worked through, unless that road and that path lead to despotism. Obstruction in parliamentary proceedings by a minority has been the fruitful source of some of the grandest achievements of human liberty that this world has known. You cannot do away with it. You cannot destroy it without at the same time doing away with the muniments of freedom and destroying liberty itself.

We can put up with obstruction, we can pay the price of our liberties, Mr. President: we can dispense with the haste and with the so-called business methods that obtain in some parliamentary bodies, because we are willing to pay the price of liberty. If you

want a smoothly-working machine, if you want a governmental framework that will produce at the least expense and in the shortest time given results, then I say go to your despotism, go to a crowned czar, or go to an unrestrained majority, an unobstructed majority, and there you will get results speedily, quickly and inexpensively, without cost of time. But you will get other results, too. The spirit of freedom will have to die and the spirit of American Liberty will have to suffer a fatal lesion before that desirable state of things can be brought about . . .

We do not need to cross the Atlantic yet for examples to follow in order that we may stifle debate on the floor of the Senate of the United States. That example does not commend itself to the good sense and to the patriotic instincts of the American people. Cloture, this foreigner, with strange air and mein, who can not talk the English-American speech, who has not the accent of liberty on his tongue, comes here and is knocking at the door of the Senate for admission and to be taken in and made at home. It may do in France; it may do in Austria; it may do in Germany; but it will not thrive when transplanted on American soil . . . and I predict it will wither and die before another year has rolled around.

What did Bentham say, that great political philosopher?

"In France the terrible decrees of urgency for the closing of discussion may well be remembered with dread. They were formed for the subjugation of the minority and for the purpose of stifling argument which they dreaded."

And that is the purpose here. It is the purpose everywhere where it has ever been applied. In the countries where it obtained as an institution, censorship of the press went hand in hand with it. You cannot stifle free debate and also keep a free press. You will after a while get impatient of the structures and the criticisms of a free, untrammeled press.

Alien and sedition laws are of kindered blood with this rule. They did not flourish long in American soil. But they were good men who voted for those alien and sedition laws . . . They were somewhat shocked and scandalized at the freedom of the press, and they said, as the Senator from Vermont would say or has said in substance, "Oh, we do not oppose liberty; it is license that we oppose. We do not oppose freedom of debate; it is only unreasonable freedom of debate that we oppose." And so they said, "The liberty of the press is dear to us; but, my friend, you must recollect there is a difference between liberty and license, license will not do. . . .

"Liberty of the press—we grant that. Let us see the article. Well, that may do; it is coming very near the verge of license, though; and, if it does, then the alien and sedition law, scandalum magnatum, must apply, and the editor must abide the pains and penalties. You must recollect in conducting this sheet that you are not to cross the line. Liberty we ought to maintain. Liberty! We all love liberty. Liberty of the press is one of the watchwords of freedom. But license, oh that is a different thing. License tends to the demoralization of the community; license tends to the sapping the foundation of social order, and it will not do to tolerate it."

And so Senators will find, when you attempt to draw the distinction between freedom of debate and what is reasonable freedom of debate that you will run into the same shadowy ground, and you will find yourself trespassing upon the liberties that belong to all American citizens and you will find you cannot erect any standard between liberty and license; you have got to leave it to work itself out by the good sense of the people themselves; and that has served from the beginning until now to save us from the results that were prophesied from untrammeled liberty of the press.

This measure is obnoxious to every sentiment of American freedom. Its companions are such as I have described. It must go hand in hand with alien and sedition laws and with the censorship of the press, as it has in all the countries whence the cloture, this foreigner, this exotic has come.

I do hope, I do believe, I express the confidence now as an American Senator, that there will be no line drawn in that alley that shall separate the friends and opponents of this measure, but that the votes will cross that line and there will be a majority—I trust not a partisan majority, but a majority of American Senators who will continue to vindicate the great principles of American liberty and parliamentary freedom as they have existed for a hundred years in the Senate of the United States.

Mr. STENNIS. Mr. President, is the Senator at a place where he can yield to me?

Mr. TALMADGE. Yes. I am delighted to yield to my distinguished friend from Mississippi.

Mr. STENNIS. Mr. President, first I want to say that I regret very much there are not more in attendance here to hear the Senator's discussion of what I think are some of the fundamental, basic parliamentary principles and mudsills of our form of government and also their very practical application over the years.

I already know the answer to this question, but I would like to ask if it is not true that the Senator from Georgia has been here for a good number of years now when we have had this and directly related questions come up about the proposal to change rule XXII—that is, make it easier, by a smaller vote, to cut off debate?

Mr. TALMADGE. The Senator is entirely correct. In fact, I have been in the Senate now for 14 years. At the beginning of every new Congress someone gets up and proposes to change the rule on free speech. The ultimate goal, of course, is to impose majority cloture, where a majority of one in this body can run rampant, untrammeled, unobstructed, any time they want to, over the other 49 Senators.

Mr. STENNIS. Is it not true that those of us who have consistently opposed this position, or opposed the changing of the rule and defended the rule that permits debate—even though it is under control, it is still a more liberal view for extended debate—even though we are accused of having in mind solely the prevention of the passage of civil rights bills, also have had in mind, as have other Senators who have voted for our position, uppermost in our minds always the idea of the very basic concept of the Senate as a parliamentary institution of our Government, the protection of it, and those elements that go to make its distinguishing characteristics for real, true debate? Is that not true? Will the Senator comment on that?

Mr. TALMADGE. The Senator is entirely correct. Before the Senator entered the Chamber, I read from the Federalist Papers the language of Madison and Hamilton. They conceived the Senate of the United States to be a forum of States, where each State, no matter how large or how small, no matter how populous or how sparsely settled, would have an equal vote. This forum of States would be a checkmate against hasty, intemperate, speedy, impassioned proposals of various kinds. In this forum of States they could consider each proposal deliberately, to protect the various minority groups of this country.

What is a majority today may be a minority tomorrow, and vice versa, as the Senator knows, sometimes on the same subject matter.

We have seen in recent years rapid advances in electronic news transmission, where the passions of the people can be inflamed almost instantaneously. If there is no such body as the Senate to check the Government, speedy legislation can be adopted which the people will regret.

I have already mentioned that free debate in the U.S. Senate had checked the ill-conceived Franklin Roosevelt plan to pack the Supreme Court, whereby he would put on that bench judges who were amenable to his views and would hold constitutional what he thought ought to be held constitutional, and hold unconstitutional what he thought ought to be held unconstitutional.

I also mentioned the ill-conceived plan of President Truman, who was President of the United States when we had a railroad strike, and he proposed putting the strikers into the Army of the United States, I believe that measure passed the House of Representatives with only 16 dissenting votes, without hearings, the same day the bill was proposed. When the measure came to the Senate, the then Senator from Ohio, the senior Mr. Taft, was in the Senate. He was not regarded as a particular friend of organized labor, but it was the senior Senator from Ohio who stopped the hasty adoption of that plan to draft members of the railroad unions into the Army of the United States.

Many examples have been cited on the floor of the Senate where, time after time, that has happened.

On the contrary, I know of no bill that had the support of the people of the United States and a majority of the Senate of the United States that was ever delayed permanently by free debate.

The Senator mentioned civil rights a moment ago. Of course, in the early days when I came to the Senate a great horror was projected by the news media to the effect that rule XXII was thwarting civil rights bills, but, as the Senator knows, rule XXII is still on the books. The Senate has passed a multiplicity of major civil rights bills, beginning in 1964, and about a half dozen since then. So rule XXII has nothing whatever to do with civil rights or any other specific piece of legislation.

But it is proposed to strike down the rules of this body whereby a few Senators, or one Senator, for that matter—it may be one against 99 if he has the courage of his convictions—can stand on this floor and state their convictions with force and clarity, where the news media of this country can pick it up and carry it to the people and can awaken the people of this Nation to the proposal that is under debate. The purpose, as I see it,

of rule XXII, is to slow down something that an intemperate majority may demand. We are always ready to vote when we are a majority; we are never ready to vote when we are a minority in the Senate. But a majority may become a minority, and vice versa.

Since I have been in the Senate those who have proclaimed the loudest that they are opposed to rule XXII and want to strike it down are the very ones who use free speech the most. If this rule is ever destroyed, they will be the first to regret it.

Last year, as the Senator knows, our majority leader said we had filibuster upon filibuster upon filibuster, and sometimes a filibuster within a filibuster. That was true. The very ones who engaged in those filibusters were those who shouted the loudest against the filibuster and declaimed the most against rule XXII.

They were within their rights. Thus cloture motions were filed, and they did not get a majority vote in a single instance.

So the Senate at that time thought free debate was much in order, and if they ever strike it down in this body, the character of the Senate, as I conceive it, will totally change, and it will become a useless appendage of the House of Representatives. It will be something like the House of Lords, which is ceremonial only, and no real power is reposed in it.

If we cannot preserve free speech in the U.S. Senate, I think the Senate might as well be abolished, and we go back to a unicameral system and let the House of Representatives handle it all.

Mr. STENNIS. Mr. President, if the Senator will yield right there——

Mr. TALMADGE. I am delighted to yield to my friend.

Mr. STENNIS. On the point that the Senator has just mentioned, should we abolish rule XXII, which does afford this protection, does not the Senator think that it is virtually certain and obvious that the Senate would rapidly become the secondary legislative body in our system of government?

Mr. TALMADGE. I do not think there is the slightest doubt of it. Just as the Senator entered the Chamber, I was reading a speech by former Senator Gray of Delaware. That speech was read to this body by LaFollette the elder of Wisconsin, "Fighting Bob," they called him; his picture is out in the President's Reception Room as one of the five greatest U.S. Senators of all time.

It was the thrust of Senator Gray's speech that with all of the frustrations of free speech, if we ever destroyed it, the liberties of the people would be destroyed.

When I was reading that speech, I thought of the history of France. Senators will remember that when Napoleon Bonaparte was installed, it was done—how? by the French Assembly, through artifice and trickery, with the assistance of Napoleon's brother, who was the presiding officer. They had no rule of unlimited debate in the French Assembly at that time.

Then I thought of one of the greatest books, I think, of all time, at least that I have ever read, William L. Shirer's "Rise and Fall of the Third Reich."

Anyone who really loves liberty and freedom ought to read this book, because it goes into detail, and tells how easily it can be destroyed on page 198 of Shirer's book.

Hitler, you know, achieved power legitimately in Germany. Hindenburg was President of the country, and when a vacancy occurred in the chancellorship of Germany, the President had the appointive power to appoint a Chancellor, and he appointed Adolf Hitler Chancellor.

Hitler had not assumed dictatorial powers at that time. His rowdies were roughing up people and roaming the streets, but they still had civil liberties in Germany.

So Hitler and his Nazi Party came up with the idea of getting the Reichstag, which is the German legislative body, to pass what they called the Enabling Act.

Let me read what Shirer says the Enabling Act was:

> The answer was given two days later, on March 23, in the Kroll Opera House in Berlin, where the Reichstag convened. Before the house was the so-called Enabling Act—the "Law for Removing the Distress of People and Reich (*Gesetz zur Behebung der Not von Volk und Reich*)," as it was officially called. Its five brief paragraphs took the power of legislation, including control of the Reich budget, approval of treaties with foreign states and the initiating of constitutional amendments, away from Parliament and handed it over to the Reich cabinet for a period of four years.

Imagine a bill of five brief paragraphs, that gave Adolf Hitler the power to handle the whole budget as he saw fit, to handle any treaties with foreign countries as he saw fit, and even to amend the German constitution as he saw fit.

What happened? I skip over to page 199 of the same book, where it says:

> The Social Democrats, who bore a heavy responsibility for the weakening of the Republic, would at least stick to their principles and go down—this one time—defiantly. But not the Center Party, which once had successfully defied the Iron Chancellor in the Kulturkampf. Monsignor Kaas, the party leader, had demanded a written promise from Hitler that he would respect the President's power of veto. But though promised before the voting, it was never given. Nevertheless the Center leader rose to announce that his party would vote for the bill. Bruening remained silent. The vote was soon taken: 441 for, and 84 (all Social Democrats) against. The Nazi deputies sprang to their feet shouting and stamping deliriously and then, joined by the storm troopers, burst into the Horst Wessel song, which soon would take its place alongside "Deutschland ueber Alles" as one of the two national anthems:
>
> Raise high the flags! Stand rank on rank together.
> Storm troopers march with steady, quiet tread. . . .
>
> Thus was parliamentary democracy finally interred in Germany. Except for the arrests of the Communists and some of the Social Democratic deputies, it was all done quite legally, though accompanied by terror. Parliament had turned over its constitutional authority to Hitler and thereby committed suicide, though its body lingered on in an embalmed state to the very end of the Third Reich, serving infrequently as a sounding board for some of Hitler's thunderous pronunciamentos, its members henceforth hand-picked by the Nazi Party, for there were to be no more real elections. It was this Enabling Act alone which formed the logical basis for Hitler's dictatorship. From March 23, 1933, on, Hitler was the dictator of the Reich, freed of any restraint by Parliament or, for all practical purposes, by the weary old President.

Now, there were 84 votes cast against the Enabling Act, but they had no right of free speech and no real debate. If they had had a rule XXII in the German legislative body, it is entirely possible that 84 determined men might have made their voices heard, and they might have thwarted Hitler at that time. But they did not do it. They surrendered their legislative prerogatives to the chancellor. When they did that, the dictatorship began, and the worst tyranny in all human history, resulting in the worst war in all human history.

People may say, "Well, that cannot happen here." It might not. I hope not. But it happened in Germany. It happened in France under Napoleon. Democracy, at some time or other, has died throughout all human history, and the tragic thing about it is that democracy as it did in the German legislative body, committed suicide.

I hope that the Senate will not weaken itself by changing this rule of free speech.

Mr. STENNIS. If the Senator will yield to me——

Mr. TALMADGE. I am happy to yield.

Mr. STENNIS. Mr. President, the Senator has read one of the most tragic chapters in all history, and it is certainly a clearcut warning to our Nation. Even though we have been far more advanced, in a general way, in freedom and liberty than have predecessor German nations, there is a great deal of similarity between our country and its background and that of the fine people of Germany, who found themselves the victims of this aggression. And just think, 12 short years later, after the passage of that act of which the Senator has read, what the whole German people had been brought to: Their nation in rubble and ruin, many of their people destroyed, and countless millions of others who had been destroyed in the wake of the destruction set off by this dictator. I think—and I say this with all the responsibility I have—that it can happen here.

Mr. TALMADGE. It has happened throughout all human history. It has happened to many governments on the face of the earth which were republics and democracies.

Mr. STENNIS. Those people had a Christian background, had many of the common, basic principles of civilization that we have had. It can happen here. I am not saying that it will. God forbid.

Mr. TALMADGE. It happened in Germany. It happened in France under Napoleon. It happened in Italy under Benito Mussolini. It happened in England. Who was the one in England who ran the Parliament——

Mr. STENNIS. Cromwell.

I am not predicting that this is going

to happen unless rule XXII is kept as it is.

Mr. TALMADGE. Neither am I. But if rule XXII is kept in its present form, it cannot happen here, unless the troops come into the Senate and drive us out with bayonets.

Mr. STENNIS. The principle for which rule XXII stands is certainly one of the main pillars of our form of government, especially the legislative branch.

Mr. TALMADGE. That is correct.

Mr. STENNIS. It is a more effective check on the executive branch. We say that we believe in these checks and balances—the independence of the legislative from the judicial and from the executive, particularly.

This is where things have to stop—in the Senate. The stop-look-and-listen sign is always up. Here matters have to stop for examination. The opposition may not be right in its position, as the Senator has said, but it has a chance to be heard and to analyze and to expose the whole proposition to the judgment of millions of others.

Mr. TALMADGE. The Senator is correct.

Mr. STENNIS. I believe, as one who has been through many of these debates and has been here a long while, that if we change this rule, those of us who defended it the strongest are not going to be the first victims.

Mr. TALMADGE. Oh, no.

Mr. STENNIS. The first victims of this change will be the so-called liberal group—and I use that term respectfully. Those of us who have defended the rule have already been doctored up prettty much so far as the passage of legislation is concerned here. But we are still talking about principles—the mud-sills and the hard rock foundations of our form of government, particularly the legislative branch.

Mr. TALMADGE. As the Senator knows, in the other body they have no rule of free debate. They have the previous question rule. A relatively younger member of the other body cannot even speak 3 minutes unless the chairman will yield him time. So there is no effective check in the other body.

If the Senate changes this rule so that we do not have continued free speech, we will have no legislative body in Congress where speedy action can be thwarted.

Mr. STENNIS. The Senator is correct.

I have great respect for the House of Representatives. As a practical matter, they could not have rule such as this.

Mr. TALMADGE. It was not designed for that purpose. They are elected by the people on the basis of population, whereas Senators represent States.

Mr. STENNIS. The membership in the House is too large to permit the operation of a rule such as this.

A few years ago, on a highly important matter concerning one of my colleagues in the House, highly important to his district, of vital importance, this Representative, in opposition to a measure, was permitted to speak 3 minutes. He had 1½ minutes in his own right, and he was permitted, under the rule, to borrow 1½ minutes from a friend of his from another State. So in that vital, devastating proposition there, he had a total of 3 minutes to get his views over to his colleagues on the floor of the House.

Will the Senator yield to me further for one comment?

Mr. TALMADGE. I am delighted to yield.

Mr. STENNIS. We have very fine men coming into the Senate now, as we have had in years past, every 2 years, and, more and more, is it the Senator's observation that these new Members come in here and some of them are already pledged, perhaps in a campaign, to vote to modify rule XXII? My question is this: Has it been the Senator's observation that after a Senator has been here for some time and has seen the workings and the operations and has seen how these problems unfold and the necessity for exposure and some delay, for better understanding, almost without exception these men modify their views?

Mr. TALMADGE. Certainly.

Mr. STENNIS. And that they have a greater recognition of the need for such a rule than they had before?

Mr. TALMADGE. That is true.

Mr. STENNIS. I am not referring to any individual. I respect all those who have views contrary to mine, and I hope that this vote will not come until the new Members have had a better chance to dig in and find out what the vital issue really is.

Mr. TALMADGE. I thank the Senator for his participation and his contribution.

Mr. President, the Senator from Wisconsin, Senator LaFollette, then proceeded to quote from Senator Henry M. Teller of Colorado, who said:

I myself will not vote for anything, directly or indirectly, which will indicate the right of the majority to censure the minority, or that will look directly or indirectly to any method, either legal or moral, which may prevent any Senator from exercising his judgment in securing delay whenever he thinks he ought to do so.

I believe there ought to be somewhere in the Government of this country a place where unrestricted and untrammeled debate may be had. I believe it was the purpose of the creation of this body that deliberation and thought and delay might be secured for great questions which might for the time being unduly agitate the public mind, either because of intense partisanship or any other reason . . . I believe that there is nothing which can so secure to the American people righteous and just legislation as the right on this floor to discuss in every way and to delay by every method which shall meet the approval of Senators acting under oath all bills or measures which they think are improper and unwise.

Next Senator LaFollette recited from the speech of Senator John C. Spooner of his own State of Wisconsin. I quote therefrom.

I invite the attention of the Senator from Mississippi to this. This is what Senator LaFollette said to one of his colleagues, John C. Spooner, from his State of Wisconsin:

There was a time when I was in favor of a cloture. I have been a member of this body now for 12 years. I have been very constant in my attendance upon its sessions; I have been somewhat active in all controversial matters which have been before the Senate. I have seen times when Members of this body impelled not by partisanship but only by the strongest possible motives of conscience, felt constrained to resist the passage of measures which they thought were unconstitutional or which they thought, if constitutional and passed, would be subversive of great public interests.

I am frank to admit that years ago, when I was first a Member of the Senate and a struggle of that kind came, I was very restive under it. I thought that a minority ought not to be able to obstruct the passage of legislation.

So the comment of the Senator from Mississippi was true in that particular instance, and I have no doubt that it is true in many other instances.

Mr. STENNIS. I thank the Senator—if he will yield—for bringing that to our attention and bringing it forward in the RECORD.

Mr. TALMADGE. I continue to read Senator LaFollette's remarks:

But, Mr President, I do not believe there is any legislative body in this world which accomplishes as much in a deliberate, thoughtful and careful way as the Senate accomplishes under its existing rules. The very freedom which is accorded to Senators here assures debate, which would not occur if we had a previous question. There would of necessity be an exclusion of many from debate.

I have often seen in the newspapers and I have often heard it said that debate is of no effect in this body. That is not true. I appeal to every Senator here if the contrary is not true, as shown at every session repeatedly upon full debate, because Senators desire here to get at the right. Sometimes we are constrained by political prejudice and more or less of partisanship where proposed legislation may have a political phase, but in the matters of legislation almost universally debate in this body has had great weight, and many members have risen and acknowledge a change of view because of a discussion which has taken place. It would be quite absurd to have it understood that debate is of no consequence here.

This power to stop the hasty passage of bills by single objection in the afternoon sometimes when we take up the calendar has been of infinite benefit to the country. We rely largely upon committees. Sometimes the committees act hastily and improvidently—all the committees. Sometimes bills are reported along toward the end of the session by a poll of the members of the Committee, and it has often happened that objection to a bill has delayed it for an hour until the Senator in charge could explain it; and it has often happened the delay brought about a conference which disclosed a defect in the bill which was remedied by amendment.

It is true that when a bill is objected to by a single Senator, it is possible under the rules, to move to proceed to its consideration. I appeal to Senators that that rarely becomes necessary, and by common consent, as a rule, when a measure is objected to, it goes over for examination, and that delay seldom fails to be useful.

For one I have become convinced that under the rules of the Senate as they are the interest of the public, of the whole country, is better subserved than it would be had we a cloture.

The Senator from Wisconsin then proceeded to quote at considerable length from an address by Senator David Turpie of Indiana. It is a magnificent dis-

course on this subject and I read from it:

The true rule is there is but one way, and has been but one way since 1806, of procuring or bringing about a vote of the Senate upon any measure, and that way is the way of unanimous consent. Theoretically one might think, if that is the case and one Member of this body may at any time prevent a vote upon any measure, legislation has not been very frequent, has been very rare, has been very uncommon in this branch; but practically it will be seen that the one Member objecting to unanimous consent, this missing unit, has been always absent. He has been conspicuous by his absence. So that votes upon the passage of bills, final votes upon the determination of any questions whatever have been as frequent here as in the other branch of the National Legislature; and taking the whole body of legislation, subjected as it has been to this rule in the Senate that a vote cannot be taken without unanimous consent, whatever other effect the rule has had it has not had the effect to diminish the amount or quantity of legislation or the sum of useful, important and effectual legislation upon all subjects which the people demanded.

It is very often said, sir, that the majority in this country rules—I have heard it repeated, once or twice in the discussion upon the question of cloture—and, therefore, that the majority in this body should rule.

That statement is much too broad, whether it be applied to the whole country or to the Senate of the United States. It is much better made in this way, and can be only truly made in this way; the will of the majority expressed under the form of law, or in the form of law, or by the form of law, or in accordance with the form of the law, governs in this country and governs in this body, as will be seen in the sequel.

The first form of law to which the majority is subject is the Constitution of the United States, and with respect to this body the second form of law is in its own rules. The majority in this body controls its action when action is taken. It passes a bill or defeats a bill. But the majority in this bill has never decided either when action shall be taken or whether action shall be taken at all. That has always depended upon the unit, the smallest possible majority. It is the smallest conceivable minority of this body which determines the question when action or whether action shall be taken.

I heard this body characterized the other day as a voting body. I disclaim that epithet very distinctly. I have heard it described elsewhere as a debating body. I disclaim that with equal disfavor. This body is best determined by its principal characteristic. The universal law and genius of language have given a name to this body derived from its principal attribute. It is a deliberative body—the greatest deliberative body in the world.

Now voting is an incident to deliberation, and debate is an incident to deliberation; but when a body is chiefly characterized as deliberative there is much deliberation apart from discussion and debate, and wholly apart from what is called the business of voting.

The essence and the spirit of a body like ours, now over a century old, may be best gathered from its rules of action, the body of law governing it always very small, now very brief. Of the 21 rules properly affecting parliamentary procedure in this body, 11 relate to the subject of deliberation. More than one-half relate exclusively to that subject and have nothing to do with debate or voting. I suppose that the form of law under which the will of the majority must control this body embraces at least the rules which govern us. Here is Rule 22, one which touches us every day. I think it is the most frequently operative of any rule in the Senate.

Senator Turpie then proceeded to read the precedence of motions as stated in rule XXII and then continued in these words:

Now, there is not a single one of these motions which relates to a vote of this assembly, to debate by it, but all relate primarily to the business of this body, which is deliberation. Take, for instance, the motion to adjourn. What relation has that to the merits of any bill or measure pending before this body? Take the motion to adjourn, the first in precedence, taking precedence of any question pending here, what possible relation has that to the merits of any question pending? None.

What is the reason, then, why the motion to adjourn has attached to it this superlative excellence that it shall be first in order and shall precede all others?

I have heard it very frequently said the motion to adjourn is always in order, and it is very seldom out of order. The Chair is bound almost in any circumstances to entertain it. It has become almost a maxim, the motion to adjourn is always in order. It has not always been in order. The rule is only as old as the resolution of 1806. Prior to that time the House could not adjourn (I am speaking of another parliamentary body) while the speaker remained in the chair; and the speaker, a servile tool of the Crown, remained in the chair 26, 48 and even at one time, as it is said, 50 hours, failing to recognize the motion to adjourn, refusing to put it, refusing to consider it, and holding the body in session simply by his presence in the chair.

It was under such necessity that the rule now become a maxim, the statute now worn out, has become the common law of parliamentary bodies, that the motion to adjourn shall always be in order; and the reason given for it is that private conference among members is preferable to debate, and that the body must always have an opportunity at least of resorting to privy conference if it so determine.

I might go on and notice each of these nine dilatory motions, in detail to show how every one of them relates solely to deliberation, to show how every one of them relates to deliberation, to show how this Rule 22, connected as it is with all our procedure here, daily hourly, has characterized and will characterize this body as long as it exists as preeminently deliberative.

All these dilatory motions resting in Rule 22 have their foundation in a rule yet older than any in this compilation. It is a rule older than the Senate of the United States itself. All these dilatory motions, relating to deliberation, so carefully guarded, so long observed, so characteristic of the Senate of the United States, are founded upon a rule to which all our rules are subject, sir, the first rule of parliamentary proper, is found in the Constitution of the United States:

"The yeas and nays of the members of either House in question shall, at the desire of one-fifth of those present, be entered on the Journal."

The whole series of dilatory motions and parliamentary action upon subjects here rests for foundation upon the rule I have just read from the Constitution of the United States. I speak of it as the first rule of this body. It is the first. It is older than any of the other rules. It is the first; it is a part of the paramount law of the land.

One might think in reading it casually, that there has certainly been a mistake by the framers of the Constitution; that, as was said by Homer, they nodded when they put such a mere surface, at first thought, provision, into and made it a part of the organic law, as they might have provided in that instrument, sir, that you should arise to your feet when putting a question to the body, or that a Senator in addressing you should rise from his seat.

Sir, this provision does not belong to that class. Why is it found in the Constitution of the United States? Senators have claimed here that a provision that a vote shall be, and must be taken at some state, at a certain state—in other words, the closure—is imperious, is, in the language of the honorable and learned Senator from Connecticut, absolutely necessary to the transaction of what is called the business of the Senate and the business of the country.

Why, then, was not provision made for cloture in the Constitution of the United States? The question may be asked, why should the Constitution makers have concerned themselves at all about a parliamentary rule for the government of this body? But as they have done so, it becomes very legitimate to ask why they did not provide for the cloture and for the cessation of debate, as it is said such rules exceed in necessity and importance all other parliamentary rules.

Let us examine this parliamentary rule in the Constitution. What was the object of it? Some man might say the object of this was to make a record. Sir, there was no necessity of such a provision to make a record. Records were made long before this provision of the Constitution. The majority had always the power to require the record to be made of a vote, and that was the former method; and the minority, a minority of one, had always the power to have his vote entered of record, wither "nay" or "yea," and when all the nays were put in the record the absentees and the yeas were very apparent, and vice versa. There is not the slightest use in the intendment of common parliamentary law of the world then existing to have inserted for such a reason this provision in the Constitution of the United States.

Mr. President, I continue to read from the cogent remarks of the Senator from Indiana as quoted by Senator LaFollette in his famous speech:

Then it is said that the object of this provision was to assist in the passage of bills, or in other words to assist the business of enactment as distinguished from the business proper of this body, deliberation. Let us look at it in that view. It is not said that the yeas and nays of members shall, at the desire of one-fifth of those present, be entered on any bill pending, on the passage of any bill pending; it is said 'on any question,' the most immaterial, the most irrelevant, the one most remotely connected with the business pending before this body. For instance, on the question of adjournment, the question to postpone indefinitely or to a certain day, the question to amend, on any of these dilatory motions, one-fifth of the Members present may demand a roll call and a record; and that roll call and record was not, as I have shown very clearly, for the purpose of showing how a bill was passed; it relates to any question. Making a record was amply provided for. The reason for the roll call and record is that deliberation is the province of this body. It is the office of this body. Attendance may be compelled; deliberation is compelled by this rule. Voting is not compelled, and cannot be compelled.

This rule, sir, is found, as I have said before in the organic law. It is much aggrandized, it is glorified by the company in which it is associated. This rule that one-fifth of the Members of this body may at any time demand a roll call is placed alongside of the inhibition against bills of attainder

and ex post facto laws. It is placed alongside of the affirmative power of Congress to declare war, to conclude peace, to contract alliances. It is placed alongside of that great prerogative writ of personal liberty, habeas corpus.

It belongs to that character of legislation, except that of habeas corpus may be suspended, but not even in case of invasion, not even in case of rebellion, can the great power of the potent fifth of the membership here ever be questioned, delayed or ignored, no matter what is pending or how irrelevant it may be to what is called or may be thought the chief business of this body. The object of this rule was not to facilitate the passage of laws; it was not to make a record; it was to compel deliberation. It was to give the minority a day in court. It may be a long day, broken, interrupted, full of excitement, in which a question is tossed from side to side as a ball between two animated bands of players. It is just in the midst of this excitement that the rule of the Constitution comes; that it says with imperious mandate, let this cease. Let the roll be called. Let your communication be yea, yea and nay, nay. It makes a pause. It compels a pause. This rule is and always has been an element of force. It is not the cloture; it forces and compels deliberation, not enactment. It is on the side of the minority, not on that of the majority.

Now take this form of law, the rule in the Constitution which I have just read, in connection with Rule XXII in our body of law to which I have referred. Establish the proper connections between them, as we have often here seen done, and the operative regulations, with the rule in the Constitution compelling a record, a roll call, and with the rule in our body compelling the entertainment in their order of nine different dilatory motions, having no possible reference to merits, it will be seen that under the form of law, the highest possible form of law, deliberation is distinctly the business, province and the office of this body.

Mr. President, I hope that the Senate will not further detract from the constitutional function of this body by making it impossible for men of strong convictions to stand on the floor of the Senate and state their views at some length in order that they might get their message to the country and alert the country to the perils and the weaknesses of proposed legislation.

If this rule is further weakened by this body, the Senate will cease to serve the great function it has served for almost 200 years as a forum of the States and as a deliberative body where hot issues that divide our people can be cooled and where laws that are thrust upon our people have some unanimity of support.

Mr. President, when there is an all-powerful central government and laws are rammed down the throats of people faster than they are willing to accept them, you will find disrespect for the government, anarchy, rebellion, or possibly dictatorship.

I hope our country can continue to serve as a sovereign government of 50 sovereign States where laws are enacted by the elected representatives of those 50 sovereign States and that the laws have the support of our 50 States.

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

Mr. TALMADGE. I yield to my friend and neighbor, the Senator from Alabama.

Mr. SPARKMAN. The Senator will recall that in the early days of this Republic, Thomas Jefferson spoke out very strongly in favor of unlimited debate in the Senate.

Mr. TALMADGE. The Senator is entirely correct. I quoted from Thomas Jefferson before the Senator returned to the Chamber.

Mr. SPARKMAN. As a matter of fact, Thomas Jefferson was the author of Jefferson's Manual of Rules. If I recall correctly. I do not have it before me now. When it came to rules for the House he urged the previous question.

Mr. TALMADGE. The Senator is correct.

Mr. SPARKMAN. When it came to the Senate, it was an entirely different matter.

Mr. TALMADGE. The Senator is correct.

Mr. SPARKMAN. He said the Senate was the place where there should be deliberation. I assume the Senator brought to the attention of the Senate the following quotation, but I wish to take advantage of the opportunity to quote it again. Thomas Jefferson said:

The rules of the Senate which allow full freedom of debate are designed for the protection of the minority and this design is part of the warp and woof of our Constitution. You cannot remove it without damaging the whole fabric.

Mr. TALMADGE. I am delighted the Senator has brought to the attention of the Senate the quotation to which he has just referred. I did not quote it in my remarks. I have read it on many occasions. The Senator referred to Thomas Jefferson, who is probably the most able man our Nation ever had.

Mr. SPARKMAN. And of course, in many respects, Thomas Jefferson was certainly one of the fathers of our democratic system.

Mr. TALMADGE. The Senator is correct.

Mr. SPARKMAN. If I recall correctly, Thomas Jefferson was a little concerned when he discovered that the Constitutional Convention had decided on setting up two bodies, the House of Representatives and the Senate. He started out with the idea that there should be a legislature which was close to the people, and that was an elected legislature, one elected at frequent intervals. It was hard for him to conceive the idea of a Senate, the Members of which were named by the State legislatures instead of being elected by the people.

There is an old story, and I know the Senator is familiar with it, that when Thomas Jefferson came back from Europe, he said to George Washington, as they were standing and drinking tea, "Why did you devise a Senate?"

George Washington said, "Why did you just pour that tea in your saucer?"

Thomas Jefferson said he had done so in order to cool the tea.

George Washington said, "That is why we created the Senate, to give time for deliberation, consideration, and cooling off."

During the course of our history, there has been a lot of good cooling off in the Senate. Does the Senator agree with that?

Mr. TALMADGE. I do. I thank the Senator for his contribution.

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

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

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

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REFORM OF DRAFT SYSTEM—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HANSEN) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Armed Services:

To the Congress of the United States:

On April 23, 1970, in a message to the 91st Congress, I proposed that the nation embrace a new approach to meeting our military manpower requirements—an approach that recognized both the necessity for maintaining a strong national defense and the desirability of ending the draft.

In that message I put forth two sets of proposals.

The first set of proposals dealt with the fundamental question of how this nation should raise the armed force necessary to defend the lives and rights of its people and to fulfill its existing commitments abroad.

After carefully weighing both the requirements of national security and the desirability of reducing infringements on individual liberties, I urged that we should begin moving toward an end of the draft and its replacement with an all-volunteer armed force, with an eye to achieving this goal as soon as we can do so without endangering our national security.

The second set of proposals dealt with reforming the draft system itself, while this continues to be needed in the immediate future to maintain our armed strength as we move toward an all-volunteer force.

Now, more than nine months later, I am even more strongly convinced of the rightness of these proposals. Now, as then, the objective of this administration is to reduce draft calls to zero, subject to the overriding considerations of

national security—and as long as we need the draft, to make it as fair and equitable as we can.

Over the past nine months the Secretary of Defense and the Director of Selective Service have initiated a comprehensive series of steps designed to help us achieve that goal. Average draft calls are now substantially lower than they were when this administration assumed office, and we have significantly improved the consistency and fairness of the draft system. We shall continue these actions at an accelerated pace.

However, to continue the progress that now is possible toward both goals—toward ending the draft, and in the meantime making it more nearly fair—legislative as well as Executive action will be needed.

ENDING THE DRAFT

Since my April 1970 message, a 7.9 percent across-the-board increase in the rate of basic pay has been enacted that will raise the pay of members of the Armed Forces by almost $1.2 billion a year. Building on this base, I am submitting a number of legislative proposals (some of which were previously submitted to the 91st Congress) which, together with Executive actions I shall take, would move us substantially closer to the goal of an all-volunteer force.

—I propose that we invest an additional $1.5 billion in making military service more attractive to present and potential members, with most of this to be used to provide a pay raise for enlisted men with less than two years of service, effective May 1, 1971. If approved by the Congress, this action would result in a total additional investment of $2.7 billion for military manpower, and would substantially reduce the present inequity in the pay of men and women serving in the Armed Forces. The proposed pay raise would increase rates of basic pay at the entry level by *50 percent* over present levels. Also, I am proposing increases in the quarters allowance for personnel in the lower enlisted grades.

—I am proposing a test program of special pay incentives designed to attract more volunteers into training for Army combat skills.

—Existing law provides that as general adjustments are made in civilian pay, corresponding increases will be made in military pay. In addition, I am directing the Secretary of Defense to recommend for the 1973 fiscal year such further additions to military compensation as may be necessary to make the financial rewards of military life fully competitive with those in the civilian sector.

—The Department of Defense, through Project Volunteer, has been actively engaged in expanding programs designed to increase enlistments and retentions in the services. A fair level of pay, while necessary, is only one factor in increasing the relative attractiveness of a military career. I will propose that approximately one-fifth of the additional $1.5 billion be devoted to expanding our efforts in the areas of recruiting, medical scholarships, ROTC, improvement of housing, and other programs to enhance the quality of military life.

—During the past year, the Department of Defense has reviewed the policies and practices of the military services and has taken actions to emphasize recognition of the individual needs and capabilities of all military personnel. These efforts will be continued and strengthened.

EXTENSION OF INDUCTION AUTHORITY

No one knows precisely when we can end conscription. It depends on many things—including the level of military forces that will be required for our national security, the degree to which the combination of military pay increases and enhanced benefits will attract and hold enough volunteers to maintain the forces we need, and the attitude of young people toward military service.

Current induction authority expires on July 1, 1971. While I am confident that our plan will achieve its objective of reducing draft calls to zero, even the most optimistic observers agree that we would not be able to end the draft in the next year or so without seriously weakening our military forces and impairing our ability to forestall threats to the peace. Considerations of national security thus make it imperative that we continue induction authority at this time.

Normally, the Congress has extended induction authority for four year intervals. I propose that this Congress extend induction authority for two years, to July 1, 1973. We shall make every endeavor to reduce draft calls to zero by that time, carefully and continually reexamining our position as we proceed toward that goal.

REFORM OF THE DRAFT

As long as we must continue to rely on the draft to meet a portion of our military manpower requirements, we must make the draft as equitable as possible. To that end I am proposing legislation to modify the present draft law, including the resubmission of recommendations I sent to the Congress last year. This proposed legislation would:

—Permit the phasing out of undergraduate student deferments, and also exemptions for divinity students.

—Establish a uniform national call, by lottery sequence numbers each month, to ensure that men throughout the country with the same lottery numbers have relatively equal liability to induction by their local boards.

In addition, the legislation I am proposing includes a number of other amendments which will improve the administration of existing law.

For the immediate future we will need the draft and, moreover, even when the draft has been ended, we will have to maintain some form of a standby system that could be re-activated in case of emergency. Therefore, I urge favorable Congressional action on these proposals to reform the draft and make it as nearly fair as we can for the time it is needed.

While the reforms proposed in our existing draft system are essential, however, it must be remembered that they are improvements in a system that will be used only as long as the draft is necessary.

This Congress has both the power and the opportunity to take an historic action. As I stated in last year's message, with an end to the draft we will demonstrate to the world the responsiveness of our system of government—and we will also demonstrate our continuing commitment to the principle of ensuring for the individual the greatest possible measure of freedom.

I urge the 92nd Congress to seize this opportunity, and to make the bold decisions necessary to achieve this goal.

RICHARD NIXON.

THE WHITE HOUSE, *January 28, 1971.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HANSEN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to the consideration of the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. STENNIS. Mr. President, what is the pending question?

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. STENNIS. I thank the Chair.

Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. I thank the Chair.

Mr. President, I intend to address myself to the pending matter. Primarily, however, I have an announcement to make, which will be of interest to Senators, about a hearing for next week, and I will make this statement now so that it will be distributed to Senators.

NOTICE OF HEARINGS ON SELECTIVE SERVICE ACT

Mr. STENNIS. Mr. President, as the Senate knows, the authority for induction under the Selective Service provisions expires this June 30, and one of the most significant legislative items which will be considered by the Committee on Armed Services this entire session will be the matter of the draft

and such related items as may be proposed by the executive branch.

This issue will, of course, be fully debated and discussed in both Houses, and it is essential that the hearings begin promptly in order to resolve this matter well before its expiration date of June 30.

I wish to announce, therefore, that the Committee on Armed Services will start hearings next Tuesday, February 2, at 10 a.m., on the legislation being proposed by the executive branch on Selective Service amendments, together with their proposals on military compensation. The witnesses will be Secretary of Defense Melvin R. Laird, Assistant Secretary of Defense for Manpower and Reserve Affairs Roger T. Kelley, and Director of Selective Service Dr. Curtis Tarr.

The Department of Defense officials will cover the military manpower requirements and the needs for the extension of the draft, together with the military pay proposals. Dr. Tarr will testify on all portions of the bill as well as the extension and will discuss the present operation of the Selective Service System.

Mr. President, it is anticipated that the testimony of the executive branch officials will probably take up the hearings on Tuesday and Wednesday. On Thursday, Senator EDWARD M. KENNEDY will testify before the committee. I am inviting other Senators if they wish to testify on this subject. I extend to them that invitation and ask them to let me know or let the staff know whether they wish to testify, and I will immediately arrange a series of days when they may testify.

This is a highly important piece of legislation. I am anxious that we get the essential principles, as well as basic changes, if any, clearly outlined, spelled out in the record fully, for the benefit of all Senators and the public. To that end, we will hold the necessary hearings. But I do not think that that means that we should have to sit there day after day and carry on for testimony that is highly repetitive.

After we get these broad outlines covered and all Senators who wish to do so have testified, we are going to have some outside witnesses, but not great volumes of repetition. We will admit for the record certain written remarks that witnesses may present. I think that very briefly we can get the Department's testimony on it and move right on in to complete the hearings—not rushing them—but completing them as soon as we can.

Mr. President, following the hearings next week, it is my intention to schedule the opportunity for a limited number of outside witnesses to testify on this matter. It may be that due to the large number of organizations, some may have to submit their statements for the record. The committee will make certain that views are heard on all aspects of this matter.

I should note that the executive branch has not formally transmitted its proposals on either selective service or military compensation. It is anticipated, however, that these items will be received prior to the hearings next Tuesday.

Mr. President, I would like to add to my comments on selective service by stating that following our completion of testimony on the draft, the committee expects to schedule hearings on the new legislation which requires an authorization for the active duty strengths of the Armed Forces for each fiscal year as a condition precedent to the appropriation of funds for this budget activity. As the Senate may recall, this is a new statutory requirement enacted as a part of last year's fiscal year 1971 Procurement Authorization Act.

I would also like to indicate that military procurement authorization hearings for the coming year will be scheduled as promptly as possible following the hearings I have just discussed.

In closing, Mr. President, I would note that the Armed Services Committee workload this session will be increased about 40-percent due to the additional legislative items to be considered this year over the normal workload for the past two sessions. We must, therefore, proceed with dispatch on all items in order to meet our legislative responsibilities on a timely basis. That workload will be increased because the Selective Service Act comes up this year, and that is to be added to the regular procurement authorization and other legislative matters to come before us.

Also, this year there is going to be a special request of the administration—as I understand and read in the newspapers—with reference to the so-called volunteer army, which is going to resolve largely around a special pay bill that will increase considerably the pay of the man who volunteers. I think that is entitled to a chance to be heard fully. The committee proposes to hear testimony on that subject as soon as we finish the testimony on the major principles of the Selective Service Act.

I want to warn Senators and the public at large that we should not become confused or think of these two as merging or one displacing the other. Whatever may be the future, some years ahead, as to a so-called volunteer army—which means all volunteers for all the services, however that may be developed way down the line somewhere—we must keep our eye on the ball and know and realize that what we must have now, for this year and next year and for several years, in my opinion, is a meaningful Selective Service Act. That is the primary problem and the primary legislation that is going to be before us. In my opinion, I believe that that act will have to be extended for a year. It is confusing and I think misleading—although not intended that way—to talk about having a so-called volunteer army any time soon and to go off on a tangent as to what might possibly be done. We must meet the immediate needs for sound legislation, and I think we can.

We will give full consideration to any matter that is brought before the committee, or any other place, with reference to the so-called volunteer army. A number of Senators introduced bills last year, but a full bill never was presented on the subject of renewal of the Selective Service by the administration. The whole matter was carried over until this calendar year.

As I said on the floor last fall, we might be able to hold hearings when we returned following the election, but as we all recall, there was not time with the matters pending to go into subject matters of that kind. This is the earliest start we can make to move this matter along rapidly.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to the consideration of the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. STENNIS. Mr. President, coming now to the matter pending before the Senate, I do not think we will take up anything this year that will have quite the consequences as the proposals that relate to rule XXII, which covers a principle in parliamentary law and in the function of the Senate and in our form of government, that nothing more far-reaching or more important will be considered and disposed of this year than that very broad and fundamental subject.

It has been debated many times over, it is true. Many efforts have been made to change the rule in the past 15 to 20 years—and even before that time. It has had the utmost consideration, and most of those times, after due consideration, the decision has been to stay the hand of change because it was thought that some rule along that line was needed, that the present rule to apply a two-thirds vote to cut off debate was the nearest to a best rule and the most satisfactory rule that could be obtained and, therefore, the Senate, under its rules, declined further to amend rule XXII.

I think those decisions have been sound during all that period of time when the present rule was in effect in its present form. The so-called liberal legislation, or the so-called civil rights legislation that had been proposed has been passed and is now the law of the land. The salutary principle, though, of a certain amount of extended debate being guaranteed on any subject matter has been preserved. We have seen the pendulum swing to where it is the so-called liberals now—and I use that term respectfully—who are invoking the restrictive features of rule XXII in order to avoid having an immediate vote, or a rapid vote, on a proposal in which they are interested one way or another.

That does delay the Senate sometimes, but it is a very small price to pay. My main point now is that we have swung around to where it is the so-called liberals who are using rule XXII now, more than any other group. If we liberalize that rule and make it easy to cut off debate or to cut it off by a smaller number of Senators being required to vote to cut off debate, then I have no doubt in my mind that the liberals will be the first

victims of such a change. However, that is a matter for them to pass judgment on.

I am primarily interested, Mr. President, in the preservation of the Senate, which is a coequal branch with the House of Representatives. The two together compose the legislative authority and the legislative power of our entire Federal Government.

I am vitally concerned that there be some place where, under the rules, any measure or any problem can be stopped long enough to "stop, look, and listen," and examine carefully the situation and weigh the consequences.

Under our system, with a much larger personnel in the House of Representatives than in the Senate—and I have great respect, of course, for the membership in the House, but it is a large membership—theirs is not the practical place to have this safeguard. That is what this principle is, a safeguard. So, either have it here in the Senate or not have such a safeguard at all.

It has been often argued that if we change the rule, a majority will control the disposition of any matter, in a very quick procedure, as is done in the House, so that we will subordinate the Senate, in a way, to the House of Representatives and the Senate will have no real power or influence in the legislative branch of the Government. I do not think that is the main issue at all, however that might go. I think we would lessen our power and the real importance of the Senate, but I think that would be an incidental effect and not the main issue, not the main consequence of such action. The main consequence would be that this is the last place, this is the last forum, this is the last spot in our parliamentary system where a halt can be called and thorough examination made. When we destroy that procedure, there is no other.

I think that has been the basic fight, on the basis of a great deal of the fight over rule XXII for over 50 years, one might say, since there was a rule XXII, because in the old days, of course, there was no limitation. So that we can say that has been the basic issue and the basic principle involved, really, since the origin of our form of Government.

I think it is more important now than ever not to change rule XXII, considering the great increase in our population, the diversity of its citizenship, the diversity of our society today and the conflict in the economy and the competition, that is, one area of the country, in various ways, arrayed against another; but even more than that, the powerful influence of organized groups within our society today.

I think that is the biggest change in our form of Government in a century which has affected the Government so far, more than the changeover to the automotive age, then to nuclear weapons, and even in the field of ordinary electronics. I believe that the powerful impact of organized groups, whether organized for social or economic purposes, or whatever they are, their pressures on the elected representatives in Government are becoming greater every year. With the advent of electronics in communications, it multiplies their power many times over.

I am not afraid of them. I am not running from the problem. But we know it is growing and we should keep our eyes open to how it is affecting us. I use that as one of the main reasons why rule XXII, or the restrictions in it, is a safeguard and should be kept as it is.

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

Mr. STENNIS. I am happy to yield to the Senator from Louisiana. I was just making the point about the growing impact of organized groups in this country.

Mr. LONG. I am glad I walked into Chamber at that point because there are things happening in this country that we are just not aware of and the public does not know about. For example, the President sent us a very controversial program which bedeviled a number of people with reference to public welfare. In fact, the first year the program started the cost would be about $4.5 billion, and the number of people on public welfare would be doubled.

We believe that over the period of time that program could cost $50 billion, $60 billion, or even $100 billion. It is fraught with hazards, when we see what would happen if we expanded that program to make it more generous, as undoubtedly pressure would dictate once it went into effect.

It surprised me to find that one-half hour before the President submitted his State of the Union message to Congress, on one of our major networks Mr. Moynihan had prepared a program explaining what the President had in mind. This program was shown across the width and breadth of the country at the very time we were marching to the House Chamber. Not a Member of the Senate and not a Member of the House had any idea what was being published to the American people, even though it was being published to possibly 50 million Americans. People not knowing better, and just hearing one side of the argument, would say that we should vote for it, even though we had not had an opportunity to explain the other side of the argument.

The Senator is well aware at this moment that when one does the best he can to educate the Senate or the country about a matter, other Senators are busy. They have other commitments. They cannot stay here all day to hear some Senator make a speech. A Senator making a speech receives scant attention with the result that one Senator must make his speech three times to get it across to the membership of the Senate.

I am told that some of the great Senators, Senators such as Senator Borah, used to say:

> If you want your speech to be appreciated by a majority of the Senate, you have to make it about three times. You catch one group one time; another group a second time; and a third group the third time. But you cannot catch them all at one time.

We recognize the ability of the Executive to communicate with every Member of the Senate and with every Member of the House. For example, the President can have a nice little social affair and invite all Senators and all Representatives and their wives and have about three meetings. He can invite all of these people to break bread at the White House. He can have his say and have everyone there under a situation where common courtesy would require everyone to go along and even applaud what he has to say if he can do so in conscience. Certainly, it would give him the benefit of the doubt. He can educate his people.

When a single Senator finds that something is wrong with a proposal, he cannot be heard by more than perhaps 10 people the first time he speaks. He has to wage a campaign. It takes time.

Has the Senator from Mississippi ever discovered over a period of time any bill which had compelling logic at all which has been defeated?

Mr. STENNIS. No, I do not think there has been a case where such a bill has been totally defeated. A bill has been delayed some, but time proved the wisdom of that delay and a better bill was generally agreed on. A better bill has come out, because of that delay. When the measure finally became law, it worked better and was a sounder measure than before.

There has been no total defeat of anything that had any merit to it.

Mr. LONG. Mr. President, I applaud what the Senator has said, because, as a practical matter, no measure that had merit has been defeated by long debate. Usually it would be refined and the most objectionable features would be eliminated. The art of compromise would take effect. Bills of that sort may be popular to some people and repugnant to other people in other States. People work those differences out so that the people who are adversely affected do not think it is so adverse as they did in the first instance.

In the long run, it becomes a much better piece of legislation because those who opposed it explained their reasons. Over a period of time someone finds a way to meet those objections.

That is why I found myself compelled to ask the Senator if he knew of a single measure which has been a matter of continued interest over this country that has not ultimately been resolved in the national interest because of the debate, the compromise, and the accommodation that made it possible for some State or for some Senator to adjust their differences and their views to others representing a different area of the country.

Mr. STENNIS. Mr. President, I thank the Senator. I do not know of any case. Perhaps 30-odd years ago there was a proposal called the proposal to pack the Supreme Court that was made by the late President Franklin Roosevelt while he was President.

I do not think there is any doubt that rule XXII kept that proposal from being enacted into law.

On second thought people decided they did not want the Court packed, that they would rather put up with what they had, even though they disagreed with it, than to succumb to the proposal of filling the Court to meet some sentiment of the moment.

That was one of the most signal contributions to our Government that I know of in modern time.

Mr. LONG. Mr. President, my impression was—and I relate this based upon what former Senator Ashurst, who was then chairman of the Judiciary Committee, told me at dinners and luncheon parties that I attended from time to time when I first served here. It is a principle which is parallel and in many respects the same as what the Senator is speaking for.

The fact that those who oppose something could take the time to explain the fallacies involved in this was, because it was not a prolonged debate in the Senate itself so much as the fact that the opponents were successful in delaying this matter in the Judiciary Committee until the public could be aroused and express themselves to the Senators.

When the bill was finally reported, even though Franklin Roosevelt was a very popular President, the country had decided to rise up against this proposal and express themselves to the Senators so that the measure was defeated.

When it finally emerged from the Judiciary Committee, there was a favorable report, but it was in such bad shape with the people of the country that it could not be passed. However, the principle is exactly the same as the Senator has in mind. I ask the Senator if he agrees.

Mr. STENNIS. Yes, I do agree. It was due to the presence of rule XXII that the measure was not rushed on the floor and passed.

I am going to refer to some hearings that were held by our late Senator Russell regarding the dismissal of General MacArthur by President Truman. For example, he was able to cool things off a little and come down from the emotional surge we were in. If there had been a chance to rush in with some kind of a bill and have it passed quickly under the rules, there would have been something done against President Truman, I am satisfied. I was there, and the Senator from Louisiana was there. The presence of rule XXII was the ally that the late Senator Russell had to slow this thing down until we could have a second thought, and when we did, we decided that we had better leave it alone.

Mr. LONG. Mr. President, I have seen what happens in State legislatures, and I say this with all respect to State legislatures. They meet for about 60 days. They have a time limitation, and they have a job to be done. They usually have severe rules which cut off debate in order to reach a vote.

I recall situations where, perhaps, I would be the attorney for the Governor and he would be trying to pass a major tax bill that would not be popular with the people. Perhaps we felt that time would justify our position and we wanted to get the matter to a vote. In that case, about all one could do would be to try to keep the legislators in their seats and hold them there until we could get to a vote. On occasion, I bought club sandwiches for every single member of the State senate and placed a bottle of milk along with the club sandwich on the desk of each State senator, and asked them to stay there for 2 or 3 hours because we wanted to vote on some major measure.

On those occasions, someone would move the previous question. I would not blame anyone for doing the same thing under those circumstances. We wanted to pass our program. But in a State legislature, one is restrained by the State constitution and State laws are subservient to Federal laws. If a mistake is made, the people of the State have the power to correct it in short order.

But I suggest to the Senator that the same thing is not true in the Federal Government. When we make a mistake, it takes a long time to correct it, and sometimes mistakes are never corrected. We deal here on a much broader foundation. It is much better not to make the mistake in the first instance.

Rules which make it possible for the majority to run roughshod to the minority in State legislatures are completely different on a national basis when we are dealing with all 50 States.

Mr. STENNIS. The Senator is correct. The Senator made the distinction that in the State legislature there must be more rigid rules, but here, when we pass a law, it immediately affects and is binding on over 200 million people, and it affects the economy and everything throughout this vast Nation and not just one segment. It affects the entire Nation. This is the only place left where this slowdown for minute examination can be had. I wish to refer to the illustration the Senator has given.

Just a few days before Christmas the press was lambasting and they said there were two filibusters going in the Senate at the same time. It was true. One of them was about the bill to which the Senator referred, that his committee had, the welfare bill.

There was a great deal of publicity about that proposal before it went to the committee. It finally came here in a certain form. There had been much propaganda before the measure got to the floor of the Senate. I know what they told the cities. They said: "We are going to relieve you of the burden. You are bankrupt."

They told the populous States the same thing. They told the so-called poor people: "We are going to double the amount you receive."

They said they were going to put on more than twice as many people. They said that 24 million people were going to be on the welfare rolls rather than 10 million. Those people liked the idea of getting more money. The taxpayers were told: "Well, we are going to put them all to work."

So the taxpayers thought it sounded good to them.

The bill came to the Senate. The committee doubted some of the statements and they found it was not going to work that way. They found facts and figures about it that had not been brought out. I do not say that information had been suppressed or that it was misleading, but it had not been chewed up enough. The only ones who had said anything to the public were those who wanted to put it over. The only real debate was on the floor of the Senate, led by the Senator from Delaware.

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

Mr. STENNIS. I yield.

Mr. LONG. That was a proposition that involved $4.5 billion a year.

Mr. STENNIS. Yes.

Mr. LONG. That was the amount the public would have to pay for. It reminded me of a story I heard some time back about a lady who was a maid in a household. A marriage proposal was made to her, so she told her boss, who was a judge, that she was going to have to resign her job, because she had met this fine man and he had made to her a proposal of marriage. That was on a Saturday. On Monday morning she was back to see her former boss and she said that she would like his help in filing for divorce.

He said: "Gee, Mary, I do not understand that. You were so enthusiastic about that man. You thought you had met the man of your life, and now you want a divorce after being married only over the weekend."

She said: "Judge, that was the most over-introduced man I ever met in my life."

That is about the case in connection with the so-called welfare reform proposal we have been discussing. When we looked into it it was not reform. Everyone who was already on the rolls of welfare would stay on them, every thief, crook, racketeer, and swindler that could be found. Some people were drawing 20 welfare checks when they did not deserve any. All those people were to be grandfathered in and guaranteed checks for all time to come.

That would have redoubled welfare. States like Mississippi, which is represented by the Senator (Mr. STENNIS) and his colleague, JIM EASTLAND, were going to have 50 percent of their population on welfare. If one were to ask why they did not support the bill, the answer is that you would not get anyone to work with so many people on welfare. The State of Louisiana would have a parallel situation. When one analyzed the matter, it was a rather foolhardy scheme. But it could be brought in and it could be said it was welfare reform. "Either you vote for this or you are against the poor."

The way it turned out, the ability of those who could expose the shortcomings in the measure to have the time available to them to prove their point kept it from becoming law.

I predict that what they sent us then will never become law. We may pass some so-called welfare reform, but it will be real welfare reform and not just some scheme that will grandfather in everything in the welfare system and create even more inequities.

Can the Senator tell me of any bill to eliminate racial discrimination which failed because of unlimited debate in the Senate or because of the requirement of the two-thirds vote to shut off debate?

Mr. STENNIS. No. Some bills were delayed in previous years but sentiment crystallized on them and they settled on certain provisions. The bills passed in 1964 and since then have been consistent. There has been no issue of rule XXII about civil rights.

I would like to pursue further the illus-

tration the Senator gave with reference to the welfare bill. As I said, the taxpayers have been partly sold on this matter because the taxpayers were told that these people were going to be put to work. When the matter came here to be debated on both sides for the first time—and of course, they had the original debate in the Senator's committee room, but there was open debate here—and it was slowed down long enough to debate it both ways and there was a vote on it, it was defeated on the floor of the Senate.

But the big story that went out through the press was that there were two filibusters going on at one time. That bill was defeated. I voted against the bill. But behind me another filibuster was going on. That was a bill that I was a part of. The comanager was the Senator from Nevada. He worked day and night on that matter. That matter was going against me all the time. They worked pretty hard and it looked pretty bad, but it was all done under the rules, and I lived with it. It was a part of the process.

Due to that delay finally we reached a system that might do for the time being and the matter was carried over for further consideration.

At the same time, the judgment of so much of the press was to criticize Congress, and even the President of the United States, in a moment when he was not up as high as he usually is, criticized Congress for wasting a lot of time. As a matter of fact, I am sure his second thought now is that we are really better off to have had some delay.

Those are the most recent illustrations here. Rule XXII works both ways. We have to live with it.

Mr. LONG. Does not that illustrate the point I was making—that the Senator from Mississippi very much felt that the funds for the SST should be voted, and he was expressing the view of the joint conference between the House and the Senate? I believe we had a vote on cloture, and I voted to shut off debate on that. On the other hand, is that not what democracy is all about, the right of both sides to be heard and make their case, and then, if they cannot resolve it because those who have a right to be heard insist on speaking so that they cannot be overwhelmed at the moment, in time one would have a chance to think more about it and see both sides of the argument and men of good will would be brought together?

Mr. STENNIS. The Senator is entirely correct. It is frequently said that we have unlimited debate in the Senate. Nothing could be more erroneous. We have controlled debate and regulated debate in the Senate, but we do have the rule by which we cannot cut off debate precipitately and close down and vote now, regardless of everything else. We have that built-in power for delay. I think we are going to keep it that way for the foreseeable future.

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

Mr. STENNIS. Yes, I yield for a question.

Mr. LONG. Have we not also moved in the direction of insisting that when one seeks to delay a matter from passage, he must delay it by arguing to the issue? In other words, no longer do we have the situation where a measure is permitted to be delayed by one's talking about extraneous matters; he can be held to the subject matter at least for most of the time he is talking?

Mr. STENNIS. Yes, that is correct. There are many ways to cut off debate. We were trying to cut off the Senator from Wisconsin from debate on the SST, but not enough Members thought it was necessary or that it should be done, and the other one, after a delay and reasonable debate, went on to a vote. So this procedure paves the way to a vote as well as prevents precipitate votes. The Senator has participated in these matters and he has had to deal with many difficult bills, and with great success.

Mr. President, this is another case where we find the opening days of a new session devoted to an effort to water down rule XXII of the Senate. I hope and trust that the effort will be as unsuccessful as it has been frequently in the past.

This year, the situation began somewhat differently, by reason of the fact that we had a precedent from January of 1969. I refer to the repudiation by the Senate as a whole of a ruling by the Chair at that time which would have cut off debate by a simple majority vote. That ruling was rejected out of hand by the yeas and nays of the Senate.

I have great respect for the position of the Chair, the Presiding Officer of this body, and for the difficult decisions that can be encountered by those who occupy it.

I have profound respect and admiration for the then Vice President and President of the Senate, who made the ruling in January 1969, and am delighted that the distinguished gentleman is again with us as a Member of this body.

I will say now, however, as I said then at some length, that I do not agree with the ruling as it was made, in logic, in law, or in equity.

That ruling used two parts of section 2 of rule XXII of the Senate. The first part says that two-thirds of the Senators present and voting shall decide whether debate shall be brought to a close. The Chair ruled that a simple majority would suffice to decide cloture. This said in effect that the Senate is not a continuing body, and exposed to capricious change the very structure which enables it to fulfill its functions under the Constitution.

The second part of the rule says that appeals from decisions of the Presiding Officer shall be decided without debate. This part, the Chair adhered to, halting any debate on the appeal. In other words, there was a rewriting of the rule by the Chair, to be validated without debate.

As I say, there were two prongs to that ruling, and I speak with deference. The first prong did not apply, because it was a new session of the Congress; but he ruled in the second part that the rule did apply. That has not been satisfactorily explained. But that has been passed by now.

I am proud that this procedure was rejected by the Senate, and pleased that the rejection is now available as precedent—that is, that rejection was an appeal from the ruling of the Chair. The ruling was rejected by a majority vote of the Senate.

This year I am pleased that we have a ruling of the Chair that permits full discussion of this problem.

It would be a good thing for this country if extended debate had some other name than "filibuster." It would be even better if any connotation in connection with civil rights could be discontinued. Associating cloture automatically with civil rights matters is no longer accurate. One need only review the various extended debates of the last session to substantiate this fact—in fact, we could say the last session or sessions for almost the last 10 years.

The Senate is a powerful instrument of government. I submit that this is not because of the individual characteristics of the Members, although I have much admiration for the fine qualities of my colleagues, and only wish to emulate them. The Senate is a powerful instrument because of its rules.

It is an institution with great respect for tradition—not for tradition's sake, but because tradition is made up of lessons learned. Among them are some that were bitterly learned. All of the lessons are set forth in the rules of the Senate. They deserve our respect.

Under the Constitution, the Senate was created as a continuing body, with at least two-thirds of its Members remaining in office. It is a continuing body, with continuing rules, and has the opportunity to change the rules after deliberation and debate—this to be carried out under the rules themselves. Otherwise, a scant majority could destroy the rules of the Senate and the Senate itself.

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

Mr. STENNIS. Yes, I yield to the Senator for a question.

Mr. LONG. Is it not true that had it not been for the freedom of debate that exists in this body, one of the Supreme Court advocates of judicial usurpation—that is, legislation by Supreme Court fiat, which means a misconstruction of the Constitution—namely, Abraham Fortas, would in all probability now be Chief Justice of the Supreme Court?

Mr. STENNIS. The Senator is correct. If it had not been for rule XXII, he would be Chief Justice.

Mr. LONG. Furthermore, it is not likely that had it not been for that fact, a man calculated to go along with Justice Fortas in whatever he wanted to do would have been put on that Supreme Court along with Judge Fortas, so that there would be two men now on the Supreme Court to further strengthen those men who feel that their duty requires them to construe the laws in such ways as to tell the people that the Constitution means anything that nobody ever thought it meant at all?

Mr. STENNIS. The Senator is correct. I think it was a turning point in history, and it was not something somebody

away off yonder did. It was accomplished by some of the Members of this body, right here on the floor of the Senate. It was not something the President did; it was contrary to the wishes of the sitting President, contrary to the whole administration, contrary, perhaps, to the wishes of a majority of the people at that time, who did not understand the facts or had not had a chance to know the facts.

So here were some men who felt compelled to move in the direction they did; they got the facts together in a very convincing way, and the facts as a whole would not permit this body to vote approval of those men for the Supreme Court of the United States. Other appointments had to be made instead. But if it had not been for rule XXII, their appointments would have been confined and they would have been writing opinions every day since then.

Mr. LONG. Is it not further correct that Justice Fortas had consistently voted for those decisions, some of which were decided by a mere majority of one, which helped to enthrone the criminal over society—such as the Miranda decision, the Escobedo decision, and the Mallory decision, to mention a few—decisions which had given the criminals advantages over the innocent that no one had ever dreamed criminals were intended to possess?

I ask the Senator, does he not believe that those decisions were probably the largest single reason for the 100-percent increase in crime—murder, manslaughter, burglary, theft—that occurred in this country after those decisions took effect?

Mr. STENNIS. Yes, I would say that, as one who had some experience in the courtroom. I think it set the tone of permissiveness of the times, with the thwarting of police power, the authoritative power of the Government in this field of law enforcement, crime, and criminal procedure. There is no doubt about it. Now the emphasis has shifted, in the same Court.

In all fairness, I think we ought to point out here that the nomination of the second nominee involved in those two nominations to the Supreme Court was never considered here in the Senate on its merits, and there was no actual rejection of that nomination or consideration of that man's qualifications, I think the Senator will agree.

Mr. LONG. Yes, that is right.

Mr. STENNIS. Just for the record.

Mr. LONG. I do not care to be critical, but it would not stand to reason that if the man who was the leader in the group of decisions that encouraged permissiveness for criminals to assault society and permissiveness for persons to do all sorts of corrupt acts that had never been permitted before—if that man had been made Chief Justice, I ask the Senator, is it not likely that that trend would have continued? In fact, would it not have been an inspiration for district judges and court of appeals justices hoping to be promoted to feel that that was the order to which they should conform their conduct, if they hoped that they might some day be appointed by the President as court of appeals justices or as Chief Justice of the Supreme Court?

Mr. STENNIS. Certainly such an attitude would have continued to flow from that atmosphere. I think it is rather clear that facts that developed after that action by the Senate were the clincher in proving that the judgment of those who opposed the nomination was correct. Those facts were not before us when we acted.

Mr. LONG. Then would it not be fair to conclude that this wave of permissiveness, this increase in crime, reached its high water mark and subsided, in large measure, because of free debate here on the floor of the Senate?

Mr. STENNIS. I think it was the turning point, yes. And it came right up here and turned off, and veered away in another direction. It was rule XXII and its protection, its slowdown, its safeguard powers that made it possible to do it. Otherwise, it would have gone right on through here, with the power and influence of the President of the United States.

Mr. LONG. Is it not also correct that since the defeat of Justice Fortas, there have been two men named to that Supreme Court in line with what the then minority in the Senate were contending?

Mr. STENNIS. That is right.

Mr. LONG. Namely, Justice Burger and Justice Blackmun, each of whom has remained loyal to his oath to uphold and defend the Constitution; and has that not resulted in some decisions which tend to support this democracy and save this Republic?

Mr. STENNIS. There has been a difference in emphasis; there has been a difference in trend, and the opinions of those two men have been in the majority. They have abandoned this permissiveness trend, and created one more realistic and more stern, as the result of what happened here on this floor.

Mr. LONG. The Senator has mentioned the welfare problem. Just the other day, in Louisiana, a lady went into the welfare office asking to be put on welfare. A little welfare worker, walking in about the time the lady left, said, "I am sorry that lady did not ask for me; I thought I was taking good care of her business."

The person who heard that statement said, "Why, that lady is not the person you were taking care of. That lady is named so-and-so."

The caseworker said, "Gee, I thought she had a different name."

So they got a search warrant, and found that that person was on welfare four times under different names, and applying to go on a fifth time. Her neighbor was on welfare two times, and applying to go on a third; and it was subsequently discovered that there was a tremendous amount of welfare cheating, and about 20 percent of the people on those rolls do not belong on the rolls at all. Every revelation is more shocking than the previous revelation about that kind of corruption.

One of the reasons we could not heretofore do anything about it was that it appeared to be the view of some of those on the Supreme Court that you could not even go into a house and look around to see whether someone deserved to be on the welfare rolls at the taxpayers' expense or not.

Is the Senator aware of the fact that just recently Justice Blackmun, one of those new appointees on the Court, headed up what amounted to a majority who say that you do have a right to inquire about these matters, to see whether someone has a right to be on welfare?

Mr. STENNIS. Yes. I thought it was a very salutary ruling. I thank the Senator very much for his very timely comments.

Mr. President, taking note of the fact that at least two-thirds of the Senators in a new Congress are continuing in office, with a minimum of 2 years of Senate experience, one can well question whether it is a wise course of action to confront the new Members with this cloture decision, without opportunity for deliberations and discussions, and preferably hearings. They have not yet had an opportunity to fully appreciate, by participation, the distinctive characteristics of the Senate. It would be better if this discussion did not come at the beginning of a new Congress.

Freedom of debate is the main quality that makes the Senate distinctive, and differentiates its operations from those of the House. Open and extended debate gives the country the opportunity to join in the issue and for the people to make their will known.

Extended debate usually leads to the exploration of alternatives, to the examination of suitable middlegrounds, and the arrival at constructive compromises. If compromise proves impossible to reach, then it is probable that each side has valid points of principle that cannot be discarded. If the legislation so strongly challenges principles, then there probably is something basically wrong or unjust about it.

Complexities are great in modern government. I do not believe that this means that they should be dealt with in haste. If so, we should have adjourned last October, and with some legislation passed that we might have learned to regret. Let us not confuse haste with efficiency. Let us not take refuge in the omnipotence of the majority—sometimes a transient majority because of illness and absence—to get the legislating over and done with.

Let me point out to my colleagues across the aisle that a willful Democratic Senate, using simple majority vote, could stifle every effort of a Republican President, and of the Senate minority. The rules, and especially rule XXII, make the two-party system work.

Impatience to act can result in settling issues emotionally. Debate is the flywheel that gives stability to the machinery of government.

Instantaneous communications, as we have them today, can feed emotionalism, making it even more essential that we retain our safeguards. Communication can take many forms, and it can present the same information in many ways. Special interest groups, and those who go to the streets and barricades to obtain their way, would like to see rule XXII changed. The people as a whole have

voiced little desire for a change to a three-fifths vote on cloture. For those with axes to grind, it presents additional opportunity to try to get bills rammed through that do not in fact meet all the tests of being in the full public interest.

The fact that there are instantaneous communications in the news media complicates our problem. There is daily debate of national issues on television. The word "debate" fits the discussions better than the word "reporting." That debate is very much in the public forum, but the Senate floor is the forum where decisions must be reached, in full scrutiny of the American public. Let us not concede any part of our responsibilities to any other forum. We are obliged to insure that all facts are carefully examined and judged. We can do that here on the Senate floor if we do not gag ourselves with a change of rules.

There is a national preoccupation with hearing minorities of every kind in full, so that their interests may be adequately protected. Why deny it to a minority on the Senate floor? This is a protection that has been respected and observed in the Senate for over 50 years, as a matter of principle. That there is principle involved is demonstrated by the fact that many Members, from all parts of the country, will never vote for cloture, even though they might be out of sympathy with the particular cause against which it is being invoked.

Mr. President, the reference I make to 50 years is the 50 years of the life of rule XXII. Before we had rule XXII, there was no restriction at all, but things were much simpler then, complications much less, society not so complex, the population a great deal less. So that contributed to the formation of rule XXII for the adjustment and some restrictions on debate. Since that time—I think it was 1916 or 1917 that the first one was passed—we have not had unlimited debate, but we have had controlled debate.

Those 50 years of experience show that the present rules offer no real handicap to legislating. In the long run, the majority, if it was right, has governed. But rule XXII has permitted minorities to be heard, and to attempt to persuade others to their views.

In routine matters, the unfettered domination of majority rule is adequate. In those matters that involve the bone and sinew of our Nation, it does not suffice, and the Founding Fathers knew this. For one thing, they said that in one of the two legislative bodies, every State, large or small, should have equal voice, and so founded the Senate.

Incidentally, that is one of the great compromises of the Constitutional Convention. More than any other compromise, it is said to have made possible the writing of a constitution at that time that was acceptable. Further, the Founding Fathers made it impossible for a simple majority of the States to change this by constitutional amendment. No State shall be required to surrender any part of its representation in this body unless by its own agreement.

What is required under the Constitution for the Senate to take its most important actions? Is it a three-fifths vote? No. A two-thirds vote is necessary to override a veto, to pass a constitutional amendment, to ratify a treaty, or to impeach or expel.

There is nothing in the Constitution to commend three-fifths as a particularly meaningful vote. Three-fifths is just the next fractional step in a move from two-thirds toward the simple majority.

That is a long step, Mr. President, over a time-tried threshold into consequences that cannot be fully anticipated, and which place the whole structure of the Senate in jeopardy. I urge the Members of this body not to take that step.

Mr. President, again I want to urge most respectfully that the new Members of this body—they are a very fine group of men—beginning their first term here, search out and determine with painstaking care just what is the true issue involved here. This is not a matter concerning a civil rights bill. This is not a matter that pertains to any particular form or class of legislation. This is a fundamental principle, one of the bedrocks, one of the mud sills, to use an even older expression, of this Senate as an institution of Government, as a coequal part of the legislative power of this Government, which is growing larger and more complicated every day. It is the sole place where the flag can go up, as I have said, for stop and inspection and introspection and contemplation and thought and debate—debate on both sides of the matter.

If we think about it, a bill does not get an official debate before the people of the Nation until it gets here. This afternoon, I announced hearings on a highly important matter, the Selective Service Act, which expires automatically at the end of June of this year unless reenacted. It is not going to be a popular or easy vote to reenact a meaningful Selective Service Act. We are at war on the other side of the world and have serious questions involving our national security, and we have to have enough men of the right talent and intelligence and dedication to fill those obligations, severe as some of them are, and we are going to have to give consideration to that.

That measure has already been debated, in a way, by the executive branch of the Government, over and over again, and tied in with it is the idea of a volunteer army, that we are not going to have to renew the act except for a brief period, after all. If anyone believes that, it is all right with me for them to believe it; but my point is that it has to be debated on its merits—both sides presented and examined and presented here in debate and argument.

We are going to do the best we can in the hearings to develop all the facts and have them in the record for the information of Senators. But the true test is going to be when it gets to the floor of the Senate for debate. That will be the first time in public debate that the measure and the alternatives will have a chance to be heard.

The idea of having rule XXII travel in a direction where majority can cut off debate or cut off those who think the hard road must be traveled, yet someone else will say, "No, let us go the easy way and cut off debate and pass the bill the easy way," is unthinkable.

In my mind, it is unthinkable that we would jeopardize our national security in that way by not having safeguards in our rules that will at least permit proper consideration of all legislation.

S. 427—INTRODUCTION OF A BILL TO AMEND THE MILITARY SELECTIVE SERVICE ACT OF 1967

Mr. STENNIS. Mr. President, on another matter, and out of order, for myself and the senior Senator from Maine (Mrs. SMITH), I introduce, by request, a bill to amend the Military Selective Service Act of 1967, and for other purposes.

I ask unanimous consent that a letter of transmittal requiring the introduction of this bill and an explanation of its purposes be printed in the RECORD immediately following the printing of the bill.

The PRESIDING OFFICER (Mr. BOGGS). Without objection, the bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD, together with the explanation, and the letter of transmittal.

Mr. STENNIS. Mr. President, I thank the Chair.

I yield the floor.

The bill (S. 427) to amend the Military Selective Service Act of 1967, and for other purposes, introduced by Mr. STENNIS (for himself and Mrs. SMITH), by request, 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. 427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Military Selective Service Act of 1967 is amended as follows:

(1) Section 1(a) is amended to read as follows:

"(a) This Act may be cited as the 'Military Selective Service Act'."

(2) Section 3 is amended to read as follows:

"SEC. 3. Except as otherwise provided in this title, it shall be the duty of every male citizen of the United States, and every other male person residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder: *Provided,* That the provisions of this section shall not be applicable to any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States."

(3) Section 4 is amended by:

(a) Section 4(a) is amended to read as follows:

Except as otherwise provided in this title, every person required to register pursuant to section 3 of this title who is between the ages of 18 years and 6 months and 26 years, at the time fixed for his registration, or who attains the age of 18 years and 6 months after having been required to register pursuant to section 3 of this title, or who is otherwise liable as

provided in section 6(h) of this title, shall be liable for training and service in the Armed Forces of the United States: *Provided,* That each registrant shall be immediately liable for classification and examination, and shall, as soon as practicable following his registration, be so classified and examined, both physically and mentally, in order to determine his availability for induction for training and service in the Armed Forces: *Provided further,* That, notwithstanding any other provision of law, any registrant who has failed or refused to report for induction shall continue to remain liable for induction and when available shall be immediately inducted. The President is authorized, from time to time, whether or not a state of war exists, to select and induct into the Armed Forces of the United States for training and service in the manner provided in this title (including but not limited to selection and induction by age group or age groups) such number of persons as may be required to provide and maintain the strength of the Armed Forces.

At such time as the period of active service in the Armed Forces required under this title of persons who have not attained the nineteenth anniversary of the day of their birth has been reduced or eliminated pursuant to the provisions of section 4(k) of this title, and except as otherwise provided in this title, every person who is required to register under this title and who has not attained the nineteenth anniversary of the day of his birth on the date such period of active service is reduced or eliminated, or who is otherwise liable as provided in section 6(h) of this title, shall be liable for training in the National Security Training Corps: *Provided,* That persons deferred under the provisions of section 6 of this title shall not be relieved from liability for induction into the National Security Training Corps solely by reason of having exceeded the age of 19 years during the period of such deferment. The President is authorized, from time to time, whether or not a state of war exists, to select and induct for training in the National Security Training Corps as hereinafter provided such number of persons as may be required to further the purposes of this title.

No person shall be inducted into the Armed Forces for training and service or shall be inducted for training in the National Security Training Corps under this title until his acceptability in all respects, including his physical and mental fitness, has been satisfactorily determined under standards prescribed by the Secretary of Defense: *Provided,* That the minimum standards for physical acceptability established pursuant to this subsection shall not be higher than those applied to persons inducted between the ages of 18 and 26 in January 1945: *Provided further,* That the passing requirement for the Armed Forces Qualification Test shall be fixed at a percentile score of 10 points: *And provided further,* That except in time of war or national emergency declared by the Congress the standards and requirements fixed by the preceding two provisos may be modified by the President under such rules and regulations as he may prescribe.

No person shall be inducted for such training and service until adequate provision shall have been made for such shelter, sanitary facilities, water supplies, heating and lighting arrangements, medical care, and hospital accommodations for such persons as may be determined by the Secretary of Defense or the Secretary of Transportation to be essential to the public and personal health.

The persons inducted into the Armed Forces for training and service under this title shall be assigned to stations or units of such forces. Persons inducted into the land forces of the United States pursuant to this title shall be deemed to be members of the Army of the United States; persons inducted into the naval forces of the United States pursuant to this title shall be deemed to be members of the United States Navy or the United States Marine Corps or the United States Coast Guard, as appropriate; and persons inducted into the air forces of the United States pursuant to this title shall be deemed to be members of the Air Force of the United States.

Every person inducted into the Armed Forces pursuant to the authority of this subsection after the date of enactment of the 1951 Amendments to the Universal Military Training and Service Act shall, following his induction, be given full and adequate military training for service in the armed force into which he is inducted for a period of not less than four months, and no such person shall, during this four months period, be assigned for duty at any installation location on land outside the United States, its Territories and possessions (including the Canal Zone): *Provided,* That no funds appropriated by the Congress shall be used for the purpose of transporting or maintaining in violation of the provisions of this paragraph any person inducted into, or enlisted, appointed, or ordered to active duty in, the Armed Forces under the provisions of this title.

No person in the medical, dental, and allied specialist categories shall be inducted under the provisions of this subsection if he applies or has applied for an appointment as a Reserve officer in one of the Armed Forces in any of such categories and is or has been rejected for such appointment on the sole ground of a physical disqualification.

No person, without his consent, shall be inducted for training and service in the Armed Forces or for training in the National Security Training Corps under this title, except as otherwise provided herein, after he has attained the twenty-sixth anniversary of the day of his birth."

(b) Section 4(b) is amended by substituting the words "the Secretary of Transportation" for the words "the Secretary of the Treasury" wherever they appear.

(c) Section 4(d)(1) is amended by deleting the following: "(except a person enlisted under subsection (g) of this section)".

(d) Section 4(d)(3) is amended by substituting the words "the Secretary of Transportation" for the words "the Secretary of the Treasury" wherever they appear.

(4) Section 5 is amended by:

(a) Subsection (a)(1) is amended by changing the period (.) to a semi-colon (;) and adding the following:

"and (3) no local board shall order for induction for training and service in the Armed Forces of the United States an alien unless such alien shall have resided in the United States for one year."

(b) Section 5 is amended by adding a new subsection (d) to read as follows:

"(d) Whenever the President has provided for the selection of persons for training and service in accordance with random selection under subsection (a) of this section, calls for induction may be placed under such rules and regulations as he may prescribe, notwithstanding the provisions of subsection (b) of this section."

(5) Section 6 is amended by:

(a) Section 6(a)(1) is amended by changing the period (.) at the end of the first sentence to a colon (:) and inserting the following words:

"*Provided,* That any alien lawfully admitted for permanent residence as defined in paragraph (20) of section 101(a) of the Immigration and Nationality Act, as amended (66 Stat. 163, 8 U.S.C. 1101) who by reason of occupational status is subject to adjustment to nonimmigrant status under paragraph (15)(A), (15)(E) or (15)(G) of 101(a) of the same Act but who executes a waiver in accordance with section 247(b) of that Act of all rights, privileges, exemptions and immunities which would otherwise accrue to him as a result of that occupational status, shall be subject to registration under section 3, but shall be deferred from induction for training and service for so long as the such occupational status continues."

(b) The second sentence of section 6(a)(1) is amended by substituting the word "twelve" for the word "eighteen" wherever it appears therein.

(c) Section 6(b)(3) is amended by substituting the words "section 5(a)" for the words "section 4(i)".

(d) Section 6(b)(4) is amended by striking out the words "or section 4(g)".

(e) Section 6(d)(1) is amended by substituting the words "the Secretary of Transportation" for the words "the Secretary of the Treasury" wherever they appear and by substituting the words "section 651, title 10, United States Code" for the words "section 4(d)(3) of this Act" wherever they appear.

(f) Section 6(d)(5) is amended by striking out the words "Environmental Science Services Administration" and substituting the words "National Oceanic and Atmospheric Administration" wherever they appear.

(g) Section 6(g) is amended to read:

"(g) Regular or duly ordained ministers of religion, as defined in this title, shall be exempt from training and service (but not from registration) under this title."

(h) Section 6(h)(1) is repealed.

(i) Section 6(h)(2) is amended by striking out the designation "(2)" and the word "graduate" from the first sentence.

(j) Section 6(i)(1) is amended to read as follows:

"Any person who is satisfactorily pursuing a full-time course of instruction at a high school or similar institution of learning and is issued an order for induction shall, upon the facts being presented to the local board, have his induction postponed (A) until the time of his graduation therefrom, or (B) until he attains the twentieth anniversary of his birth, or (C) until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest."

(k) Section 6(i)(2) is repealed.

(6) Section 9(j) is amended by substituting the words "or Transportation" for the words "or Treasury".

(7) Section 10 is amended by:

(a) Section 10(a)(3) is amended to read as follows: "The Director shall be appointed by the President, by and with the advice of the Senate."

(b) Section 10(b)(2) is amended by changing the first semi-colon (;) to a colon (:) and inserting immediately thereafter the following: *"Provided,* That no State Director shall serve concurrently in an elected or appointed position of a State or local government without the approval of the Director of Selective Service;"

(c) Section 10(b)(4) is amended to read as follows:

"(4) to appoint and to fix, in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, the basic pay of such officers, agents, and employees as he may deem necessary to carry out the provisions of this title: *Provided,* That the Director is authorized to employ, under the provisions of section 3109 of title 5, United States Code, such experts and consultants as he may deem necessary, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18 under section 5332(a) of title 5, United States Code: *Provided further,* That any officer on the active or retired list of the armed forces, or any reserve component thereof with his consent, or any officer or employee of any department or agency of the United States who may be assigned or detailed to any office or position to carry out

the provisions of this title (except to offices or positions on local boards or appeal boards established or created pursuant to section 10(b)(3)) may serve in and perform the functions of such office or position without loss of or prejudice to his status as such officer in the armed forces or reserve component thereof, or as such officer or employee in any department or agency of the United States: *Provided further,* That an employee of a local board having supervisory duties with respect to other employees of one or more local boards shall be designated as the 'executive secretary' of the local board or boards;"

(d) Section 10(e) is repealed.

(e) Section 10(f) is amended by substituting "$500" for "$50" therein.

(8) Section 11 is amended to read as follows:

"SEC. 11. Under such rules and regulations as may be prescribed by the President, funds available to carry out the provisions of this title shall also be available for the payment of actual and reasonable expenses of emergency medical care including hospitalization, of registrants who suffer illness or injury, and the transportation, and burial, of the remains of registrants who suffer death, while acting under orders issued under the provisions of this title, but such burial expenses shall not exceed the maximum that the Administrator of Veterans' Affairs may pay under the provisions of section 902(a), title 38, United States Code in any one case."

(9) Section 12 is amended by adding a new subsection (d) to read as follows:

"(d) No person shall be prosecuted, tried, or punished for evading, neglecting, or refusing to perform the duty of registering imposed by section 3 of this title unless the indictment is found within five years next after the last day before such person attains the age of twenty-six, or within five years next after the last day before such person does perform his duty to register, whichever shall first occur."

(10) Section 15(d) is amended to read as follows:

"Except as provided in section 4(c), nothing contained in this title shall be construed to repeal, amend, or suspend the laws now in force authorizing voluntary enlistment or reenlistment in the Armed Forces of the United States, including the Reserve components thereof, except that no person shall be accepted for enlistment after he has been issued an order to report for induction unless authorized by the Director of Selective Service and the Secretary of Defense and except that, whenever the Congress or the President has declared that the national interest is imperiled, voluntary enlistment or reenlistment in such forces, and their Reserve components, may be suspended by the President to such extent as he may deem necessary in the interest of national defense."

(11) Section 17(c) is amended by striking out "July 1, 1971" and inserting in place thereof "July 1, 1973".

SEC. 2. Section 1 of the Act of August 3, 1950, chapter 537 as amended (10 U.S.C. 3201 note) is amended by striking out "July 1, 1971" and inserting in place thereof "July 1, 1973".

SEC. 3. Section 9 of the Act of June 27, 1957, Public Law 85-62 as amended (81 Stat. 105) is amended by striking out "July 1, 1971" and inserting in place thereof "July 1, 1973".

SEC. 4. Sections 302 and 303 of title 37, United States Code are each amended by striking out "July 1, 1971" whenever that date appears and inserting in place thereof "July 1, 1973".

The letter and explanation, presented by Mr. STENNIS, are as follows:

SELECTIVE SERVICE SYSTEM,
Washington, D.C., January 28, 1971.

DEAR MR. PRESIDENT: Enclosed is a bill to amend the Military Selective Service Act of 1967. It provides authority for the President to phase out undergraduate student deferments, to establish a national call by lottery sequence number, to continue induction of young men through July 1, 1973, and for other purposes described hereafter.

This bill is submitted in accordance with the messages from the President on military manpower procurement sent to the Congress today and on April 23, 1970. We urge enactment of this legislation.

The major substantive changes proposed by the legislation are described below. There are several other changes generally administrative or technical in nature. These, as well as the more substantive changes, are explained in detail in an attachment.

NATIONAL CALL

Paragraph (4)(b) of section 1 of the proposed legislation would authorize calls for induction under such rules as the President may prescribe during such times as a random selection system is in use, notwithstanding the provisions of section 5(b) of the Military Selective Service Act of 1967. If this request is enacted, the President proposes to establish a system of uniform national calls inductions. Under this plan, quotas will be assigned to local draft boards so that men with the same lottery sequence numbers will be called at approximately the same time across the nation.

UNDERGRADUATE DEFERMENTS

Paragraphs (5)(h) and (5)(i) of section 1 of the proposed bill would modify the law to restore to the President the authority he had prior to 1967 to prescribe rules and regulations governing student deferments. If these proposals are enacted, the President proposes to phase out deferments for undergraduate students, junior college students, and young men in apprentice and technical training programs.

DIVINITY SCHOOL EXEMPTIONS

Paragraph (5)(g) of section 1 of the proposed bill would repeal the draft exemption now granted to divinity school students. If the provision is enacted, these exemptions will be phased out so that students who enroll in divinity schools after January 27, 1971, will not maintain their exemptions.

POSTPONEMENT OF INDUCTIONS

Paragraph (5)(j) of section 1 of the proposed bill would provide postponement of induction for high school students rather than deferment, and paragraph (5)(k) would repeal a provision of the law which requires that the induction of students who are already in college be delayed until the end of their current academic year. Under current plans, those students entering college after April 22, 1970 who receive a notice of induction would have their service obligation postponed until the end of their current academic semester or term.

EXTENSION OF INDUCTION AND OTHER AUTHORITIES

The current authority for induction expires on July 1, 1971. Normally this authority has been extended for four-year periods. Paragraph (11) of section 1 of the proposed bill provides for the extension of induction authority until July 1, 1973. This limited extension reflects the seriousness of the President's commitment to the All Volunteer Armed Force. It also reflects the President's awareness of the immediate and continuing needs of our national security as he seeks to achieve the objectives of zero draft calls.

Section 2 of the proposed bill provides for the extension of authority to suspend various statutory ceilings on active duty military strengths. Section 3 of the proposed bill provides for the extension of authority to make special calls for the induction of medical, dental, and allied specialists and authority to order reservists in these categories involuntarily to active duty for not more than 24 months. Section 4 of the proposed bill provides for the extension of authority to grant special pay for physicians, dentists, and veterinarians. These authorities are associated with the need for induction and hence are proposed to be extended concurrently with the extension of that authority.

Attached to the enclosed bill is a more detailed explanation of each of the proposed changes.

Sincerely,

CURTIS W. TARR.

BILL TO AMEND MILITARY SELECTIVE SERVICE ACT OF 1967

EXPLANATION

Section 1 amends the Military Selective Service Act of 1967, as amended.

Paragraph 1

Amends section 1(a) of the Military Selective Service Act of 1967 to change the popular title of the Act to read "The Military Selective Service Act."

Paragraph 2

Amends section 3 of the Act to add a new proviso clarifying which aliens must register for the draft and which are exempt. The present statutory language (" . . . every other male person now or hereafter residing in the United States . . . ") raises diplomatic problems because of its broadness, despite a substantially more narrow interpretation in the regulations, 32 CFR 1611.2(b). The new proviso would explicitly exempt visitors in nonimmigrant status who do not plan to reside permanently in the United States.

Paragraph 3(a)

Amends section 4(a) of the Act of 1967 concerning the training and service of aliens. These amendments, however, are intended to make no significant changes, except to conform more exactly to revised section 3 of the Act. Specifically, the changes do the following:

In the first and second paragraphs the words "every person required to register under section 3" for the words "every male citizen . . . and every male alien admitted for permanent residence . . .";

The third proviso of the first paragraph regarding aliens who are liable and those who may claim exemption from service. Aliens who are liable are already described in the first sentence of section 4(a). "Treaty aliens" may claim exemption from service subject to a bar on future citizenship; thus, there is no need to mention them in this proviso.

The first proviso of the second paragraph for the same reasons stated directly above.

Section 4(a) is also amended to substitute the words "the Secretary of Transportation" for the words "the Secretary of the Treasury". This substitution brings the selective service law into accord with the transfer of authority over the Coast Guard from the Secretary of the Treasurer to the Secretary of Transportation.

Paragraph 3(b)

This amendment is explained above in the last paragraph of the explanation of paragraph (3)(a).

Paragraph (3)(c)

Amends section 4(d)(1) of the Act of 1967 by deleting an erroneous reference to section 4(g). The original section 4(g) in the 1948 Act referred to one year enlistments. This subsection was repealed by the 1951 amendment. A new subsection 4(g) was enacted in 1967, but it describes a National Security Council procedure. The reference to section 4(g) now has no meaning and is unnecessary in the statute.

Paragraph (3)(d)

This substitution is explained above in the third paragraph of the explanation of paragraph (3)(a).

Paragraph (4) (a)

Amends section 5(a)(1) of the Act of 1967 by adding a new clause (3) to the final proviso. This clause prohibits the induction of any alien who is liable for military service until such alien has resided in the United States for at least 12 months. This change would permit such aliens to learn English and orient themselves to American society before they are inducted. It also gives the Immigration and Naturalization Service an opportunity to take exclusion or deportation action against aliens who are not in lawful immigrant or nonimmigrant status before they are inducted and become entitled, for example, to expeditious naturalization.

Paragraph (4) (b)

Adds a new subsection (d) of section 5 of the Act to provide that calls of men to be inducted may be made without regard to subsection (b) of section 5 when the random selection system is used. This will permit quotas of inductees to be determined according to their distribution by sequence number across the nation, thus increasing the likelihood that men with the same sequence numbers throughout the country will be reached at approximately the same time. The present law prevents such an action, since it requires quotas to be determined for each State and "for subdivisions thereof" on the basis of all available I–A men, regardless of differing degrees of vulnerability. The proposal will thus promote more equal treatment among registrants with the same sequence number irrespective of their place of residence.

Paragraph (5) (a)

Amends section 6(a)(1) of the Act of 1967 by inserting a proviso regarding aliens at the end of the first sentence. This addition would authorize the temporary postponement from service of those aliens admitted for permanent residence whose foreign affairs-oriented occupations qualify them for nonimmigrant (and draft exempt) status. This temporary postponement is for the alien who has waived the special privileges incidental to nonimmigrant status and would last only so long as the alien remained in the specified occupation.

Paragraph (5) (b)

Amends the second sentence of section 6(a)(1) of the Act regarding aliens. The amendment reduces the duration of prior military service which would be sufficient to qualify an alien for exemption from liability under our Selective Service Act. The present requirement is 18 months service in the armed forces of an allied nation. The amendment would reduce that to 12 months to reflect the recent policy of several countries, particularly those in Europe, who have reduced their military service requirement below eighteen months.

Paragraph (5) (c)

Amends section 6(b)(3) of the Act to correct an erroneous cross reference to "section 4(i)". That section was terminated as of June 30, 1957.

Paragraph (5) (d)

Is explained in the explanation of paragraph (3)(c).

Paragraph (5) (e)

This substitution is explained above in the last paragraph of the explanation of paragraph (3)(a).

Paragraph (5) (f)

Amends section 6(d)(5) of the Act to reflect the transfer of certain functions by Reorganization Plan No. 4 of 1970 from the Environmental Science Services Administration to the National Oceanic and Atmospheric Administration.

Paragraph (5) (g)

Amends section 6(g) of the Act to delete the mandatory exemption of divinity school students. This amendment will allow the President, under the authority of section 6(h), to treat these students essentially the same as other undergraduates and graduate students. It ties in closely with the President's request for authority to phase our undergraduate II–S deferments: If undergraduate deferments are phased out, the Administration thinks it equitable to expose divinity school students to the draft as well. It is the Administrations' intent, however, to allow continued deferment for those divinity students who are enrolled prior to January 27, 1971; no retroactivity to April, 1970, is intended for these students, unlike regular undergraduates.

Paragraph (5) (h) and (i)

Amends section 6(h) of the Act to restore to the President discretionary authority to provide for the deferment of college students, similar to that which existed under the Act before enactment of the 1967 amendments. Present law requires the deferment of such students if they request deferment. The amendment will permit student deferments to be phased out according to the President's previously announced plan stated in his message of April 23, 1970: those enrolled prior to that date remain eligible for deferment while those who entered school later will be ineligible.

Paragraph (5) (j)

Amends section 6(i)(1) of the Act to provide that a high school student who is issued an order for induction will receive a postponement rather than the more administratively complex I–S(H) deferment until the time of his graduation therefrom, or until he attains the twentieth anniversary of his birth, or until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest.

Paragraph (5) (k)

Repeals section 6(i)(2) of the Act to conform to the discretionary authority vested in the President by paragraphs (4) and (5). Since section 6(i)(2) requires deferments of college students under certain conditions, it would not be consistent with the proposed revision of section 6(h) and the plan to phase out student deferments. The Administration intends to postpone the induction of students, who are issued induction orders while attending school until the end of the academic term or semester except that students in their last year of school will receive a postponement of induction until the completion of that academic year.

Paragraph (6)

This amendment is explained above in the last paragraph of the explanation of paragraph (3)(a).

Paragraph (7) (a)

Amends section 10(a)(3) of the Act to eliminate the inconsistency with more recent superseding legislation regarding the Director's compensation (5 U.S.C. 5314).

Paragraph (7) (b)

Amends section 10(b)(2) of the Act by adding a proviso to prevent State Directors in the employment of the Selective Service System from accepting additional positions with state or local governments unless they have the approval of the Director of Selective Service.

Paragraph (7) (c)

Amends section 10(b)(4) of the Act to delete the first proviso which presently authorizes the Selective System to fix compensation of local and appeal personnel without regard to the Classification Act of 1949, as amended. The intent of the deletion is to require Selective Service to compensate its employees under the provisions of such Act. The amendment also updates the citation to said Act by referring specifically to "the provisions of Chapter 51 and Subchapter III of Chapter 53 of Title 5, United States Code."

This paragraph also authorizes the Director to employ experts and consultants at a rate not to exceed the per diem rate equivalent to the rate for GS–18.

This paragraph deletes the last proviso of section 10(b)(4) to remove the 10 year tenure provision applicable to Executive Secretaries of local board, thus requiring Selective Service to return to traditional tenure guidelines of civil service.

Paragraph (7) (d)

Repeals section 10(e) of the Act to delete obsolete language which authorized the Chief of Finance, U.S. Army, to act as the fiscal agent of the Selective Service System.

Paragraph (7) (e)

Amends section 10(f) of the Act to substitute the figure "$500" for "$50". The amendment authorizes the Director to make more realistic cash settlements.

Paragraph (8)

Amends section 11 of the Act to increase the amount of funds available for burial expenses for registrants who die while acting under orders issued pursuant to this Act. The amount is tied to a ceiling prescribed in veterans' legislation, specifically section 902(a), Title 38, United States Code. This amount presently is $250.

Paragraph (9)

Amends section 12 of the Act by adding a new subsection (d) which will overcome the result of *Toussie* v. *United States*, 90 S. Ct. 858 (1970). That opinion interpreted the Act to limit the time for prosecuting men who fail to register to five years and five days after a man's 18th birthday. The proposed language will allow the prosecution of a nonregistrant up to five years after his 26th birthday. It does not change the statute of limitations for any other violation of Selective Service law. This change is deemed appropriate not only as a deterrent to nonregistration but also as a reflection of equity to those men who comply with the Act's registration requirements and remain liable at least to age 26.

Paragraph (10)

Amends section 15(d) of the Act to substitute the fact of *issuance* rather than *receipt* of an induction order as the deadline beyond which a man will not be accepted for voluntary enlistment. This change is desirable because the time of issuance of an order to report for induction is more easily identified than is the time of the receipt of such order. This amendment also authorizes the Director of Selective Service and the Secretary of Defense jointly to waive the prohibition against "post-induction order" enlistments. This authorization will be used by the Administration to allow enlistments in the *regular* forces up to the day before induction, but not in the reserves after issuance of an induction order.

Paragraph (11)

Extends the authority to the President to induct persons under the Act for two years.

Section 2 would amend existing law to extend for two years the suspension of active duty military strength ceilings imposed by the Act of August 3, 1950, Chapter 537, as amended (10 U.S.C. 3201, note).

Section 3 extends for two years the authority to make special calls for the induction of persons in medical, dental and allied specialist categories and the authority of the President to order reserves in those categories involuntarily to active duty for not more than 24 months.

Section 4 would amend sections 302 and 303 of title 37 to continue for two years the authority for the payment of special pay of physicians, dentists, and veterinarians in the uniformed services.

ORDER OF BUSINESS

Mr. ALLEN. Mr. President, I ask unanimous consent that I may speak for not to exceed 20 minutes, notwithstanding the provisions of rule XIX limiting a Senator to two speeches on the same subject, inasmuch as I have already spoken twice on the pending business.

The PRESIDING OFFICER (Mr. BOGGS). Is there objection to the request of the Senator from Alabama? The Chair hears none, and it is so ordered.

THE UNFAIRNESS OF THE COTTON PROGRAM

Mr. ALLEN. Mr. President, in view of mounting cost-price pressures on the American farmer, I believe that it is imperative that we consider certain aspects of the commodity programs, especially as they relate to cotton farmers.

Major features of this particular program, reflecting substantial and fundamental change, were announced on December 8th by the U.S. Department of Agriculture.

That was almost 2 months ago, and farmers still are waiting to have these changes explained in an adequate and understandable manner.

I cannot understand why such an explanation—one involving actual operational aspects of the program—should be withheld from farmers.

Is there something to be hidden? Is it possible that having announced with considerable fanfare a new type of program to help farmers, the USDA is now reluctant to come forward with the necessary and truthful explanation that they have cut a sizable chunk out of the farmer's income?

Farmers in Alabama are asking questions. They want to know if their first assessment is right—an assessment that indicates that USDA by administrative decree is cutting their income by about $10 per bale on cotton alone.

It is time that they received firm answers from the Agriculture Department, and that the equivocating statements about program flexibility and market orientation be supplanted with a few hard facts—facts that can be extrapolated into income data.

Mr. President, a totally unnecessary and unfair cut in cotton farmer income is about to occur. It is being brought about not by law, but by administrative action on the part of the U.S. Department of Agriculture.

Mr. President, these administrative cuts can be prevented; there is one basic, safe and certain remedy. And that is the honest and straightforward recognition and admission on the part of Secretary Hardin and other top officials at USDA that they have made a mistake. It is a bad time for false pride because the mistake can be corrected, and the reduction in cotton income of a full $120 million can be avoided.

Frankly, I am somewhat amazed that in announcing the 1971 upland cotton program, USDA apparently attempted to camouflage the single most important point about the new program: that it would, in fact, cut farm income, and to a drastic degree.

For example, farmers have sold their cotton on a gross weight basis for many years. This means simply that they are paid for the full weight of the bale, including the bale wrapping. Generally, the farmer pays about $4.50 for the bagging and ties, which are used to wrap a bale of cotton. Traditionally, he regained this expense when the cotton was sold.

Actually, even now he does not regain the entire expense. The average weight of these packaging materials is about 20 pounds. Assuming that the farmer sold his cotton for 20.25 cents per pound he would regain only $4.25 of the $4.50 outlay when the cotton was sold—sold, of course, on a gross weight basis.

However, the USDA has announced that price support loans will be made only on a net weight basis. That means that farmers will get back nothing for the cost of the bale wrappings. And not only does this apply to cotton held under loan by the Commodity Credit Corporation, but in addition it applies to all cotton moving in normal trade channels.

Why?

Who really in good conscience can support such a proposal? And on what grounds?

Is it merely for the ease and convenience of those who keep the books at USDA?

If so, it is going to be quite expensive from the U.S. taxpayer's standpoint, since the Commodity Credit Corporation currently holds approximately 3 million bales of cotton in inventory or under loan. With USDA's planned, overnight conversion to net weight trading, taxpayer-owned CCC cotton is going to drop automatically in value by approximately $13 million.

That, however, is a pittance compared to the costs in terms of farm income.

The USDA program announcement stated the loan level at 19.50 cents per pound—net weight, standard micronaire—leaving the impression that last year's level of 20.25 cents was being reduced by only 0.75 cent. The Department also stated that if loans were made in 1971 on the basis of bale gross weights, as was the case in 1970 and many earlier years, the 1971 loan rate would be approximately 18.70 cents.

On a comparable basis, the 1971 loan is 18.25 or 2 cents less than the 1970 rate.

Mr. President, that amounts to $10 per bale, or a total loss to cotton farmers of $120 million on a 12 million bale crop.

Unfortunately, USDA officials have yet to report the fact that with the loan fixed at 19.50 cents they have, in effect, eliminated any possibility of an additional payment.

The general farm legislation recently enacted by Congress guarantees cotton producers 35 cents per pound for their cotton, and stipulates that this income is to be derived through a combination of price support loan and a payment. Had the loan rate been continued on a gross weight basis and set at 18.50 cents, the market price probably would have been around 19.50 cents, and an additional payment of one-half cent per pound might have been made to cotton producers.

Following a very consistent pattern of evasiveness and subterfuge, USDA officials have so far concealed that particular aspect of their new program. I assure the Senate that cotton farmers in Alabama do not consider it a minor item because this additional payment would come to $2.50 per bale, or about $29 million.

Also suppressed thus far are warnings sounded months ago in a top USDA policy paper. This paper declared that—and this is a direct quotation—

> The making of loans on a net weight basis would not necessarily prompt the cotton industry to go on a net weight basis for commercial sales. Such was the case in the six year period 1939–44. In 1945, in order to simplify the administration of the loan program and to make loan rates and market prices directly comparable, the loan was changed back to a gross weight basis. If the cotton industry had been willing to go to net weight trading, the loan would have continue on that basis.

That is not the only warning sounded in that paper. It is hardly coincidental that all of the others also have been suppressed.

The fact that these warnings were completely disregarded raises several questions:

Is USDA attempting to dictate trade policies—ones that have already been tried and have already dismally failed once?

Has the Department ignored existing legislation requiring that normal trade practices be followed?

How much, if any, consideration was given to the impact of this policy on cotton farmers—or the impact on the ginners who must explain to farmers why they will no longer get back any part of their expenses for the bale wrappings?

To answer these and other important questions, let us examine one hypothetical example involving a 1970 cotton allotment of 100 acres. In 1970 the farmer received a payment on the domestic portion of his allotment. In this case that would mean a payment on 65 of the 100 acres. Let us assume that he planted those acres. With a national average yield of one bale per acre, he produced 65 bales. Assuming his average bale weighed 500 pounds—and was classified as 1-inch staple, Middling quality and standard micronaire—each bale was worth $107.25 including the market price of the cotton—estimated at 75 cents above the loan—plus the premium of 45 cents, or almost one-half a cent per pound, paid for standard micronaire.

His total of 65 bales brought the farmer $6,971.25, and subtracting the $292.50 he paid for his bagging and ties, he received $6,678.75 for his cotton.

The 1971 program offers that same producer a lower price support loan—19.50 for cotton grading at one inch staple, and so forth—on a net weight basis and with no premium for standard micronaire.

Therefore, the farmer will be paid for 21 fewer pounds in each bale of cotton because of net weight trading. Again, assuming a market price of 0.75 cent above the loan level, or 20.25, the farmer will receive $97 for each bale of cotton. If he again plants 65 acres and produces 65

bales, he will receive $6,305 for them. And subtracting the $292.50 he pays for bagging and ties, he will receive $6,012.50 for his cotton.

That means he will receive $666.25 less in 1971 than he received in 1970.

Mr. President, those figures did not come from USDA, but they are nonetheless real and nonetheless significant.

However, they apparently seemed insignificant to the officials at USDA who are charged with the mission of maintaining and improving farm income.

It is true that farmers will receive payment on 3 percent more acres in 1971, but even so they are confronted with a substantial loss in income.

The figures show clearly that what the farmer receives for his cotton will drop substantially—and so will his payment.

In 1970 the producer in our hypothetical example would have received a payment of $5,460. In 1971, planting the same acreage he will receive a payment of $4,728.75—or a total of $731.25 less.

The overall decrease in income will be at best difficult for producers to sustain. In 1970, the payments and receipts for the cotton brought the farmer in our hypothetical example $12,431.25. The announced provisions of the 1971 cotton program will cut that total to approximately $11,033.75—or a full $1,397.50 less.

This point of course was carefully concealed from farmers.

Fortunately, there is time for the Department of Agriculture to review its announced program, to explore the missing details and to make the needed revisions. Surely this can be done—and will be done—unless USDA is committed to rigid, inflexible and arbitrary program policies that clearly are neither provided for by law, nor are in the best interest of the cotton farmer.

Low price support levels, even lower payment levels, are understandable under certain circumstances. But arbitrary decisions such as that involving net weight trading add needlessly to the farmer's burden, and farmers find them difficult, if not impossible, to accept.

S. 431—INTRODUCTION OF A BILL RELATING TO TAXES ON WAGERING

Mr. HRUSKA. Mr. President, on April 23, 1969, President Nixon sent to the 91st Congress a monumental message, pledging an all-out fight against the menace of organized crime, and asking the Congress to cooperate by enacting certain vital legislation giving Federal investigators and prosecutors new weapons to use against the syndicate.

The 91st Congress responded by enacting the Organized Crime Control Act of 1970 on October 15, 1970. This omnibus measure included all but one of the legislative proposals which the President asked the Congress to enact in his organized crime message. The exception—the proposed wagering tax amendments sponsored by the distinguished Representative from Virginia, RICHARD POFF, in the House, and by this Senator in this body—came "within a whisker" of enactment in the closing days of the 91st Congress. The Senate bill, S. 1624, was approved by the Judiciary Committee, following hearings on it and other organized crime measures by the Subcommittee on Criminal Laws and Procedures. The companion measure, H.R. 322, was passed by the House with amendments on December 22, 1970, and was approved, as thus passed, by the Senate Committee on Finance on December 29, 1970. Unfortunately, this was just a little too late, and the bill died on the Senate Calendar.

Attorney General Mitchell, on behalf of the administration, has submitted a draft bill identical to the wagering tax bill which passed the House. It is a privilege for me to introduce this bill for myself and Senator MCCLELLAN. I ask that it be appropriately referred and I ask unanimous consent that the bill and the Attorney General's letter of transmittal be printed following my remarks.

The PRESIDING OFFICER (Mr. ALLEN). The bill will be received; and, without objection, the bill and letter will be printed in the RECORD.

The bill (S. 431) to amend the Internal Revenue Code of 1954 to modify the provisions relating to taxes on wagering to insure the constitutional rights of taxpayers, to facilitate the collection of such taxes, and for other purposes, introduced by Mr. HRUSKA (for himself and Mr. MCCLELLAN), was received, read twice by its title, and ordered to be printed in the RECORD, as follows:

S. 431

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Wagering Tax Amendments of 1971".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a provision of the Internal Revenue Code of 1954.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this Act shall take effect on the first day of the third month which begins after the date of the enactment of this Act, and shall apply only with respect to wagers placed on or after such first day.

(2) TRANSITIONAL RULES.—

(A) Any person who, on the first day of the third month which begins after the date of the enactment of this Act, is engaged in an activity which makes him liable for payment of a tax imposed by section 4411 of the Internal Revenue Code of 1954 (as in effect on such first day) shall be treated as commencing such activity on such first day for purposes of such section and section 4901 of such Code.

(B) Any person who, before the first day of the third month which begins after the date of the enactment of this Act—

(i) became liable for and paid the tax imposed by section 4411 of the Internal Revenue Code of 1954 (as in effect on July 1, 1970) for the year ending June 30, 1971, shall not be liable for any additional tax under such section for such year, and

(ii) registered under section 4412 of such Code (as in effect on July 1, 1970) for the year ending June 30, 1971, shall not be required to reregister under such section for such year.

SEC. 2. MODIFICATIONS TO INSURE CONSTITUTIONAL RIGHTS AND FACILITATE COLLECTIONS.

(a) AMENDMENT OF CHAPTER 35.—Chapter 35 (relating to taxes on wagering) is amended to read as follows:

"CHAPTER 35—TAXES ON WAGERING

"SUBCHAPTER A. TAX ON WAGERS.
"SUBCHAPTER B. OCCUPATIONAL TAXES.
"SUBCHAPTER C. MISCELLANEOUS PROVISIONS.

"SUBCHAPTER A—TAX ON WAGERS

"Sec. 4401. Imposition of tax.
"Sec. 4402. Cross references.

"SEC. 4401. IMPOSITION OF TAX.

"(a) WAGERS.—There is hereby imposed on wagers (as defined in section 4421) an excise tax equal to 10 percent of the amount thereof.

"(b) AMOUNT OF WAGER.—In determining the amount of any wager for purposes of this subchapter, all charges incident to the placing of such wager shall be included; except that if the taxpayer establishes, in accordance with regulations prescribed by the Secretary or his delegate, that an amount equal to the tax imposed by this subchapter has been collected as a separate charge from the person placing such wager, the amount so collected shall be excluded.

"(c) PERSONS LIABLE FOR TAX.—The following persons shall be liable for the excise tax imposed by this subchapter:

"(1) PRINCIPALS AND PUNCHBOARD OPERATORS.—Each person who is a principal or a punchboard operator (as defined in section 4421) shall be liable for and shall pay the tax under this subchapter on all wagers placed with him or in a pool or lottery conducted by him.

"(2) AGENTS.—Each person who is an agent (as defined in section 4421) and who fails to register under section 4412 shall be liable for and shall pay the tax imposed by this subchapter on all wagers received by him.

"SEC. 4402. CROSS REFERENCES.

"For penalties and other administrative provisions applicable to this subchapter, see sections 4421 to 4425, inclusive, and subtitle F.

"SUBCHAPTER B—OCCUPATIONAL TAXES

"Sec. 4411. Imposition of taxes.
"Sec. 4412. Registration.
"Sec. 4413. Certain provisions made applicable.
"Sec. 4414. Cross references.

"SEC. 4411. IMPOSITION OF TAXES.

"(a) PERSONS LIABLE FOR TAX.—There is hereby imposed—

"(1) PRINCIPALS AND AGENTS.—A special tax of $1,000 per year to be paid by each person who is a principal or an agent.

"(2) PICKUP MEN, EMPLOYEES, AND PUNCHBOARD OPERATORS.—A special tax of $100 per year to be paid by each person who is a pickup man, an employee, or a punchboard operator.

"(b) LIMITATION.—Any person who, but for this subsection, would be subject to a special tax under both paragraphs (1) and (2) of subsection (a), shall be liable only for the tax imposed by paragraph (1).

"SEC. 4412. REGISTRATION.

"(a) REGISTRATION REQUIREMENTS.—Each principal, agent, pickup man, employee, and punchboard operator shall register with the official in charge of the internal revenue district in which such person is principally engaged in the activity which makes him liable for tax under this subchapter. The form of the registration and the information to be provided by such person shall be prescribed by the Secretary or his delegate in such regulations as may be necessary to carry out the purposes of this chapter.

"(b) FIRM OR COMPANY.—Where under subsection (a) the name and place of residency

of a firm or company is required to be provided, the names and places of residence of the several persons constituting the firm or company shall be provided.

"(c) SUPPLEMENTAL INFORMATION.—The Secretary or his delegate may, in accordance with regulations prescribed by him, require from time to time such supplemental information from any person required to register under this section as may be needed for the enforcement of this chapter.

"SEC. 4413. CERTAIN PROVISIONS MADE APPLICABLE.

"Sections 4901, 4902, 4904, 4905, and 4906 shall extend to and apply to the special taxes imposed by this subchapter and to the persons upon whom they are imposed, and for that purpose any activity which makes a person liable for a special tax under this subchapter shall be considered to be a business or occupation referred to in such sections. No other provision of sections 4901 to 4907, inclusive, shall so extend or apply.

"SEC. 4414. CROSS REFERENCES.

"For penalties and other administrative provisions applicable to this subchapter, see sections 4421 to 4425, inclusive, and subtitle F.

"SUBCHAPTER C—MISCELLANEOUS PROVISIONS

"Sec. 4421. Definitions.
"Sec. 4422. Applicability of Federal and State laws.
"Sec. 4423. Disclosure of wagering tax information.
"Sec. 4424. Territorial extent.
"Sec. 4425. Credit for State and local taxes paid by licensed persons.

"SEC. 4421. DEFINITIONS.

"(a) WAGER.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'wager' means—

"(A) any wager with respect to a sports event or a contest placed with a person engaged in the business of accepting such wagers,

"(B) any wager placed in a wagering pool with respect to a sports event or a contest, if such pool is conducted for profit, and

"(C) any wager placed in a lottery conducted for profit.

"(2) EXCEPTIONS.—The term 'wager' does not include—

"(A) any wager placed with, or any wager placed in a wagering pool conducted by, a parimutuel wagering enterprise licensed under State law,

"(B) any wager placed in a coin-operated device with respect to which an occupational tax is imposed by section 4461, or any amount paid in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462(a)(2), if an occupational tax is imposed with respect to such device by section 4461, or

"(C) any wager placed in a sweepstakes, wagering pool, or lottery—

"(i) which is conducted by an agency of a State acting under authority of State law, and

"(ii) the ultimate winners in which are determined by the results of a horserace, but only if such wager is placed with the State agency conducting such sweepstakes, wagering pool, or lottery, or with its authorized employees or agents.

"(b) LOTTERY.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'lottery' includes the numbers game, policy, and similar types of wagering.

"(2) EXCEPTIONS.—The term 'lottery' does not include—

"(A) any game of a type in which usually—

"(i) the wagers are placed,

"(ii) the winners are determined, and

"(iii) the distribution of prizes or other property is made,

in the presence of all persons placing wagers in such game; and

"(B) any drawing conducted by an organization exempt from tax under section 501 or 521, if no part of the net proceeds derived from such drawing inures to the benefit of any private shareholder or individual.

"(c) PRINCIPAL.—For purposes of this chapter, the term 'principal' means any person (other than a punchboard operator) who is engaged in the business of accepting wagers or who conducts any wagering pool or lottery.

"(d) AGENT.—For purposes of this chapter, the term 'agent' means any person who is engaged in receiving wagers for or on behalf of a principal.

"(e) PICKUP MAN.—For purposes of this chapter, the term 'pickup man' means any person who knowingly is engaged in transmitting in any manner wagers, or information, records, or payments relating to wagers, between any principal, agent, pickup man, or employee and any other principal, agent, pickup man, or employee.

"(f) EMPLOYEE.—For purposes of this chapter, the term 'employee' means pay person (other than an agent or pickup man) who knowingly is employed to assist in any capacity in an activity which makes another person liable for special tax as a principal agent, pickup man, or punchboard operator.

"(g) PUNCHBOARD OPERATOR.—The term 'punchboard operator' means any person who accepts wagers only in the form of chances on a punchboard, 'five card draw game,' or similar gaming device for profit, on his own behalf.

"SEC. 4422. APPLICABILITY OF FEDERAL AND STATE LAWS

"The payment of any tax imposed by this chapter with respect to any activity shall not exempt any person from any penalty provided by a law of the United States or of any State for engaging in the same activity, nor shall the payment of any such tax prohibit any State from placing a tax on the same activity for State or other purposes.

"SEC. 4423. DISCLOSURE OF WAGERING TAX INFORMATION

"(a) GENERAL RULE.—Except as otherwise provided in this section, neither the Secretary or his delegate nor any other officer or employee of the Treasury Department may divulge or make known in any manner whatever to any person—

"(1) any original, copy, or abstract of any return, payment, or registration made pursuant to this chapter.

"(2) any record required for making any such return, payment, or registration, which the Secretary or his delegate is permitted by the taxpayer to examine or which is produced pursuant to section 7602, or

"(3) any information come at by the exploitation of any such return, payment, registration, or record.

"(b) PERMISSIBLE DISCLOSURE.—A disclosure otherwise prohibited by subsection (a) may be made in connection with the administration or civil or criminal enforcement of any tax imposed by this title. However, any document or information so disclosed may not be—

"(1) divulged or made known in any number whatever by any officer or employee of the United States to any person except in connection with the administration or civil or criminal enforcement of this title, nor

"(2) used, directly or indirectly, in any criminal prosecution for any offense occurring before the effective date of the Wagering Tax Amendments of 1970.

"(c) USE OF DOCUMENTS POSSESSED BY TAXPAYER.—Except in connection with the administration or civil or criminal enforcement of any tax imposed by this title—

"(1) any stamp denoting payment of the special tax under this chapter,

"(2) any original, copy, or abstract possessed by a taxpayer of any return, payment, or registration made by such taxpayer pursuant to this chapter, and

"(3) any information come at by the exploitation of any such document.

shall not be used against such taxpayer in any criminal proceeding.

"(d) INSPECTION BY COMMITTEES OF CONGRESS.—Section 6103(d) shall apply with respect to any return, payment, or registration made pursuant to this chapter.

"SEC. 4424. TERRITORIAL EXTENT.

"The taxes imposed by this chapter shall apply only in the case of—

"(1) wagers accepted in the United States, and

"(2) wagers placed by a person who is in the United States—

"(A) with a person who is a citizen or resident of the United States, or

"(B) in a wagering pool or lottery conducted by a person who is a citizen or resident of the United States.

"SEC. 4425. CREDIT FOR STATE AND LOCAL TAXES PAID BY LICENSED PERSONS.

"(a) GENERAL RULE.—There shall be allowed as a credit against the taxes imposed by sections 4401 and 4411, in the order provided by subsection (b), the sum of—

"(1) the taxes paid or accrued by a licensed person with respect to wagers placed with him, or in a pool or lottery conducted by him, during any year under a law of a State or political subdivision thereoef which imposes an excise tax or similar tax with respect to wagers, and

"(2) the taxes and fees paid or accrued by a licensed person for any year (or portion thereof) under a law of a State or political subdivision which imposes an occupational tax, license fee, or similar tax or fee on an activity which makes such person liable for payment of a special tax under section 4411.

"(b) ORDER.—The credit allowable under subsection (a) for taxes and fees paid or accrued by a licensed person for any year shall be allowed—

"(1) against the tax imposed by section 4411 on such person for such year,

"(2) if such credit exceeds the tax imposed by section 4411 on such person for such year, against the taxes imposed by section 4401 on wages placed with such person, or in a pool or lottery conducted by such person, during such year, and

"(3) if such credit exceeds the taxes described in paragraphs (1) and (2) for such year, in such amounts as such person may designate under regulations prescribed by the Secretary or his delegate, against the tax imposed by section 4411 for such year on licensed persons who are agents, pickup men, or employees of such person.

"(c) LIMITATION.—No credit shall be allowed under this section for any tax or fee imposed under a law of a State or political subdivision unless such tax or fee is paid not later than the earlier of—

"(1) the last day provided by such law for payment, or

"(2) the last day of the year following the year (or portion thereof) for which such tax or fee was imposed.

"(d) PAYMENT OF TENTATIVE TAXES.—Any licensed person who establishes to the satisfaction of the Secretary or his delegate that, for any year, he reasonably expects to be allowed a credit under this section with respect to the taxes for which he is liable under sections 4401 and 4411, may elect, under regulations prescribed by the Secretary or his delegate, to pay tentative taxes equal to the amount of such taxes reduced by the amount of the credit reasonably expected under this section for such year. Payment of such tentative taxes for any year shall not relieve such person from payment of the liability for the taxes imposed for such year by sections 4401 and 4411, reduced by the credits allowed un-

der this section, both determined as of the close of such year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) The term 'licensed person' means a person who (A) is licensed under the laws of a State or a political subdivision thereof to engage in one or more activities with respect to wagers, and (B) solely by reason of such activities, is liable for payment of a special tax under section 4411.

"(2) The term 'year' means the one-year period beginning on July 1, except that, in the case of the period in which falls the date of the enactment of the Wagering Tax Amendments of 1971, such term means the period beginning on the first day of the third month which begins after such date and ending on June 30 following such date."

(b) CLERICAL AMENDMENT.—Section 6110 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(6) For prohibition on disclosure of wagering tax information, see section 4123."

SEC. 3. CRIMINAL PENALTIES.

(a) UNAUTHORIZED DISCLOSURE BY GOVERNMENT OFFICIALS.—Section 7213 (relating to unauthorized disclosure of information) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) WAGERING TAX RETURNS.—Any officer or employee of the United States who violates section 4423 shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the cost of prosecution; and the offender shall be dismissed from office or discharged from employment."

(b) CREATION OF A NEW FELONY CRIME AND THE ELIMINATION OF THE MANDATORY MINIMUM FINE FOR A MISDEMEANOR VIOLATION.—Section 7262 (relating to violation of occupational tax laws relating to wagering) is amended to read as follows:

"SEC. 7262. VIOLATION OF WAGERING EXCISE AND OCCUPATIONAL TAX LAWS.

"(a) WILLFUL FAILURE TO PAY EXCISE TAX.—Any person required to pay the tax imposed under subchapter A of chapter 35 who willfully fails to pay such tax at the time or times required by law or regulations shall, in addition to being liable for the payment of the tax, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or up to treble the amount of the tax with respect to which the failure occurred, whichever is greater, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

"(b) FAILURE TO PAY EXCISE TAX.—Any person required to pay the tax imposed under subchapter A of chapter 35 who fails to pay such tax at the time or times required by law or regulations shall, in addition to being liable for the payment of the tax, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $5,000 or up to double the amount of the tax with respect to which the failure occurred, whichever is greater, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

"(c) WILLFUL FAILURE TO PAY OCCUPATIONAL TAX.—Any person required to pay a special tax imposed under subchapter B of chapter 35 who willfully fails to pay such tax at the time or times required by law or regulations shall, in addition to being liable for the payment of the tax, be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

"(d) DOING ANY ACT WITHOUT HAVING PAID OCCUPATIONAL TAX.—Any person who does any act which makes him liable for payment of the special tax imposed under subchapter B of chapter 35 without having paid such tax shall, in addition to being liable for the payment of the tax, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than $5,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution."

(c) CLERICAL AMENDMENTS.—

(1) Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by inserting "(other than a tax imposed by chapter 35)" after "required under this title to pay any estimated tax or tax".

(2) The table of sections for subchapter B of chapter 75 is amended by striking out the item relating to section 7262 and inserting in lieu thereof the following:

"Sec. 7262. Violation of wagering excise and occupational tax laws."

(3) Section 7609(a) (relating to inspection of books, papers, records, and other data) is amended by striking out paragraph (5) and by renumbering paragraph (6) as paragraph (5).

The letter, presented by Mr. HRUSKA, is as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is transmitted herewith a draft of a proposed bill to modify the provisions of the Internal Revenue Code of 1954 relating to wagering taxes. The proposed "Wagering Tax Amendments of 1971" would ensure the constitutional rights of taxpayers and would facilitate the collection of taxes on wagering.

The modifications contained in this bill are, in large part, necessitated by the Supreme Court decisions of January 29, 1968, in two companion cases involving the wagering tax laws—*Marchetti* v. *United States*, 390 U.S. 29 (1968), and *Grosso* v. *United States*, 390 U.S. 62 (1968). In substance, the Court held that some of the provisions of the present wagering tax statutes were not "consistent with the limitations created by the privilege against self-incrimination guaranteed by the Fifth Amendment."

In brief, the proposed legislation would—

(1) Ensure the constitutional rights of taxpayers by placing statutory restrictions upon the disclosure and use of information obtained through taxpayer compliance with the wagering tax laws;

(2) Increase the coverage and the amount of the occupational taxes under the wagering tax laws;

(3) Revise the penalty structure to make it consistent with the character of those most often within the coverage of the tax and thus consistent with the severity of the crime of avoiding its payment; and

(4) Provide a credit against the amount of the Federal tax liability for State and local taxes paid by licensed persons under similar provisions in State law.

The draft bill is identical to H.R. 322, 91st Congress, as passed by the House of Representatives on December 22, 1970, and reported in the Senate on December 30, 1970. We are gratified that the Committee concerned in each House approved the bill, and we are hopeful of early consideration and favorable action by the 92nd Congress on this important measure.

The Office of Management and Budget has advised enactment of this proposed legislation would be in accord with the Program of the President.

Sincerely,

JOHN MITCHELL,
Attorney General.

Mr. HRUSKA. Mr. President, because there is an element of taxation involved in this bill, the Senator from Nebraska requests that, in line with what had been done in the previous Congress, the bill be referred to the Committee on the Judiciary in the original instance; that upon its concluding its processing there, it be referred to the Committee on Finance for the purpose of taking care of such aspects of the bill as involve matters within the jurisdiction of that committee.

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

Mr. HRUSKA. Mr. President, in this connection, the Senator from Nebraska repeats that this is the procedure that was worked out by agreement between the respective committees, and it is expected it will be in good order.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield, the Senator would anticipate no objection on the part of the chairman of the Committee on Finance?

Mr. HRUSKA. No such objection is anticipated. If there is any fashion in which he wishes this unanimous-consent request to be modified in any way, the Senator from Nebraska and the chairman of the Committee on the Judiciary will be very cooperative.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. HRUSKA. It might be observed that the senior Senator from Arkansas made the same request with regard to related bills just 2 days ago.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. HRUSKA. Mr. President, illegal gambling is organized crime's most lucrative source of income. Profits from this activity, which are used to finance other illegal activities, are estimated to run as high as $50 billion a year. Thus the Federal tax on wagers, which was first enacted in 1951 as both a revenue and a law enforcement measure, was—until 1968—an important part of the Federal anticrime program. The late Robert F. Kennedy estimated that fully 60 percent of the racketeer convictions obtained during his tenure as Attorney General resulted from investigations conducted by the Internal Revenue Service, mostly for wagering tax violations.

Three years ago the U.S. Supreme Court, in *Marchetti* v. *United States*, 390 U.S. 29 (1968), and *Grosso* v. *United States*, 390 U.S. 62 (1968), held the wagering tax law to be constitutionally unenforceable. The law did not restrict the use the Federal Government or any State government could make of the information required to be filed. Because the gambler could well be in violation of State or other Federal laws, the Court found the registration requirement of the statute to be in violation of the fifth amendment right against self-incrimination. The effect of the decisions has been to bar prosecutions for failing to register and pay taxes, a serious setback to Federal organized crime efforts.

The wagering tax amendments are designed to revitalize the wagering tax law, both as a law enforcement measure

and as a revenue producing measure. The principal purpose of the bill is to remove the constitutional infirmity of existing law by prohibiting the Internal Revenue Service from disclosing to outside sources any information submitted by the taxpaying gambler. It is true that this will reduce the number of antigambling prosecutions—principally State—which were the result of disclosures made by gamblers under the law, but this is, as the Justice Department has said, the "price of constitutionality."

The bill will continue the existing 10-percent excise tax on wagers. It will increase the occupational tax from $50 to $1,000 for principals of gambling operations and those who actually accept wagers, and it will create a new $100 tax liability for certain other individuals, mostly employees of such operations, who until now have been exempt.

There is also provided a tax credit for State and local taxes paid under similar provisions in State law, and for increased sanctions for violations of the wagering tax law. These provisions were added to the 91st Congress bill when it was under consideration by the House Committee on Ways and Means. They have the support of the administration, and I add my endorsement to them.

Mr. President, during the hearings conducted by the Subcommittee on Criminal Laws and Procedures on organized crime in 1969, a representative of the American Bar Association's criminal law section described the wagering tax amendments as "the most important single piece of legislation now pending before the Congress." Later that year the ABA house of delegates unanimously approved a resolution approving in principle S. 1624 and H.R. 322, and authorizing the section on criminal law to urge enactment of the legislation. With this endorsement of the legal community added to that of the Justice and Treasury Departments, it remains only for the Congress to put its stamp of approval on the wagering tax amendments. The 3-year delay since the law was rendered ineffective has been inexcusable. I urge the Senate to act promptly and favorably on this legislation.

S. 428 AND S. 429—INTRODUCTION OF BILLS TO REGULATE USE OF THE MAILS AND OTHER FACILITIES OF INTERSTATE COMMERCE FOR THE DELIVERY OF SEX ORIENTED MATERIALS

Mr. HRUSKA. Mr. President, today I am introducing two bills to regulate the use of the mails and other facilities of interstate commerce for the delivery of sex-oriented materials. These proposals were originally recommended by the President and submitted to the Congress by the Attorney General 2 years ago. Both of them were pending in the Committee on the Judiciary when the 91st Congress adjourned.

While we have allowed legislation on this subject to languish in Congress, you can be assured that there has been no lack of vitality in the pornography industry. Over the last 2 years, the nature of materials being sent throughout the country—without regard to whether or not it is wanted or to the age and maturity of the addressee—has gone from that which is merely offensive to that which is unmitigated filth.

I know that many Americans, as I, have been indignant when they review the advertisements for books, magazines, filmstrips, and all manner of sexual devices which are forwarded to us by constituents. They do not understand how they can be made the unwilling recipients of such mail. They do not understand how their names were acquired or why they were used by such business operations. I can tell you they have been so victimized because the pornographer pursues his trade with a callous lack of discrimination. The legislation I am introducing would put an end to that practice. In recent years we have adopted several new laws to regulate interstate commerce in pornographic materials. These two new proposals that I introduce today will complete the job of protecting our citizens from this trash.

One of these would prohibit the use of the mails and interstate commerce for the distribution of unsolicited salacious advertisements. The other would prohibit such distribution, to anyone under 18, of materials which may be harmful to children. Violators of these provisions would be subject to fines of up to $50,000 or imprisonment for not more than 5 years, or both. Second and subsequent violations could result in double these penalties. The language of both bills has been carefully drafted to avoid conflict with constitutional protections. Their approaches have been carefully designed to attack the problem.

It is my sincere hope that we will give these measures early and favorable action. The American public has waited long enough. In the last Congress action on these measures was delayed because Senator ERVIN felt that hearings on the constitutional aspects of these bills should be held. I am in complete agreement with this desire and will do all that I am able to schedule and hold prompt hearings. I am satisfied that these bills are constitutional and have complete confidence that hearings will uphold this position.

At this point I ask to have these bills properly referred and request unanimous consent to have printed in the RECORD the text of the bills and letters of transmittal from the Attorney General.

The PRESIDING OFFICER. The bills will be received and appropriately referred; and, without objection, the bills and letters of transmittal from the Attorney General will be printed in the RECORD.

The bills, introduced by Mr. HRUSKA, were received, read twice by their titles, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 428

A bill to prohibit the use of interstate facilities, including the mails, for the transportation of salacious advertising

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 71 of title 18 of the United States Code is amended by adding a new section 1466 as follows:

"§ 1466. Transportation of salacious advertising

"No person shall knowingly deposit in the mail, or transport in interstate or foreign commerce, an unsolicited advertisement that is salacious. An advertisement is salacious within the meaning of this section if it depicts, in actual or simulated form, or explicitly describes, in a predominantly sexual context, humal genitalia, any act of natural or unnatural sexual intercourse or masturbation or any act of sadism or masochism. An advertisement otherwise within the definition of this section shall be deemed not to constitute a salacious advertisement if it constitutes only a small and insignificant part of the whole of a single catalog, book, periodical, or other work the remainder of which is not primarily devoted to sexual matters.

"Whoever violates this section shall be fined not more than $50,000, or imprisoned not more than five years, or both, for the first offense, and shall be fined not more than $100,000, or imprisoned not more than ten years, or both, for a subsequent offense.

"When any person is convicted of a violation of this section, the court may, in addition to the penalty prescribed, order the destruction of all copies of the salacious advertisement seized from the possession or custody of such person, or anyone acting on his behalf, at the time of his arrest."

SEC. 2. The table of contents preceding chapter 71 of title 18 of the United States Code is amended by adding at the end thereof the following:

"1466. Transportation of salacious advertising."

S. 429

A bill to prohibit the use of interstate facilities, including the mails, for the transportation of certain materials to minors

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 71 of Title 18 of the United States Code is amended:

(1) By adding a new section 1467 as follows:

"§ 1467. Transportation or mailing of matter harmful to minors.

"(a) As used in this section,

"(i) 'minor' means a person who has not attained the age of 18 years;

"(ii) 'adult' means a person who is not a minor; and

"(iii) 'matter that is harmful to minors' means a book, magazine, pamphlet, sheet, card, photograph, drawing, film, slide, recording or other thing constitutiing or containing visual, verbal or auditory material that depicts, describes or represents, in actual or simulated form, nudity, sexual conduct or sado-masochistic behavior and which is

"(A) offensive to prevailing standards in the adult community concerning what is suitable material for minors; and

"(B) substantially without redeeming social value for minors.

"(b) No person shall knowingly deposit in the mail, or transport in interstate or foreign commerce, for delivery to a minor, matter which is harmful to minors, or matter constituting or containing an advertisement therefor or information as to where or how such matter may be obtained.

"(c) If deposited in the mail or transported in interstate or foreign commerce for delivery to a residence in which a minor permanently resides, matter which is harmful to minors, or which constitutes or contains an advertisement therefor or information as to where or how such matter may be obtained, shall be deemed to have been deposited in the mail or transported in interstate or for-

eign commerce for delivery to such minor unless it is contained in a sealed envelope or sealed wrapper that completely conceals the contents and is clearly, specifically and personally addressed to an adult who resides at such residence.

"(d) It shall be an affirmative defense to a charge of violating this section that the defendant reasonably believed that the addressee of the matter in question was an adult residing at the address shown on the sealed envelope or sealed wrapper. Such reasonable belief may be based upon receipt by the person so charged of a purchase order or other declaration which such person reasonably and in good faith believed to have been executed by the addressee, representing such addressee to be an adult, or on other evidence".

"(e) Whoever violates this section shall be fined not more than $50,000, or imprisoned for not more than five years, or both, for the first offense, and shall be fined not more than $100,000, or imprisoned for not more than ten years, or both, for a subsequent offense."

(2) By adding to the table of contents thereof the following:

"1467. Transportation or mailing of matter harmful to minors.".

SEC. 2. The provisions of this Act shall become effective on the first day of the third month which begins after the date of enactment.

The letters from the Attorney General, ordered to be printed in the RECORD, are as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

The VICE PRESIDENT,
United States Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal "To prohibit the use of interstate facilities, including the mails, for the transportation of salacious advertising."

In recent times American citizens throughout the country have become the unwilling recipients of the most blatant commercial advertisements for materials of a salacious nature. While the indiscriminate mailing of sexually-oriented advertisements has been a problem in this country for several years, the text and pictorial content of these advertisements have become so explicit that legislative action in this area should be delayed no longer.

In the 91st Congress, legislation proposed by the President and submitted by this Department was passed by the House of Representatives, with amendments, after extensive hearings. The legislation was not considered in the Senate.

As amended by the House, and as now resubmitted, the proposal would make it a felony to deposit in the mails, or transport in interstate or foreign commerce, an unsolicited salacious advertisement. Violators would be subject to a fine of not more than $50,000, or imprisonment for not more than five years, or both. Second and subsequent offenses could result in double those penalties.

We believe that this measure can be an effective tool to the Federal government in its efforts to curtail the invasion of the smut peddler into American homes. The Department of Justice urges your early consideration and prompt enactment of this proposal.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

JOHN MITCHELL,
Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

The VICE PRESIDENT,
United States Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to amend title 18 to prohibit the use of the mails or other facilities of interstate commerce for the distribution, to anyone under 18, of material which may be harmful to young people.

In May of 1969 the President proposed to the 91st Congress a measure designed to protect our young people from the large volume of materials of a sexual nature which is being distributed throughout the country. Although extensive hearings were conducted on this legislation in the House of Representatives, neither the House nor the Senate acted on it. We are resubmitting this important legislation for your consideratoin in the 92nd Congress, and we reiterate the need for its enactment.

Although the Supreme Court has recognized that laws specifically designed for the protection of young people from such material may be broader in coverage than those laws which regulate the distribution of material generally, there is no Federal law which is now designed to afford such protection. More than two-thirds of the States have recognized, and responded to, the need for such legislative action. However, their efforts will continue to be frustrated until there is Federal action to prohibit the use of the mails and other channels of interstate commerce for the delivery of sexually-oriented material to our young people.

This proposal would make it a felony punishable by a fine of not more than $50,000, or imprisonment for not more than 5 years, or both, to send to anyone under the age of 18 by mail or other avenues of interstate or foreign commerce, material which may be harmful to minors. Second and subsequent offenses could result in double those penalties. The term "harmful to minors" is defined in the proposal.

As you are aware, hundreds of thousands of our citizens have objected to the nature of materials which are being circulated throughout the States. This proposal, which does not impinge upon the constitutional rights of anyone, is a proper response to the needs of American families who wish to bring up their children in an atmosphere which is free of the influences of pornographers.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

JOHN MITCHELL,
Attorney General.

S. 430—INTRODUCTION OF BILL TO AID LAW ENFORCEMENT

Mr. HRUSKA. Mr. President, I send to the desk a bill which I introduced on behalf of the Attorney General. I ask that it be appropriately referred. I ask unanimous consent that the bill and the Attorney General's letter of transmittal be printed in the RECORD following my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and the letter will be printed in the RECORD.

The bill (S. 430) to amend title 18, United States Code, to provide for the issuance to certain persons of judicial orders to appear for the purpose of conducting nontestimonial identification procedures, and for other purposes; introduced by Mr. HRUSKA, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD.

(See exhibits 1 and 2.)

Mr. HRUSKA. Mr. President, this bill will give Federal law enforcement officers a means of requiring by court order that suspects appear for certain nontestimonial identification procedures, such as fingerprinting, appearances in lineups, and executing handwriting exemplars. This is a much needed tool in efforts to combat crime. I am convinced that it in no way infringes on any person's constitutionally protected rights. I introduced a similar bill last Congress and joined with Senator MCCLELLAN in pushing for the adoption of legislation of this type. It is my hope that the Criminal Laws Subcommittee of the Committee on the Judiciary can schedule early hearings on this and similar proposals.

This bill, as drafted, would aid the law enforcement officer in solving crimes while at the same time protecting the rights of individuals suspected of committing crimes. The bill would not permit dragnets; rather it would require that to perform nontestimonial identification procedures on suspects, there be a court order based on an affidavit that there is probable cause to believe a crime has been committed, that there are reasonable grounds to suspect that the person named in the affidavit committed the crime, and that performance of specific nontestimonial identification procedures will materially aid the determination whether the person named in the affidavit committed the crime.

If the court ordered a person to submit to nontestimonial identification procedures, he would be able to request that the judicial officer change the time and place for performance of the procedures including a request that the procedures, except for lineups, be conducted in his home.

Thus, the bill would provide a procedure in compliance with the fourth amendment of the Constitution which would aid law enforcement officers in obtaining nontestimonial identification of suspects with minimum inconvenience to them.

To date there is no statutory or case-developed method to require a suspect in a criminal investigation to participate in such quickly performed identification procedures as fingerprinting, appearing in lineups, or executing handwriting exemplars, unless there has first been an arrest on probable cause. It is, however, quite apparent that such authority, even though carefully circumscribed, would be of enormous benefit to law enforcement.

The procedures that will be required under this proposal are largely of proven reliability. The 20th century has seen a wide expansion of the use of science in crime solution. More and more often police and other investigative agencies call upon crime laboratories and scientists to examine and analyze clues and evidence. Nowhere has the impact of science on crime solution been greater than in the field of fingerprinting. Fingerprints are

recognized as the most reliable form of personal identification known, and their use in this country dates from as early as 1904. This type of identification evidence can be taken quickly and easily. Its use in the Nation's courtrooms is widespread.

Handwriting, blood analysis, hair samples, and the like, have all in recent years proved to be reliable methods of obtaining identification evidence in crime solution. The dependability of these methods of obtaining evidence is established and their use is also widespread.

It is my hope that early consideration and adoption of this bill will be forthcoming.

EXHIBIT 1

S. 430

A bill to amend title 18, United States Code, to provide for the issuance to certain persons of judicial orders to appear for the purpose of conducting nontestimonial identification procedures, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 223 of title 18, United States Code, is amended by inserting immediately after section 3504 the following new heading and section:

§ 3505. *Nontestimonial identification.*

"(a) If a judicial officer finds on the basis of an affidavit setting forth the underlying circumstances that—

"(1) there is probable cause to believe that an offense has been committed;

"(2) there are reasonable grounds, not amounting to probable cause to arrest, to suspect that the person named or described in the affidavit committed the offense and;

"(3) the results of specific nontestimonial identification procedures will be of material aid in determining whether the person named in the affidavit committed the offense—

the judicial officer shall issue an order requiring the person named in the affidavit to appear at a designated time and place for nontestimonial identification. At the request of the person named in the affidavit, the judicial officer shall modify the order with respect to time and place of appearance whenever it appears reasonable under the circumstances to do so.

"(b) If it appears from the affidavit that a person named or described in the affidavit may, upon service of the order to appear, either flee or alter or destroy the nontestimonial evidence ordered, the judicial officer may direct a marshal or other federal law enforcement officer to bring the person before the judicial officer. Such judicial officer shall then direct that the designated nontestimonial identification procedures be conducted expeditiously. After such identification procedures have been completed the person shall be released or charged with an offense.

"(c) Any person who fails without adequate excuse to obey an order to appear served upon him pursuant to this section may be held in contempt of the court which issued the order.

"(d) An order to appear pursuant to this section may be served by a United States marshal or by any other officer authorized by law to excute a warrant. The order shall be served upon the person named in the affidavit by delivery of a copy to him personally. Service may be had at any place within the jurisdiction of the United States.

"(e) An order to appear shall be signed by the judicial officer and shall state—

"(1) that the presence of the person named in the affidavit is required for the purpose of permitting nontestimonial identification procedures in order to aid in the investigation of the offense specified therein;

"(2) the time and place of the required appearance;

"(3) the nontestimonial identification procedures to be conducted and the approximate length of time such procedures will require;

"(4) the grounds to suspect that the person named in the affidavit committed the offense specified therein;

"(5) that the person will be under no legal obligation to submit to any interrogation or to make any statement during the period of his appearance except for that required for voice identification;

"(6) that the person may request the judicial officer to make a reasonable modification of the order with respect to time and place of appearance, including a request to have any nontestimonial identification procedure other than a lineup conducted at his place of residence; and

"(7) that the person, if he fails to appear, may be held in contempt of court.

"(f) Nontestimonial identification procedures may be conducted by any federal investigative agent or law enforcement officer or other person designated by the judicial officer. Blood tests shall be conducted under medical supervision, and the judicial officer may require medical supervision for any other test ordered pursuant to this section when he deems such supervision necessary. No person who appears under an order of appearance issued pursuant to this section shall be detained longer than is reasonably necessary to conduct the specified nontestimonial identification procedures unless he is arrested for an offense.

"(g) Within forty-five days after the nontestimonial identification procedure, a return shall be made to the court from which the order issued setting forth an inventory of the products of the nontestimonial identification procedures obtained from the person named in the affidavit. If, at the time of such return, probable cause does not exist to believe that such person has committed the offense named in the affidavit or any other offense, the person named in the affidavit shall be entitled to move that the court issue an order directing that the products of the nontestimonial identification procedures, and all copies thereof, be destroyed. Such motion shall, except for good cause shown, be granted by the court.

"(h) An order may issue under this section only for an offense as defined by any Act of Congress or triable in any court established by Act of Congress and which is punishable by imprisonment for more than one year.

"(i) As used in this section—

"(1) the term 'nontestimonial identification' includes identification by fingerprints, palm prints, footprints, measurements, blood specimens, urine specimens, saliva samples, hair samples, handwriting exemplars, voice samples, photographs and lineups;

"(2) the term 'judicial officer' means any justice or judge of the United States, any United States commissioner or United States magistrate and any judge of a court of the District of Columbia."

SEC. 2. The analysis of chapter 223 of title 18 is amended by adding after the item relating to section 3504 the following:

"§ 3505. Nontestimonial identification."

SEVERABILITY

SEC. 3. If a provision of this Act is held invalid, the holding shall not affect the validity of provisions which are severable. If a provision of this Act is held invalid in one or more of its applications, the holding shall not affect any other application of the provision.

EXHIBIT 2

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C.

The VICE PRESIDENT,
United States Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to amend title 18, United States Code, to authorize courts to issue orders requiring the appearance of certain persons for the purpose of having these persons participate in nontestimonial identification procedures.

Under present law no statutory method exists to require suspects in criminal cases to assist in such quickly performed identification procedures as fingerprinting, appearing in line-ups or executing handwriting exemplars unless they have first been arrested on probable cause. Often, however, without such identification probable cause to justify an arrest will be lacking. Similarly, the person will remain a suspect even though such procedures could clear him of suspicion. Early use of these procedures can be of great assistance in law enforcement and in crime solution.

Under the attached proposal a judicial officer will be authorized to issue an order requiring a person to submit to nontestimonial identification procedures. The order must be based on an affidavit which sets out probable cause to believe an offense has been committed, that there are reasonable grounds to suspect that the person named committed the offense even though probable cause to arrest is lacking, and that specified nontestimonial identification procedures would be of material aid in determining whether the person named in the affidavit committed the offense. The court order would then issue requiring the person to appear at a reasonable time and place to undergo the specified identification procedures.

The proposal contemplates that the full range of reasonable identification procedures that can be designated nontestimonial and are not violative of the Fifth Amendment right against self-incrimination may be required under an order to appear. Thus, nontestimonial identification is defined to include fingerprints, handwriting exemplars, blood tests, photographs, line-ups and the like.

Care is taken to protect the rights and convenience of the person required to participate in identification procedures. Thus, he is given the right to have the court direct that the products of his appearance be destroyed if they fail to provide probable cause to arrest him and to request the court for reasonable changes in the time and place of his appearance, including the right to ask that the procedures take place, where possible, at his place of residence.

Enactment of this proposal will provide Federal law enforcement officers with a useful new tool for the investigation of criminal activity and the apprehension of criminals. I urge early consideration and adoption of this proposed legislation.

The Office of Management and Budget has advised that enactment of this legislation is in accord with the Program of the President.

Sincerely,

JOHN MITCHELL,
Attorney General.

TWO YEARS OF ACCOMPLISHMENTS OF THE DEPARTMENT OF JUSTICE UNDER ATTORNEY GENERAL JOHN N. MITCHELL

Mr. HRUSKA. Mr. President, just over 2 years ago a new Attorney General

moved into the Department of Justice and took over responsibility for this Nation's legal affairs. Since that time that Department has received forthright, progressive, and firm leadership from John N. Mitchell. I applaud him for his past efforts and look forward to the additional years of his public service.

Recently the Department of Justice issued a comprehensive report reviewing the 2 years of accomplishments of the Department under Attorney General Mitchell's direction. I ask unanimous consent that at the conclusion of my remarks the text of this document be printed in the RECORD.

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

(See exhibit 1.)

Mr. HRUSKA. Mr. President, this Senator would like to comment on three aspects of this report which I feel deserve special recognition.

First, the 91st Congress enacted approximately 70 percent of the Department's legislative program—a remarkable record considering the scope and number of items submitted by the Department. This record is due to the desire of Congress to provide the Department with all the legitimate tools that it could effectively use in order to curb the rising crime rate. Four of these bills deserve particular mention: the Organized Crime Control Act of 1970, the Omnibus Crime Control Act of 1970, the District of Columbia Court Reform and Criminal Procedures Act of 1970, and the Comprehensive Drug Abuse, Prevention, and Control Act of 1970. With the addition of these measures to the law enforcement arsenal, the Department has new authority to move on a wide range of problems which have stymied effective law enforcement in the past. In addition, this new legislation provides at least partial solutions for such old legal stumbling blocks as lack of sufficient financial resources for State and local law enforcement programs, trial delays in the District of Columbia, and inflexible penalty structures for some narcotics infractions. In all the 91st Congress compiled an enviable record on criminal law reforms and it is my hope that the 92d Congress will complete the job by moving rapidly to approve those measures which were left on the committee calendars at the close of the last session.

Second, organized crime has long been one of the most serious sources of law enforcement violations in this country. Estimates of its annual "take" from the Nation's pocketbook have ranged as high as $50 billion. Whereas many administrations in the past have preached about the threats of organized crime, the Nixon administration has actually done something to bring it under control. The evidence on this score presented by the Attorney General in his report is most impressive. Strike forces have been increased from seven to 16; indictments of high-echelon organized crime figures rose from 58 in 1968 to 103 in 1970—a 78-percent increase, the number convicted rose from 20 to 45 in the same period—a 125-percent increase. But it is in the area of wiretaps that the most spectacular results have been achieved. Mr. Mitchell's predecessor refused to use the authority granted him in this area by the 1968 Safe Streets Act. However, the present Attorney General, while mindful of the privacy problems and attentive to constitutional safeguards, went ahead vigorously with a carefully supervised electronic surveillance program. The results are impressive. Let me quote the Attorney General:

Of the 214 Federal interceptions authorized and executed during calendar 1969 and 1970, nearly all produced incriminating evidence. They have resulted in more than 600 arrests and more than 500 indictments—mostly against organized crime figures. While most of these cases are still in progress, we have already won 30 convictions.

At the same time, there have been no complaints that anyone's privacy was invaded. Moreover, we have strongly enforced the prohibition against private wiretapping contained in the same 1968 act, and as a result complaints of such violations have dropped from nearly 100 a month to about 30 per month.

And third, some progress has been made in an area which concerns me particularly, corrections. The prisons of this Nation, particularly at the State and local level, are in deplorable shape. Physically many of the institutional buildings are literally falling apart. A recent report shows that of 358 State penal facilities for adults in this Nation, 61 were opened before 1900, and 25 of these are more than 100 years old. Operationally too often our jails corrupt rather than correct; contaminate rather than rehabilitate. This Senator sponsored a measure in the last Congress which added a new title to the Law Enforcement Assistance Administration's legislation which insures that top priority as well as substantial monetary resources, as much as $120 million in fiscal 1971, will be devoted to a meaningful program of State and local prison reform. This project has the full blessing of the Attorney General and the Department of Justice and I look forward to real improvement in this area over the next few years. The Federal prison system, already a model, has also received attention from this administration which has developed a 10-year plan for the modernization of plant and program.

Mr. President, these are just three of the areas touched on by the Attorney General in his report. It is an impressive document which I commend in its entirety to all of my colleagues and to the public in general.

EXHIBIT 1

DEPARTMENT OF JUSTICE

TWO-YEAR REVIEW OF ACCOMPLISHMENTS, UNITED STATES DEPARTMENT OF JUSTICE BY ATTORNEY GENERAL JOHN N. MITCHELL, JANUARY 19, 1971

Ladies and gentlemen: This particular date—January 19—has a special significance to me, because exactly two years ago I was still enjoying the blessings of private life. All that changed the following day, however, when Richard Nixon became President of the United States. On that occasion he promised the American people a new beginning in a number of national priorities, including the administration of justice. As he took office, that particular program—designed to bring the machinery of justice into the twentieth century—included:

1. Getting new supporting legislation from Congress.

2. Mounting an effective assault on organized crime.

3. Improving the enforcement of civil rights in all statutory areas.

4. Hitting the narcotics traffic on all fronts.

5. Using all available antipollution enforcement tools to enhance the quality of the environment.

6. Protecting free competition for the benefit of the American consumer and the American economy.

7. Giving new life to the concept of justice by upgrading the processes of enforcement, adjudication, and corrections.

These were the objectives, and in offering you a brief summary of the Department's accomplishments in the past two years, I will leave it to you how well these objectives are being fulfilled. Specific details, including some charts and tables, have been given to you for your information and analysis. Let me touch upon some of the highlights before I entertain your questions.

LEGISLATIVE

Out of some 39 legislative items submitted by the Department, Congress enacted 27 or approximately 70 percent. These included those that we consider the most important, such as the Organized Crime Control Act of 1970, the D.C. Court Reform and Criminal Procedures Act of 1970, and the Comprehensive Drug Abuse, Prevention and Control Act of 1970.

The Department also won Congressional financial support for its intensified programs. From fiscal year 1968 to 1971, Department employment has grown from 34,800 to a projected 43,600—an increase of more than 25 percent—in order to carry out our larger objectives. One agency—the Law Enforcement Assistance Administration—required a budget increase of 6400 percent during the same period, in order to fulfill its program of financial aid to state and local governments. Our needs were substantial, and we were able to win corresponding support from Congress. Department of Justice appropriations for 1968 were $437.5 million. So far in fiscal 1971 the Department has received appropriations of $1,150.6 million—representing a 163 percent increase—and some other necessary appropriations should still be forthcoming. I should point out, of course, that $480 million of the last figure represents funding for the Law Enforcement Assistance Administration which grants aid to state and local organizations; this is a very substantial increase for LEAA over previous years.

ORGANIZED CRIME

In response to President Nixon's call for an all-out war against organized crime, an interdepartmental assault has been made on this national evil. The President established a National Council on Organized Crime, composed of the heads of all Federal departments and agencies who can bring an enforcement effort to bear on the problem, with the Attorney General as Chairman. The Council has developed national strategies against various aspects of organized crime and has provided top-level direction to the interdepartmental strike forces established in most large cities.

In the past two years the Department has put the strike force approach on a permanent basis, has increased the number of such forces from 7 to 16, and is able to report exceptional progress in securing evidence against organized crime syndicates and in bringing prosecutive action. The number of high-echelon organized crime leaders indicted rose from 58 in calendar 1968 to 103 in calendar 1970—nearly 78 percent. The number convicted rose in the same period from 20 to 45—or 125 percent. In the past two years approximately half of the top bosses of the nation's two dozen organized crime syndicates were indicted or convicted.

Our intelligence work tells us that some of the organized crime leaders can't stand the heat and have left their areas of operation.

One of the weapons that has greatly aided this battle has been court-authorized wiretapping, which was provided in the Omnibus Crime Control and Safe Streets Act of 1968, but which the previous Administration refused to use. It was stated at that time that wiretrapping, even when hedged about by Constitutional safeguards, was an invasion of privacy, and that anyway, it couldn't really help at getting evidence.

When President Nixon took office he sanctioned the use of this court-authorized wiretapping, and I am able to report that of the 214 Federal interceptions authorized and executed during calendar 1969 and 1970, nearly all produced incriminating evidence. They have resulted in more than 600 arrests and more than 500 indictments—mostly against organized crime figures. While most of these cases are still in progress, we have already won 30 convictions.

At the same time, there have been no complaints that anyone's privacy was invaded. Moreover, we have strongly enforced the prohibition against private wiretapping contained in the same 1968 act, and as a result complaints of such violations have dropped from nearly 100 a month to about 30 per month.

Another important gain in the war on organized crime has been the intensified use of criminal tax evasion charges against organized crime figures, with indictments increasing by 250 percent and convictions by 53 percent between 1968 and 1970.

OTHER CRIME

In the broader area of crime, including street crime, the Administration has acted decisively wherever its jurisdiction permitted. Employment in the United States Marshals Service has been increased by nearly 55 percent for the 1971 fiscal year. In the past two years the number of Assistant United States Attorneys has been increased by 51.3 percent, compared to a 27.4 percent increase over the entire previous eight-year period. In the District of Columbia the number of Assistant United States Attorneys increased almost 100 percent, paralleling a sharp increase in the D.C. police force. In addition, the Department of Justice supported D.C. authorities in developing an effective drug treatment and rehabilitation program.

The results have been especially apparent in the District of Columbia. Starting in July, and for every month recorded since then, the crime rate has decreased decisively in comparison with the same month a year earlier, reaching a 25.4 percent decrease in September 1970 and a 23.3 percent decrease in November.

A crucial factor in the D.C. criminal justice picture was the D.C. Court Reform and Criminal Procedures Act of 1970, which was drafted by the Department of Justice. Among other things, this Act created many new judgeships to ease the backlog of cases. The Department swiftly processed the proposed appointees for these judgeships, and we can begin to see a reduction of the case backlog. In fact, the huge backlog of approximately 6000 juvenile cases has been virtually eliminated.

To speed the processes of Federal justice throughout the country, the Administration has accelerated the appointment of judges to fill vacancies. President Nixon appointed 115 Federal judges—83 of them in 1970, when the number was the largest in American history. Every one of these was cited as qualified by the American Bar Association. Processing of judgeship candidates, including investigations and recommendations, was accomplished by the Department of Justice at a much faster rate than in the two previous Administrations.

At the same time, Federal grants to help improve local law enforcement agencies have been greatly strengthened within the last two years. Total funding for the agency established for this purpose, the Law Enforcement Assistance Administration, climbed from $63 million in 1969 to $480 million appropriated for fiscal 1971.

While the nationwide crime rate has not yet turned downward as a result of these efforts and those of state and local governments, it is encouraging to note that in the first nine months of calendar 1970 the crime rate did drop in 23 cities of more than 100,000 population, including Baltimore, Kansas City, Pittsburgh, Seattle and St. Louis.

CIVIL RIGHTS

In the field of Civil Rights, the Department of Justice has made an outstanding contribution in the past two years. In the area of education we filed 94 cases compared to 68 over the previous two years. The number of school districts sued jumped from a total of 56 in the two years, 1967 and 1968, to a total of 254 in the past two years—a 350 percent increase. Due in large part to Justice Department negotiation and litigation, the percentage of black school children in the 11 southern states attending desegregated systems increased from less than 6 percent prior to the opening of school in 1969 to 92 percent at the opening of the 1970–71 school year. Of the 50 remaining school districts in this area that are without any desegregation plans, 22 are now under private suits, 16 under Federal suits brought by the Department of Justice, and the remaining 12 are under analysis preparatory to further action.

Let me emphasize that our figures reflect an analysis on a district by district basis, because that is our framework of concern. They are not on an individual school basis. A few days ago the Department of Health, Education and Welfare released figures on this same general subject. Those figures were necessarily different from ours, since they referred to schools and not to school districts. They confirmed not only conversion of the districts, but substantial integration of schools within those districts.

In the housing field, we have successfully implemented a national fair housing program following the 1968 act and its 1969 amendment. In 1969 and 1970, 64 housing cases were filed in 22 states and the District of Columbia. Equally important, negotiation resulted in securing the removal of racial discrimination from the policies of 19 United States title insurance companies. Similar progress has been made through negotiation or litigation with multiple listing services, real estate brokers, apartment operators, and large housing developments.

Achievements in fair employment may best be measured by the cases actually brought to trial, and by the relief won. The number of cases brought to trial moved from two in 1967 to 16 in 1970; appellate arguments, from 0 in 1967 to 11 in 1970; consent decrees entered, from 0 in 1967 to 8 in 1970. These actions included many multi-defendant suits, such as one against five building trade unions and three joint apprenticeship training committees in Seattle, the first of its kind; another state-wide suit against a Power Company; one against an Ironworkers local, resulting in the most comprehensive relief yet obtained in any trade union case. Through negotiation, with more than 80 potential defendants involved, the Department won an anti-discrimination agreement from the movie and television industry in Los Angeles. The Department also filed the first cases alleging discrimination against women, Mexican-Americans and Indians.

In public accommodations, the Department filed the first cases in the North, the first cases alleging discrimination against Puerto Ricans, and the first cases against penal institutions.

I also wish to emphasize that the Civil Rights Division is devoting considerable attention to the Department's Title VI responsibilities. Last year it established a Title VI unit whose sole responsibility is to work with Federal agencies in assuring non-discrimination in federally assisted or funded programs.

Besides the dedicated work of the Civil Rights Division, the Department's Community Relations Service made substantial progress in helping minority groups and organizations in their dealing with other elements of our society, including state and local governments. In its role as conciliator in disputes and as a liaison agent in potential community problems, the Service helped to move minorities forward while promoting peace and stability on the campuses and in the communities. In the past two years CRS has decentralized so that two-thirds of its professional staff is in the field, rather than one-third prior to 1969. The measurable decline of racial outbreaks in the United States over the past twelve months is due to many factors, not least of which is the continuing work of the Community Relations Service.

NARCOTICS

Against the nation's growing narcotics problem the Nixon Administration mounted an all-out campaign on all fronts—at home, at our borders, and at the foreign sources of illicit drugs. This has been the first administration to make narcotics control part of its foreign policy. As a result, new cooperation has been won from Mexico in destroying drugs at their sources and in policing our common border against dope smuggling. At our urging, France and Turkey have stepped up their anti-narcotics efforts.

Through the initiative of President Nixon, broader cooperation has been won from international organizations. Last summer the Committee on the Challenges of Modern Society, an arm of the North Atlantic Treaty Organization, agreed on methods by which NATO could combat the drug traffic. Following that meeting the United Nations Committee on Narcotic Drugs created a special fund for anti-narcotics programs in September 1970. The Director of the Division of Narcotic Drugs of the United Nations Secretariat has already visited Thailand and Burma to start implementing these programs.

At home, narcotics agents have closed down an average of one clandestine laboratory per week for the last two years. With the help of the interdepartmental strike forces they have staged raids against major distribution rings, including one—largest such operation in history—that so far has netted 169 arrests. Prosecutive action against drug traffickers has increased correspondingly—from an average of 486 defendants filed against per month at the end of 1968 to 808 by the last of 1970—an increase of 66 percent.

I should point out that this later figure is even more potent, because we changed our mode of operation to concentrate on the large interstate distributors, leaving to state and local agencies the responsibility for enforcement against local drug peddlers. In the same period the amount of illicit drugs removed from the domestic market increased decidedly from 1969 to 1970. It more than tripled in the case of heroin and doubled in the case of marihuana. Due in large part to efforts by our Bureau of Narcotics and Dangerous Drugs, similar increases are shown in the amount of drugs removed from the international traffic.

Anti-narcotics legislation passed by Congress last October will certainly permit still more effective action against this national menace.

ENVIRONMENTAL QUALITY

As part of the comprehensive environmental quality program initiated by the Nixon

Administration legal action against polluters has greatly intensified, and the battlefield has been expanded to include mercury and thermal violations.

In the past two years the Department has reinstituted the Refuse Act of 1899 as a weapon against polluters. Cases under the Refuse Act increased fourfold in 1970 against the preceding two years. Injunctive suits under this Act were first introduced in March 1970, with 25 suits filed since then, including ten mercury dumping suits—some against very large operators.

The first Federal action to enjoin thermal water pollution was brought against a Florida power company, bringing a landmark ruling that dumping hot water is a form of pollution and is actionable under the Refuse Act.

In the first Federal enforcement of the Clean Air Act, the Department won an order from a Maryland District Court (sustained by the appellate court) to close down a plant because of air pollution.

In addition to these actions by the Land and Natural Resources Division, the Antitrust Division secured a consent decree winning prompt and effective relief in the automobile smog case. Without the expense and delay of a court trial, the decree provided very stiff penalties and requirements against the big four manufacturers, and promises to speed the development of an effective auto smog device.

ANTITRUST

The Department has made significant strides in preserving the free competition that lies at the center of our country's economic system. Through five major conglomerate merger cases, most of which are still pending, the Antitrust Division has helped create a climate in which the incidence of conglomerate mergers has sharply declined. In addition the Department has challenged the systematic practice of reciprocity marketing agreements that have worked against competition among suppliers. Seven such cases have been filed in the past two years, compared to none previously. Altogether, the Department filed 112 Antitrust cases in two years—more than in any two years of the previous Administration. Antitrust cases grew from 55 in 1968 to 67 in 1970.

CORRECTION

In response to President Nixon's 13-point program for Federal corrections reform, the Department developed a 10-year plan to modernize and upgrade the Federal prison system. Not only will this program carry out the judgments of the courts for the protection of the community, but it will also provide custodial care consistent with human dignity and will place greater emphasis on correction of the offender.

Major progress was also made in 1970 on programs to teach industrial skills to inmates, to provide the most advanced therapeutic and psychological help, to provide daytime community work to selective inmates, and to assist in creating a meaningful transition in the return of prisoners to normal life.

In addition, construction funds for a multi-purpose Metropolitan Correctional Center in New York City have been provided. Plans are being drawn for a similar center in Chicago, and for a facility in North Carolina to treat mentally disturbed and violent offenders. The Bureau of Prisons will soon open the first regional staff training center for Bureau employees and for state and local correctional officials.

At the same time, through the Law Enforcement Assistance Administration, the Department is providing funds to improve state, city and county correctional institutions. Such grants have increased from $3 million in fiscal year 1969 to over $100 million for 1971.

TAX ENFORCEMENT

Enforcement of Federal tax laws has been greatly improved in the past two years. Processing of cases has been streamlined, so that in 1970 the processing of a criminal tax case averaged only two months and six days, compared to three months and ten days in 1967—an approximately one-third reduction. The percentage of cases won in the trial courts increased from 73 to 81, in the appellate courts from 79 to 81, and in the Supreme Court from 73 to 85. The number of civil and criminal cases closed both increased in this period, and with special reference to criminal cases the figure rose from 659 to 1005—approximately 50 percent.

As for results, collections by the Tax Division grew from $69 million in 1967 to $76 million in 1970, while the amount of money saved in the same years increased from $85 million to $104 million.

PORNOGRAPHY

Lastly, I want to mention progress against smut peddlers—a campaign that has been at times frustrating, but has always had a significant place in the Administration's program. First let me acknowledge the key role of the Post Office Department, which has generally provided the initial investigations leading to prosecutive action and which has been especially active under Postmaster General Blount. The following figures speak for themselves:

As of January 1, 1969, the Department of Justice was involved in five investigations of major distributors, and eight distributors were under indictment. By January 1, 1971, the figures had jumped to 58 and 55, respectively, or more than 1000 percent for investigations and more than 600 percent for indictments.

In the past 12 months, out of 13 cases involving major distributors, the Government has won 11. Virtually every decision against the defendant is on appeal to a higher court, but several convictions have been sustained at the appellate level, including cases against two of the largest distributors in the country.

As you know, only one of the three anti-pornography bills drafted by the Department and proposed by President Nixon was passed by Congress. We intend to resubmit anti-pornography legislation to the 92nd Congress.

CONCLUSION

Ladies and gentlemen, these are only some of the accomplishments of the men and women of the Department of Justice in the past two years. Limited time prevents my including many others representing equal diligence and dedication by the various divisions, bureaus, and services within the Department. Again, I leave to your candid judgment the degree to which they represent the fulfillment of our goals.

Now I will be happy to entertain your questions, which I trust you will confine to the subject of the Department's two-year achievements.

PERCENTAGE BUDGET INCREASES BETWEEN FISCAL YEAR 1968 AND FISCAL YEAR 1971

(Selected Divisions, Etc.)

Name	Percentage
LEAA	6400
Community Relations Service	125
Criminal	112
Civil Rights	107
United States Attorneys and Marshals	76
Bureau of Prisons	76
Bureau of Narcotics	74
Tax	49
FBI	48
Antitrust	38
Immigration and Naturalization Service	38

DRUGS REMOVED FROM ILLICIT MARKET IN THE UNITED STATES BY BNDD

	Fiscal years 1969	1970
Heroin (pounds)	140	427
Cocaine (pounds)	73	197
Marihuana (pounds)	8,825	17,402
Hallucinogens (dosage units)	24,579,436	7,127,742
Stimulants (dosage units)	4,831,458	7,196,481
Depressants (dosage units)	748,850	2,339,590

ARRESTS AND SEIZURES BY FOREIGN AUTHORITIES IN COOPERATION WITH BNDD

	Fiscal years 1969	1970
Arrests	214	207
Seizures:		
Opium (pounds)	290.4	3,382.8
Morphine base (pounds)	371.8	584.8
Heroin (pounds)	195.8	299.7
Cocaine (pounds)	19.9	78.5
Marihuana (pounds)	13,028.4	62,080.0
Hashish (pounds)	200.2	664.1
Stimulants (dosage units)	0	5,000,000

ORDER FOR RECESS FROM FRIDAY TO MONDAY, FEBRUARY 1, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in recess until 12 o'clock meridian Monday next.

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

RECESS

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 12 o'clock meridian tomorrow.

The motion was agreed to; and (at 5 o'clock and 34 minutes p.m.) the Senate recessed until tomorow, Friday, January 29, 1971, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 28 (legislative day of January 26), 1971:

U.S. DISTRICT COURTS

Robert V. Denney, of Nebraska, to be a U.S. district judge for the district of Nebraska vice a new position created under Public Law 91-272 approved June 2, 1970.

ENVIRONMENTAL PROTECTION AGENCY

The following-named persons to be Assistant Administrators of the Environmental Protection Agency; (new positions).

Stanley M. Greenfield, of California.

Donald Mac Murphy Mosiman, of Indiana.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The following-named persons to the positions indicated:

Robert M. White, of Maryland, to be Administrator of the National Oceanic and Atmospheric Administration; new position.

Howard W. Pollock, of Alaska, to be Deputy Administrator of the National Oceanic and Atmospheric Administration; new position.

John W. Townsend, Jr., of Maryland, to be Associate Administrator of the National

Oceanic and Atmospheric Administration; new position.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Houser, of Illinois, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1964, to which office he was appointed during the last recess of the Senate.

Robert Wells, of Kansas, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1970, to which office he was appointed during the last recess of the Senate.

OFFICE OF ECONOMIC OPPORTUNITY

Frank Charles Carlucci III, of Pennsylvania, to be Director of the Office of Economic Opportunity, to which office he was appointed during the last recess of the Senate.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Ethel Bent Walsh, of the District of Columbia, to be a member of the Equal Employment Opportunity Commission for the term expiring July 1, 1975, to which office she was appointed during the last recess of the Senate.

U.S. TARIFF COMMISSION

Chester L. Mize, of Kansas, to be a member of the U.S. Tariff Commission for the remainder of the term expiring June 16, 1974, to which office he was appointed during the last recess of the Senate.

U.S. POSTAL SERVICE

The following-named persons to be Governors of the U.S. Postal Service for the terms indicated, to which offices they were appointed during the last recess of the Senate:

Elmer T. Klassen, of Massachusetts, for a term of 1 year.

Frederick Russell Kappel, of New York, for a term of 2 years.

Theodore W. Braun, of California, for a term of 3 years.

Andrew D. Holt, of Tennessee, for a term of 4 years.

George E. Johnson, of Illinois, for a term of 5 years.

Crocker Nevin, of New York, for a term of 6 years.

Charles H. Codding, of Oklahoma, for a term of 7 years.

Patrick E. Haggerty, of Texas, for a term of 8 years.

M. A. Wright, of Texas, for a term of 9 years.

SMALL BUSINESS ADMINISTRATION

Thomas S. Kleppe, of North Dakota, to be Administrator of the Small Business Administration, to which office he was appointed during the last recess of the Senate.

SECURITIES INVESTOR PROTECTION CORPORATION

The following-named persons to be Directors of the Securities Investor Protection Corporation for the terms indicated, to which offices they were appointed during the last recess of the Senate:

Andrew J. Melton, Jr., of New York, for a term expiring December 31, 1971.

Glenn E. Anderson, of North Carolina, for a term expiring December 31, 1972.

George J. Stigler, of Illinois, for a term expiring December 31, 1972.

Donald T. Regan, of New York, for a term expiring December 31, 1973.

Byron D. Woodside, of Virginia, for a term expiring December 31, 1973.

CONFIRMATION

Executive nominations confirmed by the Senate January 28 (legislative day of January 26), 1971:

DEPARTMENT OF THE INTERIOR

Rogers C. B. Morton, of Maryland, to be Secretary of the Interior.

EXTENSIONS OF REMARKS

NATIONAL RAIL PASSENGER SYSTEM

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Thursday, January 28, 1971

Mr. METCALF. Mr. President, the following Senate resolution from the Montana State Senate speaks eloquently for adequate rail passenger service through Montana. A copy has been sent to Mr. Volpe and I hope he heeds it in his decision on passenger routes today.

I ask unanimous consent that the resolution be printed in the Extensions of Remarks.

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

RESOLUTION

A resolution of the Senate of the State of Montana urging that passenger train service to the State of Montana be included in the basic system of the National Rail Passenger Act of 1970

Whereas, the Congress of the United States by Public Law 91-518 has proposed a complete revamping of the National Rail Passenger System and by such law instructed the Secretary of Transportation to issue a Preliminary Report outlining future rail passenger routes and such Preliminary Report having been published outlining, among other things, as "End Points" the municipalities of Chicago, Illinois, and Seattle, Washington, and proposing that all rail passenger service within the state of Montana be discontinued in its entirety and further proposing that such traffic between the respective points proceed via Omaha, Nebraska, and Green River, Wyoming; and

Whereas, the existing schedules in the state of Montana provide rail passenger service in an east-west direction on both the Burlington Northern Inc. Northern Division routing (formerly Great Northern Railway) and the southern routing (formerly Northern Pacific Railway) and the Preliminary Report of the Secretary of Transportation would terminate such service; and

Whereas, the state of Montana is six hundred (600) miles in length in an east-west direction and approximately four hundred (400) miles in length in a north-south direction; and the current northern routing presently serves ten (10) counties with a population of approximately one hundred twenty-eight thousand (128,000), with nearly two hundred (200) smaller communities completely dependent upon rail transportation because no air service, bus service or other public transportation exists, and such routing provides through rail connection with entrances to Glacier National Park, and such routing constitutes the fastest, most direct route between Chicago and Seattle; and the southern routing through the state of Montana presently serves twenty (20) counties with a population of over three hundred fourteen thousand (314,000) and the major industries of the state of Montana are located along said route; and

Whereas, the Interstate Commerce Commission, the National Association of Railroad Passengers and the Montana Railroad and Public Service Commission have recommended the following program for rail passenger service to the state of Montana.

Now, therefore, be it resolved by the Senate of the State of Montana: That the senate of the state of Montana recognizes that the public interest and convenience of the citizens of the state of Montana require that existing east-west passenger train service be continued, and therefore, urges the Department of Transportation to maintain existing east-west passenger train service through the state of Montana in the Basic National Rail Passenger System; and

Be it further resolved, that if it is absolutely impossible to maintain existing east-west passenger train service through the state of Montana, the senate of the state of Montana urges the Department of Transportation to include in the Basic National Rail Passenger System both the northern Montana route and the southern Montana route, with east-west passenger train service on such routes on alternate days; and

Be it further resolved, that the secretary of state of Montana be instructed to send copies of this resolution to the Department of Transportation; John Volpe, Secretary of Transportation; the Honorable Warren G. Magnuson, Chairman of the Senate Interstate and Foreign Affairs Committee; the Honorable Harley O. Staggers, Chairman of the House Interstate and Foreign Commerce Committee; the Honorable Mike Mansfield and the Honorable Lee Metcalf, Senators from the state of Montana; the Honorable John Melcher and the Honorable Richard Shoup, Congressmen from the state of Montana; and to each officer of the corporation formed to administer the Basic National Rail Passenger System after such corporation is formed.

WATER WONDERLAND ON THE COLORADO RIVER

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 26, 1971

Mr. HOSMER. Mr. Speaker, following the November elections, my wife and I returned to Washington by automobile, the first time in many years we had taken such a trip.

En route, we stopped at the Grand Canyon area on the Colorado, a region that has consumed a good deal of my legislative time over the past 20 years.

It was readily apparent during our brief stopover that the dams which make water and power available to millions of people in the Pacific southwest also make the Colorado one of America's most sought-after recreation centers.

Over the years, many have argued against damming the Colorado, but it is clear to me that the Congress and the Bureau of Reclamation have significantly enhanced the environment of that region.