SENATE—*Tuesday, October 12, 1971*

The Senate met at 12 o'clock noon and was called to order by Hon. HAROLD E. HUGHES, a Senator from the State of Iowa.

PRAYER

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

O Thou who art a spirit, infinite, eternal, and unchangeable in Thy holiness, justice, and righteousness, we, the sons of Thy creation acknowledge our dependence upon Thee. O Thou whose rulership transcends all nations, all religions, and all men, give us wisdom here to do in our time what Thou dost will for all time. Guide, by Thy truth, the President, the Congress, the judiciary, and all in the service of this Government in paths of of righteousness and peace. Make us a people whose lives are incandescent with the love and grace and compassion which belong to those who love Thee with their whole heart and soul and mind and their neighbor as themselves.

In His name who gave the Commandments. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 12, 1971.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of October 8, 1971, Mr. Moss, from the Committee on Interior and Insular Affairs, reported favorably, with an amendment, on October 11, 1971, the bill (S. 2042) to provide for the apportionment of funds in payment of a judgment in favor of the Shoshone Tribe in consolidated dockets numbered 326–D, 326–E, 326–F, 326–G, 326–H, 366, and 367 before the Indian Claims Commission, and for other purposes, and submitted a report (No. 92–393) thereon, which was printed.

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, October 8, 1971, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore (Mr. HUGHES). Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in the executive session, the Presiding Officer (Mr. BENTSEN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Health, Education, and Welfare for "Grants to States for public assistance", for fiscal year 1972, had been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

PROPOSED DISTRICT OF COLUMBIA CONTROLLED SUBSTANCES ACT

A letter from the Attorney General, transmitting a draft of proposed legislation to protect the public health and safety by amending the narcotic, depressant, stimulant, and hallucinogenic drug laws in the District of Columbia, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting a report entitled "Large Costs to the Government Not Recovered For Launch Services Provided to the Communications Satellite Corporation", Department of the Air Force, National Aeronautics and Space Administration, dated October 8, 1971 (with an accompanying report); to the Committee on Government Operations.

PROPOSED LEGISLATION RELATING TO TITLES TO CERTAIN LANDS

A letter from the Attorney General, transmitting a draft of proposed legislation to permit suits to adjudicate disputed titles to lands in which the United States claims an interest (with an accompanying paper); to the Committee on Interior and Insular Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A joint resolution of the Legislature of the State of California; to the Committee on Public Works:

"ASSEMBLY JOINT RESOLUTION No. 28

"Relative to the Federal Highway Beautification Act

"Whereas, Roadside rest stops and viewpoint outlooks enhance the value of highways in a wise and prudent manner; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to modify the Federal Highway Beautification Act to allow the use of federal-aid highway funds now earmarked for the interstate highway system to provide roadside rest stops and viewpoint outlooks along sections of officially adopted state scenic highways; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution of the House of Representatives of the Commonwealth of Puerto Rico; to the Committee on Banking, Housing and Urban Affairs:

"RESOLUTION

"Resolution to express the solidarity and sympathy of the House of Representatives with the petition made by the labor movements and by the Honorable Governor of Puerto Rico, that Puerto Rico be excluded from the application of the presidential proclamation as to wages below the federal minimum

"STATEMENT OF MOTIVES

"On the sixteenth of last August, Hon. Richard M. Nixon, President of the United States of America, issued a presidential or-

der wherein there is provided a total freezing of prices, rents and wages throughout the entire American Nation, for a period of ninety days. Furthermore, the presidential order has established a surtax of 10 percent on imports. These are anti-inflationary measures for the purpose of stabilizing the economy of this nation.

"In its scope and implementation, this presidential order covers Puerto Rico, and in the same measure in which its results are the settling of the situation of the dollar in the international markets and the stabilization of the North American economy, in that same measure it will redound in benefits of our local economy. However, that part of the presidential order on the freezing of wages, is not favorable to our labor force, since a considerable segment thereby does not yet receive the minimum wages in force in the United States. Therefore, it is necessary to request from the President of the United States and from the administrative organization created by him to see to the strict fulfillment of his order, to exempt Puerto Rico from the application of the presidential order as to the manner in which it may affect wage increases which fluctuate below the federal minimum wages.

"Be it resolved by the House of Representatives of Puerto Rico:

"First: To express the solidarity and sympathy of the House of Representatives with the petition made by the labor movements and by the Honorable Governor of Puerto Rico that the presidential proclamation on the freezing of prices, rents and wages should not be applied to Puerto Rico as to wages which are below the federal minimum wages.

"Second: To direct that copy of this resolution be transmitted to the Honorable Richard M. Nixon, President of the United States of America, to the Congress of the United States of America, to the leaders of the labor unions of Puerto Rico and to the radio, press and television of the country for its diffusion to the public."

A resolution of the Senate of the Commonwealth of Puerto Rico; ordered to lie on the table:

"RESOLUTION No. 362

"Resolution to congratulate the Puerto Rican Congressman Herman Badillo, for his triumph in benefit of Puerto Rico on obtaining the approval by the Committee on Education and Labor of the House of Representatives of the United States, of an amendment to the Higher Education Act that, should it finally be passed, would have the effect of extending to the Commonwealth of Puerto Rico the benefits of said act and other federal laws in the field of education, thereby granting to the Island the same treatment as that given to the other states of the Union

"Whereas: The Committee on Education and Labor of the House of Representatives, which is considering the extension of the Higher Education Act, approved yesterday, Wednesday, September 29, an amendment to said act thereby granting to Puerto Rico the same treatment as that given to the states of the Union in all its provisions, thus eliminating the present limitations in the appropriation of the funds to be granted to the Commonwealth of Puerto Rico and the territories.

"Whereas: It is very possible that on being transmitted to the Conference Committee of the Senate and of the House, the principle of equal treatment contained in the Higher Education Act be extended to the Elementary and Secondary Education Act, under which the Commonwealth of Puerto Rico received federal funds for the amount of twenty-six million (26,000,000) dollars this year, as well as to other laws which appropriate federal funds for education.

"Whereas: Should said laws be finally passed with the amendments approved by the Committee on Education and Labor of the House, the Island would additionally receive in federal funds about forty million (40,000,000) dollars for the various elementary, secondary, vocational and university educational programs.

"Whereas: Education in Puerto Rico is facing a crisis through insufficiency of available funds to be assigned by the Government of Puerto Rico to the Department of Education to the University of Puerto Rico and is in urgent need of federal economic aid.

"Whereas: Representative Herman Badillo, Democrat for the Bronx, a Puerto Rican and a member of the Committee on Education and Labor of the House, sponsored said amendment.

"Therefore: be it resolved by the Senate of Puerto Rico:

"Section 1. To transmit to Representative Herman Badillo, the acknowledgment of the Senate of Puerto Rico for his extraordinary achievement in Congress in behalf of the Puerto Rican education, by sending copy of this Resolution.

"Section 2. To thank him in the name of the people of Puerto Rico for the continuous efforts which the distinguished Congressman has been performing in behalf of the welfare and happiness of the Puerto Rican people.

"Section 3. To request that the President of the Senate and the Speaker of the House of Representatives and the President of the United States to approve the Higher Education Act and the Elementary and Secondary Education Act, with the amendments which grant to Puerto Rico equal treatment as that given to the states of the Union.

"Section 4. This resolution shall take effect immediately after its approval."

A resolution adopted by the Military Order of the World Wars, Washington, D.C., praying for a strong program of national defense; to the Committee on Armed Services.

A resolution adopted by the San Diego County Federation of Republican Women's Clubs, San Diego, Calif., praying for the restoration of freedom of the seas for our fishing fleet; to the Committee on Commerce.

A letter, in the nature of a petition, from Lester Stauffer, Warren, Ohio, relating to the economic problem in the United States; to the Committee on Finance.

A resolution adopted by the Sertoma Club, Inc., Shawnee, Kans., relating to the United Nation's Convention for the Prevention and Punishment of Genocide; to the Committee on Foreign Relations.

A resolution adopted by the Order Fraternal Americans, Alexandria, Va., praying for a solution of the problems in Vietnam; to the Committee on Foreign Relations.

A resolution adopted by the Order Fraternal Americans, Alexandria, Va., relating to the International Convention on the Prevention and Punishment of the Crime of Genocide; to the Committee on Foreign Relations.

A resolution adopted by the Order Fraternal Americans, Alexandria, Va., praying for the enactment of certain legislation relating to the admission of aliens to the United States; to the Committee on the Judiciary.

A resolution adopted by the Order Fraternal Americans, Alexandria, Va., relating to the Director of the Federal Bureau of Investigation; to the Committee on the Judiciary.

A resolution adopted by the Order Fraternal Americans, Alexandria, Va., relating to dangers resulting from drug abuse; to the Committee on the Judiciary.

A resolution adopted by the Order Fraternal Americans, Alexandria, Va., praying for the designation of Flag Day as a legal holiday; to the Committee on the Judiciary.

A resolution adopted by the Military Order of the World Wars, Washington, D.C., relating to a forceful policy of law enforcement; to the Committee on the Judiciary.

Two summonses, one issued to the Vice President and one to the President pro tempore, with accompanying letters, referring the matter to the Attorney General of the United States and the U.S. attorney for the northern district of Florida, relative to Civil Action File No. PCA 2419, B. Nowlin Keener, Jr., plaintiff, against the Congress of the United States, defendant; to the Committee on the Judiciary.

A letter, in the nature of a petition, from J. L. Zubrod, Sr., Zanesville, Ohio, praying for the enactment of legislation relating to the control of certain rifles; to the Committee on the Judiciary.

A resolution adopted by the Texas Psychological Association, San Antonio, Tex., relating to early child development; to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

Mr. CANNON. Mr. President, I ask unanimous consent to file a report (No. 92–394) on H.R. 7072, the House-passed airport and airway amendments, without recommendation and without amendment.

H.R. 7072 is similar to S. 1437, the airport and airway amendments reported by the Commerce Committee, on Senate Report No. 92–378. The committee recommends that S. 1437 be passed by the Senate.

We report H.R. 7072 only for the purpose of placing it on the Senate Calendar so that S. 1437, in the form of an amendment, may be substituted for the House enacted provisions when the matter comes before the Senate.

This procedure will enable the Senate and the House to resolve differences in the legislation in a conference should the House not accede to the Senate amendment we will propose to H.R. 7072.

The PRESIDING OFFICER. Without objection, the report will be received and the bill will be placed on the calendar.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BENTSEN (for himself and Mr. PEARSON):

S. 2681. A bill to amend part V of the Interstate Commerce Act so as to authorize the Interstate Commerce Commission to extend the time of payment of interest or principal of existing Government loan guaranty to a maximum period of 30 years. Referred to the Committee on Commerce.

By Mr. THURMOND:

S. 2682. A bill for the relief of Lolita V. Javier; and

S. 2683. A bill for the relief of Haviv Schieber. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 2684. A bill to amend section 509 of the Merchant Marine Act, 1936, as amended. Referred to the Committee on Commerce.

By Mr. MATHIAS:

S. 2685. A bill for the relief of Mely Felicia. Referred to the Committee on the Judiciary.

By Mr. BURDICK:

S. 2686. A bill to clarify the right of States and local subdivisions to provide for domestic preference in acquiring materials for public use. Referred to the Committee on the Judiciary.

By Mr. MANSFIELD (for Mr. GRAVEL):

S. 2687. A bill to authorize the acquisition of certain real property in Square 724 in the District of Columbia, and for other purposes. Referred to the Committee on Public Works.

By Mr. CRANSTON:

S. 2688. A bill to establish an urban mass transportation trust fund, and for other purposes. Referred to the Committee on Finance.

By Mr. CHURCH (for himself and Mr. WILLIAMS):

S. 2689. A bill to promote development and expansion of community schools throughout the United States. Referred to the Committee on Labor and Public Welfare.

By Mr. SCHWEIKER:

S. 2690. A bill for the relief of Filippo Crivelli. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MAGNUSON:

S. 2684. A bill to amend section 509 of the Merchant Marine Act, 1936, as amended. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce for appropriate reference a bill to amend section 509 of the Merchant Marine Act, 1936, as amended.

The purpose of this bill is to facilitate the development of a new technology which may have great importance for our U.S. flag merchant marine. The bill would do this by permitting vessels incorporating that technology to participate fully in the loan insurance and mortgage insurance programs under the Merchant Marine Act.

Although these vessels are currently eligible for limited participation in the loan insurance and mortgage insurance program under the Merchant Marine Act, I believe that the time has come to put this technology on an equal footing and provide full insurance benefits up to 87½ percent, as is available to other vessels, rather than the limited 75-percent insurance that is now available to hydrofoils.

Clearly new technology is the only means by which the U.S. Merchant Marine can hope to be competitive. We have seen this in the development of containerization and the new LASH and Seabee ships. I believe that enactment of this legislation will allow us to pursue more vigorously another promising technological innovation.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 509 of the Merchant Marine Act, 1936, is amended by inserting in the third sentence thereof after the words, "oceangoing barge of more than two thousand five hundred gross tons" a comma and the words, "or in the case of a vessel of more than two thousand five hundred horsepower designed to be capable of sustained speed of not less than forty knots".

By Mr. BURDICK:

S. 2686. A bill to clarify the right of States and local subdivisions to provide for domestic preference in acquiring materials for public use. Referred to the Committee on the Judiciary.

THE STATE "BUY AMERICAN" ACT OF 1971

Mr. BURDICK. Mr. President, I ask unanimous consent that the text of the bill I now introduce be included in the RECORD at the conclusion of my remarks.

Mr. President, I am today introducing legislation of special importance to our State and local governments. The Federal Government has had a "Buy American" Act since 1934. Twenty-one other States and territories also gave preference to domestic goods in their purchasing practices.

In a decision of the California Supreme Court, the California "Buy American" Act was declared unconstitutional because it was an "encroachment upon the Federal Government's exclusive power over foreign affairs, and constituted an undue interference with the United States' conduct of foreign relations." This decision has the effect of making all States "Buy American" Act and regulations unenforceable.

Mr. President, I believe the decision of the California Supreme Court was correct. See *United States* v. *Curtiss-Wright Export Corp.* 299 U.S. 304 (1936). Such purchase practices are related to the foreign policy of the United States and are proper matter for congressional consideration.

Overruling of State "Buy American" Act has aggravated the problem of creating new jobs and reducing unemployment at a time of particular economic difficulty.

Mr. President, we all recognize that unduly restrictive trade barriers are self-defeating, but the purpose of this bill is not to promote restrictive trade policies but to allow a special exception recognized in world trade.

The "General Agreement on Tariff and Trade"—GATT—entered into by the major trading nations in the world to establish the "rules of the road" as far as foreign trade practices are concerned, recognizes that most world governmental agencies want to "Buy National" and excluded governmental purchases from the terms of the agreement. Over 32 trading countries have laws or regulations restricting governmental purchases to domestic goods.

This bill will result in the promotion of American enterprise, the providing of jobs and the generating of tax revenue for the States. It will allow the States to establish "Buy American" policies similar to those now existing in regard to purchases by Federal agencies.

This action will not reflect a change in policy but merely continuance of policies which have been in effect in the States for over 35 years.

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

S. 2686

A bill to clarify the right of states and local subdivisions to provide for domestic preference in acquiring materials for public use

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that Title 41, United States Code, is amended to add a new Section 10(e) thereto, as follows:

"10(e) *Purchases by state and political subdivisions.*

Any law enacted or any regulation adopted by any State either prior to or subsequent to the enactment hereof providing for domestic preference for articles, materials, or supplies acquired for public use by that State or any of its political subdivisions shall constitute a valid exercise of the State's police power and shall not constitute an encroachment upon the power of the United States government over foreign affairs or foreign commerce, nor an undue interference with the conduct of foreign relations by the United States and shall not conflict with or be subject to any Executive agreement that exempts from its provisions: laws, regulations or requirements governing the procurement by governmental agencies of products purchased for governmental purposes and not with a view to commercial resale or with a view to use in the production of goods for commercial resale."

By Mr. CRANSTON:

S. 2688. A bill to establish an urban mass transportation trust fund, and for other purposes. Referred to the Committee on Finance.

Mr. CRANSTON. Mr. President, I am today introducing a bill that would create a Federal trust fund for mass transportation similar to the one that has been used to finance the Nation's highway system.

The primary revenue source for the rapid transit fund would be the 7-percent excise tax on new cars which the President wants lifted to stimulate 1972 model sales. The excise tax produced $2.2 billion in revenues in 1970. This trust fund, which would take effect on January 1, 1973, would more than double the amount of Federal money available for urban mass transit in fiscal 1974 and 1975. It would also require substantially less local matching funds than the present program. If instituted, the trust would create upward of 140,000 new jobs.

The President's proposed repeal of the excise tax is a deplorable step that will worsen traffic congestion and air pollution for Federal help, the administration is proposing a multibillion dollar Federal tax loss that will make things tougher for people living and working in our metropolitan areas.

Income from the excise tax should go instead into a form of relevant revenue sharing that will help our cities meet their high priority mass transit needs. Under normal circumstances, I would not advocate even a 1-year suspension of the tax. But the President has boxed us in. Some 8 million people may well think that he guaranteed them that they will get $200 off their 1972 cars retroactive to August 15. Many families are counting on that guaranty; the automobile industry has based sales campaigns on it. Congress cannot reverse history at this late date; all we can do is to try to set things aright for the future.

The President declared in a nationwide radio and television speech on August 15 in which he announced his new economic program:

I will propose to repeal the 7 percent excise tax on automobiles, effective today. This will

mean a reduction in price of about $200 per car. I shall insist that the American auto industry pass this tax reduction on to the nearly eight million customers who are buying automobiles this year.

Two other bills have been introduced in the Senate calling for creation of a general trust fund for all forms of transportation, one by Senator EDWARD M. KENNEDY and another by Senator CHARLES H. PERCY. Representative EDWARD KOCH has introduced a similar proposal in the House. The excise tax is proposed as a source of revenue in each of these bills. The Senate Commerce Committee already has begun hearings on the Kennedy and Percy bills. Precipitous White House action should not be permitted to cut short congressional consideration of these proposals. The mass transit trust fund proposal I am introducing today was originally introduced by Representative KOCH in 1969.

Only $2.31 billion at the very most will be available for mass transit the next 3 fiscal years—1973–75—under the administration's plan of financing through general appropriations. In contrast, reinstituting the excise tax and earmarking the income for mass transit could mean $4.4 billion for fiscal 1974 and 1975 at the present level of revenue.

The automobile is the Nation's No. 1 polluter. Even if new cars are less polluting than old ones, the increase in numbers will more than offset the difference. While the Federal Government pours $5 billion a year into highways, our cities are being starved for mass transit funds.

Although the President recognized that even a minimal mass transit program would require a Federal commitment of at least $10 billion over a 12-year period, the President asked for—and Congress approved—a total authorization of only $3.1 billion, spread over 5 years beginning in fiscal 1971.

The inadequacy of this meager funding is underlined by the fact that the Urban Mass Transit Administration of the Department of Transportation itself estimates that mass transit plans already on the drawing boards will call for the Federal expenditure of 10 times that amount—$32.8 billion, in 1969 dollars—over the next 10 years. Clearly, neither property taxes nor fares can meet the monumental cost of modern rapid transit.

The administration estimates that with the stimulus of a tax cut, Detroit could increase its projected sales of 1972 cars by 600,000, for total annual sales of 8.6 million new automobiles. Since American motorists junk about 6.5 million old cars annually, the result will be a net increase of more than 2 million cars on the road. More than 101 million new and used cars already are clogging up America's highways, 12.4 million of them in California alone. California normally accounts for 12 percent of all new car sales. What are we going to do with 2 million more?

One-fourth of the Nation's population—which includes many elderly, young, handicapped, and poor people—do not drive cars and must depend entirely on the availability of buses, trains, and subways. But they are not the only ones who need better mass transit systems. Inexpensive and convenient rapid transit service is essential if inner-city residents are to get jobs, especially now that more and more companies are moving to the suburbs. By the same token, suburbanites also are looking for more sensible alternatives to fighting traffic jams twice a day, 5 days a week, to get to their jobs in the city.

Only the financial stability of regular revenue income, which a trust fund provides, will enable our cities to conduct the long-range planning and construction that mass transit systems necessitate. A trust fund assured this Nation it would have the ability to build the highways the people wanted; we have no similar assurance that we can now build the mass transit system the people need.

More than 41,000 miles of Federal highways have been constructed since the trust fund was created in 1956. Some $5 billion is deposited into the fund annually, mainly through the 4-cent-a-gallon Federal tax on motor fuel.

The revenue from the automobile excise tax should go into the mass transit trust fund, but the fund should not be limited to that single source. Congress would appropriate additional money to the fund to meet rising city needs. The mass transit matching formula would be the same as for highway funds: 90-percent Federal to 10-percent local. The present administrative ratio for mass transit grants is 67-percent Federal to 33-percent local money.

I ask unanimous consent that a copy of this bill be printed in the RECORD following this statement.

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

S. 2688

A bill to establish an urban mass transportation trust fund, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that the rapid urbanization and the continued dispersal of population and activities within urban areas has made the ability of all citizens to move quickly and cheaply an urgent national goal; that new directions in the Federal assistance programs for urban mass transportation are imperative if efficient, safe and convenient transportation compatible with soundly planned urban areas is to be achieved; and that success will require substantially greater and assured Federal financial participation to permit confident and continuing local planning, and greater flexibility in program administration to conserve scarce resources and to take account of widely varying local conditions. It is the purpose of this Act to create a partnership which permits the local community, through Federal financial assistance, to exercise the initiative necessary to satisfy its mass transportation requirements.

TITLE I—URBAN MASS TRANSPORTATION REVENUE ACT OF 1972

CREATION OF TRUST FUND

SEC. 101. There is hereby established in the Treasury of the United States a trust fund to be known as the urban mass transportation trust fund (hereinafter in this Act called the trust fund). The trust fund shall consist of such amounts as may be appropriated or credited to the trust fund as provided by this Act.

TRANSFER TO TRUST FUND

SEC. 102. (a) EXCISE TAX ON AUTOMOBILES.—There is hereby appropriated to the trust fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the tax received in the Treasury before July 1, 1977, and which are attributable to liability for tax incurred before July 1, 1977, under section 4061(a)(2) of the Internal Revenue Code of 1954 (tax on automobiles, etc.). The amounts appropriated by this section shall be transferred at least monthly from the general fund of the Treasury to the trust fund on the basis of estimates by the Secretary of the Treasury of the amounts, referred to in the preceding sentence, received in the Treasury. Proper adjustment shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) ADDITIONAL APPROPRIATIONS TO THE TRUST FUND.—There are hereby authorized to be appropriated from the general fund of the Treasury to the trust fund such additional sums as may be required to make the expenditures referred to in section 104. These sums are to be repayable advances unless otherwise provided.

MANAGEMENT OF TRUST FUND

SEC. 103. (a) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to hold the trust fund, and (after consulation with the Secretary of Transportation) to report to the Congress not later than the 1st day of March of each year on the financial condition and the results of the operations of the trust fund during the preceding fiscal year and on its expected condition and operations during the current and next ensuing fiscal year, up to and including the fiscal year ending June 30, 1975. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(b) INVESTMENT.—It shall be the duty of the Secretary of the Treasury to invest such portion of the trust fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the trust fund. Such special obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield during the month preceding the date of such issue, on marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt rounded to the nearest one-eighth of 1 per centum. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest. Advances to the trust fund pursuant to section 102(b) shall not be invested.

(c) SALE OF OBLIGATIONS.—Any obligation acquired by the trust fund (except special obligations issued exclusively to the trust fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) INTEREST AND CERTAIN PROCEEDS.—The

interest on, and the proceeds from the sale of redemption of, any obligations held in the trust fund shall be credited to and from a part of the trust fund.

EXPENDITURES FROM THE TRUST FUND

SEC. 104. (a) URBAN MASS TRANSPORTATION PROGRAMS.—Amounts in the trust fund shall be available, as provided by appropriation Acts, for making expenditures to meet obligations of the United States which are incurred after June 30, 1973, for fiscal years 1974, 1975, 1976, and 1977 under the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.), as amended (including general administrative expenses).

(b) REPAYMENT OF ADVANCES FROM GENERAL FUND.—Advances made pursuant to section 102(b) shall be repaid with interest to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the trust fund for such purposes. Interest shall be at rates computed in the same manner as provided in section 103(b) for special obligations and compounded semiannually.

LIMITATION ON EXPENDITURES

SEC. 105. The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Transportation, estimate the amounts which will be available in the trust fund (excluding repayable advances) to defray the expenditures required to be made from the fund. The Secretary of the Treasury shall advise the Secretary of Transportation whenever, after all other expenditures required to be made from the trust fund have been defrayed, the amounts available in the trust fund (excluding repayable advances) will be insufficient to defray expenditures required to meet obligations incurred under section 104(a). Whenever he is advised of any insufficiency, the Secretary of Transportation shall, for the fiscal year affected, determine the percentage which the amount remaining available is of the amount authorized to be obligated for that fiscal year under section 104(a) and shall, by prorating using that percentage, determine the amount which can be obligated in lieu of the amount which would be obligated but for the provisions of this subsection. Whenever the Secretary of the Treasury determines that, after all other expenditures required to be made from such fund have been defrayed, there will be available in the trust fund (excluding repayable advances) amounts sufficient to defray the obligations previously withheld under section 104(a) for any fiscal year, he shall so advise the Secretary of Transportation who may then obligate such amounts.

INTERNAL REVENUE AMENDMENTS

SEC. 106. (a) Subparagraph (A) of section 4061(a)(2) of the Internal Revenue Code of 1954 (relating to tax on passenger automobiles, etc.) is amended to read as follows:

"(A) Articles enumerated in subparagraph (B) are taxable at 7 percent. The tax imposed by this subsection shall not apply with respect to articles enumerated in subparagraph (B) which are sold by the manufacturer, producer, or importer after June 30, 1977."

By Mr. CHURCH (for himself and Mr. WILLIAMS):

S. 2689. A bill to promote development and expansion of community schools throughout the United States. Referred to the Committee on Labor and Public Welfare.

COMMUNITY SCHOOL CENTER DEVELOPMENT ACT

Mr. CHURCH. Mr. President, I introduce, with Senator WILLIAMS, for appropriate reference the Community School Center Development Act.

In just about every municipality in the United States, the largest single investment of public funds in physical facilities is the total public school plant. These buildings, usually within walking distance of the residents of the neighborhoods they serve, are also frequently among the best and newest facilities in the area.

It is a shameful waste to use such public facilities only part of the day, 5 days a week, 39 weeks a year, and solely for the formal education of youngsters. The traditional school—operating limited hours and serving only the young—is an extravagance that modern America cannot abide.

The bill which we introduce today—the Community School Center Development Act—meets this problem by promoting the development and expansion of community schools in all 50 States.

The community school concept aims at transforming the traditional role of the neighborhood school into that of a total community center for people of all ages and backgrounds, operating extended hours throughout the year. The school could work in partnership with other groups in the community to provide recreational, educational, and a variety of other community and social services. Maximum use of community resources through total community involvement would achieve broad and diversified programs. Every community school would design its program to meet the needs of the particular people it serves. Economy would result from new uses of existing resources as well as elimination of duplication of effort, which now occurs.

This act would aid in development of community schools in three ways: First, Federal grants would be available to strengthen and sustain existing community education centers, located at colleges and universities throughout the Nation, which would train community school leaders and, in general, promote and assist the community school movement. Federal grants would also be available to institutions of higher learning to develop and establish new community education centers. Second, Federal grants in each of the 50 States would be available for the establishment of new community school programs and the expansion of existing ones. These grants would help pay for the training and salaries of community school directors as well as other program expenses. Third, the Commissioner of Education, who would administer this act, would also be charged with the added responsibility of promoting community schools through specific national programs of advocacy and education.

Community schools are not unknown. The concept was developed in Flint, Mich., in the 1930's, under the leadership of the Charles Stewart Mott Foundation. Today there are over 300 established community school programs throughout the Nation, and the number is growing steadily. We are, therefore, dealing with a demonstrated success.

The Mott Foundation has supported the community school concept consistently and generously over the years. The programs fostered by the Community School Center Development Act would build on such experience and give impetus and financial support to continuing expansion. It is time for the Federal Government to recognize the worth of this proven product by contributing to further growth of community schools.

The added expenses involved in operating a community school program are small indeed. The very successful program in Flint, Mich., has increased the school budget by only about 6 percent. The many benefits of the program are estimated to cost the average Flint homeowner just a few pennies a day.

Community schools provide improved educational programs in a more economical way, because of the greater return per dollar spent.

This act will benefit all segments of our population. But as chairman of the Senate Committee on Aging, I want to emphasize the advantages that will accrue to our elderly through enactment of this bill. Programs of education, health, recreation, nutrition, and transportation—possibly with school buses—could be established through community schools. The variety of possible programs of assistance and interest to the senior citizen is almost unlimited; senior citizens will join with their neighbors in serving on the community school councils that will help devise programs to serve the special needs of each community.

The school in America of an earlier day—"the little red schoolhouse"—was a meeting place where citizens could discuss problems and share in learning and recreation. In modern America, the need for a local community center still exists. Today, through the community schools, the school can once again contribute in full measure to the people and community it serves.

I wish to acknowledge with much gratitude the assistance of the Charles Stewart Mott Foundation and the National Community School Education Association in providing information which proved useful in the preparation of this bill.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD. In addition, I ask unanimous consent that the following be included in the RECORD after the text of this bill: "The Mott Program of the Flint Board of Education," which describes the community school concept and how it works in Flint, Mich.; "Toward the Eternal Summer," which describes the activities available to senior citizens who participate in the community school program in Flint, Mich.; and "Community Schools Operate for Fun, Recreation, Hobbies for All," an article by Carrie Ewing which appeared in the Idaho Statesman of Boise, July 25, 1971. The latter article describes a community schools program now operating within the Boise model cities' boundaries but open to enrollees from throughout the Boise area.

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

S. 2689

A bill to promote development and expansion of community schools throughout the United States

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Community School Center Development Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide recreational, educational, and a variety of other community and social services through the establishment of the community school as a center for such activities in cooperation with other community groups.

DEFINITIONS

SEC. 3. As used in this Act the term—

(1) "Commissioner" means the Commissioner of Education;

(2) "State" includes in addition to the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(3) "State Educational agency" means the State Board of Education or other agency or officer primarily responsible for the State supervision of State elementary and secondary education or if there is no such officer or agency, an officer or agency designated by the Governor or State law;

(4) "Council" means the Community Schools Advisory Council;

(5) "Institution of higher education" means an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degre or provides not less than a two-year program which is acceptable for full credit toward such a degree, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (A), (B), (D), and (E). For purpose of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered;

(6) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and

(7) "Community school program" means a program in which a public elementary or secondary school is utilized as a community center operated in cooperation with other groups in the community to provide recreational, educational, and a variety of other community and social services for the community that center serves.

TITLE I—COMMUNITY EDUCATION CENTERS GRANTS

SEC. 101. (a) The Commissioner shall make grants to institutions of higher education to develop and establish programs in community education which will train people as Community School Directors.

(b) Where an institution of higher learning has such a program presently in existence, such grant may be made to expand the program.

APPLICATION

SEC. 102. A grant under this title may be made to any institution of higher education upon application to the Commissioner at such time, in such manner, and containing and accompanied by such information as the Commissioner deems neecssary. Each such application shall—

(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) describe with particularity the programs and activities for which such assistance is sought;

(3) set forth such fiscal control and fund accounting procedures as may be neessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

(4) provide for making such reasonable reports in such form and containing such information as the Commissioner may reasonably require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 103. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—GRANTS FOR COMMUNITY SCHOOLS

SEC. 201. (a) The Commissioner may, upon proper application, make grants to local educational agencies for the establishment of new community school programs and the expansion of existing ones.

(b) Grants shall be available for the training and salaries of community school directors as well as actual and administrative and operating expenses connected with such programs.

APPORTIONMENT

SEC. 202. (a) The number of project grants available to each State, subject to uniform criteria established by the Commissioner, shall be as follows:

(1) States with a population of less than 5 million shall receive not more than 4 projects;

(2) States with a population of more than 5 million but less than 10 million shall receive not more than 6 projects;

(3) States with a population of more than 10 million but less than 15 million shall receive not more than 8 projects; and

(4) States with a population of more than 15 million shall receive not more than 10 projects.

(b) Grants shall be made to the respective State Educational Agencies for payment to the appropriate local educational agencies.

CONSULTATION WITH STATE EDUCATIONAL AGENCY

SEC. 203. In determining the recipients of project grants the Commissioner shall consult with each State educational agency to assure support of a program particularly suitable to that State and providing adequate experience in the operation of community schools.

PAYMENTS

SEC. 204. Payments under this title shall be made from a State's apportionment to any State educational agency which, has been selected by the Commissioner in accordance with section 203.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE III—COMMUNITY SCHOOL PROMOTION

PROMOTION

SEC. 301. In order to promote the adoption of community school programs throughout the United States the Commissioner shall—

(1) accumulate and disseminate pertinent information to local communities;

(2) appoint twenty-five teams, consisting of not more than four individuals on each team, to assist communities contemplating the adoption of a community school program; and

(3) establish a program of permanent liaison between the community school district and the Commissioner.

ADVISORY COUNCIL

SEC. 302. (a) There is hereby established in the office of the Commissioner a Community Schools Advisory Council to be composed of 7 members appointed by the President for terms of 2 years without regard to the provisions of title 5, United States Code.

(b) The Council shall select its own Chairman and Vice Chairman and shall meet at the call of the Chairman, but not less than four times a year. Members shall be appointed for two-year terms, except that of the members first appointed four shall be appointed for a term of one year and three shall be appointed for a term of two years as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office. A vacancy in the Council shall not affect its activities and four members thereof shall constitute a quorum. The Commissioner shall be an ex officio member of the Council. A member of the Council who is an officer or employee of the Federal Government shall serve without additional compensation.

(c) The Commissioner shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

FUNCTIONS OF THE COUNCIL

SEC. 303. The Council shall advise the Commissioner on policy matters relating to the interests of community schools.

COMPENSATION OF MEMBERS

SEC. 304. Each member of the Council appointed pursuant to section 302 shall receive $50 a day, including travel time, for each day he is engaged in the actual performance of his duties as members of the Council. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

AUTHORIZATION OF APPROPRIATIONS

SEC. 305. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE IV—MISCELLANEOUS

PROHIBITIONS AND LIMITATIONS

SEC. 401. (a) Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

(b) Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for the construction of facilities as a place of worship or religious instruction.

JUDICIAL REVIEW

SEC. 402. (a) If any State or local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of applications submitted under Title II, or with his final action under section 405, such State or local educational agency may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such agency is located a petition for review of that action. A copy of that petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner shall file promptly in the court the record of the proceedings on which he based his action, as provided for in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

ADMINISTRATION

SEC. 403. (a) The Commissioner may delegate any of his functions under this Act, except the making of regulations, to any officer or employee of the Office of Education.

(b) In administering the provisions of this Act, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

PAYMENTS

SEC. 404. Payments to a State under this Act may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or both.

WITHHOLDING

SEC. 405. Whenever the Commissioner, after giving reasonable notice and opportunity for hearing to a grant recipient under this Act, finds—

(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this Act; or

(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Commissioner shall notify in writing such recipient of his findings and no further payments may be made to such recipient by the Commissioner until he is satisfied that such noncompliance has been, or will promptly be, corrected. The Commissioner may authorize the continuance of payments with respect to any programs or activities pursuant to this Act which are being carried out by such recipient and which are not involved in the noncompliance.

AUDIT AND REVIEW

SEC. 406. The Commissioner and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, to any books, documents, papers, and records of a grantee, under this Act, that are pertinent to the grant received.

REPORTS TO THE CONGRESS

SEC. 407. The Commissioner shall transmit to the President and to the Congress annually a report of activities under this Act, including the name of each applicant, a brief description of the facts in each case, and the number and amount of grants.

THE MOTT PROGRAM OF THE FLINT BOARD OF EDUCATION

All across the land our cities, towns, and villages are mirrors of similar problems: High school dropouts, need for re-training, physical fitness for our children, continuing recreation and education for adults, urban development.

Regardless of the differences in culture, economics, and geography among our American cities, we all have one problem in common: How to live together in an urban society.

Flint is attacking these problems by means of a unique organization called the Mott Program of the Flint Board of Education. It works through the city's public schools, and receives supporting funds from the Mott Foundation. It seeks to develop understanding among its residents, giving them opportunities for self and community improvement—and at a grass roots level provides a meeting place where community needs may be served by community resources.

Two purposes give reason for the existence of the Mott Program: 1) To discover and demonstrate means whereby a community can use its own resources to solve its own problems, and 2) To help make the City of Flint a model community, worthy of emulation.

THE MOTT FOUNDATION

The Charles Stewart Mott Foundation, a family philanthropy, was established in 1926 by C. S. Mott, automotive pioneer and resident of Flint since 1907. It was founded "for the purpose of supporting religious, educational, and recreational activities for the public benefit."

In 1935 the Mott Foundation, with a modest grant to the Flint Board of Education for the purpose of underwriting after-school recreational activities, began a partnership with a public school system unique in the history of philanthropic giving. In thirty years of partnership the Foundation has channeled more than $26 million through the Flint Board of Education, underwriting programs in recreation, adult education, curriculum experimentation and enrichment, social services, and health as part of the development of the Flint Community School Program.

Says C. S. Mott:—

"We scatter out shot too much when we try to do good.

I'm dumping mine right here in my own home town. Maybe we can make a model city and show others how to do it."

Limited grants have been made in recent years by the Foundation to institutions of higher learning and some other communities, where such grants are conceived by the trustees as contributing to the propagation of the community school philosophy or where they directly benefit the community of Flint.

The Foundation stationery carries the following inscription, descriptive of its intent:

"We approach all problems of children with affection. Theirs is the province of joy and good humor. They are the most wholesome part of the race, for they are freshest from the hands of God."

THE MOTT PROGRAM

The Mott Program is partner to the Flint Board of Education. By channeling Mott Foundation funds through the Flint Board of Education, the Mott Program is created—a program of community education for all ages, utilizing the existing facilities of the public schools. Shops, classrooms, pools, gymnasiums, and equipment are made available to the entire city without the cost of providing new buildings. Moreover, there is a school within walking distance of every man, woman, and child, conveniently located to attract the entire community to its varied programs of education, recreation, and cultural enrichment.

Open summer and winter, five evenings a week and on Saturday, Flint's community schools serve the needs of 90,000 children and adults each year. The Mott Program is divided into the following divisions:

The Adult Education Program;
The Community Recreation Program;
The Community School Program;
Mott Camp for Boys;
Big Brothers of Greater Flint;
The Stepping Stone Program for Girls;
Experimental Programs;
Curriculum-Related Programs;
Workshops—Visitations, Communications; and
Administration and Auditing.

The adult education program offers 1200 courses to approximately 70,000 registrants each year in more than 50 community schools and 14 other community centers. Classes include those in home arts, basic education, trades and industry, city beautification, recreation skills, parent education, music, art and crafts, and academic subjects such as language, economics, and mathematics. Some registrants consider their classes a hobby, others look upon them as a re-training experience for job up-grading and career development. If twelve people request a course, a teacher is found and space is scheduled for the class.

The community recreation program operates summer and winter and involves thousands of adults and children in baseball, basketball, golf, swimming, and gymnastics, to name but a few. The Flint Olympian and CANUSA Games held each summer involve more than 8,000 Flint citizens of all ages, participating in 28 sports.

The community school program operates in all public schools in Flint. With a community school director assigned to each school, the vast program reaches into almost all aspects of life. Included are the Breakfast Program and the Community Counselor, the Police-School Liaison Program, and General Services.

The Breakfast Program has existed for three decades, and is operated in a limited number of schools for children who show a loss in, or no gain in, weight.

The Community Counselor is a woman who serves the immediate school community in a myriad of ways: legal aid referrals, health

referrals, budget and nutrition planning. She knows the people with whom she works, understands their problems and works with them to solve them.

The Police-School Liaison program exists in the 12 secondary schools, and is composed of juvenile officers who work within the schools as a preventive to crime, not as punitive agents. They wear plain clothes, and are paid in part by the Flint Police department and in part by the Mott Program of the Flint Board of Education. Each year a national Police-School Liaison conference is held in Flint, as more cities throughout the country launch similar programs.

General Services works with existing agencies, parochial schools and Flint's community schools in transporting conference accoutrements, and in handling the logistics of much physical operation of the community schools.

Mott Camp for boys, 20 miles from Flint on Pero Lake, offers five two-week sessions for 675 boys each year. The children are from 10 to 15 years of age, and are selected by teachers, principals, and sisters in parochial schools. The camp also provides a week's vacation for handicapped children.

Big Brothers of Greater Flint is the largest Big Brother program in the United States and Canada, serving 1200 boys with the help of nearly 900 volunteer Big Brothers and 315 service agencies in the area. The organization also works with the community schools' Regional Counseling Teams to serve Little Brothers more fully in helping them to achieve in school.

The C. S. Mott Foundation Children's Health Center serves medically indigent children free of charge in a broad out-patient service. It offers medicine, dentistry, psychiatry, infant and maternal health care, special education, speech and hearing, and unwed teen-age counseling.

The Stepping Stone Program for Girls has 36 clubs in the various community schools. Under trained guidance nearly 700 girls each year learn about themselves, their families, and their society through group discussion. During the year many clubs spend two weeks at Hamady House, an estate given to the Stepping Stones by a Flint business man.

Experimental programs include numerous programs. Among them are the Flint Committee on Alcoholism, Community Music, Health Education and Safety, Crime and Delinquency Prevention, Police-School Cadet Program, REACH, General In-Service Leadership Training, Mott Vocational Guidance Program, the Taft Institute for Teachers, and the Farm Program. Some are self-explanatory; others need definition:

The Crime and Delinquency Prevention Department provides work experience, family counseling, tutoring, and group counseling for juvenile probationers and youthful offenders. Over the past three years program participants have been involved in 77 per cent fewer crimes against society.

County jail inmates participate in high school accredited classes, alcoholism therapy, aptitude testing, vocational training, remedial reading, vocational counseling, GED testing, and other services to nurture a more positive attitude toward society. Over 2,000 men and women have participated in the program since March of 1966.

Police-School Cadet Program operates for boys in late elementary and junior high grades. Four of Flint's eight junior high schools and the four feeder elementary schools for each of the secondary schools are involved. This is an after-school club that meets weekly, and is devoted to learning about bicycle and school safety, juvenile delinquency, community relations, crime and detection, city government, and community involvement. Resource people in the city speak to the boys, who elect among themselves their club officers. Statistics prove the success of this program.

Mott Vocational Guidance Program serves inmates and ex-inmates of three of Michigan's state penal institutions as well as the Detroit House of Correction for Women. By means of counseling, guidance, education, research, placement, and supervision and follow-up, the MVGP staff works not only with men who are incarcerated, but also with their families. Approximately 265 men have voluntarily enrolled in the program, and recidivism, as a result, has been 26 per cent, compared with national recidivism figures of 33⅓ to 70 percent.

Curriculum-related programs include Better Tomorrow for the Urban Child, Personalized Curriculum Program, Language for Deaf Children through Parent Education, and Family Life Education.

Better Tomorrow for the Urban Child was created to help inner city children become more effective citizens, both educationally and socially, through the use of additional human and material resources. Six segments compose the BTU program: pre-kindergarten, in-service education, health, curriculum development, and enrichment through the community school program. Cost was initiated and continues through the Mott Program; however, additional funds are allocated from the Flint Board of Education, and some shared programs of the state and federal governments.

Personalized Curriculum for the potential dropout exists in all 12 secondary schools, and offers a special academic program in order to encourage students to remain in school until graduation. Allied with the classroom work is a work experience program, frequently with academic credit.

Language for Deaf Children through Parent Education is co-sponsored by the Mott Program and the U.S. Office of Education in an attempt to educate parents of the value for a good educational, social and emotional climate. Through these qualities their children will develop language growth from infancy to school age. It operates with one-year interns from throughout the United States, who work with families in a five-county area.

Family Life Education is the teaching of physiology and reproduction in the city schools in grades five, eight and 12, and in the county schools in grades eight, ten and 12. The senior year students concentrate on interpersonal relationships.

Workshops-visitations and communications serve to inform educators, lay people, and the news media of the operation and function of the Flint community school program. Approximately 12,000 visitors from around the world come to Flint to see the programs and to attend state and national annual conferences.

Administration and auditing serve the goals of the Mott Program through policy, operation and finance.

HOW DOES THE MOTT PROGRAM WORK?

Community School Director

One requisite for an effective community school program is the selection of a community school director. He is a qualified teacher whose day officially begins at noon. He carries an afternoon teaching load, and directs the after-school activities of his school. He is responsible to the school principal and to his regional community school director.

Through his work the community school director becomes informed of the needs in his school area. He knows the community: Its residents, their problems, and some methods by which various problems can be solved.

Although he acquires community information from personal contact within the school among parents and pupils, he could not work effectively without a Community Council.

Community Council

The Community Council is composed of the principal, the P.T.A., the community school director, merchants and clergymen of the neighborhood, and representatives of adult and student school organizations. Meeting monthly, the Community Council relays the community's concern with such topics as juvenile behavior, neighborhood improvements, senior citizen's clubs, inter-racial harmony, and adult education courses. Each topic is delegated to a sub-committee, and it investigates the problem, searching for the best solution. The Council is assisted not only by sub-committees but also by residents of the community at large.

HISTORY OF THE MOTT PROGRAM

The Mott Program of the Flint Board of Education was born of need in 1935. The depression was taking its slow toll of morale and morality; crime was on the upswing; and children were involved.

Frank J. Manley, physical education and recreation supervisor in the Flint public schools, had an idea: If the schools could be used after school and during the summer they would provide excellent recreation centers for thousands of Flint youngsters.

As he addressed a civic group one day, Charles Stewart Mott, then vice president of General Motors Corporation and president of the nine-year old Mott Foundation, was in the audience and heard him.

C. S. Mott had been active in the Boys' Clubs of Detroit. He now was interested in Manley's idea—so interested that he presented the idea to the Flint Board of Education, and offered $6,000 to underwrite a recreation program in five Flint schools. The Board accepted his offer, and the Mott Program was underway.

Although thousands of children were engaged in the school-centered recreation programs those first years, juvenile crime was not greatly deterred. Investigation revealed that the children behaved well on the playground, but when they returned to tragic homes they reverted to the influence of their environment. Thus, the second need was recognized.

To meet the need, six visiting teachers were trained to go into deprived homes to talk with parents. The tragic conditions provided the impetus for the first stirrings of the adult education program.

Next, children's health needed attention, and a "Health Guarded" program was begun, continuing today.

Thus, it began as a recreation program in five schools—and grew to encompass 90,000 children and adults in after-school activities in all 55 community schools. It now includes a re-training program for job upgrading, a work-study program for unskilled felony offenders on probation, a city-wide senior citizens program, and an information program for families to be displaced by urban renewal and expressway development. It involves working with scores of local and county agencies, the courts, and countless individuals, all of whom are dedicated to the improvement of the total community.

As needs arise, the Mott Program stands ready to assist. But the real method is found within the community schools: Community problems solved by community resources.

THE COMMUNITY SCHOOL IDEA GROWS

Two purposes give reason for the Mott Program's existence: 1) To discover and demonstrate whereby a community can use its own resources to solve its own problems, and 2) to help make Flint's community school's worthy of emulation.

The consistent requests of other cities for the services of Flint community school di-

rectors gives evidence that the objectives are being attained. Proof of the statement lies in the fact that currently almost 250 cities have launched the community school concept to varying degrees within their respective school systems, and the number continues to grow.

To serve these many communities the National Community School Education Association was formed to act as a clearing house for information. In addition, regional centers at several universities and colleges were established in order that they might give assistance and direction to the propagation of the community school concept in cities and towns served by the institutions of higher learning.

FROM AROUND THE WORLD

Scarcely a day passes that the Flint community schools do not have visitors from various parts of the United States, from Europe, Africa, Asia, and South America. Their number has grown to 12,000 each year. Educators, government officials, parents, graduate students, and contingents from metropolitan cities come to Flint to view the community school program in operation.

New nations and changing economies abroad have problems similar to those abounding in this country. Illiteracy and migration from rural to industrialized areas are not unique to any nation. We are united internationally by our problems and, hopefully, by our solutions. Our goal is the same: To seek within the community school concept dignity and productivity for our people.

Guests to Flint stay from one day to two weeks. They arrive in groups of 300 during the annual state-wide Community Education Workshop and the National Community School Clinic; and they come singly or in small teams almost daily throughout the year.

What is done in Flint is not original. However, what is done in Flint is long-lived, broad in scope, and of value in proving the worth of a community's assumption of responsibility for solving its community problems.

Says Dr. Peter L. Clancy, associate superintendent for the Mott Program of the Flint Board of Education:

"Flint has not solved all of its problems, but we have the means for doing so. Community school programs have not provided a panacea, but they have strengthened the community; they have improved immeasurably the health of the community, its pride and common achievements, as well as the quality of education for children, adolescents, and adults.

"These programs have helped to raise the moral tone of the community; and they have emphasized ethical values and relationships.

"We've been at it a long time, and we're just scratching the surface."

The Mott Program welcomes your comments, criticism, suggestions. It welcomes you as a visitor.

For further information, please contact the Mott Program of the Flint Board of Education, 923 East Kearsley Street, Flint, Michigan.

TOWARD THE ETERNAL SUMMER

If most of the back porch swings in Flint, Michigan, are empty and covered with cobwebs these days it's because of a united community effort designed to help the city's senior citizens continue to lead active, useful lives.

The back porch used to be the traditional place of repose for people after they had completed their traditional roles of making a living and child rearing, but Flint's senior citizens have more important things to do.

Their battle cry now seems to be "Age is opportunity," and you'll have to look around to find them. Many may be found at any one of 13 neighborhood schools attending a meeting of a senior citizen club. Others may be at a local restaurant planning a service project with a group of adults of all ages. Many are working with fatherless boys at a 50-acre camp just outside of town or visiting patients at hospitals and nursing homes. Still others are planning or returning from trips to Hawaii and Europe, while others are attending adult education classes.

In Flint, as elsewhere, more and more people are reaching retirement age, and thanks to modern medicine, they are living much longer. They have lived busy, useful lives and now they want to utilize their leisure for new and different activities designed to give them new satisfactions and renewed purpose.

The various social agencies in Flint realize their obligation to maintain the vigor of this segment of society which has contributed so much and are cooperatively responding.

The Flint Board of Education's Mott Program first attempted to fulfill the need in 1955. That year, Dr. Myrtle F. Black, now director of Extended School Services, arranged for a series of lectures on "Aging in the Modern World" in cooperation with the University of Michigan. Two years later, increasing recognition of problems of the aging led to the establishment of the first senior citizen club, in a Flint public school. With the appointment of Mrs. Doris Kirkland as coordinator for extended school services in 1963, all Mott Program activities in behalf of the aging became consolidated in the Senior Citizens Service Department. This department is now involved in some 13 different programs with more in various stages of planning.

Many of these programs are co-sponsored with other organizations in Flint who are also providing for the needs of the city's retired: The Flint Recreation and Park Board, the Greater Flint AFL–CIO Council, the Industrial Mutual Association and various church and veterans groups. The effectiveness of the programs is accentuated by the high degree and spirit of cooperation between all of the various contributing agencies.

CHALLENGE CLUB

Retired people want to be involved in worthwhile community projects. They also want to continue to grow culturally and educationally and they want to engage in recreational and social events. Challenge Club offers them the opportunity to do all of these things in the company of men and women of all ages. Meeting the first Monday of each month at local restaurants, Challenge Club members share cultural and educational programs and work together on projects designed to improve the community.

MOTT VOLUNTEERS

One significant aspect for many older persons in our changing society is that they no longer remain as a member of the household of one of their children but, of necessity, must "make their own lives." The eventual result is loneliness and the locale for such solitude is frequently a convalescent or nursing home. The Mott Volunteers are friendly visitors of all ages, who keep in touch with these residents. By reading to them, shopping for them and talking to them, the volunteer performs a useful service for shut-ins. Often the volunteers are the only contact these people have with the outside world.

SENIOR CITIZENS CLUB

Flint seniors are discovering that there is truth to the old adage about the grass being greener right at home. They are finding fun and friendship at the senior citizen clubs in 13 neighborhood schools. Here, too, they enjoy a mutually invigorating and beneficial contact with young people. One of the clubs is for deaf senior citizens and another is a Sunday afternoon group, started because this is a time of great loneliness for older people.

Each club is guided by a community school director but here the similarity ceases. Meetings and activities at each school are scheduled in compliance with the desires of the membership. Games, such as progressive pedro and bingo, guest speakers, square dancing, tours and potlucks are among the more universally popular activities. But it's not all play and the seniors can be counted upon to help out with neighborhood betterment projects of all kinds. More and more Flint retirees are discovering the pleasure and satisfaction that's to be had—not thousands of miles away with strangers—but with friends just down the block at the neighborhood school.

PERSONAL AFFAIRS MONTH

Co-sponsored each May with the Flint Estate Planning Council, Personal Affairs Month is of special interest to senior citizens because emphasis is placed upon better management of personal affairs, health care, and financial responsibilities to dependents.

RADIO QUESTION MART

This radio program is a 30-minute weekly offering on local station WMRP. Individual speakers and panels discuss subjects of vital interest to retirees. The subject might be social security, hobbies, insurance or medicine, and time is allocatd each program so that listeners may phone in questions.

SANTA CLAUS ANSWERING SERVICE

"Is Santa going to make it this year?" Add this kiddie query to 3,562 others and you get some idea of why many Flint seniors enjoy this opportunity to communicate with children each Yuletide season. For one month before Christmas, between the hours of 9 till 5, the kids call in for a chance to talk with "Santa" and check on the health of Mrs. Santa and all the reindeer.

SENIOR CITIZENS' NEWS

One of the most ambitious projects of Flint's retired community, the Senior Citizens News was started in 1963 and is the responsibility of a special group known as "Senior Adults, Inc." The paper's masthead declares that the purpose is ". . . to give seniors opportunities to express themselves," and each month its pages are filled with those expressions in the form of news columns, editorials, want ads, poetry, and reminiscences of all sorts. Circulation is now 3,000 and continues to grow because of a novel readership-building idea which allows each subscriber to name two acquaintances who receive the paper free. In cases where no names are submitted, the free copies go to convalescent homes or hospitals.

SENIOR TRIP DIVISION

In addition to publishing the paper, Senior Adults, Inc. has a travel division with nearly 400 members. In the past, this group has arranged trips to Hawaii, Alaska and Europe. Assistance with the planning and the furnishing of guides is contributed by Senior Citizens Service Department.

PRERETIREMENT EDUCATION

Most workers in middle age look forward to retirement but as it approaches they are apprehensive. Much of this feeling is due to the lack of any kind of planning. For this reason, 8-week sessions in preparation for retirement are available to individuals and organizations. The program is designed to prepare people to make the best possible use of their retirement years. It consists of eight 2-hour sessions dealing with such topics as physical and mental health, finances and meaningful use of leisure time. The classes are conducted by 22 leaders specially trained by the University of Michigan's Division of Gerontology. The Mott Program shares sponsorship of this program with the Flint Recreation and Park Board, the Greater Flint AFL–CIO Industrial Union Council, the Industrial Mutual Association, the Manufacturers Association of Flint and the University of Michigan Extension Service.

SUGAR BUSH

Each year dozens of senior citizens volunteer during the 6-week maple syrup season to assist the Big Brothers of Greater Flint at the 50-acre IMA-Sugarbush Camp. They serve in a wide spectrum of duties which include collecting and boiling sap, cooking and serving meals and clean-up. This program is mutually advantageous since thousands of fatherless boys and other school children benefit from the visit to the camp and the seniors profit from the opportunity to work with younger children. The latter are rewarded each season with thousands of sticky smiles.

TELEPHONE REASSURANCE SERVICE

Regular telephone calls offering encouragement and stimulation are made to oldsters living alone and, often, in poor health. It is the friendly voice that cares to people in need of such help. The service may be personally requested or it may come from doctors, relatives or visiting nurses. The calls are made each week-day from 9 a.m. until 5 p.m. There is no limit to the length of time a person may receive this help.

FUTURE PLANS

By the very nature of the rapidly increasing needs and numbers of its recipients, senior citizen services constantly change and expand. As new needs evolve and demand satisfying, programs are begun, changed and supplemented. Two being presently developed are the Home Delivered Meal Program and local application of the Wallace Project. The Home Delivered Meal Program was planned in the belief that the independence of the elderly must be maintained as long as possible and encourages recipients to continue to maintain their own homes. It is financed by federal and Mott funds with assistance from the Industrial Mutual Association. When fully implemented, the program will provide hot meals for those unable to prepare their own because of recent illness, physical incapacity, or necessary adherence to special diets. It will be the purpose of the Wallace Project to train people for leadership roles in senior citizen activities.

ADULT EDUCATION SCHOLARSHIPS

Any person in Genesee County 65 years of age or older is eligible for a scholarship entitling him to enroll in adult education classes free of charge. Once a scholarship card is issued it remains valid indefinitely. Nearly 900 senior citizens have taken advantage of this educational opportunity.

REHABILITATION NURSING TECHNIQUES

This is a training program designed to teach nursing home employees the most modern techniques for the care of the chronically ill or the aged. It is held at Flint Community Junior College in cooperation with the Visiting Nurse Association, the city health department and the Genesee Rehabilitation Association. It was developed because of numerous requests by nursing home operators.

[From the Idaho Statesman, July 25, 1971]

COMMUNITY SCHOOLS OPERATE FOR FUN, RECREATION, HOBBIES FOR ALL

(By Carrie Ewing)

Community Schools is really about play and fun, recreation and hobbies for all ages . . . and the practical idea of reverting the benefit of the taxpayer's dollar into channels of pleasurable activity.

Questionnaires will be circulated soon in the Boise Model Neighborhood to glean ideas from residents about the activities they wish to have initiated in the three Community Schools now in operation.

And community spirit no doubt, will be the result of all the togetherness that is anticipated by the Director Tom K. Richards, 815 Lemp, and the coordinators at the three schools where the program has been operating since July 6.

They are Dennis Robison, 2304 North Sixteenth, at Lowell Elementary School, 1507 North Twenty-eighth; Steve Conley, 1002 North Twenty-seventh, at Whittier Elementary School, 301 North Twenty-ninth; and Harry Lee Kwai, 827 North Sixteenth, at East Junior High, 415 Warm Springs Avenue.

A preface sheet on the questionnaire notes: "Community Schools are planned to keep the school building in your neighborhood open at the times you want it open. We will do all possible to offer academic, recreational and cultural programs, depending upon your wishes."

Coordinator Lee Kwai said the aim is to open public school buildings year around, including weekends, early mornings, and evenings and use them to serve the citizens in any manner they feel will make the community a better place to live.

Credit for conceiving and initiating the program goes to Dr. Stephenson S. Youngerman Jr., superintendent of the Boise Independent School District, Lee Kwai said. Operated by the Boise Independent School District, Community Schools is one of the projects authorized and funded by Model Cities. Present regulations restrict the Community Schools operations within the borders of the Model Neighborhood.

But Lee Kwai emphasized enrollees may come from anywhere and no boundary line exists. He said persons throughout the Boise area are urged to unite with the program at no cost. School facilities are used in all activities.

One other benefactor has given the Boise project the initial boost by providing "seed" money for the director and coordinators to go to Flint, Mich., to study the Mott Community Sschool "success story," at Cook Elementary School, where the plan originated. This is where Dr. Youngerman had experience with the concept of Community Schools.

Through the Flint Board of Education, Charles Stewart Mott, an executive of General Motors, financed the program because he saw the need for more efficient utilization of the public school buildings and the promotion of community spirit.

Because of the acclaimed success of the Flint venture, Mott created the Mott Foundation, which provides the seed money to cities over the United States to embark on Community Schools.

The purpose of the questionnaire is to ascertain the kind of program people wish to see operate in the Community School.

In addition to the director and coordinators, Marilyn Henderson, 2809 Alamo Road, serves all three Community School locations as office and records supervisor.

Each coordinator during the school term will teach two regular school classes in the afternoon, then remain at the school plant to coordinate the evening activity.

Acting as liaison between parents, faculty and the child will be one individual at each of the three school facilities "to go to the root of any problem that may be a hindrance to the child's social and educational progress."

Another factor, though, really keeps the "ball bouncing," according to Lee Kwai—volunteer help—high school and college students and graduates, who supervise, teach, coach and assist in any way possible.

"They are imbued with the idea of friendship, of doing something to help their fellow man," he said. "They want the school to be the center of community life like it use to be. In times of fast social change, we're losing sight of what true brotherhood and community spirit is like. We hope with Community Schools to regain that spirit."

Even the volunteers are carefully screened, Lee Kwai said, through the volunteer help of SCOOP (Student Coordinating Office for Opporunity Projects) a service organization on the Boise State College campus.

"The potential is limitless. This is only the beginning. We hope to initiate this program in every school in Boise. Every man has his destiny," he beamed, "and I know this is mine."

Programs already established at East Junior High include:

—The pre-school session which opened Wednesday morning for children between the ages of three and six years.

Volunteer Howard Warren, of Park Road, Eagle, is instructor and supervisor in recreational areas, story telling, arts and crafts and singing. The 9–11:30 a.m. session is open at no charge to all pre-school age children. Screened volunteers are awaiting assignment.

—For women wishing to retain or regain a desired size or shape a slimmastics class convenes at 10 a.m. on Monday, Wednesday and Friday.

—Volley ball competition for men and women is offered on Tuesday and Thursday nights.

Activities for children six to 18 years of age start at 1 p.m. each day.

—Sports of many varieties are, or will be, offered. In the words of Lee Kwai: "The potential is limitless."

When answers to the questionnaires are compiled, the director of the Community Schools program and coordinators expect to use them as guidelines for incorporating projects of interest to "the people."

To enroll, persons may contact the Community Schools office at 301 North Twenty-ninth or telephone the office, Lee Kwai said. This applies to all three school locations.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1485

At the request of Mr. RIBICOFF, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1485, to establish a Department of Education.

S. 2440

At the request of Mr. CRANSTON, the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. STEVENSON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Illinois (Mr. PERCY), the Senator from Indiana (Mr. HARTKE), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 2440, a bill to amend title 23 of the United States Code to authorize construction of exclusive or preferential bicycle lanes, and for other purposes.

SENATE JOINT RESOLUTION 108

At the request of Mr. CRANSTON, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of Senate Joint Resolution 108, a joint resolution to declare a U.S. policy of achieving population stabilization by voluntary means.

SENATE JOINT RESOLUTION 164

At the request of Mr. COOK, the Senator from Colorado (Mr. DOMINICK) was added as a cosponsor of Senate Joint Resolution 164, proposing an amendment to the Constitution of the United States relating to the assignment and transportation of pupils to public schools.

SOCIAL SECURITY AMENDMENTS OF 1971

AMENDMENT NO. 464

(Ordered to be printed and referred to the Committee on Finance.)

Mr. MONTOYA. Mr. President, with the passage of the medicare program during the last decade, the Congress took a major step toward promising to meet the needs of our elderly citizens for adequate medical care. Today, along with 23 other Senators, I am offering the Senate another opportunity to finish the job it began 6 years ago. Although troubled and imperfect, the medicare program has done a job of assuring senior citizens that, at least in part, their needs for health care will be met. But that promise which we made to our elderly is incompletely kept.

We know the medicare program should do a more complete job of meeting the total health needs of the post-65 population. We have nonetheless left a major loophole in the program. I refer, Mr. President, to the unkept promise of the Congress that medical care for the elderly would eventually include a reimbursement program for prescription drugs. This promise is too long unkept. The history of this necessary expansion of the medicare program has included far too many promises, far too many studies, and far too many studies of the studies. The conclusions have long been drawn, the needs have long been obvious, and the cost factor too long known. The Congress this month has another opportunity to fulfill the promises we made so long ago.

Mr. President, I should like very briefly to remind the Senators of the painful and complex history of our inclination to expand medicare by the inclusion of prescription drugs.

On February 4, 1965, the ranking minority member of the Committee on Ways and Means, Mr. Burns, introduced H.R. 4351, which contained a provision to cover the cost of "drugs and medicines which may be purchased only upon a doctor's prescription."

On March 24, 1965, the chairman of the Committee on Ways and Means, Mr. MILLS, introduced H.R. 6675, incorporating the decisions of the committee and which, with amendment, became the medicare law. The bill, as reported by the committee, did not contain a provision to include the costs of prescription drugs under basic or supplementary insurance plans contained in the bill.

It was clear, even at this early point, that we had "medicare," but that it was incomplete. Our achievement was title XVIII of the Social Security Act, which effectively established a program of health insurance for the aged. The program contained two related health plans, a basic hospital insurance program—part A—and a supplemental medical insurance program—part B. Neither program included coverage for drugs.

It was quite clear in 1965, as it is quite clear now, that one of the major medical needs of the elderly is their need for continuing out of hospital drugs. It takes only a cursory examination of those ailments which require massive and sometimes cost prohibitive ongoing doses of maintenance drugs.

Nearly 25 percent of the 1.7 billion prescriptions filled yearly in the United States are filled by senior citizens. Although they constitute only about 10 percent of the total population, they account for nearly 25 percent of all prescription drug costs. The need for the program is easy to understand. The difficulty in providing it is more difficult.

On April 9, 1965, H.R. 6675 was referred to the Committee on Finance of the Senate. On April 13, Senator HARTKE pointed out that the costs of prescription drugs were not covered under the bill passed by the House and introduced the proposed Drug Stamp Act of 1965. The Hartke proposal would not have amended the program proposed in H.R. 6675 to pay for the costs of drugs prescribed for every beneficiary, but would have established a separate drug stamp program.

On June 28, 1965, Senator JAVITS offered an amendment pertaining to H.R. 6675 to include the costs of prescription drugs under the supplementary medical insurance program.

During the floor debate, Senator JAVITS proposed an amendment which would charge the Secretary of Health, Education, and Welfare with the responsibility of making a study of the ways in which the costs of prescription drugs could be included under the supplementary program—part B. The Javits amendment was passed by the Senate, but was later deleted after the Senate conference with the House on H.R. 6675—July 26, 1965.

This, Mr. President, was the first of many expressions of intent on the part of the Congress to study the probability of a drug program. The Federal Government has since then very much involved itself in "studies," "task force committee reports," "conclusions," and "promises."

But let us return to our discussion of the background of these promises.

On June 30, 1966, Senator Douglas introduced S. 3578, a bill to include the costs of prescription drugs as a reimbursable medical expense under the supplementary medical insurance—SMI or part B—program. The co-insurance provisions of the SMI program would not apply to drug expenses. The bill also offered a mechanism for determining the amount of liability the program would pay. In brief, a formulary committee would determine qualified drugs and allowable expenses for such drugs. These allowable expenses would be based on the lowest cost at which the drugs could be obtained, including the cost when bought by generic name. The bill was referred to the Finance Committee as an amendment to H.R. 13103.

On October 13, 1966, the Senate adopted H.R. 13103, including the Douglas amendment.

On October 19, 1966, the Douglas amendment was deleted from H.R. 13103 after a Senate conference with the House.

Although much discussed, and several times attempted by the end of 1966, the medicare program still lacked any provisions to cover the expenses of out-of-hospital prescription drugs.

On January 23, 1967, the President sent to the Congress his message on aid for the aged in which he stated:

> Finally, Medicare does not cover prescription drugs for a patient outside the hospital. We recognize that many practical difficulties remain unresolved concerning the cost and quality of such drug. This matter deserves our prompt attention. I am directing the Secretary of Health, Education, and Welfare to undertake immediately a comprehensive study of the problems of including the cost of prescription drugs under Medicare.

And so, Mr. President, the Federal Government, in 1967, still expressed a willingness to "study the problem." But meaningful action was minimal. On June 1, 1967, the Secretary of Health, Education, and Welfare announced the formation of an interdepartmental committee, or task force, to carry out this study.

On February 20, 1967, at the request of the administration, the President's proposed changes in the social security program were introduced in H.R. 5710 by the chairman of the House Committee on Ways and Means, Representative WILBUR MILLS, of Arkansas. Since the administration had announced again its intention to study the drug benefit issues, the bill did not contain any provisions to include the costs of outpatient prescription drugs under medicare.

In August of 1967, three bills—S. 17, S. 110, and S. 1818—were introduced into the Senate to provide payments toward the costs of outpatient prescription drugs under the supplementary medical insurance program.

S. 1818, introduced by Senator COTTON, would have included the first $180 of expenses incurred for prescription drugs under the SMI program.

S. 110, introduced by Senators AIKEN, MANSFIELD, and PROUTY, was substantially the same measure which the Senate had adopted in 1966—the Douglas amendment. The only change from the Douglas amendment was the addition of wording to permit the formulary committee to approve "an acceptable version" of a drug, rather than require that the lowest cost drug on the market be used.

In August of 1967, I, along with 21 other Senators, introduced S. 17 which provided under part B of the SMI program coverage for drugs in accordance with the schedule of allowances established by a formulary committee. This bill provided for direct reimbursement of the consumer, a $25 deductible requirement, and the 20-percent coinsurance provisions of part B. The proposed effective date of the measure was July 1, 1969.

Later in the fall of 1967, S. 2299 was introduced by Senator LONG. Under this legislation, a drug quality and cost control program was to be established for the use of Federal funds used to pay for drug costs under public assistance programs, and for drug costs in the hospital insurance program of medicare—inpatient prescription drug costs. S. 2299, therefore, only applied to existing drug financing programs in the Social Security Act and did not add new benefits under any of the medical assistance programs or hospital insurance programs found in the act. The legislation did, however, constitute an extremely de-

tailed and innovative method for organizing the formulary provisions necessary to any Federal drug program.

S. 2299 established a mechanism to restrict the use of Federal funds for drugs which are essential for the treatment, cure, diagnosis, or prevention of disease, providing that such drugs are of an acceptable quality. The exact amount of the liability for drug costs, which the Federal Government would meet, would also be determined by this mechanism.

This formulary would establish a "reasonable range" of allowable cost for each of the drugs included in its listing. In arriving at the reasonable cost range, the formulary committee would consider as costs the prices at which such a drug would be generally available to the ultimate dispenser of the drug under its established name, or if lower, by a trademark designation. The cost range would be determined from among only those products which were of an acceptable quality. Where a particular drug product was shown to have distinct therapeutic advantages over other products having the same established name, the product would be listed in the formulary under the trade name or other designation and reasonable cost range established for this product at the price at which the product was generally available in the marketplace.

This very briefly, Mr. President, is the summary of legislation pending in the summer of 1967 which would have directly or indirectly affected the ability of citizens to receive Federal Government assistance in the procurement of prescription drugs. It is worth while, at this point, to review the status of the studies of the problem at that time.

In a memorandum to the Committee on Finance on September 1, 1967, the Secretary of Health, Education, and Welfare stated:

> I must tell you that after reviewing with members of the Task Force the formidable difficulties involved in this matter (prescription drug legislation), I would be extremely reluctant to see any action taken before the Task Force study is completed.

On November 14, 1967, the Committee on Finance reported out H.R. 12080 with amendments. Neither my amendment nor Senator LONG's were included in the committee bill. In the place of any remedying provision was a drug study amendment which Senator HARTKE had offered during the markup of the bill. The committee report explained the drug study amendment:

> On the basis of the testimony received during public hearings and further discussion in executive session, the Committee has agreed to direct the Secretary of Health, Education, and Welfare to investigate and report to the Congress by January 1, 1969, the effects of proposals for (1) the inclusion of certain prescribed drugs under the SMI program established by Part B, Title XVIII of the Social Security Act; and (2) the establishment of Federal standards of quality and cost of drugs provided to certain individuals under other titles of the Act.

Incredible as it may have seemed to those who were awaiting such a program, the committee report established still more study of the effects of a prescription drug program.

Two days after the report during the debate on the social security bill, I offered my drug program as a floor amendment. A motion to table it was carried 37 to 33. A motion to table reconsideration was carried 34 to 32.

On November 21, 1967, the Senate adopted the Long formulary amendment by a vote of 43 to 37 and sent it to conference with the House. The Long amendment was deleted by conference action, although a drug study proposal was adopted by the conference committee and enacted into law on January 2, 1968. We have reached 1968 in the history of these proposals. It should be quite clear that nothing had been achieved, but a rather thorough study of the idea.

On February 7, 1969, the final report of the "Task Force on Prescription Drugs of the Department of Health, Education, and Welfare" was issued. One of the most significant findings of the Task Force on Prescription Drugs concluded:

> In order to improve the access of the elderly to high quality health care, and to protect them where possible against high drug expenses which they may be unable to meet, there is need for an out-of-hospital drug insurance program under Medicare.

The task force further concluded that such a program would be both "economically and medically feasible and should be instituted." Specifically, the task force proposed or suggested that consideration be given to a variety of features in the design of an insurance program in order to constrain costs. It suggested that initially coverage should be given to prescription drugs most likely to be essential in the treatment of chronic disease, that consideration be given to an annual deductible of $50 or $100, or that benefits might be initially restricted to those over some age such as 70 or 72, that a formulary be used in part for the purpose of constricting costs and that utilization review procedures be developed for the same purpose. Some of these proposals, such as that relating to a formulary, were advanced in part also for reasons of "high quality medical care" and "rational prescribing."

It should be quite clear that by 1969 the issue had received more than the usual study. Both the Congress and the executive branch of the Federal Government had explored the benefits and the difficulties of a prescription drug program. And yet on March 24, 1969, Secretary Finch appointed a committee to review the findings and recommendations of the Department's Task Force on Prescription Drugs—sometimes referred to as the "Dunlop Committee". Yes, Mr. President, a study to study the study.

On July 23, 1969, the review committee submitted its findings to Secretary Finch. The review committee concluded that the Secretary of Health, Education, and Welfare should recommend an administration decision for an out-of-hospital drug insurance program under medicare.

Specifically, the review committee, commenting upon the task force recommendations, found that: The limitation to chronic disease treatments and the exclusion of acute cases is not regarded as advisable or administrable; that an age limitation other than over 65 is undesirable; that an annual deductible provision which imposes a requirement on the patient as an individual to keep records should be avoided; that coinsurance provisions are less desirable than copayment features; and that most of the members of the committee were of the view that a required national formulary would not be appropriate for an out-of-hospital prescription drug insurance program—a purely advisory national formulary, with utilization review on the basis of the experience of a number of formularies developed on a locality basis, might possibly be appropriate.

The review committee favored an out-of-hospital prescription drug program under medicare which would incorporate a copayment arrangement so that the patient would be required to pay a fixed dollar amount for each prescription; and a vendor reimbursement mechanism, so that pharmacists and other vendors rather than beneficiaries would be reimbursed based upon practice in the locality by type of outlet added to the acquisition cost of the drug product. The committee concluded that the program should be administered under part A of title XVIII of the Social Security Act and that a utilization review would be essential to the success of the program.

Mr. President, I do not suggest that all of the examination and study and consideration of the prescription drug program has been of no use. Quite the contrary, we now have as much information and evaluation as we often should have before the enactment of a new program. The legislation which I have introduced this session, S. 936, incorporates many of the changes recommended by executive branch studies, and evaluated in public hearings held by the Congress. The prescription drug program created by S. 936 would be administered under part A rather than part B of the Social Security Act. It contains a copayment rather than a coinsurance approach. It incorporates a vendor mechanism for reimbursement rather than payments to individual consumers. These features tend to streamline and make more efficient all conceivable administrative procedures.

The prescription drug program which I today reintroduce as an amendment to H.R. 1, in short incorporates most of the productive changes recommended by the many years of study and deliberation. It includes a formulary mechanism considered by most who have studied the problem to be the most workable and the most equitable. It eliminates no segment of the elderly who are currently eligible for social security. It provides for reimbursement procedures along the lines tried and proved workable in several State programs. I am hopeful that the history of prescription drug coverage under medicare is nearly complete.

In February of 1971, Congressman OBEY of Wisconsin introduced a companion bill to S. 936 in the House of Representatives along with over 80 sponsors. With substantial support in the House of Representatives and a long history of support in the Senate, I am hopeful that

we at long last have reached the time when we will fulfill our promise to our elderly citizens.

FOREIGN ASSISTANCE ACT, 1971—AMENDMENT

AMENDMENT NO. 465

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. STEVENS. Mr. President, today I am submitting an amendment imposing reciprocal trade restrictions on nationals of countries which impose restrictions on our citizens owning or managing businesses abroad.

If a foreign country imposes restrictive or prohibitory taxes, limitations or conditions on business ownership or management by our citizens, this bill will require the President to impose similar restrictions on nationals of that country doing business in the United States. Within 30 days the President must inform Congress of his actions and may at that time request any additional legislation he deems necessary.

I am introducing this legislation because many of our citizens doing business abroad are faced with foreign laws restricting ownership of businesses to nationals of the host country. At the same time, nationals of those same countries freely invest considerable amounts in American businesses. The net result is an unfair advantage to citizens of those other countries.

One such country, Japan, has presently invested over $200 million in Alaska, in industries ranging from forest products manufacture, to the harvest and manufacture of marine products, to the production of petroleum and natural gas. Japanese investment worldwide was expected to double to nearly $1 billion worldwide during the last fiscal year and to rise to approximately $3 billion by 1975. Alaska will probably continue to receive far more than its share in areas such as coal production, forest and marine products, iron ore, and natural gas.

Yet at the same time our citizens will continue to face unreasonable, artificial obstacles to their attempts to invest abroad in Japan and many other countries. The purpose of this bill is to bring about a change in the attitude of these foreign states, which depend so heavily upon American investments. I, therefore, urge favorable consideration of this amendment.

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

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

AMENDMENT NO. 465

At the end of the ball add the following new section:

"RECIPROCAL TRADE RESTRICTIONS

"SEC. . (a) If the President determines—

"(1) that any foreign country is imposing or enforcing any taxes, restrictive maintenance or operating conditions, or limitations on ownership or managerial participation on or against citizens of the United States having any interest in a business concern in that country; and

"(2) that the United States is not imposing or enforcing substantially similar taxes, exactions, conditions, or limitations on or against nationals of that country having any interest in any business concern in the United States,

he shall take actions to impose and enforce substantially similar taxes, exactions, conditions, or limitations on or against such nationals of that country.

"(b) Not later than 30 days following any determination and action under subsection (a), the President shall transmit to the Congress a report thereon. Any such report may include recommendations for such additional legislation as the President deems necessary to impose or enforce fully the substantially similar taxes, exactions, or limitations referred to in such subsection;

"(c) For the purpose of this section—

"(1) 'citizens of the United States' includes any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens; and

"(2) 'nationals of that country' includes any corporation, partnership, or association not less than 50 per centum beneficially owned by nationals of a foreign country."

THE TRANSMITTAL TO CONGRESS OF CERTAIN INTERNATIONAL AGREEMENTS—AMENDMENTS

AMENDMENT NO. 466

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. CASE submitted amendments, intended to be proposed by him, to the bill (S. 596) to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within 60 days after the execution thereof.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 459

At the request of Mr. ALLEN, the Senator from Georgia (Mr. TALMADGE) and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of amendment No. 459, to S. 1612, the Rural Community Development Revenue Sharing Act of 1971.

NOTICE OF HEARINGS ON SENATE JOINT RESOLUTION 108

Mr. CRANSTON. Mr. President, I announce, for the information of Senators, that the Special Subcommittee on Human Resources of the Labor and Public Welfare Committee will hold a full day of hearings on Senate Joint Resolution 108, the Population Stabilization Resolution, on Thursday, October 14, beginning at 9:30 a.m. in room 6202 of the New Senate Office Building.

These are expected to be the concluding hearings on this resolution of which the Senator from Ohio (Mr. TAFT) and I are the principal sponsors. Testimony will be heard from Dr. Louis Hellman, Deputy Assistant Secretary for Health, Population Affairs, and Dr. Robert Gilkey, Director of the Office of Education's Environmental Education program, both from the Department of Health, Education, and Welfare; a panel composed of Mr. John Robbins, chief executive officer, Planned Parenthood/World Population, Gen. Andrew O'Meara, national chairman, the Population Crisis Committee, and Mr. Richard Lamm, president, Zero Population Growth; Mr. Arthur Godfrey; Dr. Phillip Hauser, professor of sociology, and director of the Population Research Center, University of Chicago, and former Director, Bureau of the Census; a panel composed of Canon Michael Hamilton of the Washington National Cathedral, Dr. Warren Reich, Kennedy Scholar at the Georgetown Institute of Bioethics, and Rabbi David Feldman, author of "Birth Control in Jewish Law," of the Bayridge Jewish Center, Brooklyn, N.Y.; and Mrs. Randy Engel of Pittsburgh, Pa., representing "Women Concerned for the Unborn Child."

FREE PRESS HEARINGS—NEXT WEEK'S WITNESSES

Mr. ERVIN. Mr. President, because of the great public interest in the current hearings by the Constitutional Rights Subcommittee into Freedom of the Press, I ask unanimous consent that a list of the witnesses we expect to hear next week be printed in the RECORD.

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

SENATE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS—HEARINGS ON FREEDOM OF THE PRESS, SEPTEMBER 28–30; OCTOBER 12–14, 19–20, 1971

WITNESSES LIST—SECOND WEEK

Tuesday, October 12, 1971—Room 1202—10:00 A.M.

Julian Goodman, President, National Broadcasting Company, Inc.;

Fred Friendly, Columbia University School of Journalism;

American Newspaper Publishers Association;

National Press Photographers Association, Inc.

Wednesday, October 13, 1971—Room 1202—10:00 A.M.

Professor Leonard Levy, Claremont Graduate School, California;

Professor Thomas Emerson, Yale University Law School;

Harold Andersen, President, *Omaha World-Herald*, Nebraska;

Emil Reutzel, Editor, Norfolk, Nebraska, *Daily News*.

Thursday, October 14, 1971—Room 2228—10:00 A.M.

Elmer Lower, President, ABC News;

Judge Robert B. Williamson and Fred Graham, Twentieth Century Fund's Task Force on Governmental Power and Press Freedom;

William H. Fitzpatrick, Editor, *Ledger-Star*, Norfolk, Virginia;

Magazine Publishers Association, Inc.

ADDITIONAL STATEMENTS

THE COMPETENCE OF PRESIDENT NIXON

Mr. SCOTT. Mr. President, in this political era, when emphasis rests, not necessarily on ability, but rather on style, it is comforting to stop for a moment to realize that President Nixon's support is derived from his competence and the respect the electorate has for him and the decisions he has made. These are qualities that should exist in a chief executive.

A recent incisive column written by Nick Thimmesch and published in the Philadelphia Bulletin brings these facts to light.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

[From the Philadelphia Sunday Bulletin, Oct. 3, 1971]

THE STRUGGLE FOR CHARISMA—DOES THE PRESIDENT NEED IT? NIXON IMAGE REMAINS, BUT NEW RESPECT FOR MAN CREEPS IN

(By Nick Thimmesch)

WASHINGTON.—There he is, the President of the United States, struggling with a rope—it looks like a tug of war—to get the first yard of concrete poured at Montana's Libby Dam. He and fellow-strainers, Sen. Mike Mansfield and Rep. Richard Shoup, look like candidates for a coronary or a hernia. A hardhat stands by. Hooray for the work ethic and Middle America.

There he is, rolling a bowling ball down the alley in the basement of the Executive Office Building. Only Mr. Nixon's wearing a white shirt and necktie, and doesn't look like one of the fellows at the Tuesday night industrial league. No sweat. No loud lettered shirt or bottle of beer. Looks stiff.

LITTLE REACTION IN POLLS

There he is, with Miss America, past and present. The queens seem to have picked up his woodenness, but he's trying to be as convivial as he can around these oddly pristine girls.

Alas, Mr. Nixon is not immediately likeable. When he started his comeback four years ago, I asked, "Can a pugnacious Quaker ever be lovable?" The question remains, only Democrats just plain say, "No matter what Nixon does, people don't like him." Republicans say, "Maybe so, but they respect him, and that's what counts."

The polls seem to show that the President is mostly imbedded in the public attitude, and can't move much one way or the other. In June, before the startling speeches on China and the economy, Mr. Nixon bested a conglomerate of Democrats by a 41 percent to 40.3 percent score in Dr. Gallup's testing. After those speeches, the President widened the margin to make it 42.6 percent to 37 percent. But his overall popularity only inched up two points to 49 percent approving and fixed at 38 percent disapproving of his performance.

To be so becalmed can be eerie, but old Nixon hands know the feeling. To them, there's nothing new in the President's inability to skyrocket himself in the polls. As long ago as 1958, his closest counselors fretted over the Nixon image, and his need for charisma. Each new wave of advisers goes through this concern, and it is always Mr. Nixon himself who puts them at ease.

ADMITS LACK OF GLAMOR

The President argues now, as he always has, that he is no buddy-buddy boy, is not the handsomest fellow in the republic and doesn't have glamor. Mr. Nixon quite dispassionately explains that he wants to be judged on competence and his record. He will have no part of any lovability campaigns on his behalf.

When he went among ghetto blacks in early 1969, one enthusiastic man cried out, "Soul Brother Richard." The President grinned. Some new Nixon aides thought a new era had arrived. But the President knew better. He doesn't have the Kennedy electricity. He turned down an opportunity to make a quick trip to a depressed area in Appalachia and be photographed with Vietnam veterans turned medics ministering to the poor folks there. Too much grandstanding, the President ruled.

Washington's corps of magpies and jackals love to carp on how the President wouldn't have composer Lenny Bernstein to the White House for a cultural go, or how he doesn't relate to the poor, the black, youth and the alienated, and how he doesn't radiate that old charisma, a la Kennedy or John V. Lindsay.

In fairness, President Nixon has put on more cultural nights in the White House than any other President, only they weren't overpublicized. He has as much compassion for the poor, black and alienated—that favorite litany of advocates—as any other President. He thinks, and worries, about youth.

AFTER PERSONAL MEETINGS

Whatever his lack of public charm, those who meet him for the first time and are allowed to spend some time with him, usually go away saying that he is a much different man than depicted, that, indeed, he is a thoughtful, considerate and attentive person.

Fair-minded Democrats and others (this excludes presidential candidates and elitist popinjays) respect him for winding down the war; changing our foreign policy, a hangover from World War II, to one which addresses itself to the new world, and that includes mainland China; making reform proposals for health, education and welfare, which while not conforming to the old liberal line, are truly innovative; and trying to reorganize a snarled Federal Government.

If Richard Nixon is re-elected, it won't be by a landslide. It will be because people are satisfied with his handling of U.S. foreign and domestic matters. Mr. Nixon will get nary a vote for charisma. But come to think about it, charismatic candidates aren't always swept into office, either. John F. Kennedy won by a whisker in 1960. His brother, Robert was behind former Sen. Kenneth Keating for a while in the 1964 election, and needed the ride he got on Lyndon Johnson's long coattails in New York voting.

The current glamor boy, John V. Lindsay, lost in the 1969 Republican mayoral primary in New York City, and was finally elected on a third ticket as a minority winner.

It will be an interesting test of the American electorate next year if President Nixon is up against a charismatic candidate. Will people rush to see the charisma and then, a few weeks later, in the privacy of the voting booth, vote for the pugnacious Quaker who lacks it? We'll have to wait and see.

WILL "TIME" TELL?

Mr. METCALF. Mr. President, last week, while paging through my copy of Time, I noticed some familiar names in an odd place. The name was the "nominees," "street names" or "straws" used to hide the identity of various financial interests. I found these street names in Time's ownership statement, which appears on page 92 of the magazine of October 11.

Periodical ownership statements are supposed to be published at least once a year, pursuant to Public Law 91-375, the Postal Reorganization Act. That law requires—in section 3685—that the periodical list, among other things, "the identity of the corporation and stockholders thereof, if the publication is owned by a corporation." Holders of less than 1 percent of the stock need not be reported.

According to the weekly news magazine, it is owned by Time, Inc., of which 19 stockholders each own or hold 1 percent or more of the total amount of stock.

Mr. President, let us ask Time's "stockholders" to march by.

First on the list is Carson & Co. Its address is box 491, Church Street Station, N.Y. 10018.

You have never heard of Carson & Co.? Neither has the Bell operator pouring over the Manhattan phone book.

Carson & Co., despite its financial interest in the weekly news magazine, is publicity shy. To find out more about this modest company one must look at the nominee list, published by the American Society of Corporate Secretaries at 9 Rockefeller Plaza. You will not find this in your local library. The society is as publicity shy as Carson & Co.

After an attorney and a newsman—not from Time—were both refused copies of the nominee list, I placed it in the CONRESSIONAL RECORD (June 24, 1971, No. 98—part II). And it shows that Carson & Co. really means Morgan Guaranty Trust.

Further down in Time's report on its principal stockholders appears the name Powers & Co. It has a different post office box at the Church Street Station—Box 1479. The New York telephone operator cannot find Powers & Co. either. But you can see by the Nominee List that it is—also—Morgan Guaranty Trust.

Powers & Co. shares box 1479 with another of Time's stockholders—Tegge & Co. The telephone operator is quite emphatic that, no, there is no Tegge & Co., just as there is no Powers & Co. and no Carson & Co. in the New York directory. But Tegge & Co. shows up in this year's edition of the nominee list, as yet another pseudonym used by Morgan Guaranty Trust.

Time includes among its reported stockholders Chetco, at 35 Congress Street, Boston, and Ferro & Co., at the same address. Both, according to the Nominee List, are really the National Shawmut Bank of Boston.

Time likewise lists without further identification Pace & Co., Box 926, Pittsburgh. And who is Pace? It is really Mellon Bank & Trust, according to the Nominee List.

Another of Time's stockholders is reported as Cede & Co., Box 20, Bowling Green Station, N.Y. Persons who follow regulatory matters will recall that Cede & Co. shows up repeatedly on ownership reports of power companies, airlines, and railroads, and that not long ago the Interstate Commerce Commission expressed mild interest in finding out who controlled all those Cede & Co. shares. Our friendly New York long-distance operator cannot find Cede & Co. But the Nominee List shows that Cede & Co. is the Stock Clearing Corp., at 44 Broad Street. I would add that the Stock Clearing Corp. is a wholly owned subsidiary of the New York Stock Exchange.

Mr. President, I have not made any survey of the ownership reports of other periodicals, except to note that Newsweek and U.S. News & World Report were able to report their various owners without recourse to street names, and to discover that Saturday Review Industries, whoever it is, owns the Saturday Review. I leave it to the would-be Lieblings to ferret out press ownership and its implications.

Perhaps university students and faculty will want to develop the larger issue of identifying the persons or groups who vote the proxies that cor-

porations send, I suppose, to those post office box headquarters of phantom companies.

And perhaps the Vice President, or appropriate congressional committees, will want to pursue this issue. Could it be that Carson, Powers, Tegge, Chetco, Ferro, Cede and Companies have surreuptitiously acquired more control of the country than either the radiclibs or the Mafia?

Will Time tell?

Mr. President, I ask unanimous consent that Time's ownership statement be printed in the RECORD.

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

STATEMENT REQUIRED BY THE ACT OF AUGUST 12, 1970, SECTION 3685, TITLE 39, UNITED STATES CODE, SHOWING THE OWNERSHIP, MANAGEMENT, AND CIRCULATION

Time, the weekly newsmagazine, published weekly at 541 N. Fairbanks Court, Chicago, Illinois 60611 for September 27, 1971. The General Business Offices of the Publisher are located at the Time & Life Building, Rockefeller Center, New York, New York 10020.

The names and addresses of the Publisher, Editor-in-Chief and Managing Editor are: Publisher, Henry Luce III, Time & Life Building, Rockefeller Center, New York, N.Y. 10020; Editor-in-Chief, Hedley Donovan, Time & Life Building, Rockefeller Center, New York, N.Y. 10020; Managing Editor, Henry Anatole Grunwald, Time & Life Building, Rockefeller Center, New York, N.Y. 10020.

The owner is: Time Incorporated, Time & Life Building, New York, New York 10020; the names and addresses of stockholders owning or holding 1 percent or more of total amount of stock are: *Carson & Co., Box 491 Church St. Station, New York, N.Y. 10008; *Cede & Co., Box 20 Bowling Green Station, New York, N.Y. 10004; *Chetco, 35 Congress Street, Boston, Mass. 02104; *Chine & Co., c/o State St. Bank & Trust Company, Box 531 G. P. O., Boston, Mass. 02101; *Dietrich & Co., c/o The Bank of New York, Box 11-203, New York 10049; The Equitable Life Assurance Society of the United States, 1285 Avenue of the Americas, New York, N.Y. 10019; *Ferro & Co., 35 Congress Street, Boston, Mass. 02109; *Gale & Co., c/o Harris Trust & Savings Bank, Trust Dept., 111 W. Monroe St., Chicago, Ill.; *Kane & Co., c/o The Chase Manhattan Bank, P. O. Box 1508, Church Street Station, New York, N.Y. 10008; Mrs. Margaret Z. Larsen, c/o Time Incorporated, Time & Life Bldg., Rockefeller Center, New York, N.Y. 10020; Mr. Roy E. Larsen, c/o Time Incorporated, Time & Life Building, Rockefeller Center, New York, N.Y. 10020; *Loriot & Co., c/o Manufacturers Hanover Trust Co., Corporate Trust Dept., 10th Floor, 4 New York Plaza, New York, N.Y. 10015; The Henry Luce Foundation Inc., c/o Chemical Bank New York Trust Co., 10 Rockefeller Plaza, New York, N.Y. 10020; Henry Luce III, c/o Time Incorporated, Time & Life Building, Rockefeller Center, New York, N.Y. 10020; *Pace & Co., Box 926, Pittsburgh, Pa. 15230; *Peak & Co., c/o State St. Bank & Trust Company, Box 351, Boston, Mass. 02101; *Perc & Co., c/o Northwestern National Bank of Minneapolis, Trust Dept., Safekeeping Division, Minneapolis, Minn. 55440; *Powers & Co., P. O. Box 1479, Church Street Station, New York, N.Y. 10008; *Tegge & Co., P. O. Box 1479, Church Street Station, New York, N.Y. 10008.

The known bondholders, mortgagees, and other security holders owning or holding one percent or more of total amount of bonds, mortgages, or other securities are: None.

*Believed to be held for account of one or more stockholders.

The average number of copies each issue during the preceding 12 months are:

(A) Total no. of copies printed: Net Press run, 4,492,000.

(B) Paid circulation: (1) Sales through dealers and carriers, street vendors and counter sales, 227,000; (2) Mail subscriptions, 4,017,000.

(C) Total paid circulation, 4,244,000.

(D) Free distribution by mail, carrier or other means: (1) Samples, complimentary, and other free copies, 104,000; (2) Copies distributed to news agents but not sold, 135,000.

(E) Total distribution, 4,483,000.

(F) Office use, left-over, unaccounted, spoiled after printing, 9,000.

(G) Total, 4,492,000.

The actual number of copies for single issue nearest filing date are:

(A) Total no. of copies printed: Net Press Run, 4,632,000.

(B) Paid circulation: (1) Sales through dealers and carriers, street vendors and counter sales, 243,000; (2) Mail subscriptions, 4,135,000.

(C) Total paid circulation, 4,378,000.

(D) Free distribution by mail, carrier or other means: (1) Samples, complimentary, and other free copies, 108,000; (2) Copies distributed to news agents but not sold, 145,000.

(E) Total distribution, 4,631,000.

(F) Office use, left-over, unaccounted, spoiled after printing, 1,000.

(G) Total, 4,632,000.

I certify that the statements made by me above are correct and complete.

LUCY PULLEN WERNER,
Business Manager.

TWO ECONOMIC GOALS IN SIGHT

Mr. JAVITS. Mr. President, all too often along the course of history governments have solved the most pressing problems affecting humanity in a crisis atmosphere, and by ad hoc measures. Perhaps this is an inevitable fact of human existence, but it seems painfully ironic that such should be the case when at the same time there exist men of ununusual vision ready to propose far-reaching and permanent solutions to the problems which confront us. One such set of problems at the present time is, of course, the turmoil in the international monetary system, which has so far defied attempts by the major powers of the world to find satisfactory and stable solutions.

In this context, it is refreshing indeed to find serious attempts being made at a basic reform in the international monetary system. Perhaps the most interesting proposal for reform is an article written by Lawrence B. Krause, a senior economist at the Brookings Institution, and published recently in the Washington Post. While the article incorporates many aspects of proposals currently being made by heads of government, it goes further to describe how a basic reform of the international monetary system could be used as a means both of solving the problem of the glut of dollars in the world and of correcting the gross imbalances in per capita income which occur between the developed and the developing countries of the world.

I draw attention especially to Dr. Krause's proposal that the profits from gradually selling official gold in the private market could be utilized for soft loans to less developed countries under the World Bank's International Development Association.

A more detailed explanation of Dr. Krause's views has been published recently in his book, "Sequel to Bretton Woods: A Proposal To Reform the World Monetary System." I commend this book to Members of Congress and ask unanimous consent that the summary article be printed in the RECORD.

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

[From the Washington Post, Aug. 31, 1971]

BASIS FOR WORLD MONETARY REFORM—TWO ECONOMIC GOALS IN SIGHT

(By Lawrence B. Krause)

Now that all the major currencies of interest to the United States are floating against the dollar, we are on the threshold of achieving the first of two international objectives of President Nixon's new economic policy. The two objectives are the correction of the overvaluation of the dollar to re-establish the competitiveness of American products in world markets and the reform of the international monetary system to serve better the present needs of the entire world. The overvaluation of our currency will be solved by the adoption of a new set of exchange-rate parities which will effectively devalue the dollar. As compared with their old parities, the Japanese yen might be revalued between 10 and 15 per cent, The German D-mark between 8 and 10 per cent, and the Canadian dollar might trade around par with the U.S. dollar. This will restore equity between American producers and their competitiors at home and abroad. Foreign competition will not be crippled, nor should it be. We are dependent on competition to serve the needs of the American people. Some inefficient American producers will not be satisfied, but the economic welfare of the entire country cannot be sacrificed to their special needs.

President Nixon's temporary 10 per cent import surcharge was the instrument that helped most to bring this about. While it was useful as a bargaining tool, however, the surcharge is a significant barrier to international trade. Moreover, while the surcharge is in effect, imported capital goods do not enjoy the benefit of the proposed tax credit for investment; this discrimination constitutes an additional new barrier to importation of foreign goods. When the new parities are adopted, the surcharge must be promptly removed. It is inconceivable that foreign governments could stand still while their exports were subject to all three sources of competitive loss: those caused by appreciation of foreign currencies, the 10 per cent import surcharge, and the discrimination in the investment credit. If the United States attempts to retain the surcharge after parity realignment, we will have snatched defeat from the jaws of victory, for it will bring on foreign retaliation against our exports which we have so far successfully avoided.

Our second objective—the reform of the international monetary system—will be slower in coming and will involve extensive negotiations with all interested countries. The purpose of the reform is to amend those elements of the current system which have caused periodic international financial crises. The principal aim is to encourage flexibility in exchange rates so that needed adjustments are accomplished more quickly and thus in smaller doses. The present system has rigidified exchange rates to such an extent that massive disequilibria have developed, requiring large exchange-rate changes which have enticed and enriched currency speculators. The reform should also provide a mechanism for the needed increase in international money in an orderly manner so that world prosperity will be encouraged.

There is already general agreement on

some of the elements of the reform. The International Monetary Fund (IMF) should permit exchange rates to fluctuate within wider margins around established parities. For example, they could be allowed to fluctuate within 3 per cent on either side of a fixed rate, instead of the present 1 per cent. This would allow Germany, for instance, to have tighter money if it wanted it without attracting funds from countries like the United States which had easier money. Wider margins will also provide some market evidence as to whether a particular currency is becoming over or undervalued and should change its parity.

Following from this, support is growing to amend the IMF so that "fundamental disequilibrium need not be proven before an exchange parity can be changed. If small changes—the least disruptive kind—are to be encouraged, then evidence less difficult to establish must be acceptable to verify the required case for a devaluation or revaluation. Indeed the existence of market pressures which continually force a currency to stay near its floor or its ceiling should be sufficient evidence in most instances.

There is no consensus, however, on what role the U.S. dollar should play in a reformed system. Under the old rules of the IMF, other countries stated their exchange-rate parities in terms of the dollar, and the dollar itself was specified in terms of gold. Both gold and dollars served as international money or reserves, but only dollars were actually usable by countries to intervene in exchange markets. This system permitted the United States to finance its balance-of-payments deficits by issuing new dollars, but prevented the United States from correcting its balance-of-payments problem through a devaluation of the dollar itself, since the dollar's value was determined by the collective action of other countries. The introduction of Special Drawing Rights (SDRs) as a new form of international money altered the system by making it less dependent on gold, but did little to change the role of the dollar.

It was the strain on the U.S. economy coming from the excessive dependence of the international monetary system on the dollar that forced President Nixon to suspend the convertibility of the dollar into gold or SDRs. But what comes now? In fact, a more rational system is possible which more equally spreads the burdens involved. The outline of such a system is sketched below:

First, all countries would specify the value of their currencies in terms of SDRs including the United States. Originally one dollar would be made equal to one SDR. The parity of the dollar could thus be changed almost like that of other currencies. Other countries would still intervene in their exchange markets through dollars, but they would need relatively small working balances of dollars for this purpose. The difference between the dollar and other currencies is that there would be only an indirect market test of the dollar's value. If most currencies were clustering near the top of the permitted exchange-rate margin, then the dollar itself should be devalued, and likewise the dollar should be appreciated if other currencies were near their floors. Thus, all countries would have available to them the most efficient instrument for correcting a balance-of-payments problem, namely changes in exchange-rate parities.

Second, other countries should be invited to exchange the excess dollars they hold in their official reserves for a special issue of SDRs by the IMF. The dollars would then become a permanent income-earning asset for the IMF, which would use its dollar earnings to pay interest on SDRs. Countries, if they so desire, could continue to hold dollars but they would recognize that the United States was not providing any exchange-rate guarantee on them. Needed increases in reserves would come from new issues of SDRs, since the United States would correct a ny deficit on its accounts through a devaluation of the dollar.

Third, all official gold holdings would be sold to the IMF also in exchange for a special issue of SDRs, and gold would be completely demonetized. Gold has long ceased to be a usable reserve asset and need not be retained. The IMF would sell the gold gradually to the World Bank at the old official price of $35 per ounce. The World Bank would slowly sell the gold in the private market, earning whatever premium then existed, and utilizing the profits for soft loans or grants to less developed countries. Thus the windfall profits of demonetizing gold would go to economic development in the world's poorest nations.

Some countries may not want to part with their gold reserves. It would be unwise to try to compel them to do so, but other countries would not be obliged to buy or sell gold to the non-cooperating country. Of course the country could sell official gold into the private market and earn the premium for itself. But such an action would quickly be recognized for what it was, a selfish action on the part of that country.

This is merely an outline for a reform. Many details must be added. However, it has all the essential elements of a viable system. The United States would no longer be forced to carry an intolerable burden. All countries would be treated equally. Finally, the less developed countries would be given a positive interest in the reform which is only just, given the short shrift they have gotten from the entire monetary upheaval.

PUPFISH NATIONAL MONUMENT WILL PRESERVE UNIQUE PLANT SPECIES

Mr. CRANSTON. Mr. President, on June 24, 1971, I introduced a bill (S. 2141) which would authorize the Secretary of the Interior to establish a 35,000-acre area in California and Nevada as a Desert Pupfish National Monument. The Ash Meadows area has been the home of the several species of pupfish for 20,000 years. During this time, the pupfish have adapted from the cold-water post-glacial lakes which covered the Western United States following the last ice age to a totally different and inhospitable environment, which is typified by Devils Hole—where the water is high in mineral content, low in oxygen, and 92 degrees in temperature.

Yet the pumping of water by a local ranching operation has caused the water level in Devils Hole to drop to a dangerously low level. The desert pupfish may not survive another year unless steps are taken to preserve their habitat.

Saving the remaining species and subspecies of this endangered fish, along with the protection of their habitat, is of importance not only for the maintenance of nature's diversity, but because of their tremendous value for studies of genetic evolution. Already man's needless indifference has permitted the extinction of several species, and two species which live in the Ash Meadows area are on the brink of extinction.

In the midst of the ecological battle surrounding the Ash Meadows-Death Valley area, another element has recently come to my attention, and I should like to pass it on to Senators. Botanical research conducted by Dr. Janice C. Beatley of the laboratory of nuclear medicine and radiation biology of the University of California at Los Angeles, assistant professor of botany James L. Reveal, of the University of Maryland, and others, has revealed unique species of plants growing in the Ash Meadows area—plants that are found in no other place in the world.

According to Assistant Professor Reveal:

Among these unique plants are *Mentzelia leucophylla*, now believed to be restricted to but a few bare hillsides just below and west of Devils Hole; *Ivesia eremica*, known only from low clay hills in Ash Meadows, and a plant rarely collected in flower; *Haplopappus brickellioides*, a shrub that is probably safe as it occurs in the low mountains east of Ash Meadows and in California near Death Valley—it is rare, however; *Astragalus phoenix*, an exceedingly rare plant, known from only two sites in Ash Meadows and both are threatened by farming activities . . . *Nitrophila mohavensis*, a rare species known only from an alkaline mud flat east of Death Valley Junction just inside the California state line—it is so restricted that it is not known to occur in Nevada just a few hundred yards away; *Machaeranthera ammophila*, a small, blue-flowered member of the sunflower family . . . found on the sand dunes just west of Ash Meadows in the area of renewed mining interests . . . *Grindelia fraxino-pratensis*, another member of the sunflower family that is endemic to the Ash Meadows area . . . *Eriogonum inflatum* var. *contiguum*, a recently named species which . . . occurs over a wide area in the Ash Meadows region . . . *Sisyrinchium funereum*, a lovely meadow species in the iris family . . . *Enceliopsis nudicaulis* var. *corrugata*, a new variety of sunflower that is as yet still undescribed—it is known from the west side of Ash Meadows near Devils Hole; *Cordylanthus tecopensis* is fairly common in the Ash Meadows region and southward into California along the Amargosa River—it is found nowhere else in the world, however.

Some of these unique plants were restricted by evolution to this single area; most of them are entirely different from plants in surrounding areas of Nevada and California. If a Desert Pupfish National Monument were established, not only would the desert pupfish be rescued from extinction but these unique species of plants would be preserved. As Professor Reveal states:

We are fighting time. No advanced technology will ever replace an extinct species.

SCIENCE AND POLITICS

Mr. ALLOTT. Mr. President, in recent years no feature of the legislative process has more alarmed, depressed, and, on occasion, angered me than the use to which scientific testimony has been put in heated controversies about grave policy decisions.

Too often scientists have been using their scholarly reputations to disguise partisan political agitation. Such agitation is their constitutional right; but it should not be carried out under the cover of objective scholarship.

Fortunately, this practice, and some of the more important and garish abuses resulting from it, have been skillfully evaluated by the Operations Research Society of America.

The society has issued a 135-page report on the 1969 debate about deploy-

ment of the Safeguard ABM system. A substantial portion of the report was placed in the RECORD on October 4 by the distinguished junior Senator from Washington.

Senators may want to examine that portion before Mr. Rathjens, itinerant witness and—most recently—instant expert on the SST and airline economics, next appears to lend "scientific" tinsel to whatever crusade is preoccupying left-wing activists.

In addition, Mr. President, Senators might want to consult an essay published in today's Wall Street Journal. This essay deals with some of the issues raised by the ORSA report.

The essay is by Mr. Robert Bartley, whose thoughtful contributions are one reason why the Journal's editorial page is essential reading for those who want to make sense of the more vexing and arcane workings of the Government.

I would draw particular attention to Mr. Bartley's statement that—

> The late Leo Szilard is often quoted on the difference between science and politics: When a scientist makes a statement, the question is, is it true? When a politician makes a statement, the question is, why did he say that? If they have done nothing else, the Safeguard debate and ORSA report show that these questions become almost impossibly mixed when scientists are involved in political debate.

I do not know what Mr. Bartley's official position is. He appears to be some kind of roving essayist. When I am depressed by the decline of the West or other cosmic matters, I find some solace in the hope that he is a harbinger of a new kind of serious journalism which, while it cannot halt the decline or order the cosmos, can explain it intelligently in graceful prose.

So that all Senators can profit from Mr. Bartley's essay, I ask unanimous consent that it be printed in the RECORD.

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

WHEN SCIENCE TANGLES WITH POLITICS

(By Robert L. Bartley)

WASHINGTON.—To a layman earnestly following the long and heated debates over the anti-ballistic missile, one of the most depressing difficulties has been the sharply conflicting testimony of scientific experts, not only over conclusions but over relatively simple things the methods of science ought to be able to resolve.

So it is of no small interest that a scientific society has released a 21-month study of precisely this problem as it concerned one definable aspect of the 1969 Safeguard debate. It's interesting, too, to notice the inevitability with which this report has been swept up into scientific-personal-political controversy. You start to watch the dispute with the question in mind. What can science contribute to public policy? Before your eyes, the question starts to become, Could it be that all aspects of public policy are "merely political" and that science, as science, can contribute nothing at all?

The 135-page report is by an ad hoc committee on professional standards of the Operations Research Society of America, the principal organization of cost-effectiveness analysts. It studied the conflicting answers by different scientists to a complicated but presumably manageable question: Assume that by the mid-1970s the Soviet Union deploys around 500 of its SS-9 intercontinental missiles, with multiple warheads of certain powers and accuracies, and that it fires these missiles to destroy the American Minuteman missile force. If Safeguard is not built to defend Minuteman, how many Minutemen would survive to be used in retaliation?

No one knows whether this hypothetical question in fact describes the situation that will exist in 1975; each of the many assumptions could be wrong. Even if the assumptions prove true, the question is by no means the only issue in the ABM debate. Others include whether Safeguard would succeed in defending Minuteman and, indeed, given our submarines whether Minuteman is needed at all. But the survival issue is one question science ought to be able to answer. At least, as the ORSA report notes, different scientists ought to be able to trace their different answers to different assumptions, and the debate can then center on the assumptions.

This did not prove possible in 1969. Albert J. Wohlstetter, a prestigious Pentagon consultant from the University of Chicago, calculated that 5% of the Minutemen would survive, probably not enough retaliatory power to be a credible deterrent. George W. Rathjens Jr., an MIT professor and former high disarmament official, calculated 25%. In an extended exchange of testimony and several increasingly acrimonious letters to The New York Times, they failed to reach agreement on the reasons for this difference. Meanwhile, Ralph E. Lapp, an analyst frequently published in The New York Times Magazine, contended that 75% of Minutemen would survive.

MR. WOHLSTETTER VINDICATED

The long and the short of the ORSA report is that Mr. Wohlstetter was right. He not only provided accurate calculations based on realistic assumptions, but he correctly identified Mr. Rathjens' mistakes and Mr. Lapp's absurdities. The committee did fault some presentation of some pro-ABM spokesmen, but its chief thrust is to criticize the opposition scientists, including someone no less prestigious than Jerome B. Wiesner, currently president of the Massachusetts Institute of Technology. On the survival issue, it says, the opponents' analyses were "often inappropriate, misleading or factually in error."

The problem is, though, in what context do you evaluate the report? There is a personal context. Mr. Wohlstetter suggested the study, arguing that one purpose of ORSA is to develop professional standards. Mr. Rathjens, Mr. Wiesner and other ABM opponents, who are not members of ORSA, refused to cooperate. To make matters worse, one member of the ad hoc committee had previously been involved in a personal and professional dispute with Mr. Rathjens.

The ad hoc committee was unanimous in its report, thought it included both supporters of the ABM and those who opposed it because of other issues. Five members of ORSA's 13-member governing body opposed release and publication of the report, however, on grounds that the society should not involve itself in personnal disputes.

There is also most definitely a political context, a point powerfully made in a 30-page reply that Mr. Rathjens, Mr. Wiesner and their colleague Steven Weinberg released to inquiring members of the press. They accuse the report of dwelling on the survival issue "to a disproportionate degree" of avoiding some of the major issues which were embarrassing to the administration."

They do not regard the survival issue as particularly important in the overall debate; indeed, Mr. Rathjens has always conceded that the Soviets could build a force large enough to destroy Minuteman if they were determined to do so. The bulk of their reply points out issues they regard as more central, noting for example that the Soviets are still not far along toward the missile accuracies necessary to destroy Minuteman.

While by no means conceding all of the report's criticisms on the survival issue itself, they do say, "We do not claim infallibility. We made mistakes, but we believe not serious ones: Such errors as we made were a reflection of the fact that, with limited time and resources, we devoted our efforts to the issues of fundamental concern." They regard the ORSA report, and Mr. Wohlstetter's instigation of it, as an attempt to discredit the whole anti-TBM case by focusing on a peripheral issue.

Perhaps this political context is the only one in which the episode can be judged, though what comes through in talking to Mr. Wohlstetter is not political commitment to the ABM but enormous professional pride feeling itself under challenge. Alton Frye, who opposed the ABM as a Senate aide and still holds the respect of both sides of the dispute, told a symposium on the report and the ABM debate. "The important thing to know is that the participation of scientists is governed by the rules of politics."

TWO QUESTIONS

The late Leo Szilard is often quoted on the difference between science and politics: When a scientist makes a statement, the question is, is it true? When a politician makes a statement, the question is, why did he say that? If they have done nothing else, the Safeguard debate and ORSA report show that these questions become almost impossibly mixed when scientists are involved in political debate.

Even so, is there not a valid question whether in this maelstrom of politics and personality there remains some place for science? Ought not someone ask, is it true? When other contexts rear their heads, can the scientific context be totally ignored? Is there not a valid interest above an interest of scientists—that when something is offered as science it in fact meets the tests of science, that whatever small part of the question can be settled by science at least is settled competently?

These are the questions the authors of the ORSA report wanted to address, and indeed the noted sociologist Edward Shils calls the report "a landmark" in an issue that dates to "the use of astrology and geomancy for the guidance of princes." Mr. Shils, like Mr. Wohlstetter from the University of Chicago, asks what use those who reflect on problems ought to make of their prestige, "What they can contribute when their scientific knowledge runs out," and "whether the scientists should restrain themselves."

The thrust of the ORSA report is that a place of science in public policy can be preserved only if scientists show a good deal more restraint than most of them, particularly the ABM opponents, showed in that debate. To take the simplest thing, the report's guidelines suggest that when scientists testfy in Congress they provide detailed written explanations of their calculations, in advance, for scrutiny by committee staffs and opposing experts.

USING CLASSIFIED INFORMATION

It offers equally simple guidelines on classified information: It should be used where appropriate and properly filed to make it accessible to those who might check it. In the ABM debate, detailed statements were not common, and even when the reply to the report is considered, it seems that anti-ABM calculations were based on estimates tediously extrapolated from non-classified sources when both sides had access to more accurate classified information.

More broadly, the ORSA report seeks to distinguish how the adversary process presents traps for scientific analysts to avoid. "The Senator who may want to kill a program on the ground it is fiscally irresponsible may argue against it on ethical grounds if that is the best way to win his point, even

though he himself may not have any particular ethical reservations."

Scientists, it suggests should restrain themselves from such opportunistic argument, though many did not in the ABM debate. Some scientists even argued that an alternative to Safeguard could be found in a "launch on warning" policy—firing the entire Minuteman deterrent on the basis of mere radar warnings that seem to show incoming missiles—though it's difficult to see how any responsible analyst could actually favor such a policy.

Finally, the ORSA report suggests that scientists "avoid ad hominem attacks, either veiled or overt." The record of the ABM debate is a record of one long ad hominem attack on any outside expert who happened to back the Pentagon position. There is the constant suggestion that he is a tool of the "military-industrial complex," that his opinion is nothing more than designed to win more government contracts, that he has sold out. Meanwhile anti-ABM experts are assumed to be pure and devoid of any self-centered motive, though men on both sides of any public debate seek thinks such as public recognition, advancement in certain circles, vindication of policies they backed when previously in government or simply power over the events in question.

In the MIT scientists' initial letter refusing to cooperate in the ORSA study, there is the sentence: "The role of outside consultants, such as Mr. Wohlstetter, was definitely secondary, but the extent to which they received support from the Department of Defense, and the use of Air Force aircraft to transport them to public debates, should also be examined."

The insinuation about Mr. Wohlstetter and the Air Force planes happens to be false; but what if it were true? Would that change his mathematics? Such a charge has nothing to do with the scientific question, is it true? It has everything to do, and in a rather ugly way, with the political question, why did he say it?

There is of course no law saying that a scientist can't be as political as the next man. But there is a question how long the prestige of science can be maintained if scientists see their role in public policy as little or no different from the politicians. If scientists do not scrupulously guard a certain minimum of detachment and self-restraint, what do they have to offer that the next man does not? If all questions are political, why not leave them all to the politicians?

PROF. BERNARD SCHWARTZ ON WOMEN'S RIGHTS UNDER THE 14TH AMENDMENT

Mr. ERVIN. Mr. President, a very sound piece of advice was given to the advocates of the equal rights for women amendment by Prof. Paul Freund, of the Harvard Law School. He said that all the effort that is being spent to enact a badly drafted constitutional amendment should be channelled into lawsuits enforcing the 14th amendment and specific legislative proposals. If such lawsuits were brought, Professor Freund felt that most of the goals of the women's rights advocates would be realized. Indeed, even the most extreme view in volume 80 of the Yale Law Review which has been given wide distribution by Senator BAYH and Representative GRIFFITHS concedes that the 14th amendment may be used to accomplish the goals of the women's rights advocates. The article states that—

. . . one cannot say that the possibility of achieving substantial equality of rights for women under the 14th and fifth amendments is permanently foreclosed.

I could not agree more with Professor Freund's suggestion, and I believe his contention is eloquently supported by the sections dealing with sexual classification in volume 2 of "Rights of the Person," which constitutes one of the volumes of Bernard Schwartz' excellent commentary on the Constitution of the United States.

Professor Schwartz' article concludes there is no need for the equal rights amendment because he feels that the Supreme Court in interpreting the 14th amendment would overturn any law that makes other than a rational classification between men and women.

On the other hand, numerous legal scholars have stated that passage of the equal rights for women amendment would outlaw every State and Federal law which distinguished between men and women, no matter how reasonable the distinction. Thus, if the Senate does not want to convert men and women into identical legal beings, it should defeat the amendment.

In the interest of scholarly debate, I hope that every Senator will take time to read Professor Schwartz' brilliant article from his book. His analysis of the cases indicates beyond a doubt the Court's trend in overturning laws which unreasonably distinguish between men and women. But Mr. Schwartz realizes that there are differences in men and women that are reflected in the law, and he concludes that—

Use of the law in an attempt to conjure away all the differences which do exist between the sexes is both an insult to the law itself and a complete disregard of fact.

I ask unanimous consent that the article by Bernard Schwartz, entitled "Rights of the Person," be printed in the RECORD.

RIGHTS OF THE PERSON

The very first case in the highest court after the adoption of the Fourteenth Amendin which a challenge of unconstitutional discrimination against an important class in the community was raised involved a claim on behalf of the equality of women. The case referred to—*Bradwell* v. *Illinois* (1873)—was decided the day after the already-discussed *Slaughterhouse Cases*. At issue in it was the refusal of the Supreme Court of Illinois to grant plaintiff's application for a license to practice law on the ground that it was a woman who made it. The high tribunal ruled that the Fourteenth Amendment had no restrictive effect upon the power of the states to limit the practice of law to members of the male sex. Two years later, the supreme bench reached the same result with regard to a state statute confining the suffrage to males.

These early decisions under the Fourteenth Amendment confirmed the fact that the men who drafted the Equal-Protection Clause never intended to place women upon a political and economic plane with men. The men of the post-Civil War period, as had been true of the Jacksonians before them, scarcely included women in their concept of equality. Instead, they were firm believers in what de Tocqueville termed "that great inequality of man and woman which has seemed . . . to be eternally based in human nature." In the law, their view was that expressed by Justice Bradley in the *Bradwell* case: "The civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood."

Merely to state the Bradley view is to indicate how far out of line it is from present-day conceptions. To the jurist today, the restricted intention of the men who wrote the Equal-Protection Clause into organic law is much less important than the fact that (as emphasized in section 469) they used language of general, rather than particular, applicability. At the present time, at least, it is contrary to all the canons of constitutional construction to interpret a provision like the Equal-Protection Clause, which, by its own terms, is applicable "to any person," as one which covers only members of the male sex. At the very least, the language of the Equal-Protection Clause must include every human being in the community—and that irrespective of sex.

We must start, then, with the proposition that (whatever may have been the situation under the early cases) a woman must be considered a "person" within the meaning of the Fourteenth Amendment and hence fully encompassed within the constitutional guaranty of equality. More than that, we may say that (as seen in section 475) a classification grounded upon sex must now be considered inherently unreasonable when it is used as the basis for denying personal or property rights. A law which seeks to make rights and obligations turn upon sex must normally be deemed lacking in rational basis.

What this means is that, in accordance with present-day conceptions, no person may be denied equality before the law because of sex. That such interpretation of the Equal-Protection Clause makes for a drastic change in the law cannot be denied. For the case law has consistently ruled that, even though women are "persons" within the scope of the Equal-Protection Clause, the protection which that provision affords them must be interpreted in the light of the disabilities imposed upon women at common law. Thus, as recently as 1966, a state court ruled that, until the common-law disqualification of sex is removed, women are not eligible to serve on juries—and that regardless of the Equal-Protection Clause.

Such ruling, continuing as it does the grossly unequal position of women at common law, can scarcely be considered consistent with the view which now prevails of the inherent value of the individual and the right to be dealt with on the basis of personal worth without the intrusion of extraneous characteristics such as sex. So far as property and personal rights (including political rights) are concerned, a law which discriminates against women solely because of their sex must normally be deemed one that is based upon an inherently unreasonable classification and hence violative of the Equal-Protection Clause.

The judges may not as yet go entirely as far as the view taken in this section. But it cannot be doubted that the exertion of governmental authority to maintain the supposedly inferior status of women in the law would now be stricken down in most cases. This would be true, for example, of statutory restrictions upon women's political rights (as by denying them the right to hold public office), or comparable limitations upon their economic rights (as by laws prohibiting them from engaging in ordinary businesses, professions, and occupations), or their right to share in the services and benefactions dispensed by the modern State (as by denying them the right to enroll in public educational institutions or to participate in a scheme of social insurance open to males).

Among the cases supporting the principles

just stated is an important opinion of the Massachusetts court ruling invalid a statute prohibiting the employment in the public service of married women. Women, said the court, married or unmarried, are, like other persons, entitled to the benefit of the constitutional guaranty against arbitrary discrimination. For a statute to exclude from public employment of every nature all married women—irrespective of age, character, and capabilities—is for it plainly to work an arbitrary discrimination against such women. Such discrimination lacks a reasonable basis, for it cannot be said that sex and marital status are factors upon which the ability to perform the functions connected with any and all public employment does depend.

As far-reaching as any decision on the matter under discussion is one rendered in New York in 1962. It held that the refusal of the New York City Civil Service Commission to permit a policewoman to take an examination to qualify for promotion to the rank of sergeant, solely because of her sex, was illegal. The denial of eligibility solely because of sex was declared to be arbitrary and an abuse of discretion, "in light of present day conditions." To exclude women from a promotional job opportunity in the Police Department is to deny them the equality of privilege and opportunity that is required under the present-day interpretation of equal protection of the laws. Thus, even in a field such as police work (which, until recently, would have been considered exclusively the preserve of the male), classification based upon sex alone may be ruled violative of the constitutional command of equality.

SAME: PROTECTIVE SEXUAL CLASSIFICATIONS

Despite what has been said in the previous section, it is not completely correct to conclude that all governmental classifications based upon sex are automatically invalid. Instead, we must follow the analysis already suggested in section 475. We saw there that, though a classification based upon sex will normally be deemed inherently unreasonable and hence contrary to the equal protection guaranty, there is still one recognized purpose for which the sexual classification may be constitutionally employed.

The purpose referred to (as was indicated in section 475) is that of protection of the female sex in areas where women are inherently or traditionally a proper subject of governmental solicitude. Where the legislature acts to protect the weaker sex and there is a rational basis for the legislative judgment that such protection is necessary, there is no contravention of the Equal-Protection Clause. In the words of the supreme tribunal, in upholding a law fixing minimum wages for women, "This familiar principle has repeatedly been applied to legislation which singles out women, and particular classes of women, in the exercise of the state's protective power."

We must assume, to quote the high bench again, that "the protection of women is a legitimate end of the exercise of state power" and that the community may direct its lawmaking to attain such end. This means, of course, that, as already indicated, a sexual classification may be valid if its purpose is the protection of women.

The most obvious type of law falling within the principle just stated is one which takes account of the relative physical weakness of the female sex: "However confident a great number of people may be that in many spheres of activity, including that of the administration of government, woman is the full equal of man, no one doubts that as regards bodily strength and endurance she is inferior and that her health in the field of physical labor must be specially guarded by the state if it is to be preserved and if she is to continue successfully and healthfully to discharge her duties which nature has imposed upon her."

The common kind of statute which seeks to protect woman from the consequences of her relative physical weakness is the law which limits the hours during which she may work or prohibits her from engaging in occupations deemed particularly arduous or hazardous, such as mining. The validity of such laws has been beyond question since the landmark 1908 decision of the Supreme Court in *Muller v. Oregon* (already discussed, in connection with the governmental power to regulate the hours of labor, in section 304). The reasoning of the *Muller* opinion is essentially that urged in the analysis thus far in the present section. Emphasis is placed by the Court upon the fact that "woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence." The need to protect women from undue physical effort and danger fully justifies legislative action of the type under discussion: "Differentiated by these matters from the other sex, she is properly placed in a class by herself, and legislation designed for her protection may be sustained, even when like legislation is not necessary for men, and could not be sustained."

In addition to protective measures of the type just dealt with, which shield the female from the consequences of her relative physical weakness, the sexual classification may also be justified in comparable laws which seek to protect woman because of her traditionally weaker economic position: "If is impossible to close one's eyes to the fact that she still looks to her brother and depends upon him."

Foremost among protective statutes which seek to redress woman's unequal position in the struggle for subsistence—a position that, in the high bench's phrase, justifies "legislation to protect her from the greed as well as the passion of man"—have been laws guaranteeing minimum wages for women. Such laws (we saw in section 305) were upheld by the Supreme Court in *West Coast Hotel Co. v. Parrish* (1937). According to Chief Justice Hughes, who delivered the opinion there, "What can be closer to the public interest than the health of women and their protection from unscrupulous and overreaching employers?" And, if such protection is a legitimate end of the police power, the requirement of payment of a minimum wage in order to meet the very necessities of existence is plainly an admissible means to that end: "The Legislature of the state was clearly entitled to consider the situation of women in employment, the fact that they are in the class receiving the least pay, that their bargaining power is relatively weak, and that they are the ready victims of those who would take advantage of their necessitous circumstances."

A more recent type of protective statute, which goes further than the minimum-wage law, is one which prohibits discrimination in the payment of wages to women, as by making it illegal to pay any woman a lesser wage than is paid to males similarly employed. The reasoning of the *West Coast Hotel* opinion should also apply to sustain such laws and they have, in fact, been upheld by the courts. Even more far-reaching are statutes which forbid any discrimination in employment because of sex. Such laws, designed to place women upon a plane of economic equality (at least so far as employment is concerned) will be dealt with separately at the end of the next section.

If we follow the traditional police-power approach (fully discussed in Chapters 12 and 13), we may say that the protective statutes dealt with thus far may be justified as legislative attempts to protect the health, safety, and welfare (primarily the economic welfare) of women. The same approach should also sustain comparable legislative efforts to protect the morals of women. This means that, in all the areas discussed in section 282 where action by the legislator as guardian of public morals may be taken, measures protecting the morals of women may be enacted.

The principle just stated has been applied most frequently in laws relating to intoxicating liquors, with regard to which (we saw in section 282) there is a well-nigh plenary governmental power, because of the universally recognized impact of liquor upon public morals. The Equal Protection Clause, the highest Court has affirmed, "did not tear history up by the roots, and the regulation of the liquor traffic is one of the oldest and most untrammeled of legislative powers." In laws regulating the sale of liquor, sexual classifications will be upheld where their purpose is to protect the morals of women. And that is true despite the changing conception of the place of the female which has all but eliminated the obloquy once attached to the consumption of intoxicants by women. "The fact that women may now have achieved the virtues that men have long claimed as their prerogatives, and now indulge in vices that men have long practiced, does not preclude the States from drawing a sharp line between the sexes, certainly, in such matters as the regulation of the liquor traffic."

Under what has been said, laws have been upheld which forbid the sale of liquor to women, or prohibit such sale except under stated conditions. In addition, the denial to females of licenses to sell liquors has been ruled consistent with the equal protection guaranty; and the same result has been reached in cases involving laws prohibiting women from working as bartenders or in any employment in establishments which sell liquor. As the supreme bench put it in one of the cases referred to, "bartending by women may, in the allowable legislative judgment, give rise to moral and social problems against which it may devise preventive measures."

In the case in which the statement just quoted was made, the high tribunal went so far as to uphold a state law which provided for the licensing of bartenders but forbade the licensing of any female bartender unless she be "the wife or daughter of the male owner" of a licensed liquor establishment. Such law was sustained on the ground that it was based upon the legislative belief "that the oversight assured through ownership of a bar by a barmaid's husband or father minimizes hazards that may confront a barmaid without such protecting oversight." The Court declared that it was not in a position to gainsay such belief. The challenged law, which on its face involved an extreme discrimination against women, was thus also justified as a protection of the female sex.

Almost all of the cases concerning the legislative power to protect the morals of women involve regulation of the liquor traffic. Yet, as already intimated, there can be no doubt that the same authority exists in all the areas dealt with in section 282, where action under the police power to protect public morals may be taken. In a 1956 state case, for example, a statutory ban against female wrestling was sustained, as against the claim that it constituted an unreasonable discrimination against women in violation of the equal protection guaranty. Public amusements subject to the police power because of their effect upon the public morals (within the principles discussed in section 282) may be regulated on the basis of the sexual classification, with women excluded from participating in them—particularly where they involve an element of brutality or immorality.

In addition to direct protective statutes of the kind dealt with thus far, there are other laws which seek to accomplish a comparable purpose by exempting women from duties imposed by the community upon members of the male sex. The most common statute of

this type is that relating to jury service. The relevant laws in many states provide an exemption—either absolute or qualified—for women from jury service. The highest Court has expressly upheld the constitutionality of such exemption, declaring that it is justified by woman's position as the center of home and family life. "We cannot say that it is constitutionally impermissible for a State acting in pursuit of the general welfare, to conclude that a woman should be relieved from the civic duty of jury service unless she herself determines that such service is consistent with her own special responsibilities." The same reasoning sustains similar exemptions in the law, such as the traditional exemption of women from the coverage of statutes providing for compulsory military service.

In the cases covered in this section, laws based upon sexual classifications have been upheld because their purpose is the protection of the female sex. With regard to all of the ends that may be promoted under the modern conception of the police power—the furtherance of health, safety, morals, and welfare, under the all-embracing manner in which those social interests were seen to be conceived in Chapters 12 and 13—the legislator may act to protect that sex that is properly the legitimate object of government solicitude.

It should, however, be pointed out that the true justification of the cases discussed in this section is the fact that the social purpose behind the laws upheld is broader than the protection of the female sex alone. As the high bench expressed it in *Muller* v. *Oregon*, "the physical well-being of woman becomes an object of public interest and care in order to preserve the strength and vigor of the race. The object sought by the protective laws discussed is quite as much for the benefit of the entire community as for the protection of the women covered. The wrong done to the female is most frequently done to the whole social order. Hence, the Supreme Court could say, the limitations imposed by laws of the type under consideration "are not imposed solely for her benefit, but also largely for the benefit of all."

SAME: OTHER SEXUAL CLASSIFICATIONS

The analysis in the last two sections indicates that a law based upon sexual classification will normally be deemed inherently unreasonable unless it is intended for the protection of the female sex. The view thus stated, it must be admitted, goes further than the jurisprudence under the Equal-Protection Clause. Yet it seems to be the only position consonant with the expanding notion of Equality of the Person that is a dominant theme of the contemporary society.

Many observers will, however, feel that the analysis in the last two sections does not take sufficient account of the differences which do exist between the sexes. As one judge puts it, "The plain testimony of the senses, a well-known French proverb, as well as numerous judicial decisions all vouch for the fact that a woman is different from a man."

Some will go even further and ask whether in the words of a state court, the legislature may not provide "that there should be at least one island on the sea of life reserved for man that would be impregnable to the assault of woman. It had watched her emerge from long tresses and demure ways to bobbed hair and almost complete sophistication; from a creature needing and depending upon the protection and chivalry of man to one asserting complete independence. She had already invaded practically every activity formerly considered suitable and appropriate for men only. . . . In these circumstances, is it any wonder that the legislative assembly took advantage of the police power of the state in its decision to halt this ever-increasing feminine encroachment upon what for ages had been considered strictly as manly arts and privileges?"

Though the view thus expressed will doubtless strike a responsive chord in many mere males, it may scarcely be considered consistent with the notion of equality before the law. To exclude women by law from a field simply because it has traditionally been the preserve of the male sex is to reject the very concept of personal worth upon which the Equal-Protection Clause is grounded. Such an approach would really nullify all that has been said thus far on equality and sex, for it could be applied to bar women (regardless of their personal capabilities) from virtually every line of endeavor.

At the same time, we must recognize that there is a possible area of sexual classfication in the law which has not been touched upon in the previous discussion. It is illustrated by a 1958 Texas case. It arose out of an action to compel the enrollment of otherwise qualified female students at Texas Agricultural and Mechanical College, a state institution of higher learning operated as an all-male schools. The record showed that there were then sixteen coeducational institutions of higher learning operated by the state, as well as Texas A. & M., operated for men, and Texas Women's University, an all-female school. In these circumstances, said the court, the state system of higher education does not discriminate between the sexes, but instead makes ample and substantially equal provision for the education of both men and women.

In cannot be gainsaid that a state system of education which excludes members of one sex must today be considered contrary to the Equal-Protection Clause. In the instant case, such complete exclusion was not at issue. The controlling question was rather "whether the State, as a matter of public policy, may as a part of its total system of higher education, maintain, for the choice and service of its citizens, one all-male and one all-female institution, along with sixteen institutions which are co-educational. We think undoubtedly the answer is Yes."

The differences between the sexes and the consequences of indiscriminate intermingling of the sexes, particularly at an early age, justify the separation of men and women for educational purposes; enforced coeducation is not compelled by the Equal-Protection Clause. Provided that provision be made for substantially equal educational facilities, there is no constitutional violation.

What is particularly interesting about the principle just stated is that it permits segregation of the sexes under a "separate but equal" approach of the precise type which (we will see in section 495) has been prohibited by the Supreme Court where segregation of the races is concerned. Separation of the sexes in educational institutions may be based upon rational considerations (such as pedagogical needs) which are absent where racial segregation is involved. In addition, separation of the sexes in schools and colleges does not have the discriminatory connotations which (we shall see in section 496) are inevitably connected with racial segregation.

The type of sexual separation that is permitted in educational institutions may also be allowed in other public institutions as well. Thus, it may not be doubted that there may be separation of the sexes in correctional and penal institutions, as well as in those operated by the military, including military educational institutions. One of the factors which influenced the Texas court in the case already discussed was the fact that the institution involved there was a state-supported military college, with students participating in a program of compulsory military training and subject to military discipline.

In all that has been said till now on the subject of sexual classification one must not assume that the law makes the error of those referred to by de Tocqueville, "who, confounding together the different characteristics of the sexes, would make man and woman into beings not only equal but alike. They would give to both the same functions, impose on both the same duties . . .; they would mix them in all things—their occupations, their pleasures, their business."

As already seen, the law does allow sexual classifications to be made by government where that may be necessary to protect one sex in relation to all the broad social ends that may be attained under the police power, as well as to permit separation of the sexes in appropriate public institutions, such as those devoted to education. In addition, it must be recognized that there are certain situations controlled by law in which sexual classifications must play a part. In the New York case dealt with at the end of section 480, in which the absolute refusal on the basis of sex to permit a policewoman to participate in an examination for promotion to sergeant was stricken down, the court declared that, while the absolute female bar was invalid, "a distinction based on sex is permitted when the duties of the position or nature of the work involves or requires sex selection."

The principle stated by the New York court may be made more specific by reference to the provision of the civil service statute of that state which empowers the relevant agency to limit eligibility to civil service positions "to one sex when the duties of the position involved relate to the institutional or other custody or care of persons of the same sex, or visitation, inspection or work of any kind the nature of which requires sex selection."

Even if, on a strictly logical basis, it may be difficult to justify such provision in the light of the constitutional guaranty of Equality of the Person, common sense itself tells us that it is necessary to avoid an egregiously "preposterous . . . medley of the works of nature." Certainly, if, as already indicated, there may be sexual separation in appropriate public institutions, there may also be sexual classifications for employment in such institutions, particularly so far as those having custody and control over the students, inmates, and others in the institutions are concerned. More than that, it must be acknowledged that there are other occupations which, by their very nature, may legitimately involve sexual qualifications. With regard to such occupations, it may not be enough to lay down objective qualifications, which do not include sex. It may be necessary to provide expressly that only those of the appropriate sex may be eligible. For example, while women may not reasonably be wholly excluded from police work, it is surely legitimate for the relevant authority to be given discretion to hire only men to compose the bulk of a police force; and the same is true in the military field, where the command authorities must plainly be able to choose only men for most positions in the armed forces, especially those involving combat and particularly arduous duties.

The point just made must be applicable even in private employment that is affected by public authority, for example, through laws forbidding sexual discrimination in employment. In the already-discussed 1873 *Bradwell* case, Justice Bradley declared, "The paramount destiny and mission of women are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator." A century later, the law of the Creator is differently construed. In fact, we are now coming to assume exactly the opposite of the Bradley approach and to assert public power to ensure against sexual discrimination. The Equal Protection Clause (as we have interpreted it in this and the previous two sections) bars such discriminations by governmental agencies, in legislation or other acts. In addition the legislator may seek to bar private discriminations, as by laws requiring that women not be paid less than men for comparable work or, more

recently, by statutes prohibiting any sexual discriminations in employment.

The most important statute of the type referred to is the section of the Federal Civil Rights Act of 1964, which provides that "It shall be an unlawful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or priviliges of employment, because of such individual's . . . sex."

The general authority of the legislator to proscribe economic discriminations based upon sex cannot, it is believed, at present be doubted. Such authority at the federal level may be sustained upon the same basis as (we shall see in section 506) that upon which the courts uphold the Civil Rights Act of 1964 as a whole. The basis referred to (we shall see in section 506) is both the power of the Congress to regulate commerce and that to enact legislation enforcing the Fourteenth Amendment, including its Equal-Protection Clause. In addition, insofar as the state power to enact such laws is concerned, such prohibitions of economic discrimination may be justified upon the same basis of protection of the weaker sex as the statutes discussed in the previous section.

It should, however, be pointed out that the prohibition laid down in anti-sexual-discrimination statutes of the type under discussion must be subject to an exception such as that already stated. Thus, the Civil Rights Act provision which, as stated, bars sexual discriminations in employment states expressly, "it shall not be an unlawful employment practice for an employer to hire and employ employees on the basis of . . . sex . . . in those certain instances where . . . sex . . . is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise."

Such an exception for employment which may legitimately be based upon sex selection appears necessary if the statutory prohibition is not to hamstring employers in a manner that does violence to the sensible carrying on of business activities. No objective criterion other than sex can be used by the employer who chooses to hire only male truck drivers or to employ only women in a lingerie department. A statute which went so far as to take away such employer choice for work which, by its nature, requires sex selection can scarcely be required by the constitutional command of equality. Use of the law in an attempt to conjure away all the differences which do exist between the sexes is both an insult to the law itself and a complete disregard of fact.

CLAUDE F. HELLMANN

Mr. MATHIAS. Mr. President, the people of Maryland have lost a devoted servant in the recent death of Mr. Claude B. Hellmann. Mr. Hellmann, the first person appointed Secretary of State of Maryland after the office was reorganized during the McKeldin administration.

Mr. Hellmann who died August 22, was a former president of Kiwanis International and the Baltimore Kiwanis Club, and a moving tribute was paid to him at the August 26 meeting of the Baltimore club by another distinguished Marylander, former Gov. Theodore Roosevelt McKeldin.

Mr. President, I ask unanimous consent that Governor McKeldin's tribute to Claude B. Hellmann be printed in the RECORD.

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

TRIBUTE TO THE MEMORY OF CLAUDE B. HELLMANN

(By Theodore R. McKeldin)

It was Edwin Markham who wrote: "The crest and crowning of all good, life's final star, is brotherhood."

The final star of Claude B. Hellmann's life shines brightly still today, and its light shall not dim with the passing of the years—for his was a life of devoted service, and of quiet but effective accomplishment in the rendering of that service—a life of brotherhood.

Yes, Claude Hellmann was a man of action and prominence in the business community of Baltimore—in utilities, in banking and real estate and other worthy enterprises that contributed much to the growth, progress and prosperity of the area.

But with all of this, he found the time and had the heart to give of his talents to civic, charitable and eleemosynary institutions and projects throughout his adult years.

His long-time interest in the good works of Kiwanis International won for him the Presidency of the Baltimore Kiwanis Club, and advanced him quickly to the Governorship of the Capital District of Kiwanis, then to a trusteeship, and eventually to the Presidency of the great world-wide organization.

His concern for the welfare of his fellowmen was well expressed in the wise counsel and constant attention to the betterment of the care for the ill and disabled through his years on the Board of the Franklin Square Hospital.

The high value which he placed on the education of the young was demonstrated in his membership on the Baltimore County Board of Education through those years of transition in the late Fifties and early Sixties.

He gave leadership to the thinking and planning for the preservation of open spaces during those years when careless and sometimes greedy construction plans threatened the over-coverage of the land, and he evidenced this leadership as a vocal and effective member of the Baltimore County Board of Recreation and Parks.

Claude remained a proud and unabashed lover of his country—a proud patriot, if you please, even in these times when it became the style of many to belittle and even ridicule devotion to this great nation which remains, through all its troubles, the last, best hope on earth.

He was proud of his forbears who helped to wrest the young land from tyranny—and to establish the institutions which remain the bulwarks of freedom and human dignity for the guidance of less fortunate peoples who seek emergence from the shackles of the centuries. The substance of this pride was expressed in his membership in the Sons of the American Revolution and as a member of the Board of Awards of Freedoms Foundation, which encourages the retention of love of country in the hearts and minds of thinking Americans, who stand with the courage of the founding fathers above the weaknesses of those who seek to conform with the modes of disparagement and despair.

It was during my Administration in the Governorship of Maryland that the office of Secretary of State was transformed from a status of little more than a sinecure to that of an effective, full-time working arm of the Executive Department of the State—and when the opportunity presented itself, I was fortunate in securing the services of Claude Hellmann in this highly important office of government.

And I say now, without reservation, that his knowledge, his love for his State and his fellow citizens, and his devotion to his assigned duties contributed immeasurably to whatever success my Administration enjoyed in those years.

Claude has long been my friend—and I was proud to have him as a close associate in those times of many problems of government, in those times, too, if I may say so, of considerable accomplishment for the Old Line State which he loved so well.

He was magnificently assisted in all his work by his charming and devoted wife Alvina, who was his constant companion in all of his undertakings and was a great inspiration to him.

And finally, in this poor tribute to a good friend and valued aide, let me say that those of us who knew him well will miss him sorely—but even the thousands who never knew him personally may take my word for it: They live in a better community, a better State, and a better country because Claude Hellmann was a part of it all.

AGRIBUSINESS CORPORATIONS AND CONGLOMERATES MUST DISCLOSE PRACTICES AND POLICIES IN RURAL AMERICA

Mr. STEVENSON. Mr. President, a most incisive, and disturbing series of articles on the impact on rural America of agribusiness corporations and conglomerates was just completed in the Washington Post. Mr. Nick Kotz, author of the three-part series, has made a major contribution to the scant literature on this subject.

The Migratory Labor Subcommittee, of which I am chairman, is conducting hearings on the growth of agribusiness and its impact on people in rural and urban America, particularly the migrant and seasonal farmworker and the small farmer, and small rural communities.

The issues raised in Mr. Kotz' articles are strikingly similar to those I discussed in my opening remarks at the subcommittee's first hearing on July 22. Those remarks have been printed in the CONGRESSIONAL RECORD, on September 23, 1971.

Already the subcommittee has held introductory hearings on the influence of agribusiness and agrigovernment on rural America. Testimony from many parts of the community, including small farmers, farmworkers, cooperatives, economists, community organizations, and consumers has been heard.

These hearings have confirmed that a growing number of Americans are demanding to know just what has happened to rural America.

Several important themes have surfaced at our hearings, and questions have been posed that deserve answers.

Particularly affected by the new controlling forces in rural America are migrant and seasonal farmworkers for they are unprepared in practically every respect to achieve economic security and dignity in the city, yet they are forced into our already troubled urban areas because of inadequate job opportunities in rural areas.

Similarly, the small farmer is forced off the land for economic reasons beyond his control.

As Mr. Kotz shows, the small farmer and the farmworker can no longer compete with the large agribusiness concerns. But this inability to compete may not be entirely attributable to purely economic considerations of efficiency. Serious questions must be answered about the alleged economies of scale, and whether we have taken into consideration and important issues as the costs to society of rural to urban migration, the continued viability of small rural communities and

small towns, and the quality of product that the American consumer will be left with, not by choice, but by decision of agribusiness. Similarly, we must look at whether natural economies of efficiency are indeed operating, or whether Federal, State, and local governments have been directly or indirectly, knowingly or unknowingly, working hand in hand with the agribusiness giants aiding the deterioration and calamity in rural America.

The American consumer is concerned, and rightfully so, because of the control over production, supply and marketing of fresh fruits and vegetables by corporations and conglomerates that affects the quality, supply, type, and costs of food.

Major questions, some of them raised by Mr. Kotz' series of articles, remain unanswered. What has the mechanization of farming done to—or for—the social and economic fabric of rural America? Have small farmers and farmworkers, in the wake of rapid changes in American agriculture, been effectively shut off from the benefits and safeguards which other workers in other industries enjoy today? Has the advent of "agribusiness"—the rise of corporations and conglomerates as agricultural powers—helped to alleviate rural poverty or to aggravate it? Is "agrigovernment" characterized by massive support programs for agribusiness, meeting its responsibilities to all the people of rural America?

The subcommittee is committed to hearing the answers from all sides, and because there is a growing demand from the public to know what is going on in rural America, this subcommittee 2 weeks ago requested that seven major food processing corporations with extensive involvement in rural America testify before the subcommittee.

Written invitations were sent in September to Stokeley Van Camp, Libby, McNeill, & Libby, Del Monte, Green Giant, General Foods, Heinz, and Campbell's. I reiterate my interest in having them testify before this subcommittee so that its members will have the benefit of their ideas and so that all sides will be heard. We are out to learn about what is really happening in our countryside.

While I have not yet heard from these corporations, I trust they will want to share their knowledge with us and discuss the implications of their role in agriculture as it affects farmworkers and small farmers, together with their prognosis on where rural America is going, and what policies should prevail.

Mr. President, I ask unanimous consent that the three-part series of articles published in the Washington Post of October 3, 4, and 5, 1971, be printed in the RECORD.

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

CONGLOMERATES RESHAPE FOOD SUPPLY

(By Nick Kotz)

The name "Tenneco" is not yet a household word to American consumers, but it weighs heavily on the minds of the nation's embattled farmers and of government officials who worry about the cost of food and the fate of rural America.

For Tenneco, Inc., the 34th largest U.S. corporation and fastest-growing conglomerate, has become a farmer.

It's new activities symbolize an agricultural revolution that may reshape beyond recognition the nation's food supply system. Dozens of the largest corporations, with such unfarm-like names as Standard Oil, Kaiser Aluminum and Southern Pacific have diversified into agriculture.

What concerns farmers, processors and wholesalers is that the new breed of conglomerate farmers does not just grow crops or raise cattle. The corporate executives think in terms of "food supply systems," in which they own or control production, processing and marketing of food.

"Tenneco's goal in agriculture is integration from seedling to supermarket," the conglomerate reported to its stockholders. Its resources to achieve that goal include 1970 sales of $2.5 billion, profits of $234 million and assets of $4.3 billion in such fields as oil production, shipbuilding and manufacturing.

The conglomerate invasion of agriculture comes at a time when millions of farmers and farm workers have already been displaced, contributing to the problems of rural wastelands and congested cities. More than 100,000 farmers a year are quitting the land, and more than 1.5 million of those who remain are earning less than poverty-level farm incomes. Their plight is severe.

Although the U.S. census still counts 2.9 million farmers, 50,000 grow one-third of the country's food supply and 200,000 produce more than one-half of all food. The concentration of production is especially pronounched in such crops as fruit, vegetables and cotton.

It 1965, 3,400 cotton growers accounted for 34 percent of sales, 2,500 fruit growers had 46 per cent of sales and 1,600 vegetable growers had 61 per cent of the market.

The medium to large-size "family farms"—annual sales of $20,000 to $500,000—survived earlier industrial and scientific revolutions in agriculture. They now face a financial revolution in which traditional functions of the food supply system are being reshuffled, combined and coordinated by corporate giants.

"Farming is moving with full speed toward becoming part of an integrated market-production system," says Eric Thor, an outspoken farm economist and director of the Agriculture Department's Farmer Cooperative Service. "This system, once it is developed, will be the same as industrialized systems in other U.S. industries."

Efforts to bar large corporations from farming have come too late, says Thor: "The battle for bigness in the food industry was fought and settled 35 years ago—chain stores versus 'Ma and Pa stores.'"

. . . Corporate takeover of the poultry industry did result in lower consumer prices. But for numerous food products, corporate farming has not lowered grocery costs, because the price of raw food materials is not a significant factor in determining final retail prices. For example, the cost of a food container is sometimes more than the farmer receives for the food packaged in it.

The new corporate farmers account for only 7 per cent of total food production, but they have made significant inroads in certain areas. Twenty large corporations now control poultry production. A dozen oil companies have invested in cattle feeding, helping shift the balance of production from small Midwestern feed lots to 100,000-head lots in the High Plains of Texas. Just three corporations—United Brands, Purex and Bud Antle, a company partly owned by Dow Chemical—dominate California lettuce production. The family farmer still rules supreme only in growing corn, wheat and other grains, and even here constantly larger acreage, machinery, credit and higher prices are needed for the family farmer to stay profitably in business.

Tenneco hopes that its new brand name, "Sun Giant," will one day become for fresh fruits and vegetables what "Del Monte" now means for canned foods. It hopes housewives will pay premium prices to buy its nationally advertised specially packaged fresh produce.

Tenneco, which started out as Tennessee Gas Transmission Co., says it made "giant strides" in 1970 toward its agriculture goals.

Resources rapidly accumulated by the giant conglomerate include: Kern County Land Co., which controls 1.8 million acres of land in California and other states; J. I. Case Co., a manufacturer of farm machinery; Packaging Corp. of America, which makes food containers; Tenneco Chemicals, a producer of pesticides, and Heggblade-Margoleas, the nation's largest processor-marketer of fresh fruits and vegetables.

Even the largest independent California farmers question how they can compete with a corporation which can, at least in theory, own or control virtually every phase of a food supply system. Tenneco can plant its own vast acreage. It can plow those fields with its own tractors, which can be fueled with its own oil. It can spray its crops with its own pesticides and utilize its own food additives. It then can process its food products in its own plants, package them in its own containers and distribute them to grocery stores through its own marketing system.

Financing the entire operation are the resources of a conglomerate with billions in assets, hundreds of millions in tax-free oil income and interests in banking and insurance companies. Tenneco, according to reports filed with the Securities and Exchange Commission, had 1969 gross income of $464 million and taxable income of $88.7 million. Yet due to federal tax breaks, Tenneco not only paid no taxes on that income, but had a tax credit of $13.3 million.

Tenneco officials—who don't want to be named—acknowledge they are building a vertically integrated food delivery system, but they deny any plans for coordinated use of the conglomerate's total resources. Each company must compete and earn a profit separately, they say. Nevertheless the Federal Trade Commission is actively scrutinizing the corporation's agricultural activities for possible antitrust violations.

Tenneco is reluctant to discuss details of its finances in agriculture, but available information indicates the scope of its present agricultural interests.

In 1970, Tenneco reported agricultural and land development sales of $107 million and profits of $22 million. It farmed 35,000 acres directly and 95,000 acres through 324 tenant farmers. It produced 2 million boxes of grapes, 1.5 million boxes of strawberries and large amounts of other fruits and vegetables. But that is only the beginning.

MARKETING FIRM

Heggblade-Margoleas, Tenneco's processing and marketing firm, sold its own products and those of about 2,000 other farmers. Heggblade-Margoleas is the nation's largest marketer of fresh fruits and vegetables and the world's largest marketer of table grapes. Its processing facilities include a new 8-acre plant and the world's largest date processing plant. Tenneco even has its own farm lobbyist in Washington.

Tenneco agricultural operations employ 1,100 full-time workers and 3,000 at the peak of harvest. Faced with a boycott of its other products, Tenneco last year signed a contract with Cesar Chavez's United Farm Workers Organizing Committee.

The 1970 contract signed with Tenneco and other grape growers raises basic wages to $1.75 to $1.80 an hour and provides a piecework bonus that can add another $1 an hour during harvest season. Before Chavez's union began its grape strike, wages averaged between $1 and $1.25 an hour. The contract also established a medical care fund, an eco-

nomic development fund and safety precautions to protect workers from pesticide poisoning.

Tenneco's future plans include development of its Sun Giant brand produce and putting into production 30,000 newly irrigated acres.

FARMERS OVERPOWERED

The type of food system being put together by Tenneco and other conglomerates frustrates and frightens independent farmers. They see every element of the food business acquiring market power but themselves. On one side, they confront the buying power of giant food chains. Now they must compete with conglomerates that can take profits either from production, processing, or marketing. The individual farmer usually does not have such options. The giant competitors also benefit from a variety of government subsidies on water, crops and income taxes.

Contrary to popular notion and most galling to the efficient, large, independent farmer, the corporate giants generally do not grow food cheaper than they do. Numerous USDA and university studies show that enormous acreage is not needed to farm efficiently.

For example, maximum cost-saving production efficiency is generally reached at about 1,500 acres for cotton, less than 1,000 acres for corn and wheat, and 110 acres for peaches. Thousands of independent family farmers possess such needed acreage, and farm it with the same machinery and techniques used by their new rivals.

In fact, studies show that the largest growers incur higher farm production costs as they employ more workers and layers of administrators.

A full-scale economic battle between the conglomerates and independent farmers is now unfolding in the nation's single most important farm area, the rich central valleys of California, which far outdistances Iowa as the first-ranked state in farm sales. California farms grow 40 per cent of the nation's vegetables, fruits and nuts. The state produces at least 90 per cent of the country's supply of 15 crops and leads the nation in 25 others.

"If the Tenneco operation is allowed to go unchecked, it can change the whole complexion of farming in the valley," says Fresno attorney Donald Thuesen. "They have the marketing power to make or break the market. They can sell below cost, as a loss leader, to get other business, and sustain losses that no farmer can afford."

Thuesen represents a large grape grower who claims Tenneco forced him into bankruptcy by selling the grower's grapes below the market price. A former Tenneco tenant farmer makes similar claims involving the marketing of his potatoes. Tenneco denies these charges.

"Tenneco sells their produce first and you get what's left over," contends John Giacone, who grows cantaloupes in the San Joaquin Valley.

In an effort to market his own cantaloupes, Giacone built a plant to box and market his produce. But now he finds supermarket chains will not buy his cantaloupes unless he uses a different kind of container. The chains have changed their container specifications deciding that another kind of box is more convenient for their retail operations.

Remodeling his shed for the newly required packing process would cost $500,000, says Giacone, and that "will take the family jewels and then some."

At a time when they are confronted with overproduction in numerous crops, California's independent farmers are disturbed to see the conglomerates, with taxpayer's help, each bringing into production 5,000 to 100,000 newly irrigated acres.

A California state water project will irrigate 450,000 new acres for crops. A Ralph Nader task force calls the water project an unwarranted, $1,000-an-acre "welfare scheme" for a few big landowners. Tenneco plans to grow fruits and vegetables on 30,000 of these acres. Other major beneficiaries include Southern Pacific, Standard Oil of California and Belridge Oil Co.

INEFFICIENT FARMING

"Belridge Oil Co. is spending $185 million to develop 20,000 acres of fruit and vegetables," says Jack Bowen, a peach grower in Modesto. "They grew 640 acres of peaches last year just to see whether they wanted to grow them. If corporations like that get serious, we've had it. We can produce more efficiently than these corporations but we may not be around long enough to prove it."

Bowen is not a small peach grower. A sign outside his spacious 350-acre orchard proudly proclaims "A Family Business for Four Generations." His annual sales exceed $300,000. He replaced the jobs of several hundred non-union migrant workers with a giant machine, which clutches peach trees by their trunks, then shakes off the peaches into a conveyor and onto trucks.

As a practical matter, Bowen and other California peach growers have become too efficient for their own good. Faced with ruinous prices last year, they destroyed 40 per cent of their harvest.

"We only have 53,000 acres of peaches in production," says Ugo Caviani, president of the California Peach Canning Association. "One big corporate grower like Tenneco could wipe us all out."

Caviani says the number of California cling peach growers has declined from 2,200 to 1,700 in only three years, while the number of canners has dropped from 40 to 14.

The nation's fruit and vegetable growers are not strangers of the tough competition of agribusiness. For many years, they have wrestled with the market power of chain stores and major food processors. They sell to canners such as Del Monte, Libby-McNeil & Libby, Green Giant Co., H. J. Heinz Co., and Minute Maid Corp (a subsidiary of Coca Cola). Each of these canners also competes with the independent farmer by growing large amounts of its own food supply.

But the new conglomerate represents a different kind of competition. The older agribusiness corporations are primarily food companies and must make money somewhere in the food distribution system. Such is not necessarily the case with the new conglomerate farmers, for whom millions of dollars of agribusiness investment may represent only a fraction of their total holdings. Only 4 per cent of Tenneco's sales are from agriculture.

In fact, the conglomerates may find their food investments profitable even without earning anything from them. The profits may come from land speculation, federal crop subsidies, or generous federal tax laws. Tenneco received almost $1 million in 1970 cotton and sugar farm subsidies.

The new conglomerates utilize a variety of federal tax provisions that permit them to benefit from tax-loss farming and then profit again by taking capital gains from land sales. Tenneco, for example is now developing six new California suburban communities on former farm land.

Tenneco officials insist they are farming to make money, to serve the consumer quality products and to help strengthen American agriculture.

LAND AS INVENTORY

However, Simon Askin, Tenneco's executive vice president for agriculture and land development, recently told the Los Angeles Times: "We consider land as an inventory, but we're all for growing things on it while we wait for price appreciation or development. Agriculture pays the taxes plus a little."

The federal government has been hesitant to bring antitrust actions against conglomerates that move into farming. So farmers and corporations are watching closely a key test case that is developing in California's Salinas Valley, the lettuce and celery capital of the country.

The Federal Trade Commission has charged both United Brands, the 81st largest U.S. corporation, and Purex Corp., the 316th largest, with seeking to monopolize the production and supply of fresh vegetables.

The FTC is negotiating a settlement with Purex but the United Brands case is in federal court. The government charges that United Brands is transforming the lettuce and celery business from a competitive one of small, profitable, independent growers into a non-competitive industry dominated by large conglomerates. The FTC will seek to prove that United Brands cannot grow lettuce more cheaply and that it provides no price benefits to consumers.

In its reply to the FTC complaint, United Brands contends that the country needs large corporations in the farming business. United Brands, represented by President Nixon's former law firm, states:

"Although there may be some nostalgic desire to see a market composed of many small growers, that structure cannot survive against a market buyer (chain stores) that is composed of fewer and fewer companies with larger and larger market shares."

SMALL FARMERS

United Brands contends there is no economic justification for "a lettuce market composed of many small farmers who all are at the mercy of the buyers."

The FTC case illustrates dramatically the vastly different concepts by which industry and farmers measure bigness in agriculture. Most of the "small farmers" referred to by United Brands are, by present farm standards, among the largest independent farmers in the country. Their annual sales range from more than $100,000 to several million dollars.

Although admitting the increasing concentration of corporate power in fruit and vegetable production and the corporate takeover of poultry farming, USDA officials generally contend that this phenomenon will not spread to other farm products.

Many Midwestern cattle, hog and grain farmers disagree.

The fear that the cattle and hog feeding businesses, their best source of income, may follow the pattern in which independent poultry growers were wiped out.

About 20 corporations including Allied Mills, Ralston Purina and Pillsbury Co., originally went into poultry production as a means of developing markets for their feed. Farmers were signed up to grow the corporations' poultry, using their feed.

According to USDA studies, the poor but once independent poultry farmers are still poor as contract workers, earning about 54 cents an hour. A Ralph Nader task force on agriculture called this corporate farm system "poultry peonage."

The corporations, however, contend that they have benefited small farmers with a steady, if small, source of income. And, they say, they have given consumers lower priced chicken and turkey.

The farmer sees everyone he must deal with in the food production system acquiring more power except him. The supermarket chains, the grocery manufacturers and the new conglomerate clout in the marketplace and political influence in Washington. Even migrant farm workers, still the lowest paid laborers in the country, have made some progress, signing contracts with the new conglomerate farmers, who are vulnerable to boycott of their brand products.

Only the individual farmer, with the exception of powerful cooperatives in a few crops, remains unorganized in the marketplace.

A battle to achieve market power now pits rival farm producer groups against each

other, farmers against processors and farmers against migrant farm workers.

The battle has produced some strange new alliances and has strained old ones. It is now being fought with strikes and boycotts and in the halls of Congress.

AGRIBUSINESS THREATENS FAMILY FARM

(By Nick Kotz)

Joseph Weisshaar looks the part of Modern American Farmer, textbook version: educated at Iowa State, conservative in speech and manner, efficient in the latest technology, industrious as a businessman, proudly independent.

He is 39 years old and grossed more than $100,000 last year selling hogs. He has presumably "made it." But in fact he is a troubled man, fearful that he and thousands of farmers like him in this country cannot survive the industrial and financial upheavals in American agriculture that have been brought about in recent years by the emergence of enormous "agribusiness" corporations.

So he has become a "militant" of sorts, a card-carrying member of the hell-raising National Farmers Organization which is using collective bargaining, law suits, strikes, boycotts, crop dumping and even occasional violence to win higher farm prices for its growing membership.

The NFO's ultimate goal is to protect the "family farmers" of the world from forces over which they have minimal control—giant food chains, food manufacturers and conglomerates that are attempting to bring to agriculture the industrial bigness, efficiency and control that characterizes much of the American economy.

The threat to the "family farm," and the way of life it represents, is so strong that even the American Farm Bureau Federation, the nation's largest and most conservative farm organization, shows symptoms of upheaval. In the past, the AFB has consistently and vigorously opposed federal intervention in the farm economy. But today it is swallowing its ideology and asking for federal laws to strengthen individual farmers in dealing with the new corporate forces in agriculture.

The stakes in this struggle between farmers like Weisshaar and the giant new farm corporations are immense:

Food is the nation's largest business with $114 billion in annual retail sales. More than $8 billion in annual farm exports keep the U.S. balance of trade from becoming an economic disaster. The question of who in agriculture is to share in this bounty and on what terms is at the root of the NFO's militance and the Farm Bureau's philosophical turnaround.

Will the family farm survive in the years ahead? Or will agriculture become—like steel, autos, and chemicals—an industry dominated by giant conglomerate corporations such as Tenneco, whose operations were described in an article yesterday? In that case, the nation will have lost its prized Jeffersonian ideal, praised in myth and song, of the yeoman farmer as the backbone of America.

What will become of rural America if the greatest migration in history—40 million to the cities in 50 years—is further accelerated? Farmers have provided the economic base of the small towns and that base is becoming perilously small.

What will be the effect of a rural wasteland on the American political system? The power of the farm lobby and the small towns, already in sharp decline, has traditionally provided a counterbalancing force to the politics of the big cities.

How will the nation's food supply be affected? Production efficiency of the family farmer and general affluence have made food a relative bargain in the United States.

FAMILY UNITS DOWN

On all these questions, the symptoms are not encouraging for the family farm system. A million farms are eliminated every 10 years and only 2.9 million remain.

The average farmer today is 58 years old—compared to a median age of 38 for all Americans in the work force. Young aspirants who would like to fill the retiring farmer's shoes can't get capital. And many who start farming soon quit, discouraged by low returns and mounting debts.

The contest between the family farmer and the conglomerates is, on the surface, incredibly unequal. There is Tenneco with its $4.3 billion in assets and its ability to employ its own land, tractors, pesticides, oil, processing plants, and marketing system. On the other side, there is Joe Weisshaar trying to hold on. Weisshaar has not quit, but he is perplexed about what it takes to earn a decent living farming.

GOAL REACHED

After 10 years applying the lessons taught him at agriculture college, Weisshaar last year reached his personal goal—the magic circle of 50,000 farmers who sold at least $100,000 worth of farm products and produced one-third of the nation's food.

It was not a happy experience.

"I figured I would have it made when I reached the $100,000 mark," (in sales) says Weisshaar, 39 who farms 540 acres near Creston, Iowa, "but I ended up $1,300 further in debt. It seems like the bigger you get, the harder you fall. You depend heavily on credit and with one bad year of hog prices you are in deep trouble."

The Weisshaars have taken only one vacation in 10 years. The family bought only one costly item last year, a new refrigerator. Mary Jane Weisshaar, an attractive college graduate and mother of three young children, paid for it by driving a corn-hauling truck in a job that begins at 5 a.m.

"All that talk in the cities about free time and recreation?" questions Weisshaar. "I wonder whether we farmers aren't subsidizing that recreation."

With his credit already stretched to meet operating expenses, including payments on expensive farm machinery, Weisshaar must farm leased land, rather than buying his own.

"The doctor and lawyer uptown are buying up the farm land as a tax write-off and a hedge against inflation," he complains. "When they get done with it, there is only one other place it can go—to the farm corporations."

INVESTMENT IN YOUTH

"This country is going to wake up one day and discover that the price of food has doubled," says Weisshaar's banker, Charles Ehm, who worries that young men can't get a start in farming. "We decided to start out five young farmers a year—a good investment for the bank and for the community. It's not working and it just tears my heart.

"The worst part of it is that they are not 'pool hall boys.' They work night and day. They are efficient, good farmers. I could name at least a half dozen who will sell out this winter, and they shouldn't have to."

Ehm says the family farm will soon disappear unless farmers get higher prices, and the government provides special financial credit for beginning farmers.

Weisshaar worries that Midwestern farming will be taken over by "vertically integrated" corporate farms, similar to ones that now dominate California agriculture.

While the Tennecos haven't yet moved into Iowa on the grand scale they have spread through California's central valleys, you can almost hear their footsteps.

Feed manufacturers, processors and other corporations already have taken over poultry production, and are now applying similar tactics to move in on hog and cattle feeding—the midwestern farmer's best source of income.

Ralston Purina Co., a leader in the corporate takeover of poultry, has made a pitch to Weisshaar, offering to finance his hog operation, if Weisshaar will buy the corporation's feed and grow its hogs on contract. Remembering what happened to the once independent poultry grower, Weisshaar doesn't want that kind of partner. He doubts the advertisements of Kleen-Lean, Inc., the Ralston Purina subsidiary, which beckon him with "Swine Leasing Will Work for You."

THE PROFIT CHAIN

But Weisshaar is faced with a dilemma. If the processors and conglomerates gain control of hog and cattle feeding, then Midwestern family farmers will have to get all their income from growing corn, wheat, and soybeans. Farmers fear they cannot survive, if their only function is to provide grain for an integrated food system in which most profits are taken further up the food chain of animal feeding, processing, marketing and retail sales.

"It doesn't matter whether there are 500,000 of us left or 50,000," says the muscular but soft spoken Iowa farmer. "If we are powerless in the marketplace, we'll just keep on overproducing and killing each other off."

Out of this dilemma, the NFO arose and the Farm Bureau began rethinking its strategy. Farmers started turning up in unfamiliar places—with picket signs at packing plant gates, and with highway barricades seeking to bar farm products from going to market at low prices.

The NFO plan for saving the family farmer includes legislation prohibiting farming by large conglomerate corporations, closing loopholes that promote tax-loss farming by non-farmers, and providing easier financial credit for young farmers.

But the NFO has little confidence in getting help from a Congress in which the farm vote has shrunk into political insignificance.

Its basic strategy is to organize farmers into bargaining blocks of sufficient power to raise prices for their prices for their beef, hogs, grain, and other commodities. When buyers refuse to bargain or market prices get too low, the NFO tries to withhold commodities from the marketplace.

Weisshaar believes that an NFO-bargained contract with the John Morrell Co. will mean high prices this year for his hogs and better income to support his family.

"The NFO is the only hope we've got," he says. "We've got to block together our production and demand prices that will give us a decent living."

The Farm Bureau has called for relatively mild legislation that would require processors "to bargain in good faith" with farm groups representing a significant number of farmers. A three-man board, appointed by the President and approved by the Senate, would approve the farmer bargaining agents.

The Farm Bureau legislation, introduced by Rep. B. F. Sisk (D-Cal.), represents, at least in part, a response to the competition of the NFO.

BUSINESS BALKS

Several years ago the Farm Bureau organized voluntary bargaining associations, but learned to its surprise that its old friends and philosophical allies in agribusiness were not cooperative. Agribusiness corporations such as Campbell Soup Co., Green Giant Co., Del Monte Corp., and Pillsbury Co., flatly refused to sit down at the bargaining table.

Many Farm Bureau members suddenly looked at their prestigious organization in a different light. The Farm Bureau had built a $4-billion empire selling life insurance and supplies to farmers. But what, asked farmers, had the Farm Bureau done for them?

So John Kuhfuss, Illinois farmer and Farm Bureau President, went to a House Agriculture Subcommittee to complain. Agribusiness will not bargain with the Farm Bureau, he said, but insists on buying from individual farmers on "a take-it-or-leave-it basis—a one-sided process that is getting more one-sided as changes continue to occur in American agriculture."

Still another approach to increased farmer power is taken by advocates of giant cooperatives, which already are powerful in the dairy industry and in California citrus. The coops believe farmers must compete by creating their own vertically integrated systems of production, processing and marketing.

The giant dairy coops also seek to win higher prices under government-approved marketing orders by exercizing political muscle in campaign financing. The dairy coops already have poured $170,000 into a 1972 Republican campaign chest for President Nixon's re-election.

"Agriculture is acting a great deal like the buggy whip industry acted at the turn of the century," says Eric Thor, director of the Agriculture Department's Farmers Cooperative Service and an advocate of giant, integrated coops. Instead of trying to reduce costs and sell cheaper buggy whips, says Thor, that outmoded industry should have become a manufacturer of fan belts or air cleaners.

Similarly, Thor says "the family farm could disappear" unless farmers complete collectively as processors and marketers of food. He believes farmers are wasting time concentrating all their energy on production efficiency, at a time when food industry profits are controlled in food marketing.

COOPS BIG TOO

Some farmers complain, however, that the "super coops" have become just another kind of conglomerate giant from which they get few benefits. For example, Sunkist Growers, Inc., which dominates 80 per cent of California citrus, is a many-layered, pyramid-shaped corporation. Small growers are at the bottom. Contrary to general knowledge, the processors at the top of this "super coop" include major private corporation as well as farmer-owner processors. Critics contend that decisions are made and profits are taken at the top of the pyramid, with too little consideration paid to the economic interests of the small grower.

Iowa farmer Weisshaar is not eager to have his interests buried in such coops. "If I wanted to go into something like that," he says, "I would have gone into meat packing or the grocery business. I like being a farmer."

The various plans of farm groups to save the family farm face an uncertain future.

Their legislative and organizational prospects are seriously weakened by traditional divisions in their own ranks. The NFO is suspicious of the Farm Bureau and is itself distrusted as too "radical" by other farmers. The National Farmers Union, which represents midwestern grain producers, has its own legislative goals.

Other farmers, including cattlemen, fear that mandatory bargaining—a Farm Bureau proposal—will merely stimulate further vertical integration by the conglomerates. Faced with the prospects of collective bargaining, giant meat packers, canners and sugar refiners may respond by growing even more of their own raw food materials.

It is difficult to design legislation to meet the differing problems of Iowa corn producers and California fruit growers.

Furthermore, the agriculture committees of Congress are confronted with new conflicts of interest. In the past, these committees had little trouble satisfying both big farmers and corporate food processors.

The big farmer and conglomerate both benefited from farm subsidy payments, a cheap labor supply, and foreign aid food programs.

But now the Senate and House Agriculture Committees are faced with difficult choices—resolving new conflicts between independent farmers and the corporations. Agribusiness, led by the National Canners Association, National Broiler Council, and the American Meat Institute strongly oppose bargaining legislation.

These committees give considerable weight—as do many economists—to the agribusiness argument that farm commodity prices are determined on a day-to-day basis in a highly competitive world market and that rigid bargaining legislation might well weaken the ability of American agriculture to compete in world trade.

They are concerned, too, about maintaining the vigorous competition that now exists among food processors who fight for position in retail stores and who seek to satisfy shifting consumer preferences that often are geared to price. Processors want to retain this pricing flexibility and fear the rigidities that could come from enforced bargaining.

MANY LOBBYISTS

In terms of effective political power, 200 Washington lobbyists representing the food industry are far more influential than farmer lobbyists. Food processors have plants scattered all over urban America and can appeal to urban as well as rural Congressmen. For example, the Grocery Manufacturers of America maps out its legislative campaigns with charts showing the location of food plants in each congressional district.

"Most members of the agriculture committees wish this farm bargaining issue would just go away," says one agribusiness lobbyist. "Whatever they do, the politicians figure they will make one friend and six enemies."

The Nixon administration also feels and reflects the conflicting pressures from farmers and food manufacturers. The administration has tentatively supported the Farm Bureau Bargaining bill. But a high administration source confides:

"The White House owes a political debt to the Farm Bureau, but we aren't very enthusiastic about this legislation. If you look at our proposed qualifying amendments, you'll see there really isn't much left."

The political disputes and maneuvering are still largely regarded by consumers, urban politicians, and the news media as intrarural issues involving "the farm problem."

But the broadest issue involves the future shape of America and of its rural communities

There is the strong, compelling desire in rural America to maintain the family farm and the small town.

Joe Weisshaar questions whether a way of life his family loves will be replaced by another industrialized system, administered by the forces of big labor and big industry.

And migrant farm workers, struggling to organize, question whether society does not have some obligation to help the lowest-paid worker who is being replaced by machines.

WHY BIGNESS?

Creston banker Charley Ehm asks: "Why is this country so obsessed with bigness? Why can't a young fellow farm 300 acres and make a living? We need to replace the economists and corporate planners with someone who has a concern for human beings."

Even assuming that industrial agriculture can be more efficient, Don Paarlberg, the Agriculture Department's chief economist, says: "People are asking, whether in as affluent a country as the United States, efficiency should be the sole criterion for the form of agriculture we are going to have. We now supply ourselves with food—the best diet ever, anywhere, with 17 per cent of our income. How much is it worth to drive that percentage down to 15 or 12 or 10?

"Should we sacrifice a form of agricultural production that has served us well, that has produced good people as well as good crops and livestock?"

Paarlberg had no answer for the question.

U.S. POLICY HANDCUFFS SMALL FARMER

(By Nick Kotz)

Tereso Morales has struggled all his life at the bottom of the richest agricultural system in history. Since he was nine years old, he has stooped in fields from Oregon to Texas, harvesting wealth owned by big farmers, retail food chains, canners and now, by agribusiness conglomerates.

Morales, 35, is still breaking his back in the fields, but with new purpose. His mind is now fired with a dream at sharing in some of the riches of American agriculture. He has joined with 30 other migrant workers and small farmers to grow strawberries in Watsonville, Calif. He hopes to earn $10,000 a year to raise his 11-member family in someplace other than a labor camp or a big city slum.

The 31 families of Cooperativa Compesina in many ways symbolize the problems and aspirations of 13 million poor rural Americans. They are among the 1.5 million small farmers and more than one million migrants who now work the land at far less than poverty-level incomes. They contribute to national statistics one-half of the nation's poverty and substandard housing.

The cooperative movement may give some of these people a way out of poverty. But the odds on their success are small.

They are competing—like the "family farmers" of the country—against powerful, efficient and aggressive "agribusiness" corporations that have moved into American agriculture on a large scale.

Morales and the other families of Cooperativa Compesina, for example, are competing in the California strawberry market with Tenneco, Inc., a $4.3 billion conglomerate corporation, and with S. S. Pierce Co., which both grows and distributes its own brand of premium-priced foods.

They are competing, in a larger sense, with political forces that have shaped federal agricultural policies in ways that favor the largest and most efficient interests in agriculture.

For more than 35 years—to take the most obvious case in point—American industrial workers have been represented by powerful labor unions that have secured minimum wage legislation, unemployment compensation, child labor regulations, workmen's compensation for injuries on the job, collective bargaining right and so on. Farm workers, like Morales, generally enjoy none of these rights and benefits.

UNDERCUT BY GOVERNMENT

When the United Farm Workers Organizing Committee, led by Cesar Chavez, sought to achieve some of the same benefits, government responded by undercutting the movement with policies permitting employers to import cheap labor from Mexico and Puerto Rico. When Chavez and his union sought to gain bargaining rights with a retail boycott of grapes and lettuce, the Defense Department increased its purchases of grapes and lettuce.

At the same time, the government has continued its subsidies to large farm operations through the provision of low-cost irrigation water, the development of labor-displacing machinery and generous tax laws.

The U.S. Department of Agriculture, through various policies and actions, has discouraged the development of cooperatives for low-income farmers on grounds that the industrialization of agriculture and the elimination of stoop labor is in the interests of both country * * *.

"Government," says James Hightower of the Agribusiness Accountability Project, a foundation-financed operation, "has pro-

vided socialism for agribusiness and free enterprise for the small farmer and farm worker."

The problems created in "rural America" by these policies have prompted politicians and presidents to come up with new programs and new rhetoric to "save" the small towns and the small farms of the country. There have been, in recent years, "wars on poverty", "rural development" schemes and concept of "balanced national growth". But thus far, the powerful and impersonal forces of corporate agriculture have been the dominant factors in the changes sweeping the farm economy.

TREND REVERSERS ABSENT

The measures that might reverse the trend—strong farm worker labor unions, generous subsidies to small cooperatives, the redistribution of land from corporate farmers, to individual farm entrepreneurs—have not been undertaken.

What is happening in American agriculture—bigness concentration, and the efficiency these things produce—may be good or bad for the country in the long run. But the implications of these tendencies transcend the question of whether Tenneco, Inc., or Tereso Morales will harvest strawberries in California. These implications include the following:

The future shape of the American landscape. Already in this country 74 per cent of the population lives on only 1 per cent of the land. If present trends continue, only 12 per cent of the American people will live in communities of less than 100,000 by the 21st century—60 per cent will be living in four huge megalopli and 28 per cent will be in other large cities.

Rural life, already seriously undermined by the urban migration, will be further eroded. Today, 800,000 people a year are migrating from the country side to the cities. Between 1960 and 1970 more than half of our rural counties suffered population declines. One result is the aggravation of urban pathology—congestion, pollution, welfare problems, crime and the whole catalogue of central city ills.

The domination of what is left of rural America by agribusiness corporations is not only accelerating the migration patterns of recent decades but raises the spectre of a kind of 20th century agricultural feudalism in the culture that remains.

In response to this vision of the future, the federal government in the 1960s undertook limited measures to stimulate the survival of the small farm and the small towns of America. The antipoverty programs administered by the Office of Economic Opportunity touched the problem in certain ways.

A START THROUGH OEO

Tereso Morales, for example, learned to read and write in an adult education course sponsored by OEO for migrant workers. He learned, too, that he and other farm laborers might earn a living growing high-value fruits and vegetables. So he persuaded three of his OEO classmates to join him in putting up $500 apiece to launch Cooperativa Compesina, with Morales as president.

Working from sunup to dark in the coop's 140-acre leased fields, Morales has little time or patience to talk with visitors about abstractions. He is laying several miles of irrigation pipe, and supervising the leveling of irrigation ditches. It is an exacting job. If the irrigation troughs vary by more than one inch in 100 feet, water may slop over and mildew the precious strawberries.

The dream or heartbreak at the end of this labor will come next year. If all goes well, each acre of strawberries should produce gross sales of about $9,000. Then the cooperative will find out whether corporate competitors attempt to frustrate its marketing plans.

"In a good year I could earn $5,000 as a migrant," relates Morales, "but that meant traveling for 12 solid months. "It's very hard on the family. How are you going to do that and raise nine kids, send them to school, give them a chance? You can't keep running forever. I'm not moving anymore."

KEYED TO FAMILY

The coordination of cooperative farming is no easy matter, and has produced some failures. Cooperativa Compesina divides up land and profits on the basis of family size and family contributions to work. Its members so far are sticking together.

"We want to benefit our community and do all we can to exist," says Morales. "Our members are not afraid to work. With what we have to go back to, this looks pretty good."

The coop got its crop started with a $100,000 loan from an OEO-funded consulting firm, and a $150,000 loan from the Wells Fargo bank. When local growers tried to block the loan a local Wells Fargo official reportedly told them: "You'll take your money out of the bank, but they'll burn the bank down. What am I supposed to do?"

Despite the indirect assistance from OEO, the federal government—and particularly the Agriculture Department—has done little to assist Morales' coop and similar ones that are being started by blacks in the South and whites in Appalachia.

TURNED DOWN BY FHA

The farmers Home Administration turned down Cooperative Comesina's request for a loan.

"The low-income farmer problem is not personally my cup of tea," says Homer Preston, deputy administratior of USDA's Farmer Cooperative Service. "Our conventional coops are not exactly enthusiastic about them. They don't have much to offer except labor and it is less important today. These people were cotton choppers.

"They're tied in with idealism and civil rights, and a lot of romanticism. The purpose of cooperatives is not to keep mass numbers in farming but to help those who remain. You can't go against market trends when everything else points to bigness."

Although the conventional co-ops were started by struggling farmers of yesteryear, they today essentially represent big business and seek farmer members who can invest in processing and marketing.

In the course of assisting "bigness," Preston says the FCS is helping merger negotiation between the country's two largest dairy "super co-ops," which between them control about 40 per cent of the fluid milk supply.

When he came to Washington seeking management training assistance for 100 low-income southern co-ops, says Father A. J. McKnight, FCS advised him to seek help from a private foundation.

"The USDA programs have favored the big commercial farmers and have deliberately tried to eliminate the small family farm," said McKnight, referring to research sponsored by the Agriculture Department and land grant colleges.

At a time when poor Southerners are starting to earn a living growing labor-intensive specialty crops like okra, tomatoes, sweet potatoes, and cucumbers, McKnight said, USDA is developing strains of the same vegetables which can be harvested mechanically.

TOUGHER STRAWBERRY

Similarly, government-backed research at the University of California is developing a tougher variety of strawberry—with a primary emphasis not on flavor or nutrition, but on its ability to be shipped and picked by machine.

"When I asked about the effects of that strawberry picked on migrant workers," says Alfred Navarro, a consultant to Sooperativa Compesina, "the Extension Service guy said: 'All I worry about is the economic part of it. Let the sociologists worry about that'."

"Mechanization is a fact of life," says Navarro, "but the field worker can't get the machine. Who deals with the social effect of these machines? The Agriculture Department has got to be responsive to more than one sector of the rural economy."

The clash of farm worker and grower has been highlighted in recent years by the rise of Cesar Shavez's United Farm Workers Organizing Committee.

UFOC's major successes to date have been in winning contracts from the new conglomerate farmers, who have entered California fruit and vegetable farming. Primarily because they fear boycotts of their nationally branded products, the conglomerates say, they have signed contracts while most large independent growers have not.

In the Salinas Valley, for example, four of five contracts won by the union are with national firms: Purex Corp., United Brands, S. S. Pierce Co., and Heublin, Inc.

UNION STILL RESISTED

Meanwhile, the largest independent growers are still bitterly resisting the union, and seek state or national legislation that would restrict its activities. The growers want a law that would prohibit strikes during harvest season and the secondary boycotts by which Chavez has appealed to sympathetic consumers.

The outcome of these battles over agricultural wealth could be an industrialized system of conglomerate farmers and of unionized labor. However, Chavez so far has organized only a small percentage of California migrants, and even these victories are fragile ones, subject to renegotiation in a year or so.

Chavez' ultimate goal is to win economic independence for migrants by creating cooperatives such as Cooperativa Compesina.

They could be helped by a new system of crop subsidies, which base government assistance on economic need rather than on acreage.

Present subsidies, theoretically aimed at controlling overproduction, go mainly to the wealthiest farmers who own the most land. But John Schnittker, Under Secretary of Agriculture in the Johnson administration, argues that subsidy payments for wheat and cotton are far larger than those needed to control surpluses. A substantial part of these subsidies, says Schnittker, simply provide income supplements to the wealthiest farmers.

Some reformers argue that the small farmer can still be given a place in America if the government brings about "land reform," including enforcement of the 1902 Reclamation Law.

This law originally was designed to protect the small farmer. It provided that government-irrigated land could not be owned by absentee landlords, and that no individual could own more than 160 acres of government-irrigated land.

The law has never been enforced. In California alone, corporate landholders continue to occupy and benefit from more than one million acres subject to the 160-acre limitation.

Rep. Jerome Waldie (D-Calif.) and others have proposed legislation by which the government would buy this illegally-held land, and then resell it on generous credit terms to small farmers and low-income cooperatives.

Unless present trends are reversed, the ultimate cost of the new conglomerate revolution in agriculture will be paid by the small towns of the Midwest and of California.

CALLED DISASTROUS

Jack Molsbergen, a real estate man in Mendota, Calif., describes as "disastrous" the effects of conglomerate farming on his town in the western San Joaquin Valley.

Conglomerate farmers such as Anderson Clayton and Co., the country's 185th largest corporation with 1970 sales of $639 million, contribute little to the local economy, says Molsbergen. The conglomerates buy their farm machinery and supplies directly from the factory and their oil directly from the refinery, he says.

When Mendota tried to build a hospital several years ago, says Molsbergen, Anderson Clayton and two other large corporate landowners blocked the project, because it would increase their property taxes.

LIVES ELSEWHERE

"The guy who made the decision for Anderson Clayton lives in Phoenix," explains Molsbergen, "and if you live in Phoenix, you don't need a hospital in Mendota. These corporate guys don't go around with a Simon Legree mustache. They are nice men. It's just the way things are."

Agriculture Department economists do not see any future for the Mendota, Californias, of the country.

"These towns represent the unfulfilled dreams of the people who went there," says USDA economist Warren Bailey. "They are going the same way as the neighborhood grocery. People want to shop where they have a choice. With air-conditioned cars and good roads, they choose to do their shopping in the cities. Iowa really doesn't have room for more than 12 regional centers. The small town will remain only as a pleasant place to live."

As matters now stand, the small towns will die and the small farmer and farm worker will be replaced without any of the attention and national debate that has focussed on other economic disruptions.

LOCKHEED CONTRAST

There is a marked contrast between national concern shown over the economic problems of a Lockheed and over the problems of 150,000 small North Carolina tobacco farmers, who soon will be displaced by a new tobacco harvester.

Woodrow L. Ginsburg, research director of the Center for Community Change, contrasts that concern:

"When tens of thousands of scientists and skilled technicians were threatened with loss of jobs in the aerospace industry, a host of industrialists, bankers, and others besieged Congress for large-scale loans and special legislation.

"But when even larger numbers of workers are threatened with loss of jobs in the tobacco industry, scarcely a voice is raised. What corporate executive speaks for such workers, what banker pleads for financial aid for them, what congressman or state official calls upon his colleagues to enact special legislation?"

Ginsburg believes no voice is heard because America lacks "a national rural policy that considers the needs and aspirations of the majority of rural Americans—farm workers, small farmers, small independent business men and the aged."

"The farmhouse lights are going out all over America," says Oren Lee Staley, president of the National Farmers Organization. "And every time a light goes out, this country is losing something. It is losing the precious skills of a family farm system that has given this country unbounded wealth. And it is losing free men."

NATIONAL HEALTH INSURANCE SURVEY—PART I

Mr. HANSEN. Mr. President, a nationwide survey has recently come to my attention which asks several questions concerning national health insurance. This survey was conducted by the Opinion Research Corp., of Princeton, N.J., in May of 1971.

The results of this survey will certainly be of great interest to all Members of the Senate as we consider the needs and desires of the American people in this field. It is especially important now that the House Ways and Means Committee has announced that it will shortly begin its hearings on health insurance programs.

With more than 1 dozen different health insurance bills introduced in Congress, and with great differences in scope, cost, and purpose of these different bills. I have personally found the results of this survey to be especially useful. The question of the role the Federal Government will play in the years ahead is the one which must be determined by the Congress. It is not an easy choice that we have facing us.

This survey asked three questions, as follows:

If you could get hospital and medical insurance from either a private insurance company or from the Federal Government, which would you prefer?

Do you feel that we need a nationwide Federal Health insurance program?

What do you think a nationwide Federal health insurance program should cover?

Today I will place in the RECORD the answer to question No. 1 along with the analysis done by Opinion Research Corp.

The material follows:

Many people today would prefer to obtain hospital and medical insurance from Uncle Sam.

President Nixon and Senator Edward Kennedy have each prescribed new Federal medicine for America's ailing health-care system. Nixon describes his program as a "National Health Insurance Partnership," while Kennedy seeks to create a new "Federal Security Board."

The Nation's health bill for 1970 was $71 billion, an increase of $44 billion over 1960. Costs have far outpaced the funds available—the Health Insurance Institute estimates that private plans lost $600 million last year.

As to the preferred source of hospital and medical insurance, the question was asked:

"If you could get hospital and medical insurance from either a private insurance company, or from the Federal government, which would you prefer?"

Of the total public, in 1953, 30 percent preferred the insurance from the Federal Government; 64 percent preferred a private company, and 6 percent had no opinion.

In 1955, 31 percent preferred the Federal Government; 63 percent preferred coverage from a private company, and 6 percent had no opinion.

The latest analysis indicated that 41 percent would prefer hospital and medical insurance from the Federal Government, 45 percent from a private insurance company, and 14 percent had no opinion.

THE RELUCTANT STATISTICIANS

Mr. HUMPHREY. Mr. President, on September 30, 1971, I took the floor of the Senate to call attention to the shift of personnel in the Bureau of Labor Statistics.

As I said then:

The Bureau of Labor Statistics must be highly professional. Whether we like the reports or not, we must have some respect for them.

A recent article in the New York Times makes exactly the same point:

The shake-up has been explained as a move that is aimed at better coordination, uniformity, and so on, but the plain fact is that some statisticians of unimpeachable competence and integrity are being shunted into less important work because they have refused to interpret the statistics as their bosses wanted them to.

And as the article so cogently notes:

Not a single businessman or business economist has raised his voice in protest.

Mr. President, I ask unanimous consent that an article entitled "The Reluctant Statisticians," written by Eileen Shanahan, be printed in the RECORD.

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

THE RELUCTANT STATISTICIANS—SOME ARE REORGANIZED OUT OF THEIR JOBS

(By Eileen Shanahan)

WASHINGTON.—Businessmen traditionally have held a dual attitude toward making their voices heard in matters involving the Federal Government.

Where there has been a specific impact on a specific company—what seemed to be a heavy tax, a burdensome regulation, an unreasonable restriction—business executives have not hesitated to march on Washington personally and also to hire top legal, lobbying and other talent to get their views across.

Where the impact has been less specific, however—where the policy perceived to be a bad one, is expected to have generalized consequences for their company—then business executives have generally stayed at home rather than tangle with the politicians and the bureaucrats, or both.

Thus it is, for example, that business executives have hardly ever testified before Congress on such matters as education, welfare or space budgets. They left the expression of business opinion on such issues to such organizations as the chamber of commerce, which, depite its large membership, often has less impact than one identifiable plain-spoken corporate executive.

The concept that it is best for a businessman not to get into any fights with the Government unless there is a direct and substantial corporate interest at stake seems to have led many businessmen into not even inquiring whether they have such an interest, unless that interest is immediately apparent.

The latest such case in point involves the decision of the Nixon Administration to shake up the personnel of the Bureau of Labor Statistics, which is responsible for the preparation and analysis of many of the most basic economic statistics, including the employment and unemployment figures.

The shake-up has been explained as a move that is aimed at better coordination, uniformity, and so on, but the plain fact is that some statisticians of unimpeachable competence and integrity are being shunted into less important work because they have refused to interpret the statistics as their bosses wanted them to. The dissatisfied bosses include Secretary of Labor James D. Hodgson as well as the President.

One of the main individual victims of the shuffle, though not the only one, is Harold Goldstein, who has long been the Assistant Commissioner of the Bureau of Labor Statistics responsible for the employment and other manpower figures.

Mr. Nixon and Mr. Hodgson have been increasingly furious with Mr. Goldstein and some of his assistants—and at some others within the bureau who supported them, such as Peter Henle, the chief economist, who has also been reorganized out of a meaningful job. The reason for the fury is that these career bureaucrats would not make public

statements interpreting the figures as their political bosses wanted them to. If a one-tenth of 1 percentage point drop in the unemployment rate was not statistically significant—as it is not—Mr. Goldstein would refuse to say what it was, no matter what Mr. Hodgson or Mr. Nixon wanted said.

After a year of such tussles, the recent "reorganization" of the Bureau of Labor Statistics was ordered. Not a single businessman or business economist has raised his voice in protest. The silence has continued despite an industrious effort made by the staff of Senator William Proxmire, Democrat of Wisconsin, to find an executive or economist from the business community who would testify at the Joint Economic Committee hearings on the matter.

Many business executives obviously felt it was completely unnecessary to get into the fight because they saw no vital corporate interest at stake.

All who are familiar with the process of collecting and processing the unemployment figures say that there is no way that even the most evilly intentioned person could actually alter the statistics without being caught. Since a whole data-collection and processing system is involved, too many people would have to know. Changing just one figure—the politically sensitive over-all unemployment rate, for example—would involve changing hundreds or even thousands of others.

Since accurate numbers are, therefore, expected to continue to be available and since large corporations have experts on the payroll to make their own interpretations of the numbers, executives of large companies may feel that it does not matter what officialdom or the official press release says about the numbers—true, false or misleading. But only the largest companies have their own analytical resources. In addition, what the business executives who have failed to speak up may have forgotten is that the public interpretation of the figures, and not just the figures alone, establishes the climate in which economic policy decisions are made.

If they see no danger to themselves and their companies in the not-entirely-accurate interpretations of the figures that are being made today by officials of the Nixon Administration, they might try to contemplate the results, some future day, when a Democratic administration is interpreting the numbers.

NATIONAL SICKLE CELL PREVENTION ACT

Mr. ROTH. Mr. President, I am pleased to be one of the cosponsors of S. 2676, the National Sickle Cell Prevention Act. Sickle cell anemia, a disease primarily of members of the black race, has been known in medicine since 1910. It is a blood disease which affects the hemoglobin in blood cells. The result, in those severely afflicted, is to cause unusual pain, a severe anemia, and too frequently, may result in death. The median survival age for those who have the disease is 20.

This disease is an inherited disease. The individual who suffers from the disease must inherit traits of the disease from each of his parents. Both parents must be carriers of the disease. The incidence of the disease varies in different parts of the world but, in the United States, the disease occurs in approximately one out of every 400 to 500 live Negro births. It has been estimated that about 2 million individuals may carry the trait. The disease is severe when it occurs with relatively few surviving into adulthood. For this reason, the disease is seen most often in children and young adults. In fact, sickle cell anemia is one of the most common illnesses of Negro children. Symptoms of the disease and the presence of the trait in carrier individuals are usually detectable shortly after birth or at least by 2 years of age.

There are techniques for examining individuals to detect whether the sickle cell trait is present. The most widely used technique is called the Sickledex test and costs about 50 cents per blood sample to perform. Some limited screening of populations has shown that the test is fairly reliable. Other tests have been developed and are under limited evaluation in civilian as well as military community screening approaches.

Procedures for treating individuals who have the disease; that is, they have inherited the trait from both parents, are not satisfactory although relief has been dramatic in some instances. There has been increasing success over the years despite the fact that sickle cell research has not been funded as a high-priority category. No completely satisfactory techniques are available. Most methods involve the use of drugs to relieve pain, partial blood exchange transfusions, biochemical treatment of the blood to regulate blood substance concentrations, or most recently, the use of urea to relieve many of the symptoms.

The use of screening techniques to locate affected individuals, carriers as well as the person with the disease, produces a need for genetic counseling and medical treatment. When a carrier is detected, advice must be available. If the disease is identified, treatment must be at hand. So far, most of the programs for screening and counseling have been carried on by small volunteer groups and on a local basis. These actions are commendable, not only for the community service rendered but because of the fact that attention has been directed to the need for more support. Some research has been funded by the National Institutes of Health. In his health message this spring, the President announced that additional funding would be directed toward research programs in sickle cell anemia and the fiscal year 1972 budget did carry a request of $5 million more for this program. The problem is that research work, screening, programs, genetic counseling, and protocols for medical treatment are poorly coordinated and ineffectual in reaching our total population of blacks.

The act which I am cosponsoring today would serve to remedy the problems associated with this community health problem. The act provides for Federal support of voluntary screening programs, counseling services and educational programs. Research would be encouraged for the prevention, treatment, and cure of sickle cell disease and all appropriate Federal health agencies, civil as well as military, would be authorized to prescribe and implement voluntary programs for detecting and treating the disease. Participation in all of these programs by blacks would be on a voluntary and confidential basis. Our knowledge of this disease, while incomplete, is at the state where effective national coordination would produce a significant benefit. The act provides for that coordination and attention.

UNIVERSITY OF WISCONSIN ECONOMISTS EXPRESS CONCERN OVER EXECUTIVE HANDLING OF ECONOMIC STATISTICS

Mr. PROXMIRE. Mr. President, last Friday, October 8, the Labor Department released its latest figures on unemployment. Once more—for the 11th month in a row—the dismaying news was a continuing high rate of unemployment, in the neighborhood of 6 percent.

Following the practice inaugurated last spring, the Joint Economic Committee, of which I am chairman, held an open hearing to discuss recent labor market developments with the Commissioner of Labor Statistics. There certainly was no encouraging news for the 5 million unemployed workers or their families. One month into the wage-price freeze, there is no clear indication that economic policies of this administration are working to reduce the intolerably high unemployment.

Mr. President, at this hearing we also spent considerable time discussing the newly announced reorganization plans for the BLS. News accounts continue to abound, questioning the rationale for the reorganization.

Officially it is predicated on a statement by the Office of Management and Budget—OMB—calling on the four departments—Agriculture, Commerce, HEW, and Labor—with major statistical programs to undertake a review of these programs with a view to the eventual establishment of the proposed Department of Economic Affairs contained in the President's reorganization program.

On the other hand, the thrust of the news stories, which was not at all blunted by testimony last Friday before our committee, has been that a major factor in the BLS reorganization is the determination of the Secretary of Labor and other even higher officials to punish certain key career technicians for calling the shots as they objectively saw them, and not as dictated by political expediency.

Mr. President, I have just received a letted signed by 44 economists from my home State University of Wisconsin. The letter clearly outlines the background and the important issues involved. It states:

> If the planned reorganization is put into effect, economists, important stabilization agencies such as the Federal Reserve and the public at large will surely question the objectivity of this important statistic (the unemployment rate.)

I certainly intend to carry out the suggestion of these highly qualified experts that the replacement for the demoted Harold Goldstein, one of the principal career Labor Department officials involved in the "shake-down," appear before our committee to verify the continuing reliability of unemployment statistics.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

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

THE UNIVERSITY OF WISCONSIN,
Madison, Wis., October 4, 1971.

Hon. WILLIAM PROXMIRE,
U.S. Congress, New Senate Office Building, Washington, D.C.

DEAR SENATOR PROXMIRE: We are alarmed by newspaper accounts describing the planned reorganization of the Bureau of Labor Statistics. As you are aware, the monthly presentation to the press of the basic unemployment statistics and the answering of questions regarding their significance has been the responsibility of competent and objective career statisticians of the Bureau. The transfer of this function and the attendant downgrading of the Bureau's professional statisticians is likely to impair the public's understanding of unemployment problems in this country.

Until last March, no one had seriously questioned the integrity of unemployment statistics. To be sure, it was easy to find fault with the methods used in their construction and particularly with their seasonal adjustment, but not their fairness. With the cancellation by the Administration of the monthly news conference, a first step in the erosion of public confidence in government statements regarding the unemployment rate occurred. If the planned reorganization is put into effect, economists, important stabilization agencies such as the Federal Reserve, and the public at large will surely question the objectivity of this important statistic. We judge this to be so in spite of the Administration's rationale for the reorganization of Federal statistical activities as reported in *Statistical Reporter*, July 1971. Certainly no argument for organizational efficiency has come to our attention which justifies the displacement of a statistician of the caliber of Mr. Harold Goldstein.

Your previous action in March, 1971 when Secretary Hodgson attempted to silence Mr. Goldstein was most effective. In the event the planned reorganization occurs, the Joint Economic Committee should call forward Mr. Goldstein's successors and, with the advice of skilled statisticians, should publicly verify each month that the reported statistics and the procedures underlying their construction are comparable or defensibly better than the historic series. If the Committee does less, the quality of analyses and discussion of the serious economic problems facing our society will be severely diminished.

Sincerely,

Edgar F. Feige, Associate Professor of Economics; Neil K. Komesar, Assistant Professor of Law; Lee Bawden, Associate Professor of Economics; Burton A. Weisbrod, Professor of Economics; Robert J. Lampman, Professor of Economics; Irene Lurie, Assistant Professor of Economics; Thad W. Mirer, Research Associate, Institute for Research on Poverty; Peter H. Lindert, Associate Professor of Economics; Kang Chao, Professor of Economics; Dennis Hoover, Lecturer, Department of Economics; Geoffrey Carliner, Project Associate, Institute for Research on Poverty; Arthur S. Goldberger, Professor of Economics; Donald Harris, Associate Professor of Economics; Gerald G. Somers, Professor of Economics; Dorothy J. Hodges, Assistant Professor of Economics; James Ozzello, Graduate Student, Department of Economics; Peter A. Lundt, Graduate Student, Department of Economics; Robert E. Baldwin, Professor of Economics; Kenneth White, Graduate Student, Department of Economics; Leonard W. Weiss, Professor of Economics; Timothy Bates, Graduate Student, Department of Economics.

John S. Akin, Research Associate, Institute for Research and Poverty; Nathan Rosenberg, Professor of Economics; Dagobert L. Brito, Assistant Professor of Economics; J. David Richardson, Assistant Professor of Economics; Ralph Andreano, Professor of Economics; Donald Hester, Professor of Economics; Charles E. Metcalf, Assistant Professor of Economics; Jeffrey G. Williams, Professor of Economics; Theodore F. Groves, Jr., Assistant Professor, Department of Economics; Allen Kelley, Professor of Economics; Roger F. Miller, Professor of Economics; Frederick Golladay, Assistant Professor of Economics; Dennis Aigner, Professor of Economics; Richard Day, Professor of Economics; Glen G. Gain, Professor of Economics; Robert H. Haveman, Professor of Economics;

Eugene Smolensky, Professor of Economics; David B. Johnson, Professor of Economics; W. Lee Hansen, Professor of Economics; Earl Brubaker, Associate Professor of Economics; John M. Culbertson, Professor of Economics; Jack Barbash, Professor of Economics; Everett M. Kassalow, Professor of Economics.

THE ESSENCE OF BROTHERHOOD OF MAN

Mr. MATHIAS. Mr. President, Theodore McKeldin, mayor of Baltimore from 1943 to 1947, and again from 1963 to 1967, and Governor of Maryland from 1951 to 1959, is one of the most remarkable human beings I have had the pleasure of knowing. Recently, in an article entitled, "Can Non-Jews Identify With Israel?," the Israeli publication, Turim, cites an exchange of correspondence between a Baltimore resident and Governor McKeldin. In this exchange, Mr. McKeldin expresses with great eloquence what I think is the essence of the brotherhood of man.

At this time, as Americans of all faiths express their concern over the denial of freedom for Soviet Jews and as we consider the situation of Israel in the continuing Mideast crisis, I find Governor McKeldin's words to be particularly apt. I heartily commend them to Senators and ask unanimous consent that the article be printed in the RECORD.

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

CAN NON-JEWS IDENTIFY WITH ISRAEL?

A REMARKABLE CORRESPONDENCE

In the newly published English anthology, ISRAEL THROUGH THE EYES OF ITS LEADERS, Professor Moshe Davis, head of the Hebrew University's Institute of Contemporary Jewry, cites in his chapter on teaching American Jewish history in Israel, the extraordinary correspondence between Governor Theodore McKeldin of Maryland and a citizen of Baltimore. When it appeared in Israel this elicited a widespread response. It is an encouraging and illuminating document for Americans as well.

Wrote a certain Baltimorean:

"Dear Governor McKeldin:

"As long as I can remember, I have been taught by my family, by the Maryland public school system . . . that we are Americans. Since this is so, our allegiance is always to our own country—America. We cannot then, it seems, call any other land 'ours' and be loyal to the United States. We do not refer to another nation's army as 'our army,' its soldiers as 'our boys' nor the nation itself as 'us.' The officers of the sovereign states of the United States are dedicated to the support of the constitutions of said states and to that of the Union . . .

I could not understand from your remarks whether you were an American or an Israelite, a Jew or a Gentile, a Hebrew or a Christian. Which are you, I would like to know?"

Replied the Governor:

"You ask if I am an 'American or an Israelite' (and I shall assume that you meant Israeli).

"You know of course that I am an American . . . I was the Mayor of an American city and am the Governor of an American state.

"You ask if I am Jew or Gentile, Hebrew or Christian. To the Jew of course I am a Gentile. In my faith I am a Christian.

"Because I am an American, and because of the freedom which is rightfully mine, I can call any man my brother, and when I feel a kinship for his land because it too defends the dignity and the liberty of man, I can call it mine—or 'ours.'

"Because I am a Christian, I dare to extend the hand of brotherhood in the full measure, and to identify myself as closely as possible with a great people who are fighting a gallant fight for that which is right . . .

"I too was reared in a family with a great and abiding love for America and for the opportunities of America, and I am most grateful for the fruits of the opportunities which I have been permitted to harvest.

"I hope that my gratitude will always be strong enough to keep me from hoarding these fruits to decay in a dark and narrow cellar . . . permit me to see the good in other lands and in other peoples, to glory in their struggles for liberty as I glory in ours, and indeed even to speak of theirs as 'ours'—because man's fight for freedom is not a thing of isolation. It is a universal and unending battle. . . ."

HISTORY OF LEGAL SERVICES PROGRAM

Mr. MONDALE. Mr. President, the distinguished senior Senator from Kansas (Mr. PEARSON) has published an article in the current edition of the Kansas University Law Review which describes the brief but tremendously significant and successful history of the legal services program.

The article supports the creation of the Legal Services Corporation embodied in legislation which passed the Senate on September 9, 1971. Senator PEARSON was one of the early supporters of this legislation.

His excellent article is a definitive statement on the history of a program which has done so much to insure adequate and fair representation for the indigent in the courts of America.

Mr. President, I ask unanimous consent that the article, entitled "To Protect the Rights of the Poor: the Legal Services Corporation Act of 1971," be printed in the RECORD.

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

TO PROTECT THE RIGHTS OF THE POOR: THE LEGAL SERVICES CORPORATION ACT OF 1971

(Senator JAMES B. PEARSON*)

MORE. What would you do? Cut a great road through the law to get after the Devil?

ROPER. I'd cut down every law in England to do that!

MORE. Oh? And when the last law was down, and the Devil turned around on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast—Man's law not God's—and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would

Footnotes at end of article.

blow then? Yes, I'd give the Devil benefit of the law for my own safety's sake.

R. Bolt, A Man For All Seasons.

History advises that governments and laws tend to militate against those who are least able to defend themselves. The rights of the poor in our society have, for lack of adequate equal counsel, too often been unprotected. Injustices that could have been prevented, had they been brought before the bar, have often continued unabated. Thus, our system of law, though more equitable and compassionate than that of any other nation, has regrettably but truly afforded protection for some but not for others. And in their attempt to "get after the Devil" by defying that law, some of our people have been left bare and defenseless when the Devil (and the law) turned on them.

For centuries, Anglo-American jurisprudence granted full representation before the bar to anyone who could afford it and often ignored those who could not. But a fundamental and strengthening characteristic of representative democracy is its capacity for change and evolution. Acknowledging the inequities that existed in administering justice to the poor, the Congress of the United States in 1965 amended the Economic Opportunity Act to include provisions for a Legal Services Program to be established within the Office of Economic Opportunity.[1] In order to expand this program that has given substance to promise, the 92nd Congress now has before it a bill, which I have cosponsored to re-establish the Legal Services Program as an independent, nonprofit corporation, responsible only to itself and to the law it serves.[2] This legislation seeks, through the creation of a separate entity controlled by a board of directors broadly representative of the legal community, to eliminate excessive political interference and to improve thereby the administration of justice to the poor.[3]

I. THE PUBLIC BENEFIT OF LEGAL SERVICES

The concept of legal services administered to the poor through a community law office has its roots in the legal aid movement of the late 19th century. Reginald Heber Smith followed with his classic Justice and the Poor, which urged the organized bar of the 1920's to take a more active role in dealing with the problem of equal representation. Significant national growth, however, was painfully slow due to insufficient funds.[4] With the inauguration of a government-supported program, legal aid to the poor grew remarkably. Initially, the Federal Government sent poverty lawyers to work with an appropriation of $20 million. Since then, the Legal Services Program has become the country's largest law firm, utilizing a $53 million budget to maintain some 2,000 lawyers involved with 265 legal services programs and 934 neighborhood offices. During 1970, approximately one million clients were served. It is encouraging, moreover, that the cost per case steadily decreased from $97 in 1967 to $53 in 1970.[5]

Of transcending importance, however, have been the benefits derived from the efforts of Legal Services attorneys. These benefits are clearly measurable by the sizeable sums in increased wages, food stamps, and welfare payments that successful suits have brought to the indigent. But of even greater value, in my judgment, have been both the continuing protection from consumer frauds and housing inequities and the landmark legal decisions that have benefited millions of poor American people.[6]

The social impact of equal representation in court is difficult to assess or describe. It appears clear, however, that a great mass of our people have perceived—perhaps for the first time—that our system of law does strive for fairness and can be an instrument for the change of our social order.[7] It is my belief that Legal Services, by engaging in the daily tasks of resolving unhappy family situations, preventing evictions, and alleviating wage garnishments, has contributed substantially to reducing in intensity the mood of hostility from which sprang countless civil disturbances, some of which still scar the memory of this Nation.

The Legal Services Program has also been able to make governmental bureaucracies more responsible. One representative example relates to a case wherein the Supreme Court ruled that welfare recipients are entitled to an evidentiary hearing before payments can be cut off.[8] As a result of this ruling, the time necessary to process welfare appeals has been reduced by half. Similarly, Legal Services lawyers in California recently won the elimination of tests written in English administered to Spanish-speaking children. The children who failed the tests were being placed in classes for the mentally retarded.[9]

II. LEGAL SERVICES IN CONTROVERSY

Whether legal counsel for the poor should be allowed to push and shove a political bureaucracy has become a serious policy question. Indeed, this question has thrust the entire Legal Services Program into a political turmoil that threatens its very existence. The arguments focus on legal reform and politics and the extent to which Legal Services should be involved in either field.

Initially, two dichotomous concepts concerning the Legal Services Program's proper role were advanced. The first concept generally proposed helping the poor to adapt to the equities and inequities of existing law. The second concept advocated that, rather than aid in the perpetuation of the poverty cycle, antipoverty attorneys should challenge the injustices in our legal system and seek thereby to improve the administration of justice to the poor.

In February, 1965, the American Bar Association's House of Delegates passed a resolution reaffirming "its deep concern with the problems of providing legal services to all who need them." The same resolution stated: "*Resolved*, That the Association, through its officers and appropriate Committees, shall cooperate with the Office of Economic Opportunity and other appropriate groups in the development and implementation of programs for expanding the availability of legal services to indigents and persons of low income." [10] The resolution, which won the approval of a majority of the local and state bars, is consistent with the Code of Professional Responsibility, which states in part:

"The duty of a lawyer, both to his clients and to the legal system, is to represent his client zealously within the bounds of the law, which includes Disciplinary Rules and enforceable professional regulations. The responsibility of a lawyer derives from his membership in a profession which has the duty of assisting members of the public to secure and protect available legal rights and benefits. In our government of law and not of men, each member of our society is entitled to have his conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and to present for adjudication any lawful claim, issue or defense." [11]

Left unresolved, then, were conceptual guidelines as well as the political implications of the Legal Services Program. While few people were able to forecast the dramatic social impact poverty law would have, it must have been manifestly clear to all that allowing anti-poverty lawyers to bring suit against government on any level would greatly increase the number and impact of court victories to be gained by the poor.[12] There are many fair-minded individuals, attorneys and laymen alike, who argue against such involvement. Their position is that lawyers should not be paid by government to sue another government agency.[13] On the other hand, it has been argued that the poor, as well as the paying client, must have a proper recourse to assure their rights. And if they are truly unable to obtain legal advice because of financial hardship, government then should be obligated to provide it.[14] Furthermore, there are those who say that the legal system is a political resource and instrument in the community. If this tenet is accepted, as indeed it is among political scientists, then it follows that this system should bring needed change to those in the community who have not only been deprived of society's benefits, but suppressed in attempts to obtain them.[15] To do so means to challenge existing and accepted standards. Professor Harry P. Stumpf writes in "Law and Poverty: A Political Perspective":

"[T]he aims and operations of the Legal Services Program are inextricably involved in, and are a part of, the political system at all levels. . . . The program seeks to provide access to the judicial system for millions of citizens who, for a variety of economic, social, and psychological reasons, have heretofore been "legally alienated." The goal is to provide aggressive, sustained, and readily available advocacy for the poor in order to reassert forgotten rights, establish new rights and remedies, and, in brief, to redistribute societal advantages and disadvantages via the legal system. This is not simply related to politics; it is politics." [16]

And, Jean Cahn, an early proponent of national legal services to the poor, writes:

"Why, it may be asked, should the legal system be made to bear the freight of the entire political and economic structure?

"In part, because it sets the terms and conditions for use of that system In part, because it mirrors the defects of that system. In part, because it blocks the need for social awareness and social reassessment by converting each need into a highly individual, personal, circumstantial case . . . and copes with it accordingly. In effect, the legal system exercises a monopoly on what constitutes a grievance . . . and even when the demands are legitimate, (it) tends to impose a clean hands doctrine which in effect denies to all but the "deserving poor" the right to complaint, to need, to feel, or to demand.

"So long as this monopoly continues, . . . the bulk of grievances and needs will never receive a full or fair hearing—or rational and full exposition.[17]

But in asserting the rights of the poor, the Legal Services Program has experienced political difficulties. Initially and perhaps mistakenly, the Office of Economic Opportunity decreed that neighborhood law firms receiving federal grants would have to report to the local Community Action Agency (CAA) rather than directly to Washington.[18] Additionally, governors won the right to veto funds allocated by the Congress for Legal Services. Public officials have not been unaware of these provisions. For example, the Governor of Missouri, Warren E. Hearnes, vetoed an OEO grant to the St. Louis Community Action Program in December, 1969, on the grounds that legal services lawyers were representing "militant" groups.[19] OEO Director Donald Rumsfeld overrode this veto as well as another affecting the Kansas City, Missouri program.[20] Elsewhere the Chicago Committee on Urban Opportunity, an OEO-funded CAA with the support of Mayor Richard J. Daley, threatened to withdraw funding from the Chicago Legal Aid Society in 1970 unless the Society discontinued representation of citizens groups against municipal agencies.[21] OEO subsequently determined to fund the program directly. Additionally, between 1969 and the present, essential United Fund support of legal services programs has been withdrawn in St. Louis, Missouri; Albuquerque, New Mexico;

Footnotes at end of article.

and Oklahoma City, Oklahoma, on the basis of suits or threatened suits against local government agencies, particularly law enforcement agencies that contribute heavily to the United Fund.

Since 1967, when California Rural Legal Assistance (CRLA) was founded, its record has been remarkable. Though the state's major farmers, welfare bureaucracy, and prominent public officials have joined ranks to oppose CRLA, the lists of its supplicants and court victories have grown apace. In *Hernandez v. Hardin*,[22] California was obliged to increase its food stamp program. In *Alaniz v. Wertz* and *Ortiz v. Wertz*,[23] California truck farmers were forced to stop importing *braceros* who would harvest crops for less wages than native Californians. *Rivera v. Division of Industrial Welfare* [24] asserted that CRLA's claim to enforce the minimum wage of $1.65 per hour to agricultural workers was proper. *Romero v. Hodgson* [25] is currently under appeal to the Supreme Court to decide whether the exclusion of farmworkers from unemployment benefits is constitutional. The fact that the courts have ruled in favor of CRLA in 80 percent of the cases brought would suggest that the poor of California have substantially benefited from CRLA services. In late 1970, however, the Governor of California vetoed a $1.8 million federal grant to CRLA on the grounds that CRLA lawyers failed to represent "the true legal needs of the poor." [26] The ensuing struggle has been intense. CRLA is currently operating under a temporary grant approved by Frank Carlucci, the recently appointed Director of OEO. But no permanent decision has yet been made concerning the future of CRLA, and an OEO-appointed commission comprised of three state supreme court justices is presently considering appropriate recommendations, a situation with which CRLA has become all too familiar during the course of its stormy existence.[27]

III. THE NEED FOR LEGISLATION: INDEPENDENCE IS ESSENTIAL

Clearly, the Legal Services Program and the events that make up politics—both its good and bad aspects are inexorably intertwined. What should be of serious concern to the legal community is the damage done by such political turmoil of the basic tenets of our profession.

One of these tenets is independence from nonjudicial, administrative control. The legal community has only one ultimate authority, and that is the law and the ethical code pertinent to its proper administration. Another tenet is the sanctity of the lawyer-client relationship. The ABA Code of Professional Responsibility specifically includes these two pertinent provisions:

"A lawyer shall not permit a person who recommends employees, or pays him to render legal services for another to direct his professional judgment in rendering such legal services.[28]

"Since a lawyer must always be free to exercise his professional judgment without regard to the interest or motives of a third person, the lawyer who is employed by one to represent another must constantly guard against erosion of his professional freedom."[29]

Yet as we have seen, public officials at all levels of government, through excessive interference in proper relationships with clients and through efforts to exert a crippling degree of lay control, have diverted anti-poverty lawyers from adherence to the Code. Moreover, as an indication of further, though unsuccessful interference, legislation has been offered in Congress to deny Legal Services Lawyers the power to sue government agencies [30] and to grant state governors an absolute veto over federal funds.[31] In 1970, it was proposed, also unsuccessfully, that the Legal Services Program be regionalized—a change that would have subjected its lawyers to an even greater degree of local political pressure.

The National Governor's Conference, in testimony before the Senate Subcommittee on Employment, Manpower and Poverty, recommended that state governors be duly authorized to approve or disapprove individual Legal Services Programs.[32] The ABA Board of Governors, however, in a statement made on October 18, 1969, asserted that the Legal Services Program should "operate with full assurance of independence of lawyers . . . in cases which might involve action against governmental agencies seeking significant institutional change."

The ABA statement further declared that a governor's veto power could be used to "circumscribe the freedom of legal service attorneys in representing their clients." [33] This view was supported by more than 50 state and local bar asosciations, including the National Legal Aid and Defender Association, the Judicial Conference of the United States, and the National Commission on the Causes and Prevention of Violence. The present administration, moreover, has lent its support to the proponents of legal reform. In a statement issued on August 11, 1969, promising the continuation of the Legal Services Program, President Nixon said that the sluggishness of many institutions at all levels of society in responding to the needs of the individual citizen is one of the central problems of our time.

The time to establish an independent, nonprofit corporation to administer legal services is at hand. Anti-poverty lawyers and the law itself must no longer bear the crushing burden of outside intervention. It is essential, in my judgment, that Congress approve the National Legal Services Corporation Act. The Corporation would be authorized to make grants and contracts, to provide comprehensive legal services and assistance to low-income persons, and to carry out programs for research, training, technical assistance, and law school clinical assistance. It would also provide a means for disadvantaged individuals to obtain a legal education. The Corporation would be administered by a 19-member board of directors, to be chosen as follows: five appointed by the President with the advice and consent of the Senate; one by the Chief Justice of the Supreme Court acting on the recommendation of the Judicial Conference of the United States; six by virtue of their office (the President and President-Elect of the American Bar Association, the President of the American Trial Lawyers Association, the President of the National Bar Association, the President of the National Legal Aid and Defenders Association, and the President of the American Association of Law Schools); three chosen by a clients advisory council; and three chosen by a project attorneys advisory council—each council being established by the act. An Executive Director of the Corporation, selected by the board of directors, would also serve as a voting member of the board. The Corporation would be funded by annual appropriations from the Congress, the authorization for fiscal 1973 being $170 million.[34]

The passage of this type of legislation is not unprecedented. In 1967, Congress approved the Public Broadcasting Act, which created the Corporation for Public Broadcasting—an independent, nonprofit corporation receiving governmental funds to assist in developing a noncommercial educational broadcasting system.[35] The reasons for creating such a corporation for Legal Services parallel those for creating the one for public broadcasting. Congress felt that the promotion of educational programming was a governmental function, an obligation it owed the people. And in order to prevent political interference, the corporation was placed beyond the influence of any political interest. As Fred Friendly, former Vice-President of the Columbia Broadcasting System, testified before the Senate Commerce Committee:

"Public Television will rock the boat. There will be—There should be—times when every man in politics—including you—will wish that it had never been created. But Public Television should not have to stand the test of political popularity at any given point in time. Its most precious right will be the right to rock the boat." [36]

It should be emphasized that the independence of Legal Services is valuable and essential only because it will improve the delivery of legal services to poor people. Stated otherwise, the Legal Services Program should be independent in order to more closely adhere to the purposes for which Congress created it. The involvement of legal services lawyers in a case of nonindigent high school students fighting school haircut regulations,[37] for example, is in my judgment, an abuse of independence, a waste of resources, and an abrogation of Legal Services lawyers' responsibilities to their truly deserving clients, the poor. My support for the National Legal Services Corporation Act is accordingly based on the conviction that the needs of our poor are so great that those few human and material resources intended to serve them must not be diverted to other purposes. It is my belief that a Legal Services Corporation cannot help but improve the lot of those whose impoverished condition renders them unable even to obtain proper legal counsel for their legitimate complaints. It is further my belief that this nation owes justice under the law to all its people. If we fail to provide it, we will have failed to recognize a fundamental right of free society. We will have failed to guarantee the best and most democratic means for those deprived to "Cut a great road through the law to get after the Devil."

FOOTNOTES

*James B. Pearson, United States Senator from Kansas, is a graduate of the University of Virginia Law School, and has been a member of the Senate since 1962. He serves on the Commerce, Foreign Relations, and Joint Economic Committees of the Senate. Senator Pearson gratefully acknowledges the assistance of Michael J. Needham, Georgetown University Law Center, for providing supporting documentation for this article.

[1] Economic Opportunity Act of 1964, 42 U.S.C. §§ 2701–2981 (1964), *as amended*, §§ 2701–2981 (Supp. II, 1965–66). For a statement of the amendments of 1965, see Pub. L. No. 89–794, 80 Stat. 1451–77 (1965).

[2] S. 1305, 92d Cong., 1st Sess. (1971).

[3] Legal Services is a program for the poverty stricken. The criteria used to determine eligible clients for Legal Service programs include, number of dependents, assets and liabilities, cost of living in the community, and an estimate of the cost of legal services needed. Legal Services attorneys do not handle fee-generating cases, but refer such cases to private attorneys through the local bar association referral system. If the fee is not sufficient to obtain private representation, the client may be eligible for the assistance of an OEO funded program.

The scope of the work of Legal Services programs includes all areas of civil law, and the services provided include advice, representation, litigation, and appeal. These programs do not duplicate existing legal services for indigent clients.

Legal reform through the advocacy of changes in statutes, regulations, and administration practices are to be a part of the program as it is part of the lawyer's traditional role.

Civil Legal Services Programs may also include advice and representation in those areas of criminal law in which indigent defendants are not provided with the assistance of counsel. Legal Services programs may provide counsel in juvenile cases, counsel prior to arraignment, counsel in misdemeanor cases, and counsel in felony cases at any stage prior to indictment or information. Counsel may also be provided in post-conviction proceedings.

OFFICE OF ECONOMIC OPPORTUNITY, COMMUNITY ACTION PROGRAM: GUIDELINES FOR LEGAL SERVICES PROGRAMS (1966).

[4] Pye, *The Role of Legal Services in the Antipoverty Program*, 31 LAW AND CONTEMP. PROB. 212 (1966).

[5] Interview with Francis J. Duggan, Director of Program Operations, Office of Legal Services, Office of Economic Opportunty, in Washington, D.C., April 21, 1971.

[6] A case in point is Shapiro v. Thompson, 394 U.S. 618 (1969), in which the Supreme Court struck down residency requirements for receiving public assistance. This decision alone had the potential of benefiting the poor by some $100 to $150 million.

[7] This past year some 20 cases brought by Legal Services attorneys have reached the Supreme Court, an indication of the thorough and diligent representation the poor can expect from government funded attorneys. Of the cases decided this term a few are of particular interest. In Tate v. Short, 91 S. Ct. 668 (1971), decided on March 2, the Supreme Court ruled that alternative penalties of jail or a fine were unconstitutional as applied to indigents. In Boddie v. Connecticut, 91 S. Ct. 780 (1971), also decided on March 2, the Court held that indigents had the right to proceed in *forma pauperis* in divorce cases. In Phillips v. Martin Marietta, 400 U.S. 861 (1971), the Court held that it was discriminatory to deny employment to women, when having children was the main reason for denying employment.

[8] Goldberg v. Kelly, 397 U.S. 254 (1970).

[9] Diana v. State Bd. of Educ., Civil Action No. C–70 37 (N.D. Cal. 1970).

[10] ABA Resolution, 90 ABA Reports, 110, 111 (1965).

[11] ABA CODE OF PROFESSIONAL RESPONSIBILITY, Ethical Code 7–1 (1969).

[12] In April of 1968 the former Director, Legal Services Office, stated that in a 2-year period, Legal Services lawyers had:

1. Provided direct legal services and representation to approximately 60,000 poor families.

2. Benefited more than a million and a half poor people through favorable and far-reaching court decisions.

3. Educated over 2 million poor people as to their legal rights and responsibilities.

4. Aided over 1,000 block clubs, tenant groups, and other poverty organizations to set up buying clubs, cooperative laundromats, credit unions, and other self-help institutions to win their rightful share of public services and to obtain their rights.

COMPTROLLER GENERAL OF THE UNITED STATES, REPORTS TO THE CONGRESS: EFFECTIVENESS AND ADMINISTRATION OF THE LEGAL SERVICES PROGRAM UNDER TITLE II OF THE ECONOMIC OPPORTUNITY ACT OF 1964, at 10 (Aug. 7, 1969).

[13] *E.g.*, J. Landauer, *Legal Aid Skirmish in Poverty War*, Wall Street Journal, November 8, 1967.

[14] What the Government does provide, as stated as the principal missions of every good Legal Services Program:

1. To provide quality legal service to the greatest possible number consistent with the size, staff, and other goals of the program.

2. To educate target area residents about their legal rights and responsibilities in substantive areas of concern to them.

3. To ascertain what rules of law affecting the poor should be changed to benefit the poor and to achieve such changes either through the test case and appeal, statutory reform, or changes in the administrative process.

4. To serve as advocate for the poor in the decision-making process. This can be done by representing a neighborhood association at a zoning hearing, for example, or before a city council at which a street improvement is being considered. It could mean the organization and representation of a group of tenants to secure a standard lease that is fair to both landlord and tenant. In brief, it is to provide for the poor the same type of concerned advocacy that others have long enjoyed.

5. To assist poor people in the formation of self-help groups, such as cooperative purchasing organizations, merchandising ventures, and other business ventures.

6. To involve the poor in the decision-making process of the Legal Services Program projects and, to the extent feasible, to include target area residents on the staff of the project.

OFFICE OF ECONOMIC OPPORTUNITY, LEGAL SERVICES PROGRAM EVALUATION MANUAL 1–2 (1967).

[15] Klonoski & Mendelsohn, *The Allocation of Justice: A Political Approach*, 14 J. PUB. L. 323–35 (1965).

[16] Stumpf, *Law and Poverty: A Political Perspective*, 1968 WIS. REV. 703 (1968).

[17] Cahn & Cahn, *What Price Justice: The Civilian Perspective Revised*, 41 NOTRE DAME LAW, 927, 941 n.25 (1966).

The necessity of establishing this widespread consciousness of legal rights within the ghetto was highlighted by the *Report of the National Advisory Commission on Civil Disorders* 292–93 (Bantam Books ed. 1968), which states:

"Among the most intense grievances underlying the riots of the summer of 1967 were those which derived from conflicts between ghetto residents and private parties, principally the white landlord and the merchant. Though the legal obstacles are considerable, resourceful and imaginative use of available legal processes could contribute significantly to the alleviation of tensions resulting from these and other conflicts. Moreover through the adversary process which is at the heart of our judicial system, litigants are afforded meaningful opportunities to influence events which affect them and their community.

"However, effective utilization of the courts requires legal assistance, a resource seldom available to the poor. Litigation is not the only need which ghetto residents have for legal services. Participation in the grievance procedure suggested above (Neighborhood Action Task Forces) may well require legal assistance. More importantly ghetto residents have need of effective advocacy of their interests and concerns in a variety of other contexts, from representation before welfare agencies and other institutions of government to advocacy before planning boards and commissions concerned with the formation of development plans. Again, professional representation can provide substantial benefits in terms of overcoming the ghetto resident's alienation from the institution of government implicating him in its processes. Although lawyers function in precisely this fashion for middle-class clients, they are too often not available to the impoverished ghetto resident.

"The Legal Services Program administered by the Office of Economic Opportunity has made a good beginning in providing legal assistance to the poor. Its present level of effort should be substantially expanded through increased private and public funding. In addition, the participation of law schools should be increased through development of programs whereby advanced students can provide legal assistance as a regular part of their professional training. In all of the efforts the local bar bears major responsibility for leaders and support."

[18] Economic Opportunity Act, 42 U.S.C. §§ 2790, 2809 (1969).

[19] New York Times, Dec. 28, 1969, at 56, col. 1.

[20] Governor Hearnes vetoed the St. Louis Community Action Program December 18, 1969, and Director Rumsfeld overrode his veto January 10, 1970. Governor Hearnes vetoed the Kansas City Program on March 4, 1970, and Director Rumsfeld overrode his veto on March 16, 1970.

[21] *National Journal* 716 (April 4, 1970).

[22] Civil Action No. 50333 (N.D. Cal. 1969).

[23] Alaniz v. Wertz, Civil Action No. 47807 (N.D. Cal. 1967); Ortiz v. Wertz, Civil Action No. 47803 (N.D. Cal. 1967).

[24] 265 Cal. app. 2d 576, 71 Cal. Rptr. 739 (1968).

[25] 319 F. Supp. 1201 (1970).

[26] December 26, 1970.

[27] Robert B. Williamson, retired Chief Justice of the Maine Supreme Court, Chairman; Justice Robert B. Lee of the Colorado Supreme Court; and George R. Currie, retired Chief Justice of the Supreme Court of Wisconsin. Justice Currie replaced Justice Thomas H Tongue of the Oregon Supreme Court, who resigned from the Commission on California Rural Legal Assistance due to the heavy caseload of his court.

[28] ABA *Code of Professional Responsibility* Disciplinary Rule 5–107(B) (1969).

[29] *Id.*, Ethical Code 5–23 (199).

[30] S. 2388, 90th Cong., 1st Sess. (1967). Th amendment, offered by Sen. Murphy of Cal ifornia, was defeated by a vote of 52–36. 11 CONG. REC., vol. 113, pt. 21, p. 27873.

[31] 115 CONG. REC., vol. 115, pt. 22, p. 29894.

[32] 115 CONG. REC., vol. 115, pt. 27, p. 36853.

[33] Resolution of the ABA Board of Governors on S3016, *Proceedings of the American Bar Association Board of Governors*, Oct. 16 & 17, 1969. Though the ABA has stood firm behind the Legal Services Program, it has not been certain of the future of the program. John P. Tracey, who represents the ABA in Washington, has stated that while support for Legal Services has held firm at the national level, the support has been spotty at the local level due to the conservative nature of local bar associations, and that this local support was crucial to the survival of the Legal Services Program. *National Journal, supra* at n.24.

Another program offered as a means of providing legal services to the poor is Judicare. But it is estimated by the Office of Economic Opportunity that Judicare, the legal equivalent of Medicare, would cost 3 times as much per case as the current Legal Services Program. Widiss, *Legal Assistance for the Rural Poor: An Iowa Study*, 56 IOWA L. REV. 100, 127 (1970).

[34] S. 1305, 92d Cong., 1st Sess. (1971).

[35] Public Broadcasting Act of 1967, 81 STAT. 365, 47 U.S.C. §§ 390–99, *as amended*, 82 STAT. 108, 47 U.S.C. § 396 (1968).

[36] The Public T.V. Act of 1967, *Hearings on S. 1160 Before the Subcomm. on Communications of the Senate Comm. on Commerce*, 90th Cong., 1st Sess. 173 (1967) (testimony of Fred Friendly).

[37] R. Evans & R. Novak, *Defending Poor or Violent?*, The Washington Post, May 7, 1971, at A–25.

COMMUNICATIONS POLICY

Mr. BAKER. Mr. President, as a result of turmoil in the broadcasting industry caused by recent FCC and court decisions, it has become apparent that we must seriously reexamine the regulatory framework established by the Communications Act of 1934. On Wednesday, October 6, Dr. Clay T. Whitehead, Director of the Office of Telecommunications Policy, made a thought-provoking speech to the International Radio and Television Society on this subject. Because I believe that all Senators will be interested in Dr. Whitehead's speech, I ask unanimous consent that it be printed in the RECORD.

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

REMARKS OF CLAY T. WHITEHEAD

This is a major speech—I read the advance billing and felt I had to say that. I was also billed as one of the youngest and most controversial figures in government and communications. Before I've even opened my mouth, Nick Johnson hates me.

Before I read that advance billing, we had planned one of my usual speeches. You know—a state of the universe message. But after a year of stating and restating the problems, I guess I can't get away with that any more. So this won't be that kind of speech, but I've gotten attached to the format, so I'd like to spend a little time on the state of broadcasting. I don't claim to have the expertise that any of you have in broadcasting; but in the first year of OTP's life, we've been exposed to many of the relationships between government, broadcasting, and the public. Today I want to focus on those relationships.

I'll probably sound a bit naive to you when I say that some of these relationships don't make sense and should be changed. But why can't they be changed?—especially when they are the cause of many of our problems. The Communications Act isn't sacrosanct. It's a 37-year-old law that was intended to police radio interference—and it has frozen our thinking about broadcasting ever since. But, something more than that is needed in a day when the *electronic* mass media are becoming *the* mass media.

There are a number of directions to choose from, and I'm here to propose one—one that redefines the relationships in the Communications Act's triangle of government, private industry, and the public.

But before I tell you what my proposals are, let me first tell you why I think a change is needed and why you should want one too.

Look at the current state of the broadcasting business. You sell audiences to advertisers. There's nothing immoral about that, but your audience thinks your business is providing them with programs. And the FCC regulates you in much the same way the public sees you. It requires no blinding flash of originality on my part to see that this creates a very basic conflict.

CBS's Programming Vice President says: "I've got to answer to a corporation that is in this to make money, and at the same time face up to a public responsibility . . ."

His counterparts at the other networks have the same problem. They all have to program what people *will* watch—what gets the lowest cost-per-thousand. Sometimes that's what the people *want* to watch, but more often than not it's the least offensive program.

But you don't care what I think about your programs—and you shouldn't have to care what any government official thinks about your programs.

But what does the public think? The signs aren't good.

Look at the new season: Twenty-two new prime-time network law and order shows and situation comedies fill in between movies and sports. It's the same old fare. *Life's* Harris poll is being interpreted to show that there is wide public dissatisfaction with the entertainment you offer.

Kids and teen-agers are developing an immunity to your commercials. Do you doubt that advertisers are questioning the effectiveness of TV as a sales medium?

How long will you be able to deliver our children to food and toy manufacturers? Parents are calling the Pied Piper to task—there were 80,000 letters to the FCC concerning the ACT petition alone.

Consider the anomaly of blacks as your most faithful viewers and your most active license challengers.

I suppose it looks like I'm just another critic taking cheap shots at TV. But there's another side to the broadcasting business. In my part of Washington, it's no insult to call someone a successful businessman. You have created a successful business out of the air—people *do* watch television. Sure your success is measured in billions of dollars, but it's also measured in public service and all those sets in use.

But your success is taking its toll. It's giving you viewership, but not viewer satisfaction—public visibility but not public support.

You've always had criticism from your audience but it never *really* mattered—you never had to *satisfy* them; you only had to *deliver* them. Then the Rev. Everett Parker read the Communications Act. You all know the outcome of the *WLBT-United Church of Christ* case. Once the public discovered its opportunity to participate in the Commission's processes, it became inevitable that the rusty tools of program content control—license renewal and the Fairness Doctrine—would be taken from the FCC's hands and used by the public and the courts to make *you* perform to *their* idea of the public interest.

Surprise! Nick Johnson is right. The '34 Act is simply being used and enforced. But where is that taking us?

Look at where we're going on license renewals. In city after city, in an atmosphere of bewilderment and apprehension, the broadcaster is being pitted against the people he's supposed to serve. The proxy for the public becomes the patsy who is held responsible for the Vietnam War, pollution, and the turmoil of changing life styles. As the East Coast renewals come up again, you're snickering about ascertainment—sure it was designed for Salina, Kansas, and not New York City—but I'll wager you'll all wrap yourself in interview sheets when your applications are filed in March. But that won't make you less vulnerable at renewal time because you can have no assurance that your efforts over the years will count for anything if a competing application is filed. "Substantial performance" becomes "superior performance" at the drop of a semantic hat and means that the government has finally adopted program percentage minimums. That's the current price of renewal protection.

So while we all talk about localism, we establish national program standards. You go through the motions of discovering local needs, knowing that the real game is to satisfy the national standards set by government bureaucrats. But it's not a game. Right now your programs are being monitored and taped and the results will be judged under the FCC's 1960 Program Statement. Can you be safe in *all* 14 program categories?

The Fairness Doctrine and other access mechanisms are also getting out of hand. It is a quagmire of government program control and once we get into it we can only sink deeper. If you can't see where it's leading, just read the *Red Lion* and *BEM* cases. The courts are on the way to making the broadcaster a *government* agent. They are taking away the licensees' First Amendment rights and they are giving the public an *abridgeable* right of access. In effect, the First Amendment is whatever the FCC decides it is.

However nice they sound in the abstract, the Fairness Doctrine and the new judicially contrived access rights are simply *more* government control masquerading as an expansion of the public's right of free expression. Only the literary imagination can reflect such developments adequately—Kafka sits on the Court of Appeals and Orwell works in the FCC's Office of Opinions and Review. Has anyone pointed out that the Fiftieth Anniversary of the Communications Act is 1984? "Big Brother" himself could not have conceived a more disarming "newspeak" name for a system of government program control than the Fairness Doctrine.

I'm not seriously suggesting that the FCC or the courts want to be "Big Brother" or that 1984 is here, or that we can't choose a different path from the one we now seem to be on. You are at a crossroads—now you're probably clutching your "Chicago Teddy Bears" and wondering when Whitehead is going to get to the point. The point is: We need a fundamental revision of the framework of relationships in which you, the government, and the public, interact. The underpinnings of broadcast regulation are being changed—the old *status quo* is gone and none of us can restore it. We *can* continue the chaos and see where we end up. But there has to be a better way.

I have three proposals. They are closely related and I want you to evaluate them as a package that could result in a major revision of the Communications Act. The proposals are: *One,* eliminate the Fairness Doctrine and replace it with a statutory right of access; *two,* change the license renewal process to get the government out of programming; and *three,* recognize commercial radio as a medium that is completely different from TV and begin to *de*-regulate it.

I propose that the Fairness Doctrine be abandoned. It should be replaced by an act of Congress that meets both the claim of individuals to use of the nation's most important mass media and the claim of the public at large to adequate coverage of public issues. These are two distinct claims and they cannot both be served by the same mechanism.

Access: As to the first of them—the individual's right to speak: TV time set aside for sale should be available on a first-come, first-served basis at nondiscriminatory rates—but there must be no rate regulation. The individual would have a right to speak on any matter, whether it's to sell razor blades or urge an end to the war. The licensee should not be held responsible for the content of ads, beyond the need to guard against illegal material. Deceptive product ads should be controlled at the source by the Federal Trade Commission. This private right of access should be enforced—as most private rights are enforced—through the courts and not through the FCC.

License Renewals: As to the second claim—the opportunity of the public to be informed on public issues: This is the type of "public interest" traditionally protected by regulatory agencies, but it should be done in a manner which recognizes it as an overall right, which cannot sensibly be enforced on a case-by-case basis. It can best be protected, I suggest, not in countless proceedings involving individual complaints, but in the course of the renewal process. The licensee would be obligated to make the totality of programming that is under his control (including public service announcements) responsive to the interests and concerns of the community. The criterion for renewal would be whether the broadcaster has, over the term of his license, made a *good faith* effort to ascertain local needs and interests and to meet them in his programming. There would be no place for government-conceived program categories, percentages and formats, or *any* value judgment on specific program content.

There should be a longer TV license period with the license revocable for cause and the FCC would invite or entertain competing applications *only* when a license is not renewed or is revoked.

I believe these revisions in the access and renewal processes will add stability to your industry and avoid the bitter adversary struggle between you and your community groups. They recognize the new concerns of access and fairness in a way that minimizes government content control.

I'm not saying that this will eliminate controversies. But it will defuse and change the *nature* of the controversies.

Radio De-Regulation: We can go further with radio. Yesterday I sent a letter to Dean

Burch proposing that OTP and the FCC jointly develop an experiment to *de*-regulate commercial radio operations.

We proposed that one or more large cities be selected as de-regulatory test markets in which radio assignments and transfers would be *pro-forma*. Renewals would not be reviewed for programming and commercial practices. And the Fairness Doctrine would be suspended. The experiment should be only a first step. For most purposes, we should ultimately treat radio as we now treat magazines.

These are my proposals. The proposals are just that—I have no legislation tucked in my back pocket that we are about to introduce. But, I will work for legislation if there is support for these proposals. In short, my message on all these proposals is that we've tried government program control and bureaucratic standards of fairness and found that they don't work. In fact, they can't work. Let's give you and the public a chance to exercise more freedom in a more sensible framework and see what that can do.

There is one further aspect of freedom I would like to discuss. Some people suggest that this Administration is trying to use the great power of government licensing and regulation to intimidate the press. Some even claim to see a malicious conspiracy designed to achieve that end. They must ascribe to us a great deal of maliciousness, indeed—and a great deal of stupidity—in the attempt to reconcile their theory to the facts. It is not this Administration that is pushing legal and regulatory controls on television, in order to gain an active role in determining content. It is not this Administration that is urging an extension of the Fairness Doctrine into the details of television news—or into the print media.

There is a world of difference between the *professional* responsibility of a free press and the *legal* responsibility of a regulated press. This is the same difference between the theme of my proposals today and the current drift of broadcasting regulation. Which will you be—private business or government agent?—a responsible free press or a regulated press? You cannot have it both ways—neither can government nor your critics.

THE ALASKA PIPELINE

Mr. STEVENS. Mr. President, one of the major challenges confronting us today is the future direction, methodology, and pace of our science oriented, technological society. Some people have translated this challenge into an attack on science and technology, which they view as antihumanistic and materialistic.

I cannot agree with this position. Instead, it seems to me that the challenge is to harmonize our technology with more spiritual values. This trend has already begun. As Mr. Charles Reich, the author of "The Greening of America," has observed:

> A new consciousness will arise which seeks restoration of the non-material or spiritual elements of man's existence . . . (and) seeks to transcend science and technology.

The eminent scientist, Dr. William McElroy, now Director of the National Science Foundation and formerly a professor at the Johns Hopkins University, has expressed general agreement with this concept. In a speech delivered at the 30th annual science talent search award banquet, he stated that:

> The impersonal machine, I believe, has often been the dominant in our lives, and it's high time we reasserted the primacy of man's humanism.

However, Dr. McElroy was quick to point out that we should not lose our sense of balance by reacting in a way that will impair the ability of science to improve our quality of life.

There are simply too many problems left unsolved, problems which are dependent for their solution on the advancement of our science and technology. Thus, we must find better ways to recycle waste materials, to restore our lakes and rivers, to end malnutrition on a worldwide basis, et cetera.

An excellent example of the need to use our technology for the betterment of mankind is the proposed Trans-Alaska pipeline. As time passes, the difference between the rate of energy consumption in the United States and the rate of supply is growing wider. This alarming disparity is compelling evidence for the development of new domestic crude oil sources, the kind of development which would be precipitated by the construction of the TAPS pipeline. Thus, in 1970, the domestic demand for petroleum products reached an alltime high of more than 5.5 billion barrels, the equivalent of more than 1,100 gallons of oil products for every man, woman and child in the United States. This translates into a consumption rate of 1,408 million barrels a day—enough oil to fill 62,000 railroad tank cars making a train 500 miles long.

These statistics should be viewed in terms of the impact of petroleum products on our daily lives. In this connection, I should mention that crude oil supplied 43.2 percent of all domestic energy needs in 1969. More than 60 percent of this amount was used to power various modes of transportation, with the level of consumption in this area increasing at an annual rate in excess of 4.5 percent. Fuel oil consumption is also increasing at a rapid rate.

Those who oppose the pipeline want to ignore these statistics, and the fact that crude oil consumption is related to activities which will expand as our population increases. It is my view that many of these opponents would be among the first to protest if they were forced to walk many miles to work or to live in unheated houses because of the lack of sufficient energy supplies. Moreover, I do not believe that any of us would be willing to compromise our national security by placing too great a dependence on foreign energy sources. A dependence of this type by the United States and its allies could change world geopolitics in a manner that would be extremely detrimental to our national interests.

Thus, our pipeline construction should not be postponed but, rather, we should use our advanced technology to resolve the difficulties. In this way, the developmental policies which have led to rampant pollution and the destruction of natural beauty in the "South 48" States can be avoided.

I also believe that the pipeline project must be viewed in the context of past achievements which have been made possible through the prudent use of our science and technology. Although it will be the largest project of its type ever undertaken by man, the pipeline is by no means the first to involve difficult construction and operational problems or to receive well-motivated but unwarranted public criticism from certain quarters. We need only look at the Panama Canal, which includes the world's largest locking system; the Holland Tunnel, which was the first automobile tunnel ever built; the Mackinac Straits Bridge across Lake Michigan, which is the longest anchorage-to-anchorage bridge in the world; the Erie Canal, which was the longest manmade waterway ever built when it was completed in 1825; the Verrazano Narrows Bridge linking Staten Island to Brooklyn, N.Y.; the Golden Gate Bridge; the Grand Coulee Dam, and others.

Thus, I believe that we must not stifle science, which I equate with progress, but relate it to the needs and activities of our society. In her book entitled "Silent Spring," Rachel Carson points out in a dramatic way that everything we do in nature affects something else, and anything affecting nature eventually affects everyone. For this reason, scientists, engineers, humanists, and others must work together to define human needs and the best way to satisfy them. Our ability to harness science to supply these answers will determine in a profound way our greatness as a nation and our ability to improve the general human condition.

It seems to me that we must not shy away from difficult problems or immense projects like the pipeline. But, given the need to find new sources of energy to insure our continuing social and economic progress, we should utilize the knowledge and expertise of our scientific community to meet the challenge. The noted historian Arnold Toynbee has pointed out that the measure of every great civilization is its ability to meet an impending challenge with an adequate response. The right response insured the greatness of ancient Greece, Rome, England during World War II, and other nations. America is at present confronted by several challenges of great magnitude. Not the least of these is the prudent development of our energy resources. The Alaska pipeline can be built, I believe, in accordance with sound conservation principles; it will help insure sound resource and energy development and enable us to overcome this very difficult challenge.

J. R. FREEMAN AND OIL SHALE

Mr. PROXMIRE. Mr. President, back in the middle and late 1960's a courageous Colorado newspaper editor, J. R. Freeman, wrote and published a comprehensive, hard-hitting, series of articles uncovering some of the mischief that had been done in the handling of certain oil shale lands in Colorado, Wyoming, and Utah. Mr. Freeman, as editor of the Frederick, Colo., Farmer and Miner, spent a great deal of time in tracking down the facts as he saw them and presenting them to the public at great risk to his livelihood and possibly his life.

The oil shale controversy continues unabated. The public still has an immense stake in the proper development of this multibillion-dollar resource. The Department of the Interior continues to propose ways to give oil companies more

of an incentive—some would call it a windfall—to develop the land. Congress goes on, in its somewhat desultory way, with its consideration of the problem. And, I am happy to say, one J. R. Freeman continues to write trenchant articles about an oil shale giveaway, this time as vice president for news of the Greenstreet News Co. in Dallas, Pa.

It is particularly appropriate in view of new oil shale hearings scheduled to begin in the Interior and Insular Affairs Committee on November 15 that this latest series of Freeman articles as they appeared in the Dallas, Pa., Post be printed in the RECORD. I feel certain that Senators will find this material of great interest. I ask unanimous consent that the articles be printed in the RECORD.

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

YOUR OIL

Oil has been making more than its share of the news lately.

From the North Slope of Alaska to the Free port zone of Maine and from the oil-soaked sands of California to the nation's capital, the stories have flowed like Spindletop. But it's the yet unwritten stories which disturb many government officials knowledgeable about the country's natural resources. Worried mostly is a small band of public servants who are trying to safeguard public lands in Colorado, Utah, and Wyoming which contain an oil shale resource of $10 trillion potential. And only a handful of private citizens are concerned that the Nixon Administration is quietly stacking the deck against saving the bulk of this publicly-owned treasure chest for the benefit of all Americans.

"Udall's legacy," while not the most astonishing bequest of the Johnson Administration now that the Pentagon Papers are out, has become the number one Bafflement to the Nixon men. They can play it up as a major scandal or bury it in bureaucratic surveys. Either way, the manner in which they protect (or fail to protect) our natural heritage of public lands containing oil shale deposits could become the nation's hottest domestic issue by election time 1971.

The questions at issue are both legal and moral.

Stewart Udall, Lyndon Johnson's Secretary of the Interior, turned the already complex problem of oil shale into a great legal hassle during his eight-year tenure. From a simple can of worms, Mr. Udall left as his legacy a pit of snakes.

Udall's legacy to his successor, former Secretary Walter J. Hickel, was whether to follow Mr. Udall's lead and sell or lease the oil shale treasure trove to the half dozen or so super mammoth oil companies and their subsidiaries for a few dollars an acre, or whether to reverse his policy and save the treasure for the welfare of the American public as a whole. A major factor in the background is the oil lobby, generally regarded as the most solidly entrenched and most skillful lobby in Washington.

About 80 percent of this great energy storehouse belongs to all the people of the United States in the most literal and legal sense, in that it is part of the federally-owned and administered public domain. Thus every American citizen owns today at least 8500 to 10,000 barrels of recoverable oil.

But it appears our luck is about to run out. A raid on these resources, led by giant oil corporations, and ably assisted by oil-oriented present and former government employees, speculators, and oil-supported congressmen, has suddenly gathered steam. Unfortunately, the American people are not being zealously protected, many experts feel, by the legal guardian of the nation's mineral wealth—the U.S. Department of the Interior.

With all the political and economic problems stirring today in oil's cauldron, from Alaska to Vietnam, and from the shaky Middle-East to Peru, and back again to Biafra, it wouldn't be too surprising if oil shale got lost in the shuffle. For one thing, the international petroleum industry for the first time in its history has access to more oil today than it can possibly use—even though experts estimate that world population growth will necessitate a tripling of energy use in the next 30 years. And with a world-wide abundance, the major oil companies are understandably Rockefeller-wary of a dearth of cheap shale oil that could, some say, turn Texas and Oklahoma into another Appalachia. Pennsylvania would likewise suffer. Just one 5,000-acre tract in oil shale country may well contain more oil than the entire state of Texas with Western Pennsylvania's fields thrown in.

The major oil companies have long felt that international price stabilization is a must, regardless of supply and demand. They have entrenched themselves within government in order to work toward that end, while monopolizing the oil market in general.

When the last oil shale threat arose, these mammoth corporations dealt severely with it. In the early days of the Kennedy Administration plans for a Brazilian shale oil industry were pressured out of existence by the majors. The big oil companies were shipping about 300,000 barrels of crude oil a day into that oil-starved country, mostly from Venezuela, and did not want to lose such a lucrative market.

As for the U.S. deposits, the majors know the Green River Formation is one huge proved reserve, awaiting exploitation whenever it becomes profitable, and more important, at such time when all of the public shale lands have passed firmly into their control.

In this acquisition of the oil shale reserves owned by the federal government there lies aspects of out-right skulduggery and political corruption. It is this situation which creates the basis for legitimate charges of "scandal."

WITHOUT GOING TO JAIL

The U.S. Interior Department, charged with protecting the public's interests when it comes to what may turn out to be the richest land ever known to man, is gradually giving away our richest treasure trove, many Washington sources say.

In an era when charges of government scandal become commonplace, the public tends to become immune to acts of Machiavellianism perpetrated by high government officials. That is perhaps what prompted former Sen. Paul Douglas of Illinois to state widely that "oil shale is the most submerged issue in American domestic politics, involving the greatest scandal in the history of our republic." And it appears he had good reason.

At stake, according to the usually-conservative U.S. Geological Survey, is the nation's most valuable fossil fuel—an estimated 2.6 trillion barrels of potentially-recoverable shale oil and allied sodium mineral deposits so rich they stagger the imagination. This bonanza is locked within an area which geologists call the Green River Formation, a 17,200-square-mile glory hole that spans the wilderness where Colorado, Utah, and Wyoming converge. From Colorado's Piceance Creek Basin alone can be extracted almost 25 times as much oil as the United States has consumed in its entire history, and the surrounding area is said to contain as much as five times the present world crude oil reserves, Alaska included.

A few inside government informants and critics of the Interior Department point out that this agency already has devised from the public domain about 380,000 acres of rich oil shale lands for a measly $2.50 an acre. The same land sells on the open market for as much as $5,000 an acre, once big oil gets involved. This was done by Interior failing to uphold the public trust on known phony and fraudulent pre-1920 oil shale placer mining claims. Only the land wasn't given away as eagerly in 1920 as it is today. These claims were plastered across the rich shale areas of Colorado, Utah, and Wyoming under the alleged provisions of an ancient 1872 mining law prior to the enactment of the 1920 Mineral Leasing Act. This act made oil shale and other minerals leasable, and thus not further locatable and disposable under the mining laws. Currently, however, it is this threat government will lease away the public's most valuable common asset that hangs over all Americans.

The land already given away for $2.50 an acre is estimated to contain 200 billion barrels of shale oil reserves (even considering that only one-quarter of the oil is recoverable.) By any comparison that is about twice the known domestic total crude reserves, with the new rich Alaskan field included. Today some of this "private" land is being sold among the major oil companies at tremendous prices. But Uncle Sam settled for only $2.50 an acre as late as 1960, with full knowledge of the value of the land and in obvious violation of the law.

The antiquated 1872 mining law still governs many of the legal aspects of the oil shale resource today, and a sleepy Congress continues to doze. Meanwhile, Mr. Nixon and his new Interior Secretary, Rogers C. B. Morton, are preparing to sweeten the kitty and see if big oil will now bid on additional proposed leases. Only this month Washington was amazed when sodium leases were awarded to several applicants in shale country.

The moral attitudes toward oil shale are at last beginning to gain prominence in the West and particularly in Washington. Back in 1872, as an inducement to encourage miners to "go West," the government offered land under placer mining claims for $2.50 an acre—the sum necessary in 1872 to help offset the costs to process patent (deed) application papers by government employees. Unfortunately speculators, not miners, claimed much of the land originally, and their successors in interest, most often connected with the major oil companies today, have used all sorts of illegal and fraudulent practices to gain ownership of the land. Almost all of the 380,000 acres of privately-held shale land are now owned or controlled by majors. Most of the patents, or titles, to these rich acres were issued on the pre-1920 claims between 1946 and 1960, though the story of their legal history certainly does not stop there. The issue facing us today is when will Congress wake up and take action before all the oil shale lands slip from public ownership. It has become evident that the Interior Department has grown too oil-entrenched to be effective.

Approximately 25,000 of these pre-1920 mining claims, most of which cover 160 acres each, form a special case. Many of these claims have never been properly maintained and reduced to patent by owners. Most have never been contested by the federal government to determine whether or not they represent valid rights under the provisions of the mining laws. Thus, these old claims still cloud the government's legal title to some four million acres of the oil shale lands. Yet Washington continues to boggle along doing little or nothing.

Though Secretary Udall did not grant patents to any of these old claims, informed westerners find many of his oil shale policies highly ambiguous. He obviously wanted to issue more patents. More and more the question is being raised as to why Mr. Udall permitted land grabbers, oil companies, and speculators to plaster the remaining public domain oil shale lands with new claims covering about four million acres. It is now com-

mon knowledge on the streets of Denver, for example, that these new claims for alleged metals were largely filed only as another pretense to get to or tie up the oil shale. This might become a way of converting public shale lands into private holdings, some experts fear.

Secretary Udall delayed for 14 months, stretching from December 1965 to January 1967, to sign a withdrawal order which would have removed the rich shale lands from metalliferous mineral entry, thus stopping this most recent oil shale land grab. Why did Mr. Udall hesitate, despite almost daily urging from his own experts in the Bureau of Land Management (BLM), until these new claims covered all of the most valuable shale lands remaining? Only he has the answer. His BLM director finally issued a belated "application" for the withdrawal in January, 1967, too late for any appreciable meaning.

This is why the claims are now referred to in shale country as the "Udall claims." The Secretary's inaction in this one matter alone, according to Sen. Douglas, may cost American taxpayers $30 million to $40 million just to eliminate the legal cloud on the title to these lands, if, of course, the U.S. is successful in wiping out the Udall claims. Under any comparison, critics charge, Mr. Udall's peculiar "inaction" dwarfs the Teapot Dome scandal of the 1920's a hundred times over. Meanwhile, Mr. Udall, now a university professor, parades around the country as a concerned conservationist. But as he admitted to one newsman, "I'm goddammed relieved I got out of there without going to jail."

Phony Land Patents

Big oil goes wherever it smells big riches. When it can obtain valuable government land for $2.50 an acre and sell it almost immediately for $5,000 an acre or more, that is a windfall. And that's what has happened in the case of Green River Formation oil shale lands of the West.

In 1930, not many years after oil shale bureaucratic bungling first began, President Herbert Hoover, fearing another Teapot Dome scandal, withdrew the oil shale lands of Colorado, Utah, and Wyoming from leasing. Later in 1935 the lands were opened up for oil, gas, and sodium leasing under President Franklin Roosevelt. Neither of these moves greatly disturbed the land grabbers who have relentlessly tried to rob the public of a vast treasure trove worth more than $6 trillion. But beginning with Interior Secretary Oscar Chapman and his Truman-era predecessor, Julius Krug, land patents were issued on oil shale claims which had previously been successfully eliminated through legal proceedings—a practice that was obviously illegal. That action has cost the public its legal and moral title to at least 380,000 acres of some of the richest land in America, which contains at least 200 billion barrels of recoverable shale oil. That oil would sell on the market today for roughly $3 a barrel.

This illegal patent-granting practice became an accepted "rule" in Interior. It continued until July, 1960, when a few public-minded Interior attorneys brought the scheme to a halt, despite then Secretary Stewart Udall's attempt to keep it going. Later great efforts were made by private attorneys representing frontmen and "dummies" for big oil to overrule these department lawyers. The Supreme Court, however, in a decision last December, upheld the Interior lawyers to the hilt.

Thus, the Interior Department, for a period of 30 years or more, permitted about 20 percent of the publicly-owned Green River Formation oil shale to pass into private ownership fraudulently. Through political pressure, outright fraud, and complete mismanagement by the department, most of this valuable land has fallen into the hands of the major oil companies via dummies, frontmen, and subsidiaries. In fact, oil companies are willing to pay upwards of $5,000 an acre for medium-rich shale land, despite its shaky legal title. This already patented land contains as much as 50 years' supply of oil for the entire nation even if only one-fourth of the oil is recoverable. And Washington wouldn't dream of trying to get this illegally-obtained land back, no matter what the Supreme Court says.

The fact that Interior literally gave away this valuable resource, which belongs to all Americans in the most legal and moral sense, could hardly be labeled anything but a scandal. But that word has been so flaunted in Washington lately, that high Interior officials seem to ignore such language.

Secretary Udall not only did not challenge the illegally issued patents which his predecessors had granted, but from 1961 to 1964 he permitted then Assistant Secretary John Carver of Idaho (later undersecretary of Interior, and a member of the Federal Power Commission) to continue efforts to satisfy the wishes of the private interests and oil lobbyists. But even with Mr. Carver's cooperation, it finally became apparent to the land grabbers and high Interior officials that they would have to find other ways to continue their looting of the public domain.

If the government had lost the appeal before the U.S. Supreme Court last October, the Wall Street Journal charged, one speculator alone, a former Interior employee, would be close to making $40 million on the scheme. But oil companies would stand to reap billions if they could see their "dummies" get control of more of the disputed land for $2.50 an acre.

Regardless of such behind-the-scenes dealings, it is important that not a single barrel of shale oil has yet been extracted by a demonstrated commercially economic process. In this area controversy also abounds.

Those who deny the existence of a public domain oil shale scandal contend there is as yet no proven method by which the oil can be commercially extracted from the shale; hence there can be no scandal. The mineral resource in the ground, they insist, is not worth a thin dime.

Defenders of public lands in the West counter this argument by pointing out that the absence of an extraction process has nothing to do with the fact that the federal government has illegally sold publicly-owned land to speculators for $2.50 an acre. The speculators have then sold the land to the major oil companies for as much as $5,000 an acre in multi-million-dollar blocks. With such information common knowledge in the Rocky Mountain area, the assumption is quickly reached that an extraction process must be close at hand, perhaps under security wraps by the majors or why would such a high price be paid for worthless ground?

As former Washington Post staff writer Julius Duscha pointed out in the Atlantic Monthly, "Big oil wants action now before the cost of getting the oil out of the ground is known and before the precise value of the oil can be determined."

Actually, oil shale production has been going on since 1838 in other countries, including France, Scotland, Brazil, Sweden, and Estonia. Refineries in Estonia, for example, have operated since World War I, and are currently producing 55,000 barrels of shale oil per day from a much less rich source than Green River shale. The Russians now convert this oil into electricity and transport it over a long distance to consumers.

In the case of U.S. shale deposits, however, not one red cent has been expanded by either government or industry along this line, despite the fact that electric needs are expected to increase more than 200 percent in the next 10 years.

A few knowledgeable conservationists and economists in the Rocky Mountain West have advocated for years a Tennessee Valley Authority (TVA) type approach for oil shale development. As explained by Sen. Paul Douglas in his newly released book, "In Our Time," a sound solution to the oil shale problem might be the TVA application—not to put the government into the oil business, but rather to convert the shale oil into the nation's ever-expanding electric needs through a government-chartered agency. For the record, this is a business in which the government is already fully operative.

In another recent book, "America, Inc.," co-author Jerry Cohen, former legal counsel of the Senate Antitrust and Monopoly Subcommittee, words to this effect were straight forward: "To help depose the government of oil, the legitimate government should establish a corporation of the TVA type to develop, exploit, and sell oil shale . . . public ownership makes (it) an especially grave potential threat to the multi-billion-dollar investment of the major petroleum companies in reserves of liquid oil, pipelines, and tankers. These companies have shown no zeal to develop oil shale and so long as they govern the government, oil shale will continue to remain significantly undeveloped."

Other and perhaps more idealistic forces argue there is nothing wrong with the government itself producing oil from the shale, inasmuch as these are already public resources. The government could then provide the fuel needed by the U.S. Defense Department, the largest consumer of oil and oil products in the world. The oil companies naturally look on such suggestions as heresy, because, it goes without saying, they now supply all the Defense Department's petroleum needs at standard, and highly profitable, rates.

Disregarding which of these two hands Uncle Sam might decide to play in coming months, it is evident that informed Americans must see to it that the Interior Department does not turn over more public shale lands to the major oil companies for pin money. Studying oil's corrupt history from the days of Spindletop and Teapot Dome down through today's behind-the-scenes pressuring in Latin America and the Mideast, plus all those billion-dollar tax loopholes and price-stabilizing oil import quotas, a method to protect the oil shale lands must be developed.

To keep such a sleeping giant shielded from the grasping clutches of big oil tycoons using a stacked deck of high-salaried lawyers and lobbyists may require a strength of character which the Nixon administration has not, as yet, displayed.

Big Oil Controls the Show

Washington was shocked last July when the U.S. Interior Department, guardian of the public's rich oil shale lands of the West valued at $6 trillion, decided to grant sodium leases to a host of land barons, one of which is presented by President Nixon's former New York law firm.

Interfering with the Federal Government's clear title to the 17,200 square mile shale rich lands is a 20,000-acre cloud involving sodium preference right lease applications for which former Interior Secretary Stewart Udall must be judged solely responsible.

The sodium preference right lease applications are based upon sodium prospecting permits issued by Interior with Mr. Udall's blessing in 1964. They pose a complex legal problem because it would be impossible to remove the sodium minerals without disturbing the oil shale. Yet the shale cannot legally be removed under sodium leases. And as before, many Interior employees privately feel that the sodium permits and lease applications were filed only as a pretense to get control of the shale. The precedent setting decision to award these leases was made by Interior Secretary Rogers C. B. Morton last July 6. Prior action in the department has been continually pigeon-holeing the requests since 1964.

In January and February of that year hundreds of sodium prospecting permits, covering at least a quarter of a million rich oil shale acres, were filed with the Colorado Land Office of BLM. Udall's critics insist that he should have recognized this for what it plainly was: just another way to get control of the public's shale reserves. They say he should have protected the public interest by rejecting the permits.

Most of the sodium permits later expired due to inaction by their owners, but eight of the so-called prospectors did file sodium lease applications and requested a hearing so that they might obtain the 20,000 acres of rich shale lands for their alleged sodium mining. Mr. Udall and his former legal advisor, solicitor Edward Weinberg, granted their requests at the urging of former Secretary of the Interior Oscar Chapman.

It is interesting to note that Chapman's law partner, Martin L. Friedman, former legal counsel of the Democratic National Committee, represents Advance-Ross Corp., a diversified firm of Chicago wanting some of the sodium leases. But to illustrate how nonpartisan oil shale has become politically, Advance-Ross is also represented by Franklin B. Lincoln, assistant secretary of Defense under Eisenhower and a former member of Mr. Nixon's New York law firm. Another member of Mr. Nixon's firm is, of course, John B. Mitchell, now U.S. Attorney General, whose job is to give legal advice to the President.

This is all part of the reason Washington was shocked when Interior awarded the leases. The fact that Secretary Hickel had it in his power to grant the leases on 20,000 acres of the richest mineral land in the world is not disconcerting since his White House dismissal. But his successor, Mr. Morton, has yet to prove himself an active guardian of public lands. Washington sources in Interior suspect that Mr. Morton will weaken under the pressure of the powerful oil lobby still further and award oil shale leases near election time next year.

Testifying recently before a Senate Appropriations subcommittee on the controversial Alaska pipeline proposal, which has been approved by most Interior bureaucrats, Mr. Morton declared that Alaska had "sold those oil leases too early."

The new secretary was quick to point out that "Any decisions that we make are not going to be made on a profit-loss factor inherent to any economic group. They will be determined on the national need."

Still addressing the pipeline question, Secretary Morton said that first a national energy policy should be established, with review of such factors as the impact of the Mid-East conflict on world oil supply. It can be assumed that he might take the same position with the shale controversy. But he hasn't yet.

Rather, Mr. Morton has decided to lease away a portion of the richest shale land in hopes big oil will move toward a more serious development stage.

The President expressed the belief that "the time has come to begin the orderly formulation of an oil shale policy—not by any headlong rush toward development, but rather by a well-considered program in which both environmental protection and the recovery of a fair return to the government are cardinal principles under which any leasing takes place."

But he did not elaborate on the fact that the U.S. Atomic Energy Commission has set off four test explosions already this summer on the Nevada test range, specifically designed to help extract oil from the shale beds at a later date. If the plan works, and if big oil will later foot part of the cost, there will obviously be hundreds of such nuclear explosions in shale country, which would appear to be running headlong into a clash with environmentalists everywhere.

At the same time, Secretary Morton has put feelers out to determine if enough environmental safeguards can be overlooked to entice the big oil boys to lease two tracts of land each in Colorado, Utah, and Wyoming in late 1972. And it goes without saying that at about the same time the Nixon Administration will have forgotten about Vietnam Papers and trips to Peking and have its attention focused on huge campaign contributions from the oil barons.

WASHINGTON POST ACCUSATIONS CONCERNING C–5A ACCIDENT WITHOUT MERIT

Mr. BELLMON. Mr. President, the Washington Post on October 8, 1971, published a story on page 1 concerning an accident involving a C–5A jet transport at Altus Air Force Base, Okla. That story indicated that the Air Force had deliberately withheld the information concerning the accident and the grounding of seven additional aircraft until the final passage by the Senate of the military procurement authorization bill.

I should like to point out to the Senate that these accusations have no merit. The Air Force and the Department of Defense have not tried to suppress this accident. In fact, the damaged aircraft was photographed by the press the day following the accident, and a copy of a photograph appeared in the Daily Oklahoman on Friday, October 1, 1971, with the following cutline:

Bird Minus Engine is checked at Altus Air base Thursday after the No. 1 engine of this four engine C–5 Galaxy transport just fell off onto the ground Wednesday when the pilot, Maj. Richard Leal revved up for takeoff. The plane never left the ground and there were no injuries, but a small fire developed on the wing where the engine fell off. It was quickly extinguished.

Mr. President, I suggest that there was never any withholding of information, either by the Air Force or the Department of Defense. The Daily Oklahoman is a newspaper with a circulation of over 280,000 daily paid subscribers. It is read throughout my State and the Southwest, and copies are available in the Marble Room of the Senate for the benefit of Senators.

ADVANCEMENT OF THE CAUSE OF MINORITIES

Mr. SCOTT. Mr. President, during the past few years, the Nation has made great strides in realizing its objectives in the field of civil rights. These years are unparalleled in accomplishments dedicated to the proposition that racial and ethnic discrimination have no place in American life or law. Yet the critics remain, charging that the Government of the United States has done little or nothing to advance the cause of minorities. While there is admittedly much more to be done, progress has indeed been made. The General Services Administration is a case in point, where an intensive and long-range program has been implemented, making the GSA more responsive to the needs of minorities, and encouraging their upward mobility through recruiting and training programs. As evidence of the Government's success in efforts to advance the cause of minorities, I ask unanimous consent that "GSA Accomplishments in Civil Rights" be inserted in the RECORD.

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

GSA ACCOMPLISHMENTS IN CIVIL RIGHTS

In March of 1969, when President Nixon appointed Robert L. Kunzig Administrator of General Services, he inherited a highly unfortunate and unresponsive situation in the area of civil rights both in terms of the agency's internal organization and its relationship to outside parties. Under the direction of the President, Kunzig has done his best to change this—to change attitudes, practices and programs. Following is a brief summary of accomplishments by GSA in the field of civil rights since 1969.

I. MINORITY BUSINESS PROGRAM

The GSA Minority Business Program under section 8(a) of the Small Business Act, gives preference to the minority entrepreneur in obtaining Government contracts. Administrator Kunzig serves as Chairman of President Nixon's Task Force on Procurement from Minority Business Enterprise for the entire Government, and has devoted a great deal of his own time to meeting and working with minority businessmen. To demonstrate the Administrator's commitment to this program a comparison is in order. In FY 1969 GSA awarded 2 contracts to minority businesses worth $346,676. In FY 1971 to June 1, GSA awarded 169 contracts at a value of $9.3 million. Government wide the figures show $8.8 million worth of contracts awarded to minority contractors in FY 1969 and an estimated $62 million in FY 1971. The goal for FY 1972 is $100 million.

For further aid minority contractors who are often operating a new business with a tight cash flow, GSA has set up special payment procedures permitting the payment of their invoices immediately upon receipt.

GSA and the President's Task Force have arranged for and conducted 30 Federal Procurement Seminars for minority businessmen in major cities across the country during calendar year 1970; as of this date 18 more have been held this calendar year and 23 more are scheduled. We have extended the activities of our Business Service Centers located in 12 major cities to emphasize counseling of minority entrepreneurs (some 12,000 during FY 1970) on Federal contracting.

To further publicize this program, we have developed a booklet entitled "Partners in Progress", which has had a wide distribution, and we have produced a 27-minute film under the same title for showing to private groups and during public service television time. The film portrays clearly for blacks and other minorities the Nixon Administration commitment to minority businessmen. Copies of the booklet are available for distribution to your constituents should you desire them.

II. FEDERAL SITE SELECTION

On May 28, 1969, Administrator Kunzig issued an amendment to the Federal Property Management Regulations which made the availability of low and moderate income housing for employees of proposed Federal facilities a factor in Federal site selection. In essence the amendment says that in selection of sites for Federal facilities GSA would avoid locations which would work a hardship on employees because (1) there is a lack of adequate housing available for low and middle income employees within a reasonable proximity and (2) the location is not readily accessible from other areas of an urban center. We consider housing to be available only if it is available to all employees on a non-discriminatory basis.

Executive Order 11512, sponsored by GSA, was signed by President Nixon on February 27, 1970. Section 2(a)(2) of that order states:

"Consideration shall be given in the selection of sites for Federal facilities to the need for development and redevelopment of new communities and the impact a selection will have on improving social and economic conditions in the area."

Executive Order 11512 is designed to aid in accomplishing a number of social and economic goals including encouraging the construction of low and moderate income housing, relieving unemployment, aiding in physical development of new towns or rehabilitation of deteriorating areas, and reinforcing other Federal programs such as model cities efforts.

On June 11, 1971, GSA signed an agreement with HUD formalizing a procedure whereby HUD will advise GSA on the housing aspects of the Executive Order (which also includes a section similar to the above-mentioned FPMR).

III. GSA OFFICE OF CIVIL RIGHTS

On June 16, 1971, Edward E. Mitchell was appointed Director of GSA's new Office of Civil Rights. This office will direct both GSA's contract compliance program and its equal employment program. Mr. Mitchell, the highest ranking Negro in the history of GSA, will report directly to the Administrator.

CONTRACT COMPLIANCE

On September 9, 1970, GSA's contract compliance effort was reorganized and consolidated into one office. The Department of Labor had directed that GSA accomplish 1122 compliance reviews in fifteen industries by the end of FY 1971. The GSA Compliance Staff has completed 1283 reviews for the period from July 1, 1970, to June 14, 1971. This represents a 114% completion of the Agency's review commitment to the Office of Federal Contract Compliance.

Prior to the reorganization, the Agency had not issued a single show cause order to a contractor. Since the reorganization the Contract Compliance Staff has issued twenty-eight show cause orders.

GSA has also moved to strengthen its contract compliance staff. During FY 1971 the Program has had a staff of 52 persons. Our budget request for FY 1972 is for 121 persons and an increase in budget from $713,000 to $1,648,000.

APPOINTMENTS AND PROMOTIONS

On taking office in 1969, Administrator Kunzig upgraded the office of Executive Director of EEO to his immediate staff and placed counterparts on the staffs of each of the 10 Regional Administrators. This initial move was followed by direction to our personnel officers and Central Office and Regional supervisors to give special attention to the recruitment and advancement of minority personnel. The number of minorities in jobs in GSA at GS–10 or above has increased from 266 to 372 in the last 18 months, a 39.8% increase. This includes the first GS–18 and the first GS–17 in GSA history. In addition, minorities have gained 2008 of 5870 (34.1%) general schedule promotions from July 1, 1969, to June 14, 1971, and have been appointed to 2481 of 8032 (30.9%) general schedule vacancies.

RECRUITING AND TRAINING

An intensified recruiting program at minority colleges, including personal visits by the Administrator to Clark College and California State College, resulted in minorities filling one fourth of GSA's recruited positions in FY 1970. As of June 14, 1971, 98 of 533 (18%) college graduate trainees recruited since January 1, 1970 are minorities.

We have also instituted special programs designed to increase upward mobility and to eliminate dead-end jobs for minorities at lower levels. The Training and Advancement Program (TAP) provides opportunities for upward mobility and utilization of employees in lower level GS and wage grade positions on the basis of potential rather than experience. Of 129 TAP trainees, 67 are minority (51.9%).

The Career Advancement Program (CAP) provides upward mobility and utilization opportunities in professional, administrative, and technical positions in grades GS–7 through GS–15 for employees with potential. This program began in March.

Many of the changes at GSA, particularly the role of housing in Federal site selection, were pointed out in greater depth in Administrator Kunzig's testimony before the Civil Rights Commission on June 16, 1971. Copies of this testimony are available from the GSA Congressional Liaison Office.

As Administrator Kunzig said at that time ". . . more can be done and more will be done, but I am proud, and I believe justifiably so, of the Nixon Administration's record over the past 27 months."

Chairman Hesburgh of the Civil Rights Commission praised the GSA warmly in the name of all members of the Commission. Vice Chairman Horn went into a detailed statement of commendation on the record. Various members congratulated GSA as did minorities in the audience who crowded up afterwards to echo Chairman Hesburgh's sentiments.

GENOCIDE: DOES SILENCE MEAN APPROVAL?

Mr. PROXMIRE. Mr. President, one can argue that under our law silence means approval. For example, the Constitution says that if the President does not explicitly veto a bill, Congress being in session, then that bill becomes law. His silence is taken to mean approval.

Could the same thing happen regarding the failure of the Senate to ratify the Genocide Convention? Could our silence be taken to mean that we approve of the crime of genocide? I certainly hope not. But some argue that that is so, because the Genocide Convention has been before the Senate for 22 years without being ratified. How can we explain away our silence?

Fortunately we have a chance to correct this misconception. On May 4 the Committee on Foreign Relations issued a favorable report on the convention, and it is now on the Executive Calendar of the Senate. By ratifying the convention we can show the world that we do indeed abhor the crime of genocide.

Mr. President, our silence condemns us. We must act before it is too late. I urge the Senate to ratify the Genocide Convention as soon as possible.

BENEFICIAL IMPACT OF THE SMALL BUSINESS ADMINISTRATION

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Mr. Charles Smith, senior vice president of the Bay National Bank & Trust Co., of Panama City, Fla., to Mr. Robert Clark, Director of the Office of Financial Institutions of the Small Business Administration.

The letter reveals the important and beneficial impact that the Small Business Administration has had on spurring local economies through such a program as the guarantee and immediate participation programs.

Hundreds and hundreds of small businesses in Florida are thriving today because of such programs. There are thousands around the country.

The Small Business Administration is doing an excellent job and deserves the thanks of everyone who is concerned with the success of the private enterprise system.

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

THE BAY NATIONAL BANK & TRUST CO.,
Panama City, Fla., August 30, 1971.

Mr. ROBERT CLARK,
Director of the Office of Financial Institutions, Small Business Administration, Washington, D.C.

DEAR MR. CLARK: The Bay National Bank & Trust Co., Panama City, Florida has been a participant with the Small Business Administration for approximately ten years. During this period over $10,000,000.00 has been made available to over 140 small businesses in Bay County by the Small Business Administration in participation with our Bank. We presently have 90 participation loans on our books, with twelve additional loans pending. These loans have assisted virtually every type of business.

From 1961 through 1969, Bay County's annual sales grew from $76,125,000.00 to $140,549,000.00; its population grew from 67,131 to 75,283; its bank deposits grew from $32,767,897.00 to $99,286,211.00; its savings and loan assets grew from $20,562,591.00 to $39,960,420.00; and building permits issued per year increased from $3,138,614.00 to $9,609,175.00. The Bay National Bank & Trust Co., which is over thirty-five years old increased its deposits from approximately $12,000,000.00 to $42,000,000.00 during the past ten years. Those statistics are fantastic when all factors are taken into consideration. Without the Small Business Administration and the progressive minded leadership in our Bank, and our community, it is possible that the past ten years would have been like any other ten-year period in our history.

The Small Business Administration has been invaluable to our area. Our Bank has participations in all types of Small Business Loans, including the Guaranty and Immediate Participation Program, the use of the regular and SBLP type application form and the assistance in the minority entrepreneurship and EOL loans, with our share of participation ranging from 10% to 50% of the loan. Our losses have been less than one-quarter percent during the past ten years.

In fact, our first year's service fee paid by the Small Business Administration exceeded our losses for the full ten-year period. We are very pleased with an agency who has done so much for our small area. The aid to our economy cannot be measured. You must also realize that there are five (5) banks in our community with all now participating with the Small Business Administration in its lending program, and I have only given to you, our story.

To us, at Bay National Bank, the Small Business Administration needs a commendation from all our legislators for its very able assistance to the backbone of our nation, the small business. An agency of our government that performs as the Small Business Administration does can never be commended enough. Keep up this excellent work.

Sincerely,

CHARLES S. SMITH,
Senior Vice President.

DEVELOPMENT OF SMALL TOWNS AND RURAL AMERICA

Mr. TALMADGE. Mr. President, the magazine Nation's Business for October contains an excellent article on the small towns of America and how these communities can be economically prosperous and pleasant places to live and raise a family.

The article cites several examples of viable small towns in various parts of the country and calls attention to their economic and social advantages over large, congested metropolitan areas.

The development of small towns and rural America has been a major thrust of the Committee on Agriculture and Forestry in recent weeks, and we have been greatly encouraged by increasing interests, urban and rural, in this project. We are at present confronted with a situation in which 75 percent of the people live on about 2 percent of the land. It gets worse every day. In my judgment, a reversal of the massive urban to rural migration must be a top priority of Congress in this decade.

I invite the attention of the Senate to the article and ask unanimous consent that it be printed in the RECORD.

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

THE LIVIN' IS EASY

(By Stanley Schuler)

Don't write off America's small towns.

It's true many are declining or even dying. But a great many are very much alive. And a lot are growing rapidly.

While business deserves much of the credit for the vigor of thousands of small towns, equal credit must go to the quality of small town life, which continues to attract countless people from the harried cities.

Small towns have problems too, but they somehow don't seem so onerous where everyone knows everybody else and most problems are out in the open for all to share.

An important reason why the current vitality of small towns has not received wider recognition may be uncritical acceptance of Census Bureau reports that the population of farms and rural communities has declined in the last half-century from 49 to 26 per cent of the total population.

Putting it that way obscures the fact that, in the same period, the number of rural residents actually increased—from 51.5 million to 53.8 million.

"There has been too much generalizing about small towns," complains economist Alfred Hong. "The people who are saying small towns are dead simply must not be looking at them hard enough. Instead, they see that some small towns in the Plains States are declining and they jump to the conclusion that all small towns throughout the country are in the same boat."

This, says Mr. Hong, who is director of research for the Survey of Buying Power, published by *Sales Management*, "just isn't so. Look what's happening to small towns in California, Florida, Illinois, Ohio and Mississippi. Many are healthy, growing. And that's true of a lot of other small towns elsewhere."

In addition to rural population growth, there is other evidence to support Mr. Hong's view:

Of the 4,300 towns with populations of 2,500 to 10,000, 72 per cent grew in the 1960s, while only 28 per cent declined in population. Losers exceeded gainers in only four states. (The Census Bureau does not classify towns in that population category as rural communities and a considerable number of them are in fact suburbs of cities, but a great many are far out in the country, as rural as any hamlet on the Kansas prairie.)

Every small town in Connecticut has increased in size in the last decade.

In Nebraska, supposedly one of the states in which small towns are dying fastest, incorporated villages and small cities that gained population in the same period outnumbered those that withered.

The Census Bureau is now beginning to identify highly populated counties that have been shown a surprising capacity for growth when nearby counties were declining. The "growth centers" include such diverse places as Coffee County, Ala.; Campbell County, Wyo.; and Grand Isle County, Vt.

ECONOMIC LIGHTNING

Why are small towns still growing? The reasons vary.

Some are struck by what could be called economic lightning.

Oil was discovered near Gillette, seat of Wyoming's Campbell County, and the community doubled in size. Naples, Fla., gained sudden prominence as a winter resort and its population tripled.

A group of developers chose Waterville Valley, N.H. for a ski resort. Wilkesboro, N.C., was selected as the site of Wilkes Community College and there was an additional influx of population after the town acquired several clothing factories.

Other towns grow more slowly as newcomers arrive to take over existing businesses and the former owners remain in retirement or other activities.

Still other communities don't wait for growth to be thrust upon them. Their civic leaders work hard to bring it about by taking steps necessary to attract new industry.

In 1960, the town of Cozad in central Nebraska had only 3,180 population as a farm and milling center. A group of citizens then organized an industrial development campaign.

The first major success was persuading the Monroe Auto Equipment Co. to locate a new plant, which employs 650 workers, in Cozad. Since then, other businesses have moved in.

Today, Cozad has grown to 4,230 people (Lexington, the county seat, gained only 46 in the same period) and further growth is expected from a drive to provide housing for Monroe workers who still commute from surrounding towns and farms.

"There's no doubt about it, we're going to keep on growing," says Joe Alverson, editor of the *Tri-City Tribune*.

LOTS TO OFFER

Mr. Alverson, who arrived in Cozad from Colorado in 1965, views his adopted community as "a nice, clean town with lots to offer. You might not think it looks like much, but it's a fine place to live."

And the Monroe company is equally delighted with its choice. "Everything's worked out wonderfully well," says Larry Meares, industrial relations director.

"You might say we're committed to small towns. They offer an excellent environment for us.

"People seem to have a more distinct set of mores than those in large cities. Furthermore, the people are more alike. That tends to make it easier for an employer to identify his employees' needs and to satisfy them.

"Thus, you get a closer, more productive relationship."

The head of a company that helps businesses locate new plant sites is one of the most vocal of the small town enthusiasts. Leonard C. Yaseen, chairman of Fantus Co., says that small towns, while obviously not right for every company, offer many advantages.

"Wage rates, taxes and living costs are lower than in cities," Mr. Yaseen reports. "Productivity is higher and work stoppages fewer. Employee loyalty is excellent."

FED UP WITH SUBURBIA

A lack of cultural facilities is the only real remaining drawback in small towns, he says, but "on the other hand, life can be very pleasant. I'd say the reaction of men who have moved to small towns is almost universally favorable."

Small towns are proving to hold attractions for individual families, as well as industries.

In Essex, Conn., a leisurely little out-of-the-way town near the mouth of the Connecticut River, a young housewife explains: "We came here because we were frustrated by suburbia.

"It was the whole business of power mowers and country clubs, of going down to the shopping center Saturday morning and putting a dime in a meter two blocks from where you wanted to be. It was fighting traffic jams and chauffeuring kids to dancing class."

Says her husband:

"We were just fed up. We wanted to get out of the rat race, to live a more relaxed, natural life."

Essex was once a magnet for the retired. Now, some of the newcomers are younger men transferred to the small and medium-size plants moving into the general area. Some commute to Hartford or New Haven—or even New York—over superhighways. Other new residents are manufacturers' representatives or salesmen who work out of their homes. A few are airline pilots who fly only part of the month and have the rest of it to themselves.

Four years ago, a young salesman moved from Indianapolis to Nashville, Ind. (population: 750). He now commutes daily by car—a 100-mile round trip.

"You'd think I'd be sick of driving," he says, "but—I'm surprised myself—I'm not. I can't tell you how much less tense and more happy we are, living here."

In Exeter, N.H., (population: 8,900) a young engineer who quit his job rather than be transferred echoes the sentiments of generations of small town Americans:

"A small town is just a warmer, easier place to live life as you and your kids want it, not as social pressures say you must."

CORPORATE UTOPIA: RFD?

(By John W. Joanis)

The time may soon be upon us in the United States when the job will follow the man rather than the man pursuing the job.

And, when that occurs, it bodes only good times for many of the smaller communities in our land.

This view, I am aware, puts me in direct opposition to most of the nation's urbanologists, sociologists, demographers and politicians. They still hold that the nation is going metropolitan, that nine out of 10 Americans will live in urban centers by the year 2000.

Admittedly, my personal survey is of the horseback variety. But we do employ 5,000 people in 72 offices across the nation, and transfer several hundred of them each year.

We are constantly bringing in men from field offices—most of them in huge metropolitan areas—to our headquarters at Stevens Point, Wisc. They and their families come reluctantly, skeptical of doing time in the piney-woods Siberia of central Wisconsin.

Three years later, when we promote them again, back to the action in Detroit, Chicago, Atlanta or New York, they leave kicking and screaming, often pleading to continue living the good life of Stevens Point.

The suburban ethic is fast disappearing as the only religion of the young organization man on the make. He is, indeed, balancing his family's quality of life against its quantity of life. He is finding that in urban America today, more is less.

In one survey, pollster Lou Harris asked: What do you consider the ideal type of area to live in? Only 17 per cent selected the city.

By 1980, half the nation's work force will be producing or servicing products that do not exist today. Thousands of new plants will be built somewhere in this nation by 1980.

"Somewhere" could be the small town, U. S. A. How small? I don't really know. Perhaps somewhere between 10,000 and 200,000—at least much smaller than Boston, Baltimore, Dallas and St. Louis.

More important than size, it appears, are the accommodations and recreational and

educational facilities, the general quality of the environment.

For example, a college or university with a cultural and academic impact on the community is an enormous plus. School and medical opportunities must equal, or nearly equal, the suburban facilities many of our young have experienced.

The nearness of ski slopes; lakes for sailing, water skiing or fishing; beaches and public hunting grounds also means a great deal.

If a large metropolitan center with its stores, theaters, restaurants, hotels and professional sports teams is reasonably near—three or four hours' driving on a good highway—that, too, is a plus. An attitude of progress, an open society that tolerates—or even welcomes—new ideas is appealing to young adults.

Our young people's values—their emphasis on the quality of life—is a tremendous force for change, not to be completely discounted by technological data and erudite scholars.

To the kind of cities I have described, young activists and young industries will soon be going "over the hill" from the crowded, uncomfortable, often unsafe and unhealthy urban-suburban-industrial sectors of this land. The young will go because they want to; businesses because they have to—for economic and political reasons.

Indeed, where previously the man followed the job, soon the job will follow the man and his desire for a better life.

LOCAL INITIATIVE AND THE RENEWAL OF A KANSAS RURAL COMMUNITY

Mr. PEARSON. Mr. President, rural community development is becoming increasingly recognized as a national necessity. We seek to expand economic and social opportunities in rural America because consideration of general equity demands it. But we also seek to develop our rural communities as a means of achieving a more balanced national growth in the future. We must break the trends which are producing overcrowded megalopolises and underdeveloped rural communities.

To achieve this goal of balanced growth, we must have national action programs. And I am encouraged by the growing support in the Congress for new rural development efforts.

But while national programs are demanded, we all recognize that local initiative and self-help is the first essential step in any rural revitalization effort. An excellent example of such local spirit and initiative is to be found in the northwest Kansas community of Oberlin. The community's effort at self-help revival is described in an article in September 30, 1971, issue of Farmland News.

Mr. President, this is an impressive and interesting story and I ask unanimous consent that it be printed in the RECORD.

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

SELF-HELP REVIVING A KANSAS COMMUNITY

(By Frank Whitsitt)

Perhaps the sight of a young doctor waving cheerily as he rolls by on a bicycle symbolizes as much as anything the attempt of Oberlin, Kan., to swim upstream in a river of rural decline.

Indeed, there are two young doctors who roll around on bicycles in this Northwest Kansas community of 2,500 persons that has decided to do more than wring its hands over problems besetting America's hinterland.

Oberlin's medical care pulse bears mention because the town came perilously close to joining the ranks of rural communities that have no doctor. At one time there had been five. Then there was only one, and he was terminally ill. Leaders put together $17,000 to facilitate a search for medical help. Now there are the two doctors, who came to Oberlin from Indian reservation work in the Southwest, and a dentist.

"That was the turning point," says Phil Finley, the Decatur County extension agent whom many credit with sparking efforts to revitalize the town. "When this town decided it was going to survive."

Without doctors, Finley says he wouldn't have stayed. "There was an illness in my family a while back when we had to have a doctor within 30 minutes," he said. "That was enough for me."

There is tangible evidence of Oberlin's headway the moment you turn off U.S. 36 and head "downtown." What used to be little more than a "2-lane cowpath" is now a divided 4-lane route with a statue in the median that a town many times Oberlin's size would be proud to have.

Carved out of limestone by Pete Felten, Jr., of Hays, Kan., at a bargain low rate for his labor, the "Pioneer Family" shows a father, mother, son and daughter with arms locked in symbolizing the stoicism of Oberlin's forbears who helped settle the plains. Oberlin area residents contributed $2,000 to its cost, and this was matched by the State Cultural Arts Commission.

Emphasizing Oberlin's heritage and its dependence on farming, the statue helped unite rural and town folk on the effort to upgrade Oberlin's image, Howard Kessinger, editor of the wide-awake Oberlin Herald, believes.

A block or two past the statue is the renovated Main Street shopping district. Much neater than what you're accustomed to finding in rural towns. Newly installed canopies over store fronts and artistic light globes give one the intended impression that the businessmen inside are doing all right.

The idea for sprucing up Oberlin was brought back by Ernest Woodward, publisher of the Herald until his death, from a visit to a Canadian town that had put on a new face and thereby helped improve its economic rating.

Leaders turned to the Center for Community and Regional Planning at Kansas State University for free suggestions on how to get Oberlin moving. K-State design students came to town (Oberlin paid only their expenses) and recommended a new landscaped entrance way off U.S. 36, refurbishing of store fronts or the erection of canopies (the merchants did both), the statute and a pedestrian mall.

The K-State ideas proved the need for planning, said Kenneth Rydquist, president of the Chamber of Commerce, and the next step was the hiring of a planning firm. There was no thought of taking up the brick pavement. This pleased the oldtimers who could remember the days when farmers rumbled over those bricks in horse-drawn buggies and wagons.

Total cost of canopies and lights came to about $50,000 with merchants paying the $41,000 cost of the canopies and the city financing the lights. Because of a similar effect provided by the canopy-sheltered sidewalks, a pedestrian mall now appears unlikely.

But the Oberlin resurgence goes beyond freshening up Main Street and erecting a statue. Virtually ready for play in late summer was a 9-hole golf course built largely with pledges and contributions. The course is in a 480-acre municipal park that formerly belonged to the state. Because Sappa State Park was being neglected (silt nearly filled its lake) Oberlin leaders waged a successful effort in the legislature for the city to take it over.

The park is also a home now for a branch of the Cookson Hills (Oklahoma) Christian School and Boys Ranch. About 20 youngsters ranging in age from 3 to 17 are housed in the park and serve, with their leaders, as caretakers. These boys are there because they are homeless or delinquent. They attend Oberlin schools, and have been well accepted, says Editor Kessinger.

A few eyebrows may have been raised over welcoming "delinquent" boys into the area, but the general feeling of the citizenry was healthy. "Somebody has to do this," Kessinger adds. "Why not us?"

The Kansas City Star, in an editorial on President Nixon's proposal to provide $1.1 billion next year for rural communities (with the implied proviso that it should go to those communities that try to help themselves), cited Oberlin as an example of a town that could benefit from such a move.

Singling out Oberlin's accomplishments, the Star noted that "such revitalization isn't easy. It requires planning, cooperation, a dogged resolution to succeed—and money."

Of the golf course, Kessinger observed: "It was one of those things we had to do. We were losing ground. Projects such as the golf course interest our young people."

Another activity catching on in the Oberlin area is joint participation in hog feeding operations. Three or four persons put up about $500 each and help provide financial backing for the one doing the actual feeding. John A. Juenemann, manager of the Decatur Cooperation Association, thinks such projects are helping to unite people and tie them to the community.

"A fellow may not have much managerial ability," Juenemann added, "but participation in these small corporations gives him a feeling of involvement, belonging and pride of ownership, without having to risk more than a few hundred dollars."

Finley sees the application of this principle to such activities as a major feedlot planned for the area, dairying, pork processing, irrigation, and hay processing.

The drive to finance construction of a community feedlot is the big news in Oberlin at the moment. Thirty-two persons, all residents of Decatur County, are putting up $215,000 toward a goal of $250,000. The Small Business Administration is expected to provide $600,000 loan for the balance.

Push for the feedlot got impetus when a group of Oberlin leaders visited Hereford, Tex., last winter and saw the impact large-scale feeding operations have had on that area. The Kansans came home determined to duplicate the Texans' success.

Howard Benton, chairman of the feedlot campaign, said an option has been taken to buy land for a 12,000-head feedlot five miles north of Oberlin. With the lot would come such allied benefits as stimulus to irrigation, saving on feeding grain at home rather than shipping it out and paying freight costs, and spinoff from more processing services.

"It's the time for gutsy, innovative leadership," said Finley. "If we're going to stick, we've got to do things differently. That trip to Hereford is an example of the new thinking. For the first time, all of us—doctors, lawyers, farmers, the co-op—were together on something."

Finley traces much of Western Kansas' woes to the fact it "got hooked" on wheat as a result of wars that brought big prices for the bread cereal.

"Anybody can grow wheat," Finley says. "Our people should have been learning about things like sheep. And it's a shame, with the big markets of Lincoln and Wichita so near that we let dairying fade out. We've got to get more into the processing end of things. When you ship a raw product, you can't bargain on price."

Finley thinks that what singer Jimmy Dean has done with his pork operation at Plainview, Tex., could be done at Oberlin if "we just quit thinking of ourselves as farmers, or doctors and what-have-you and all of us think of ourselves as businessmen and put our money into Decatur County."

Oberlin is pushing for a home-grown revival. "We want to be more than just the labor for outside money," Finley explained.

No one is saying the feedlot represents a sure-fire panacea for Oberlin's problems. Some feedlots have turned out far less than successful. Keeping them full can pose a problem, and you often need the sharpest of pencils to come out with a profit.

Russell Raulston, who farms 4,000 acres with a son, raises an interesting point, too. What happens, he asks, if most of the grain now being shipped out is fed at home? Will the railroad use declining business as an excuse to drop service? With the growing emphasis on the export market, where would this leave Decatur producers?

Raulston can't be shrugged off as "hanging crepe" amidst Oberlin's enthusiasm. Still, as Finley says, this is a time for innovation and Oberlin appears bent on doing things differently—if that's what it takes to stay alive.

"There's been too much emphasis on production, getting that extra bushel or two yield just to stay even with higher costs," the county agent said. "People out here are fed up reading about the big wage settlements in industries that aren't as basic as the fiber and food they represent. It's time they learned to bargain. Co-ops have helped keep farmers alive, but they deserve more than just to hang on."

Oberlin folk like to recall they've taken chances before and things have turned out all right.

Some years back, for example, the area voted bonds for a major school improvement despite the fact crops had been the "worst in 15 years." Seems it rained the night they voted the bonds, and that was regarded as another "turning point."

There have been even grimmer times in Oberlin—such as that September day back in 1878 when a band of Northern Cheyennes strayed from their reservation and singled out Oberlin as the target of the last Indian raid in Kansas. They killed 19, and a tall grave marker is visible from U.S. 36.

The massacre might have been avoided had Fort Leavenworth placed more credence in reports that the Cheyenne were on the prowle in that region and sent help sooner.

This time Oberlin appears determined to find "salvation" from within. It is not looking to outside help or government handouts. While it takes a lot of effort for a rural community just to stand still these days. Oberlin appears determined to move ahead.

If the town succeeds, it may provide a model for rural regeneration. If it doesn't, the Oberlin folk will have had the thrill of trying.

DANGERS INHERENT IN IGNORING LESSONS OF HISTORY

Mr. McGEE. Mr. President, it appears, at times, that mankind dooms itself to repeat mistakes of the past instead of heeding the lessons of history. The era this country finds itself in is no exception.

After experiencing some 25 years of a stability the world has rarely known, the pressures are rising for us to ignore completely those actions on our part which have significantly contributed to this stability.

In this week's issue of Newsweek magazine, former Under Secretary of State George Ball pointed out the dangers inherent in ignoring the lessons of history. In his article entitled "History as She is Re-writ," Ball draws up his own parable for the ties.

I ask unanimous consent that Mr. Ball's article be printed in the RECORD.

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

HISTORY AS SHE IS RE-WRIT

(By George W. Ball)

Recently I have been reading the revisionist historians, and they have told me things I did not even suspect.

They insist, for example, that we were quite wrong to face down the Russians in October 1962 when Khrushchev tried to sneak missiles into Cuba. The Kremlin was only seeking to even the score for our own forward deployments, and, besides, a few missile emplacements off our coast might be good for us. Nor should we have organized defensive strength through the Western Alliance when Soviet tanks were overrunning Central Europe. We should have realized that Moscow was merely creating a buffer zone with no intention whatever of going further.

Finally, they contend, it was the West, not the Soviet Union, that started the cold war; that the cold war was never more than a cheap slogan to justify our heady sense of empire; and that, anyway, it is now over since we have achieved a "détente."

All this I have read with fascination since I certainly had a different impression when the events occurred. But, though I am overwhelmed by the fervor with which these shattering views are advanced by the copious footnotes quoting other revisionist historians with which they are documented and by the quaint Marxist idiom in which many of them are expressed, I still remain skeptical and unreconstructed.

A QUESTION OF HINDSIGHT

Though I am awed by the self-assurance of those who can rewrite history with such a free hand, I am puzzled by an annoying question. If, without the benefit of their perceptive hindsight, I so wrongly judged events in which I played an active part, then how now can they, lacking the opportunity for hindsight, be so confident in their appraisal of the present-day scenes?

I mentioned this perplexity to a group of young skeptics with whom I spoke a few nights ago but received no answer, though they were unequivocally emphatic on one point, which seemed to them self-evident. If the West would only dismantle NATO and if only the United States would withdraw its forces from Europe, then the Soviet Union could certainly be counted on to demobilize the Red Army so the world could live happily ever after.

I agreed it was a beguiling vision, but how could they be sure? Again only an indulgent silence. Perhaps this was an example of the famous "communications gap," but I do not think so. Though they heard what I said and knew the meaning of the words, I was, in their eyes, merely a fossil from the remote and "irrelevant" past that had washed up on the beach.

So, failing a response, I resorted to a dialectic device that antedates even my era—that ancient art form known as a parable. It was a parable that, I thought, had general application—to our military posture, to the Western Alliance and the maintenance of our troops in Europe, and even perhaps to our political alertness.

THE PARABLE OF THE DAM

Since the beginning of time, so my story went, the villages in a mountain canyon had been periodically ravaged by floods. Finally, the leaders convened a great meeting and decided to invest their efforts and resources in building a large, strong dam. Thereafter, for a quarter of a century, the dam sheltered the villages from disaster, prosperity prevailed, and life was tranquil—until, at last, a new generation began to grow up, free from the apprehensions of the past and filled with exciting ideas about a world of song and beauty.

Inevitably the new leaders turned their attention to the dam. It was, they announced, huge and ugly and an affront to the environment. Besides it blocked out the sunset and had to be repaired every year. One leader wrote a folk song proclaiming it a symbol of imperialist megalomania, and people spoke excitedly of little else, until someone brought forth an argument that seemed quite unanswerable. After all, it was pointed out, no one ever talked about flood damage except the old fogies over 30 who were not to be trusted anyway. Who among the new leaders could recall any floods in his lifetime? It was perfectly clear that floods were completely outmoded, a matter of the past—perhaps just a fiction manufactured to frighten the people. Since there had not been one for 25 years, clearly there would not be another.

So, after a season of demonstrations, more speeches, a pageant and several rock festivals, they blew up the dam and used the fragments for a people's playground. And let me tell you straight, man, when the waters came down it was really the Age of Aquarius!

PRIVATE TALKS IN PARIS

Mr. McGOVERN. Mr. President, we are approaching the third anniversary of the peace talks in Paris, with nothing yet decided but the shape of the table.

When I was in Paris several weeks ago, I met with our own chief negotiator, Ambassador Porter, as well as with representatives of North Vietnam and of the Provisional Revolutionary Government of South Vietnam, to obtain a better understanding of the issues separating the parties.

Among the most distressing matters I found was the fact that our delegation, while professing substantial expertise on the meaning of the seven-point proposal offered by the other side, relies entirely on secondhand reports for clarification. Thus they told me what the DRV and the PRG would say before I went—that point one on U.S. withdrawals and prisoner release is inseparable from the other six points. When that was not the case the administration concluded publicly that I had misinterpreted the position of the other side, even though they have yet to take the steps necessary if they are really interested in obtaining their own direct clarification on this score.

On September 22 of this year, two members of Britain's House of Commons presented in Washington a petition signed by 635 parliamentarians of nine countries urging withdrawal of all American forces and an end to all bombing attacks in Indochina by a fixed date. One of those gentlemen, Mr. John Mendelson, reported subsequently in a brief New York Times article that in his visits with Members of Congress he found hardly anyone who was aware that the Provisional Revolutionary Government has offered to hold private meetings with U.S. negotiators, and that these offers have been turned down in each instance by the U.S. delegation.

Perhaps it is hard to believe that the administration is not pursuing every conceivable means of achieving a negotiated

end to this war, and that the administration, while discounting the reports of others, is refusing to take up its questions directly with the Provisional Revolutionary Government. Yet, as Mr. Mendelson points out, that is indeed the case. In my view this state of affairs exhibits a tragic administration refusal to pursue hope in Paris, as it pursues the same elusive and costly military solution which have brought so little at such terrible cost for the past 6 years.

Mr. President, I ask unanimous consent that the article I have described be printed in the RECORD.

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

A REFUSAL TO TALK? "I RECEIVED THE IMPRESSION THAT MOST PEOPLE WERE UNAWARE . . . OF . . . AN OFFER OF SECRET TALKS BY THE N.L.F."

(By John Mendelson)

LONDON.—Frank Allaun, M.P., and I went to Washington last week to present a petition to members of Congress and to the Speaker of the House of Representatives concerning the war in Vietnam. The petition has been signed by 635 parliamentarians in nine countries, including 94 Members of both Houses in the United Kingdom.

In preparation for my visit to Washington, I went to Paris for discussions about the war. I received definite information from sources within the Provisional Government of the South Vietnamese (the N.L.F.) that they had offered secret talks to the American delegation on the subject of bringing the fighting to an end and on the setting up of a "Government of National Well-Being" in Saigon. The United States delegation turned down this offer of secret negotiations.

In Washington, in a discussion with officials in the State Department, they confirmed that this offer of secret talks had been made by the N.L.F. and had been turned down.

At various receptions and meetings with members of Congress, I received the strong impression that most people were completely unaware of this position. I also found that a considerable number of Congressmen are convinced that President Nixon is determined to end the war in order to win the election. This belief must be shaken if the true position is to be brought home to members of Congress and the American people. The evidence concerning the refusal of the United States Government to engage in real negotiations about a political solution in Saigon may provide a useful instrument in this endeavor.

NEW SCHOOL LUNCH REGULATIONS

Mr. HART. Mr. President, the Department of Agriculture has acceded to the public outcry that the average Federal payment per lunch be raised from the 35 cents stipulated in the August 13 proposed regulations for the school lunch program. I was pleased that upon reconsideration the 35-cent figure was moved to 45 cents.

But Mr. President, we should read all the print in the new regulations. If you do you will find that the Department has given with one hand and taken away with the other.

By imposing the Federal poverty standard of $3,940, the Department is reducing substantially the number of children who will be eligible for the free and reduced price lunches.

In the State of Michigan, for example, where the welfare eligibility level is $4,280 for a family of four, tens of thousands of children—perhaps as many as 150,000—from welfare and working poor families will now become ineligible for free or reduced price lunches. Additionally, I am told by State officials that as many as 60,000 of the 146,000 poor children now participating may have to be dropped from the program. In short, in Michigan, the newest regulations mean both a cutback in the existing program and an end to the hope that the program will be expanded this year.

The ingenuity of the Department of Agriculture in frustrating the will of Congress that all needy children be fed is apparently endless. Just when we think we have closed the last loophole, a new one is sprung.

There are some States which will gain by the new regulations because the eligibility level of $3,940 will not result in eliminating any of the State's children from the program. I appeal to colleagues from those States for support for those of us from States where the regulations represent not a step forward but the cruel elimination from the program of hundreds of thousands of needy children. Let us all join to put an end to the School Lunch Shell Game: a "now-you-see-it-now-you-don't affair being played at the expense of the least of us—the Nation's hungry children.

"HUNTING AND FISHING DAY" COMMEMORATIVE STAMP

Mr. McINTYRE. Mr. President, on June 24 I introduced a joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day."

Since that day I have received great support for this resolution from all over the Nation. Senate Joint Resolution 117 has 32 cosponsors to date and the list is steadily growing. Representative ROBERT SIKES, of Florida, has introduced a similar resolution in the House of Representatives that has also received acclaim.

Already 22 Governors and cities have proclaimed "Hunting and Fishing Day" to acknowledge the outdoor sportsmen in their own jurisdictions.

The private sector of the Nation has also vigorously responded. I have received hundreds of letters and telegrams of support, not only from hunting and fishing organizations, but from a much broader spectrum including conservationists, game breeders, mariners, sports foundations, wildlife and environmental groups as well.

I hope that the Judiciary Committee will see fit to give this measure its approval as quickly as the exigencies of the moment permit.

I wish to report to the Senate today that I have asked the Postmaster General of the United States to issue a commemorative stamp in honor of "National Hunting and Fishing Day." I am sure that this request will merit an early reply from the Postmaster General.

I hope that Senators who feel as strongly as I do about this matter will notify the Postmaster General of their endorsement of the commemorative stamp.

Mr. President, I ask unanimous consent that my letter to the Postmaster General be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., October 7, 1971.

Hon. WINTON BLOUNT,
Postmaster General,
U. S. Postal Service,
Washington, D. C.

DEAR MR. POSTMASTER GENERAL: I want to propose a National Hunting and Fishing Day Stamp.

By way of background, this summer I introduced Senate Joint Resolution 117, requesting the President of the United States to declare the fourth Saturday of of September as "National Hunting and Fishing Day." At that time I summed up my feelings on this subject on the Senate floor by saying:

"There are few recreations which provide a better chance to get exercise which we all need, to find solitude, to breath some of the little remaining fresh air, and to forget daily cares than hunting and fishing."

In 1970, more than 15 million hunting licenses and 100,000 fishing licenses were issued. For the privilege of hunting and fishing these American sportsmen pay nearly $200 million each year for licenses, tags, permits and stamps. Much of this money is used for environmental improvement and wildlife protection.

In addition to the revenue aspects cited above, the important contribution that hunters and fishermen have made to the area of conservation cannot be minimized. While other citizens slumbered in the belief that our previous natural resources were limitless, responsible hunters and fishermen sought fixed game seasons, for protection of endangered species and against the pollution of our environment.

The response to my resolution proposing National Hunting and Fishing Day has been excellent. The resolution has already received wide bi-partisan support from 32 Senators and the number is increasing steadily. Representative Robert Sikes has introduced a similar resolution in the House of Representatives and his resolution also received a great deal of support. The Governors of 22 states have proclaimed similar days of recognition for the hunters and fishermen within their state. I am enclosing a list of such days for your information.

In addition to the political entities that have shown support for this measure, I have received literally hundreds of letters and telegrams of endorsement from private organizations representing not only hunting and fishing enthusiasts but a much broader spectrum of conservation, sportsmen, mariner, game breeders, wildlife and environmental organizations as well.

Mr. Postmaster General, in light of this wide-spread support, and in light of the important contribution made ot this nation by the sports of hunting and fishing, I hope that a stamp commemorating National Hunting and Fishing Day will receive early and favorable consideration.

I would like to meet with you personally at your earliest convenience to discuss the contents of this letter and other important aspects of the National Hunting and Fishing Day stamp.

Sincerely,

THOMAS J. McINTYRE,
U.S. Senator.

SMOKING AND CANCER

Mr. MOSS. Mr. President, it would be amusing, if it were not such a deadly

problem, to reflect on the continued suggestion put forth by tobacco people that there is no known health hazard attributable to cigarettes. Even though we can point out the 1964, 1967, 1968, 1970 Reports of the Surgeon General on Smoking and Health, the skeptics continue to say that nothing has been proven. Taken as a whole, much has been proven, although slight weaknesses can probably be found in every scientific study ever performed.

Last month, the Royal College of Physicians and the Health Education Council of the United Kingdom sponsored a World Conference on Smoking and Health. It was my pleasure and honor to serve as Chairman of a Plenary Session at the World Conference and to participate in the discussions and deliberations of the 500 assembled participants from some 25 or 30 nations.

One of the more interesting presentations was that of Sir Richard Doll, Regius Professor of Medicine at Oxford. Dr. Doll is one of the foremost authorities in the world in the area of epidemiology. His studies of British physican mortality have been cited by some as the nearly perfect study that science continually seeks. And it is particularly interesting to note Dr. Doll's opening remarks:

> The amount of new information that becomes available each year about the effect of smoking is so enormous that it would take more than the whole time available for this conference to report all the developments that have taken place since the first World Conference on Smoking and Health was held in New York.

That statement explains why I said at the beginning of my remarks that it would be amusing if it were not such a serious health problem. The evidence continues to mount, yet we are unceasingly faced with industry propaganda. What more must we do to educate the American people about this pernicious habit? I do not have all the answers. But, with the help of the medical community, health educators, and interested people in the United States and throughout the world, we may soon develop solutions to this terrible problem.

Mr. President, I ask unanimous consent that Sir Richard Doll's paper on Cancer Morbidity and Mortality Attributable to Smoking be printed in the RECORD.

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

MORBIDITY AND MORTALITY ATTRIBUTABLE TO SMOKING—CANCER

(By Sir Richard Doll, Regius Professor of Medicine, University of Oxford)

The amount of new information that becomes available each year about the effect of smoking is so enormous that it would take more than the whole time available for this conference to report all the developments that have taken place since the first World Conference on Smoking and Health was held in New York. In these circumstances, Dr. Hammond and I have been asked just to remind you of the principal effects of smoking, and to indicate those developments that are most important from the point of view of practical prevention. To avoid repetition, my paper will be limited to the effects of smoking on the production of cancer and Dr. Hammond's will deal with other diseases.

CANCERS RELATED TO SMOKING

It is now clear that smoking plays a significant role in the production of most cancers of the upper digestive tract, the respiratory tract, and the bladder. Results of four large prospective studies relating to these cancers are summarized in Table 1. The four studies refer respectively to 188,000 men followed by the American Cancer Society for 44 months (Hammond and Horn, 1955; U.S. Public Health Service, 1964), 248,000 U.S. veterans followed by the National Institutes of Health for between 5½ and 8½ years (Kahn, 1966), 78,000 Canadian war pensioners and dependents followed for six years (Canadian Department of Health and Welfare, 1968; U.S. Public Health Service, 1964), and 34,000 British doctors followed for 17 years (Doll and Hill, 1964; Doll and Pike, 1971). The figures in Table 1 show the mortality in smokers relative to that in non-smokers of the same ages. Separate figures are given for men who smoke only cigarettes and for men who smoke only pipes or cigars. The ratios are, of course, crucially dependent on the rates in non-smokers. As all these cancers are rare in non-smokers (and some extremely rare) it is not surprising that there is some variation between the results of the different studies, nor that no deaths at all occurred from some of these cancers in non-smokers in the two smaller studies. From these figures it is evident that the risks are in all cases greater for cigarette smoking than for pipe or cigar smoking.

Similar data are shown for other types of cancer in Table 2. With the exception of the figures for cancer of the stomach in the American Cancer Society's study, the mortality ratios in smokers are all less than double the rates in non-smokers. A few of the figures are less than one, indicating that a higher mortality was observed in smokers than in non-smokers; but most lie between 1.3 and 1.6. Nearly all are higher in cigarette smokers than in pipe or cigar smokers. Not all causes of death, however, are diagnosed correctly and some of the excess mortality attributed to these cancers among cigarette smokers must be an artefact due, for example, to misdiagnosis of cancer of the lung and perhaps also to confusion between cancer of the lower end of the oesophagus and cancer of the fundus of the stomach. From these, and the results of many other studies, it is evident that smoking plays little or no part in the production of any of the major cancers other than those that have been referred to in Table 1.

The mortality ratios that have been cited are important in helping to decide whether smoking is or is not a cause of the particular type of cancer concerned, but they do not provide any indication of the importance of smoking as a cause of death. A relatively high mortality rate in smokers for a rare cancer is of great interest to the student of aetiology, but may be of little concern to those interested in preventive medicine, while a smaller increase in mortality ratio for a common cancer may be of considerable importance. This is illustrated in Table 3 which shows the observed mortality rates in cigarette smokers for the six types of cancer that can be caused by smoking and the proportions of the total mortality that are estimated to have been produced by this means. The figures have been derived from the results of two studies in the United States and Britain that are available to me in sufficient detail for valid comparisons to be made. The data relate to men who smoked only cigarettes, who were continuing to smoke at the time of the study, and who were 35 to 84 years of age. Within this range of ages rates have been standardized for age, using the population of British doctors who were smoking only cigarettes as the standard. The results of the two studies are remarkably similar. Death from cancers of the oral cavity and pharynx is a little commoner in the American veterans and from cancers of the oesophagus, larynx, and lung in the British doctors. Deaths from cancer of the lung that are attributable to smoking vary only from 6.0 per cent. to 7.4 per cent. of the total number of deaths from all causes, while the deaths attributed to all other types of smoking-induced cancer vary from 1.8 per cent. to 1.6 per cent. By this criterion it is evident that in both countries the risk of developing cancer of the lung as a result of smoking constitutes a major risk to life and is far more important than the risk of developing all other smoking-induced cancers taken together.

The percentages given in brackets opposite all causes indicate that the excess mortality in cigarette smokers above that in non-smokers represents respectively 46 per cent. and 40 per cent. of their total mortality; in other words, the mortality of non-smokers in these two studies ranged from 54 to 60 per cent. of the mortality in men who continued to smoke cigarettes. I have put these figures in brackets as it cannot be assumed that all the excess mortality is necessarily due to smoking. Whether it is or not will be discussed later by Dr. Hammond.

CANCER OF THE BLADDER

Consider now some of the developments concerning the individual types of cancer. The posibility that cancer of the bladder might be caused by smoking was first suggested by Lilienfeld, Levin and Moore in 1956 on the basis of a retrospective study of 321 men with the disease. The added risk due to smoking was evidently not great, the best estimate of the risk in cigarette smokers being less than three times that in non-smokers. Since then data have been reported from 11 more retrospective and 7 prospective studies in Britain, Canada, Denmark, France, Japan, Poland, and the United States (see U.S. Public Health Service, 1964 and 1971; Cole, Monson, Haning, and Friedell, 1971). With few exceptions, these have agreed in showing that the risk of the disease is increased by cigarette smoking by between 50 and 200 per cent. The disease is commoner in cigarette smokers than in pipe smokers, in heavy smokers than in light smokers, and in continuing smokers than in ex-smokers; and there seems no reason to doubt that smoking is one of its causes.

One mechanism by which the disease might be produced would be through an effect on the metabolism of tryptophane. Several metabolites of tryptophane are carcinogenic when implanted in the bladders of mice, and some of these have been found in unusually large amounts in the urine of affected patients. Investigators, however, have failed to agree on whether the excretion of these metabolites is affected by smoking (U.S. Public Health Service, 1971). An alternative hypothesis has been suggested by the observation that both beta and alpha naphthylamine are present in cigarette smoke (Hoffman, Masuda and Wynder, 1969). The amounts are minute (2.2×10^{-9} g beta-naphthylamine in the smoke from one cigarette), but the experience of chemical workers has shown that these materials are powerful carcinogens for the human bladder and the possibility cannot be excluded that even these amounts might cause a small number of cases when exposure is continued over many years.

In this respect it may be noted that cancer of the bladder is an occupational hazard of men employed in the manufacture of gas from coal (Doll et al., 1971) and that beta naphthylamine is also present in the atmosphere of the retort houses. Once again the amount is minute (0.2×10^{-8} g per m^3 of air; Battye, 1966). Calculation shows that cigarette smokers may well be exposed to as much beta naphthylamine as gas workers, if indeed they are not exposed to more (Table 4).

CANCERS OF THE UPPER RESPIRATORY AND DIGESTIVE TRACTS

Cancers of the upper respiratory and digestive tracts present a somewhat different

problem. A relationship with smoking is obvious and has been reported for many years, but it has not been easy to interpret. Two factors, in particular have made it difficult.

First, other habits that are commonly associated with smoking, such as the drinking of alcohol, the chewing of betel or tobacco mixtures, and the taking of snuff, are also of aetiological significance; and it may be extremely difficult to separate the effects of the different agents. Changes in the prevalence of these other agents also complicate comparison between the incidence of cancer and the consumption of tobacco in different countries and at different times, so that the relatively simple relationship that is apparent for cancer of the lung has not been observed for cancers of the upper respiratory and digestive tracts.

Secondly, the importance of the different agents varies with quite small changes in the site of origin of the tumour. Division into four broad groups, as in Tables 1 and 3, is inadequate for any serious study. For this purpose we need to consider individually tumours of (at least) the lips, tongue, floor of the mouth, alveolar mucosa, buccal mucosa, salivary glands, hard palate, soft palate, tonsils, oropharynx, nasopharynx, hypopharynx, upper oesophagus, middle and lower oesophagus, extrinsic larynx, and intrinsic larynx plus, of course, the nose and nasal organs which constitute a fifth organ category that was omitted from Tables 1 and 3. In the populations that have been studied prospectively these tumours are all uncommon causes of death and the numbers have been too small for any useful analysis of the mortality attributed to cancers in any of the individual sites.

In these circumstances we have had to rely heavily on retrospective studies in which it has been possible to muster large numbers of cases and to pay detailed attention to the exact location of the tumour and the extent of exposure to the other likely aetiological agents. The qualitative results obtained from these studies are summarized in Table 5. That smoking plays some part in the production of the majority of these tumours is certain, but it is impossible to estimate the quantitative effect with any confidence. In some circumstances the association of smoking with heavy drinking may lead to the appearance of a spurious effect that is due primarily to the effect of the alcohol. In other circumstances, however, the opposite may be true and the two agents may act synergistically. Wynder and Bross (1961) in the United States and Takano and his colleagues in Japan (Takano et al., 1968) both found that the consumption of alcohol increased the effect of smoking on the risk of developing cancer of the esophagus.

Unlike cancer of the lung, many of the cancers of the upper respiratory and digestive tracts are related almost as closely to pipe and cigar smoking as to cigarette smoking. For this group of cancers as a whole, the relative risk to pipe and cigar smokers obtained in the prospective studies of U.S. veterans and British doctors is approximately 70 per cent, of the risk to cigarette smokers (Table 6). Since pipe and cigar smokers smoke on average less tobacco than cigarette smokers, this difference may reflect a difference in the quantity of exposure rather than a difference in its quality and, for many of these cancers, the method of smoking may be irrelevant.

CANCER OF THE LUNG

As would be expected from the social importance of the disease, many of the most interesting observations relate to cancer of the lung. A great deal of information is now available about its incidence in different parts of the world which, by and large, corresponds to the per capita consumption of cigarettes over the previous 40 years. A particularly striking observation is that the highest mortality rates in women have been recorded in Maoris (Rose, 1970) and (a poor second) in Hawaiians (Batten and Rogers, 1970). The rate in Maori women is three times the rate in British women, who until these data were available had been thought to have the highest rate in the world; it is more than half the rate in Maori men and approximately half the rate in British men. Maori women are known to have smoked pipes since the turn of the century and they now smoke nearly as many cigarettes as New Zealand men. I am grateful to Dr. Ian Prior of the Epidemiology Unit of the Wellington Hospital for the results of surveys of smoking habits which he has recently carried out in New Zealand, which are summarized in Table 7. For comparison, I have included data for British women collected by the Royal College of General Practitioners in the course of their study of the effect of oral contraceptives (Kay, personal communication).

Examination of the figures for men shows that the frequency of the disease in the British Isles is greater, in comparison with the numbers of cigarettes smoked, than in other English speaking countries. This is confirmed by observations, like those reported by McCall and Stenhouse (1971), which show that the mortality rate from lung cancer increases progressively from native born Australians, through immigrants from England and Wales who migrated early in life and immigrants who migrated later in life, to residents in England and Wales. It is expressed numerically by the results of prospective studies in the United States and Britain which show that the effect of smoking is about 75 per cent, greater per cigarette in Britain than in America. It is still not clear why this should be so.

One possibility is that these differences may be due to differences in the way cigarettes are smoked. Wynder (personal communication), for example, has shown that Americans on average take fewer puffs per cigarette than Britons as well as throwing away a greater length of butt. Alternatively, it may be that the differences are due to differences in the prevalence of a second factor, such as atmospheric pollution. There is, however, a good deal of evidence against the idea that atmospheric pollution is responsible and the Royal College of Physicians (1970), which reviewed all aspects of the effect of atmospheric pollution on health, concluded that the evidence for an effect on the incidence of lung cancer was inconclusive.

If atmospheric pollution plays a part, it probably does so by increasing the effect of tobacco smoke. Evidence from occupational studies now shows that carcinogens like ionizing radiations and asbestos interact with smoke in such a way as to multiply the effects of exposure to the two factors separately. This is illustrated by the data for American uranium miners, which are summarized in Table 8 (Lundin et al 1969).

Many investigators have tried to produce bronchial carcinoma experimentally by exposing animals to tobacco smoke. No success was achieved, however, until Auerbach et al (1970) produced early invasive bronchogenic carcinoma in two beagles. These investigators performed a tracheostomy on 97 male beagles, kept 8 as controls and trained the remaining dogs to inhale smoke through the tracheostomy opening. One group, which consisted of the heaviest dogs, was retained for a preliminary experiment to determine the effects of prolonged smoking. The other dogs were allocated at random to three groups, in which they were given to smoke respectively an average of 7 filter-tipped cigarettes a day, 7 non-filter-tipped cigarettes, and 3½ non-filter-tipped cigarettes. After 875 days half the dogs in the group given non-filter-tipped cigarettes a day had died and the surviving animals were sacrificed. Histological examination showed no abnormalities in the lungs of the control dogs. In the other dogs abnormalities were least frequent in the lungs of those that smoked filter-tipped cigarettes, slightly more frequent in the lungs of those that smoked 3½ non-filter-tipped cigarettes a day and most frequent in the lungs of those that smoked 7 non-filter cigarettes a day. The results with regard to tumours are summarized in Table 9. Invasive tumours were found only in the lungs of those dogs that smoked the greater number of non-filter cigarettes and two of these were squamous cell bronchial carcinomas of the sort that are most commonly found in the bronchi of man.

The importance of this observation is not that it provides further evidence of the carcinogenicity of cigarette smoke, but that it indicates a system by which the relative potency of different types of cigarettes in the production of bronchial carcinoma may be tested. If the result of this experiment is confirmed, we shall have ground for hoping that filter-tipped cigarettes of appropriate quality will be less hazardous to man than the standard cigarette that has been smoked in the past.

That this may indeed be so has already been indicated by retrospective study of patients. It was suggested tentatively by the data reported by Doll and Hill in 1952, and has recently been demonstrated by Bross and Gibson (1968) and Wynder, Mabuchi, and Beattie (1970). Bross and Gibson interviewed 990 white men who were diagnosed as having lung cancer at the Rosswell Memorial Institute, New York State, and compared their smoking histories with those given by a control group of patients admitted with non-neoplastic diseases, matched for sex, age and date of admission. Patients were divided according to whether they were current cigarette smokers, pipe or cigar smokers, ex-smokers, or non-smokers and the cigarette smokers were sub-divided according to the type of cigarettes they had smoked. Three categories of non-filter cigarette smokers were estimated to have risks relative to that of non-smokers of 3.0 to 1, 5.6 to 1, and 12.0 to 1, depending on the amount and duration of their smoking while filter-tipped cigarette smokers in the corresponding categories were estimated to have had risks that were approximately 40 per cent lower. Still sharper differences were obtained by Wynder, Mabuchi, and Beattie, who studied patients with Kreyberg's type I carcinoma, that is the squamous and oat cell carcinomas of the bronchus that are most closely related to smoking, and took into account the duration of use of filter-tipped cigarettes. Smoking histories were obtained from 210 male patients and from double that number of control patients matched for age and sex who were admitted to the Sloan-Kettering Cancer Center with diseases that were unrelated to smoking. The results, which are summarized in Table 10, show that the risk of developing type I bronchial carcinoma, relative to that in non-smokers, was consistently and substantially lower in men who had smoked filter cigarettes for at least 10 years after switching from non-filter cigarettes than for men who had continued to smoke non-filter cigarettes, at each level of cigarette smoking.

That an effect of using filter tips could be produced so quickly would have been surprising some years ago before it was realized how quickly stopping smoking affected the incidence of the disease. In the long run this may prove to be one of the most important observations that have arisen from study of the effects of smoking. Previously it had been supposed that the effect of a carcinogenic agent revealed itself only after many years and would consequently continue for many years after exposure had ceased. The fact that stopping exposure has an immediate effect alters our whole attitude to the way in which cancer is produced. The observations, however, have been widely misinterpreted. The results of prospective investigation have usually been published in such a form that the risk of developing lung cancer in ex-smokers has been compared with that

of continuing smokers of the same age, or both have been expressed as mortality ratios in comparison with the risk of non-smokers. In either case the relative risk is found to fall rapidly with the passage of time after smoking has been stopped. These data, however, do nothing to show how the risk changes in comparison with the risk at the time when smoking ceased. Doll and Pike (1971) have used the data obtained from British doctors to make this comparison and the results are summarized in Figure 1. They suggest that the effect of stopping is indeed rapid, being detectable within 1 to 4 years. The effect of past smoking, however, is irreversible and the risk of developing lung cancer remains approximately constant, waiting for the risk in non-smokers to catch it up with the passage of time rather than falling to meet it. This finding has been quoted in support of the belief that there is nothing to be gained by stopping smoking in middle age. In fact, of course, there is great advantage, as without stopping the risk would continue to increase progressively, approximately in proportion to the fourth power of the duration of smoking.

These results justify the belief that the changes that have taken place in smoking habits in some countries may soon be reflected in changes in the mortality from the disease. National figures, published by the Tobacco Research Council (1970) show that in Britain between 1961 and 1968 the portion of women who smoked tobacco continued to increase but that the proportion of men fell slightly at all ages. The type of cigarette smoking has, however, changed greatly and filter-tipped cigarettes, which accounted for 1 per cent of all cigarettes smoked in 1953, accounted for 65 per cent 15 years later. Filter-tipped cigarettes contain less tobacco than plain cigarettes so that in the United Kingdom the per capita consumption of cigarette tobacco by men has fallen substantially since 1960, whereas it has remained practically constant in women. The smoke of filter-tipped cigarettes contains on average less tar condensate than the smoke of plain cigarettes and, as we have seen, there is already evidence that both in beagles and man, filter-tipped cigarettes give rise to a lesser risk of lung cancer. Examination of the trends in mortality show that the death rate from lung cancer has continued to increase in women—particularly at the older ages (Fig. 2). In men, however, the situation is different! Death rates have continued to climb over 70 years of age, but otherwise have become steady—in some groups for as long as 20 years—or have begun to fall (Fig. 3). These observations are summarized in Table 11 which demonstrates the contrast between the experience of the two sexes. This contrast makes it unlikely that the reduction in mortality is due to a factor to which everyone is exposed, like atmospheric pollution; but it could be due to the changes that have already occurred in the per caput consumption of tobacco.

TABLE 1.—CANCER MORTALITY IN SMOKERS RELATIVE TO NON-SMOKERS[1]—CANCERS INDUCED BY SMOKING

Type of cancer	Current smokers of cigarettes only				Current smokers of pipes and/or cigars	
	U.S. veterans	United States and 9 counties	Canadian veterans	British doctors	U.S. veterans	British doctors
Oral cavity	4.1	2.8	3.9	(∞)	3.9	(∞)
Pharynx	12.5					
Esophagus	6.2	6.6	3.3	3.0	4.1	2.2
Larynx	10.0	13.1	(∞)	(∞)	7.3	(∞)
Lung	12.1	10.0	11.7	16.9	1.7	4.6
Bladder	2.2	2.4	1.7	2.1	1.1	0.5

[1] Observed death divided by expected deaths at nonsmokers' rates.

TABLE 2.—CANCER MORTALITY IN SMOKERS RELATIVE TO NONSMOKERS[1]—OTHER CANCERS

Type of cancer	Current smokers of cigarettes only				Current smokers of pipes and/or cigars	
	U.S. veterans	United States and 9 counties	Canadian veterans	British doctors	U.S. veterans	British doctors
Stomach	1.6	2.3	1.9	1.5	1.2	1.3
Intestines	1.3	0.5	1.4	1.4	1.2	1.3
Rectum	1.0	0.8	0.6		1.1	
Pancreas	1.8			1.4	1.1	1.0
Prostate	1.8	1.6	1.5	0.7	1.4	0.6
Kidney	1.5	1.5	1.4		1.2	
Lymphoma	1.3				0.8	
Leukemia	1.4				1.2	
All other	1.4	1.7	1.4	0.9	1.1	0.6

[1] Observed deaths divided by expected deaths at nonsmokers' rates.

TABLE 3.—CANCER MORTALITY ATTRIBUTABLE TO CIGARETTE SMOKING

[Continuing smokers of cigarettes only]

Cause of death	U.S. veterans			British doctors		
	Annual death rate per 100,000 men	Deaths due to smoking as percent of deaths due to		Annual death rate per 100,000 men	Deaths due to smoking to percent of deaths due to	
		Specific cancer	All causes		Specific cancer	All causes
Cancer of:						
Oral cavity	4.6	83	0.3	5.7	(100)	0.4
Pharynx	5.2	89	.3			
Oesophagus	7.9	80	.5	10.2	66	.4
Larynx	2.8	81	.2	5.1	(100)	.3
Lung	90.9	93	6.0	121.5	94	7.4
Bladder	12.9	55	.5	13.4	52	.5
All causes	1,399.8		(45.9)	1,537.2		(40.1)

TABLE 4.—EXPOSURE TO -NAPHTHYLAMINE: CIGARETTE SMOKERS AND GASWORKERS

Men at risk	Excess annual mortality from bladder cancer per 100,000 men	Amount of -naphthylamine possibly inspired (g)
Cigarette smokers:		
U.S. veterans+	7	6.4×10^{-3}
British doctors+	7	6.4×10^{-3}
Men making gas from coal*	20	0.1×10^{-3}

+Men aged 35 to 84 years assumed to have smoked 20 cigarettes a day for 40 years.
*Men aged 40 to 74 years assumed to have been exposed at work for 250 days a year for 20 years.

TABLE 5.—AETIOLOGICAL AGENTS IN CANCER OF THE UPPER RESPIRATORY AND DIGESTIVE TRACTS

Primary site of cancer	Cigarettes	Pipes and/or cigars	Other factors
Nasal cavities	0	0	Occupation, snuff (?).
Salivary glands	0	0	Occupation, snuff (?).
Nasopharynx	0	0	Occupation, snuff (?).
Lips	+	++	Sunlight.
Buccal mucosa	+	+	Chewing ++, alcohol.
Tongue	+	+	Chewing, alcohol.
Palate	+	+	Chewing, alcohol.
Tonsil	+	+	Chewing, alcohol.
Oropharynx	+	+	Chewing, alcohol.
Hypopharynx	+	+	Alcohol, chewing, nutritional deficiency.
Upper esophagus	+	+	Alcohol, chewing, nutritional deficiency.
Mid and lower esophagus	+	+	Alcohol ++.
Extrinsic larynx	+	+	Chewing (?).
Intrinsic larynx	+	+	Alcohol (?).

TABLE 6.—RISK OF DEATH FROM CANCER OF THE UPPER RESPIRATORY AND DIGESTIVE TRACT IN SMOKERS AND NONSMOKERS

Type of smoking	Relative risks in continuing smokers and in nonsmokers	
	U.S. veterans	British doctors
Cigarettes only	6.5:1	6.1:1
Pipe and/or cigar only	4.2:1	4.4:1

TABLE 7.—SMOKING HABITS OF MAORI WOMEN COMPARED WITH OTHER POPULATIONS

Population by sex and ethnic group	Percent of persons				
	Nonsmokers	Ex-smokers	Current cigarette smokers, smoking per day—		
			1 to 10	10 to 19	20 or more
Female:					
New Zealand Maori (384)	33	7	19	30	12
New Zealand European (228)	61	9	6	15	8
English (46,377)	57		13	21	9
Male:					
New Zealand European (210)	20	24	6	20	29

Copies of table 8 entitled "Distribution of Lung Cancer In Uranium Miners by Smoking Habits (After Lundin et al., 1969)," will be available separately.

TABLE 9.—EFFECT OF CIGARETTE SMOKE ON THE FREQUENCY OF TUMOURS IN BEAGLES

Group of dogs	Initial number	Number surviving 600 days	Number of bronchioloalveolar tumours		Number of squamous cell bronchial carcinomas
			Noninvasive	Invasive	
Controls	8	8	2 (2 dogs)	0	0.
Smoking filter-tipped cigarettes (average 7 per day)	12	11	4 (4 dogs)	0	0.
Smoking nonfilter cigarettes (average 3½ per day)	12	11	12 (7 dogs)	0	0.
Smoking nonfilter cigarettes (average 7 per day)	24	16	19 (13 dogs)	16 (10 dogs)	2 (2 dogs).

Note: The earliest tumour was observed in a dog dying on day 626.

TABLE 10.—RISK OF DEVELOPING SQUAMOUS OR OAT CELL CARCINOMAS OF THE LUNG IN MEN WHO CONTINUE TO SMOKE, BY TYPE OF CIGARETTE

Type of cigarettes smoked	Risk in smokers divided by risk in nonsmokers, by amount smoked—Number of cigarettes smoked per day			
	1 to 9	10 to 20	21 to 40	41 or more
Filter-tipped cigarettes for at least 10 years	5	14	23	105
Plain cigarettes	20	23	42	169

TABLE 11.—CHANGE IN MORTALITY FROM LUNG CANCER BY SEX AND AGE: ENGLAND AND WALES 1963–64 TO 1968–69

Age (in years)	Percent change in death rate	
	Men	Women
25 to 34	−13	+12
35 to 44	−9	+16
45 to 54	−10	+20
55 to 64	1	+26
65 to 74	+15	+34
75 to 84	+32	+21

U.S. POLICIES IN THE MIDDLE EAST: A PERCEPTIVE ANALYSIS

Mr. RIBICOFF. Mr. President, the New York Times editorial page recently contained an unusually perceptive and timely article on America's interests in the Middle East by the distinguished Senator from Minnesota (Mr. HUMPHREY). Because of the relevance of his observations, I would like to call attention to the full text of his remarks from which this article was excerpted.

At a time when the State Department appears to be pressing hard to get the Suez Canal reopened, it is imperative to understand in whose interest such an opening would be. Senator HUMPHREY has presented convincing evidence to show that the State Department's urging of Israeli withdrawal from the canal "serves the best interest of the Soviet Union and thereby damages our own."

He poses a question that is undoubtedly puzzling to many Americans, and many of us in the Senate, "Why do we play the Soviet game by pressing Israel to make a unilateral withdrawal of its forces along the canal?"

Going beyond this immediate issue, Senator HUMPHREY, based on his own experience as Vice President, expresses the view that the State Department's Middle East policies are out of date, and not representative of the wishes of the American people.

I commend the Senator from Minnesota for his thorough discussion of this vital subject and hope that the readers of the New York Times article will take the time to read the entire address.

I ask unanimous consent that the complete text of Senator HUMPHREY's speech be printed in the RECORD.

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

REMARKS BY SENATOR HUBERT H. HUMPHREY TO JEWISH WAR VETERANS' CONVENTION, MINNEAPOLIS, MINN., AUGUST 11, 1971

It is time for a frank and realistic evaluation of America's position in the world. No issue is more important to each and every one of us as human beings than the issue of war and peace, the need to avoid the senseless brutality and killing that is war. That goal is the one that unites people and crosses political differences, geographical boundaries, color, economic status. That goal is also one that dominates those leaders and governments that aspire to represent the best interests of the human beings they have the responsibility and privilege of governing.

We in the United States are coming through a period of self-appraisal—and this is as it should be. If we are indeed to become worthy of being known as children of God—if, indeed, we believe in the principles of human brotherhood—if there is any meaning at all to the term "civilized man", then

it is the responsibility of leaders constantly to probe, explore, study, analyze ways by which men and nations can resolve their disputes short of war. I believe it to be healthy that so many of our youth seek constantly to remind us of our obligations to achieve that goal of peace, for it is the young that fight and die.

But to possess the goal of peace does not produce its realization. The differences between those in the world who believe in political democracy and those forces in the world who are committed to one or another form of totalitarianism—these differences are profound. We lose sight of them at our peril. We may hope to resolve those differences through intelligence, negotiation, perseverence, and sometimes even through the passage of time alone, but it would be a serious mistake to permit that hope to blind us to the reality that there are forces in society prepared to achieve their objectives through aggression, the use of force and violence, or the frightening threat of force and violence.

We in the United States have a tremendous stake in this question of war and peace. We have more to lose from war than most other nations and, possessing in greater abundance the horrible instruments of destruction, we know the potential end of civilization that can come from such a war. But if the world is to move into a new dimension which is to know war no more, it is essential that the United States, as the strongest and wealthiest nation in the world, assumes the obligations of leadership in that movement. This is not just a duty that befalls us by virtue of our strength and wealth. It is a matter of our deepest self-interest.

We are this year coming to the end of the war in Vietnam. Only history will proclaim the verdict as to whether our military involvement in Southeast Asia was a costly, tragic, and incredible mistake, or whether it brought about great regional security in Southeast Asia.

Certainly the latter was the objective of the four consecutive Presidents of both parties who were intimately involved with our participation in Vietnam. But my purpose is not to discuss Vietnam. It is rather to discuss a much more vital threat to the peace of the world and to our national self-interest. I refer to the tensions of the Middle East.

The Middle East is a powder keg with a very short fuse, ready to explode if any one of the participants strikes the match of revived hostility. It is in the Middle East that the two powerful nuclear Goliaths of the earth, the United States and the Soviet Union, face each other.

It is with a sense of deep regret that I must state to you my belief that our policies today are inadequate to meet our responsibilities in the Middle East. The consequences of that inadequacy are to our danger.

The Administration today is relying on the Soviet Union to help us establish peace in the Middle East. That reliance might make sense were it not for the overwhelming evidence that the Soviet Union does not want a settlement of the issues in the Middle East, nor does Soviet leadership want an all-out war. But it is clear they do not want an all-out peace; and they stand to gain from continued restlessness and tension in that crucial area of the world.

We have witnessed a massive build-up of Soviet military strength in Egypt and Syria. And we have witnessed an increased Soviet presence in the Mediterranean, which has helped make the Soviet Union a major power in the Middle East. The recent 15-year treaty between the Soviet Union and Egypt, on the heels of our own naive bumbling and immediately following the over-eager presence of our Secretary of State in Egypt—that treaty is a dramatic illustration of our dreadful lack of awareness of the realities of international politics.

The Soviet Union has poured immense quantities of sophisticated weapons and aircraft into Egypt. While achieving a most welcome cease-fire, the Administration permitted the Soviet Union in Egypt to trick us at the very moment of our self-congratulations by implanting guided missiles close to the Suez Canal, thus escalating the level of weaponry and finances required to achieve a balance.

It is reported that there are today nearly 100 Russian officers of the rank of General or Admiral in Egypt and that there are now more than 300 supersonic military Russian planes stationed on Egyptian airfields. There are a total of about 600 Russian aircraft if we include squadrons based in Syria and Iraq. In addition, I am informed that there are about 200 fully trained Russian combat pilots permanently based in Egypt.

The danger stemming from this imbalance is most serious.

The Middle East is the field on which both U.S. and Soviet forces face each other. We obviously welcomed all efforts designed to reduce the tensions between these two countries, but the tensions are there and, until they are eliminated, it is the height of irresponsibility and folly to blind ourselves to the dangers to us that come from increased Soviet strength and penetration.

Within recent days the new edition of the authoritative "Jane's Fighting Ships" has been released. It concludes that American naval strength is in serious decline while the Soviet fleet has expanded into a "super navy" with a greatly increased sphere of influence. "The situation for the U.S. Navy is serious," concludes the British military expert who edits that publication.

The USSR now maintains a standing naval force in the Mediterranean designed to counter the American Sixth Fleet which is five times stronger than what it had been five years ago; and it is a missile carrying fleet.

In spite of this strength and the drastic change in the parity between our two nations, the Administration continues to ignore the presence of the Soviet Union in the Middle East. And we do so at the expense of the one nation in the Middle East that stands as our safeguard against further Soviet penetration.

In recent days the message was again repeated to Israel that we are withholding the planes it needs to defend itself while we pressure Israel to accept a proposal designed to strengthen further the Soviet Union and give its navy even further areas for future domination. I refer to the pressure we are placing on Israel to reopen the Suez Canal prior to the establishment of peace and stability in the area.

The opening of the Suez and the restoration of its ability to function fully and freely as an instrument of international trade is a desirable goal, but the hard facts are that the United States, Israel and the West do not need the Suez, not nearly as much as Egypt needs it for revenue and as the Soviet Union needs it to accomplish its military and economic goals. We must never lose the perspective of that reality.

The Soviet fleet supplies North Vietnam today with most of its war material and weapons. A limited amount comes from Vladivostok and Nakhodka, but most supplies arrive by water from the Black Sea ports to Haiphong. By 1967, the outbreak of the Six Day War in the Middle East, more than two Soviet ships were arriving in Haiphong every three days. But with the end of the Six Day War, the Suez Canal was closed and no longer available to Soviet ships. Today the canal remains blocked and the distance by ship from the Soviet Union to North Vietnam has been doubled in mileage, in effort and in time.

The distance from Odessa to Haiphong using the Suez Canal was 7,212 sea miles. Today, using the southern Africa route it is 14,126 sea miles. Before the Six Day War, it would take a Soviet cargo ship an average of 40 days of easy crossing on the turnabout. Today it takes about 72 days at top speed plus the unloading time of one or two weeks.

With the Suez Canal closed, the double time and distance presented the Soviets with a serious dilemma. They either had to double the number of ships committed to Hanoi's support or reduce their aid drastically. Published figures indicate that the aid to Hanoi was cut.

It is clear to me that thanks to Israel's presence on the east bank of the Suez, North Vietnam's capacity to conduct war was seriously damaged, perhaps even more than the damage inflicted by our bombings of North Vietnam or the invasion of Cambodia—and at far less risk to ourselves and with none of the hideous costs of lives and property.

Not only is that a fact in examining the realities of the Suez Canal, but it is also a fact that the closing of the Canal hinders the ambition of the Soviet Union to establish an overwhelming presence with its navy in the Indian Ocean. The Red Sea is today dominated by Russia as it was formerly by the United Kingdom. The opening of the Suez Canal would permit the domination of the Red Sea to lead to the domination in the Indian Ocean and thus accelerate that ambition and its realization.

The British withdrawal from the Indian Ocean has left a hole in western global defenses. Five years ago the USSR had no warships in the Indian Ocean. Today it has a score of surface ships alone and, according to *Janes's*, "there is no telling how many Soviet submarines there are in the area."

Why then is the Department of State actively urging Israel to permit the reopening of the Suez Canal before peace and stability is achieved and before Israel can be assured of her security, when the consequences of this urging obviously serves the best interests of the Soviet Union and thereby damages our own?

If, for the sake of peace in the Middle East, we are to help reopen the Suez Canal and thus accelerate the extension of Soviet power to the Indian Ocean, why should that not be done as part of an over-all agreement that insures peace and stability in the Middle East and in the world? Why do we play the Soviet game by pressing Israel to make a unilateral withdrawal of its forces along the Canal? Why do we turn the clock back to 1956, when our country insisted on reopening the Canal before establishing peace between Egypt and Israel? Don't we remember that when we did that, we left the door wide open to Russian penetration of the Middle East, Africa, and Asia, which now threatens peace and stability in the world?

What Catherine the Great failed to do, Brezhnev is now succeeding in doing—and with our help. What we are doing with our shortsighted diplomacy is legitimatizing Soviet presence in Egypt, in the Mediterranean, in the Red Sea and in the Indian Ocean.

Yes, we give arms to Israel—more than ever in the history of our relationship—to balance the foolish error of our naive euphoria when we were taken by the USSR and Egypt at the time of the cease fire. Yes, President Nixon talks forcefully, effectively, and I believe sincerely of our support for Israel. But that rhetoric is not enough because it is underminded by the actual foreign policy pursued by the Administration.

It is now that I must speak with particular emphasis and out of intense personal experience as a former member of the Executive Branch of our Government.

American policy is too often made by the Department of State and not the President. Harry Truman knew that—and had he not exerted himself personally, Israel's recognition as a State might not have come. Lyndon Johnson came to know that—and Israel was able to survive the attacks against it that

culminated in the Six Day War. Richard Nixon has yet to learn that lesson.

The original policy of the Department of State 25 years ago was that our country needed to protect the sources of the oil that we imported from the Middle East and to secure its delivery to Europe and our shores. Until 1956, this meant the need for a close relationship with Saudi Arabia, Iraq, Bahrein, Kuwait and Iran, with Egypt, because of the Suez Canal, playing the central role. We were committed to the kingdoms of Iraq and Jordan, the stability of feudal Saudi Arabia and the Persian Gulf shiekdoms and we had an impatient tolerance of Israel. We looked upon the various Arab states as one, ignoring the wide diversity of peoples, languages, and religions in that area. The Department of State considered itself to be a friend and advocate of the Arabs in order to keep them loyal to the west and as safe as possible from the temptations of the Soviet.

But the situation is no longer what it was 25 years ago. The basic issue of the Middle East is not primarily an Arab-Israel conflict. The area has become a pawn in international politics.

The appearance of the Soviet Union as a power in the Mediterranean, Indian Ocean and Red Sea has completely altered the complexion of this region. Iraq and Syria today are vassals of the Soviet Union. Egypt is in danger of being dominated by the Soviets. Algeria serves as a haven and a base for anti-American subversives. The British have disappeared from the Sudan, Kuwait, Bahrein, Aden and Libya. A Soviet fleet based in Egypt challenges the U.S. Sixth Fleet. Western-oriented Jordan and Lebanon are unstable. NATO is today impotent in the Middle East. Only Israel stands in the path of Communist control in the Middle East and the realization of Russia's old dream of dominating the Indian Ocean.

But in spite of these dramatic changes—in spite of the emergence of Israel as the strongest military and economic force in the Middle East, State Department policy remains the same.

It is a time for a long overdue drastic change of Middle East policy in the light of 1971 conditions and realities. This change in policy cannot be done short of a complete reorganization and reorientation of our Middle Eastern State Department diplomatic corps.

Our new policy must be based on the fact that (1) Egypt is today dependent upon the Soviet Union, and will in all likelihood continue in that position for some time to come. (2) It must be based on the fact that without Israel the United States could not hold the sources of oil and security the delivery of that oil for very long. (3) It must be based on the fact that without Israel, both Libya and Jordan would fall and Saudi Arabia could be paralyzed by Egyptian threats and subversion.

It must be based on the fact that the best assurance of Arab-state independence and security is a negotiated peace between Israel and her neighbors.

Peace in the Middle East can prevent or arrest Soviet penetration and dominance of the Middle East. Continued tension and limited hostilities provide the opportunity for the Soviet Union to move into this area under the cloak of expansive military and economic assistance that carries with it Soviet technicians and other personnel.

(4) It must be based on the fact that Iran, Turkey and NATO would be outflanked without Israel and that the Russian sweep throughout Algeria and the Persian Gulf would be absolute.

(5) Our new Middle Eastern policy in summary must be based on the fact that today Israel and not Egypt is the major power in the Middle East and must shape our policy accordingly.

This new policy requires in our State Department new personnel and a policy that accepts Israel as a major force and friendly power in that vital area. It requires personnel who are not wedded to the past, where State Department considerations were primarily influenced by the fact of the oil-rich Arab lands.

It requires the recognition that Israel and the Arab states can live in peace, combining their resources and talents for the revitalization of the entire Mid East.

The peoples of the Arab countries and Israel need each other. The Middle East can be developed into a modern, productive, and prosperous area of the world. But it desperately needs peace. And the thrust of our policy must be to help achieve that peace. But the hope of peace will not be achieved by a settlement forced by the super-powers—a settlement that leaves Israel wih insecure borders or under the threat of new attack.

Israel has committed men, arms and material in a struggle for self-preservation against Egypt. In doing so it has incurred the wrath of the Soviet Union whose imperialistic ambitions have been temporarily thwarted. We must be thankful that Israel has stood firm.

We can have peace in the Middle East but only when we make the Soviets realize that we will not appease them at the expense of Israel or anyone else.

And, once the Arab world realizes the U.S. will never permit the destruction of Israel, they also will realize they do not need the Soviets telling them how to run their countries—how to fight their wars—how to identify their national goals and plan for their achievement.

We wish the destruction of no nation or people but desire only that Israeli and Arab work together to re-create the "Fertile Crescent"—I tell you that the measure of our commitment to Israel is also the measure of the chance for Arab world freedom:

Freedom from outside domination—political and economic;

Freedom to build their own nations and national character;

Freedom to enhance the quality of life for all Arabs;

Freedom to welcome their Jewish brothers to the joint task of regional growth and prosperity.

Freedom to be themselves and set their own pace.

Israel today is in urgent need of Phantom and Sky Hawk (F4 and A4) jets. The last delivery of jets to Israel ended in June 1971. Since that time there has been a suspension of delivery and the policy has presumably been "under review."

Yet, since March, 1971, the Soviet force in Egypt has been strengthened by the addition of Mig 23 (Fox bat) and Sukhoi II (Flagon) aircraft. The Soviet Union has also introduced SA–4 and SA–6 missiles. The combined total strength of Soviet forces in Egypt today is close to 20,000.

There must be no further hesitation in our delivery of the essential Phantoms and Sky Hawks to Israel. The Russians must not be misled to miscalculate the degree of our commitment to Israel.

But the aircraft needs are not enough. The high cost of defense confronting Israel as a result of increased Soviet military support in Egypt has imposed upon that small country an economic burden beyond its means. We were a party to that increased burden as a result of permitting the Soviets to trick us at the time of the cease-fire by placing SAM missiles close to the Suez. Israel has been spending 30 percent of its gross national product on defense. Those expenditures are increasing. Those expenditures are responsible for its serious dollar balance of payment current deficit, a deficit that is in fact approaching 1.5 billion dollars.

Israel today has a foreign exchange debt of 3 billion dollars. The mere servicing of that debt requires a half billion dollars in the current year.

We have a responsibility and a duty to supply Israel with direct economic relief so as to permit it to maintain its defense posture, a posture which is defending our national self-interest as well. Once again, Israel's request for assistance meets with silence or with a statement that the request is "under review". Since April the Administration has been considering an application from Israel for $200 million for supporting assistance. That request must be granted immediately. We extend supporting assistance to other countries that are far less important to our security interests. And let me add, Israel does not ask for American pilots or other military personnel. She seeks no American advisors or forces. She asks only to be treated with the same considerations as our other allies.

Surely an Administration that can give weapons and economic assistance to the Greek junta can be equally considerate of Israel—a country with free political institutions. Israel asks only that she have the weapons and the means for her security.

Again, the Administration permits the Department of State to make policy, to hesitate.

The distinguishing characteristics of policy formulation in a democratic society is that it must represent, as close as the mechanics of decision-making can arrange, the viewpoints of the citizens in that society. The Presidency and the Congress are the institutions through which that kind of decision-making can be achieved. There is no room in a democratic society for basic and consistent policy-making by a career civil service which never faces the electorate.

This means that foreign policy must be formulated by the Congress and President and not the Department of State which has the responsibility only to execute a policy arrived at by the elected representatives. Where the President doesn't have either the vision or the courage to withstand usurpation by the Department of State, it is time for the Congress to step in.

Recent months have witnessed an intensive government debate aimed at increasing the powers of Congress in foreign policy decision-making. My own experience, however, as a Senator and as a Vice-President, persuade me that desirable as it is for the Congress to play a more significant and major role in foreign policy, that objective cannot be obtained unless the mechanism in the Congress is adequate to assume that increased responsibility.

It is a fact that the Congress is today unprepared for that task. Decisions on foreign policy are discussed in both Houses of Congress and in three, four, or even five committees in each House. With this multiplicity and lack of coordination, it is impossible for the Congress to assert itself in a meaningful way and with an impact on the basic decisions.

The Presidency modernized itself by creating a National Security Council some years ago so as to help the President act with clarity, decisiveness and full information; if he only chose to do so. It is time for the Congress to do the same. I, therefore, recently submitted to the Senate a proposal to create a Joint Congressional Committee on National Security with the leading members of Congress of both parties represented. The major interested Committees of the Congress would then act together on the same facts, at the same time, and with the same perspective.

It is clear that the Department of State does not represent the views of the Congress on Middle Eastern policy. Congress has passed endless resolutions and amendments over the years designed to strengthen the hand of Israel. One of my objectives in urging the creation of a Joint Committee was to

help produce the unity and strength of Congress behind a more intelligent self-interested Middle Eastern policy by this country.

The Middle East is not just a problem. It is an opportunity. It is an opportunity to help resolve some of the basic issues that divide the United States and the Soviet Union and that threaten the safety and security of the world.

The Suez Canal should be opened even though that is of primary benefit to Soviet aspirations. But what do we want in return? Rather than to persuade Israel to withdraw its troops from the banks of the Suez unilaterally, we should insist that in exchange for that withdrawal we want Egypt and Israel to negotiate directly as two sovereign nations should in a community of nations.

We should demand the renewal and instigation of a permanent cease-fire, with Israel's neighbors recognizing her integrity as a nation, her sovereignty and her need for well-defined secure borders.

There should be assurances of free access to a reopened Suez and free access to all international waters, such as the Gulf of Aquaba and the Persian Gulf, for Israel and all nations.

And we should recognize that more than the conflict between Egypt and Israel is involved in this dispute. We should insist that the Soviet Union demonstrate its desire for peace by requiring a phased withdrawal of Soviet military manpower from Egypt at the same time as we request Israel to withdraw its troops from the East banks of the Suez.

Finally, we should say to the Soviet Union loudly and clearly: "If you are genuine in your desire for peace and harmony in the Middle East, do something about the thousands of Jews in Russia who are imprisoned in your society by not being able to migrate to Israel." The President of the United States should exert America's diplomatic and moral resources in support of that courageous Russian Jewish community that, at great sacrifice, refuses to submit to the destruction of its identity.

The United Nation's Declaration of Human Rights provides that citizens should have the right to immigrate to the countries of their choice. This a fundamental human liberty. A nation which denies that right to the peoples within it, is imprisoning its citizens. This should be a key ingredient of the efforts we are making to establish that stability in the Middle East.

Our nation has a stake in this vital human crisis, not merely because it is a measure by which we can judge Soviet sincerity in these current Middle Eastern negotiations, but also because we know from bitter experience that those totalitarian societies which deny freedom to their own citizens are uncomfortable and unhappy at the existence of freedom in other societies.

This uneasiness and unhappiness and fear that they breed is a threat to all of us.

In conclusion, it is essential that the American people be reminded that goals can never be achieved by anything short of dedication, effort and sacrifice. The greater the goal, the greater must be the effort, dedication and sacrifice. There is no greater goal than that of peace and security for the world.

For our nation, the strongest, wealthiest, and most fortunate in the world, to fulfill its responsibilities as a world leader, and for those of us who live in this nation to fulfill our responsibility to the future generations of Americans, it is essential that we recognize that among the sacrifices we must make and as part of the dedication that we must bring to bear for our efforts, America must be strong.

That strength, if it is to be effective, must be indivisible. It must be a spiritual strength; it must be a strength and a unity that comes from the elimination of poverty, racism, inhumanity; and it must be a strength that comes from a growing economy—a strength not only based on a higher standard of living, but a better quality of life.

It must be a strength that recognizes the reality of the world we live in. And this means the strength of military self-defense and mutual security.

I, therefor, pledge myself and I ask you as interested citizens to pledge yourselves to help this country achieve that military, economic, social and political strength that is so necessary for peace and for our stability as a free society.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

AIRPORT AND AIRWAY DEVELOPMENT AND REVENUE ACTS AMENDMENTS OF 1971

The PRESIDING OFFICER. Under the previous order, the unfinished business is temporarily laid aside and the Chair lays before the Senate the pending business, S. 1437, which the clerk will state by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 1437) to amend the Airport and Airway Development and Revenue Acts of 1970 to further clarify the interest of Congress as to priorities for airway modernization and airport development, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments. On page 1, line 9, after "1970", strike out "(84 Stat. 219, Public Law 91–258)" and insert "(49 U.S.C. 1714)"; on page 2, after line 19, insert a new section, as follows:

SEC. 102. (a) Paragraphs (8) and (11) of section 11 (49 U.S.C. 1711), subsection (b) (3) of section 13 (49 U.S.C. 1713), and subsection (b) (2) of section 15 (49 U.S.C. 1715) of the Airport and Airways Development Act of 1970 are each amended by inserting after "Virgin Islands," wherever appearing therein the following: "American Samoa, the Trust Territory of the Pacific Islands,".

(b) Paragraphs (1) and (2) of section 14(a) of such Act (49 U.S.C. 1714) are each amended by inserting after "Guam," the following: "American Samoa, the Trust Territory of the Pacific Islands,".

(c) Subsection (c) of section 17 of such Act (49 U.S.C. 1717) is amended (1) by inserting after "Virgin Islands" in the heading of such subsection a comma and the following: "American Samoa, and the Trust Territory of the Pacific Islands", and (2) by inserting after "Virgin Islands" in the body of such subsection a comma and the following: "American Samoa, or the Trust Territory of the Pacific Islands".

On page 3, after line 14, insert a new section, as follows:

SEC. 103. Paragraph (5) of subsection (h) of section 12 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1712) is amended by striking "January 1, 1972" and inserting in lieu thereof "July 1, 1972".

And, in line 22, after "1970", strike out "(84 Stat. 237, P.L. 91–258)" and insert "(49 U.S.C. 1742, Public Law 91–258)"; so as to make the bill read:

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Airport and Airway Development and Revenue Acts Amendments of 1971."

TITLE I—AIRPORT AND AIRWAY DEVELOPMENT

SEC. 101. Section 14 of title I of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by adding thereto the following new subsection:

"(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—

"(1) Amounts equal to the minimum amounts authorized for each fiscal year by subsections (a) and (c) of this section shall remain available in the trust fund until appropriated for the purposes described in such subsections.

"(2) No amounts transferred to the trust fund by section 208(b) of title II of this Act (relating to aviation user taxes) may be appropriated for any fiscal year to carry out the activities enumerated in subsection (d) of this section (relating to administrative, research and development, maintenance and operating expenses) unless at least the minimum amounts for airport development established by subsection (a) of this section and at least the minimum amount for airways facilities established by subsection (c) of this section have been appropriated for any such fiscal year."

SEC. 102. (a) Paragraphs (8) and (11) of section 11 (49 U.S.C. 1711) subsection (b)(3) of section 13 (49 U.S.C. 1713), and subsection (b)(2) of section 15 (49 U.S.C. 1715) of the Airport and Airways Development Act of 1970 are each amended by inserting after "Virgin Islands," wherever appearing therein the following: "American Samoa, the Trust Territory of the Pacific Islands,".

(b) Paragraphs (1) and (2) of section 14 (a) of such Act (49 U.S.C. 1714) are each amended by inserting after "Guam," the following: "American Samoa, the Trust Territory of the Pacific Islands,".

(c) Subsection (c) of section 17 of such Act (49 U.S.C. 1717) is amended (1) by inserting after "Virgin Islands" in the heading of such subsection a comma and the following: "American Samoa, and the Trust Territory of the Pacific Islands", and (2) by inserting after "Virgin Islands" in the body of such subsection a comma and the following: "American Samoa, or the Trust Territory of the Pacific Islands".

SEC. 103. Paragraph (5) of subsection (h) of section 12 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1712) is amended by striking "January 1, 1972" and inserting in lieu thereof "July 1, 1972".

TITLE II—AIRPORT AND AIRWAY REVENUES

SEC. 201. Paragraph (1) of subsection (f) of section 208 of title II of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742, Public Law 91–258) is amended to read as follows:

"(1) AIRPORT AND AIRWAY PROGRAMS.—Amounts in the trust fund shall be available, as provided by appropriation Acts, making expenditures after June 30, 1970, and before July 1, 1980, to meet the obligations of the United States authorized under title I of this Act.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. CANNON. Mr. President, I ask unanimous consent that Mr. Robert Ginther, of my staff on the Aviation Subcommittee, be permitted the privilege of the floor during the consideration of this bill.

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

Mr. CANNON. Mr. President, S. 1437 amends the Airport and Airway Development and Revenue Acts of 1970 to clarify the intent of Congress regarding the expenditure of aviation user tax revenues from the Airport and Airway Trust Fund established by that law.

In enacting that legislation, Congress acknowledged that the Nation's aviation system needed rapid modernization and expansion and determined that capital improvements to the airport and airway system—paid for by the users of the aviation system—should be made as expeditiously as possible.

At the same time, it was recognized that the Federal Government, and the Nation as a whole, have an abiding interest in the continued development of air transportation. Accordingly, it was contemplated that General Treasury funds would be used to defray routine Federal Aviation Administration operations and administrative expenses, as well as a portion of research and development costs, at least until the capital investment effort to modernize the Nation's airports and airways was substantially underway.

The administration has interpreted the Airport and Airways Development and Revenue Acts of 1970 to permit it to request appropriations less than the minimum levels for airport development and airways facilities specified in section 14 of title I of the Airport and Airway Development Act. Further, although Congress intended that the capital investment programs for aviation system modernization be fully funded from user tax revenues in the Trust Fund prior to the use of such funds for maintenance, operations and administrative expenses, the administration has disregarded these statutory priorities and has given routine FAA expenses the same status as capital investments.

This interpretation of the law by the administration has been made possible by somewhat differing language in section 14 of title I and section 208 of title II regarding activities for which user tax funds may be expended.

The bill, amending section 14, clarifies the intent of Congress and safeguards user tax revenues in the Trust Fund for priority of expenditures for the airport and airway capital programs. It does so by assuring that amounts Congress intended to be used solely for airport development and airway facilities will remain in the Trust Fund until used for those purposes. In addition, the bill proscribes the expenditure of user funds until such time as the airport and airways programs have been funded at the minimum level specified in the act.

The amendment to section 208 removes the superfluous authorizing language which has caused ambiguity and incorporated by reference the priorities and minimum levels established in section 14.

Mr. President, at this point it is appropriate to review some background which led to this legislation.

In 1970, responding to sharply increasing airport and airspace congestion and shrinking margins of safety, Congress enacted legislation for the rapid modernization and expansion of our national aviation system. In the course of public hearings on bills which led to the Airport and Airway Development and Revenue Acts of 1970, testimony and statements for the record were received from virtually every Government and non-Government segment of air transportation. All witnesses attested to the urgent need to make substantial capital improvements to the airport and airway system as expeditiously as possible.

Under the act, substantial new and increased taxes were levied upon aviation users to support the capital development program. These funds were intended primarily to facilitate a fourfold increase in capital expenditures for airport development alone and were designed to provide a Federal investment of over $2.5 billion in the next 10 years.

In enacting this legislation, the Congress was well aware that general appropriations requested by the administration for air systems improvements and amounts allocated by the Congress historically have not fully met the aviation system needs in deference to non-aviation budgetary demands. To insure that the modernization and expansion effort contemplated under the Airport and Airway Development Act did not suffer a similar shortfall, the trust fund was established to accumulate user revenues to be employed in the capital development program. To insure the development, Congress specified minimum amounts to be allocated to airport and airway system improvements rather than the more usual practice of imposing maximum limitations on spending.

Department of Transportation budget requests for fiscal 1971 were submitted prior to enactment of the Airport and Airway Development Acts. Accordingly, the Department first asked for spending authority under the act in a supplemental request. This request, transmitted almost 6 months after the law was enacted, programed only $100 million for airport development, not the $280 million minimum specified in the act. The Department concurrently requested $226 million for air navigation facilities and equipment—airways—rather than the $250 million minimum. Members of Congress and the industry expressed surprise and concern with the deficiency. Moreover, it became increasingly clear that the Department of Transportation intended to employ the residual portion of trust fund money remaining—amounting to approximately $250 million—to fund FAA operational and maintenance programs rather than utilize these assets in full amount for priority airport and airway improvements. Charges were made that this constituted an unlawful diversion of trust funds and that the Department had not kept faith with air system users and the Congress.

In its original budget request for fiscal year 1972, transmitted to the Congress in January of this year, the Department again asked for amounts lower than the specified minimum for airport development. During hearings before the committee's Subcommittee on Aviation, the Department anounced that it would permit an additional $75 million to be obligated for airport development in fiscal year 1972 to bring the total obligated amount to the required $280 million minimum. Even with this additional amount, however, the total capital investment in airports for fiscal years 1971 and 1972 will fall $110 million short of the commitment specified by the Congress for this period.

The Department's 1972 budget also requested that the balance of trust fund moneys, including a $403 million surplus carryover from fiscal 1971, be applied to fund routine FAA operations. The balance is substantial. The administration requested appropriations from general funds for FAA of only $293.1 million, while operational expenses were projected at $991.8 million. Even assuming that every dollar appropriated from general funds goes to carry this item, it would still be necessary to allocate approximately $700 million to trust fund moneys for 1972 FAA operations.

The Department of Transportation has repeatedly maintained that, although it has not requested the minimum specified amounts for airport and airway development, its program is consistent with the long-range goals established in the act. The Department observes that the act authorizes expenditures over 10 years and indicates that it will speed up its authorization in later years.

This reasoning fails to understand the spirit of the law and the rationale for its enactment. This has, from the first, been designed as a catch-up program to deal with a crisis in air commerce. The safe and efficient movement of people and goods in our air transport system cannot await "speed-up" programs in the late 1970's.

The amendments to section 14 of title I of the Airport and Airway Development Act are designed to redefine and sharpen congressional intent with respect to the priority modernization of the aviation system and the use of revenues accumulated in the trust fund. To make absolutely certain that our intent is understood and the specified minimum amounts are channeled into airports and airways development, the amended language would require that the minimum authorized amounts be retained in the fund unavailable for other purposes until allocated for capital investment in the aviation system.

It was contemplated in developing the original legislation that in the early stages of the 10-year program it would be necessary to augment user revenues with general funds in order to make the required priority investment in airport and airways development. Similarly it was thought that in the last years of the program user revenues might be used to absorb some of the operational burden of the expanded aviation network.

For this reason, Congress provided in

the original act that after minimum allocations were made, the balance of funds could be used for the maintenance and operation of the system.

Notwithstanding its failure to meet the condition precedent to its use of these funds, the administration has relied on its authority to use the balance of funds coupled with ambiguous language in section 208 of title II of the act as a basis for allocating large amounts of trust fund moneys to carry general operational expenses of FAA. As noted above, the Department of Transportation's 1972 budget estimate contemplated that over $700 million of trust fund revenues would be used for operations this year. Accordingly, the committee has found it necessary to recommend an amendment which would more narrowly prescribe the use of trust fund moneys in future years.

In addition to the basic bill, the committee adopted four amendments in committee.

The first amendment adopted by the committee provides for the inclusion of American Samoa and the Trust Territory of the Pacific Islands under the terms of the airport grant-in-aid program established by the act. The amendment rectifies an inadvertent omission made in the original legislation.

The second amendment extends the more favorable provisions granted to the Virgin Islands in section 17 of the act to American Samoa and the Trust Territory of the Pacific Islands. The Virgin Islands is given preferential treatment in that airport development projects there are eligible for 75 percent Federal participation, rather than the general 50-percent limit established for other airport development projects in the United States and its possessions. The committee is of the view that this preferential treatment is warranted because of the lack of adequate local funding in these two territories.

The third amendment extends the life of the Aviation Advisory Commission established by the act for 6 months. The Commission was not appointed by the President until December 17, 1970, 7 months after the enactment of the legislation. Congress, in establishing the Commission, intended that it have 2 years to make its study and findings and issue a report. Because of the delay in establishment, the Commission will have been in operation only a little more than a year when its final report will be required under terms of the act. The Chairman of the Commission has asked the committee to extend the report deadline until September 1, 1972.

The fourth amendment is technical in nature. It corrects an error in citation overlooked during the drafting of the bill.

Mr. President, I hope the Senate will give speedy approval to this legislation.

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

Mr. CANNON. I am happy to yield.

Mr. CRANSTON. I appreciate the opportunity to bring up one point with the distinguished chairman of the committee.

This morning the newspapers carried a report about a meeting of the Airport Operator's Council International now occurring in Florida, which I attended yesterday and which I understand the distinguished Senator from Nevada will attend this afternoon.

The report from that meeting yesterday indicates that the Federal Aviation Administration has decided to withdraw proposed controversial Federal standards for measuring airport noise, and, according to the New York Times: "will allow representatives of the airport industry to help rewrite it." Later on, the story indicates that:

A spokesman for the agency said that agency groups would not dictate the rules, but he said there would be consultations with the industry to agree on the best way to measure jetport noise in communities.

As the Senator knows, a great problem has developed in many communities where courts are now ordering local communities to buy up homes around airports where the noise has become intolerable. This puts an additionally great burden on property owners whose tax is used for this purpose. The property tax, in my opinion, already is the least fair and most outrageously high tax we have. Buying up airport area homes is going to run into billions of dollars in the country before we are through. In Los Angeles, it has reached $300 million.

I am concerned about local government and environmental groups not having some input as FAA determines noise pollution rules. I ask the Senator if he feels that in addition to consulting industry, FAA should also consult local governments and others interested in this problem.

Mr. CANNON. I agree with the distinguished Senator. The local governing bodies should be consulted and should have the opportunity to feed some facts and figures to the FAA for whatever final regulations are developed.

These people have to live with the problem on a day-by-day basis and obviously will have to go to considerable expense in many instances to be able to live with the problem where they have an airport in the middle of the city.

While we are all anixous that we meet very strict levels at an early point in time, we can only go as fast as technology and economics will permit. Therefore, I think they should, by all means, be given the consideration to have an input into the FAA in determining whatever standards must be established.

Mr. CRANSTON. I thank the Senator.

It is obvious that industry cannot have everything it wants. It is also obvious that local government and environmentalists cannot have everything they want. Some compromise has to be worked out. I hope the consultations will include environmental groups as well as local government.

Mr. CANNON. I would say that probably it could include environmental groups, but I would not want to see them bogged down in having environmental hearings all over the country, in trying to determine the necessary noise level standard, because some people do not want any noise at all, and obviously that is not an acceptable solution.

I certainly recognize that the established municipalities or governing bodies ought to have proper input. But I would not want to see us get involved in long environmental hearings in determining the noise standards, to try to make some progress in reducing the noise levels.

Mr. CRANSTON. I recognize that we cannot get bogged down in that.

I express the hope that when FAA issues the regulations, they will insure that no increase in noise exposure takes place at our present airports. I think that is a practical objective.

Mr. CANNON. That certainly is. From the standpoint of the level of noise, I think the Senator can rest easy on that point.

But if this means that it is not going to be increased by having additional flights, I could not give the Senator that assurance. I am sure that some airports will have additional flights, and therefore, their total noise exposure will be greater. From the standpoint of the noise level from a specific air carrier, I am sure that level should not increase and should decrease as the steps are taken.

Mr. CRANSTON. As I understand it, reasonable and realistically attainable steps can be taken to reduce the noise of individual planes. So, even though more flights are added, it should not mean any added noise exposure.

Mr. CANNON. I do not know how that balances out. Certainly, the individual unit noise should be reduced and not increased. But if the number of flights into an airport is increased by 100, even though you reduce the level of each airplane, some people might contend that the noise was greater. I do not want to get into that argument. There should be a reduction. With the procedures that are being worked out, as well as the developments in the technology and the state of the art, with the newer airplanes coming along, with quieter engines, we should see a per unit reduction in the noise level.

Mr. CRANSTON. And, quite possibly, if we have regulations that will not hamper the development of noise reduction techniques, industry can see to it that as there are more planes, their number is offset by a total reduction in the noise level of individual aircraft.

Mr. PEARSON. Mr. President, I rise in support of S. 1437, a bill which would clarify further the intent of Congress as to priorities for airway modernization and airport development. The Airport and Airway Development and Revenue Acts of 1970 created the airport and airway trust fund, provided that the trust fund be maintained by aviation user tax revenues, and established priorities for expenditures of trust fund moneys.

Congress in enacting that legislation recognized that the Nation's aviation system needed rapid modernization and expansion. Capital improvements to the system—paid for by the users of the aviation system—were accorded the highest priority under the Airport and Airway Development Act.

It was contemplated that general Treasury funds would be used to defray routine FAA operating and administrative expenses, as well as a portion of re-

research and development costs, at least until the capital improvement effort to modernize the Nation's airports and airways was well underway.

Section 14 of the act provides that a nationwide system of public airports "adequate to meet the present and future needs of civil aeronautics" be established. The Secretary is authorized to make grants for airport development in aggregate amounts "not less than" $280 million per year. Under terms of the act, the Secretary is authorized to obligate for expenditure "not less than" $250 million per year for airway improvements.

The language of the act seems clear enough, and the priorities of Congress seem unmistakable. Nevertheless, the administration has incorrectly interpreted the Airport and Airways Act of 1970, and requested appropriations less than the minimum levels established for airport development and airways modernization.

The administration has disregarded statutory priorities and given routine FAA expenses the same status as capital improvements. The report submitted by the Committee on Commerce documents the pattern which has effectively downgraded the urgent capital improvement program:

Department of Transportation budget requests for fiscal 1971 were submitted prior to enactment of the Airport and Airway Development Act. Accordingly, the Department first asked for spending authority under the act in a supplemental request. This request, transmitted almost 6 months after the law was enacted, programed only $100 million for airport development, not the $280 million minimum specified in the Act. The Department concurrently requested $226 million for air navigation facilities and equipment (airways) rather than the $250 million minimum.

In its original budget request for fiscal year 1972, transmitted to the Congress in January of this year, the Department again asked for amounts lower than the specified minimum for airport development. During hearings before the Committee's Subcommittee on Aviation, the Department announced that it would permit an additional $75 million to be obligated for airport development in fiscal year 1972 to bring the total obligated amount to the required $280 million minimum. Even with this additional amount, however, the total capital investment in airports for fiscal years 1971 and 1972 will fall $110 million short of the commitment specified by the Congress for this period.

The Department's 1972 budget also requested that the balance of Trust Fund monies, including a $403 million surplus carryover from fiscal 1971, be applied to fund routine FAA operations.

Mr. President, the legislation before the Senate provides an opportunity to clarify further the intent of Congress in enacting the Airport and Airways Development Act. This bill provides that no moneys from the trust fund could be appropriated for any fiscal year to carry out routine FAA operating expenses unless the minimum amounts for airport and airway development have been appropriated for such fiscal year.

Thus passage of S. 1437 will establish, unmistakably and permanently, the commitment of Congress to appropriate not less than $280 million for airport development, and not less than $250 million for airways improvements, each year until the capital program is well underway.

As an original sponsor of S. 1437, along with the distinguished chairman of the Commerce Committee, the Senator from Washington (Mr. MAGNUSON), and the distinguished chairman of the Aviation Subcommittee, the Senator from Nevada (Mr. CANNON). I am deeply pleased that this legislation is now before the Senate for debate.

House passage of comparable legislation has made final disposition of this measure possible in this session of Congress. I urge the Senate to approve the committee bill promptly, for airport development projects in every State await full implementation of the 1970 act. The airway system in every State requires additional funds for modernization and expansion. The trust fund must be preserved in order to meet the capital requirements of the aviation system.

Mr. President, the Department of Transportation budget for fiscal year 1972 contemplated that over $700 million in trust fund moneys would be consumed for operations this year. Unless Congress adopts legislation comparable to S. 1437. The trust fund—maintained by aviation system user taxes—will be under continual seige. The capital improvement program will be threatened by escalating routine operating expenses of the FAA. And disregard of the statutory priorities could result in the total breakdown of aviation systems serving major metropolitan areas.

Clearly the expansion, modernization and improvement of the airports and airways deserve the full measure of funds authorized by Congress in 1970. Adoption of S. 1437 will mandate the priorities established by Congress less than 2 years ago.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the committee amendments.

The committee amendments were agreed to en bloc.

Mr. BAKER. Mr. President, I call up my amendment No. 437.

The PRESIDING OFFICER. Does the Senator mean amendment No. 347?

Mr. BAKER. Amendment No. 437. I intend, after the reporting of that amendment, to offer an amendment in the nature of a substitute to amendment No. 437, and it is numbered 347.

The PRESIDING OFFICER. Amendment No. 437 is not at the desk.

Mr. BAKER. I am sorry, Mr. President. It is amendment No. 462.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In lieu of the matter proposed to be inserted by amendment numbered 347, insert the following:

SEC. 102. Section 51(b)(4) of the Airport and Airway Development Act of 1970 is amended by striking out "two-year period" and inserting in lieu thereof "three-year period".

Mr. BAKER. Mr. President, amendment No. 462 is an amendment in the nature of a substitute to amendment No. 347. I would like to explain the purposes of amendment No. 347 and the reasons why I have suggested the modifications made by amendment No. 462.

I introduced amendment No. 347 on July 30 in response to what is a very grave problem facing the small airports of our country. Since that date, 15 of my colleagues in the Senate have joined as cosponsors.

Under section 51(b) of the Airport and Airway Development Act of 1970, the Administrator of the Federal Aviation Administration is directed to—

Issue airport operating certificates to airports serving air carriers certificated by the Civil Aeronautics Board and to establish minimum safety standards for the operation of such airports.

Under the law, the certificates must be issued by May 20, 1972, and no airport may continue to serve commercial carriers after that date unless it has complied with the safety standards established by the FAA and obtained an operating certificate.

In May of this year, the FAA issued a notice of proposed rulemaking setting forth the standards which it proposed to establish. The standards set out detailed requirements for maintenance of paved areas at airports; runway and taxiway marking and lighting; crash, fire, rescue equipment, and personnel; protection of federally owned and operated navaids; and a number of other aspects of airport operation. The FAA still has not issued its final standards, and the Nation's airports are faced with the task of complying with the standards when they are issued and obtaining the necessary operating certificates before the deadline of May 20, 1972. That deadline is little more than 6 months away.

As I pointed out in my introductory statement on this amendment in July, there are approximately 540 commercial air carrier airports: 375 of these are in nonhubs. These 375 make up 70 percent of all airports receiving airline service yet enplane only about 4 percent of the entire passenger enplanements in the country. Many of these airports have operating budgets of $150,000 per year or less.

Comments received by the FAA, by me, and by a number of my colleagues in the Senate from airports all over the country indicate that a large number of these small, nonhub airports will be unable to bear the cost of complying with the proposed standards within the time limit. If unable to meet the requirements and to obtain operating certificates, these airports will have to close, or, at a minimum, refuse airlines the use of their facilities.

Mr. President, I know that I do not need to stress how important these small airports are to our country. Many of us in the Senate have devoted a great deal of time and energy to securing commercial air service for areas in our States which are not served by large airports. This service is invaluable to the development of the communities involved and it would indeed be tragic if the Airport-Airway Act should have the overall effect of reducing or eliminating such service.

The Airport-Airway Act aims at mak-

ing all airports safer and I think that that is a laudable goal. I do not think that this vital and, in many cases, hard-won air service should be or has to be sacrificed in our efforts to increase safety. I think that this is a case in which the Congress has underestimated the impact of parts of the legislation which it has enacted, and I proposed amendment No. 347 in an effort to correct that mistake and to assist airports in meeting the certification requirements without diminishing the level of safety which section 51(b) of the Airport and Airways Development Act was designed to achieve.

The amendment has three provisions: First, it would extend the effective date of the airport certification program from May 20, 1972, to May 20, 1973, in order to allow the FAA and the country's airports the necessary time to establish and comply with reasonable safety standards. I feel that it is unfair, Mr. President, to expect every commercially served airport in the country to install new equipment, hire new personnel, and make other adjustments necessary to compliance within the 6 months which remain to them under current law.

Second, the amendment would make all equipment and modifications required by the safety standards to be issued by the FAA eligible for Federal funding at a level of 82 percent—an increase from the current level of 50 percent.

This provision would ease the financial burden on airports who are currently unable to afford to purchase new equipment on a matching basis.

Third, the amendment would allow reimbursement of up to 82 percent of the cost of safety equipment required under FAA regulations which has been purchased by airports subsequent to May 21, 1970, the effective date of the Airport and Airways Development Act. I think that it is important that those airports whose owners and managers have had the foresight to anticipate some of the FAA's requirements and have begun purchasing necessary equipment should not be penalized.

Since I introduced amendment No. 347, Mr. President, the chairman of the Subcommittee on Aviation (Mr. CANNON) has indicated to me his concern about this problem and his feeling that it is one which should be studied more carefully by the subcommittee. I am a member of the subcommittee, and I could not agree with him more. It is also my understanding that the distinguished Senator from Kentucky (Mr. COOK) has introduced a bill to increase the Federal share of funding for airport development projects to 75 percent; and that the distinguished Senator from North Dakota (Mr. BURDICK), who is a cosponsor of my amendment, has offered a bill to provide full Federal funding to small airports for the acquisition, installation, operation, and maintenance of equipment and facilities required by the FAA for airport certification.

I also want to point out that the FAA has not yet announced its final certification standards. Until those are made public, it will be difficult to estimate what additional costs to the airports will be involved.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD a letter which I have received from Mr. Jack Shaffer, Administrator of the Federal Aviation Administration, in response to a request from me for comments on amendment No. 347 and an estimate of the additional costs to the Government which would be involved.

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

FEDERAL AVIATION ADMINISTRATION,
Washington, D.C., September 23, 1971.

Hon. HOWARD H. BAKER, JR.
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAKER: This is in response to your letter of 13 September 1971 concerning your Amendment No. 347 to S–1437.

One of the provisions of your Amendment would extend the date of airport certification implementation from 20 May 1972 to 20 May 1973. Based on comments we received in response to the Notice of Proposed Rule Making (NPRM) of 14 May 1971, most of the smaller airports need this additional time to meet the minimum safety standards now contemplated in our proposed Federal Air Regulation. The aviation industry and the Federal Aviation Administration (FAA) would find the additional year advantageous for the provision of a more thoroughly prepared and reasonably executed certification program.

Comments received in response to our certification NPRM indicate that many of the nation's smaller airports would experience difficulty in financing the costs of required safety equipment. The certification rule is being drafted to be as responsive as possible to the need to minimize this economic burden while assuring the enhancement of safety in keeping with the provisions of Public Law 91–258.

Late this month, this proposed rule will be thoroughly reviewed by the FAA Regulatory Council. This is the final important step by our agency in the promulgation of the airport certification rule. After this action is completed, we will be in a much better position to discuss the rule content and to estimate its economic impact.

With this in mind, I would appreciate your indulgence in my delaying the answer to the specific questions in your 13 September letter until the Regulatory Council review has been completed.

Sincerely,
J. H. SHAFFER, *Administrator.*

Mr. BAKER. As to the extension of the effective date of the airport certification program, Mr. Shaffer states:

Based on comments we received in response to the Notice of Proposed Rule Making of 14 May 1971, most of the smaller airports need this additional time to meet the minimum safety standards contemplated in our proposed Federal Air Regulation. The aviation industry and the Federal Aviation Administration would find the additional year advantageous for the provision of a more thoroughly prepared and reasonably executed certification program.

Mr. Shaffer also indicates, however, that the FAA is unable at this time to estimate the economic impact of a 32-percent increase in Federal funding.

In view of this uncertainty, the interest of other Members of the Senate in the whole question of Federal funding levels, and the serious economic considerations involved in increasing the level of funding without specific information on which to base such an increase, I believe that it would be wise at this time to postpone consideration of an increase in the Federal share of funding for equipment to be acquired under the certification program. I would like to urge the distinguished chairman of the Aviation Subcommittee to schedule hearings on the problems of airports in meeting the certification standards and the general question of what level of funding is desirable under the Airport-Airway Act as early as possible in the second session of the 92d Congress.

For these reasons I have introduced, Mr. President, amendment No. 462 as a substitute to amendment No. 347. The substitute amendment would extend the effective date of the certification program and would make no other changes in the Airport-Airway Act. I believe that an extension of time must be granted now if we are to avoid a crisis situation next May. I would urge that my colleagues support this amendment and I hope that it will be adopted.

Mr. President, I ask unanimous consent that the name of the Senator from Idaho (Mr. CHURCH) be added as a cosponsor of Senate amendment No. 347.

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

Mr. PEARSON. Mr. President, as cosponsor of amendment No. 347, introduced by the distinguished Senator from Tennessee (Mr. BAKER) on July 30—I appreciate this opportunity to comment on its provisions, and the provisions of the amendment offered in the nature of a substitute—No. 462.

The Airport and Airway Development Act is landmark legislation. It reflects the commitment of the Congress to the expansion, modernization, and improvement of aviation facilities throughout the United States. The act provides not less than $280 million annually in Federal matching grants for airport development, and not less than $250 million annually for the acquisition, establishment, and improvement of the air navigational system.

The Airport/Airway Development Act reflects not only a congressional commitment to capital improvement, but also a commitment to increase the operational safety of our aviation system. In conference, the Senate accepted a House provision which directs the Administrator of the Federal Aviation Administration to "Issue airport operating certificates to airports serving air carriers certified by the Civil Aeronautics Board and to establish minimum safety standards for the operation of such airports."

Under the law, these Airport Operating Certificates must be issued prior to May 21, 1972. Airports which fail to comply with certification requirements will not be permitted to serve certificated carriers after that date.

Pursuant to this authority the FAA issued on May 14, 1971, a Notice of Proposed Rulemaking which enumerates safety standards for airport certification. The standards reflect a thoughtful and comprehensive analysis of the hazards associated with improper airport maintenance and operation.

The proposed rules include, however, one prohibitively expensive requirement which, if finally approved, could jeopardize air service in smaller communities. Fire and rescue equipment, under the

proposed rules, must be maintained and operated on the airport by trained personnel capable of responding to an emergency within 3 minutes of its occurrence.

Large and medium hub airports already have fire and rescue equipment, but more than 300 nonhub airports would be required to procure new equipment within the next 7 months. Many small airports, whose budgets do not exceed $150,000 per year, would be required to more than double operating costs if the proposed rules were adopted.

Mr. President, I do not quibble with the FAA's Notice of Proposed Rulemaking. The notice reflects the intent of Congress in adopting section 51 of the Airport/Airway Act. This section prescribes conditions precedent to issuance of an Airport Operating Certificate, including, specifically, "the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport. . . ."

Clearly, Congress has directed FAA to promulgate safety rules for certification comparable to those published May 14 in the Federal Register. The obligation of Congress now is to insure that small, nonhub airports in rural communities are financially capable of meeting the requirements imposed upon them.

Mr. President, the pending amendment would meet this obligation. Amendment No. 347 would extend for 1 year the cutoff date for airport certification. Thus the FAA and the airport operators would be allowed adequate time to implement reasonable safety standards, and procure the necessary new equipment.

The amendment as originally proposed would also make safety equipment and modifications, required as a result of FAA airport certification standards, eligible for 82-percent Federal participation in funding. Finally, the original amendment would provide for reimbursement of those airports which already have begun to implement the safety requirements.

THE SUBSTITUTE AMENDMENT

Mr. President, the Senator from Tennessee (Mr. BAKER) has set forth his reasons for offering an amendment in the nature of a substitute to the pending amendment.

The Baker substitute would extend for 1 year the deadline for airport certification, but would not increase Federal cost sharing for safety equipment. Federal participation in funding for safety equipment, under the terms of the substitute amendment, would remain at 50 percent of total cost.

The distinguished chairman of the Aviation Subcommittee (Mr. CANNON) has expressed concern that the subcommittee has not fully considered those provisions of Amendment No. 347 which would authorize the United States to underwrite 82 percent of fire and rescue equipment procurement costs. As ranking minority member of the subcommittee, I share the chairman's concern.

Therefore I support the initiative taken by the Senator from Tennessee today. I will support the substitute amendment, which would give the FAA and the Nation's airport operators an additional year to meet reasonable safety standards for airport certification.

Mr. President, if Congress extends the deadline for airport certification to May 20, 1973, the Aviation Subcommittee will have an opportunity to consider promptly the severe cost-revenue squeeze which procurement of fire and rescue equipment would impose upon small airports.

I am confident that the subcommittee, after review of final FAA safety standards to be promulgated this fall, will recommend an increase in Federal funds for safety equipment if the regulations impose an unreasonable burden on small, nonhub airports.

KANSAS AIRPORTS CANNOT MEET PROPOSED SAFETY REQUIREMENTS

Mr. President, the requirements for fire and rescue equipment announced in the Notice of Proposed Rulemaking on May 14 are cause for deep anxiety in the aviation community. This anxiety stems not from a fear that the FAA will be unreasonable in its requirements. It stems from the fact that congressional directives to the FAA leave little latitude. Regardless of the form or content of the final rulemaking, many small nonhub airports clearly will be required to procure firefighting and rescue equipment prior to certification.

Conditions in Kansas are typical of conditions throughout the Nation. In Kansas, nine airports serve regular commercial airlines—Wichita, Topeka, Salina, Manhattan, Tri-Cities at Parsons, Garden City, Liberal, Goodland, and Hays. Unless money is provided for upgrading to meet Federal safety standards, eight of these nine airports stand to lose certificated air carrier service.

As of this time, only the Salina airport meets minimum Federal standards, as set forth tentatively in the May 14 FAA directive. The cost of upgrading the eight remaining Kansas airports has been estimated conservatively at $1 million. Nationally, certification of 530 airports will require an estimated $80 million, primarily for fire and rescue equipment.

Under the terms of the Airport/Airway Act, the Federal Government is authorized to grant approximately $40 million of this estimated expenditure—or 50 percent of the total cost in matching funds. Airport operators from throughout the Nation have notified the FAA and my office that—even with 50 percent Federal funding—they cannot meet proposed minimum requirements.

Therefore, Mr. President, I believe the Aviation Subcommittee after full deliberation will conclude that increased Federal participation in funding is warranted in this instance. Should the Federal share be increased to 82 percent, for example, airport authorities would be relieved of about $26 million in safety equipment procurement costs.

I will support the Baker substitute. The 1-year extension will permit subcommittee consideration of all aspects of the safety equipment problem. I urge that hearings be held at the earliest practicable time on the ways and means of financing safety equipment. Further action must be taken to insure that burdensome costs of compliance do not jeopardize air service to small nonhub airports.

Unless the final rules differ substantially from the Notice of Proposed Rulemaking, additional assistance for fire and rescue equipment will be required prior to the certification deadline. I believe it is the obligation of Congress to provide that assistance.

Mr. BAKER. Mr. President, this amendment has been discussed with the distinguished manager of the bill. The net effect of it is to extend by 1 year the time in which the requirements for certification must be complied with. The original proposal went further than that. The substitute I am now offering deals only with the time frame involved. I am hopeful that the manager of the bill might see fit to accept it as an amendment to the bill at this time.

Mr. CANNON. Mr. President, I agree with the basic principle of the extension for the 1-year period. I offer an amendment in the nature of a substitute to amendment No. 462.

The PRESIDING OFFICER. The clerk will state the amendment in the nature of a substitute.

The legislative clerk read as follows:

On page 3, after line 18, insert the following:

"Section 104. (a) Subsection (b) of section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)) as added by section 51 of the Airport and Airway Development Act of 1970) is amended by striking all after the word 'transportation' in the third sentence thereof and inserting in lieu thereof a period.

"(b) Paragraph (4) of subsection (b) of section 51 of the Airport and Airway Development Act of 1970 (84 Stat. 234, 235) is amended by striking out 'two-year period' and inserting in lieu thereof 'three-year period'."

Mr. CANNON. Mr. President, the second part of the amendment I have just offered, subsection (b), is the same as the provision of the distinguished Senator from Tennessee which would extend the certification deadline for 1 year.

Mr. President, this amendment is intended to deal with a problem brought about by the original Airport-Airways Act, but which has come to my attention only following the hearing and markup on the legislation before us today.

Mr. President, in developing its version of the original act in 1970, the House adopted provisions requiring for the first time that all airports in the United States served by certificated air carriers be certificated by the Federal Aviation Administration. The House believed that an additional margin of safety could be provided within our national air transportation system if the United States certificated and continually inspected airports just as airmen and aircraft are now certificated by the FAA. Specifically, certification it was thought would eliminate what some believed were marginally safe conditions at some of the Nation's more than 535 air carrier airports. In addition, it was said that certification would provide exacting safety standards that would have to be met by the airport operator as a condition of retention of his operating certificate. Unsafe practices or failure to comply with the terms of certification could result in the suspension or revocation of the certificate which in turn would lead

to the suspension of air carrier services at such airport.

Mr. President, we in the Commerce Committee in developing the airport/airways legislation never considered establishing airport certification. The matter was only very briefly discussed in our hearings and never was mentioned in markup sessions. Nonetheless, when we went to conference with the House to seek final agreement on a bill, we in the Senate yielded and accepted the airport certification provisions which were a part of the House bill.

Since passage of the legislation in May 1970, the FAA has been working toward establishment of a series of airport standards which must be met by all air carrier airports. Under the 1970 law, airport operating certificates will be required beginning May 21, 1972; little more than 7 months from now.

Mr. President, after working closely with many facets of the aviation community to develop airport certification standards, the Federal Aviation Administration on May 14, 1971, in an advanced notice of proposed rulemaking issued its preliminary conclusions and invited comments on the proposals.

The preliminary rulemaking, to say the least, touched off a storm among airport operators and I am sure that many of my colleagues quickly became aware of the opposition which resulted.

While most of the proposals made some sense—even though the time remaining to implement them was quite limited—several seemed at best designed to materially increase the operating costs of more than 300 small airports without significantly adding to the safety of air transportation at those locations.

Specifically, the advanced notice of rulemaking contained a provision that would require fire and crash rescue equipment be provided and manned at all air carrier airports regardless of the number of air carrier operations at those airports. In addition, the advance proposal also would require that the fire and crash rescue equipment be able to respond to an emergency on any part of the airport property within 2 minutes.

Mr. President, these requirements, if imposed at many of the Nations' smaller airports which serve at most only a few airline flights a day, will create a most severe financial burden while providing very little, if any additional safety to the passenger. Clearly, the FAA has come up with an unrealistic requirement; one which should not be blanketed across the board applying to more than 535 airports from the largest to the smallest. I am sure many of you have been told by airport operators in your States that in some instances the cost of manning this unnecessary equipment will exceed many airports' total annual operating budget. In addition, the requirement that the equpiment be able to respond to any portion of the airport within 2 minutes will create the necessity—in many cities and towns—to completely relocate existing fire stations on airport properties.

Mr. President, the cost of maintaining a sophisticated fire and crash rescue capability may make good economic sense at our large airports where hundreds of airline operations take place daily. But to require similar capability at our very smallest airports is not practical at all. If adopted these harsh and unreasonable standards could lead to closure of many small airports and the resultant loss of air carrier service to the community.

While the proposed requirement I have spoken of will be extremely costly—both in terms of initial investment and in annual recurring operation and maintenance costs—there is no evidence available of which I am aware which indicates that this requirement will significantly reduce death or injury sustained in aviation accidents. The available data which I have seen indicates that fire and crash rescue equipment—even at the largest airports—is not an important factor in saving lives following aircraft accidents.

With the doubt which exists about the effectiveness of this type of equipment in saving lives, it is ironic indeed that the FAA should consider requiring it while the Agency has yet to install the most basic navigation aids at many of our small airports. Such safety items as instrument landing system, visual approach slope indicators, control towers and airport surveillance radars are not available at most small hub and non-hub airports in the United States today. And time and again it has been proven that the availability of this assistance and these navigational devices greatly increase the safety of operations—whether air carrier or general aviation.

Mr. President, I am told that while the FAA would prefer not to establish a blanket requirement for fire and crash rescue equipment at all U.S. air carrier airports, the Agency believes it is required to do so by the 1970 act. Specifically, the FAA's General Counsel has interpreted section 612 of the Federal Aviation Act, which was created by the Airport and Airway Development Act, to require that all air carrier served airports have fire and crash rescue equipment.

Mr. President, I do not believe that Congress ever intended to create operating certificate standards and regulations by legislation. This is not our role. Rather our job is to draft legislation encompassing broad guidelines and to leave the drafting of specific rules and regulations to the air safety experts at the Federal Aviation Administration. We do not have the expertise in this highly technical area to prescribe, legislatively, safety standards for all air carrier airports in the United States. Therefore, in my judgment section 612 is poorly written—it is too specific—it provides no flexibility for the rulemaking process and it will result in unreasonable regulations which will add a significant financial burden to many small airports throughout the United States.

Mr. President, my amendment is quite simple. It simply removes paragraphs (1) and (2) of subsection (b) of section 612 thereby leaving completely to the discretion of the Federal Aviation Administration the requirements for airport operating certificates. Second, it postpones for 1 year the date on which operating certificates will be required. I offer this amendment because of the fact that the agency does not believe that sufficient time now exists to complete the rulemaking process and to bring all airports into compliance.

Mr. President, I ask unanimous consent to have printed in the RECORD a recent letter indicating the agency's position on this situation.

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

SEPTEMBER 27, 1971.

Hon. HOWARD H. BAKER, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAKER: This is in response to your letter of 13 September 1971 concerning your Amendment No. 347 to S–1437.

One of the provisions of your Amendment would extend the date of airport certification implementation from 20 May 1972 to 20 May 1973. Based on comments we received in response to the Notice of Proposed Rule Making (NPRM) of 14 May 1971, most of the smaller airports need this additional time to meet the minimum safety standards now contemplated in our proposed Federal Air Regulation. The aviation industry and the Federal Aviation Administration (FAA) would find the additional year advantageous for the provision of a more thoroughly prepared and reasonably executed certification program.

Comments received in response to our certification NPRM indicate that many of the nation's smaller airports would experience difficulty in financing the costs of required safety equipment. The certification rule is being drafted to be as responsive as possible to the need to minimize this economic burden while assuring the enhancement of safety in keeping with the provisions of Public Law 91–258.

Late this month, this proposed rule will be thoroughly reviewed by the FAA Regulatory Council. This is the final important step by our agency in the promulgation of the airport certification rule. After this action is completed, we will be in a much better position to discuss the rule content and to estimate its economic impact.

With this in mind, I would appreciate your indulgence in my delaying the answer to the specific questions in your 13 September letter until the Regulatory Council review has been completed.

Sincerely,

J. H. SHAFFER,
Administrator.

Mr. CANNON. Mr. President, I urge the Senate to adopt my amendment.

Mr. BAKER. Mr. President, I wish to make it clear that I do not join issue with the distinguished manager of the bill on the import of section 104(a) of his amendment to my amendment. I think however, that a point of order might lie, in that my amendment No. 462 was an amendment to amendment No. 347, and there may be a question of an amendment in the third degree.

I would prefer having the 1-year extension, as contemplated by amendment No. 347, considered separately on its merits. Then, of course, we could proceed to the consideration of section 104 (a) of the amendment offered by the distinguished manager of the bill. I wonder whether the distinguished manager of the bill might consider accommodating me in this respect, since the two questions are related, but they are not identical?

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr.

STEVENSON). The Senator from Nevada will state it.

Mr. CANNON. Was the pending amendment No. 462? I understood it was 462. So far as I am aware, amendment No. 347 was never offered.

Mr. BAKER. It was my recollection—of course the Chair will rule—but I first called up amendment No. 347 and offered my amendment No. 462 in the nature of a substitute.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Tennessee first called up amendment No. 437, which we did not have at the desk. The Chair then inquired if the Senator meant amendment No. 347. The Senator said "No."

Mr. BAKER. The Chair is correct. I might add that amendment No. 437 was a juxtaposition of amendment No. 347. I do not make the point of order but use this for background in order to ask the distinguished manager of the bill if he will consent to considering these matters separately. I do not think it will cause any particular problem. The Senator agrees with it in principle, anyway.

Mr. CANNON. That is right. I have no objection to it at all. I do not understand, however, how we now go about it from the parliamentary standpoint.

Mr. BAKER. Let me try this, and we will see. I ask unanimous consent that the pending business before the Senate at this time may be my amendment No. 462.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed immediately to the consideration of amendment No. 462.

The PRESIDING OFFICER. Does the Senator wish his amendment No. 437 to be before the Senate?

Mr. BAKER. Mr. President, amendment No. 347 need not be considered and is not included in the unanimous consent request in order to avoid the conflict that the Senator from Nevada would have if he later decided to amend his amendment.

The PRESIDING OFFICER. The amendment is worded as an amendment to amendment No. 437. Where, therefore, is amendment No. 462 directed?

Mr. BAKER. Mr. President, I ask unanimous consent that the caption of amendment No. 462 be conformed appropriately so that it will read as an amendment to the pending bill instead of to amendment to 347.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the Senate will proceed to the consideration of amendment No. 462.

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Mr. President, am I now required to obtain unanimous consent to withdraw the substitute amendment which I had already offered to amendment No. 462?

The PRESIDING OFFICER. That has already been accomplished. The question is on agreeing to the amendment.

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

Mr. BAKER. I yield.

Mr. PEARSON. Mr. President, I say to the Senator from Tennessee and also to my distinguished chairman of the Aviation Subcommittee that there is not any doubt that the FAA and the Department of Transportation, in the implementation of what they believe the statute required, have caused a very substantial problem throughout the country today. I, in a parochial way, point to the problem in my State. Nine airports in the State of Kansas would require additional safety equipment and machinery. Eight of the cities would be absolutely unable to meet the financial requirement.

The Secretary of Transportation advised me this morning that rules and regulations set down were those thought essential and required by the statute. So, a problem of considerable proportion faces us.

I am advised that in Kansas it will take $1 million to fulfill the requirement. Throughout the Nation it would cost about $80 million.

We can all take congressional notice of the plight which so many cities face today.

I must say that I really favored—and I cosponsored—the original amendment offered by the Senator from Tennessee. That was to provide a new formula of Federal aid on the basis of 82 to 18 percent. We have some precedent in the present law for that kind of formula.

The chairman of the subcommittee is correct in insisting, I think, that further hearings might be of great help to the committee. The Department of Transportation and the FAA may come forward with a more reasonable and more sensible approach which would accommodate the needs of airport operators and also the safety requirements of the flying public.

The amendment of the Senator from Tennessee seems to be a most prudent way to obtain a solution to this particular problem. I join with him and support his amendment.

Mr. BAKER. Mr. President, I thank the Senator from Kansas. I am now glad to yield to the Senator from North Dakota (Mr. BURDICK).

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. BURDICK. Mr. President, as sponsor of an identical amendment, No. 460, I rise in support of the Senator's amendment. I also support the amendment of the chairman of the subcommittee. Both amendments are intended to achieve the same result.

I would also like to commend the chairman of the subcommittee and to be associated with his remarks for the reasons he has given, in support of the amendment.

I, too, come from an area where we have small hub and nonhub airports where a financial problem would be involved. I think that a year's extension would give us time to work out some solution to alleviate the problem that such regulations might entail.

It has become clear, since Congress favorably acted upon the Airport and Airways Safety and Development Act, that small hub and nonhub airports may not survive even modest increases in operating costs due to requirements of airport certification delineated in section 612 of the act. Take, for example, the airport at Williston in my home State of North Dakota. Williston is the sixth largest city in North Dakota, with a population of 11,280. Williston serves as the hub for a thriving North Dakota oil producing industry. Air service is essential. The Director of the North Dakota Aeronautics Commission, Harold Vavra, has informed me that it would cost Williston $99,000 annually to comply with the airport certification requirements now being proposed by the FAA. This represents a total of $30.28 per passenger boarding on the CAB-certificated airline at Williston. This is more than the $30 average passenger fare per boarded passenger. Mr. Vavra has furnished me information indicating that similar situations exist in all North Dakota airports.

Airports, such as the one at Williston, individually serve less than 0.25 percent of the country's total air passenger enplanements but nonetheless are a vital link in the airways system. In fact, of the approximately 540 air carrier airports across the Nation, 463 are of the nonhub or small hub type. The role of the Federal Government in maintaining these essentially rural air freight and passenger outlets must be studied.

The adoption of the amendment presently before us would provide the time necessary for the Aviation Subcommitee, under the chairmanship of the Senator from Nevada (Mr. CANNON), to consider the complexities of increasing the Federal share. My bill, S. 2384, is just one such proposal pending before the subcommittee. My bill would provide Federal funding to alleviate crisis conditions facing airports already overburdened with high operation costs. I urge that hearings be scheduled at the earliest possible date.

Also, Mr. President, the 1-year extension for compliance with airport certification would allow both the Congress and airport interests to study Federal Aviation Administration rules which are to be drawn in accordance with section 612. Final certification standards have not yet been published and it would seem impossible to expect the subcommittee to view increased Federal funding proposals without the final rules in hand.

For these reasons, Mr. President, I urge adoption of the amendment before us.

Mr. BAKER. Mr. President, as I understand the parliamentary situation, the matter pending before the Senate is my amendment No. 462 as conformed pursuant to the unanimous consent request, which has the effect of amending section 51(b)(4) of the Airport and Airway Development Act of 1970 by striking out "2-year period" and inserting in lieu thereof "3-year period."

It would be considered as an amendment in the first degree by reason of the unanimous-consent agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I have nothing further to say except that I believe this is the minimum relief that should be afforded. I think we are all substantially in agreement with respect to this relief. I think that leaves the Senate in the parliamentary situation that allows the distin-

guished chairman of the subcommittee to proceed to other matters.

Mr. President, I am ready for the will of the Senate to be worked at this point.

Mr. CANNON. Mr. President, the Senator's amendment proposes a new section 102 to S. 1437.

Mr. BAKER. It should be conformed to section 104.

Mr. CANNON. Mr. President, section 102 of S. 1437 is one of the committee amendments. If the Senator desires to have this amendment considered separately, I am willing to accept the amendment and will not offer mine as a substitute to his.

Mr. BAKER. I would prefer to have it offered separately.

Mr. CANNON. We accept the amendment but the amendment must be modified to conform to S. 1437 as already amended:

Mr. BAKER. Yes.

Mr. CANNON. I point out that the language of amendment No. 462 at line 1 should be changed to read "line 1, section 104."

The PRESIDING OFFICER. The amendment is so modified. The question is on agreeing to the amendment as modified.

The amendment (No. 462), as modified, was agreed to.

Mr. CANNON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

On page 3, after section 104(a) add the following:

Section 104(b). Subsection (b) of section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)) (as added by section 51 of the Airport and Airway Development Act of 1970) is amended by striking all after the word "transportation" in the third sentence thereof and inserting in lieu thereof a period.

Mr. CANNON. Mr. President, what I have done is to send to the desk an amendment to add section 104(b) to S. 1437. Senator BAKER's amendment will be designated section 104(a) of S. 1437. I propose the remaining part of the amendment I proposed earlier as a substitute.

This amendment simply deletes from the present act the language which now leads the lawyer for the FAA to believe that the FAA must require that fire and crash rescue equipment be made available at all airports so that such equipment, in an emergency, can respond to any part of the airport in 2 minutes. This is an unrealistic requirement. The Senator from North Dakota pointed out that it would be practically impossible for some of these airports to conform.

In my State we have two airports, both of which are served by certificated air carriers and neither of them could afford to comply with this requirement. They have two landings and two takeoffs a day of certificated air service. From a financial standpoint it would not be practical for them to have fire equipment located on the field so it could respond to any portion of the field in 2 minutes.

What we are trying to do is to make it possible for the FAA to establish reasonable regulations for safety. I am sure all of the hub airports, of any size, obviously will be required to have fire and crash rescue equipment. But they should not make that a requirement for an airport serving only a few flights in and out a day.

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

Mr. CANNON. I yield.

Mr. PEARSON. Under the Senator's amendment would the Department of Transportation or the FAA still have the authority to require safety equipment consistent with the language that now appears in the 1957 act?

Mr. CANNON. Yes, absolutely. The only provision of the present act that is stricken by my amendment is that part that states:

Relating to—

(1) the installation, operation, and maintenance of adequate air navigation facilities; and

(2) the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.

The remaining part of the act as it would read in accordance with my amendment is:

ISSUANCE

SEC. 612(b). Any person desiring to operate an airport serving air carriers certificated by the Civil Aeronautics Board may file with the Administrator an application for an airport operating certificate. If the Administrator finds, after investigation, that such person is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this Act and the rules, regulations, and standards prescribed thereunder, he shall issue an airport operating certificate to such person. Each airport operating certificate shall prescribe such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation.

The FAA has full authority.

Mr. PEARSON. Mr. President, will the Senator yield further?

Mr. CANNON. I yield.

Mr. PEARSON. I recall the hearings. It was principally the Commercial Air Transportation Pilots Association which was so strong for this provision. I express the concern that, in seeking to solve this problem the Senator's amendment may give some indication of congressional intent that the language the Senator seeks to strike out is unnecessary. I am quite sure it is necessary in some of the great hub airports. I would not want to leave the inference by this amendment that the original language might not be necessary at some airports.

Mr. BAKER. Mr. President, will the Senator yield on that point?

Mr. CANNON. I am delighted to yield to the Senator from Tennessee.

Mr. BAKER. I understand fully the concern of the distinguished Senator from Kansas. I, too, share his concern that this legislative history we are now making not create the implication that we are reducing the requirements for safety. Rather, it might be said that by granting a higher degree of discretion to the Administrator it is theoretically possible in hub airports that the Administrator could make more stringent safety requirements than those spelled out in the bill.

Mr. CANNON. There is no doubt about that. At the major hub airports where there are a number of flights a day the Administrator should require much higher safety standards. In those cases there is more opportunity for exposure to accidents or incidents occurring. Therefore, standards there should be more stringent than at an airport where there is one airline takeoff and one landing a day.

We are trying to give the Administrator some flexibility which the Administrator's lawyers do not believe they have at the present time.

All Senators would agree that at our busiest airports, such as La Guardia, Chicago, Los Angeles, and Washington National, the highest safety standards must be met. But we should not put out of business a small airport servicing two or three flights a day because they cannot afford costly fire and crash rescue equipment.

Mr. BAKER. I agree with the interpretation. I think it strengthens the hand of the Administrator in this field. While I called for a division on this consideration, and asked that it be considered separately, I do support the amendment.

Mr. CANNON. I thank the Senator.

Mr. PEARSON. Mr. President, I regret that it is necessary for me to oppose the amendment offered by my distinguished chairman (Mr. CANNON).

Adoption of the Baker amendment permits adequate time to study, in committee, the requirements of small airports for fire fighting and rescue equipment—and the most appropriate method of financing that equipment.

I fear passage of the Cannon amendment could be misinterpreted by some to indicate a less than total commitment to wholly adequate airport safety requirements.

Therefore, I believe prompt hearings on this matter would be appropriate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CANNON. Mr. President, I have two technical amendments I would like to call up and I request that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments are considered en bloc.

The amendments will be stated.

The legislative clerk proceeded to read the amendments.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

I will make a brief explanation.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without

objection, the amendments will be printed in the RECORD, as follows:

SEC. 105. Section 609 of the Federal Aviation Act (49 U.S.C. 1429) is amended by inserting the phrase "(including airport operating certificate)" after the words "air navigation facility certificate".

At line 20, page 2 strike the comma following "section 11" and add a comma in line 21 following "(49 U.S.C. 1711)".

At line 23, page 2 strike the word "Airways" and insert in lieu thereof the word "Airway".

At line 22 page 3, following the number "1742" strike the "comma" and the words "Public Law 91-258".

On page 4 at line 2 following the comma after the word "Acts" insert the word "for".

Mr. CANNON. Mr. President, the first amendment has been suggested to the committee by the Federal Aviation Administration which has spotted what appears to be an oversight in the original Airport and Airway Act.

The Airport and Airways Development Act of 1970—Public Law 91-258—added section 612 to the Federal Aviation Act, authorizing the Administrator to issue airport operating certificates, and amended section 610 to make it unlawful, after May 21, 1972, to operate an airport without or in violation of an operating certificate. The act did not amend section 609, which contains specific authority for the Administrator to amend, modify, suspend, or revoke any of the enumerated kinds of certificates, which includes all certificates the Administrator is authorized to issue except the airport operating certificate.

While there probably exists authority for the Administrator to take enforcement action against airport operating certificates under the concept that such certificates are included within the definition of—section 101 Federal Aviation Act—air navigation facility certificates—specifically enumerated in section 609—the proposed amendment will clarify the authority and avert a possible legal challenge.

Mr. President, the second technical amendment is simply to correct errors which occurred in printing the bill. As the Senate will note, in several cases the punctuation was incorrect, the citation was redundant, and so forth. In addition, one word was left out.

I urge the Senate to adopt my amendment so that the bill in its final form will be correctly printed.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

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

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

Mr. DOMINICK. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. DOMINICK's amendment is as follows:

On page 4, after line 5, insert the following new section:

SEC. 202. (a) Section 4491 (a) of the Internal Revenue Code of 1954 (relating to tax on use of civil aircraft) is amended by striking out paragraph (1).

(b) The amendment made by subsection (a) shall take effect on July 1, 1972.

Mr. DOMINICK. Mr. President, I have had a private colloquy with the Senator from Nevada on this amendment. For the purpose of the RECORD, I think I should begin by explaining it.

The amendment is really a very simple one. The Airport and Airway Development and Revenue Act, as it was reported out in 1970, included a $25 annual registration fee for all aircraft. My amendment to delete that provision was accepted during the debate in 1970. Unfortunately, when the measure went to conference, the House refused to accept it, so my amendment was not accepted in the conference report.

Since I felt at that time it was extremely important that the Airport and Airway Development Act pass, I did not try to create a fight on the subject when the conference was reported to the Senate as a whole.

I did, however, have a colloquy at that time with the Senator from Louisiana (Mr. LONG), during which Senator LONG introduced a statement by Senator CANNON on the conference report. Both of them expressed regret that the conference had not been able to support this particular amendment and Senator LONG said they would follow through and ask for a report on the matter to determine whether my arguments were sufficiently valid so that they should be supported in a future bill.

The amendment I have here would do exactly the same thing. It would delete the $25 annual registration fee requirement. I think it is only proper to ask why I am doing this again. The answer is very simple.

As I had suspected when I first offered the amendment, the $25 annual registration fee, in fact, produces less revenue than the bureaucratic cost of processing these records, not to mention the inconvenience and the great difficulty on the part of the aircraft owner in trying to fill out the very voluminous report which is required when the annual registration fee is paid.

Second, I might add that it is very difficult for the FAA to keep track of exactly what anybody is doing. Consequently, those people who are honest pay the $25 and submit the report, while those people who are tired of redtape and bureaucracy and filling in more papers—there are millions of them all over our country—simple say, "I'm not going to bother with this," and they file it in the scrap basket, in file 13. Nobody ever knows whether they file it or not, unless a person happens to be called up on some violation by FAA and they go back through the records to see whether or not that particular owner has filed a report.

Consequently, it seems to me to be a totally unnecessary burden. It does not produce the revenue we wanted, and it creates more bureaucratic expense in the FAA. It does not produce any tangible results that would be of benefit either from the point of view of safety to the public at large, or from the point of view of the aircraft owner who is harassed by this, or from the point of view of the FAA being able to keep more accurate records and being able to follow up on whatever violations there may be.

This registration fee was originally put in by the Senate Finance Committee. It is my understanding, from my colloquy with the Senator from Nevada, that the difficulty in the bill now before us is that the Finance Committee has waived jurisdiction over this matter because there is no reference to financial matters in S. 1437. As a result, the distinguished Senator from Nevada does not feel that he could accept this amendment, even though he might be favorably inclined toward it in other circumstances.

Second, I also understand that the distinguished chairman of the Finance Committee, Senator LONG, is not available at the moment. Consequently, it would be difficult, if not impossible, for me to get any expression of opinion from him.

Those situations being as they are, it would seem that I have no alternative. Either I have to push this in order to get a vote on it—heaven knows whether we have a quorum today; I do not know whether we do, but I suppose we will find out in another hour. Assuming that we do have a vote, it is going to be very difficult, in the short time that this particular bill has come up, for me to contact enough Members of the Senate so that they will really know what this amendment is about and what it is designed to accomplish.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the colloquies I had with regard to these amendments in May of 1970.

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

COLLOQUIES BY MR. DOMINICK

Mr. LONG. Mr. President, I urge approval of this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared by the Senator from Nevada (Mr. CANNON).

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

"STATEMENT BY MR. CANNON

"Mr. CANNON. Mr. President, I am deeply disappointed that the Conference on the taxation provisions of the Airport/Airways legislation did not follow the Senate amendments on the general aviation fuel tax, and on the annual registration fee.

"We of the Commerce Committee worked hard for these amendments. We agreed on a 6¢ fuel tax and the Senate agreed with us. State taxes on aviation fuel already range as high as 8¢ per gallon, and more states are looking into this source of revenue. We are putting too large a burden on the private pilot.

"As to the annual registration fee, I had hoped the exemption to general aviation would also be adopted by the Conference, but unfortunately, the Senate receded.

"So I am concerned about what we may be doing to our private pilot friends. A fuel tax, a yearly registration fee, pretty soon transponders to go into our larger airports, all this with the states rushing to raise their taxes.

"As I stated, I am indeed sorry our conferees did not approve the Senate Amendments."

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

Mr. LONG. I yield.

Mr. DOMINICK. Mr. President, the Senator will recall that one of the amendments I offered, and which was agreed to by the Senate on a rollcall vote, struck out the $25 annual registration fee. Do I understand the conferees retained that amendment and that no longer do we have an annual registration fee?

Mr. LONG. The $25 registration fee would continue but I am happy to say we were able to prevail with regard to the poundage tax on smaller airplanes, in which the Senator was interested. The poundage tax would not apply to any piston engine powered airplane weighing 2,500 pounds or less.

That is 60 percent of all general aviation airplanes. I am happy to report that, at least with respect to that part of it, we were successful in retaining the concept for which the Senator from Colorado labored and as to which he prevailed on the floor, I regret that we were not able to prevail with regard to the $25 registration fee; but, in terms of dollars, the latter provision is a much larger item, involving an estimated $3.6 million in 1971 and $5.7 million in 1980.

Mr. DOMINICK. I had not understood that. The $25 annual registration fee, on which we had a rollcall vote, was really a nuisance tax as opposed to anything else, as I pointed out. Do I understand that that provision has been put back in the bill at the insistence of the House?

Mr. LONG. The House insisted on it. As the Senator knows, the House adopted the $25 registration fee. It was the Senator's amendment that struck the matter on the floor.

Mr. DOMINICK. That is correct.

Mr. LONG. We tried to prevail in that. The House conferees were rather adamant with respect to it. They would not yield on it, although they were willing to concede to us what I believe is a major item, in terms of money, affecting owners of smaller airplanes. As I have said, the small aircraft exemption would take the poundage tax off 60 percent of the airplanes used by general aviation.

Mr. DOMINICK. I must say I am glad of the latter part, and I think it is very helpful, but I must also say that the $25 registration fee will be a concern and be of intense annoyance throughout the whole country. It does not produce any new revenue. Additional personnel will have to be hired and a bureaucracy will have to be established to ascertain whether anybody has paid the fee. In the meantime, there is a requirement of periodic inspection, at least once a year. So there is an inspection of an airplane when it is originally certificated, which goes through its life, and now apparently a $25 annual fee has to be paid to keep it alive as long as the airplane is around.

Mr. LONG. Of course, it costs $25 for automobile license tags in some States of the Union, and I believe that is true here in the District of Columbia. What made it difficult was that some persons who were lobbying had indicated that they had great political power and that they were going to bring it to bear on the chairman of the Ways and Means Committee of the House, who had shepherded it through the House. I think that is the type of challenge on behalf of that kind of man, who is doing yeoman service for the country, which does not make it easier for the Senate's position when we go to the House and try to make the House yield to a Senate amendment.

I want to assure the Senator that we did not yield on this matter lightly; that we really tried to prevail on it; and it was only when we became convinced that we could not prevail on this item that we finally yielded.

I commend the Senator for his great fight, because he is one of the champions for the operators of small airplanes, and the Senator made a magnificent fight. Well do I know that, because he won, and I, as manager of the bill, lost, on the floor.

Mr. DOMINICK. I thank the Senator. I know that even though the Senator from Louisiana may not be in favor of an amendment, he fights for it when the Senate adopts it.

Mr. LONG. Yielding on that amendment made the House conferees drop the other part of the bill which would have put a heavier tax on the airplanes. The fact that the Senate conferees had to yield on that amendment strengthened their hand in respect to the other part of it that involved these same people—that is, the small aircraft exemption from the poundage tax.

Mr. DOMINICK. I am glad of that. I hope the Senator from Louisiana, as chairman of the Committee on Finance will take a look at this procedure after it has been in effect a while, because I think he will find that the cost of the added personnel will offset the revenues obtained from the fees. It will not result in added revenue such as would come from automobile fees, because airplanes must be inspected at regular intervals, and so it is highly expensive to comply with the FAA regulations and then have an annual registration fee that is not connected with safety in any way, but which is a harassment—not that the airplane owner cannot pay it. Obviously, if he is flying an airplane, he can afford $25. However, it is a question of building up a bureaucracy which will not result in any net gain in terms of better airports or facilities. That is the point I make.

I thank the Senator for his fight. I am glad it was effective in reducing the tax on weight.

Mr. LONG. I shall be glad to have a report on that matter. As far as I am concerned, the Senator's amendments is the Senate's position. That is the way the Senate voted. I have no doubt that is the way the Senate would vote again. If the Senator would like to have it, I will ask for a report on this matter. It might help lead to legislation on which we could agree with regard to what the Senate previously agreed to.

Mr. DOMINICK. I would appreciate it if the chairman of the committee would follow through, because I think the Senator will find that the cost of the number of personnel rquired to carry out this provision will offset what would be received as a result of the tax.

Mr. LONG. I will be happy to undertake that on behalf of the committee.

Mr. DOMINICK. Mr. President, will the Senator yield further?

Mr. LONG. I yield.

Mr. DOMINICK. The other amendment which was adopted——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMINICK. Mr. President, I ask unanimous consent that under the same conditions, we may proceed for an additional 5 minutes.

Mr. THURMOND. Mr. President, I yielded for only 4 minutes. I have to finish my speech. I shall be glad to yield 3 minutes of additional time, if the Senator can finish in that time.

Mr. DOMINICK. I thank the Senator. I will try to. Perhaps I can put a statement in the RECORD later which will continue the colloquy.

I offered an amendment to the bill requiring that all new aircraft, when they are manufactured, an x number of months after the enactment of the bill, and all used airplanes— and I am talking about fixed-wing prop airplanes—shall carry a device which will help locate them when they go down, called an emergency locator beacon. To my perfect shock, this proposal was first opposed by the FAA in a memorandum signed by the Secretary of the Department of Transportation. I talked with the Secretary about it. He obviously had never heard of it, so obviously it was an FAA procedure, and not the Secretary's.

Since then we have received assurances from both FAA and the Department of Transportation that they support the concept, which is interesting, since the FAA has opposed it for years, in spite of the fact that it has cost $8 million for search and find operations. When a person in an airplane goes down, he cannot be found. We do not know where he is. People will get killed searching for him. So here is a simple device, which now does not cost very much, particularly if it is going to be put on every aircraft, which is going to be invaluable to the owner in case of an emergency.

I understand that provsion was knocked out of the bill in terms of some kind of study; is that correct?

Mr. LONG. The House was adamant, I am informed, against this amendment, because of the very considerable cost of it; but I will say to the Senator that I was not a conferee on that part of the bill. That was a part of the bill on which the senior members of the Committee on Commerce conferred. It is my understanding from the chairman of the Committee on Commerce (Mr. MAGNUSON) that he was hopeful that this provision could be agreed to, and he regretted that it could not be. He would support what the Senator wanted to do as separate legislation in the future.

As I understand it, while the amendment has merit, the main reason why it was difficult to get the House conferees to agree to it was the cost. On that particular point, I regret to say I was not in a position to speak for the Senate, and, therefore, I am not as well informed as is the chairman of the Committee on Commerce.

Mr. DOMINICK. I can understand that, and I am sorry.

Mr. LONG. He told me he regretted that he could not prevail on this particular item of which the Senator had won approval, I believe both in the committee and on the floor, and that he hoped that at a future date that we could again act favorably on this measure.

Mr. DOMINICK. I thank the Senator, and I certainly hope we can get moving on it.

For the record, the costs the Senator refers to are original owners' costs. There is no cost as far as the taxpayer is concerned in connection with the amendment.

Mr. DOMINICK. I should like to say, for the purpose of the RECORD, that I fully intend to bring up these amendments the next time there is a finance bill which will be susceptible to this type of approach. I do not want to encroach upon the jurisdiction of the Finance Committee at this point, when they are not present, and have them consider the bill; and I do not, of course, want to embarrass the distinguished Senator from Nevada or the distinguished Senator from Kansas (Mr. PEARSON), who is a cosponsor of this amendment.

It is my hope that I can get more cosponsors and that we can impress upon the Finance Committee, as well as upon

Members of the House, that those of us who are interested in private aviation in particular, but also in aviation as a whole, feel very strongly about this. We have been taking actions here which simply add to the lack of credibility which the Government has with respect to accomplishing a useful purpose by a particular tax which may have been imposed upon the aircraft owners in this case, but could be imposed upon others in other circumstances.

I see that the distinguished Senator from Nebraska (Mr. CURTIS) is present at this time. I just want to say, in the event he did not have a chance to hear me, that I probably will not press this amendment at this point because of the jurisdictional situation which exists.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. DOMINICK. I yield.

Mr. CURTIS. First, let me say that I favor the amendment, as one member of the Finance Committee, and it is my hope that it will be taken up before long.

I ask the Senator this question: Is it pretty well documented that the processing of this fee costs the Government more than the income from the fee?

Mr. DOMINICK. I said in my opening statement that it is my belief that this is true, but I do not have the figures. I asked for those figures from the Federal Aviation Administration 2 to 3 weeks ago, and I still have not received them. I called for them again this morning, and I still do not have them.

I can say to the distinguished Senator that the form which is used for filing is so voluminous that I do not see how it could help but cost more than the amount of the registration fee. Certainly, the annoyance and the harassment that the aircraft owners, themselves, feel about this is almost sufficient in itself to conclude that it is not worth it.

Mr. CURTIS. My recollection is that this is a flat fee placed on all aircraft, regardless of size or power.

Mr. DOMINICK. The Senator is correct.

Mr. CURTIS. Does this fee fall on a sizeable number of private planes which never use our major airports?

Mr. DOMINICK. I would think that with the vast majority of them, it does. The private noncommercial aircraft, as the Senator well knows, encompass everything from experimental aircraft to the smaller Piper cub or Cessna to fairly substantial aircraft like Lear jets or Sabre liners. They all have to pay the same registration fee. But most of these aircraft are not used at major airports. They are used at the smaller county airports.

Mr. CURTIS. Does it cover agricultural planes that are used for the spraying of crops?

Mr. DOMINICK. To be perfectly frank with the Senator, I do not know. I do not remember whether aircraft used for agricultural spraying purposes were exempt from the original act. If they are not exempt from the original act, it would cover them.

Mr. CURTIS. I cannot remember, either.

However, my attention was called recently to an inequity in the gasoline tax. The usual pattern for someone who is engaged in the business of spraying crops is that he loads up his supplies at the takeoff point and flies to the fields where he has the contract, sprays the fields, and then returns to the owner's landing strip. These planes seldom, if ever, use an airport of any size. Is it not true that these fees and charges, in the first instance, were imposed for the purpose of helping to finance aircraft.

Mr. DOMINICK. There is no doubt that the fees were imposed originally for the purpose of helping to develop aviation facilities and in order to help the aircraft of this country as well as the actual airfields.

Mr. CURTIS. I thank the Senator for the work he has put in on this. It is worthy of consideration in the near future.

Mr. DOMINICK. I appreciate it very much. I said the last time that this amendment was accepted—as a matter of fact I say here that it was accepted and that we did have a rollcall vote and that it passed on a rollcall vote—so we have as additional assurance that at least in 1970 a majority of the Senate agreed with my position.

I am going to comment, if I may take a few minutes, on the Senator's comment regarding the gasoline tax, but I will do that later.

Mr. President, I ask unanimous consent to have my colloquy on this subject printed in the RECORD.

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

AIRPORT AND AIRWAYS DEVELOPMENT ACT OF 1969

AMENDMENT NO. 523

Mr. DOMINICK. Mr. President, I call up my amendment No. 523.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Page 112, strike out lines 5 and 6 and strike out "(2)" in line 7, and insert "the rate of,".

Page 112, line 13, strike out "under paragraph (2)".

Page 113, lines 3 and 4, strike out "that portion of the tax which is determined under subsection (a)(2)" and insert "the tax imposed by this section".

Page 114, strike out lines 2 through 11 and insert "this section, in the case of the year ending June 30, 1970, there shall not be taken into account any use before April 1, 1970.".

Page 116, beginning with "that portion" in line 10, strike out all through "on" in line 12.

Page 116, lines 21 and 22, strike out "that portion of".

Page 116 lines 23 and 24, strike out "which is determined under section 4491(a)(2)".

Page 118, line 25, strike out "that portion of".

Page 119, lines 1 and 2, strike out "which is determined under section 4491(a)(2)".

Page 120, line 4, strike out "that portion of".

Page 120, lines 5 and 6, strike out "which is determined under section 4491(a)(2)".

Mr. DOMINICK. Mr. President, I yield myself 10 minutes.

Mr. President, we have on page 112 a registration fee of $25 per general aviation aircraft. This was put in by the Committee on Finance. It is my recollection that it was not recommended by the Committee on Commerce, and it is my recollection that it was not one of the things that was wanted in the House bill. I may be wrong on the latter point. I am not sure.

The point I am trying to make is that a $25 fee for an annual registration for general aviation attempts to have a revenue measure put into a form of a need for policing or something of this kind. It is sort of a license fee for the cost of doing all the work.

The fact is that every airplane that is built is given an NC number when it is built and when it is put on the market and when it is bought and when it is sold; and every year that aircraft, in order to stay operable, has to have a periodic inspection, sometimes more often than that, depending upon how often it is flown. It is gone over with a fine-tooth comb by the FAA inspectors as well as by the group of people who actually do the work on it.

To put in an annual registration is something totally new. It means that every private pilot, every student pilot, and every person who is running a training school, no matter what it may be, will have to fill out forms on every aircraft they have and then send in the forms every year in order to fulfill the terms of the bill.

From this $25 so-called tax, $3.6 million will be raised from general aviation; $100,000 will be raised from the air carriers. If I am any judge of bureaucracy, having been here 10 years now, the total amount of money that will be raised by this bill will be used up in the process of taking care of producing the forms, making sure it is followed through, in additional inspectors, in additional clerks and secretaries and personnel of the FAA; and no money, in fact, will actually accrue to the fund we are trying to use for airplane safety.

It seems to me to be nonsense for us to impose this additional requirement on all the general aviation people and on the commercial people when you are not really going to get any money and then, in addition, you are putting in a requirement which inevitably will build up another bureaucracy.

I recall being in committee a couple of times and being in the Chamber and listening to someone say that at the present rate of progression, the Bureau of Indian Affairs budget would outdo the Defense Department within about 4 years. If we keep on going with the FAA the way it is going, it will outdo the Defense Department in about 2 years. It is zooming out of sight.

I see no point in putting in a tax which is going to be a burden in terms of paperwork in terms of expense, and in terms of not producing the money we need for the improvement of the aviation facilities of the country. It simply will not do it. We are talking about a total of $3.7 million a year the total which woul be raised from this, all of which, in my opinion, would be used up by personnel increases and personnel expenses. I do not see that it would do any good at all, and I am sure that it would be resisted strenously by almost everybody if they know it was in here. Frankly, this bill is so long and so detailed that members of the general aviation group, generally speaking, have not had time to funnel in on it and get their word in.

Speaking as one who owns an airplane and who is now trying to sell it—not for this reason but for other reasons—I can say that this is just a nuisance from beginning to end. It is going to mean much more bureaucracy, paperwork, and difficulty for base operators, for trainers, for people who run flying schools, and for the populace in general.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. I yield such time to the Senator from Nevada as he may desire.

* * * * *

Mr. CANNON. Mr. President. I yield to the Senator from Louisiana (Mr. LONG) such time as he may require.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I hope the amendment is rejected. General aviation is involved in 80 percent of the operations on the FAA controlled airports. As a result of yesterday's amendment, general aviation would pay only 7½ percent of the cost of air safety and the cost of the airports, and there will be another amendment seeking to make it even less.

Ten years from now, it is projected that general aviation will have 90 percent of all operations and will be paying a smaller percent of the cost.

I understand that there will be another amendment offered so that general aviation would have 80 percent of the airport operations and be paying 6.8 percent of the cost.

I presume that amendment would be followed by another amendment so that 10 years from now, general aviation would have 90 percent of the airport operations and pay only 1 or 2 percent of the cost of operations.

It would be an outrage to think that a plane with 120 passengers, or a jumbo plane with 300 passengers, would have to circle around waiting for an opportunity to land while a man with a two, three, or four place airplane and no one but himself in it is up there just practicing landings. He would be making all of these people wait for their airplane to land. They would be waiting for this fellow to practice another landing.

General aviation has 80 percent of the landings and take offs, but are paying less than 7.6 percent of the tax without this amendment.

Some Senator says that is too much, that we should cut it down and let them pay less. If this amendment is agreed to, the Senator has another amendment that would make them pay still less.

It seems to me it would be right for us to say we should not charge them anything—just tell them that they cannot use these airports. Why should they be permitted to have 80 or 90 percent of the activity of the airport and pay only 7.1 percent, as it would be with this amendment? As the bill stands now, it is 7.6 percent.

It is not fair or just. I do not see how Senators can go back home and report to their constituents that even though the other fellow has 80 percent of the operations, their constituents must pay for 93 percent of the cost, although the other fellow is conducting 80 percent or more of the operations and is only paying 7.5 percent. I do not see how the Senators can tell their constituents "That was too much, so we cut it down to 7.1 percent and then to 6 percent, and then to 3 percent and then to 1 percent, and then perhaps to zero." These people ought to be paying the most.

This $25 annual charge on an airplane that is holding up another airplane that has 100 passengers and is trying to land on the air field is less than an automobile license in many States.

With all of the air safety which is to be provided and the airport and air facilities that these people are permitted to enjoy, it would seem they ought to pay something. The airlines do not object to paying 93 percent of the tax. They are willing to pay. The commercial users pay it. The airlines add it as part of the price of the ticket to the people who fly. All they ask is that general aviation, which has 80 percent of all airport operations—and is projected ahead 10 years to have 90 percent—make some reasonable contribution in terms of justice, simple equity, and safety.

The people who fly on the commercial airlines are paying for this. And the flyboys, the fellows with the private airplanes, who get the benefit of 80 percent of the operations—and a prospective 90 percent—are the fellows who are paying just 7.6 percent of the cost. They still say that is too much. If amendments are adopted by the Senate reducing the cost to general aviation, at some point many people will say that general aviation users ought to be told to quit using the facilities, that general aviation ought to be roped off from the fields and told to land in the pastures where there is very little expense in using their own airplanes.

I have flown in some of these airplanes. It is nice to be invited on a trip by someone who can afford to have his own airplane. Then he can make an airplane carrying 130 people wait while he lands in front of it, and he enjoys all the facilities these people are paying for.

But simple justice and fairness would suggest that the people who have 80 percent of all operations to pay at least 7.5 percent of the cost of the program.

I hope the amendment is rejected. I think that the commercial aircraft industry that is paying 93 percent of the cost under the pending bill, as it now stands, should not be further imposed upon for the benefit of those who pay little and obtain the greatest use of these airports.

Mr. DOMINICK. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. On whose time?

Mr. DOMINICK. I am not going to use my time on the quorum call.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Cilorado has 24 minutes remaining.

Mr. DOMINICK. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. DOMINICK. Mr. President, I have listened to the Senator from Louisiana, for whom I have great affection. I do not agree with him at all.

In the first place, I do not think the bill does what he says. I think we can see that by the fact that $270 million is going to go into certificated airline airports and $30 million is going to go into general aviation relievers. That disposes of his argument that 80 percent of the operations are being devoted to general aviation.

If he is trying to get money into the fund, this is not the way to do it. The $25 annual registration fee is for nothing but paperwork. We will have to have more personnel enforcing it than we could get money out of it. Before we got through with the clerks and the paperwork and the filing and the whole schmerz, as they say, there will be nothing left in the way of revenue, and we would have to take it out of commercial aviation and the general population.

I cannot for the life of me see why we put this type proposal in except on the basis that it is somewhat similar to an automobile license fee. Here we have a limited number of aircraft. Each has a permanent number when it is built. We have an inspection system already. It is not needed for safety or identification. All that would be done would be to levy a tax.

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

Mr. DOMINICK. I yield.

Mr. GOLDWATER. Mr. President, I would like to make the point that the $25 does not diminish after the first year, so it is not like an automobile license tag. It would be $25 even though the aircraft depreciates faster than an automobile. You would pay $25 a year on a 20-year-old plane; whereas, on a 5-year-old automobile, you would pay a couple of dollars. So the argument that it is like an automobile license fee is not true at all.

Mr. DOMINICK. The Senator is correct. Both of us have flown Twin Bonanzas. We know the last time they were made was in 1956.

The second point I would make is that if the analogy is drawn with an automobile, there would not be the depreciation level that there is in connection with automobiles. In addition, in highway construction we do not say that buses will have first priority. We provide that the general population using highways have just as much right to the highways as anyone else. So why should it be said that commercial airplanes should have a priority? If you are a pilot, in my opinion, or in commonsense, you should give them the priority because they might run over top of you.

The legal question does not make sense at all. I have just a few more comments. What we are trying to do is build up a fund so we can improve safety, airway communication channels and put in lighted approach systems on more airports around the country for the benefit of everyone.

If we are trying to build a fund for that purpose it does not make sense to put in a registration fee, the total of which is going to be used for inspectors, clerical help, and so forth, and none of which will go into this work we want to do under the bill, in my opinion.

As I have said, I hope Senators will support this measure. I think this matter is a headache and something that is going to create deep bitterness around the country. It is something that any person who owns an airplane can probably pay, so it is not a question of that. It is a question of just sheer annoyance at having one more thing happen where no benefit comes out of it in terms of safety fund money or accomplishing the objectives of the bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield myself 2 minutes.

Mr. President, I cannot leave unchallenged the statement made by the able Senator from Colorado about the very heavy administrative cost of collecting the mere $25 registration fee. The Federal Aviation Administration advises us that they can put all of this information on electronic tape and provide it to the Treasury at a minimal cost; and the administrative cost of collecting the $25 annual charge on these private planes would be very small. I do not know the precise amount, but they say it would be minimal. So the idea of great administrative cost is not correct.

These planes have to have numbers for identification purposes anyway, and all one would have to do would be to run it through a computer and take in the $25 a year. The cost to the taxpayer is less, relatively speaking, than the cost of an automobile license in a great number of States of this Union.

What is being provided to these people fantastically exceeds what is provided to the automobile user in terms of the automobile license tag. It is a fair tax and it is just.

These are very, very favored taxpayers conducting 80 percent of the airport operations, and a projected 90 percent, and pay-

ing only about 7½ percent of the cost. It is not fair and just. The airlines, operating for the multitude of 200 million Americans who fly on airplanes, say, "We are willing to pay the lion's share but we want the other fellow to pay some reasonable charge if he is going to share these facilities and enjoy 90 percent of the operations."

Mr. President, I hope the Senate will not agree to the amendment.

Mr. DOMINICK. Mr. President, on page 11 of the report of the Committee on Commerce in the recommendations they make concerning aviation user charges, No. 5 states:

"Levy an annual airplane registration fee on airplanes used in commercial aviation of $25 plus 3 cents per pound of gross certificated takeoff weight."

It does not say anything about general aviation; it refers to commercial aviation. That refers to certificated carriers and charter flights used to transport people in order to make a profit. It does not say general aviation.

Mr. President, I hope the Senate will support my amendment.

Mr. LONG. Mr. President, if I may comment on that, I yield myself 2 minutes.

That is one of the problems we faced on the Committee on Finance. We do not have the privilege of spending all that money. We are trying to pay for all of this. It is not a burden on the Committee on Commerce or the Committee on Appropriations, or any of the authorizing committees to try to find revenues to pay for these things. I am happy to serve on the Committee on Commerce. They appropriately did not try to dictate to the Committee on Finance how this should be financed. They acted on the bill and handled the authorizing part as they should and in good grace suggested to the Committee on Finance that it should look over the financing sections to see how this matter could be paid for. We have done the best we could.

We favored general aviation and in some respects reduced their tax burden.

However, any amendment of this sort further reduces the trust fund for air safety. These people in private airplanes should be just as interested in this as commercial airplanes and they should be willing to make a contribution to it. They can have 80 percent of the operation, and in the future 90 percent of the operation, but it costs just as much to bring a single private airplane into the landing pattern with only the pilot in it and bring him down on the runway in safety as it does to bring in a plane with 300 passengers, put it into a flight pattern, and bring that plane down in safety.

These are really favored taxpayers. I do not believe anybody in good conscience could object to paying this charge. I like them; they are good people; but they should be willing to pay something. Many of them are flying planes for large corporations and making huge profits. They are every bit as able to pay a tax as the little fellow who goes out and buys a ticket to ride on an airplane, who is bearing the burden in many instances. There are corporation executives in airplanes who are better able to pay this tax than these individuals.

In many instances these corporations, having a large number of planes so that their supervisors and their foremen can fly back and forth to work, as they do in Louisiana, pay the expense anyway. The corporation pays it and the employee uses the airplane. So in many instances the people in general aviation are far better able to pay the tax than the little fellow flying on the airline, who will be picking up much more than 90 percent of the taxes, under the bill as it stands.

I think when the average citizen, the little fellow who is not privileged to fly free of charge in these private airplanes, the man who buys a ticket to fly, finds out that these fellows with private airplanes—who can go any time they want, who have airplanes standing by, who have pilots standing by, who can use the airline if they want to or discard use of the airline and fly their own plane if they want to—find out that when he is buying a ticket he is paying 90 percent of the cost, and the executive pays nothing, or virtually nothing, he is going to resent it.

It is surprising the extent to which these matters become ridiculous when we consider that here is an airport paid for by the taxpayers when 90 percent of the use of it is by private flyers who are paying virtually nothing, while the little passenger who buys a $16 or $20 or $50 ticket to make his one or two trips a year must pay 90 percent of the cost and enjoy only 10 percent of the benefit. It can become tiresome, and indeed, I should think, a source of anger, when people realize that those who pay the most get the least, those who are the most in number and bear the most cost get the least, and those who are the smallest in number and pay the least get the most. It does not make any sense.

Much as we may like those people as we contemplate their pioneering instincts, when it comes to thinking of air safety for the masses, we must remember that those enjoying only 10 percent of the benefits are paying 90 percent of the cost.

Mr. DOMINICK. Mr. President, in view of the statements made by the Senator from Louisiana, I yield myself another 3 minutes. Then I shall yield back the remainder of my time and be ready for a vote.

I have listened carefully to the Senator from Louisiana. I could not disagree with him more. What he is saying is that general aviation should not be allowed to use airports where certificated airliners come in. They are taxpayers, just like everybody else. As a matter of fact, if they are flying those planes, they are probably paying high taxes, as the Senator knows. In addition to that, they are traveling all over the country and using other airports than the big hub airports the Senator is talking about. But they are, in terms of numbers, carrying more people than the airlines are, which is an interesting phenomenon. I am not sure the Senator from Louisiana recognizes that fact, but it is true. They fly from one spot to another in the country. Wherever they go, they are doing a tremendous job. These are business aircraft and corporate aircraft.

When the Senator says we have to wait while all these people are clogging up the airways, I point out that the real fact is that anywhere we have the problem, such as we have in New York, O'Hare, and sometimes in Miami, the great bulk of that is caused by the scheduling of the airlines. It is not crowded in the middle of the day; it is between 5 and 8 o'clock at night, and certain times in the morning. We can see it right here at National Airport. The great bulk comes at certain hours from the air carriers, all at once, and we simply do not have the equipment to handle all that traffic.

If we can build up this system to the point where we can have the equipment and have the relief airports the Senator referred to, then we will be able to solve the problems of the airlines and also have a place where those who are paying the most in terms of general revenues can go when they are flying their own airplanes.

The air carrier does not pay any of the $40.5 million in fuel taxes. It is an interesting facet which has not yet been brought out. I think we ought to look at it in terms of whether we are going to accomplish what we want to do when we put that kind of burden on general aviation. That is the issue.

Mr. LONG. Mr. President, I yield myself 2 minutes.

The Senator just got through making the statement that general aviation carries more passengers than commercial aviation does. Under that concept, general aviation will pay only 7.5 percent of the cost and commercial aviation will pay 92½ percent of the cost. When general aviation carries more passengers than commercial aviation, and will conduct 80 percent of the airport operations, and 10 years from now it will be 90 percent, it is not reasonable to insist that 7.5 percent is too much for general aviation to pay, while commercial aviation users pay 92½ percent?

I have gone aboard many private airplanes. I hate to admit it, but confession is good for the soul. When I went aboard those private airplanes, I paid nothing. Usually somebody else paid for it. It was usually the corporation that owned the airplane.

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

Mr. LONG. I yield.

Mr. PASTORE. And how much of that is deductible as a business expense? Practically all of it, is it not?

Mr. LONG. Yes. So if general aviation is carrying more than commercial aviation and is paying only 7.5 percent and conducting 90 percent of the operations at the airports, what kind of argument is it to say that 7.5 percent is too much for general aviation to pay?

I had a friend who was trying to work his way through school. We made a downpayment on an airplane, and I had a lot of fun with it. I would be the first to say from that experience that we could have paid $25 to enjoy the facilities of the airport, especially when somebody else was paying most of the cost and we were getting most of the benefits. We could have very readily paid $25 a year. It costs too much to get license tags for automobiles in most States, and the safety problems involved in flying are many times as great as the problems involved in safety on the highways.

Mr. PERCY. Mr. President, my able and distinguished colleague, Senator RALPH SMITH, has long had an interest in general aviation. As speaker of the House for the Illinois General Assembly, he worked to improve aviation in Illinois. He saw the tremendous benefit it brought to smaller communities with adequate airports that could thereby attract needed industry. He saw the extensive use of aircraft by educational interests such as the University of Illinois to further their work. He has always felt that the ownership of aircraft by private individuals helped the Nation to maintain a reserve of experienced pilots.

It was his intention to call up today two amendments of his own but, regretfully, prior commitments in the State of Illinois required that he leave Washington this morning. However, I understand that he conferred with the distinguished Senator from Colorado (Mr. DOMINICK), and it is my further understanding that the amendment that Senator DOMINICK now offers would accomplish much the same purpose as the amendments of Senator SMITH; namely, to lessen the financial burden on smaller noncommercial aircraft by removing the 2-cent per pound tax. It brings in relatively little revenue and constitutes a major burden. I know that there were a number of Senators who wanted to support my colleague were he here in person to call up his amendments. I, therefore, urge that they support the amendment of the Senator from Colorado (Mr. DOMINICK) which would in effect accomplish much the same purpose.

I ask unanimous consent to have printed in the RECORD the amendments of Senator SMITH, together with his sound reasoning to support them.

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

SMITH AMENDMENT NO. 1

AMENDMENT NO. 524

On page 112, line 7, after the words "aircraft", add "except an aircraft in noncommercial aviation (as defined in section 4041 (c) (4),".

EXPLANATION

This amendment would exempt all *non-commercial* aircraft from the 2¢ per pound poundage tax to be imposed under H.R. 14465 on all aircraft, commercial and non-commercial, with a seating capacity for more than 4 adult individuals (including crew).

All other taxation on non-commercial aircraft to be imposed under terms of H.R. 14465 as reported would remain intact. Owners or lessees of such aircraft would remain liable for: (1) the 7¢ per gallon tax on both gasoline and jet aviation fuel to be imposed under H.R. 14465; (2) the $25 tax on use of civil aircraft to be imposed under H.R. 14465; any other tax presently levied or to be imposed by H.R. 14465 (see list at Table 6, Finance Committee Report, page 10).

According to the Commerce Committee Report (pages 51–53) this measure will authorize the expenditure of $270 million per year for ten years for commercial or commercial-service related airport facilities, but only $30 million per year for general aviation-related facilities. But far more significant is the spending plan for airways systems, navigation aids, etc. According to the report, in-route automation, radar, and center buildings will get $707 million; navigation, ILS, categories 2 & 3, VISTOL, and navigation refining will get $249 million; terminal tower construction, automation, and radar will get $523 million. All of these are services rarely, if ever used by the small, non-commercial aircraft; but are the very life blood of the airlines and other commercial air users. Fairness and equity tell us that we must not charge the small non-commercial plane owner and user for services they do not use.

SMITH AMENDMENT NO. 2

AMENDMENT

On page 112, line 9, before "2 cents" add "except an aircraft in noncommercial aviation (as defined in section 4041(c)(4) capable of providing a seating capacity for 6 adult individuals (including the crew) or fewer."

EXPLANATION

This amendment would, in effect, *exempt all non-commercial* aircraft having a seating capacity of *6 or fewer* adult individuals (including crew) from the 2¢ per pound poundage tax to be imposed under H.R. 14465 on all aircraft, commercial and non-commercial. As presently written, H.R. 14465 would, in effect, exempt all aircraft, commercial or non-commercial, with four or fewer seats (Finance Report, page 112, lines 7–8). That is a small concession to the very small plane owner, whether commercial or non-commercial. But it may also be a very big concession to the big cargo plane owner, if he has only 4 or fewer seats on board. Reading the poundage tax section as presently written, the owner of that big, commercial, cargo aircraft is going to escape poundage taxation. I don't think he should.

Our interest ought to be to spare the small plane owner who uses his plane for pleasure or in his small business, as we use our autos; but not to spare the commercial aircraft owner, who, in effect, is using his plane as a taxi or delivery truck—for profit. A statement issued by the Finance Committee indicates that the present language would exempt 55% of general aviation aircraft from the poundage tax. It would certainly appear to exempt a large percentage—or all—of commercial cargo aircraft as well.

In speaking on my first amendment I have already discussed the inequity inherent in taxing small non-commercial aircraft to pay for facilities and services they rarely use.

The Finance Committee recognized this inequity but apparently was not prepared "to go all the way" to eradicate it. They exempted all planes with four seats or less. According to the Committee's press release on the day H.R. 14465 was reported, this exemption covers 55% of general aviation aircraft. According to the Committee Report, page 20, the exemption covers 75% of general aviation aircraft. Neither document indicates the sources of those figures. According to informal estimates I have received from the Aircraft Owners and Pilots Association, the 55% figure would be more accurate than 75%. Whichever figure the Committee prefers, it is still not high enough, not selective enough, to be fair and equitable to the small, non-commercial aircraft owner who never use the systems and facilities the tax is being levied to build and maintain.

Well, the question then becomes, where do you draw the line? If you're not going to exempt all non-commercial aircraft, why not as many as are likely to be owned and operated for personal or family pleasure, or for small business use? I am informed that there are approximately 97,600 such aircraft, out of a total of approximately 124,000 aircraft in general aviation. These are planes whose power plants limit their seating capacity to 6 or fewer places, including pilot. Most Senators who have flown in small non-commercial planes will, I believe, recognize that drawing the line at 4 or fewer seats (including pilot) isn't going to relieve all of the small plane owners that fairness requires be exempted. The father with a wife and three children who flies for family pleasure is going to pay the poundage tax, but the air cargo operator who wisely puts only three seats on board his big payloader is not! I doubt that my colleagues are prepared to support such a result.

Mr. DOMINICK. Mr. President, I am willing to yield back the remainder of my time.

Mr. LONG. Mr. President, I am willing to yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Colorado. The yeas and nays have been ordered, and the clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, may I suggest most respectfully that all Senators be directed to take their seats before the vote is resumed? All Senators.

The PRESIDING OFFICER. The Senate will be in order. All Senators will take their seats before the rollcall continues. Senators will please take their seats, so that the clerk can call the roll.

The rollcall was concluded.

Mr. MANSFIELD (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished senior Senator from Georgia (Mr. RUSSELL). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Georgia (Mr. RUSSELL), the Senator from Maine (Mr. MUSKIE), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH), and the Senator from Arkansas (Mr. FULBRIGHT) are absent because of official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. FANNIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

If present and voting, the Senator from Arizona (Mr. FANNIN), and the Senator from South Dakota (Mr. MUNDT) would each vote "yea."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from Utah (Mr. BENNETT). If present and voting, the Senator from Illinois would vote "yea," and the Senator from Utah would vote "nay."

The results was announced—yeas 45, nays 40, as follows:

[No. 64 Leg.]

YEAS—45

Aiken, Allen, Allott, Bayh, Bellmon, Bible, Brooke, Burdick, Byrd, W. Va., Cannon, Case, Cook, Cooper, Cotton, and Dole.

Dominick, Fong, Goldwater, Goodell, Gravel, Griffin, Gurney, Hansen, Harris, Hart, Hartke, Hatfield, Hruska, Inouye, and Jackson.

Javits, Mathias, McGee, Mondale, Montoya, Murphy, Pearson, Prouty, Schweiker, Smith, Maine, Stevens, Thurmond, Tower, Tydings, and Young, N. Dak.

NAY—40

Anderson, Boggs, Byrd, Va., Cranston, Curtis, Dodd, Eagleton, Miller, Moss, Nelson, Pastore, Pell, Percy, and Proxmire.

Eastland, Ellender, Ervin, Gore, Holland, Hollings, Jordan, N.C., Randolph, Ribicoff, Scott, Sparkman, Spong, Stennis, and Symington.

Jordan, Idaho, Kennedy, Long, Magnuson, McClellan, McIntyre, Metcalf, Talmadge, Williams, N.J., Williams, Del., Yarborough, and Young, Ohio.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—14

Baker, Bennett, Church, Fannin, and Fulbright.

Hughes, McCarthy, McGovern, Mundt, and Muskie.

Packwood, Russell, Saxbe, and Smith, Ill.

So Mr. Dominick's amendment (No. 523) was agreed to.

Mr. DOMINICK. Mr. President, in connection with the permanent RECORD—this is not usual, I know—but I ask unanimous consent to have printed in the permanent RECORD a copy of the registration form which is now required to be filled out, because I think it will give dramatic proof of what is probably unintentional harassment of people who own aircraft when they have to fill out this form.

There is another comment I think should be made at this point, in connection with my colloquy with the Senator from Nebraska. A person who is authorized under the GI bill to provide aviation training for returning GI's, usually, owns the aircraft in which he is giving lessons to returning GI's. Those persons, even though they do not have much capital and are heavily financed by banks in buying the aircraft, are still required to pay the $25 for each one of the—if I may call them—puddle jumpers that they are using to train the returning GI's. Yet a person who owns a Lear jet for business or for personal use, whichever it may be, pays the same $25 even though he may be using it for commercial or business purposes. So it does not make any sense, the way it is organized at the present time. For that reason, I renew my unanimous-consent request that this registration form be printed in the permanent RECORD because I do not have a copy of it now and I doubt whether I can get a copy of it this afternoon, or soon enough to have it printed in today's CONGRESSIONAL RECORD.

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

The registration form is as follows:

Form 4638
(Rev. Mar. 1971)
Department of the Treasury
Internal Revenue Service

Federal Use Tax Return on Civil Aircraft

For the taxable year July 1, 1971 through June 30, 1972

Use a separate line for each aircraft. Attach additional sheets if necessary.

Name
a. Registered owner
b. Lessee electing to pay tax

Tax Identification Number (see instructions)
(Check applicable box and enter number below)
☐ Soc. Sec. No. ☐ Emp. Ident. No.

Number and street

City or town, State, and ZIP code

1. Are you a significant user of aircraft in foreign air commerce? . . . . . ☐ Yes ☐ No
If "Yes," do you elect to pay the tentative tax? . . . . . ☐ Yes ☐ No
If you elect to pay the tentative tax, a detailed computation of the tax must be attached.

2. This return covers aircraft first used in the month of ....., 19..... (File a separate Form 4638 for each month in which aircraft is first used.)

3. Are any of the aircraft listed in this return engaged in commercial aviation? . . . . . ☐ Yes ☐ No

PART I.—Piston Powered Aircraft (The tax per pound does not apply to the first 2,500 pounds of maximum certificated takeoff weight. Enter in column d the maximum certificated takeoff weight per type certificate data sheet or supplemental type certificate data sheet in excess of 2,500 pounds. **Even though the aircraft is 2,500 pounds or less, you must complete columns a, b, c, and d, and compute the $25 tax on line 5.)**

a. Registration mark	b. Serial number	c. Make, model, and series	d. Taxable takeoff weight	e. Tax rate per pound (see Schedule below)	f. Prorated tax for the period (multiply col. d by col. e)
N–					
N–					
N–					
N–					
N–					
N–					
N–					
N–					
N–					
Total					

PART II.—Turbine Powered Aircraft (Turbine powered aircraft are not entitled to the 2,500 pound exclusion allowed piston powered aircraft. Enter in column d the total maximum certificated takeoff weight per type certificate data sheet or supplemental type certificate data sheet. **Complete all columns regardless of weight, and compute the $25 tax on line 5.)**

N–					
N–					
N–					
N–					
N–					
N–					
N–					
N–					
N–					
Total					

4. Total of column f, parts I and II . . . . .
5. Total number of aircraft listed in this return [ ] multiplied by $25 (annual use tax) . . . . .
6. Total tax due. Add lines 4 and 5. . . . .
7. Amount due if installment privilege is elected: If the return covers aircraft first used in { July, August or September, enter ¼ of line 6 / October, November or December, enter ½ of line 6 / January, February or March, enter ½ of line 6 } . . . . .

Prorated Tax Rate Schedule Per Pound

If first use of aircraft occurs in the month of:	Then enter in column e: Part I	Part II	If first use of aircraft occurs in the month of:	Then enter in column e: Part I	Part II
July	$.02	$.035	January	$.01	$.0175
August	.01833334	.03208345	February	.00833334	.01458345
September	.01666666	.02916655	March	.00666666	.01166655
October	.015	.02625	April	.005	.00875
November	.01333334	.02333345	May	.00333334	.00583345
December	.01166666	.02041655	June	.00166666	.00291655

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Date Signature Title (Owner, etc.)

Instructions

The Airport and Airway Revenue Act of 1970 provides for an annual tax of $25 on the use of civil aircraft. In addition, for jet aircraft there is an annual charge of 3½ cents a pound for each pound of the maximum certificated takeoff weight; and for non-jet aircraft there is an annual charge of 2 cents a pound for each pound of the maximum certificated takeoff weight in excess of 2,500 pounds.

The rate for the full tax year starting July 1 is 2 cents a pound for Part I and 3½ cents a pound for Part II. For aircraft first placed in use during the tax year after July 31, the rates are prorated accordingly. For example, the decimal equivalent for an aircraft in Part I which is first used in August is .01833334 ($.02 x 11/12) while the decimal equivalent for an aircraft in Part II which is first used in August is .03208345 ($.035 x 11/12).

Who must file.—A return must be filed by the person in whose name the aircraft is, or is required to be, registered, or by the United States person by or for whom the aircraft is owned.

Note.—If the person who is liable for the tax at the time the first taxable use in the tax year occurs pays the tax, the subsequent owners in the same tax year are not liable for the tax. However, if such person does not pay the tax, any person who subsequently acquires the aircraft and puts it to a taxable use in the same tax year may be required to pay the full tax.

Payment of tax by lessee.—A lessee may elect to pay the tax and file a return if he is the lessee on the day on which occurs the first taxable use of the aircraft for the year. Notwithstanding this election, the lessor shall also be liable for the tax if the lessee fails to pay the tax. No election may be made with respect to an aircraft leased from a person engaged in the business of transporting persons or property for compensation or hire by air. All aircraft with respect to which the lessee elects to pay the tax must be listed in a separate schedule showing the name, address, and tax identification number of each registered owner.

When to file.—This return is due on or before the last day of the month following the month in which the first taxable use, in the tax year, of an aircraft occurs. For example, the aircraft in use in July should be reported in the return filed in August. If an aircraft is put into use after the month of July, a return must be filed in the month following the month the aircraft was first used in the taxable year.

Where to file.—Form 4638 must be filed with the Internal Revenue Service Center, 3651 S. Interregional Highway, Austin, Texas 78740.

When to pay.—The entire tax or first installment shown to be due on any return must be paid with the return. Make check or money order payable to "Internal Revenue Service."

Installment privilege.—You may elect to pay the tax in up to four equal installments, depending upon when the first use of a taxable civil aircraft occurs in the tax year. The tax on aircraft first used in July, August, or September may be paid in four installments. The tax on aircraft first used in October, November, or December may be paid in three installments and the tax on aircraft first used in January, February, or March may be paid in two installments. The installment privilege is not available for the tax on aircraft first used in April, May, or June.

Installment payments.—The first installment of tax must be paid at the same time the return is required to be filed. The other installment dates are December 31, March 31 and June 30, depending upon the calendar quarter in which the liability was incurred. You should receive a notice of each installment before it comes due. Payment should be submitted with this notice. Should an installment not be paid on or before the date prescribed for payment, the entire unpaid tax becomes due and payable.

Note.—Liability is incurred with the first taxable use of an aircraft in the tax year. Should the installment privilege be elected and the aircraft later be sold, the seller is still required to pay any remaining installments.

Significant users of aircraft in foreign air commerce.—Any person who is a significant user of taxable civil aircraft in foreign air commerce (10% or more user—see section 4493(b)(3)) may elect to pay a tentative tax with respect to the tax per pound on any aircraft. The tentative tax is based on a fraction, the numerator of which is the number of airport-to-airport miles flown in foreign air commerce during the preceding year while engaged in the business of transporting persons or property for compensation or hire by air, and the denominator of which is the total number of airport-to-airport miles flown during the preceding year. See secs. 4493(b) and 6426 of the Code.

Persons electing to pay the tentative tax must file a final return on Form 4638 with supporting computations by September 30 after the end of the tax year.

Refund to users of aircraft in foreign air commerce.—Persons who do not pay the tentative tax shall pay the total tax due under section 4491 and may file a claim for refund on Form 4638 with supporting computations. The claim must be filed by September 30 after the end of the tax year.

Tax identification number.—Individuals enter your Social Security number; corporations, partnerships, etc., enter your Employer Identification number.

No provision for refunding.—The tax is incurred with the first taxable use of an aircraft in the tax year. Should the aircraft later be sold, destroyed or otherwise disposed of, no refund or credit may be allowed for the remaining months in the tax year.

Penalties and interest.—Avoid penalties and interest by making timely returns and payments of tax. The law provides penalties for failing to file a return, for late filing, for filing a false or fraudulent return and for failure to pay tax when due.

Definitions

Taxable civil aircraft.—The term "taxable civil aircraft" means any engine driven aircraft (1) registered, or required to be registered, under section 501(a) of the Federal Aviation Act of 1958 (49 U.S.C., sec. 1401(a)), or (2) which is not described in (1) but which is owned by or for a United States person.

Use.—The term "use" means use in the navigable airspace of the United States.

Navigable airspace of the United States.—The term "navigable airspace of the United States" has the definition given to such term by section 101(24) of the Federal Aviation Act of 1958 (49 U.S.C., sec. 1301(24)), except that such term does not include the navigable airspace of the Commonwealth of Puerto Rico or of any possession of the United States.

Mr. DOMINICK. I thank the Chair.

Mr. President, if the Senator from Nevada does not have any comment on this, I would be happy to close down my comments on this portion of the amendment.

Mr. CANNON. Mr. President, I want to say to the Senator, as I told him privately, that I feel I am not in a position to accept the amendment. It will have to go before the Finance Committee for consideration. There is certainly a lot of merit in what he says. I am not sure of the facts and figures he relates, but I do know that registration fees have brought in a substantial amount of money to the airport fund. It is quite a substantial amount. I think he and I were cosponsors of the amendment before. It was voted on and is as it now stands.

Mr. DOMINICK. I thank the Senator from Nevada. I can understand his position. As I pointed out in my original speech in 1970, out of the $25 so-called tax, which I call a registration fee, which is really what it is, $3.6 million will be raised from general aviation and only $100,000 from the air carriers.

When we talk about equity, it seems to me that this is inequitable on its face.

Second, as I pointed out, the training schools for such students that are trying to learn how to fly under the GI bill or otherwise, will have to pay far more for that than will business aircraft, or a substantial amount, so that it seems to me the original fee is inequitable. I want to put the Senate on notice that I will continue to push for this but at this time I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DOMINICK. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

S. 1437

On page 4, after line 5, insert the following new section:

"SEC. 202. (a) Section 4491(a)(2)(A) of the Internal Revenue Code of 1954 (relating to tax on use of civil aircraft) is amended by striking out '2,500 pounds' and inserting in lieu thereof '8,000 pounds'.

"(b) The amendment made by subsection (a) shall take effect on July 1, 1972."

Mr. DOMINICK. Mr. President, this amendment is a little bit more controversial. It still deals with finances. I find myself with the same problem as before. What I am doing here is suggesting that the first 8,000 pounds on all aircraft be exempt from the tax which will, in effect, exempt a large portion of the smaller aircraft—one, two, three-passenger aircraft—from the tax. The purpose is that one of the things we have been trying to do in the bill, and otherwise through Congress, is to promote the use of general aviation. Yet, we are putting a tax on the very people we are interested in, to such an extent that they wonder whether it is worthwhile to go along with general aviation at all.

I made a point of that in the last session. We carried it to a vote. On that one, I lost and I have no hesitation in saying so. We lost largely because it was felt the amount of money that would be reduced from the trust fund would seriously impair the value of the trust fund itself.

One of the things I would like to do in the process of further consideration before the Finance Committee is to determine how much this would affect the trust fund. After all, we have already found out from the bill before us today that the FAA was using the trust fund for the operating expenses of the FAA. That is why we have the pending bill, to prevent them from doing that, because it was not part of the purpose of the act at all. I would like to find out how much difference the 8,000-pound exemption would mean in terms of revenue for the trust fund. It strikes me that, once again, we find ourselves in a position of trying to promote something on the one hand and doing something else on the other. The two things conflict. A little bit like some of the programs we have in agriculture where we show the farmer how to drop off on his wetlands and then we show him how to plan to do the opposite, and so forth. I would hate to see us get into this same kind of thing on the trust fund. So, Mr. President, at this point, I ask unanimous consent that my comments on the subject in debate last February 26, 1970, be printed in the RECORD.

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

Mr. DOMINICK. Mr. President, I call up amendment number 522.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, reads as follows:

"Page 112, lines 7, 8, and 9, strike out 'capable of providing a seating capacity for more than four adult individuals (including the crew)' and insert 'having a maximum certificated take off weight (as defined in section 4492(b)) of more than eight thousand pounds'.

"Page 112, line 11, strike out the period and insert: 'in excess of eight thousand pounds.' "

Mr. DOMINICK. Mr. President, I yield myself 8 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 8 minutes.

Mr. DOMINICK. Mr. President, I will be short on this matter. I do not think I need that much time.

In addition to the $25 registration fee on which we voted, page 112 provides also for a tax on any civil aircraft. And then it says in subsection (2):

"In the case of any aircraft capable of providing a seating capacity for more than four individuals (including the crew) . . ."

That means in effect the four-passenger airplanes are excluded and everything else is included.

The purpose of this, from the Finance Committee standpoint, was to try to get away from the trainers, the ones being used on flights around the field, and private and other small engine airplanes. But the fact of the matter is that this exception leaves in, as far as I can see, the DC-8 cargo airplanes which are only configured for three seats, perhaps four. Most private and other cargo planes are configured that way. It leaves in, in fact, the taxing of planes like a Cessna 310, or whatever else of that kind it may be, the twin-engine planes which are largely a pleasure type aircraft.

My provision, instead of including the seating capacity, strikes out the seating capacity and provides that we will tax all aircraft on their poundage above 8,000 pounds.

If an aircraft weighs 12,000 pounds, the first 8,000 pounds would be eliminated from the tax. The plane would only be taxed on 4,000 pounds.

If it is a DC-8, the poundage is very heavy. They would get the benefit of having 8,000 eliminated from the tax and would have to pay on the balance of the poundage.

The purpose of my measure is not only to give some relief against poundage for the smaller aircraft, but also to reflect the fact that the heavier aircraft—the ones which cause more wear and tear on the runways than anything else—should be required to pay a tax, whether it be Lear jet or a Sabreliner, or whatever else it may be.

That is part of the problem of including the seating capacity. We can take one of the French jets which weighs considerably more than 8,000 pounds. Yet, it has only four seats. And it would be exempted from the tax.

It does not seem to me to be right.

My amendment would do no more than set a limit. The first 8,000 pounds of any aircraft would be exempted from the tax and they would have to pay the tax on the remaining poundage.

Mr. President, I reserve the balance of my time.

Mr. LONG. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 3 minutes.

Mr. LONG. Mr. President, what the Senator is seeking to do is to further reduce the tax on general aviation. Most Senators were not present when I explained the distribution of the tax burden between general and commercial aviation. General aviation will be conducting 90 percent of all operations on these airports, before too long.

The Senator made the statement that general aviation flies more passengers than does commercial aviation. Not only will they be flying more passengers, but general aviation will be conducting 90 percent of the airport operations and still pay only 7 percent of the tax.

The Senate has already voted twice to reduce the tax on general aviation.

If the Senate agrees to this amendment, then perhaps we should go ahead and take all the tax off general aviation.

The people who buy tickets on the airlines only get 10 percent of the airport operations benefit, but pay 93 percent of the cost. If those people did not have to pay the cost for the airport and airway system either, we would then wind up without any trust fund.

The amendment would eliminate the poundage tax on 97 percent of general aviation airplanes. We started in the committee by saying that if a person had a small plane with place for no more than four adults, he would not have to pay any tax based on the weight of the airplane. He would only pay the $25 a year tax.

The Senate has now voted to take that out. Seventy-five percent of all the private planes would not pay anything, since they are already excepted from the poundage tax.

The Senator now proposes that we reduce that to 97 percent. In fairness, we ought to strike it all out.

I would hope Senators muster the courage which the Committee on Finance did. We have the responsibility to try to find money to keep the Government solvent. I hope the Senate will muster the same fortitude which was exercised by the Committee on Finance so that the people who are getting the most benefit from this will pay a fair share of the cost.

I hope the amendment is not agreed to.

The PRESIDING OFFICER (Mr. EAGLETON in the chair). Do Senators yield back their time?

Mr. DOMINICK. Mr. President, I yield myself 5 minutes. I think I should reply to what the distinguished Senator has said.

I want to point out once again, as I said originally, that the difficulty with the language in the bill now is that the cargo aircraft, configured for a crew of four, will not be covered so they will not get a tax out of that. My guess is that with my amendment we will get more money than if we do not have it.

The other argument, which is legitimate, is that we are putting most of this money in the area where most airliners are covered and yet we are paying a 6-cent fuel tax, and paying on all executive and business aircraft. They are all more than 8,000 pounds.

All I am saying is that the smaller aircraft should be treated alike and that the bigger aircraft—executive and cargo planes—should pay the tax and this will not happen the way the bill is now.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. DOMINICK. Mr. President, I ask for the yeas and nays. The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back the remainder of the time?

Mr. DOMINICK. I yield back my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment (No. 522) of the Senator from Colorado. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. FANNIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT) would vote "yea."

On this vote, the Senator from Illinois (Mr. SMITH) is paired with the Senator from Arizona (Mr. FANNIN). If present and voting, the Senator from Illinois would vote "yea," and the Senator from Arizona would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Utah (Mr. BENNETT). If present and voting, the Senator from Texas would vote "yea" and the Senator from Utah would vote "nay."

The result was announced—yeas 28, nays 54, as follows:

[No. 65 Leg.]

YEAS—28

Allen, Allott, Burdick, Case, Cook, Cotton, Curtis, Dole, Dominick, and Gurney.

Hansen, Harris, Hart, Hartke, Hatfield, Hollings, Hruska, Mathias, McGee, and Mondale.

Murphy, Pearson, Percy, Schweiker, Smith, Maine, Stevens, Thurmond, and Young, N. Dak.

NAYS—54

Aiken, Anderson, Bayh, Bellmon, Bible, Boggs, Brooke, Byrd, Va., Byrd, W. Va., Cannon, Cooper, Cranston, Dodd, Eagleton, Eastland, Ellender, Ervin, and Fong.

Fulbright, Goodell, Gore, Griffin, Holland, Inouye, Jackson, Javits, Jordan, N.C., Jordan, Idaho, Kennedy, Long, Magnuson, Mansfield, McClellan, McIntyre, Miller, and Moss.

Nelson, Pastore, Pell, Prouty, Proxmire, Randolph, Ribicoff, Scott, Sparkman, Spong, Stennis, Symington, Talmadge, Tydings, Williams, N.J., Williams, Del., Yarborough, and Young, Ohio.

NOT VOTING—18

Baker, Bennett, Church, Fannin, Goldwater, and Gravel.

Hughes, McCarthy, McGovern, Metcalf, Montoya, and Mundt.

Muskie, Packwood, Russell, Saxbe, Smith, Ill., and Tower.

So Mr. DOMINICK's amendment No. 522 was rejected.

Mr. DOMINICK. Mr. President, for the reasons stated on a prior occasion, I will not push this amendment at this time, feeling as I do that it would be very difficult to explain why we are dealing with a Finance Committee measure when the Finance Committee has not considered this particular bill.

Being a strong believer in the committee system, I hesitate to do that, so at this point, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DOMINICK. Mr. President, in connection with the colloquy which I had with the Senator from Nebraska, I invite the attention of the Senator from Nevada (Mr. CANNON), if I may, to the fact that when I was in Colorado during the recess, flying over my State, and subsequent to that, I received many telephone calls and letters from aircraft owners and those who fly fixed-base airplanes, commenting about the methods of assessing the tax on gasoline under this bill as compared to the system which was used in other situations—a regular Federal excise tax.

I have received a letter from Col. Clarence M. Fountain, the commander of the Civilian Air Patrol in Colorado. The letter is dated September 14, 1971. The problem is not that the excise tax is paid, but that the method of collection is extremely unfair.

For example, he points out that the original 4 cents Federal excise tax is imposed upon the gasoline at the time of manufacture and an additional 3 cents Federal excise tax is imposed under the Airport and Airways Act at the time of sale. This is the part which creates the problem. An additional tax, and the same tax, is collected. That is the reason we should take a second look at the situation. He has suggested, as have a number of others that it would be much more advisable to put the collection of the tax at the time of manufacture, as is done in the case of the 4 cents excise tax, and have the tax collected there. Then, if necessary, to get rid of the annoyance of the $25 registration fee, we could include an extra half a cent tax. No one would object to that.

There is great difficulty occasioned a number of small operators throughout the country in keeping records on the sale of gasoline and making sure that the excise tax goes to the right place and at the right time. We can then provide an exemption in the case of Federal aircraft and State aircraft.

There is a real problem here. It is my hope that the distinguished Senator from Nevada will also discuss this problem with the members of the Finance Committee to see if we cannot work this out insofar as the collection of the tax is concerned.

Mr. President, I ask unanimous consent that the letter to which I have referred be printed at this point in the RECORD.

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

COLORADO WING CIVIL AIR PATROL,
Denver, Colo., September 14, 1971.

Hon. PETER DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMINICK: Reference the existing Federal Excise Tax of four cents per gallon and the relationship of the three cents additional Federal Excise Tax added by the Airports and Airways Act of 1970.

As per our conversation, I submit the following information to confirm our problem.

First, let me say that this letter is not to indicate if the subject Federal Excise Tax is good, bad, necessary or unnecessary, but only to clear the air with reference to the collection system.

The original four cents Federal Excise Tax is imposed upon the gasoline at the time of manufacturing. The additional three cents Federal Excise Tax was imposed by the Airports and Airways of 1970 at the time of sale. This is the part with which we take exception. The additional burden (cost) of collection of the second and same type of tax is reason enough to cause a second look at its value.

Also, Civil Air Patrol, in accordance with this Act, is required to pay $25 plus, per aircraft, per year, and this tax is upon donated public service aircraft. This imposed tax seems very unfair.

The following consideration would be appreciated: The three cents Federal Excise Tax imposed by the Airports and Airways Act of 1970 be deleted and the original four cents per gallon Federal Excise Tax imposed at the time of manufacturing be raised an equal amount of the deletion to seven cents per gallon. This would in effect cultivate a considerable savings of expense in collection and would at that time support the dropping of the $25 tax plus, per aircraft, per year, on Civil Air Patrol Federal and State Agencies.

Sincerely,

CLARENCE M. FOUNTAIN,
Colonel, CAP Commander.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed

for a third reading and was read the third time.

Mr. CANNON. Mr. President, earlier today the committee reported the House-passed Airport and Airway Amendments, H.R. 7072. This bill was never considered by the committee, since the committee developed concurrently its own legislation dealing with the same topic.

Therefore, Mr. President, I move that the Senate proceed to the consideration of H.R. 7072.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to, and the Senate proceeded to consider the bill (H.R. 7072) to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes.

Mr. CANNON. Mr. President, I move to strike out all after the enacting clause of H.R. 7072, and insert in lieu thereof the language of S. 1437, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 7072) was passed.

Mr. CANNON. Mr. President, I ask unanimous consent that S. 1437 be postponed indefinitely.

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

DISTRICT OF COLUMBIA CHARTER ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 389, S. 2652.

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

Calendar No. 389, S. 2652, a bill to provide an elected Mayor and City Council for the District of Columbia, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, for the information of the Senate, a rollcall vote has been ordered on the pending bill. I would hope that the attachés would notify all Senators accordingly.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon tomorrow.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

DISTRICT OF COLUMBIA CHARTER ACT

The Senate continued with the consideration of the bill (S. 2652) to provide an elected Mayor and City Council for the District of Columbia, and for other purposes.

PRIVILEGE OF THE FLOOR

Mr. EAGLETON. Mr. President, I ask unanimous consent that Mr. Robert Harris and Mr. Gene Godley, of the committee staff, be allowed the privilege of the floor during any votes which may be taken on the pending business.

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

Mr. EAGLETON. Mr. President, what is the pending order of business?

The PRESIDING OFFICER. The pending order of business is S. 2652.

Mr. EAGLETON. Mr. President, the pending order of business, S. 2652, commonly called District of Columbia home rule, is now before the Senate.

On six separate occasions during the past 12 years, the last time being in 1965, this body has been fit to pass such legislation. Since 1965 the committee has passed two bills, which formerly were included within the home rule bill and which were subsequently adopted by the House of Representatives and signed into law by the President. These provided for an elected school board and for a nonvoting delegate to the Congress from the District of Columbia.

Your Committee on the District of Columbia again brings before you a bill to provide home rule for the District. In truth, while there is a great deal of discussion about the pros and cons of home rule for the District, no bill has actually provided for complete home rule for the District since the Constitution specifically gives to the Congress supervision over the affairs of the District of Columbia.

What this home rule bill would do would be to delegate to an elected mayor and an elected city council the functions which are presently being performed by an appointed mayor and by the Congress of the United States. As will be discussed more fully later, the bill gives Congress a continuing item-by-item veto over any actions undertaken by the council.

I think that President Johnson, in his message on home rule, summed up most aptly the basic philosophical argument in favor of this delegation when he stated:

Our Federal, State, and local governments rest on the principle of democratic representation—the people elect those who govern them. We cherish the credo declared by our forefathers: No taxation without representation. We know full well that men and women give the most of themselves when they are permitted to attack problems which directly affect them.

Yet the citizens of the District of Columbia, at the very seat of the Government created by our Constitution, have no vote in the government of their city. They are taxed without representation. They are asked to assume the responsibilities of citizenship while denied one of its basic rights. No major capital in the free world is in a comparable condition of disenfranchisement.

The second reason that the committee believes that this type of delegation to the citizens of the District of Columbia of the affairs of the city is essential is demonstrated by the effectiveness of the working of Reorganization Plan No. 3 of 1967. That plan, which changed the system of government in the District from a three-commissioner system to a system of a commissioner-mayor and an appointed council, has proven, in the opinion of the committee, to be quite successful.

It has relieved the Congress of many legislative burdens. However, it has not been a complete delegation. The Congress has still been burdened with many decisions, such as the following:

First. This year, after several previous attempts, Congress finally authorized members of the District of Columbia Fire Department and Police Department to play in the Metropolitan Police Department Band;

Second. Last year, in order to make life easier in the District of Columbia, we passed a national statute that permits the flying of kites in the District of Columbia so that the International Fly-Out Contest could be held at the base of the Washington Moument;

Third. Last year we passed a good procedure for the removal of snow and ice in the District; and

Fourth. In order to alleviate the financial crisis in the District, we reformed licensing fees and by Federal statute now require a registration of 25 cents for each dog owned or kept in the District of Columbia.

The list of trivia involving the District

of Columbia that this body is forced to consider is virtually endless. It is not in the interest of this body, nor is it in the interest of the citizens of the United States we are elected to represent, or even of the citizens of the District of Columbia that the time of the U.S. Senate be spent preparing, holding hearings, considering, and debating trivia. Rather, as your committee proposes in this bill, Congress should delegate the making of these local regulations to a body elected by the citizens of the District of Columbia, with the continuing right to supervise such body to insure that the Federal interest in this, our Nation's Capital, is never violated.

It is not only trivia, as has been pointed out by points 1, 2, 3, and 4, in numerical order; that is not of consequence, because if all that were at stake in the home rule concept was the fact of unburdening ourselves of trivia such as the mutuality of the police and fire department band, or 25 cents for a license for puppies, possibly this bill would not be worth debating, either. But more is at stake than the trivia previously recited, because, as is reflected in S. 2652, the very essence of local government will be mandated and legislated by this bill, once enacted into law, so that an elected mayor and an elected city council can make the vital decisions that affect the destinies of three-quarters of a million American citizens. We will find in the bill the right of the city council and the mayor to enact into law ordinances relating to taxation, excluding at least two very important things that they cannot act upon: The taxation, of course, of any Federal property is prohibited by the Constitution, and we prohibit them from the imposition of an income tax on nonresidents of the District of Columbia. But with those two exceptions, one constitutional and one that we impose statutorily, the city council and an elected mayor, elected by the three-quarters of a million people of this city, can decide in what way and how much to tax their citizens, can enact local ordinances into law, and can begin to shape their own destiny, as should be the right of all American citizens.

Mr. President, in commenting on this bill, I cannot help but point out that the bill as reported by the committee is cosponsored by every member of the committee, on both sides of the aisle. It is in the truest sense a composite bill, with the best provisions of the bills which the senior Senator from Maryland (Mr. MATHIAS) and I introduced early in this Congress, and on which hearings were held. In addition, we had the benefit of examining the home rule bill that the District Delegate (Mr. FAUNTROY) introduced in the House. As a result of the complete cooperation between the majority and minority, and of their staffs, the committee has reported the bill which is now before us.

I call to the attention of the Senate that Delegate FAUNTROY has been extraordinarily helpful to us in the shaping of this legislation, because shortly after assuming his role as the new delegate last spring, he took it upon himself to hold meetings in the neighborhoods at several locations in the District, to try to determine at first hand from the citizens in the community what their ideas were insofar as what would be a viable form of local government. His findings were of great help to us, because many times those of us who sit up here on high tend to forget what might be in the best interests of the people of the District of Columbia. It is our primary business, if nothing more than as politicians, to determine what is in the best interests of those who elect us—in my instance, for example, of the 4.5 million Missourians, or, in the case of the Senator from South Carolina, of the 2.5 million South Carolinians; but in District matters, where we have no stake so far as our own political survivability is concerned; we do not take pains to find out what those three-quarters of a million people might want and need for themselves. We do much more guesswork, and are much more likely to be absentees, in connection with what might be of concern to those three-quarters of a million citizens of the United States.

So I pay tribute to Delegate FAUNTROY, because he can more easily, as a result of those meetings he held, find out what the people in the District—living, working, and paying taxes in the District of Columbia—want as far as self-government is concerned.

As I have pointed out, the bill provides for an elected Mayor and an elected 11-member Council, of whom the Chairman and two members would be elected at large and the other eight members would be elected from wards, the same wards that are presently utilized for members of the school board.

The mayor and council would take over the functions of the present Commissioner-Mayor and nonelected council and, in addition, would have the powers which are delegated by this bill, including those of issuing debt obligations and generally initiating local legislation. The council would be delegated the right to change all District taxes, not just the property tax. However, as I have pointed out, the bill specifically denies the council the right to tax the personal income of nonresidents, or what is popularly known as a commuter tax.

The Federal contribution toward the needs of the Nation's Capital would be computed as a percentage of the general fund revenues which the District Government obtains from its citizens and visitors by means of various taxes and other charges. Under this bill, the Federal payment would rise from 35 percent the first year after enactment to a permanent figure of 40 percent after the third year of enactment and for succeeding years. I might note that last year the Federal payment to the District of Columbia was in the neighborhood of 29 percent but that the Federal payment this year will probably be somewhere between 35 and 40 percent of the general fund revenues.

That is fairly close, in percentage comparison, to the formula we have spelled out in S. 2652.

In working up this bill the committee was cognizant of the questions that were raised during the 1965 debate, most of them centering around the problem of whether or not to have a District Delegate, a school board, and a formula for the Federal payment which was then based on an assessment of the value of real estate being used by the Federal Government in the District of Columbia.

I believe we have met most of these old or 1965 objections—the first two through the passage of time, and the third, we think by means of the percentage formula we have adopted in the bill.

Returning to the provisions of the bill, I might further note that the Mayor and the members of the Council are elected for 4-year terms, half of the Council running every 2 years. The elections will occur the same year that the District Delegate election occurs and during Presidential election years. The elections will be on a partisan basis, representatives of all political parties in the District having indicated during the hearings that such elections would be acceptable to them.

The committee bill does not contain a Presidential veto but rather has an item-by-item veto by either House of the Congress of the United States. It is the committee's view that a Presidential veto does not truly reflect the provision of the Constitution which delegates to the Congress supervision over the affairs of the District of Columbia. Accordingly, the committee has attempted to devise a system whereby the Congress itself may continue to closely supervise the affairs of the District of Columbia. Any proposed legislation which the City Council may enact and which the Mayor approves, or, if he vetoes, two-thirds of the Council approve over his veto, must thereafter be submitted to the Congress for 30 days. During this 30 days, in accordance with the provisions of the act regarding the approval or disapproval of reorganization plans, either House of Congress may consider a resolution disapproving of such proposed act. If either House, during the 30-day period, disapproves of the proposed legislation it shall be null and void, and shall not go into effect. If, and only if, neither House of Congress disapproves the proposed legislation shall the act become law.

In the event Congress is not in session for 30 continuous days after the city council and mayor have approved proposed legislation, such act shall have no effect; it being the committee's view that the council may only enact legislation at such times as to allow Congress 30 days within which to consider the legislation.

I shall not take the time of this body to again enumerate all of the arguments that can be made for allowing the citizens of the District of Columbia to have the right which citizens have in every other jurisdiction in the United States. Suffice it to say that it is the unanimous recommendation of the District of Columbia Committee that the citizens of the District of Columbia be given a new charter so that they may to a greater extent than heretofore, govern themselves.

Mr. President, that concludes my prepared introductory remarks. I am awaiting the arrival of the ranking Republi-

can member of the committee, the Senator from Maryland (Mr. MATHIAS). If any other Senator wishes to be heard, I shall be glad to yield the floor, or to respond to any questions, pertinent or impertinent.

Mr. ERVIN. Mr. President, I can assure the Senator that I do not intend to ask any questions either pertinent or impertinent.

I prefer to vote for this proposal in the form of a constitutional amendment. I cannot vote for it in the form of a statute, because of the provisions in article I, section 8 of the Constitution.

Section 8 says:

The Congress shall have Power . . .

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States.

Mr. President, I believe that that provision of the Constitution means exactly what it says and that Congress cannot give away or delegate its exclusive power of legislation over the District of Columbia. Therefore, with some reluctance, I am compelled to vote against this bill. I would support it gladly if it were in the form of a constitutional amendment.

Mr. EAGLETON. I thank the Senator from North Carolina for his observation. It goes without saying that everyone recognizes that he is the premier authority in this body on the U.S. Constitution. Thus, any comment the Senator from North Carolina makes with respect thereto carries very significant weight not only with this body but personally with me as well.

I would say to him that a very strict, literal reading of the constitutional provision he has cited might cause one to momentarily agree with the ultimate judgment as expressed by the Senator from North Carolina.

It is my personal guess, not as a constitutional expert, but as a lawyer whose dues are still paid up, that an appellate court—indeed, the U.S. Supreme Court—would not view it perhaps as literally and perhaps as strictly as has the Senator from North Carolina.

I think it is a fair interpretation of that constitutional provision that the delegation we attempt to make by reason of the statute, retaining as we do in this bill the right of veto by either House, would in its full parameters be viewed as adequately comporting with the intent of the constitutional section cited by the Senator from North Carolina. But I do say that he raises a legitimate question and that I daresay, in due course, should this bill become law, perhaps will be tested rather quickly, after the law is enacted and signed by the President, in an appropriate court of law.

Crystal-ball gazing about the outcome of a case before the U.S. Supreme Court—now one that is two men short of being in full composition—is a very precarious undertaking at any time.

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

Mr. EAGLETON. I yield.

Mr. COOPER. First, may I say that I am glad that I was able to hear the distinguished Senator. I should like to praise him, if he needs praise, for his very concise explanation of this very important bill.

In the past, I have voted for all home rule bills, and I will vote for this one.

At times, the question, raised by the distinguished Senator from North Carolina (Mr. ERVIN), who is a great constitutional lawyer, has addressed itself to my mind, and I think it would be wise to have printed in the RECORD the sections to which the Senator has referred—paragraph 17 of section 8, article I, referring to the constitutional authority of the Congress to legislate in all cases affecting the District of Columbia—the seat of Government of the United States.

Also, the Senator from Missouri (Mr. EAGLETON) has referred to section 10 of article I, which the States are prohibited from certain acts, which would also be beyond the constitutional authority of the District of Columbia.

Mr. President, I ask unanimous consent to have these sections printed at this point in the RECORD.

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

[17] To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;

SECTION 10. [1] No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

[2] No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

[3] No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Mr. COOPER. Referring now to the bill, am I correct in saying that while a District council has been established under this bill, it is limited in its legislative jurisdiction?

Mr. EAGLETON. That is correct.

Mr. COOPER. It is correct to say that the limitations which are now placed upon the Commissioners will still be applied to the council?

Mr. EAGLETON. I cannot agree with the Senator's latest generalization. There are limitations in the bill, and the principal ones are found in section 325 (d), on pages 15, and so forth, of the bill; also, the aforesaid provision of the Constitution as mentioned in the committee report on page 4.

There are limitations, but the limitations are not quite as narrow as the existing limitations on the mayor-council form of government.

For example—of utmost importance—the present mayor-commissioner and city council have jurisdiction over taxes—to wit, the real property tax. They can raise it or lower it. As to all other taxes, including franchise taxes, sales taxes, local income taxes, that jurisdiction is in Congress. We transfer the jurisdiction of taxation to the elected city council and to the elected mayor—holding back, as I said before, the commuter tax.

But we do protect—if one wants to use that word—any excess of zeal by giving either House of Congress a 30-day period in which to veto any act of the city council.

Suppose they triple the local income tax—just decide they will triple it—after we give them the authority to control their income tax. If either House of Congress were to deem that a grotesquely unwise governmental act, either House would have 30 days in which to reject that action by the local city council.

Mr. COOPER. A method is provided for veto by the Mayor and a method for overriding the veto by the Council. In all cases, does legislation passed by the Council become subject to review by Congress?

Mr. EAGLETON. The answer is "Yes." That is, Congress has 30 days in which to act affirmatively to knock it out. If either House of Congress sits dormant for 30 days, then the ordinance enacted by the Council and signed by the Mayor would become operative.

Mr. COOPER. Then, it is correct that every legislative act of the Council, whether vetoed or not, is subject to congressional review?

Mr. EAGLETON. That is correct.

Mr. COOPER. I note that in section 325(d)(k) and other sections, certain acts are characterized as acts outside of the legislative authority of the Council. Assume such a prohibited act was passed by the Council—I am not able now to give an example, but assume that one was passed—how then would Congress act if it desired to act?

Mr. EAGLETON. It would act in this way: The prohibited acts, the ones I have mentioned previously, on page 15 of the bill—let us take one, a hypothetical situation, the prohibition about imposing any tax on the property of the United States.

Suppose the City Council has said, "Well, the Government Printing Office does Government printing, but it prints a lot of things. We think we ought to have a printer's tax, and we ought to tax the Washington Post, the Washington Star, and the Washington Daily News." They would be able to do that. "But we also want to broaden it. We want to tax all the printing that comes out of the Government Printing Office."

We would have 30 days to automatically knock it out—either House. But even if we fell asleep at the switch and did not knock it out, it would be null and void in any court test, because it is

specifically prohibited and they are denied the authority to impose any local tax on public-owned property.

Mr. COOPER. Am I correct, with respect to the courts, that the power of appointment of the council and the Mayor of the government of the city of Washington applies only to the appointment of municipal judges.

Mr. EAGLETON. Yes. The appointment of judges to the superior court which is their court, for felonies and civil actions. It would include what is called the District of Columbia Court of Appeals not to be confused with another court with a somewhat related name. But the District of Columbia Court of Appeals is the supreme court—the appeals court—here on crimes and civil actions, torts, and claims.

Mr. COOPER. The jurisdiction is limited to what would be the jurisdiction of——

Mr. EAGLETON. Any other State court, that is correct.

Mr. COOPER. Yes—legislation which is appreciable to the government of the District of Columbia itself and its people as in similar municipalities.

This is the seat of the Government of the United States and, of course, it is of great interest to the people who live here but also to temporary residents and to visitors. It is of tremendous interest, and belongs to all the people of the United States. It is their seat of Government. It is their city. It is theirs as much as those who live here, whether temporarily or permanetly. We are proud—in many cases—of the work that has been done to make Washington a beautiful city, with all its great buildings, malls, circles, and historical and cultural monuments. I do not think we can be proud of the housing for many of those who live here. Is there any authority on the part of the District Council to interfere, to take over or set aside the work of the authorities of the Federal Government which now make the decisions as to buildings, their location, or supersede the works of the National Capital Planning Commission, the Fine Arts Commission? Will these authorities still be preserved for the benefit of all the people of this country?

Mr. EAGLETON. My answer to the Senator is yes, insofar as federally owned buildings are concerned, such as the Capitol, the Department of Justice, the White House, and so forth. The Federal Government shall still have the same authority it now has with respect to those buildings and edifices. With respect to the National Capital Planning Commission, it is specifically written into the bill that it shall continue with the same force and effect it now has, and that it shall have its input into government decisions insofar as planning is concerned with the new form of government we are herein constituting.

So that my shorthand answer to the Senator's question is yes. The same controls are reserved to Federal property and Federal planning vis-a-vis the District of Columbia. They remain in being.

Mr. COOPER. I do not want to take too much of the Senator's time and other members of the committee who have worked so diligently on this bill, but I would like to ask this last question——

Mr. EAGLETON. Let me point out to the Senator that this is all covered on page 12 of the bill under the heading "Procedure of Zoning Act," section 323 (a) and (1).

Mr. COOPER. I thank the Senator. Unfortunately, we have had riots which have caused physical damage, financial damage, and suffering to the city, which have had the effect of inhibiting the people of the country, at times, from coming to their own Capital.

Under this bill, as to the police function, law and order, how would this necessary function be administered?

Mr. EAGLETON. This is a local police department. The Mayor has the right to appoint the Chief of Police of the District of Columbia, as does the mayor in many of the large cities of this country. He would be able to appoint him as though he were one of his top cabinet officers, just as he would be able to appoint the director of welfare, the director of corrections, the director of parks, and so forth. He would appoint the Chief of Police. The Mayor and the Council would set a budget for the department of the police.

Mr. COOPER. That is done now——

Mr. EAGLETON. That is correct.

Mr. COOPER. Under the present system, but, unhappily, in the event—which we hope will never occur—there is the necessity to provide for the safety of the city, its people, and its visitors, the people of the United States and others who live here or visit here, is there any limitation on the authority of the Federal Government to protect the Capital City of the United States?

Mr. EAGLETON. I think not. The authority, insofar as law enforcement, law and order is concerned, would remain pretty much the same as it is now under the same system of the mayor-commissioner form of government. He would recommend the budget and he comes now to Congress for authorization to increase the size of the department of the police. He need not be doing that in the future, but the Federal law enforcement presence would still be as it is. There would be the various agencies such as the FBI, the Secret Service agents assigned to protect the President, the special police around the embassies, and the Capitol Hill Police Force. They would all remain as they are now.

Mr. COOPER. I thought I should raise these questions. Let me say, before——

Mr. MATHIAS. If the Senator from Kentucky will allow me to interject there, the Senator from Kentucky raises an important point and one we should remember; namely, that there is nothing that really can be done in the bill, or by any other act of Congress, which divests Congress of its traditional responsibility for the police power in the District of Columbia. The police power would ultimately and finally reside—that is, the police power in its broadest legal definition—in the Federal Government. There is nothing the Federal Government can do to discharge itself from that responsibility. I think maybe that is the point the Senator from Kentucky was getting at.

Mr. COOPER. I think it is, and I am gratified that the distinguished Senator from Maryland used the words "police power" in its larger sense because it is not always limited to law enforcement. It is a broad power to provide for the safety, the health, security, and the welfare of the people of the city.

I ask these detailed questions and in doing so I do not forget that you, the chairman of the District of Columbia Committee, and all your associates, majority and minority, have joined in the preparation of this bill. It is a high duty the Senator from Missouri and his fellow Member has performed in establishing such a bill and also in their efforts to give the people—not the fullest rights of self-government—but at least a landmark along the way.

Mr. EAGLETON. Mr. President, I most sincerely thank the very distinguished Senator from Kentucky for his warm and cordial observations.

Mr. INOUYE. Mr. President, I wish to join my colleagues in commending my distinguished chairman for his remarkable leadership of the District of Columbia Committee. The fact that this bill was reported unanimously speaks loudly of the respect and admiration we have for him.

Mr. President, throughout most of this year, it has been my privilege to serve as chairman of the Subcommitee on Appropriations relating to the District of Columbia. We have held many hours of hearings. During the hearings witnesses have suggested the existence of inefficiency, waste, and possible boondoggling in the Government affairs of the District of Columbia and, as such, well-intentioned citizens have suggested that the people of the city were not prepared to govern themselves.

Mr. President, I wish to disagree. If the people of the District had the privilege that all of us have, of "throwing the rascals out," we would have a better government in our Federal City.

Our mayor-commmissioner of the city is a fine gentleman who wants to have a fine city. He is trying his best; but just look at the setup of the city.

Unlike all the other mayors of the United States of America, the Mayor of the District of Columbia cannot appoint a subordinate. Theoretically, yes, he makes the announcement that he is appointing such and such a person as corporate counsel. However, all of us know that the appointment is made somewhere else—in this case, by the White House. So, is the corporate counsel beholden to the mayor or is he beholden to the President of the United States?

If we would check all department heads of this city, we would find that in most cases these department executives have sponsors in the House and in the Senate. If they have these sponsors, they are not responsive to the mayor. They are most certainly responsible to their sponsors in the Senate and the House.

This bill would change that situation. This city will finally have the type of

administration that all of us have had in our cities for many years. If some department head should become involved in some hanky-panky, then the mayor could throw him out. And if he did not do that, then the people of the District of Columbia would have their day at the polls. We have been denying the people this basic privilege.

I am convinced that with home rule we will have savings. We will have efficiency and we will have better government in the city of Washington.

If Senators are concerned about the budget or if they are concerned about efficiency in the Federal City, then I would say they should vote for the pending bill, because I am convinced that we will have a better run city with home rule.

I would hope that the Senate would unanimously, as the committee did, support this effort to bring about some semblance, not completely, but some semblance of self-government for U.S. citizens who reside in the District of Columbia.

Mr. EAGLETON. Mr. President, I genuinely thank the Senator from Hawaii. One of the truly great pleasures that has been mine in past years while serving as chairman of the District of Columbia Committee has been the help and advice and the great encouragement that the Senator from Hawaii has given to the committee as a whole and the fine work and time-consuming work he has done under the Appropriations Subcommittee on the District of Columbia.

I imagine that the Senator from Hawaii geographically is more removed from the confines of the District than perhaps any other Senator, except perhaps the Senator from Alaska. The Senator from Hawaii is removed by thousands and thousands of miles, representing the State of Hawaii in the Senate. Nevertheless, the Senator from Hawaii has given of himself, of his time, his talent, and his heart insofar as trying to make this a better city in which everyone can live.

I am very grateful for the help he has given to the District of Columbia on this and on other measures before that committee.

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

Mr. EAGLETON. I yield now to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the Senator from Missouri, the chairman of the committee, for yielding to me.

I would point out that the legislation we are considering today is just about exactly 100 years overdue. It was in 1874 that Congress "temporarily"—and I put the word "temporarily" in quotation marks—suspended local elected government in the District of Columbia. Perhaps we should take a lesson from that in other areas of legislation, because things that are done temporarily by the Federal Government very often soon become immutable monuments. Like many other ostensibly temporary acts, that act of denying the people self-government in the District has been perpetuated far beyond reason or excuse. As a result, for over three generations, the people of the Nation's Capital—alone, among all American citizens—have been denied the right to choose their own local officials to administer their own local affairs.

The District of Columbia Charter Act, S. 2652, would restore local self-government in the Nation's Capital. When I say "restore," I use that word very carefully, because I think it would restore government here. This is an important point to remember. There are those who have today raised the constitutional question. It would restore local self-government as the Founders of this Republic knew it in the area which comprises the District of Columbia. It would restore local self-government as the framers of the Constitution knew it, because when many of the men who sat on the Constitutional Convention came to Washington to sit as Members of the Congress, there was a mayor in Georgetown, in Berlin, and later in the city of Washington.

I think it would return to the citizens of the District of Columbia, after far too long, the basic democratic privileges which the citizens of every State now enjoy, and even the citizens of the various communities that are associated in one way or another with this Republic, such as the citizens of Puerto Rico who have far more to say about the government under which they live than do the residents of the District.

Mr. President, this is a prudent, timely, and comprehensive bill. It has been carefully developed by the Committee on the District of Columbia, after consideration of many alternatives and suggestions. S. 2652 is based in large part on the home rule legislation which the Senate has approved six times in the past, most recently during the 89th Congress. The bill also includes, however, a number of new provisions and modifications which the committee concluded are necessary and desirable. For example, it goes to the point the Senator from Kentucky (Mr. COOPER) raised a moment ago.

For instance, in addition to reaffirming the constitutional responsibility of the Congress to oversee the government of the National Capital, S. 2652 establishes procedures, akin to those used under the Reorganization Act, for congressional review of acts passed by the local council. S. 2652 also explicitly reserves to Congress the exclusive power to legislate in a few particularly difficult areas. For example, under the bill the elected council would be prohibited from enacting any tax on any property of the United States or any tax on the income of persons not residing in the District.

I am pleased to note that this is totally bipartisan legislation, reported unanimously by the Committee on the District of Columbia and cosponsored by all seven members of that panel. The distinguished chairman of the committee, the junior Senator from Missouri (Mr. EAGLETON) deserves great credit for his leadership in achieving this accord, as does the distinguished Senator from Hawaii (Mr. INOUYE). The two new minority members of the committee, the Senator from Connecticut (Mr. WEICKER) and the Senator from New York (Mr. BUCKLEY), have also made substantial contributions to the committee's work on this bill.

Mr. President, although S. 2652 is a long and technical measure, its essence is straightforward. This bill, if approved in referendum by the voters of the District of Columbia, would be a charter for local self-government. Under this act, the voters of the District would be empowered to elect a mayor and an 11-member city council, to be chosen for 4-year terms, with half of the council to be elected every 2 years. While these elections would be partisan—the method favored by the heads of both major political parties in the District—candidates would also be able to run as independents, as they may now for the office of nonvoting Delegate to the House of Representatives.

S. 2652 would assign to the elected mayor and council substantial administrative and legislative authority, respectively. The mayor would have general responsibility to manage the city government, to prepare the annual budget, to administer a personnel merit system, and to nominate judges to the local courts created under the District of Columbia Court Reform Act of 1970. The council would have general legislative powers, including the power to levy taxes—except, as I have noted, on U.S. property or on the income of nonresidents—to enact annual appropriations, and to approve nominees for judgships in the local court system.

As noted above, all acts of the council which are not now within the jurisdiction of the council appointed under reorganization plan No. 3 of 1967 would be submitted to the Congress for 30 days of continuous session. During that time, either house of Congress could nullify such an act by passing a resolution of disapproval.

In my judgment, Mr. President, such a power of disapproval is not likely to be exercised very often by the Congress. If we make—as I believe we should—the basic decision to delegate primary authority for local government of the District to an elected mayor and council, I am confident that we will follow through on that decision by letting those officials do their job, free from arbitrary or frivolous congressional interference. Yet the review provisions of S. 2652 are, I believe, a necessary safeguard. More than that, these provisions establish an orderly, expeditious way for Congress to carry out its constitutional responsibilities if congressional action should be necessary in a particular case.

The popular election of local officials in the Nation's Capital is an essential step toward perfecting American democracy. It is also the next logical step forward for the District of Columbia, following the constitutional amendment enabling District of Columbia residents to vote for President, the creation of an elected local school board, and the creation of the office of nonvoting delegate to the House. It is a sound progression from these earlier acts to a Charter Act which grants District of Columbia residents the opportunity to choose their own municipal leadership, and to enjoy a city government not appointed by the President and confirmed by the Senate, but selected by

the people and responsible directly to them.

But these elections would be a delusion and an empty shell if real power—the power of the purse—remained on Capitol Hill. Accordingly, S. 2652 provides both fiscal independence, through the granting of budgetary and appropriations power to the elected government, and fiscal stability through the establishment of a regular, automatic Federal payment to the District of Columbia. As the committee report sets forth, the Federal power and presence in the Nation's Capital are so overwhelming that a substantial Federal contribution to the running of the city is both just and imperative.

The committee considered at some length the question of the best approach to such an annual Federal payment. One method, employed in some previous home rule bills, would set the Federal contribution at a percentage of the assessed valuation of real property in the District. As many Senators recall, this method involves many uncertainties and fine distinctions, and always raises the specter of taxation of the Capital or arguments about how much the White House grounds are worth. Accordingly, the committee rejected this approach in favor of a much clearer and simpler formula which sets the Federal payment as a fixed percentage of total local general revenues. For fiscal 1974, the Federal payment would be 35 percent of local revenues—a figure very close to that which the District Government has requested this year. The percentage would rise to 37½ percent in fiscal 1975, and to 40 percent in fiscal 1976 and thereafter.

In the judgment of the committee, this level of Federal support is both adequate and realistic. It would enable the city government to meet its obligations to the city's residents, and to provide an essential level of services in a decade when every American city is strapped for funds.

By approving the formula Federal payment, Congress would assure the people of the District that they can depend on a decent level of Federal support for the National Capital. At the same time, we should make it clear, as the committee did in its report, that we believe that the proposed level of support will be adequate for the foreseeable future. After all, fiscal independence has two sides. Under S. 2652, the District government would no longer have to petition the Congress for every increase in revenues or for every nickel in appropriations. At the same time, that elected government should understand that the basic responsibility for raising additional revenue is also being transferred from Congress to city hall.

Mr. President, the District of Columbia Charter Act is grounded in the philosophy expressed by President Nixon in his 1971 message to Congress on the Nation's Capital, in which he said:

> One of my pressing goals for this Nation is to place local functions under local control, and to equip local governments with the authority and the resources they need in order to serve their communities well.

This legislation meets that standard and promotes that goal. It also reflects the fact that the present manner of running the Nation's Capital does not work.

In saying this, I mean no disrespect to Mayor Walter Washington. He is a sensitive, immensely hard-working public servant caught in a thankless situation, forced to bear many burdens with little praise and less power. The City Council, too, has done admirably in the difficult job of legislating within restrictive limits and trying to represent the people without having any way to get a real mandate. Nor do I intend to demean in any way the commitment of the executive branch, or to minimize the diligence and perception of my colleagues on the Committee on the District of Columbia and the Appropriations Subcommittee on the District.

But the fact is that all of us are trapped—Congress, the White House, the city government, and above all the people of the District—in a system of government which hardly deserves to be called a system at all. It is an obsolete, cumbersome, and arbitrary series of arrangements through which authority is diffused, power is fragmented, decisionmaking is delayed, influence lurks everywhere and clear responsibility can never be pinned down. The Mayor does not have the power; the Congress does not have the time; the people of the District do not have a vote.

This situation might have been sufficient for a feudal duchy or the capital of a small colony in bygone days. It is simply not adequate for the proud capital of the United States as we approach the bicentennial of our national birth. It is past time to free the citizens of Washington from dependence on the sympathy of officials elected somewhere else. It is past time for us to delegate responsibility for the day-to-day government of this city to men and women elected by its residents. There is no better way for Congress to meet its own obligation to provide for the government of the Nation's Capital. There is no better way for us to tell the Nation and the world that the Declaration of Independence does not stop at the District line.

Mr. President, I urge the approval of S. 2652.

If the bill is passed, let me point out that we are looking to a referendum and to what people want. I think it will be in fact a charter for self-government.

Mr. President, I have not always been a supporter of home rule.

Mr. President, I do not think I have ever opposed it. When I first came to Congress in 1960 I did not have strong views on it, but I have acquired strong views on home rule.

If I may adopt the words of the Senator from Hawaii which he spoke a few moments ago, I am for it because I think it will provide for a government which will run the city better than it is being run today. The simple facts are that we are not running this city very well. The day-to-day responsibility is reserved by Congress which does not give the affairs of the city day-to-day attention. We set up as a target the office of the Commissioner and in order to make it look and sound a little better, we call him the Mayor, but beyond his office and his title we do not give him very much.

As the Senator from Hawaii said, the Mayor cannot even appoint the members of his immediate staff. He is still totally subject to other influences. So he has all the appearances of authority, he is given all the responsibility, and practically no power; and the people who look to him, the citizens of the District of Columbia, have no power at all.

I am for this bill because after 12 years of watching the operation as it now is I have concluded Congress is not doing the kind of job it should do in the day-to-day running of the city, and that we need to place the authority to discharge the duties involved here in the hands of a democratically elected city government.

I hope the Senate will support the bill.

Mr. EAGLETON. Mr. President, I thank the senior Senator from Maryland for his comments here today, which I think were apt and appropriate, and also I thank him even more for the work he has given to the measure now before us.

Senators will agree that good legislation is not the product of the mind of just one Senator, nor is it the product of just one political party, either the majority or the minority party in the Senate. Good legislation is the product of many Senators who serve on a committee from both political parties, working together to come out with a bill that reflects the best attitudes and the best thinking they can put into it.

I can truthfully say that without the help of the senior Senator from Maryland and the leadership he gave to this matter within the committee this bill would not be on the floor today. Probably we would still be haggling over one question or another. But he wanted good legislation to be reported and he consulted with his colleagues on the committee, the Senator from Connecticut (Mr. WEICKER) and the Senator from New York (Mr. BUCKLEY) on the Republican side, as the Senator from Hawaii and I consulted with colleagues on the Democratic side, the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY).

We think all of us now have a unanimous bill reported by the committee which can be well received by the Senate.

Mr. President, I commend the bill to my colleagues.

Mr. BROOKE. Mr. President, the question of home rule is of special concern to me. As a native of the District of Columbia, I know full well the frustration of its populace over the inability to enjoy the basic American right of representative self-government. As cochairman of the National Coalition for Self Determination for the District of Columbia, I have joined with the people of the District, and indeed with concerned citizens throughout our country, to secure this long-delayed right for the people of our Nation's Capital.

Article 1, section 8 of the Constitution state that Congress has the power to exercise exclusive legislation in all cases over the seat of government and shall have the authority to make all the laws that may be necessary to execute its powers. Yet, the Declaration of Independence and the Constitution itself, is firmly grounded in the philosophy that a government must derive its just powers from the consent of the governed. Herein lies the crux of our debate today—the right of a people to self-determination

to pick their representatives and to hold them accountable at the polls.

What we are deciding today is whether a people shall have the right to determine their own interests and priorities, and whether they will be granted enough control to insure that their desires move toward realities. Nowhere in this country, except in the District of Columbia, are people denied this basic right; nowhere else can citizens be taxed without having a voice in determining the amount levied and where it is spent.

To place this debate in a more meaningful context, let us look for a moment at some facts about the District of Columbia. The District is the administrative seat of the Federal Government where the laws are made and executed. Yet of all the land in the District, a total of 69 square miles, only 28.4 percent is owned by the Federal Government. Compare this with 95-percent Federal ownership in Alaska, 86 percent in Nevada, 66 percent in Utah, 63 percent in Idaho, 52 percent in Oregon, 48 percent in Wyoming, 44 percent in Arizona, and California, 36 percent in Colorado, 33 percent in New Mexico, and 29 percent in Montana and Washington State. The percentage of the District's budget which comes from Federal revenues is less than or approximately equal to Alaska's, Wyoming's, Montana's, Vermont's, South Dakota's, and West Virginia's. And nine States have a smaller population than the District: Vermont, New Hampshire, the Dakotas, Delaware, Montana, Wyoming, Nevada, and Alaska. Yet on these grounds of ownership, revenue source, and population, no one would even consider suggesting that these States be forced to forfeit their right of representative self-government to Federal authority.

The point I am making, and the point that I want to reiterate, is that it is a fundamental concept of representative government, that every citizen, regardless of where he resides, regardless of the extent of his wealth or the wealth and numbers of his neighbors, should have the right to vote for and to hold responsible the persons who make the laws that control his life and his property. This principle is recognized at every level of government in this country, whether Federal, State, or local, and there is no reason why it should not be valid in the Nation's Capital.

The measure before us today, S. 2652, is not an unprecedented embarkation on an uncharted course. The District once had representative self-government, but saw that authoriy withdrawn by the Congress in 1874. In the 81st, 82d, 84th, 85th, 86th, and 89th Congresses, this body passed self-government bills only to see them die in the House. What we have seen fit to grant before, we can grant again.

There is judicial precedent as well. In 1903, the U.S. Supreme Court held in Binns against U.S. that:

> It must be remembered that Congress in the government of the Territories as well as the District of Columbia, has plenary power . . . (and) that the form of government it shall establish is not prescribed. . . . It may legislate directly in respect to the local affairs of a territory or transfer the power of such legislation to a legislature elected by the citizens of a territory.

Mr. Justice Douglas, stated his opinion in 1953 in District of Columbia against John R. Thompson Company that:

> It would seem that on the analogy of the delegation of powers of self-government and home rule both to municipalities and to territories, there is no constitutional barrier to the delegation by Congress to the District of Columbia of full legislative power, subject of course to the constitutional limitations to which all lawmaking is subservient and subject also to the power of Congress at any time to revise, alter, or revoke the authority granted.

In April 1968 both Houses of Congress acknowledged that it could and indeed should delegate some of its powers to the people, when we authorized the election of an 11-man Board of Education in the District. In September 1970 another step was taken when Congress enacted legislation authorizing the election of a delegate from Washington to the House of Representatives. Today, that delegate, Congressman WALTER FAUNTROY, is serving with distinction in the Congress and serves with me as cochairman of the National Coalition for Self-Determination for the District of Columbia.

What is being proposed today is not an abdication of power by the Congress, but rather the delegation of administrative and legislative powers for solely local affairs to a body that is duly elected by its citizens. By enacting this measure, Congress will not be surrendering its constitutional authority over the District of Columbia, for under the legislation either House can veto any legislation passed by the proposed City Council. But Congress will be giving to the residents of the District the right to decide their own priorities and to decide issues that can more appropriately be handled at a local level. In addition, Congress will free itself of the time-consuming effort of dealing with the multitude of local issues confronting the District, thereby enabling us to consider more fully matters of national and international importance.

James Madison, in the Federalist Papers, most clearly outlines the intent of the framers of the Constitution regarding the District of Columbia by stating—

> The inhabitants will find sufficient inducements of interest to become willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them.

Alexander Hamilton, in defining the power of Congress in regard to its authority over the District said that:

> It is, in other words, a power to pass all laws whatsoever, and, consequently, to pass laws for erecting corporations, as well as for any other purpose which is the proper object of law in a free society.

This theme was reiterated by the President on April 7 when he called for bringing the benefits of the American Revolution to the people of the District. Let us today add our votes to these voices, and finally grant the full rights and responsibilities of citizenship to all Americans.

Mr. BEALL. Mr. President, I rise in support of S. 2652, a bill which will enable the citizens of the District of Columbia to elect their Mayor and a 11-member City Council. Technically, the bill will enact a District of Columbia Charter Act under which a referendum will be held within 4 months after the legislation is signed into law to determine whether the District of Columbia citizens accept the District of Columbia Charter Act. If approved by majority vote, truly representative local government would be provided for the citizens of the Nation's Capital for the first time in approximately a century.

Washington, D.C., is a special city not only for all Americans but for the entire free world. The Nation's Capital belongs to each American. The ideals, hopes, and aspirations of this Nation are evident in its many historic documents, buildings, and monuments. Few come to see the Capital City without returning to their respective States more inspired and appreciative of the goodness and greatness that is America.

Washington, D.C., is also a special place for 756,510 Americans who in addition to sharing in common the District of Columbia as the Nation's Capital with their fellow Americans, also call Washington, D.C., their home.

Washington, D.C., although unique in many ways, also is similar in many ways with other large urban areas. I am referring, of course, to such problems as crime, housing, education, and health. S. 2652 will give the citizens of the Nation's Capital through their local elected officials, who are in daily contact and closer to these problems, the opportunity to focus on and hopefully solve some of them.

At the same time, the unique national interests are sufficiently protected and preserved. The bill provides that Congress may at any time revoke or modify its delegation of home rule to the District. The Congress, can, if it desires, initiate legislation and Congress also has the power to veto any act of the City Council. In addition, there are provisions for the supervision of the fiscal affairs by the General Accounting Office. Similarly, there is a prohibition in the bill against the levying of a tax on the income of any individual not a resident of the District of Columbia. This, of course, will prevent the District of Columbia from enacting a commuter tax as had been proposed by the Mayor.

Mr. President, Alex de Tocqueville, the astute observer of America, many years ago commented on the importance and vitality of local governments. He said:

> Local assemblies of citizens constitute the strength of free nations. Town meetings are to liberty what primary schools are to science; they bring it within reach; they teach men how to use it and how to enjoy it.
>
> A nation may establish a system of free government, but without the spirit of municipal institutions, it cannot have the spirit of liberty.

The passage of this legislation was called for by President Nixon in his message this year to the Congress. President Nixon said:

One of my most pressing goals for this Nation is to place local functions under local control, and to equip local governments with the authority and the resources they need in order to serve their communities well.

In addition, Mr. President, the enactment of this legislation which provides greater degree of home rule to the citizens of the Nation's Capital is in keeping with the general thrust of the President's effort to return government to the people. This Nation was born 191 years ago and a rallying protest which united the earlier colonists was "taxation without representation." Certainly as this Nation approaches its 200th birthday, it is most appropriate that the New American Revolution which the President called for in his state of the Union message last January, "a peaceful revolution in which power is turned back to the people—in which government at all levels is refreshed and renewed and made truly representative," begin in the Nation's Capital.

I strongly urge that the Senate pass this legislation. It is a good bill delicately balancing the local interest and the Nation's interests.

Mr. THURMOND. Mr. President, S. 2652 would provide for the election of a Mayor and an 11-member Council by the residents of the District of Columbia. This body politic would replace the commission form of government which is presently appointed by the President and consists of a Commissioner-Mayor and a Council.

Since 1874 various legislative proposals have been submitted to provide some form of self-government for the District of Columbia. These proposals have ranged as far as making the District the 51st State having full representation in Congress and all other powers inherent in statehood.

Mr. President, I am opposed to this bill, S. 2652, because it is but another attempt to modify the constitutionally created purpose of the District of Columbia. When this country was formed, our forefathers decided that we needed an area of land—not another State or an area within a State—to house the physical structure of our Federal Government. To fulfill this need there was embodied in the Constitution a provision creating the District of Columbia.

Mr. President, if it is felt that we should change the District from the purpose for which it was created, let us go about it in a direct, constitutional way. First, let us consider the ultimate issue—whether there should be complete home rule in the District of Columbia equal to statehood. Second, let us go about this in the correct manner. The District was created in the Constitution as a place for the Federal Government not as another State where people who elect to reside therein can have the same rights and privileges as residents of the several States. If, however, this should be changed the Constitution can be amended.

Mr. President, our forefathers created the District of Columbia as a place for the Federal Government. In the same creating document, the Constitution, they embodied a provision whereby that document can be changed by the amendment process. If we desire to change the purpose for the District of Columbia let us do it as it should be done—by constitutional amendment—not by bits and pieces of legislation such as S. 2652.

Mr. TUNNEY. Mr. President, as a member of the Senate District Committee I would like to urge that my colleagues vote for S. 2652 the District of Columbia home rule bill.

Every other community in the Nation can now elect its own government officials—not the District of Columbia.

It is a national tragedy that the 850,000 people of the District of Columbia continue to live in serfdom. Restoring local self-government would place responsibility for the solution of local problems on those persons most immediately affected.

It is my belief that many of the problems of the District of Columbia cannot begin to be sloved until the decisionmakers are forced to account to the people.

I hope that S. 2652 passes the Senate unanimously and that 1971 will be the year when the right of home rule is no longer withheld from the people of the District of Columbia.

Mr. STEVENSON. Mr. President, for too many years the basic privilege of American citizens to elect the men and women who will control their local governments has been denied the three-quarters of a million citizens of the District of Columbia.

We hear statements of support in the Congress for self determination in South Vietnam—but the Congress still fails to support this principle here in Washington where we all work and many of us live. Even the Virgin Islands—perennial stepchild of the United States—now has an elected governor. Yet here in the District of Columbia we continue to pursue the antiquated and antidemocratic procedures by which the President of the United States appoints the Mayor and members of the City Council for the District. This process clearly does not reflect the desires of the people who live here. In the Congress, we must continue to legislate for the District of Columbia, and decide on every dollar that is to be spent here. This process is both undemocratic, and a tremendous waste of our time and energies. We should, instead, be able to devote all of our time to the issues affecting all of the people of the United States. The passage of this bill will not even take away from the Congress the privilege of writing legislation for the District—should it wish to do so. It will still be able to overrule the decisions of the duly-elected representatives of the people of Washington. All it will mean, is that the basic operational and policy decisions for the governance of the District will be made where they should be made: By a duly elected District government.

Mr. HUMPHREY. Mr. President, it must seem incredible to many of my colleagues, as it does to me, that the Senate is again considering a modest home rule bill for the District of Columbia.

As the Washington Post points out this morning, we, the Senate, have six times approved home rule for the Nation's Capital City. In six different Congresses since I entered the Senate in 1949, the Senate has attempted to extend some form of equal citizenship to the people of this city, only to be overruled in the House of Representatives.

I wish to commend the members of the Senate Committee on the District of Columbia for again bringing this denial of justice to the conscience of the Congress. They have recommended to us, in S. 2652, an elected Mayor and City Council, but with limited fiscal authority. They have carefully taken account of the major objection made by some opponents of home rule by explicitly asserting Congress' power to retain ultimate legislative authority over the District.

Mr. President, we should unanimously pass this bill. To continue to deny basic citizenship to the residents of the District is unconscionable. To ignore the fine record established by the present appointed Mayor-Commissioner and Council would be unfair and blind. The people of this city have every right to govern themselves, and they have proved their ability to do so.

We should pass this bill, and we should also move speedily to extend full citizenship for the people of the District by approving full equality of representation, voting representation, in the Congress.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. YOUNG. Mr. President, on this vote I have a pair with the Senator from Louisiana (Mr. ELLENDER). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. BYRD), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Maine (Mr. MUSKIE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), the Senator

from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. FANNIN), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Nebraska (Mr. HRUSKA) is absent to attend the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Alaska (Mr. STEVENS) is detained on official business.

If present and voting, the Senator from Illinois (Mr. PERCY), and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 64, nays 8, as follows:

[No. 260 Leg.]

YEAS—64

Allott	Dominick	Moss
Anderson	Eagleton	Nelson
Baker	Fong	Packwood
Beall	Gurney	Pastore
Bennett	Hansen	Pearson
Bentsen	Hart	Pell
Bible	Hartke	Proxmire
Boggs	Hughes	Ribicoff
Brooke	Inouye	Roth
Buckley	Javits	Schweiker
Burdick	Jordan, Idaho	Scott
Byrd, W. Va.	Kennedy	Smith
Cannon	Magnuson	Spong
Case	Mansfield	Stafford
Chiles	Mathias	Stevenson
Church	McGee	Taft
Cook	McGovern	Tower
Cooper	McIntyre	Tunney
Cotton	Metcalf	Weicker
Cranston	Miller	Williams
Curtis	Mondale	
Dole	Montoya	

NAYS—8

Allen	Ervin	Talmadge
Bellmon	Long	Thurmond
Eastland	McClellan	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Young, for.

NOT VOTING—27

Aiken	Gravel	Mundt
Bayh	Griffin	Muskie
Brock	Harris	Percy
Byrd, Va.	Hatfield	Randolph
Ellender	Hollings	Saxbe
Fannin	Hruska	Sparkman
Fulbright	Humphrey	Stennis
Gambrell	Jackson	Stevens
Goldwater	Jordan, N.C.	Symington

So the bill (S. 2652) was passed, as follows:

S. 2652

An act to provide an elected Mayor and City Council for the District of Columbia, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the retention by Congress of the ultimate legislative authority over the Nation's Capital which is granted by the Constitution, it is the intent of Congress to restore to the inhabitants of the District of Columbia the powers of local self-government which are a basic privilege of all American citizens; to reaffirm through such action the confidence of the American people in the strengthened validity of principles of local self-government by the elective process; to promote among the inhabitants of the District the sense of responsibility for the development and well-being of their community which will result from the enjoyment of such powers of self-government; to provide for the more effective participation in the development of the District and in the solution of its local problems by those persons who are most closely concerned; and to relieve the National Legislature of the burden of legislating upon purely local District matters. It is the further intention of Congress to exercise its retained ultimate legislative authority over the District only insofar as such action shall be necessary or desirable in the interest of the Nation.

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TITLE I—DEFINITIONS

DEFINITIONS

SEC. 101. For the purposes of this Act—

(1) The term "District" means the District of Columbia.

(2) The terms "District Council" and "Council" mean the Council of the District of Columbia provided for by title III.

(3) The term "District of Columbia Council" means the Council of the District of Columbia established under Reorganization Plan Numbered 3 of 1967.

(4) The term "Chairman" means, unless otherwise indicated in this Act, the Chairman of the District Council provided for by title III.

(5) The term "Mayor" means the Mayor provided for by title IV.

(6) The term "qualified voter," except as otherwise specifically provided, shall have the same meaning as that provided for a "qualified elector" under paragraph (2) of section 2 of the District of Columbia Election Act.

(7) The term "act" includes any legislation adopted by the District Council, except where the term "Act" is used to refer to this Act or other Acts of Congress herein specified.

(8) The term "District Election Act of 1955" means the Act of August 12, 1955 (69 Stat. 699), as amended.

(9) The term "person" includes an individual, partnership, association, joint-stock company, trust, or corporation.

(10) The term "capital project", or "project", means (a) any physical public betterment or improvement and any preliminary studies and surveys relative thereto; (b) the acquisition of property of a permanent nature; or (c) the purchase of equipment for any public betterment or improvement when first erected or acquired.

(11) The term "pending", when applied to any capital project, means authorized but not yet completed.

(12) "District revenues," as used in title VI, means all revenues derived from taxes, fees, charges, and miscellaneous receipts, including all annual Federal payments to the District authorized by law.

(13) The term "Board of Elections" means the Board of Elections created by section 3 of the District Election Act of 1955.

(14) The term "election", unless the context otherwise indicates, means an election held pursuant to the provisions of this Act.

(15) The term "domicile" means that place where a person has his true, fixed, and permanent home and to which, when he is absent, he has the intention of returning.

(16) The terms "publish" and "publication", unless otherwise specifically provided herein, mean publication in a newspaper of general circulation in the District.

(17) The term "municipal courts of the District of Columbia" means the Superior Court of the District of Columbia, the District of Columbia Court of Appeals, and such other municipal courts as the District Council may hereafter establish by act.

TITLE II—STATUS OF THE DISTRICT

SEC. 201. (a) All of the territory constituting the permanent seat of the Government of the United States shall continue to be designated as the District of Columbia. The District of Columbia shall remain and continue a body corporate, as provided in section 2 of the Revised Statutes relating to said District. Said Corporation shall continue to be charged with all the duties, obligations, responsibilities, and liabilities, and to be vested with all of the powers, rights, privileges, immunities, and assets, respectively, imposed upon and vested in said Corporation or the Commissioner of the District of Columbia.

(b) No law or regulation which is in force on the effective date of part 2, title III, of this Act shall be deemed amended or repealed by this Act except to the extent specifically provided herein or to the extent that such law or regulation is inconsistent with this Act, but any such law or regulation may be amended or repealed by legislation or regulation as authorized in this Act, or by Act of Congress.

(c) Nothing contained in this section shall affect the boundary line between the District of Columbia and the Commonwealth of Virginia as the same was established or may be subsequently established under the provisions of title I of the Act of October 31, 1945 (59 Stat. 552).

TITLE III—THE DISTRICT COUNCIL

PART 1—CREATION OF THE DISTRICT COUNCIL

CREATION AND MEMBERSHIP

SEC. 301. There is hereby created a Council of the District of Columbia consisting of eleven members, of whom the Chairman and two members shall be elected at large and the other eight members shall be elected one from each of the eight election wards established under the District of Columbia Election Act. The term of office of the Chairman and other members of the Council shall be four years beginning at noon on January 2 of the calendar year next following the calendar year of their election; except that of the members (other than the Chairman) first elected after the effective date of this provision, one member elected at large and four members elected from wards shall serve for terms of two years. The members who shall serve for terms of two years shall be determined by lots cast before the Board of Elections of the District of Columbia upon a date set and pursuant to regulations issued by the Board of Elections.

QUALIFICATIONS FOR HOLDING OFFICE

SEC. 302. No person shall hold the office of member of the District Council, including the office of Chairman, unless he (1) is a qualified voter, (2) is domiciled in the District and, if he is nominated for election from a particular ward, resides in the ward from which he is nominated, (3) has, during the three years next preceding his election, resided and been domiciled in the District, and (4) is not engaged in any employment (whether as an employee or as a self-employed individual) and holds no public office or position (other than his employment in and position as a member of the Council), for which he is compensated in an amount in excess of his actual expenses in connection therewith, except that nothing in this clause shall prohibit any such person, while a member of the Council, from serving as a delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States, or from holding an appointment in a Reserve component of an armed force of the United States other than a member serving on active duty under a call for more than thirty days. A member of the Council shall forfeit his office upon failure to maintain the qualifications required by this section.

COMPENSATION

SEC. 303. Each member of the District Council, including the Chairman, shall receive compensation, payable in periodic installments, at rates established by act passed by the Council. All members shall receive such additional allowances for expenses as may be approved by the Council to be paid out of funds duly appropriated therefor.

CHANGES IN MEMBERSHIP AND COMPENSATION OF DISTRICT COUNCIL MEMBERS

SEC. 304. The number of members constituting the District Council, the qualifications for holding office, and the compensation of such members may be changed by act passed by the Council: *Provided*, That no such act (other than an act involving compensation or allowances) shall take effect until after it has been assented to by a majority of the qualified voters of the District voting at an election on the proposition set forth in any such act.

PART 2—PRINCIPAL FUNCTIONS OF THE DISTRICT COUNCIL

ABOLISHMENT OF EXISTING GOVERNMENT AND TRANSFER OF FUNCTIONS

SEC. 321. (a) The District of Columbia Council, the offices of Chairman of the District of Columbia Council, Vice Chairman of the District of Columbia Council, and the seven other members of the District of Columbia Council, and the offices of the Commissioner of the District of Columbia and Assistant to the Commissioner of the District of Columbia, as established by Reorganization Plan Numbered 3 of 1967, are hereby abolished: *Provided*, That this subsection shall not be construed to reinstate any governmental body or office in the District abolished in said plan or otherwise heretofore.

(b) Except as otherwise provided in this Act, all functions granted to or imposed upon, or vested in or transferred to the District of Columbia Council or the Commissioner of the District of Columbia, as established by Reorganization Plan Numbered 3 of 1967, shall be carried out by the District Council and the Mayor in accordance with the provisions of this Act.

CERTAIN DELEGATED FUNCTIONS AND FUNCTIONS OF CERTAIN AGENCIES

SEC. 322. No function of the District of Columbia Council (established under Reorganization Plan Numbered 3 of 1967) or of the Commissioner of the District of Columbia which such District of Columbia Council or Commissioner has delegated to an officer, employee, or agency (including any body of or under such agency) of the District, nor any function now vested pursuant to section 501 of Reorganization Plan Numbered 3 of 1967 in the District Public Service Commission, Zoning Commission, Zoning Advisory Council, Board of Zoning Adjustment, Office of the Recorder of Deeds, or Armory Board, or in any officer, employee, or body of or under such agency, shall be considered as a function transferred to the District Council pursuant to section 321 of this Act. Each such function is hereby transferred to the officer, employee, or agency (including any body of or under such agency), to whom or to which it was delegated, or in whom or in which it has remained vested, until the Mayor or Council established under this title, or both, pursuant to the powers herein granted, shall revoke, modify, or transfer such delegation or vesting.

PROCEDURE OF ZONING ACTS

SEC. 323. (a) The provisions of section 322 of this Act notwithstanding, before any zoning regulation or equivalent legislation for the District is approved by the District Council, Zoning Commission, or other authority—

(1) the Council, Zoning Commission, or authority shall deposit such regulation or legislation in its introduced form with the National Capital Planning Commission. Such Planning Commission shall, within thirty days after the day of such deposit, submit its comments to the Council, Zoning Commission, or authority, including advice as to whether the proposed regulation or legislation is in conformity with the comprehensive plan for the District of Columbia. The Council, Zoning Commission, or authority shall not pass the regulation or legislation unless it has received said comments, or the Planning Commission has failed to comment, within the thirty-day period above specified; and

(2) the Council, Zoning Commission, or authority, or an appropriate committee thereof, shall hold a public hearing on the regulation or legislation. At least thirty days' notice of the hearing shall be published, as the Council, Zoning Commission, or authority may direct. Such notice shall include the time and place of the hearing and a summary of all changes in existing law which would be made by adoption of the regulation or legislation. The Council, Zoning Commission, or authority (or committee thereof holding a hearing) shall give such additional notice as it finds expedient and practicable. At the hearing interested persons shall be given reasonable opportunity to be heard. The hearing may be adjourned from time to time. The time and place of

reconvening shall be publicly announced before adjournment is had.

(b) The Council, Zoning Commission, or authority shall deposit with the Planning Commission each such regulation or item of legislation passed by it.

(c) This section shall not be construed to restrict legislation (or regulation) regarding solely the procedure (apart from this section) or mechanism for regulating zoning in the District and not itself regulating such zoning.

APPOINTMENT OF ARMORY BOARD

SEC. 324. (a) The first sentence of section 2 of the Act of June 4, 1948 (62 Stat. 339), is hereby amended to read as follows: "There is hereby established an Armory Board, to be composed of three members who shall be appointed by the Mayor by and with the advice and consent of the Council and who shall serve at the pleasure of the Mayor."

(b) All functions and authority vested in the President by the Act of June 12, 1934 (48 Stat. 930), as amended, are hereby transferred to and vested in the Mayor.

POWERS AND LIMITATIONS UPON DISTRICT COUNCIL

SEC. 325. (a) The legislative power granted to the District by this Act shall be vested in the District Council.

(b) Notwithstanding any other provision of this Act, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District of Columbia, by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the District Council by this Act, including legislation to amend or repeal any law in force in the District prior to or after the enactment of this Act and any act passed by the Council.

(c) Except as provided in subsection (d) of this section, the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this Act, subject to all the restrictions and limitations imposed upon States by the tenth section of the first article of the Constitution of the United States.

(d) The Council shall have no authority to pass any act contrary to the provisions of this Act, or—

(1) impose any tax on property of the United States or any of the several States, or upon the whole or any portion of the personal income, either directly or at the source thereof, of any individual not a resident of the District (the terms "individual" and "resident" to be understood for the purposes of this paragraph as under section 4 of the Act of July 16, 1947 (61 Stat. 332));

(2) lend the public credit for support of any private undertaking;

(3) authorize the issuance of bonds except in compliance with the provisions of title VI;

(4) enact any act, or enact any act to amend or repeal any Act of Congress, which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District;

(5) pass any act inconsistent with or contrary to the Act of June 6, 1924 (43 Stat. 463), as amended, or the Act of May 29, 1930 (46 Stat. 482), as amended, and the Council shall not pass an act inconsistent with or contrary to any provision of any Act of Congress as it specifically pertains to any duty, authority, and responsibility of the National Capital Planning Commission.

(f) Every act shall include a preamble, or be accompanied by a report, setting forth concisely the purposes of its adoption. Every act shall be published, upon becoming law, as the Council may direct.

(g) An act passed by the Council shall be presented by the Chairman of the Council to the Mayor, who shall, within ten calendar days after the act is presented to him, either approve or disapprove such act. If the Mayor shall approve such act, he shall indicate the same by affixing his signature thereto, and such act shall, subject to the provisions of subsection (h) of this section, become law. If the Mayor shall disapprove such act, he shall, within ten calendar days after it is presented to him, return such act to the Council setting forth his reasons for such disapproval. If any act so passed shall not be returned to the Council by the Mayor within ten calendar days after it shall have been presented to him, the Mayor shall be deemed to have approved it, and such act shall, subject to the provisions of subsection (h) of this section, become law. If, within thirty calendar days after an act has been timely returned by the Mayor to the Council with his disapproval, two-thirds of the members of the Council present and voting vote to repass such act, the act so repassed shall, subject to the provisions of subsection (h) of this section, become law.

(h) The provisions of subsection (g) of this section notwithstanding, acts of the District Council exercising functions not heretofore legally exercisable by the Commissioner of the District of Columbia pursuant to section 401 of Reorganization Plan Numbered 3 of 1967 or by the District of Columbia Council pursuant to section 402 of said plan, shall become law only in accordance with the following:

(1) Within five calendar days following the date upon which such acts of the District Council would have become law apart from this subsection, such acts of the District Council shall be transmitted to the Congress by the Mayor or, in the case of such acts repassed by a two-thirds vote of the District Council over the Mayor's disapproval, by the Chairman of the Council.

(2)(A) Any act so transmitted shall become law upon the date of expiration of a period of thirty calendar days of continuous session of the Congress following the date on which such act is transmitted, unless during such period there is passed by either the Senate or the House of Representatives a resolution stating in substance that the Senate or the House of Representatives, as the case may be, does not approve the proposed act, in which case such proposed act shall be considered void and of no effect. For the purposes of this paragraph, in the computation of the thirty-day period there shall be excluded the days on which either the Senate or the House of Representatives, as the session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die.

(B) The provisions of sections 910–913 of title 5, United States Code, shall apply to the procedure to be followed in the Senate and House of Representatives in the exercise of their respective responsibilities under subparagraph (A) of this paragraph in the same manner and to the same extent as such provisions apply to the procedure followed in the case of reorganization plans; except that references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purposes of this paragraph to refer to a resolution of disapproval under subparagraph (A).

(i) On or after the effective date of this part, any person appointed to serve as judge of one of the municipal courts of the District of Columbia shall not (1) be appointed to serve for a term of less than ten years, (2) serve on the court past the year that the seventieth anniversary of his birth shall occur, or (3) receive as compensation for such service an amount less than the amount payable to an associate judge of the Superior Court of the District of Columbia on the effective date of this part. Appointments to positions as judges of the municipal courts of the District of Columbia shall be made by the Mayor, with the advice and consent of the Council. Nothing in this Act shall be construed to change or authorize the change of the tenure of any persons occupying positions as judges of the municipal courts of the District of Columbia on the effective date of this part, and in no case may their compensation be decreased.

(j) Except as limited by subsection (i) of this section, upon the effective date of this part, jurisdiction over the municipal courts of the District of Columbia shall vest with the District Council in all matters (other than the appointment of judges) pertaining to the organization and composition of such courts, and to the qualification, tenure, and compensation of the judges thereof, but in no event shall the Council transfer or modify any function performed by the United States marshal or the United States attorney for the district on the effective date of this part.

(k) Nothing in this section or elsewhere in this Act shall be construed as authorizing the District Council to modify or otherwise alter the jurisdiction, established by the enactment of the Congress of the United States, of the United States District Court for the District of Columbia or any other United States court other than the municipal courts of the District.

(l) Nothing in this Act shall be construed as vesting in the District government any greater authority over the Washington Aqueduct, the Commission on Mental Health, the National Zoological Park, the National Guard of the District of Columbia, or, except as otherwise specifically provided in this Act, over any Federal agency, than was vested in the Commissioner of the District prior to the effective date of part 2, title III, of this Act.

PART 3—ORGANIZATION AND PROCEDURE OF THE DISTRICT COUNCIL

THE CHAIRMAN

SEC. 331. (a) The Chairman of the District Council shall be the presiding officer of the Council. The District Council shall elect from among its members, for a term of two years, a Vice Chairman.

(b) When the Mayor is absent or unable to act, the Chairman of the Council shall act in his stead. When the Chairman of the Council is absent or unable to act, the Vice Chairman shall act in his stead.

(c) In the event that the Chairman of the Council becomes Mayor by reason of a vacancy in the office of Mayor (as provided in section 401(b)(2) of this Act), the Vice Chairman shall serve as Chairman in accordance with the provisions of section 10(e)(2)(A) of the District of Columbia Election Act.

SECRETARY OF THE DISTRICT COUNCIL; RECORDS AND DOCUMENTS

SEC. 332. (a) The Council shall appoint a Secretary as its chief administrative officer and such assistants and clerical personnel as may be necessary. Notwithstanding any other provision of this Act, he compensation and other terms of employment of such Secretary, assistants, and clerical personnel shall be prescribed by the Council.

(b) The Secretary shall (1) keep a record of the proceedings of the Council, (2) keep a record showing the text of all acts introduced and the ayes and noes of each vote, (3) authenticate by his signature and record in full in a continuing record kept for that purpose all acts passed by the Council, including the date and time that each such act takes effect, and (4) perform such other duties as the Council may from time to time prescribe.

(c) The records required by subsection (b) shall be available for public inspection during normal business hours and copies of the records shall be made available for purchase under such conditions and upon the payment of such fees as the Council shall deem appropriate.

MEETINGS

SEC. 333. (a) A majority of the District Council shall constitute a quorum for the lawful convening of any meeting of the Council and for the transaction of business of the Council.

(b) The first meeting of the Council after this part takes effect shall be called by the Chairman of the District Council.

(c) The Council shall provide for the time and place of its regular meetings. The Council shall hold at least one regular meeting in each calendar week except during the month of August. Special meetings may be called, upon the giving of adequate notice, by the Mayor, the Chairman, or any three members of the Council.

(d) Meetings of the Council shall be open to the public and shall be held at reasonable hours and at such places as may be necessary to accommodate a reasonable number of spectators. Any citizen shall have the right to petition and be heard by the Council at any of its meetings within reasonable limits as set by the Council.

COMMITTEES

SEC. 334. The Council Chairman, with the advice and consent of the Council, shall determine the standing and special committees which may be expedient for the conduct of the Council's business. The Chairman shall appoint members to such committees. All committee meetings shall be open to the public except when ordered closed by the committee chairman, with the prior approval of a majority of the members of the committee.

ACTS AND RESOLUTIONS

SEC. 335. (a) The Council, to discharge the powers and duties imposed herein, shall pass acts and adopt resolutions, upon a vote of a majority of the members of the Council present and voting, unless otherwise provided herein. The Council shall use acts for all legislative purposes. Resolutions shall be used to express simple determinations, decisions, or directions of the Council of a special or temporary character.

(b)(1) The enacting clause of all acts passed by the Council shall be, "Be it enacted by the Council of the District of Columbia:".

(2) The resolving clause of all resolutions passed by the Council shall be, "The Council of the District of Columbia hereby resolves,".

(c) A special election may be called by resolution of the Council to present for an advisory referendum vote of the people any proposition upon which the Council desires to take action.

PASSAGE OF ACTS

SEC. 336. The Council shall not pass any act before the thirteenth day following the day on which it is introduced. Subject to the other limitations of this Act, this requirement may be waived by the unanimous vote of the members present, if such members present constitute a majority of the Council.

INVESTIGATIONS BY DISTRICT COUNCIL

SEC. 337. (a) The Council, or any committee or person authorized by it, shall have power to investigate any matter relating to the affairs of the District; and for that purpose may require the attendance and testimony of witnesses and the production of books, papers, and other evidence. For such purpose any member of the Council (if the Council is conducting the inquiry) or any member of the committee may issue subpenas and administer oaths.

(b) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Council shall have power to refer the matter to any judge of the United States District Court for the District of Columbia, who may by order require such person to appear and to give or produce testimony or books, papers, or other evidence, bearing upon the matter under investigation; and any failure to obey such order may be punished by such court as a contempt thereof as in the case of failure to obey a subpena issued, or to testify, in a case pending before such court.

TITLE IV—MAYOR

ELECTION, QUALIFICATIONS, AND SALARY

SEC. 401. (a) There is hereby created the office of Mayor of the District of Columbia. The Mayor shall be elected as provided in title VIII. The term of office of the Mayor shall be four years, beginning at noon on January 2 of the calendar year next following the calendar year in which he is elected.

(b)(1) No person shall hold the office of Mayor unless he (1) is a qualified voter, (2) is domiciled and resides in the District, (3) has, during the three years next preceding his nomination, been resident in and domiciled in the District, and (4) is not engaged in any employment (whether as an employee or as a self-employed individual) and holds no public office or position (other than his employment in and position as Mayor), for which he is compensated in an amount in excess of his actual expenses in connection therewith, except that nothing in this clause shall be construed as prohibiting such person, while holding the office of Mayor, from serving as a delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States, or from holding an appointment in a Reserve component of an armed force of the United States other than a member serving on active duty under a call for more than thirty days. The Mayor shall forfeit his office upon failure to maintain the qualifications required by this section.

(2) When the office of Mayor is vacant, the Chairman of the District Council shall, immediately upon the creation of such vacancy, become Mayor and shall serve for the remainder of the unexpired term of his predecessor vacating such office.

(c) The Mayor shall receive an annual salary in an amount established by act passed by the Council, and an allowance, in such amount as the Council shall establish, for official reception and representation expenses, which he shall certify in reasonable detail to the District Council. Such salary shall be payable in periodic installments.

(d) Subject to the provision of subsection (c) relating to compensation, the method of election, the qualifications for office, the compensation and the allowance for official expenses pertaining to the office of Mayor may be changed by acts passed by the Council, except that no such act (other than an act involving compensation or allowance) shall take effect until after it has been assented to by a majority of the qualified voters of the District voting at an election on the proposition set forth in such act.

POWERS AND DUTIES

SEC. 402. The executive power of the District shall be vested in the Mayor who shall be the chief executive officer of the District government. He shall be responsible for the proper administration of the affairs of the District coming under his jurisdiction or control, and to that end shall have the following powers, duties, and functions:

(1) The Mayor shall designate the officer or officers of the executive department of the District who shall, during periods of disability or absence from the District of the Mayor and the Chairman of the Council, execute and perform all the powers and duties of the Mayor.

(2) The Mayor shall act as the official spokesman for the District and as the head of the District for ceremonial purposes.

(3) The Mayor shall administer all laws relating to the appointment, promotion, discipline, separation, and other conditions of employment of personnel in the office of the Mayor, personnel in executive departments of the District, and members of boards, commissions, and other agencies, who, under laws in effect on the date immediately preceding the effective date of section 321(a) of this Act, were subject to appointment and removal by the Commissioner of the District of Columbia. All actions affecting such personnel and such members shall, until such time as legislation is enacted by the Council superseding such laws and establishing a permanent District government merit system or systems, pursuant to section 402(4), continue to be subject to the provisions of Acts of Congress relating to the appointment, promotion, discipline, separation, and other conditions of employment applicable to officers and employees of the District government, to section 1001(d) of this Act, and where applicable, to the provisions of the joint agreement between the Commissioners and the Civil Service Commission authorized by Executive Order Numbered 5491 of November 18, 1930, relating to the appointment of District personnel. He shall appoint or assign persons to positions formerly occupied, ex officio, by the Commissioner of the District of Columbia or by the Assistant to the Commissioner and shall have power to remove such persons from such positions. The officers and employees of each agency with respect to which legislative power is delegated by this Act and which, immediately prior to the effective date of section 321(a) of this Act, was not subject to the administrative control of the Commissioner of the District, shall continue to be appointed and removed in accordance with applicable laws until such time as such laws may be superseded by legislation passed by the Council establishing a permanent District government merit system or systems pursuant to section 402(4).

(4) The Mayor shall administer the personnel functions of the District covering employees of all District departments, boards, commissions, offices, and agencies, except as otherwise provided by this Act. Personnel legislation enacted by Congress, prior to or after the effective date of this section, including, without limitation, legislation relating to appointments, promotions, discipline, separations, pay, unemployment compensation, health, disability, and death benefits, leave, retirement, insurance, and veterans' preference applicable to employees of the District government as set forth in section 1002(c), shall continue to be applicable until such time as the Council shall, pursuant to this section, provide equal or equivalent coverage under a District government merit system or systems. The District government merit system or systems shall be established by legislation of the Council. The system or systems may provide for continued participation in all or part of the Federal Civil Service System and shall provide for persons employed by the District government immediately preceeding the effective date of such system or systems personnel benefits but not limited to pay, tenure, leave, residence, retirement, health and life insurance, and employee disability and death benefits, all at least equal to those provided by legislation enacted by Congress, or regulation adopted pursuant thereto, and applicable to such officers and employees immediately prior to the effective date of the system or systems established pursuant to this Act. The District government merit system or systems shall take effect not earlier than one year no later than five years after the effective date of this section.

(5) The Mayor shall, through the heads of administrative boards, offices, and agencies, supervise and direct the activities of such boards, offices, and agencies.

(6) The Mayor shall, at the end of each fiscal year, prepare reports for such year of (A) the finances of the District, and (B) the administrative activities of the executive office of the Mayor and the executive depart-

ments of the District. He shall submit such reports to the Council within ninety days after the close of the fiscal year.

(7) The Mayor shall keep the Council advised of the financial condition and future needs of the District and make such recommendations to the Council as may seem to him desirable.

(8) The Mayor may submit drafts of acts to the Council.

(9) The Mayor may delegate any of his functions (other than the function of approving or disapproving acts passed by the Council or the function of approving contracts between the District and the Federal Government under section 901) to any officer, employee, or agency of the executive office of the Mayor, or to any director of an executive department who may, with the approval of the Mayor, make a further delegation of all or a part of such functions to subordinates under his jurisdictions.

(10) The Mayor shall appoint a City Administrator, who shall serve at the pleasure of the Mayor. The City Administrator shall be the chief administrative officer of the Mayor, and he shall assist the Mayor in carrying out his functions under this act, and shall perform such other duties as may be assigned to him by the Mayor. The City Administrator shall be paid at a rate equal to the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, plus $500, except that, effective on and after the establishment of any District government merit system by legislation of the Council, the City Administrator shall be paid at a rate equal to that paid to the highest paid employee of the District government pursuant to such merit system or systems so established by legislation of the Council, plus $500.

(11) The Mayor may propose to the executive or legislative branch of the United States Government legislation or other action dealing with any subject whether or not falling within the authority of the District government, as defined in this Act.

(12) The Mayor, as custodian thereof, shall use and authenticate the corporate seal of the District in accordance with law.

(13) The Mayor shall have the right, under rules to be adopted by the Council, to be heard by the Council or any of its committees.

(14) The Mayor is authorized to issue and enforce administrative orders, not inconsistent with this or any other Act of the Congress or any act of the Council, as are necessary to carry out his functions and duties.

TITLE V—THE DISTRICT BUDGET

PART 1—BUDGET

FISCAL YEAR

SEC. 501. The fiscal year of the District of Columbia shall begin on the 1st day of July and shall end on the 30th day of June of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year.

BUDGETARY DETAILS FIXED BY MAYOR

SEC. 502. (a) The Mayor shall prepare and submit, not later than April 1, to the District Council, in such form and manner as the Mayor shall determine, the annual budget (including operating and capital outlay expenditures) of the District and the budget message.

(b) The Mayor shall, in consultation with the Council, take whatever action may be necessary to achieve, insofar as is possible, (1) consistency in accounting and budget classifications, (2) synchronization between accounting and budget classifications and organizational structure, and (3) support of the budget justifications by information on performance and program costs as shown by the accounts.

ADOPTION OF BUDGET

SEC. 503. The Council shall by act adopt a budget for each fiscal year not later than May 15, except that the Council may, by resolution, extend the period for its adoption. In any case in which the Council modifies the budget request submitted by the Mayor pursuant to section 502, the Council shall submit such modifications to the Mayor for his review and comments. In any case involving such modifications, the Council shall not adopt such budget until after the expiration of the ten day period following the submission of such modifications to the Mayor. The effective date of the budget shall be July 1 of the same calendar year.

BUDGET ESTABLISHES APPROPRIATIONS

SEC. 504. The adoption of the budget by act of the Council shall operate to appropriate and to make available for expenditure, for the purposes therein named, the several amounts stated therein as proposed expenditures, subject to the provisions of section 505.

SEC. 505. The Mayor, through his duly designated subordinates, shall have charge of the administration of the financial affairs of the District and to that end he shall—

(1) supervise and be responsible for all financial transactions to insure adequate control of revenues and resources and to insure that appropriations are not exceeded;

(2) maintain systems of accounting and internal control designed to provide—

(A) full disclosure of the financial results of the District government's activities,

(B) adequate financial information needed by the District government for management purposes,

(C) effective control over and accountability for all funds, property, and other assets;

(3) submit to the Council a monthly financial statement, by appropriation and department, and in any further detail the Council may specify;

(4) prepare, as of the end of each fiscal year, a complete financial statement and report;

(5) supervise and be responsible for the assessment of all property subject to assessment within the corporate limits of the District for taxation, make all special assessments for the District government, prepare tax maps, and give such notice of taxes and special assessments as may be required by law;

(6) supervise and be responsible for the assessment and collection of all taxes, special assessments, license fees, and other revenues of the District for the collection of which the District is responsible and receive all money receivable by the District from the Federal Government, or from any court, or from any agency of the District;

(7) have custody of all public funds belonging to or under the control of the District, or any agency of the District government, and deposit all funds coming into his hands, in such depositories as may be designated and under such terms and conditions as may be prescribed by act of the Council;

(8) have custody of all investments and invested funds of the District government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the District and the receipt and delivery of District bonds and notes for transfer, registration, or exchange.

CONTROL OF APPROPRIATIONS

SEC. 506. The Mayor, with the concurrence of the Council, may provide for (1) the transfer during the budget year of any appropriation balance then available for one item of appropriation to another item of appropriation, and (2) the allocation to new items of funds appropriated for contingent expenditure.

ACCOUNTING SUPERVISION AND CONTROL

SEC. 507. The Mayor, through his duly authorized subordinates, shall—

(1) prescribe the forms of receipts, vouchers, bills, and claims to be used by all the agencies of the District government;

(2) examine and approve all contracts, orders, and other documents by which the District government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;

(3) audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the District government and with the advice of the legal officials of the District determine the regularity, legality, and correctness of such claims, demands, or charges; and

(4) perform internal audits of central accounting and department and agency records of the District government, including the examination of any accounts or records of financial transactions, giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the respective agencies.

GENERAL FUND

SEC. 508. The general fund of the District shall be composed of the revenues of the District other than the revenues applied by law to special funds. All moneys received by any agency, officer, or employee of the District in its or his official capacity shall belong to the District government and shall be paid promptly to the Mayor, or his duly authorized subordinates, for deposit in the appropriate funds.

CONTRACTS EXTENDING BEYOND ONE YEAR

SEC. 509. No contract involving expenditure out of an appropriation which is available for more than one year shall be made for a period of more than five years unless, with respect to a particular contract, the Council, by a two-thirds vote of its members present and voting, authorizes the extension of such period for such contract. Such contracts shall be made pursuant to criteria established by act of the Council.

ANNUAL BUDGET FOR THE BOARD OF EDUCATION

SEC. 510. With respect to the annual budget for the Board of Education in the District of Columbia, the Council may establish the maximum amount of funds which will be appropriated to the Board, but may not specify the purposes for which such funds may be expended or the amount of such funds which may be expended for the various programs under the jurisdiction of the Board of Education.

PART 2—ANNUAL POSTAUDIT BY GENERAL ACCOUNTING OFFICE

INDEPENDENT ANNUAL POSTAUDIT

SEC. 521. (a) The financial transactions shall be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In the determination of the auditing procedures to be followed and the extent of the examination of vouchers and other documents, the Comptroller General shall give due regard to generally accepted principles of auditing, including consideration of the effectiveness of the accounting organizations and systems, internal audit and control, and related administrative practices. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers,

things, or property belonging to or in use by the District and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. The District of Columbia shall reimburse the General Accounting Office for expenses of such audit in such amounts as may be agreed upon by the Mayor and the Comptroller General, and the amounts so reimbursed shall be deposited into the Treasury of the United States as miscellaneous receipts.

(b) (1) The Comptroller General shall submit his audit reports to the Congress, the Mayor, and the Council. The reports shall set forth the scope of the audits and shall include such comments and information as the Comptroller General may deem necessary to keep the Congress, the Mayor, and the Council informed of the operations to which the reports relate, together with such recommendations with respect thereto as the Comptroller General may deem advisable. The reports shall show specifically every program, expenditure, and other financial transaction or undertaking which, in the opinion of the Comptroller Genereal, has been carried on or made without authority of law.

(2) After the Mayor and his duly authorized subordinates have had an opportunity to be heard, the Council shall make such report, together with such other material as it deems pertinent thereto, available for public inspection.

(3) The Mayor, within ninety days after the report has been made to him and the Council, shall state in writing to the Council, with a copy to the Congress, what has been done to comply with the recommendations made by the Comptroller General in the report.

AMENDMENT OF BUDGETARY AND ACCOUNTING ACT

SEC. 522. Section 2 of the Budgetary and Accounting Act, 1921 (31 U.S.C. 2), is hereby amended by striking out "and the municipal government of the District of Columbia".

PART 3—ADJUSTMENT OF FEDERAL AND DISTRICT EXPENSES

ADJUSTMENTS

SEC. 531. (a) Subject to section 901 and other provisions of law, the Mayor, with the approval of the Council, and the Director of the Office of Management and Budget, are authorized and empowered to enter into an agreement or agreements concerning the manner and method by which amounts owed by the District to the United States, or by the United States to the District, shall be ascertained and paid.

(b) The United States shall reimburse the District for necessary expenses incurred by the District in connection with lawful assemblages, marches, and other demonstrations in the District which relate solely to the Federal Government. The manner and method of ascertaining and paying the amounts needed to so reimburse the District shall be determined by agreement entered into in accordance with subsection (a) of this section.

(c) Each officer and employee of the District required to do so by the District Council shall provide a bond with such surety and in such amount as the Council may require. The premiums for all such bonds shall be paid out of appropriations for the District.

TITLE VI—BORROWING

PART 1—BORROWING FOR CAPITAL IMPROVEMENTS

BORROWING POWER; DEBT LIMITATIONS

SEC. 601. The Disrict may incur indebtedness by issuing its bonds in either coupon or registered form to fund or refund indebtedness of the District at any time outstanding and to pay the cost of constructing or acquiring any capital projects requiring an expenditure greater than the amount of taxes or other revenues allowed for such capital projects by the annual budget: *Provided*, That no bonds or other evidences of indebtedness, other than bonds to fund or refund outstanding indebtedness shall be issued in an amount which, together with indebtedness of the District to the Treasury of the United States pursuant to existing law, shall cause the aggregate of indebtedness of the District to exceed 12 per centum of the average of the aggregate of all District revenues received by the District during the ten fiscal year period next preceding the fiscal year during which such bonds are issued; nor shall such bonds or other evidences of indebtedness issued for purposes other than the construction or acquisition of capital projects connected with mass transit, highway, water, and sanitary sewage works purposes, or any revenue-producing capital projects which are determined by the Council to be self-liquidating exceed 6 per centum of the average of the aggregate of all District revenues received by the District during the ten fiscal year period next preceding the fiscal year during which such bonds or indebtedness are issued. Bonds or other evidences of indebtedness may be issued by the District pursuant to an act of the Council from time to time in amounts in the aggregate at any time outstanding not exceeding 2 per centum of such average amount of District revenues for such ten year period, exclusive of indebtedness owing to the United States on the effective date of this title. All other bonds or evidence of indebtedness, other than bonds to fund or refund outstanding indebtedness, shall be issued only with the assent of a majority of the qualified voters of said District voting at an election on the proposition of issuing such bonds. In determining the amount of indebtedness within all of the aforesaid limitation at any time outstanding there shall be deducted from the aggregate of such indebtedness the amount of the then current tax levy for the payment of the principal of the outstanding bonded indebtedness of the District and any other moneys set aside into any sinking fund and irrevocably dedicated to the payment of such bonded indebtedness. The Council shall make provision for the payment of any bonds issued pursuant to this title, in the manner provided in section 631 hereof.

CONTENTS OF BORROWING LEGISLATION; REFERENDUM ON BOND ISSUE

SEC. 602. (a) The Council may by act authorize the issuance of bonds: *Provided*, That such act shall contain at least the following provisions:

(1) A provision setting forth a brief description of each purpose for which indebtedness is proposed to be incurred;

(2) A provision setting forth the maximum amount of the principal of the indebtedness which may be incurred for each such purpose;

(3) A provision setting forth the maximum rate of interest to be paid on such indebtedness; and

(4) A provision setting forth, in the event that the Council is required by this part or it is determined by the Council in its discretion to submit the question of issuing such bonds to a vote of the qualified voters of the District, the manner of holding such election, the manner of voting for or against the incurring of such indebtedness, and the form of ballot to be used at such election, which form shall permit the voters to vote separately for or against the incurring of indebtedness for each of the purposes for which indebtedness is proposed to be incurred.

(b) The Council shall cause the proposition of issuing such bonds to be submitted by the Board of Elections to the qualified voters at the first general election to be held in the District not less than forty days after the date of enactment of the act authorizing such bonds, or upon a vote of at least two-thirds of the members of the Council, the Council may call a special election for the purpose of voting upon the issuance of said bonds, such election to be held by the Board of Elections at any date set by the Council not less than forty days after the enactment of such act.

(c) The Board of Elections is authorized and directed to prescribe the manner of registration and the polling places and to name the judges and clerks of election and to make such other rules and regulations for the conduct of such elections as are not specifically provided by the Council as may be necessary or appropriate to carry out the provisions of this section, including provisions for the publication of a notice of such election stating briefly the proposition or propositions to be voted on and the designated polling places in the various precincts and wards in the District. The said notice shall be published at least once a week for four consecutive calendar weeks on any day of the week, the first publication thereof to be not less than thirty nor more than forty days prior to the date fixed by the Council for the election. The Board of Elections shall canvass the votes cast at such election and certify the results thereof to the Council in the manner prescribed for the canvass and certification of the results of general elections. The certification of the result of the election shall be published once by the Board of Elections as soon as practicable following the date of the election, but in no event later than six weeks thereafter.

PUBLICATION OF BORROWING LEGISLATION

SEC. 603. The Mayor shall publish any act authorizing the issuance of bonds at least once within five days after the enactment thereof, together with a notice of the enactment thereof in substantially the following form:

"NOTICE

"The following act authorizing the issuance of bonds published herewith has become effective, and the time within which a suit, action, or proceeding questioning the validity of such bonds can be commenced as provided in the District of Columbia Charter Act will expire twenty days from the date of the first publication of this notice (or in the event the proposition of issuing the proposed bonds is to be submitted to the qualified voters, twenty days after the date of publication of the promulgation of the results of the election ordered by said act to be held).

"_____,

"Mayor."

SHORT PERIOD OF LIMITATION

SEC. 604. Upon the expiration of twenty days from and after the date of publication of the notice of the enactment of an act authorizing the issuance of bonds without the submission of the proposition for the issuance thereof to the qualified voters, or upon the expiration of twenty days from the date of publication of the promulgation of the results of an election upon the proposition of issuing bonds, as the case may be, all as provided in section 603—

(1) any recitals or statements of fact contained in such act or in the preambles or the titles thereof or in the results of the election of any proceedings in connection with the calling, holding, or conducting of election upon the issuance of such bonds shall be deemed to be true for the purpose of determining the validity of the bonds thereby authorized, and the District and all others interested shall thereafter be estopped from denying same;

(2) such act and all proceedings in connections with the authorization of the issuance of such bonds shall be conclusively presumed to have been duly and regularly taken, passed, and done by the District and the Board of Elections in full compliance

with the provisions of this Act and of all laws applicable thereto;

(3) the validity of such act and said proceedings shall not thereafter be questioned by either a party plaintiff or a party defendant, and no court shall have jurisdiction in any suit, action, or proceedings questioning the validity of same, except in a suit, action, or proceeding commenced prior to the expiration of such twenty days.

ACTS FOR ISSUANCE OF BONDS

SEC. 605. After the expiration of the twenty-day limitation period provided for in section 604 of this part, the Council may by act establish an issue of bonds as authorized pursuant to the provisions of sections 601 to 604, inclusive, hereof. An issue of bonds is hereby defined to be all or any part of an aggregate principal amount of bonds authorized pursuant to said sections, but no indebtedness shall be deemed to have been incurred within the meaning of this Act until the bonds shall have been sold, delivered, and paid for, and then only to the extent of the principal amount of bonds so sold and delivered. The bonds of any authorized issue may be issued all at one time, or from time to time in series and in such amounts as the Council shall deem advisable. The act authorizing the issuance of any series of bonds shall fix the date of the bonds of such series, and the bonds of each such series shall be payable in annual installments beginning not more than three years after the date of the bonds and ending not more than thirty years from such date. The amount of said series to be payable in each year shall be so fixed that when the annual interest is added to the principal amount payable in each year the total amount payable in each year in which part of the principal is payable shall be substantially equal. It shall be an immaterial variance if the difference between the largest and the smallest amounts of principal and interest payable annually during the term of the bonds does not exceed 3 per centum of the total authorized amount of such series. Such act shall also prescribe the form of the bonds to be issued thereunder, and of the interest coupons appertaining thereto, and the manner in which said bonds and coupons shall be executed. The bonds and coupons may be executed by the facsimile signatures of the officer or officers designated by the act authorizing the bonds, to sign the bonds, with the exception that at least one signature shall be manual. Such bonds may be issued in coupon form in the denomination of $1,000, registerable as to principal only or as to both principal and interest, and if registered as to both principal and interest may be issuable in denominations of multiples of $1,000. Such bonds and the interest thereon may be payable at such place or places within or without the District as the Council may determine.

PUBLIC SALE

SEC. 606. All bonds issued under this part shall be sold at public sale upon sealed proposals at such price or prices as shall be approved by the Council after publication of a notice of such sale at least once not less than ten days prior to the date fixed for sale in a daily newspaper carrying municipal bond notices and devoted primarily to financial news or to the subject of State and municipal bonds published in the city of New York, New York, and in a newspaper of general circulation published in the District. Such notice shall state, among other things, that no proposal shall be considered unless there is deposited with the District as a downpayment a certified check or cashier's check for an amount equal to at least 2 per centum of the par amount of bonds, bid for, and the Council shall reserve the right to reject any and all bids.

PART 2—SHORT-TERM BORROWING

BORROWING TO MEET APPROPRIATIONS

SEC. 621. In the absence of unappropriated available revenues to meet appropriations made pursuant to section 504, the Council may by act authorize the issuance of negotiable notes, in a total amount not to exceed 5 per centum of the total appropriations for the current fiscal year, each of which may be renewed from time to time, but all such notes and renewals thereof shall be paid not later than the close of the fiscal year following that in which such act becomes effective.

BORROWING IN ANTICIPATION OF REVENUES

SEC. 622. For any fiscal year, in anticipation of the collection or receipt of revenues of that fiscal year, the Council may by act authorize the borrowing of money by the execution of negotiable notes of the District, not to exceed in the aggregate at any time outstanding 20 per centum of the total anticipated revenue, each of which shall be designated "Revenue Note for the Fiscal Year 19 ". Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year for which the original notes have been issued.

NOTES REDEEMABLE PRIOR TO MATURITY

SEC. 623. No notes issued pursuant to this part shall be made payable on demand, but any note may be made subject to redemption prior to maturity on such notice and at such time as may be stated in the note.

SALE OF NOTES

SEC. 624. All notes issued pusuant to this part may be sold at not less than par and accrued interest at private sale without previous advertising.

PART 3—PAYMENT OF BONDS AND NOTES

SPECIAL TAX

SEC. 631. (a) The act of the Council authorizing the issuance of bonds pursuant to this title, shall, where necessary, provide for the levy annually of a special tax without limitation as to rate or amount upon all the taxable real and personal tangible property within the District in amounts which, together with other revenues of the District available and applicable for said purposes, will be sufficient to pay the principal of and interest on said bonds and the premium, if any, upon the redemption thereof, as the same respectively becomes due and payable, which tax shall be levied and collected at the same time and in the same manner as other District taxes are levied and collected, and when collected shall be set aside in a sinking fund and irrevocably dedicated to the payment of such principal, interest, and premium.

(b) The full faith and credit of the District shall be and is hereby pledged for the payment of the principal of and interest on all bonds and notes of the District hereafter issued pursuant to this title whether or not such pledge be stated in the bonds or notes or in the act authorizing the issuance thereof.

(c) As soon as practicable following the beginning of each fiscal year, the Mayor and the Comptroller General of the United States shall review the amounts of District revenues which have been set aside and deposited in a sinking fund as provided in subsection (a). Such review shall be carried out with a view to determining whether the amounts so set aside and deposited are sufficient to pay the principal of and interest on bonds issued pursuant to this title, and the premium (if any) upon the redemption thereof, as the same respectively become due and payable. To the extent that the Mayor and the Comptroller General determine that sufficient District revenues have not been so set aside and deposited, the Federal payment made for the fiscal year within which such review is conducted shall be first utilized to make up any deficit in such sinking fund.

PART 4—TAX EXEMPTION—LEGAL INVESTMENT—WATER POLLUTION—RESERVOIRS—CONTRIBUTIONS—TERMINATION OF BORROWING AUTHORITY

TAX EXEMPTION

SEC. 641. Bonds and notes issued by the Council pursuant to this title and the interest thereon shall be exempt from all Federal and District taxation except estate, inheritance, and gift taxes.

LEGAL INVESTMENT

SEC. 642. Notwithstanding any restriction on the investment of funds by fiduciaries contained in any other law, all domestic insurance companies, domestic insurance associations, executors, administrators, guardians, trustees, and other fiduciaries within the District of Columbia may legally invest any sinking funds, moneys, trust funds, or other funds belonging to them or under or within their control in any bonds issued pursuant to this title, it being the purpose of this section to authorize the investment in such bonds or notes of all sinking, insurance, retirement, compensation, pension, and trust funds. National banking associations are authorized to deal in, underwrite, purchase and sell, for their own accounts or for the accounts of customers, bonds and notes issued by the District Council to the same extent as national banking associations are authorized by paragraph seven of section 5136 of the Revised Statutes (12 U.S.C. 24), to deal in, underwrite, purchase and sell obligations of the United States, States, or political subdivisions thereof. All Federal building and loan associations and Federal savings and loan associations; and banks, trust companies, building and loan associations, and savings and loan associations, domiciled in the District of Columbia, may purchase, sell, underwrite, and deal in, for their own account or for the account of others, all bonds or notes issued pursuant to this title: *Provided*, That nothing contained in this section shall be construed as relieving any persons, firm, association, or corporation from any duty of exercising due and reasonable care in selecting securities for purchase or investment.

WATER POLLUTION

SEC. 643. (a) The Mayor shall annually estimate the amount of the District's principal and interest expense which is required to service District obligations attributable to the Maryland and Virginia pro rata share of District sanitary water works and other water pollution projects which provide service to the local jurisdictions in those States. Such amounts as determined by the Mayor shall be used to exclude the Maryland and Virginia share of pollution projects costs from the limitation on the District's capital program obligations as provided in this title.

(b) The Mayor shall enter into agreements with the States and local jurisdictions concerned for annual payments to the District of rates and charges for waste treatment services in accordance with the use and benefits made and derived from the operation of the said waste treatment facilities. Each such agreement shall require that the estimated amount of such rates and charges will be paid in advance, subject to adjustment after each year. Such rates and charges shall be sufficient to cover the cost of construction, interest on capital, operation and maintenance, and the necessary replacement of equipment during the useful life of the facility.

COST OF RESERVOIRS ON POTOMAC RIVER

SEC. 644. (a) The Mayor is authorized to contract with the United States, any State in the Potomac River Basin, any agency or political subdivision thereof, and any other com-

petent State or local authority, with respect to the payment by the District of Columbia to the United States, either directly or indirectly, of the District's equitable share of any part or parts of the non-Federal portion of the costs of any reservoir authorized by the Congress for construction on the Potomac River or any of its tributaries. Every such contract may contain such provisions as the Mayor may deem necessary or appropriate.

(b) Unless hereafter otherwise provided by legislation enacted by the Council, all payments made by the District of Columbia and all moneys received by the District of Columbia pursuant to any contract made under the authority of this Act shall be paid from, or be deposited in, a fund designated by the Mayor. Charges for water delivered from the District of Columbia water system for use outside the District of Columbia may be adjusted to reflect the portions of any payments made by the District of Columbia under contracts authorized by this Act which are equitably attributable to such use outside the District.

DISTRICT OF COLUMBIA CONTRIBUTIONS TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SEC. 645. Notwithstanding any provision of law to the contrary, beginning with fiscal year 1973 the District share of the cost of the Adopted Regional System described in the National Capital Transportation Act of 1969 (Public Law 91-143; 83 Stat. 320), shall be payable from the proceeds of the sale of District obligations issued pursuant to the authority contained in this title.

TERMINATION OF THE DISTRICT'S AUTHORITY TO BORROW FROM THE TREASURY

SEC. 646. (a) The first section of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City", approved June 6, 1958 (72 Stat. 183; D.C. Code, sec. 9-220), is amended by striking out subsections (b), (c), (d), and (e).

(b) The Act entitled "An Act authorizing loans from the United States Treasury for the expansion of the District of Columbia water system", approved June 2, 1950 (60 Stat. 195; D.C. Code, sec. 43-1540), is repealed.

(c) Title II of the Act entitled "An Act to authorize the financing of a program of public works construction for the District of Columbia, and for other purposes", approved May 18, 1954 (68 Stat. 108), is amended by striking out sections 213, 214, 216, 217, and 218 (D.C. Code, sections 43-1612, 43-1613, 43-1615, 43-1616, and 43-1617), authorizing loans from the United States Treasury for sanitary and combined sewer systems of the District.

(d) Section 402 of title IV of such Act approved May 18, 1954 (68 Stat. 110; D.C. Code, sec. 7-133), authorizing loans from the United States Treasury for the District of Columbia highway construction program, is repealed.

Nothing contained in this section shall be deemed to relieve the District of its obligation to repay any loan made to it under the authority of the Act specified in the preceding subsections, nor to preclude the District from using the unexpended balance of any such loan appropriated to the District prior to the effective date of this provision.

TITLE VII—FEDERAL PAYMENT

ANNUAL FEDERAL PAYMENT TO THE DISTRICT

SEC. 701. (a) In recognition of the unique character of the District of Columbia as the Nation's Capital City, regular annual payments by the Federal Government are hereby authorized to cover the proper share of the expenses of the District government. On or before January 10 of each year, the Mayor shall, with the approval of the Council, submit to the Secretary of the Treasury through the Comptroller General a request for a Federal payment to be made during the following fiscal year, and the amount of such payment shall be computed in accordance with this part.

(b) The Federal payment for each fiscal year shall be determined on the basis of a percentage of the amount of District of Columbia fees, charges, miscellaneous receipts, and tax revenues which the Mayor estimates, on the basis of fees, charges, receipts, and tax rates authorized by law in effect at the time of such estimate, will be credited to the general fund of the District during such fiscal year as follows:

(1) For the fiscal year ending June 30, 1974, such amount shall be an amount equal to 35 per centum of such fees, charges, receipts, and revenues so estimated for that fiscal year;

(2) For the fiscal year ending June 30, 1975, such payment shall be an amount equal to 37½ per centum of such fees, charges, receipts, and revenues so estimated for that fiscal year; and

(3) For the fiscal year ending June 30, 1976, and for each fiscal year thereafter, such payment shall be an amount equal to 40 per centum of such fees, charges, receipts, and revenues so estimated for such fiscal year.

(c) Commencing with the fiscal year ending June 30, 1974, the amount of the Federal payment for any fiscal year shall be adjusted by an amount equal to the difference between (1) the Federal payment made for such fiscal year and (2) the per centum in effect for that fiscal year times such fees, charges, miscellaneous receipts, and tax revenues actually credited to the general fund during such fiscal year.

(d) After review by the Comptroller General of the request for Federal payment and certification by him on or before April 10 of the fiscal year preceding the fiscal year for which the annual Federal payment is being requested that such request is in conformity with the provisions of this part, the Secretary of the Treasury shall, not later than September 1 of each fiscal year, cause such payment to be made to the District out of any money in the Treasury not otherwise appropriated, and the Secretary of the Treasury is authorized to advance on or after July 1, out of any money in the Treasury not otherwise appropriated, without interest, such amounts (not to exceed in the aggregate the total payment in the previous fiscal year) as may be required by the District pending the payment of the amount authorized by this section.

(e) The Comptroller General shall enter into cooperative arrangements with the Mayor whereby adjustments, disputes, differences, or disagreements involving the Federal payment may be resolved.

TITLE VIII—AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT

AMENDMENTS

SEC. 801. The District of Columbia Election Act is amended as follows:

(1) The first section of such Act is amended by inserting immediately after "Board of Education,", the following: "the members of the Council of the District of Columbia, the Mayor".

(2) Paragraph (2) of section 2 of such Act is amended to read as follows:

"(2) The term 'qualified elector' means any person (A) who, for the purpose of voting in an election under this Act, has resided in the District continuously during the thirty-day period ending on the day of such election, (B) who is a citizen of the United States, (C) who is, or will be on the day of the next election, at least eighteen years old, (D) who has never been convicted of a felony in the United States, or if he has been so convicted, has been pardoned, or has been for the five years preceding such election, no longer subject to the jurisdiction of any court with respect to such conviction, (E) who is not mentally incompetent as adjudged by a court of competent jurisdiction, and (F) who certifies that he has not, within thirty days immediately preceding the day of election claimed the right to vote or voted in any election in any State or territory of the United States (other than the District of Columbia)."

(3) Section 2 of such Act is further amended (1) by striking out in paragraph (4) thereof "a school" and inserting in lieu thereof "an"; and (2) by adding at the end thereof the following new paragraphs:

"(7) The term 'Council' or 'Council of the District of Columbia' means the Council of the District of Columbia established pursuant to the District of Columbia Charter Act.

"(8) The term 'Mayor' means the office of Mayor of the District of Columbia established pursuant to the District of Columbia Charter Act."

(4)(A) Section 3 of such Act is amended to read as follows:

"SEC. 3. There is hereby created a Board of Elections for the District of Columbia, to be composed of three members appointed by the Mayor, by and with the advice and consent of the District Council. The term of each such member shall be three years from the expiration of the term of his predecessor. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of his predecessor. When a member's term of office expires, he may continue to serve until his successor is appointed and has qualified. The Mayor shall from time to time designate the Chairman of the Board."

(B) The members of the Board of Elections in office on the date when the Mayor first elected takes office shall continue in office for the remainder of the terms for which they were appointed.

(5) Section 5(a)(4) of such Act is amended by striking "school".

(6) Section 7(d)(1) of such Act is amended by striking out "odd-numbered calendar year and of each presidential election year," and inserting in lieu thereof "calendar year,".

(7) Subsections (h), (i), (j), and (k) of section 8 of such Act are amended to read as follows:

"(h)(1)(A) The Delegate, Mayor, Chairman of the District Council, and the two at-large members of the District Council shall be elected by the qualified electors of the District of Columbia in a general election. Each candidate for the office of Delegate, Mayor, Chairman of the District Council, and at-large members of the District Council in any general election shall, except as otherwise provided in subsection (j) of this section and section 10(d), have been elected by the qualified electors of the District as such candidate by the next preceding primary or party runoff election.

"(B)(i) A member of the office of District Council (other than the Chairman and any member elected at large) shall be elected in a general election by the qualified electors of the respective ward of the District from which the individual seeking such office was elected as a candidate for such office as provided in clause (ii) of this paragraph.

"(ii) Each candidate for the office of member of the District Council (other than the Chairman and at-large members) shall, except as otherwise provided in subsection (j) of this section and section 10(d), have been elected as such a candidate, by the qualified electors of the ward of the District from which such individual was nominated, at the next preceding primary or party runoff election to fill such office within that ward.

"(2) The nomination and election of any individual to the office of the Delegate, Mayor, Chairman of the Council, and member of the Council shall be governed by the provisions of this Act. No political party shall be qualified to hold a primary election to se-

lect candidates for election to any such office in a general election unless, in the next preceding election year, at least seven thousand five hundred votes were cast in the general election for a candidate of such party for any such office or for its candidates for electors of President and Vice President.

"(i) (1) Each individual in a primary election for candidate for the office of Delegate, Mayor, Chairman of the Council, or at-large member of the Council shall be nominated for any such office by a petition (A) filed with the Board not later than forty-five days before the date of such primary election; (B) signed by at least two thousand duly registered voters of the same political party as the nominee, or by 1 per centum of the duly registered members of such political party, whichever is less, as shown by the records of the Board of Elections as of ninety-nine days before the date of such election, and (C) accompanied by a filing fee of $100.

"(2) Each individual in a primary election for candidate for the office of member of the Council (other than the Chairman and at-large members) shall be nominated for such office by a petition (A) filed with the Board not later than forty-five days before the date of such primary election; (B) signed by at least two hundred and fifty persons in the ward from which such individual seeks election who are duly registered in such ward under section 7 of this Act, and who are of the same political party as the nominee; and (C) accompanied by a filing fee of $100. Any such filing fee may be refunded only in the event that the candidate withdraws his nomination by writing received by the Board not later than three days after the date on which nominations are closed under this subsection.

"(3) A nominating petition for a candidate in a primary election for any such office may not be circulated for signature before the ninety-ninth day preceding the date of such election and may not be filed with the Board before the seventieth day preceding such date. The Board may prescribe rules with respect to the preparation and presentation of nominating petitions and the posting and disposition of filing fees. The Board shall arrange the ballots of each political party in each such primary election as to enable a voter of such party to vote for nominated candidates of that party.

"(j) (1) A duly qualified candidate for the office of Delegate, Mayor, Chairman of the Council, or member of the Council may, subject to the provisions of this subsection, be nominated directly as such a candidate for election for such office (including any such election to be held to fill a vacancy). Such person shall be nominated by a petition (A) filed with the Board not less than forty-five days before the date of such general election; (B) and in the case of a person who is a candidate for the office of member of the Council (other than the Chairman or an at-large member), signed by five hundred voters who are duly registered under section 7 in the ward from which the candidate seeks election; and in the case of a person who is a candidate for the office of Delegate, Mayor, Chairman of the Council, or at-large member of the Council, signed by duly registered voters equal in number to 2 per centum of the total number of registered voters in the District, as shown by the records of the Board as of ninety-nine days before the date of such election, or by five thousand persons duly registered under section 7, whichever is less; and (C) accompanied by a filing fee of $100. Such fees may be refunded only in the event that the candidate withdraws his nomination by writing received by the Board not later than three days after the date on which nominations are closed under this subsection. No signatures on such a petition may be counted which have been made on such petition more than ninety-nine days before the date of such election.

"(2) Nominations under this subsection for candidates for election in a general election to any office referred to in paragraph (1) shall be of no force and effect with respect to any person whose name has appeared on the ballot of a primary election for that office held within eight months before the date of such general election.

"(k) (1) In each general election for the office of member of the Council (other than the office of Chairman or an at-large member) the Board shall arrange the ballots in each ward to enable a voter registered in that ward to vote for any one candidate who (A) has been duly elected by any political party in the next preceding primary or party runoff election for such office from such ward, (B) has been duly nominated to fill a vacancy in such office in such ward pursuant to section 10(d), or (C) has been nominated directly as a candidate for such office in such ward under subsection (j) of this section.

"(2) In each general election for the office of member of the Council at large, the Board shall arrange the ballots to enable a registered voter to vote for as many candidates for election as members at large as there are members at large to be elected in such election. Such candidates shall be only those persons who (A) have been duly elected by any political party in the next preceding primary or party runoff election for such office, (B) have been duly nominated to fill vacancies in such office pursuant to section 10(d), or (C) have been nominated directly as a candidate under subsection (j) of this section.

"(3) In each general election for the office of Delegate, Mayor, or Chairman of the Council, the Board shall arrange the ballots to enable a registered voter to vote for any one of the candidates for any such office who (A) has been duly elected by any political party in the next preceding primary or party runoff election for such office, (B) has been duly nominated to fill a vacancy in such office pursuant to section 10(d), or (C) has been nominated directly as a candidate under subsection (j) of this section.".

(8) Paragraph (3) of section 10(a) of such Act is amended (1) by inserting "(A)" immediately before the word "Except", and (2) by adding at the end thereof the following:

"(B) (i) Except as otherwise provided in the case of special elections under this Act and in subclause (ii) of this clause, primary elections of each political party for the offices of Chairman of the Council and member of the Council (to be filled) shall be held on the first Tuesday in May of each even-numbered year, and general elections for such offices (to be filled) shall be held on the Tuesday next after the first Monday in November of each even-numbered year.

"(ii) Notwithstanding the provisions of subclause (i) of this clause, the initial primary election of each political party for the offices of Mayor, Chairman of the Council, and members of the Council shall be held on the first Tuesday next following the expiration of the ninety-day period following the date of the acceptance of the District of Columbia Charter in accordance with the provisions of title XIV of the District of Columbia Charter Act, and the initial general election for such offices shall be held on the Tuesday next after the first Monday in November 1972.

"(C) Except as otherwise provided in the case of a special election under this Act, primary elections of each political party for the office of Mayor shall be held on the first Tuesday in May of each presidential election year, commencing with calendar year 1972, and the general election for such office shall be held on the Tuesday next after the first Monday in November of each presidential election year commencing with calendar year 1972.".

(9) Paragraph (4) of section 10(a) of such Act is amended to read as follows:

"(4) (A) Runoff elections shall be held whenever (i) in any primary election of a political party for candidates for the office of Delegate, Mayor, Chairman of the Council, member of the Council from a ward, or member of the Council at large where only one at-large position is to be filled, no one candidate for any such office receives at least 40 per centum of the total votes cast in that election for all candidates of that party for that office, and (ii) in any general election for any such office, no one candidate receives at least 40 per centum of the total votes cast in that election for all candidates for that office. The candidates in any such runoff election for any such office shall be the two persons who received, respectively, the two highest numbers of votes in such preceding primary or general election for such office. The candidate receiving the highest number of votes in any such runoff election for such office shall be declared elected.

"(B) (i) When more than one office of at-large member of the Council is being filled in any primary election of a political party, the candidates for such offices who receive the highest number of votes shall be declared elected, except that no candidate shall be declared elected who does not receive at least 40 per centum of the number of all votes cast in that election for all candidates of that party for such offices divided by the number of at-large offices to be filled in such election. Where one or more of the at-large positions remains unfilled, a runoff election shall be held. The candidates in such runoff election shall be those unsuccessful candidates, in number not more than one more than the number of such offices to be filled, who in such primary next preceding such runoff election, received the highest number of votes less than 40 per centum.

"(ii) When more than one office of at-large member of the Council is being filled in any general election, the candidates for such offices who receive the highest number of votes shall be declared elected, except that no candidate shall be declared elected who does not receive at least 40 per centum of the number of all votes cast in that election for all candidates for such offices to be filled in such election divided by the number of at-large offices to be so filled. Where one or more of the at-large positions remain unfilled, a runoff election shall be held. The candidates in such runoff election shall be those unsuccessful candidates, in number not more than one more than the number of such offices to be filled, who in such preceding general election received the highest number of votes less than 40 per centum. The candidate or candidates, as the case may be, receiving the highest number of votes shall be declared elected.

"(C) If any person withdraws his candidacy from any such runoff election (under the rules and within the time limits prescribed by the Board), or dies before the date of the election, the person who received the same number of votes in such preceding primary or general election, as the case may be, next preceding such runoff election as a candidate in such runoff election or who received a number of votes in such primary or general election which is next highest to the number of votes in any such election received by a candidate in the runoff election, and who is not already a candidate in the runoff election, shall automatically become such a candidate in such runoff election.

"(D) Any such runoff election shall be held not less than two weeks nor more than six weeks after the date on which the Board has determined the results of the preceding primary or general election, as the case may be. At the time of announcing any such determination, the Board shall establish and announce the date on which the runoff election will be held, if one is required.".

(10) Section 10(b) of such Act is amended by deleting "and for members of the Board of Education," and inserting ",

Mayor, Chairman of the Council, member of the Council and Board of Education,".

(11) Section 10(d) of such Act is amended to read as follows:

"(d) In the event that any official, other than the Delegate, Mayor, Chairman of the Council, member of the Council, member of the Board of Education, or a winner of a primary election for the office of Delegate, Mayor, Chairman of the Council, or member of the Council, elected pursuant to this Act dies, resigns, or becomes unable to serve during his or her term of office leaving no person elected pursuant to this Act to serve the remainder of the unexpired term of office, the successor or successors to serve the remainder of such term shall be chosen pursuant to the rules of the duly authorized party committee, except that such successor shall have the qualifications required by this Act for such office. In the event that such a vacancy occurs in the office of a candidate for the office of Delegate, Mayor, Chairman of the Council, or member of the Council who has been declared the winner in the preceding primary or party runoff election for such office, the vacancy may be filled not later than fifteen days prior to the next general election for such office, by nomination by the party committee of the party which nominated his predecessor, and by paying the filing fee required by section 8(i) of this Act. In the event that such a vacancy occurs in the office of Delegate more than twelve months before the expiration of its term of office, the Board shall call special elections to fill such vacancy for the remainder of its term of office."

(12) Section 10(e) of such Act is amended (1) by inserting "(1)" immediately before "Whenever", and (2) by adding at the end thereof the following new paragraph:

"(2)(A) Whenever a vacancy occurs in the office of Chairman of the Council, member of the Council elected from a ward, or member of the Council at large, such vacancy shall be filled at the next general election for any of the offices of Chairman of the Council, member of the Council from a ward, or member of the Council at large, which occurs more than ninety-nine days after such vacancy occurs. In the case of the office of Chairman of the Council, the Vice Chairman of the Council shall fill such vacancy by serving as Chairman until the unexpired term of the vacant office ends, or until January 2 next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. In the case of the office of member of the Council from a ward, or a member of the Council at large, the Council shall appoint a person to fill the vacancy until the unexpired term of the vacant office ends or until January 2 next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. A person elected to fill any such vacancy shall hold office for the duration of the unexpired term of office to which he was elected. Any person appointed under this paragraph shall have th s..me qualifications for holding such office as were required of his immediate predecessor.

"(B) When a vacancy in an unexpired term for an at-large position is being filled at the same general election as one or more full-term at-large positions, the successful candidate or candidates with the highest number of votes in the general election, or in the runoff election if a runoff election is necessary, shall be declared elected to the full-term position or positions, and any candidate declared elected at the general election shall for this purpose be deemed to have received a higher number of votes than any candidate elected in the runoff election."

(13) The first sentence of section 15 of such Act is amended to read as follows: "No person shall be a candidate for more than one office on the Board of Education or the District Council in any election for members of the Board of Education or Council, and no person shall be a candidate for more than one office on the Council in any primary election."

(14) Section 15 of such Act is amended (1) by designating the existing text of such section as subsection (a), and (2) by adding at the end thereof the following new subsection:

"(b) No person who is holding the office of Mayor, Delegate, Chairman of the Council, member of the Council or member of the School Board shall, while holding such office, be eligible as a candidate for any other of such offices in any primary or general election, unless the term of the office which he so holds expires on or prior to the date on which he would be eligible, if elected in such primary or general election, to take the office with respect to which such election is held."

SEC. 802. Notwithstanding any other provision of this Act or of any other law, the District Council shall have jurisdiction to legislate with respect to matters involving or relating to elections in the District of Columbia, subject to the provisions of section 304, section 401(d), and subsections (g) and (h) of section 325 of this Act.

TITLE I—MISCELLANEOUS

AGREEMENTS WITH UNITED STATES

SEC. 901. (a) For the purpose of preventing duplication of effort or for the purpose of otherwise promoting efficiency and economy, any Federal officer or agency may furnish services to the District government and any District officer or agency may furnish services to the Federal Government. Except where the terms and conditions governing the furnishing or such services are prescribed by other provisions of law, such services shall be furnished pursuant to an agreement (1) negotiated by the Federal and District authorities concerned, and (2) approved by the Director of the Office of Management and Budget and by the Mayor. Each such agreement shall provide that the cost of furnishing such services shall be borne in the manner provided in subsection (c) by the government to which such services are furnished at rates or charges based on the actual cost of furnishing such services.

(b) For the purpose of carrying out any agreement negotiated and approved pursuant to subsection (a), any District officer or agency may in the agreement delegate any of his or its functions to any Federal officer or agency, and any Federal officer or agency may in the agreement delegate any of his or its functions to any District officer or agency. Any function so delegated may be exercised in accordance with the terms of the delegation.

(c) The cost of each Federal officer and agency in furnishing services to the District pursuant to any such agreement shall be paid, in accordance with the terms of the agreement, out of appropriations made by the Council to the District officers and agencies to which such services are furnished. The costs to each District officer and agency in furnishing services to the Federal Government pursuant to any such agreement shall be paid, in accordance with the terms of the agreement, out of appropriations made by the Congress or other funds available to the Federal officers and agencies to which such services are furnished.

PERSONAL INTEREST IN CONTRACTS OR TRANSACTIONS

SEC. 902. Any officer or employee of the District who is convicted of a violation of section 208 of title 18, United States Code, shall forfeit his office or position.

COMPENSATION FROM MORE THAN ONE SOURCE

SEC. 903. (a) Except as provided in this Act, no person shall be ineligible to serve or to receive compensation as a member of the Board of Elections because he occupies another office or position or because he receives compensation (including retirement compensation) from another source.

(b) The right to another office or position or to compensation from another source otherwise secured to such a person under the laws of the United States shall not be abridged by the fact of his service or receipt of compensation as a member of such Board, if such service does not interfere with the discharge of his duties in such other office or position.

ASSISTANCE OF THE UNITED STATES CIVIL SERVICE COMMISSION IN DEVELOPMENT OF DISTRICT MERIT SYSTEM

SEC. 904. The United States Civil Service Commission is hereby authorized to advise and assist the Mayor and the Council in the further development of the merit system required by section 402(3) and the said Commission is authorized to enter into agreements with the District government to make available its registers of eligibles as a recruiting source to fill District positions as needed. The costs of any specific services furnished by the Civil Service Commission may be compensated for under the provisions of section 901 of this Act.

TITLE X—SUCCESSION IN GOVERNMENT

TRANSFER OF PERSONNEL, PROPERTY, AND FUNDS

SEC. 1001. (a) In each case of the transfer, by any provision of this Act, of functions to the Council, to the Mayor, or to any agency or officer, there are hereby transferred (as of the time of such transfer of functions) to the Council, to the Mayor, to such agency, or to the agency of which such officer is the head, for use in the administration of the functions of the Council or such agency or officer, the personnel (except the Commissioner of the District of Columbia, the Assistant to the Commissioner, the Chairman of the District of Columbia Council, the Vice Chairman of the District of Columbia Council, the other members thereof, all of whose offices are abolished by this Act), property, records, and unexpended balances of appropriations and other funds, which relate primarily to the functions so transferred.

(b) If any question arises in connection with the carrying out of subsection (a), such question shall be decided—

(1) in the case of functions transferred from a Federal officer or agency, by the Director of the Office of Management and Budget; and

(2) in the case of other functions (A) by the Council, or in such manner as the Council shall provide, if such functions are transferred to the Council, and (B) by the Mayor of such functions are transferred to him or to any other officer or agency.

(c) Any of the personnel transferred to the Council, the Mayor, or any agency by this section which the Council or the head of such agency shall find to be in excess of the personnel necessary for the administration of its or his functions shall, in accordance with law, be retransferred to other positions in the District or Federal Government or be separated from the service.

(d) No officer or employee shall, by reason of his transfer by this Act or his separation from service under this Act, be deprived of a civil service status held by him prior to such transfer or any right of appeal or review he may have by reason of his separation from service.

EXISTING STATUTES, REGULATIONS, AND OTHER ACTIONS

SEC. 1002. (a) Any statute, regulation, or other action in respect of (and any regulation or other action issued, made, taken, or granted by) any officer or agency from which any function is transferred by this Act shall,

except to the extent modified or made inapplicable by or under authority of law, continue in effect as if such transfer had not been made; but after such transfer, references in such statute, regulation, or other action to an officer or agency from which a transfer is made by this Act shall be held and considered to refer to the officer or agency to which the transfer is made.

(b) As used in subsection (a), the term "other action" includes, without limitation, any rule, order, contract, compact, policy, determination, directive, grant, authorization, permit, requirement, or designation.

(c) Unless otherwise specifically provided nothing contained in this Act shall be construed as affecting the applicability to the District of Columbia government of personnel legislation relating to the District government until such time as the Council may otherwise elect to provide equal or equivalent coverage as provided in section 402(4).

PENDING ACTIONS AND PROCEEDINGS

SEC. 1003. (a) No suit, action, or other judicial proceeding lawfully commenced by or against any officer or agency in his or its official capacity or in relation to the exercise of his or its official functions, shall abate by reason of the taking effect of any provision of this Act; but the court, unless it determines that the survival of such suit, action, or other proceeding is not necessary for purposes of settlement of the questions involved, shall allow the same to be maintained, with such substitutions as to parties as are appropriate.

(b) No administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this Act, but such action or proceeding shall be continued with such substitutions as to parties and officers or agencies as are appropriate.

VACANCIES RESULTING FROM ABOLISHMENT OF OFFICES OF COMMISSIONER AND ASSISTANT TO THE COMMISSIONER

SEC. 1004. Until the 1st day of July next after the first Mayor takes office under this Act no vacancy occurring in any District agency by reason of section 321, abolishing the offices of Commissioner of the District of Columbia and Assistant to the Commissioner, shall affect the power of the remaining members of such agency to exercise its functions; but such agency may take action only if a majority of the members holding office vote in favor of it.

TITLE XI—SEPARABILITY OF PROVISIONS

SEC. 1101. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE XII—TEMPORARY PROVISIONS

POWERS OF THE PRESIDENT DURING TRANSITION PERIOD

SEC. 1201. The President of the United States is hereby authorized and requested to take such action during the period following the date of the enactment of this Act and ending on the date of the first meeting of the District Council, by Executive order or otherwise, with respect to the administration of the functions of the District of Columbia government, as he deems necessary to enable the Board of Elections properly to perform its functions under this Act.

REIMBURSABLE APPROPRIATIONS FOR THE DISTRICT

SEC. 1202. (a) The Secretary of the Treasury is authorized and directed to advance to the District of Columbia the sum of $750,000, out of any money in the Treasury not otherwise appropriated, for use (1) in paying the expenses of the Board of Elections (including compensation of the members thereof), and (2) in otherwise carrying into effect the provisions of this Act.

(b) The full amount expended out of the money advanced pursuant to this section shall be reimbursed to the United States, without interest, during the second fiscal year which begins after the effective date of title V, from the general fund of the District of Columbia.

TITLE XIII—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 1301. (a) As used in this title and title XIV the term "charter" means titles I to XI, both inclusive.

(b) the Charter shall take effect only if accepted pursuant to title XIV. If the charter is so accepted, it shall take effect on the day following the date on which it is accepted (as determined pursuant to section 1405) except that—

(1) part 2 of title III and title V shall take effect on the day upon which the Council members first elected take office;

(2) section 402 shall take effect on the day upon which the Mayor first elected takes office; and

(3) title VII shall take effect with respect to the first fiscal year beginning next after the Mayor first elected takes office and with respect to subsequent fiscal years.

(c) Titles XII, XIII, and XIV shall take effect on the day following the date on which this Act is enacted.

TITLE XIV—SUBMISSION OF CHARTER FOR REFERENDUM

SEC. 1401. On a date to be fixed by the Board of Elections, not more than four months after the enactment of this Act, a referendum (in this title referred to as the "charter referendum") shall be conducted to determine whether the registered qualified voters of the District of Columbia accept the charter.

BOARD OF ELECTIONS

SEC. 1402. (a) In addition to its other duties, the Board of Elections established under the District Election Act of 1955 shall conduct the charter referendum and certify the results thereof as provided in this title.

(b) Notwithstanding the fact that such section does not otherwise take effect unless the charter is accepted under this title, the applicable provisions of title VIII of this Act shall govern the Board of Elections in the performance of its duties under this Act.

APPLICABILITY OF TITLE VIII

SEC. 1403. Except as otherwise indicated in this title, the provisions of title VIII of this Act shall to the extent applicable govern all aspects (including, but not solely, the registration and qualification of voters, the method of voting, recounts and contests, and election violations) of the referendum election herein, notwithstanding the fact that such title VIII does not otherwise take effect unless the charter is accepted.

CHARTER REFERENDUM BALLOT: NOTICE OF VOTING

SEC. 1404. (a) The charter referendum ballot shall contain the following, with a blank space appropriately filled:

"The District of Columbia Charter Act, enacted , proposes to establish a new charter for the District of Columbia, but provides that the charter shall take effect only if it is accepted by the registered qualified voters of the District in this referendum.

"By indicating in one of the squares provided below, whether you are for or against the charter.

☐ For the charter

☐ Against the charter".

(b) Voting may be by paper ballot or by voting machine. The Board of Elections may make such changes in the second paragraph of the charter referendum ballot as it determines to be necessary to permit the use of voting machines if such machines are used.

(c) Not less than five days before the date of charter referendum, the Board of Elections shall mail to each person registered (1) a sample of the charter referendum ballot, and (2) information showing the polling place of such person and the date and hours of voting.

(d) Not less than one day before the charter referendum, the Board of Elections shall publish, in newspapers of general circulation published in the District of Columbia, a list of the polling places and the date and hours of voting.

ACCEPTANCE OR NONACCEPTANCE OF CHARTER

SEC. 1405. (a) If a majority of the registered qualified voters voting in the charter referendum vote for the charter the charter shall be considered accepted as of the time the Board of Elections certifies the result of the charter referendum to the President of the United States, as provided in subsection (b).

(b) The Board of Elections shall, within a reasonable time, but in no event more than thirty days after the date of the charter referendum to the President of the United States and to the Secretary of the Senate and the Clerk of the House of Representatives.

TITLE XV—TITLE OF ACT

SHORT TITLE

SEC. 1501. This Act, divided into titles and sections according to table of contents, and including the declaration of congressional policy which is a part of such Act, may be cited as the "District of Columbia Charter Act".

[Applause in the galleries.]

The PRESIDING OFFICER. The Chair requests that the galleries be in order.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANNOUNCEMENT ON VOTE

Mr. SYMINGTON subsequently said: Mr. President, the distinguished Representative from Louisiana, the Honorable F. EDWARD HÉBERT, chairman of the House Armed Services Committee, had his portrait unveiled this afternoon and I went over to see this unveiling in the committee room. Inasmuch as the President of the United States was there to grace the occasion, all telephones into the Armed Services Committee room were shut off. Therefore, the Senate cloak room was unable to let me know that the vote was proceeding on this bill for home rule for the District of Columbia. Let the RECORD show that if I had been present, I would have voted "yea."

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CONSTITUTIONAL CONVENTIONS

Mr. BYRD of West Virginia. Mr. President, for the purpose of making it the pending business—with no further action thereon today—I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 332, S. 215.

The PRESIDING OFFICER (Mr. ROTH). The bill will be stated by title.

The legislative clerk read as follows:

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

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment, on page 4, line 12, after the word "section", to strike out "8" and insert "6"; so as to make the bill read:

S. 215

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

APPLICATIONS FOR CONSTITUTIONAL CONVENTION

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

APPLICATION PROCEDURE

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

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

TRANSMITTAL OF APPLICATIONS

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

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

(1) the title of the resolution;

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

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

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

EFFECTIVE PERIOD OF APPLICATION

SEC. 5. (a) An application submitted to the Congress by a State, unless sooner rescinded by the State legislature, shall remain effective for seven calendar years after the date it is received by the Congress, except that whenever within a period of seven calendar years two-thirds or more of the several States have each submitted an application calling for a constitutional convention on the same subject all such applications shall remain in effect until the Congress has taken action on a concurrent resolution, pursuant to section 6, calling for a constitutional convention.

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

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

CALLING OF A CONSTITUTIONAL CONVENTION

SEC. 6. (a) It shall be the duty of the Secretary of the Senate and the Clerk of the House of Representatives to maintain a record of all applications received by the President of the Senate and Speaker of the House of Representatives from States for the calling of a constitutional convention upon each subject. Whenever applications made by two-thirds or more of the States with respect to the same subject have been received, the Secretary and the Clerk shall so report in writing to the officer to whom those applications were transmitted, and such officer thereupon shall announce on the floor of the House of which he is an officer the substance of such report. It shall be the duty of such House to determine that there are in effect valid applications made by two-thirds of the States with respect to the same subject. If either House of the Congress determines, upon a consideration of any such report or of a concurrent resolution agreed to by the other House of the Congress, that there are in effect valid applications made by two-thirds or more of the States for the calling of a constitutional convention upon the same subject, it shall be the duty of that House to agree to a concurrent resolution calling for the convening of a Federal constitutional convention upon that subject. Each such concurrent resolution shall (1) designate the place and time of meeting of the convention, and (2) set forth the nature of the amendment or amendments for the consideration of which the convention is called. A copy of each such concurrent resolution agreed to by both Houses of the Congress shall be transmitted forthwith to the Governor and to the presiding officer of each house of the legislature of each State.

(b) The convention shall be convened not later than one year after adoption of the resolution.

DELEGATES

SEC. 7. (a) A convention called under this Act shall be composed of as many delegates from each State as it is entitled to Senators and Representatives in Congress. In each State two delegates shall be elected at large and one delegate shall be elected from each congressional district in the manner provided by State law. Any vacancy occurring in a State delegation shall be filled by appointment of the Governor of that State.

(b) The secretary of state of each State, or, if there be no such officer, the person charged by State law to perform such function shall certify to the Vice President of the United States the name of each delegate elected or appointed by the Governor pursuant to this section.

(c) Delegates shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at a session of the convention, and in going to and returning from the same; and for any speech or debate in the convention they shall not be questioned in any other place.

(d) Each delegate shall receive compensation for each day of service and shall be compensated for traveling and related expenses. Provision shall be made therefor in the concurrent resolution calling the convention. The convention shall fix the compensation of employees of the convention.

CONVENING THE CONVENTION

SEC. 8. (a) The Vice President of the United States shall convene the constitutional convention. He shall administer the oath of office of the delegates to the convention and shall preside until the delegates elect a presiding officer who shall preside thereafter. Before taking his seat each delegate shall subscribe to an oath by which he shall be committed during the conduct of the convention to refrain from proposing or casting his vote in favor of any proposed amendment to the Constitution of the United States relating to any subject which is not named or described in the concurrent resolution of the Congress by which the convention was called. Upon the election of permanent officers of the convention, the names of such officers shall be transmitted to the President of the Senate and the Speaker of the House of Representatives by the elected presiding officer of the convention. Further proceedings of the convention shall be conducted in accordance with such rules, not inconsistent with this Act, as the convention may adopt.

(b) There is hereby authorized to be appropriated such sums as may be necessary for the payment of the expenses of the convention.

(c) The Administrator of General Services shall provide such facilities, and the Congress and each executive department and agency shall provide such information and assistance, as the convention may require, upon written request made by the elected presiding officer of the convention.

PROCEDURES OF THE CONVENTION

SEC. 9. (a) In voting on any question before the convention, including the proposal of amendments, each delegate shall have one vote.

(b) The convention shall keep a daily verbatim record of its proceedings and publish the same. The vote of the delegates on any question shall be entered on the record.

(c) The convention shall terminate its proceedings within one year after the date of its first meeting unless the period is extended by the Congress by concurrent resolution.

(d) Within thirty days after the termination of the proceedings of the convention, the presiding officer shall transmit to the Archi-

vist of the United States all records of official proceedings of the convention.

PROPOSAL OF AMENDMENTS

SEC. 10. (a) Except as provided in subsection (b) of this section, a convention called under this Act may propose amendments to the Constitution by a vote of a majority of the total number of delegates to the convention.

(b) No convention called under this Act may propose any amendment or amendments of a nature different from that stated in the concurrent resolution calling the convention. Questions arising under this subsection shall be determined solely by the Congress of the United States and its decisions shall be binding on all others, including State and Federal courts.

APPROVAL BY THE CONGRESS AND TRANSMITTAL TO THE STATES FOR RATIFICATION

SEC. 11. (a) The presiding officer of the convention shall, within thirty days after the termination of its proceedings, submit to the Congress the exact text of any amendment or amendments agreed upon by the convention.

(b) (1) Whenever a constitutional convention called under this Act has transmitted to the Congress a proposed amendment to the Constitution, the President of the Senate and the Speaker of the House of Representatives, acting jointly, shall transmit such amendment to the Administrator of General Services upon the expiration of the first period of ninety days of continuous session of the Congress following the date of receipt of such amendment unless within that period both Houses of the Congress have agreed to (A) a concurrent resolution directing the earlier transmission of such amendment to the Administrator of General Services and specifying in accordance with article V of the Constitution the manner in which such amendment shall be ratified, or (B) a concurrent resolution stating that the Congress disapproves the submission of such proposed amendment to the States because such proposed amendments relates to or includes a subject which differs from or was not included among the subjects named or described in the concurrent resolution of the Congress by which the convention was called, or because the procedures followed by the convention in proposing the amendment were not in substantial conformity with the provisions of this Act. No measure agreed to by the Congress which expresses disapproval of any such proposed amendment for any other reason, or without a statement of any reason, shall relive the President of the Senate and the Speaker of the House of Representatives of the obligation imposed upon them by the first sentence of this paragraph.

(2) For the purposes of paragraph (1) of this subsection, (A) the continuity of a session of the Congress shall be broken only by an adjournment of the Congress sine die, and (B) the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the period of ninety days.

(c) Upon receipt of any such proposed amendment to the Constitution, the Administrator shall transmit forthwith to each of the several States a duly certified copy thereof, a copy of any concurrent resolution agreed to by both Houses of the Congress which prescribes the time within which and the manner in which such amendment shall be ratified, and a copy of this Act.

RATIFICATION OF PROPOSED AMENDMENTS

SEC. 12. (a) Any amendment proposed by the convention and submitted to the States in accordance with the provisions of this Act shall be valid for all intents and purposes as part of the Constitution of the United States when duly ratified by three-fourths of the States in the manner and within the time specified.

(b) Acts of ratification shall be by convention or by State legislative action as the Congress may direct or as specified in subsection (c) of this section. For the purpose of ratifying proposed amendments transmitted to the States pursuant to this Act the State legislatures shall adopt their own rules of procedure. Any State action ratifying a proposed amendment to the Constitution shall be valid without the assent of the Governor of the State.

(c) Except as otherwise prescribed by concurrent resolution of the Congress, any proposed amendment to the Constitution shall become valid when ratified by the legislatures of three-fourths of the several States within seven years from the date of the submission thereof to the States, or within such other period of time as may be prescribed by such proposed amendment.

(d) The secretary of state of the State, or if there be no such officer, the person who is charged by State law with such function, shall transmit a certified copy of the State action ratifying any proposed amendment to the Administrator of General Services.

RESCISSION OF RATIFICATION

SEC. 13. (a) Any State may rescind its ratification of a proposed amendment by the same processes by which it ratified the proposed amendment, except that no State may rescind when there are existing valid ratifications of such amendment by three-fourths of the States.

(b) Any State may ratify a proposed amendment even though it previously may have rejected the same proposal.

(c) Questions concerning State ratification or rejection of amendments proposed to the Constitution of the United States, shall be determined solely by the Congress of the United States, and its decisions shall be binding on all others, including State and Federal courts.

PROCLAMATION OF CONSTITUTIONAL AMENDMENTS

SEC. 14. The Administrator of General Services, when three-fourths of the several States have ratified a proposed amendment to the Constitution of the United States, shall issue a proclamation that the amendment is a part of the Constitution of the United States.

EFFECTIVE DATE OF AMENDMENTS

SEC. 15. An amendment proposed to the Constitution of the United States shall be effective from the date specified therein or, if no date is specified, then on the date on which the last State necessary to constitute three-fourths of the States of the United States, as provided for in article V, has ratified the same.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS AND CONSIDERATION OF UNFINISHED BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, immediately following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, and that at the conclusion of that period for the transaction of routine morning business the Chair lay before the Senate the then unfinished business, S. 215.

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

PROGRAM

Mr. SCOTT. Mr. President, will the distinguished acting majority leader yield?

Mr. BYRD of West Virginia. I yield to the distinguished minority leader.

Mr. SCOTT. Could the distinguished acting majority leader tell me whether anymore votes are expected today?

Mr. BYRD of West Virginia. Mr. President, no more votes are expected today, and I am authorized by the majority leader to state that following action by the Senate on S. 215—the bill to provide for calling constitutional conventions for proposing amendments to the Constitution of the United States, which is presently the pending business—the Senate will proceed, in all likelihood, to consider the following measures, which are on the calendar, and probably in the following order:

S. 1151, a bill to authorize the Secretary of the Interior to revise a repayment contract with the San Angelo Water Supply Corp., San Angelo project, Texas.

H.R. 6915, an act to amend the tobacco marketing quota provisions of the Agricultural Adjustment Act of 1938.

S. 2042, a bill to provide for the apportionment of funds in payment of a judgment in favor of the Shoshone Indian Tribe.

May I add, Mr. President, in further response to the question of the distinguished minority leader, that consideration of the measures which I have outlined for action tomorrow—with the exception of S. 215, which is the pending business—will be subject, of course, to further consultations with the minority leadership.

Mr. SCOTT. I thank the distinguished Senator.

Mr. BYRD of West Virginia. I thank the distinguished minority leader.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 3 o'clock and 54 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, October 13, 1971, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate, October 12, 1971:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenants

Carl R. Berman, Jr.
John W. DeCoste.

IN THE AIR FORCE

Maj. Gen. Glenn A. Kent, xxx-xx-xxxx FR, Regular Air Force, to be assigned to a position of importance and responsibility designated by the President in the grade of lieutenant general under the provisions of section 8066, title 10 of the United States Code.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Arthur William Oberbeck, xxx-xx-xx... xxx-... Army of the United States (major general, United States Army).

IN THE ARMY

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Bailey, Bruce H., xxxx
Butkiewicz, Edward J., xxx-xx-xxxx
Hilling, Harry S., Jr., xxx-xx-xxxx
La Follette, Bruce F., xxx-xx-xxxx
Roach, Dick E., xxx-xx-xxxx
Szymonski, Zdzislaw, xxx-xx-xxxx
Williams, Leonard R., xxx-xx-xxxx

To be captain

Beltran, Normandy B., xxx-xx-xxxx
Bohannon, William H., xxx-xx-xxxx
Canale, Angelo A., xxx-xx-xxxx
Caravalho, Sario J., xxx-xx-xxxx
Chester, James T., Jr., xxx-xx-xxxx
Flamenbaum, Walter, xxx-xx-xxxx
Ghaed, Nasser, xxx-xx-xxxx
Gilley, Dewey C., Jr., xxx-xx-xxxx
Laramore, Robert E., xxx-xx-xxxx
Lazarus, Barry A., xxx-xx-xxxx
Pearsall, Robert S., Jr., xxx-xx-xxxx
Pettingill, Albert R., xxx-xx-xxxx
Plucinski, Theodore E., xxx-xx-xxxx
Shaw, John C., Jr., xxx-xx-xxxx
Strange, Grady L., xxx-xx-xxxx
Taylor, Rex A., xxx-xx-xxxx

To be first lieutenant

Allison, Robert C., xxx-xx-xxxx
Arrowsmith, David R., xxx-xx-xxxx
Bell, Gary L., xxx-xx-xxxx
Benson, Barton K., xxx-xx-xxxx
Berzins, Guntis G., xxx-xx-xxxx
Billmaier, Donald J., xxx-xx-xxxx
Brewsaugh, Dorothy J., xxx-xx-xxxx
Burleson, David G., xxx-xx-xxxx
Chudomelka, Lambert A., xxx-xx-xxxx
Cowsert, Garrett T., xxx-xx-xxxx
Crimmins, Walter J., Jr., xxx-xx-xxxx
Cross, Dennis D., xxx-xx-xxxx
Cruce, Douglas O., xxx-xx-xxxx
Delaney, Gerald L., xxx-xx-xxxx
Delaney, Russell J., xxx-xx-xxxx
Downing, Patrick H., xxx-xx-xxxx
Driskill, Thomas M., Jr., xxx-xx-xxxx
Edwards, David J., xxx-xx-xxxx
Ellison, Michael S., xxx-xx-xxxx
Newton, Edward C., IV, xxx-xx-xxxx
Empson, Richard N., Jr., xxx-xx-xxxx
Fassett, Richard M., xxx-xx-xxxx
Gibbons, David W., xxx-xx-xxxx
Griffith, Stephen R., xxx-xx-xxxx
Gruber, Michael G., xxx-xx-xxxx
Hagey, Antoinette, xxx-xx-xxxx
Halverson, Donald E., xxx-xx-xxxx
Harris, Robert F., xxx-xx-xxxx
Harris, William S., xxx-xx-xxxx
Hawkins, Richard D., xxx-xx-xxxx
Hershey, Jacob R., II, xxx-xx-xxxx
Howard, Daniel L., xxx-xx-xxxx
Kadel, Melvin C., xxx-xx-xxxx
Kammerer, James W., xxx-xx-xxxx
Kantorek, Gertrude M., xxx-xx-xxxx
Keltner, Kenneth M., xxx-xx-xxxx
Kennedy, Pat, Jr., xxx-xx-xxxx
Kerwin, Bruce R., xxx-xx-xxxx
King, Raymond J., II, xxx-xx-xxxx
Kirkland, Stephen R., xxx-xx-xxxx
Klugman, Peter J., xxx-xx-xxxx
Kontrim, Bronis J., xxx-xx-xxxx
Kruse, William R., xxx-xx-xxxx
Lanier, James R., xxx-xx-xxxx
Lawn, Edward J., Jr., xxx-xx-xxxx
Lear, Charles E., xxx-xx-xxxx
Martin, Robert F., xxx-xx-xxxx
Morgan, Joe W., xxx-xx-xxxx
Morris, Harold B., xxx-xx-xxxx
Nutt, Hershell R., xxx-xx-xxxx
O'Rourke, William H., Jr., xxx-xx-xxxx
Overend, Robert K., xxx-xx-xxxx
Parker, Dan M., xxx-xx-xxxx
Prybyla, David J., xxx-xx-xxxx
Ramos, Jesus, xxx-xx-xxxx
Reed, Ronald B., xxx-xx-xxxx
Riester, Anthony C., xxx-xx-xxxx
Sas, Martin S., xxx-xx-xxxx
Sayles, Jeffery A., xxx-xx-xxxx
Sholtis, Edward R., xxx-xx-xxxx
Siegel, Mark P., xxx-xx-xxxx
Sisler, Gary L., xxx-xx-xxxx
Soltau, John E., xxx-xx-xxxx
Stokes, Willie J., xxx-xx-xxxx
Tabor, Carlton R., xxx-xx-xxxx
Takano, Bernard K., xxx-xx-xxxx
Thimmesch, Stephen W., xxx-xx-xxxx
Thompson, Janet R., xxx-xx-xxxx
Weker, Joseph C., xxx-xx-xxxx
Wilkinson, Rowland N., xxx-xx-xxxx
Zahrndt, Dennis L., xxx-xx-xxxx

To be second lieutenant

Cantwell, Edward B., xxx-xx-xxxx
Carlstedt, Paul H., xxx-xx-xxxx
Coonley, Lewis S., Jr., xxx-xx-xxxx
Dimmery, Hugh M., xxx-xx-xxxx
Eazor, Charles R., xxx-xx-xxxx
Fagan, Alice K., xxx-xx-xxxx
Jones, Dennis M., xxx-xx-xxxx
Kemmitz, Joel D., xxx-xx-xxxx
Larson, William W., xxx-xx-xxxx
Lattimore, Peter J., xxx-xx-xxxx
Lust, Larry J., xxx-xx-xxxx
Malleck, George S., xxx-xx-xxxx
Martin, James D., xxx-xx-xxxx
May, James P., Jr., xxx-xx-xxxx
Mikel, Tilden N., xxx-xx-xxxx
Mitchell, Clarence B., xxx-xx-xxxx
Nockleby, Brian E., xxx-xx-xxxx
Nolan, Michael F., xxx-xx-xxxx
Nugent, Neil J., xxx-xx-xxxx
Olson, Bryan K., xxx-xx-xxxx
Potts, Joseph L., xxx-xx-xxxx
Richmond, Terry L., xxx-xx-xxxx
Ritz, Wendall A., xxx-xx-xxxx
Salter, Cecil S., xxx-xx-xxxx
Serrano, Alfredo, xxx-xx-xxxx
Stark, Robert L., xxx-xx-xxxx
Starkey, James A., Jr., xxx-xx-xxxx
Steward, Stephen A., xxx-xx-xxxx
Sudnik, Michael P., xxx-xx-xxxx
Swartzlander, David L., xxx-xx-xxxx
White, George B., xxx-xx-xxxx
Witt, Thomas B., xxx-xx-xxxx
Wootten, Bradley Q., xxx-xx-xxxx

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Best, Martin H., xxx-xx-xxxx
Gordon, John R., xxx-xx-xxxx
Holmes, Carl S., xxx-xx-xxxx
Jenkins, Lee R., xxx-xx-xxxx
Nelson, George R., xxx-xx-xxxx
Ruff, Stephen P., xxx-xx-xxxx
Satterwhite, Michael W., xxx-xx-xxxx
Seay, Wendell G., xxx-xx-xxxx
Yellen, Howard W., xxx-xx-xxxx

The following-named scholarship students for appointment in the Regular Army of the United States in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, 3288, and 3290:

Adamczyk, Carl A., xxx-xx-xxxx
Ellis, Robert A., xxx-xx-xxxx

IN THE NAVY

The following-named (Naval Reserve Officers' Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualification therefor as provided by law:

Drexel M. Ace, Jr.
Keith R. Albright
Robert C. Allen
James S. Anderson
William E. Ary
George Ashbridge IV
Robert J. Atkenson
Gilbert W. Bailey II
Charles L. Baker
Owen K. Ball, Jr.
Kenneth E. Barbor
Ronald D. Barlow
Ronald J. Beelman
William R. Beers
Michael W. Beiter
Chris J. Beloncix
Mitchell J. Berdinka
Robert J. Biedermann
Ronald A. Bifford
Theodore A. Bishop
Thomas F. Bitto
Matthew W. Blackledge
William K. Blaine
Russell E. Blume
Robert E. Bondy III
John C. Bongaardt
Gregory D. Borgert
Timothy W. Bouch
James W. Boyd
James W. Boyer
Steven L. Brandenburg
Bruce H. Brothers
Patrick J. Brown
Richard M. Bruns
Thomas S. Burke
Robert L. Burnham
Gerald L. Burr
John W. Bushong
James A. Bussiere
Arthur L. Butt
Theodore Bybel III
Patrick R. Cafaro
David C. Cahoon
John Caldwell
Stephen F. Callahan
Barry L. Campbell
William J. Cantwell, Jr.
Lexie C. Castleman
Lee S. Chesneau
Wendell C. Chinn
Patrick L. Christman
Thomas M. Cislo
James S. Clark
Gary D. Cline
Michael D. Clutter
James H. Coleman
Charles D. Conover, Jr.
John J. Conroy
Wynn L. Coon
Robert J. Cooper
Bruce A. Cordes
David C. Covert
Harold D. Covert
Gary R. Crawford
Walter D. Creech
Mark A. Crim
Dennis E. Crowley
William S. Culler
Donovan C. Cullison
Robert B. Cummings
Timothy J. Curley
Michael T. Cygan
Zbigniew A. Cymerman
Joseph F. Dalton, Jr.
Wayne R. Dapser
Douglas S. Daughtry
Edward E. Davies IV
David M. Davis
Michael J. Defors
Alan G. Denison
John J. Deschauer
James B. Dickson
Michael D. Donovan
Charles E. Dorsett
Barry C. Douglas
Thomas J. Drake
Raymond M. Driscoll, Jr.
Daniel R. Edwards
Emmerson W. Edwards
Mark J. Edwards
Lance D. Ehmcke
Alex G. Endres
Thomas A. Engels, Jr.
John R. Exell
Linwood E. Farmer, Jr.
Dennis C. Federici
Calvin Fisher
John E. Flanagan, Jr.
Thomas E. Fleming, Jr.
John M. Flowers, Jr.
James M. Fowler
Richard A. Franklin
Richard L. Fuller
Daniel M. Furlong
Michael L. Gale
Joseph E. Galvacky
George C. Garden
Thomas L. Gardner
James J. Gawbill III
Claude P. Gentil-homme
Paul A. Gido
John H. Gillette
Michael G. Godwin
James L. Goyer III
Michael M. Graves
Richard H. Gray
James T. Greeno
Steven A. Greishaber
Steven A. Guzauskis
Dayton F. Hale, Jr.
Charles J. Hall
John H. Hamilton
Kevin D. Hammar
John A. Hankins
Christian P. Hansen
William R. Harlow, Jr.
Robert J. Harrington
Stephen A. Hedgepeth
Joseph P. Heine
Ross P. Henderson
George A. Herbert, Jr.
Rory M. Hermann
Herbert I. Hess, Jr.
Edward E. Hickson
Douglas G. Hodsdon
Michael L. Hoesly
James C. Hoffman
Nelson C. Holly
Paul C. Hoover
Robert L. Hopkins
Walter G. Howard, Jr.
Joseph F. Hurley, Jr.
Frederick E. Ill, Jr.
Walter E. Ingram
Jac D. Irvine
Bruce R. Jayne
Joe C. Jennings, Jr.
Eric Y. Johnson

Robert B. Johnson II
Richard S. Kaiser, Jr.
Roger D. Kamen
John M. Kane
Steven M. Karoscik
James M. Kessler
Lawrence E. Kinker
John R. Kirk
Terrance J. Klein
Gerald J. Kline
Patrick R. Kluever
David J. Knight
Mark W. Koster
Ronald R. Ladd
Gregory D. Landers
Leslie K. Lampe
Dennis N. Largess
James W. Lawson
John G. Leggett
James M. Ligon
Michael L. Lillard
Thomas R. Lippert
Michael M. Little
John S. Lockwood
Paul D. Long
Randal S. Luce
John M. Luke
Dennis L. Lundberg
Patrick W. Lyons
Larry T. McAlpin
John D. McCloskey
Stephen A. McCormick
Larry N. McCullough
James J. McDonald
Elton G. McGoun, Jr.
Joseph J. McGrath
Gary R. McHugh
Robert A. McKim
Donald B. MacKenzie-graham
Robert J. Malarkey
Alton D. Marrs
Lawrence D. Marshall
William F. Mastro
Michael W. Mather
Rodney J. Meadows, Jr.
George H. Mears
William A. Meeley, Jr.
Mark A. Melnicoff
Martin C. Menez
Barton M. Menser
Floy L. Metheny
Michael E. Michalczyk
Michael P. Mihalik
Allen C. Miller, Jr.
John A. Miller
Lawrence C. Minder
Louis D. Misko
Robert W. Mitchum
Donald N. Mizell
Michael L. Moffit
John E. Moneghan
Darrell L. Moore
John F. Moran
James N. Morrow
Robert J. Muller
George J. Murphy III
Lance A. Mynderse
Stanley W. Nelson
William H. Nelson
Bruce A. Nettleton
Gerald T. Nielsen
Michael F. Nollet
Carl S. Norcross
Thomas C. Noser
Kevin P. O'Connell
Melvin W. Oleson
William A. Palmer, Jr.
Harold R. Parker III
Randall E. Pegler
Harry W. Peterson
Thad D. Peterson
Howard A. J. Petrea
Gerard K. Petry
Ralph E. Petty
Laurence M. Phelps
William L. Phillips
Frank T. Piecyk
Marshall F. Pierce
James S. Post
Richard R. Pouliot
William H. Powers
Clarkson M. Price, Jr.
Brain L. Pring
Michael A. Proulx
Ova W. Ramsey
William A. Rappold
Marl L. Rath
John E. Rebhann
Russell A. Reed
Joseph S. Regan
Christopher J. Remshak
Thomas F. Reynolds
Philip W. Richardson
Steven D. Richardson
Christopher R. Riche
Ronald R. Richmond
Louis K. Roark
James R. Rosmond
Samuel J. Routson
Michael C. Rowson
Joseph G. Ruggiero, Jr.
William P. Ryan, Jr.
John W. Ryder
Gregory B. Sanford
Michael J. Sare
James E. Scarbrough
Frederick G. Schaad
Jonathan B Schmidt
Thomas J. Schmucker
Martin J. Schnell
Stewart W. Schreckengast
Gregory W. Schreurs
Joseph C. Schwegmann
Jonathan M. Shepard
Terry C. Shipman
William M. Sigler III
Lawrence A. Silkaitis
Charles E. Simpson
Jeffrey P. Simpson
Ralph D. Skiano
Richard P. Skrzat
Gary W. Smith
Gerald S. Smith
Janvier K. Smith
Pemberton Smith
Walter M. Smorgans
Allen E. Sneed, Jr.
David M. Soballe
Lee A. Sollenberger
Walter T. Sorrow
Austin H. Speed III
Philip J. Starr
Robert P. Staebler
Daniel J. Steinbacher
Roland E. Stevens
William R. Stevens
Michael A. Stewart
John M. Strong
Gary L. Stuart
Michael G. Sudholt
David R. Suhs
Thomas M. Swenenborg
Walter J. Szwarc
Michael A. Tatone
Robert W. Teller, Jr.
Dale J. Thanig
Jeffrey H. Thomas
Silas O. Thorne III
Scott R. Tideman
Douglas C. Tilghman
Joseph L. Tillson, Jr.
Ashley G. Trop
David A. Tussey
Jackson C. Tuttle
Gary P. Vandyke
Joseph M. Volpe
Robert W. Vorhoff
Kevin C. Waddle
Gregory A. Walker
John Wallace
Paul W. Watkins
Gerold W. Weldon, Jr.
David P. Wellen
William I. Wells
Gregory J. Wenneson
Michael B. Westman
Thomas F. Weymann
Robert J. Whalen
Stephen J. Whelan
John C. White
Archie R. Whitehill
Robert C. Whitten
Herlis A. Williams
Michael J. Williams
Russell L. Williams
John J. Wilpers III
Arthur R. Wilson
Joseph A. Witherington
Michael S. Wilus
Gerald D. Wohlford
Michael S. Woodson
Randy A. Worley
Robert S. Wray
Paul J. Yardschak, Jr.
George E. Zhookoff

The following-named (naval enlisted scientific education program candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualification therefor as provided by law:

William L. Ainsley
William R. Allen
Thomas V. Almquist
Larry D. Ashim
Harry C. Barnes, Jr.
Leslie W. Barnes
Peter G. Barnett
Robert J. Beaver
Gale V. Berry
Richard A. Blackman
Daniel M. Boswell
Michael J. Bower
Robert F. Bowley
Bernard G. Brady
Edward D. Brady
Robert T. Bridges
Peter B. Briggs
Kenneth L. Buchspics, Jr.
Fred E. Burton
Lester E. Butler, Jr.
Edwin J. Cahill
Richard P. Campbell
Mark V. Carle
Lawrence B. Ceaglio
Alvin E. Cerveny
Robert G. Chapman
John L. Cuzzocrea
William D. Clayman
Hilton L. Connor, Jr.
Daley T. Coulter
Joseph H. Crabtree, Jr.
Max R. Crall
Bertram M. Crawford, Jr.
Charles D. Crowell
Terry H. Darton
Mark J. Davenport
Dennis R. Dean
James D. Deken
William R. Demain
James W. Derbyshire
Thomas P. Deuley
Robert D. Devries
Arnold S. DeWalt
Edward G. Disy, Jr.
Stuart N. Dom
Burelson M. Donihi
Harry Y. C. K. Doo
Milton D. Doran
James E. Downs
Robert L. Downs
David L. Dreiling
Thomas F. Drummond
Daniel F. Duddy
William R. Easton, Jr.
Laurence A. Eichel
Garland B. Eiland, Jr.
Leonard R. Elfervig II
James E. Elkins
Luis R. Erazo
William B. Evers
Dennis K. Fargo
James W. Farthing, Jr.
John F. Fee
Ronald L. Fouke
Donald C. Fox
Newton F. Freeland, Jr.
John M. Friedel
Michael J. Gallagher
Frank Gebbia
Robert N. Geopfarth
David R. George
Joel D. Givens
Michael Glenn
Robert C. Glick
Ronald B. Glover
James A. Golisch, Jr.
Mark I. Good
James F. Gorman
Timothy M. Grabski
Donald C. Greaser
Gary C. Grimes
Arnold R. Gritzke
George T. Groff
Kenneth K. Grubbs
Richard H. Guiles
James J. Gyolai
Robert M. Haley
David P. Halsted
Jeffress P. Halter
Oscar L. Hample III
Raymond H. Hansen, Jr.
Thomas F. Hartrick
Thomas R. Herret
Robert A. Hewitt, Jr.
Ronald L. Hill
Brian J. Hodson
Dennis E. Hoffman
Robert D. Holmes
Roger A. Hughes
Brian J. Hurley
John E. Israel
Gary A. John
Arthur L. Johnson
William R. Johnston
Edward L. Jones
Granville P. Jones
James E. Kaucher, Jr.
Delbert R. Kaufman
Joseph W. Keegan
Verland R. Kelly, Jr.
Paul K. Kessler, Jr.
Adrian E. Kibler, Jr.
John Adam Koehler III
Edward G. Kohinke
Anthony J. Kopacz
Raymond L. Krohn
Billy D. Kysar
Don C. Laforce
James A. Lane
Morris E. Lazarowitz
Stephen A. Lewis
Dallas D. Likens
Michael R. Long
William H. Long, Jr.
Glenn A. Main
John W. Markevicz
William J. Marshall
Keith W. Martello
Lawrence R. Martin
Phillip J. Maxson
Larry L. Mayes
Patrick A. McCarville
Ralph C. McCrory
Gary A. Meade
Anthony J. Melle, Jr.
Steven J. Mendygral
Lloyd J. Meyer
Dennis W. Miller, Jr.
George E. Mobus
Eugene L. Moon
Robert C. Moore
Floyd J. Morgan
Steven W. Mosher
George M. Murray
Clyde Musgrave
Michael J. Naughton
David E. Nelson
Danny R. Newton
Donald O. Norris, Jr.
Raymond T. O'Bryon
Donald F. Oelrich
Darrell J. Offut
Mark H. Olender
David J. Olson
Paul L. Orr, Jr.
Andrew A. Ott
David T. Otto
Robert H. Paleck
George W. Palmer
Joseph V. Parrish
Wayne L. Patterson
James Paul
Joseph L. Perry, Jr.
William J. Peterson, Jr.
Russell J. Pfister
Ronald D. Poe
Marc M. Poland
David J. Reilly
David G. Reuter
William A. Rhoades
Jesse C. Rhodes
Michael L. Rice
Michael D. Robertsop
Richard T. Rockwell
James P. Roller
Theodore R. Roman, Jr.
Michael J. Rotondo
George L. Russell, Jr.
Roy W. Russell
William W. Rust III
Robert W. Sands
William C. Saunders
Jerry E. Schmitz
Robert J. Sensat
John R. Sherman
Robert G. Shields
Arthur B. Sleeper
Dennis A. Slocumb
Richard F. Sontheimer
David M. Stanfield
Joseph R. Stenroos
Robert C. Sterner
Melvin L. Stewart
Christopher A. Stickler
Dale E. Stoehr
Bruce W. Stupfer
Allen M. Sueirro
Edward P. Suplicki
John L. Sutter
Lowell F. Swartz
Ralph D. Temple
Henry "D" Thomas
John G. Thomas
John R. Thomas
Clark F. Thompson
James "H" Toney
William P. Tornatore
Robert J. Trabona
Richard F. Trenta
Lauren B. Vanderhoof
John W. Wainionpaa
Andrew D. Wales
Charles J. Weigand
Joseph L. Welsh
Dennis R. Wheeler
James W. White
Judson H. White, Jr.
Richard M. White
Ronald A. Wiley
Gerald "E" Wilson
Theodore O. Wingo
Gary D. Wisner
Ralph L. Worthington, Jr.
Dennis L. Wright
Oliver L. Wright III
Edward P. Yarrows
John L. Yirak
Gordon A. Young
Frederick C. Zorbas

The following-named (civilian college graduates) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law:

*Herbert N. Davis
*John C. Mackenbach
*Glenn R. Olson
*John M. Peacock II
*Thomas D. Wells

The following-named (Naval Reserve officers) to be permanent lieutenants and temporary lieutenant commanders in the Dental Corps of the Navy, subject to the qualification therefor as provided by law:

*Walter G. Crooks
*Oloff L. Hansen
*Paul E. Hensley
*Robert A. Scudder, Jr.
*Dean D. Schloyer

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the Dental Corps of the Navy, subject to the qualification therefor as provided by law:

*David A. Baab
*Francis P. Boland
*Ronald S. N. Chang
*Kenneth L. Childers
*Donald J. Ferguson
*Robert E. Galliani
*Larry F. Hellman
*Richard L. Kronzer
*Frederic Krueger
*Darmon D. Kuntz
*John P. Ladas
*Eldon R. Leff
*Dennis J. McGuire
*Charles T. Qualey
*Gary D. Quine
*John J. Rizas
*Lee H. Sarty
*Carl W. Schamu
*Wayne L. Wagner
*Herbert W. Winstead
*Raymond A. Yukna

The following-named (Naval Reserve officers) to be permanent lieutenants and temporary lieutenant commanders in the Medical Corps of the Navy, subject to the qualification therefor as provided by law:

*Edward T. Flynn, Jr.
*Daniel D. Foote

The following-named (Naval Reserve officers) to be permanent lieutenants (junior grade) and temporary lieutenants in the

Medical Corps of the Navy, subject to the qualification therefor as provided by law:

*John B. Baldwin
*Vincent D. Bradley
*William E. Byrd
*Donald W. Claeys
*Robert J. Clubb
*Orr M. Cobb, Jr.
*David "H" Deck
*Charles J. Donlan, Jr.
*James L. Gentry
Kenneth S. Gray
*Russle H. Harris
*James S. Hicks
*Victor E. Iacovoni
*Glenn R. Johnston
*James P. Jordan, Jr.
*James P. Jorgensen
*Edward W. Kane
*Steven A. Komadina
*Richard W. Lawson
*Alton L. Lightsey, Jr.
*William B. McHugh
*William E. May
*George J. Miller, Jr.
*Thomas E. Moeser
* Ralph E. Norton, Jr.
* John C. Phares
* Lawrence A. Rathbun, Jr.
* John P. Seward
* Donald A. Spencer
* Frederick C. Stidman, Jr.
* Norman W. Taylor
* Donald A. Vance
* Clayton W. Wickham
* Linder E. Wingo

* Richard B. Redmayne, U.S. Navy retired officer, to be reappointed from the temporary disability retired list as a permanent captain in the line of the Navy, subject to the qualification therefor as provided by law.

* William A. Ingram, U.S. Navy retired officer, to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the line of the Navy, subject to the qualification therefor as provided by law.

(Asterisk (*) indicates ad interim appointment issued.)

HOUSE OF REPRESENTATIVES—*Tuesday, October 12, 1971*

The House met at 12 o'clock noon, and was called to order by the Speaker pro tempore (Mr. O'NEILL).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 12, 1971.

I hereby designate the Honorable THOMAS P. O'NEILL, Jr., to act as Speaker pro tempore today.

CARL ALBERT,
Speaker of the House of Representatives.

PRAYER

His Excellency, the Most Reverend Philip M. Hannan, archbishop of New Orleans, La., offered the following prayer:

O God, bless this House and make it a model assembly for the family of man. As Plato said, "Like man, like state," make us realize that the good of each means the common good, that national strength means the spiritual strength of each, and that law and order mean the reign of Your justice and charity in each heart.

May we see in the differences of color and culture Your design to enrich the family of man. May we merit the unbought grace of life by fulfilling the dignity of every fellow son of God as described by the psalmist:

"It was You who created my inmost self,
For all these mysteries I thank You:
For the wonder of myself, for the wonder of Your works.
O God, let Your love rest on us, as our trust rests in You."
Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments a bill of the House of the following title:

H.R. 8687. An act to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8687) entitled "An act to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. SYMINGTON, Mr. CANNON, Mr. MCINTYRE, Mr. BYRD of Virginia, Mrs. SMITH, Mr. THURMOND, Mr. TOWER, and Mr. DOMINICK to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2007) entitled "An act to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes," agrees to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NELSON, Mr. KENNEDY, Mr. MONDALE, Mr. CRANSTON, Mr. HUGHES, Mr. STEVENSON, Mr. RANDOLPH, Mr. TAFT, Mr. JAVITS, Mr. SCHWEIKER, Mr. DOMINICK, and Mr. BEALL to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2482. An act to authorize financial support for improvements in Indian education, and for other purposes.

The message also announced that the Senate had passed the following resolution:

S. RES. 176

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. James G. Fulton, late a Representative from the State of Pennsylvania.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

HIS EXCELLENCY, THE MOST REVEREND PHILIP M. HANNAN, ARCHBISHOP OF NEW ORLEANS, LA.

(Mr. HÉBERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HÉBERT. Mr. Speaker, we have been particularly honored and privileged this morning, through the cooperation of our Chaplain and the leadership of the House, in having our opening prayer said by His Excellency, the most reverend archbishop of New Orleans, Philip M. Hannan.

He is no newcomer to Washington. He is a native Washingtonian, and at this particular time he is here to participate in the official presentation of the portrait of the chairman of the Committee on Armed Services of the House this afternoon.

I think it is most interesting, too, that he is spending his time here with his 90-year-old mother who still lives in the Northwest section of Washington.

He will be remembered as Bishop Hannan of Washington who gave the eulogy at the funeral of the late President Jack Kennedy after his tragic death.

His credentials are those which one seldom finds in an individual in his particular calling, though they are most welcome at having been found there.

During World War II he was a jumper with the 82d Airborne Division in Europe as a chaplain and became very well known at that time.

It is with the deepest appreciation that I express to the archbishop my gratitude for having taken the time to come here this morning to honor us with his presence.

Those of us of New Orleans who have come to know him will soon honor him with a testimonial dinner from the Conference of Christians and Jews for the work that he has done in bringing together the various people of the city of New Orleans.

He came on the scene in very unquiet