SENATE—*Thursday, February 18, 1971*

(Legislative day of Wednesday, February 17, 1971)

The Senate met at 11:45 a.m., on the expiration of the recess, and was called to order by the Vice President.

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

"Dear Lord and Father of mankind,
Forgive our foolish ways;
Reclothe us in our rightful mind,
In purer lives Thy service find,
In deeper reverence, praise.

"In simple trust like theirs who heard,
Beside the Syrian sea,
The gracious calling of the Lord,
Let us, like them, without a word
Rise up and follow Thee.

"Drop Thy still dews of quietness,
Till all our strivings cease;
Take from our souls the strain and stress,
And let our ordered lives confess
The beauty of Thy peace. Amen."

—JOHN GREENLEAF WHITTIER.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Vice President laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, February 17, 1971, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ADJUSTMENT OF OUTSTANDING CURRENCY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 7, S. 670.

The VICE PRESIDENT. Is there objection?

There being no objection, the bill (S. 670) to authorize further adjustments in the amount of silver certificates outstanding, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of June 24, 1967 (31 U.S.C. 405a–2) is amended by inserting a comma and the words "Federal Reserve Bank notes, and National bank notes" immediately after "silver certificates" wherever the term appears and by striking out "(not exceeding $200,000,000 in aggregate face value)".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–3), explaining the purposes of the measure.

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

PURPOSE OF LEGISLATION

The bill, S. 670, would authorize further adjustments in currencies outstanding which were issued after June 30, 1929. Specifically, the amendment proposed to the first section of the act of June 24, 1967, would authorize the writeoff of Federal Reserve bank notes and national bank notes, and would remove the limitation of $200 million on the aggregate face value of silver certificates outstanding that the Secretary of the Treasury is authorized by law to write off after he has determined that they have been lost or destroyed, or are held in collections, and will never be presented for redemption. The limitation of $200 million of silver certificates which could be written off was established by the act of June 24, 1967 (31 U.S.C. 405a–2).

HISTORICAL BACKGROUND

The Old Series Currency Adjustment Act of 1961 provided authority for the writeoff of the old large size currency which was issued prior to June 30, 1929, and the act of June 24, 1967, provided authority for the writeoff of silver certificates of the new series issued after June 30, 1929. Under the Old Series Currency Adjustment Act, over $144 million of currency has been determined by the Secretary of the Treasury to have been lost or destroyed and has been written off. Under the act of June 24, 1967, silver certificates determined to have been lost or destroyed or to be held in collections in the amount of $200 million have been written off. For those currencies which are no longer being issued, the writeoff technique is the accepted method of adjusting the liability for currencies outstanding on the books of the Treasury. These adjustments make it possible to reflect more accurately the true liability for currencies which remain outstanding. The writing off of the liability is reflected in the budget as a receipt.

WRITEOFF OF DISCONTINUED NATIONAL BANK AND FEDERAL RESERVE BANK NOTES

Enactment of S. 670 would permit the writeoff of discontinued national bank notes and Federal Reserve bank notes issued after June 30, 1929, determined by the Secretary of the Treasury to have been lost or destroyed. National bank notes, authorized by the act of June 3, 1864 (National Currency Act), were circulating notes delivered to national banks in amounts equal to the market value of U.S. bonds required to be deposited by the banks at the time of their organization. Provision was made by the act of June 20, 1874, and later acts, for the retirement of national bank notes upon the deposit of lawful money with the Treasurer of the United States. As the bonds which were deposited as collateral for national bank notes were retired, national banks deposited lawful money to retire the circulation so secured, thus transferring the liability for redemption of national bank notes to the United States. The amount of such notes outstanding is carried as a part of the public debt bearing no interest. As of January 31, 1970, the amount of national bank notes outstanding, issued after June 30, 1929, amounted to $20,040,000. In the 5-year period 1966–1970 redemptions have amounted to $1,333,000 and to less than $175,000 in each of the last 2 calendar years. Based on this record of retirement, it would seem desirable to reduce the liability of the Treasury for the redemption of these notes by about $18 million, representing notes which will never be presented for redemption.

Federal Reserve bank notes were authorized by the Federal Reserve Act of December 23, 1913, to be issued by Federal Reserve banks against the deposit of U.S. bonds, as in the case of national bank notes. By the close of 1922, Federal Reserve banks had ended their liability on these issues of notes by the deposit of lawful money for their retirement with the Treasurer of the United States. Federal Reserve bank notes were also issued during the emergency period in 1933–34 under the Emergency Banking Act of March 9, 1933. Since 1935, however, all of those notes have been liabilities of the Treasury and in process of retirement. Authority for the issuance of Federal Reserve bank notes was repealed by the Act of June 12, 1945. As of December 31, 1970, the amount of Federal Reserve bank notes outstanding, issued after June 30, 1929, amounted to $54,608,000. In the 5-year period 1966–70, redemptions have amounted to $12,070,000, and in the last 2 calendar years redemptions have amounted to $3,318,000. Based on this record of retirement of these notes, it would seem desirable to reduce the liability of the Treasury for their redemption by about $35 million, representing notes which will never be presented for redemption.

Enactment of S. 670 would permit further writeoffs of silver certificates by removal of the $200 million limitation established by the act of June 24, 1967. During the year following passage of that act, redemptions of silver certificates were very heavy because the act specified that they would not be exchanged for silver after the expiration of that year. Without the incentive inherent in exchange for silver, redemptions then dropped very sharply. During calendar year 1969, only $2,945,000 were redeemed and in the calendar year 1970 only $2,711,000 were redeemed. At the end of December 1970 the amount outstanding was $218,647,000. On the basis of this experience, it would seem desirable to reduce the liability of the Treasury for silver certificates by at least $175 million at the present time, and possibly by more later, representing certificates which will never be presented for redemption.

BACKGROUND OF THE BILL

The legislation proposed by S. 670 was requested by the Secretary of the Treasury in a letter dated January 26, 1971, to the President of the Senate and the Speaker of the House of Representatives. Subsequently on February 5, 1971, Senator Sparkman, for himself, Mr. Tower, and Senator Bennett, introduced S. 670. After consideration the bill was reported unanimously by the committee.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The committee recommends favorable action by the Senate.

The VICE PRESIDENT. Under the previous order, the Senator from New York (Mr. JAVITS) is recognized for 15 minutes.

ATTENDANCE OF A SENATOR

Hon. WARREN G. MAGNUSON, a Senator from the State of Washington, attended the session of the Senate today.

S. 836.—INTRODUCTION OF THE NATIONAL HEALTH INSURANCE AND HEALTH SERVICES IMPROVEMENT ACT OF 1971; AND S. 837—INTRODUCTION OF THE LOCAL COMPREHENSIVE HEALTH SERVICE SYSTEMS ACT OF 1971

Mr. JAVITS. Mr. President, my purpose in obtaining the floor today is to introduce two bills, the National Health Insurance and Health Services Improvement Act of 1971, which I send to the desk for appropriate reference, and the Local Comprehensive Health Service Systems Act of 1971, which I send to the desk for appropriate reference.

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

The bill (S. 836) to provide a national health insurance program by extending the benefits, enlarging the coverage, expanding the role of private carriers, and otherwise improving the health insurance program established by title XVIII of the Social Security Act, by establishing a new title XX to such act to provide comparable health insurance benefits to individuals not covered therefor under the program established by such title XVIII, by providing Federal assistance to develop local comprehensive health service systems, and by authorizing the establishment of federally chartered national health insurance corporations, introduced by Mr. JAVITS, was received, read twice by its title, and referred to the Committee on Finance.

The bill (S. 837) to amend the Public Health Service Act by establishing a new title X to such act to provide Federal assistance to develop local comprehensive health service systems, and for other purposes, introduced by Mr. JAVITS, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, these measures I am submitting today are part of the totality of health measures, which I hope will have the urgent consideration of Congress. This subject is already receiving the urgent consideration of the President, with a view toward building a national health strategy which will, at long last, deal with the health of all the people on an equal basis, that is, a basis of equal opportunity for gaining access to our health care system, especially for preventive care instead of illness care; and, secondly, as to the economy with which that health care is delivered and the way in which we pay for the service.

I believe so deeply, Mr. President, in 1971 as the Year of Health that I have joined in the bill of the Senator from Massachusetts (Mr. KENNEDY), with others of my colleagues, because I think it takes us one step farther along the road, as it recognizes the national responsibility for the health of all the people. I expect to carry so much of the bill as the President wishes me to carry in the forthcoming omnibus bills for health care of the administration, and I am introducing my own concept. I see no inconsistency in so doing; on the contrary, Mr. President, I see every consistency in these positions, for I believe that all legislative alternatives which hold out the promise of making adequate quality health care for all Americans a reality should be before us so that we may fashion the final measure from them all.

Mr. President, I am very much encouraged, having participated in a conference only yesterday with representatives of the White House, by the fact that the attitude of the administration I believe will be very much the same as mine—that is, an effort from an eclectic point of view to develop the best possible plan from all the alternatives which may be put before us.

To provide adequate, quality health care to all the people of this Nation, my national health insurance bill provides:

Eligibility for basic benefits under title XVIII of the Social Security Act available without limitation to all resident citizens of the United States, without regard to age. Because such a massive expansion of health insurance coverage cannot be imposed immediately upon our present health-care system, these benefits would be phased in by July 1, 1974. It may even be necessary to defer full realization for a year or perhaps two beyond this date. This would give the care system time to "gear up" for the greatly increased demand and allow for the vast reorganization of health care which other parts of this bill would stimulate. I am hopeful that the disabled, the unemployed, and the poor will be the first to be phased into the system.

Before health insurance is extended to all, the following improvements would be made in the present medicare system: Merger of parts A and B of that system; a single charge to provide for both hospital and physician's benefits for the elderly; and extension of these benefits to the disabled under age 65. These changes would become effective July 1, 1972.

Financing of a limited prescription drug benefit would be added to the benefit package. This would be available, with a $1 copayment per prescription, for long-term maintenance drugs. The Secretary also would be authorized to conduct studies relating to maintenance drug utilization, efficacy and cost, and to establish a committee to assist with the drug program.

One year after the effective date of extending medicare benefits to the disabled under 65, two new benefits would be added: First, dental care for children under 8 years of age, restricted to examination and diagnosis, oral prophylaxis, and the filling and removal of teeth; and second, a diagnostic benefit for all who are covered, providing for annual physical checkups, and eye and ear examinations. There is, of course, the risk of abuse of this benefit, but so crucial is its role in preventing more serious and costly illnesses and hospitalization, that it should be included in the benefit package.

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

Health insurance would be financed by a tax on employers, employees, and the self-employed. The earnings base would be increased to $15,000 for all employees and self-employed. Public assistance recipients and the unemployed would receive full health benefits, the cost of which would be underwritten by Federal Government general revenue financing. The contribution rates from all—as set forth in the actuarial cost estimates developed by the Social Security Administration for my bill—would be, with respect to wages paid during the calendar year 1972, 0.7 percent; 1973, 0.9 percent; 1974, 2 percent; 1975, 3.1 percent; and 1976 and thereafter 3.3 percent. I believe a contributory health insurance system is far preferable to the financing of all health services out of general public revenues because beneficiaries make a direct financial contribution to the system and, consequently, have a personal stake in its fiscal operations.

Significant changes would be established in the administration of health insurance financing. Carriers, wherever possible, would be required to encourage rational organization of health care services and facilities; provide greater consumer education and participation; emphasize preventive, diagnostic, and early therapeutic services; control the costs of services; stimulate diversity and innovation in the provision of health insurance protection; make a continuing study of the organization and methods of delievery of health services in the geographic area in which it operates; review patterns of utilization of services and the effectiveness of existing procedures for control of unnecessary utilization; and recommend action by the Secretary of Health, Education, and Welfare to further such objectives.

This is the significant aspect of my bill as distinguished from other bills in the same field, an effort to use the whole private enterprise system for the purpose, rather than to establish a new system, to use existing carriers, profit and nonprofit, and to encourage, by financing and other means, the development of group practice and other health maintenance organizations.

The Secretary of Health, Education, and Welfare would encourage the rational organization of health care by entering into a variety of administrative arrangements for comprehensive health insurance benefits with comprehensive health service systems—that is, prepaid group practice units, other providers of

health services, health insurance carriers, or a combination of them—private, profit, or nonprofit. Such organizations would receive reimbursement for costs and incentive payments to bring about a reduction of costs without impairment of services.

That seems to be the principal problem and the pertinent distinction between my bill and the others as encompassed in that approach, in the approach of utilizing the whole private sector for the purpose.

In order to do that effectively, I have introduced the other bill to which I referred when I began, the Local Comprehensive Health Service Systems Act, to develop a means for establishing institutions locally which could give adequate implementation to a national health scheme, whatever it may be, whether it is based on insurance or whether it is based on some other plan.

In this connection, I wish to note that the President's message on health will be here today. It proposes the administration's alternative respecting this particular matter, in which I hope very much to have a material part, in bringing about the development and implementation of the final system.

The Secretary of Health, Education, and Welfare, under my second bill, would be authorized to make grants to public or nonprofit hospitals, medical schools, insurance carriers, or nonprofit prepayment plans or nonprofit community groups, up to 80 percent of the cost of planning and developing of comprehensive health care systems. In addition, he would be authorized to underwrite the operating and maintenance costs of such local systems for their first 5 years in order to enable them to get on their feet.

This is an absolutely indispensable element of any national health insurance scheme, for without it, any scheme would be valueless, as we would not have—and we do not have today—the means to bring it into being.

These two bills would be in addition to other measures dealing with health education, as our medical schools urgently need considerable assistance. I will not trace the history of that, but at one time I was able to have adopted in the Senate an amendment to provide $100 million emergency financial assistance for medical schools. We are working out other means for helping them, but it is essential to recognize that they need help and need help urgently.

The Secretary of Health, Education, and Welfare would be mandated to undertake a comprehensive study of compensation methodologies for providers of services, soliciting the widest possible expression of views from interested persons and organizations, including health insurance carriers. He would then present a proposed regulation, no later than December 1, 1973, regarding modification of methods of compensation.

I also propose to require the Secretary to study methods of compensation designed to encourage responsibility by medical associations, which are largely regional in character, in regard to this question of methodology of compensation; and the rationalization for how services should be provided to improve—through peer review and otherwise—the quality of health care.

"Reasonable" charges as presently called for by title XVIII would be modified to provide that wherever that phrase appears, it would be subject to the modification, "appropriate." This modification would provide the Secretary of Health, Education, and Welfare with the necessary authority to restructure health care costs so that the charges will be for what the service is really worth when efficiently delivered.

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

To the extent practicable and consistent with good medical practice, the Secretary of Health, Education, and Welfare would encourage the training and employment of allied health personnel and other subprofessionals in the rendering of comprehensive health services.

I have long urged bringing many of the 30,000 medical corpsmen released from the Armed Forces each year into the business of providing health services in an important way.

The Secretary of Health, Education, and Welfare would be authorized to make loans and grants and to provide technical assistance to contracting comprehensive health service systems to help them develop the capability to administer the program. These systems would include such comprehensive health services as can be established with Federal aid in given communities which do not have them now.

The Secretary of Health, Education, and Welfare would be authorized to establish, as a contingency provision, a National Health Insurance Corporation, or corporations. The establishment of an autonomous Government corporation in a given area would be for the purpose of fostering better organization of health care and reshaping financing mechanisms to facilitate progressive health care changes. From a practical standpoint, I believe a national health insurance program is far more likely to emerge from Congress if we utilize the existing health insurance industry. However, should hearings on national health insurance legislation indicate that the health insurance industry is not prepared to cooperate, then I would consider bypassing the carriers with the alternative of the establishment of an autonomous Federal corporation or corporations to administer the program, as authorized by title X of the bill.

HEALTH-CARE CRISIS

President Nixon, in July 1969, stated that the Nation "faces a breakdown in the delivery of health care." In 1967 the Report of the National Advisory Commission on Health Manpower warned:

> There is a crisis in American health care. The intuition of the average citizen has foundation in fact.

Since 1960, every national administration has emphasized the "crisis in health care." Let us take a brief look at just a few of the stark and appalling statistics in three basic areas.

Rapidly escalating costs. The cost of 1 day's stay in a community hospital, not including a physician's care, has gone from $44.48 in 1965 to $74.24 in 1970, and in too many hospitals in New York City the daily charge is in excess of $100 per day. In the last 4 years medical care costs have increased almost twice as fast as costs for all consumer items.

Inadequate health manpower and health care facilities. The National Institute of Health's Health Manpower Bureau estimates that we need today an additional 48,000 physicians, 17,800 dentists, 150,000 nurses, and 266,000 allied health profession personnel. In addition, there is a $16 billion measured urgent need for construction and modernization of hospitals and other health care facilities. Also, the geographic distribution of health manpower across the Nation is highly uneven. There are some 212 physicians for every 100,000 persons living in New York State but only 73 per 100,000 in Mississippi. In Harlem, with a population of 185,000 persons, there are about 30 physicians in private practice relating to the local population.

Inadequate health services for the poor and nonwhites. The poor suffer six times as many deaths from pregnancy complications, three and one-half times as many deaths from diseases in early infancy, four times as much heart disease, seven times as many eye defects, and five times as much mental retardation. The life expectancy of a nonwhite American is 7 years less than his white counterpart; infant mortality rates are twice as great for nonwhites as for whites; and nonwhite maternal mortality is four times as great as for whites.

IMPLEMENTATION OF NATIONAL HEALTH INSURANCE

I do not believe we in the Congress should make a promise which cannot be fulfilled. We must allocate sufficient resources to establish a Federal commitment to assist in the development of the newest and safest quality health care together with the best treatment, personnel and facilities.

Because of this, I am also introducing the bill, which I introduced in the 91st Congress, to implement a national health insurance system. It is vital that we proceed immediately with the rationalization of medical services and facilities.

MAJOR PROVISIONS, LOCAL COMPREHENSIVE HEALTH SERVICES SYSTEMS ACT OF 1971

The second bill, to overcome the inequities and perhaps hardships of our presently outmoded health care system, provides:

The Secretary of Health, Education, and Welfare would be authorized to make loans and grants and provide technical assistance to enable comprehensive health service systems to plan and develop comprehensive health care programs and assist them to become self-supporting.

Criteria would be established for systems seeking financial and technical assistance from the Government for the purposes of developing comprehensive

health-service systems. Such systems would be required, among other things, to enter into an agreement with the Secretary to provide or arrange to provide services authorized by medicare. Comprehensive health-service systems would have to develop preventive health-care programs, train and employ allied health personnel, be organized in a manner consistent with a State's overall comprehensive health-care plan, and emphasize local consumer and community involvement in its planning, development, and operation.

The Secretary would be authorized to make grants to public or nonprofit hospitals, medical schools, insurance carriers or nonprofit prepayment plans or nonprofit community groups to pay up to 80 percent of the cost of planning and development of comprehensive health-care systems. Applications for assistance under this title would have to be approved by a State health planning agency.

The Secretary would be authorized to contract with an approved comprehensive health-service system to pay as much of administrative, operating, and maintenance costs of such system as exceed its income for the first 5 years after approval. The contract would require the system to make efforts to enroll members, control costs and utilize services and otherwise maximize income and minimize costs. The Secretary could terminate a contract after giving 6 months' notice. The Secretary would be authorized to make grants to a system for programs of capital development in an amount not to exceed 80 percent of non-Federal contributions otherwise required for construction and modernization of hospitals under title XI of the Public Health Service Act. The award of such a grant would depend upon approval of the proposed project by the responsible State health planning agency.

A comprehensive health service system would be identified as one providing health care to an identified population group in a primary service area on the basis of contractual arrangements which embody group practice established by a medical school, hospital medical staff, medical center or other entity among the participating providers of services. It would be required to provide at least all services specified in title 18 of the Social Security Act—hospital and physician checkups, provision for maintenance prescription drugs, and dental services for children under 8 years of age. Other appropriate preventive and comprehensive health care services would be included, as required by the Secretary.

"Such sums as may be necessary" would be authorized to carry out the purposes of this act.

We in the Congress must give an adequate response to the angry frustrations over health care in America; we cannot depend upon an already overburdened health-care system to meet comprehensive needs. We must begin now to reorganize health-care systems accordingly.

Health care is a right for all Americans. The legislative proposals I have introduced today seek to make that right a reality.

Mr. President, I ask unanimous consent that a section-by-section analysis prepared by the Legislative Reference Service of the Library of Congress, a description of the level of benefits, and the text of the National Health Insurance and Health Services Improvement Act of 1971, and the Local Comprehensive Health Services System Act of 1971 may be made a part of my remarks.

There being no objection, the bills and other material were ordered to be printed in the RECORD, as follows:

S. 836

A bill to provide a national health insurance program by extending the benefits, enlarging the coverage, expanding the role of private carriers, and otherwise improving the health insurance program established by title XVIII of the Social Security Act, by establishing a new title XX to such Act to provide comparable health insurance benefits to individuals not covered therefor under the program established by such title XVIII, by providing Federal assistance to develop local comprehensive health service systems, and by authorizing the establishment of federally chartered national health insurance corporations

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

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "National Health Insurance and Health Services Improvement Act of 1971".

TABLE OF CONTENTS

SEC. 2. Findings and declaration of purpose.

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

Sec. 101–105. PART A—COVERAGE OF ALL AGED AND DISABLED; EXTENSION, WITHOUT PREMIUM, OF SUPPLEMENTARY BENEFITS TO ALL COVERED INDIVIDUALS.
Sec. 110–112. PART B—COVERAGE OF DRUGS.
Sec. 130. PART C—ANNUAL PHYSICAL CHECK-UPS.
Sec. 130. PART D—DENTAL SERVICES.
Sec. 140–141. PART E—LIMITATIONS ON CERTAIN CHARGES FOR SERVICES, PHYSICIANS' QUALIFICATIONS.
Sec. 150. PART F—AGREEMENTS WITH STATES FOR ADMINISTRATION.
Sec. 160–162. PART G—IMPROVEMENT IN ORGANIZATION OF HEALTH CARE.
Sec. 201. TITLE II—HEALTH BENEFITS FOR THE GENERAL PUBLIC.
Sec. 301–305. TITLE III—FINANCING OF HEALTH INSURANCE.

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

Sec. 401. Findings and declaration of purpose.
Sec. 402. Basic authority.
Sec. 403. Eligibility for assistance.
Sec. 404. Financial and technical assistance for planning comprehensive health service systems.
Sec. 405. Financial and technical assistance for the operation of approved comprehensive health service systems.
Sec. 406. Appropriations.
Sec. 407. Definitions.

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

FINDINGS AND DECLARATION OF PURPOSE

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

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

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

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

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

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

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

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

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

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

"(a) (1) Every individual who—

"(A) has attained age 65, and

"(B) is—

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

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

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

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

shall be entitled to hospital insurance benefits under part A of title XVIII for each month for which he meets the conditions specified in subparagraph (B), beginning with the first month after June 1972 for which he meets the conditions specified in subparagraphs (A) and (B).

"(2) Every individual who—

"(A) has not attained age 65, but

"(B) (i) is entitled to disability insurance benefits under section 223, or (ii) has attained the age of 18 and is entitled to child's insurance benefits under section 202(d) and is under a disability (as defined in section 223(d)) which began before he attained age 18, or (iii) has not attained age 60 and is entitled to widow's insurance benefits, or (iv) has not attained age 62 and is entitled to widower's insurance benefits, or (v) is a qualified railroad retirement beneficiary,

shall be entitled to hospital insurance benefits under part A of title XVIII for each month beginning with the later of (I) July 1972 or (II) the first month he satisfies the applicable conditions of subparagraph (B), and ending with the second month after the first month in which he ceases to meet the applicable conditions of subparagraph (B) or, if earlier, with the month before the month in which he attains age 65.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(i) On July 1, 1972, there shall be transferred to the Trust Fund all of the assets and liabilities of the Federal Supplementary Medical Insurance Trust Fund."

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

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

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

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

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

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

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

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

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

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

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

(2) Section 21(e) of such Act is amended by striking out "Hospital" and inserting in lieu thereof "Health".

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

"HEALTH INSURANCE BENEFITS FOR THE DISABLED

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

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

PART B—COVERAGE OF DRUGS

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

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

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

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

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

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

"(ii) it is determined by the Secretary that such drug is appropriate for the treatment of

diabetes or of chronic cardiovascular diseases, kidney conditions, or respiratory conditions;

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

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

"(D) For purposes of this subsection—

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

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

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

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

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

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

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

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

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

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

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

"(2) The copayment specified in paragraph (1) shall be $1 during the period ending December 31, 1974, and such amount as may be determined pursuant to paragraph (3) of this subsection during any period thereafter.

"(3) The Secretary shall, between July 1 and October 1 of 1974, and of each year thereafter, determine and promulgate the copayment for purposes of the preceding paragraphs of this subsection and such co-payment shall be in effect for purposes of such paragraphs for the calendar year succeeding the year in which such co-payment is promulgated. Such co-payment shall be equal to $1 multiplied by the ratio of (A) the average per capita costs for maintenance drugs for the calendar year preceding the year in which the determination is made to (B) the average per capita costs for such maintenance drugs for the calendar year 1971. Any amount so determined, which is not a multiple of $0.10, shall be rounded to the nearest multiple of $0.10 (or, if it is midway between two multiples of $0.10, to the next higher multiple of $0.10)."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(b) Contracts with organizations under subsection (a) may be entered into without regard to section 3709 of the revised statutes or any other provision of law requiring competitive bidding.

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

"STUDY OF DRUG UTILIZATION

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

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

"EXPERT COMMITTEE ON DRUG COVERAGE

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

"(b) It shall be the function of the Expert Committee to advise the Secretary on matters of general policy in the administration of the program provided under this title for furnishing maintenance drugs to eligible individuals. The Expert Committee shall also make recommendations to the Secretary as to what drugs should be included in the list established under section 1861(z)(2) and what drugs should be deleted from such list. In making any such recommendation the Expert Committee shall submit in such detail as the Secretary may request the information and data the Expert Committee considered in making such recommendation. In carrying out its work, the Expert Committee shall consult with orga-

nizations representing the aged, pharmacists, the pharmaceutical industry, and with such other organizations or individuals as the Expert Committee finds appropriate. The Expert Committee shall make an annual report to the Secretary on the performance of its function, including any recommendations it may have with respect thereto, and such report shall be transmitted promptly by the Secretary to the Congress.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART C—ANNUAL PHYSICAL CHECKUPS

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

"Physical Checkup

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

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

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

(d) Section 1862(a)(7) of such Act is amended by striking out all after "checkups" and inserting in lieu thereof the following: "(other than physical checkups as defined in section 1961(z–1))".

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

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

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

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

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

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

"(A) $75, or

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

(f) The amendments made by the preceeding provisions of this section shall apply only in the case of physical checkups performed after June 30, 1975.

PART D—DENTAL SERVICES

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

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

"Dental Services for Children

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

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

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

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

(e) The amendments made by the preceding provisions of this section shall apply only in the case of dental services for children performed after June 30, 1975.

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

SEC. 140. Section 1833(a)(1) of the Social Security Act is amended, effective January 1, 1972, by striking out "reasonable charges" each place it appears therein and inserting in lieu thereof "appropriate and reasonable charges".

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

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

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

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

"(A) standards of continuing professional education,

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

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

"(2) After the effective date of standards issued under clause (A) or (B) of paragraph (1), an individual who fails to meet such standards shall not be deemed to be a physician for purposes of this title; except that a failure to meet standards issued under clause (A) of paragraph (1) shall not be found until the Secretary has notified the in-

dividual involved of the deficiency and afforded him a reasonable opportunity to correct it. After the effective date of standards issued under clause (C) of paragraph (1), an individual who fails to meet such standards shall not be deemed, for purposes of this title, to be a physician in connection with any services to which such standards are applicable.

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

PART F—AGREEMENTS WITH STATES FOR ADMINISTRATION

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

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

PART G—IMPROVEMENT IN ORGANIZATION OF HEALTH CARE

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

"PART D—IMPROVEMENT IN ORGANIZATION OF HEALTH CARE

"PURPOSE

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

"USE OF CARRIERS AND OTHER AGENCIES AND ORGANIZATIONS

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

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

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

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

"CONTRACTS WITH COMPREHENSIVE HEALTH SERVICE SYSTEMS

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

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

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

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

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

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

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

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

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

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

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

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

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

"CONTRACTS FOR EQUIVALENT HEALTH INSURANCE PROTECTION

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

"PROVISIONS RELATING TO CONTRACTS FOR ALTERNATIVE HEALTH SERVICE PLANS

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

sured by a carrier with which the Secretary has contracted under section 1884; the manner in which the election may be revoked; and the frequency with which election and revocation may be made.

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

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

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

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

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

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

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

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

"EMPLOYER-EMPLOYEE HEALTH PLAN OPTION

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

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

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

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

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

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

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

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

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

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

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

"PART E—METHODS OF COMPENSATION FOR HEALTH SERVICES

"MODIFICATION OF METHODS OF COMPENSATION FOR HEALTH SERVICES

"SEC. 1891. (a) The Secretary, with the approval of the President, is authorized in accordance with this section to modify, effective July 1, 1974, the methods prescribed in this title for determining the amounts of payments to providers of services and other persons furnishing services to individuals entitled to benefits under this title. If any such action requires modification of the provisions of section 1813 or section 1833 relating to deductibles, coinsurance, and copayment, it shall contain provisions imposing equivalent requirements as nearly as may be.

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

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

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

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

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

"(c) Such study shall include (1) alternative methods of compensating hospitals and other providers of serviecs (such as negotiated charges, capitation payments, or annual budgets), (2) alternative methods of compensating professional practitioners (such as fee schedules or unit value scales with or without proration, capitation payments, or salaries or per session allowances), (3) alternative methods of paying for drug and other supplies, (4) the use of specific financial incentives and disincentives as means to further the objectives set forth in subsection (b), and (5) methods of compensation designed to encourage assumption of responsibility, by local or State medical societies or other professional organizations or organizations or providers of services, for maintaining and improving (through peer review and otherwise) the quality and efficiency of care provided by their members, for the avoidance of unnecessary utilization and for the continuing education of professional and paramedical personnel.

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

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

"(f) Not later than March 1, 1974, the Secretary, with the approval of the President, shall issue and publish in the Federal Register his final regulation. Such regulation shall be effective on and after July 1, 1974, and shall suspersede all inconsistent provisions of this title.

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

"STATE AND LOCAL ADVISORY COMMITTEES

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

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

PROCEDURES REQUIRED OF SECRETARY IN ESTABLISHING STANDARDS

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

EFFECTIVE DATE

SEC. 162. That part of the amendments made by section 160 which added new sections 1881 through 1885 to title XVIII of the Social Security Act shall take effect July 1, 1972.

TITLE II—HEALTH BENEFITS FOR THE GENERAL PUBLIC

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

"TITLE XX—HEALTH BENEFITS FOR THE GENERAL PUBLIC

"PURPOSE

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

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

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

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

"ENTITLEMENT TO BENEFITS

"SEC. 2002. (a) Every individual who—

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

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

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

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

shall be entitled to hospital insurance benefits under part A of title XVIII (and consequently to the benefits provided by part B thereof) for each month that he meets the conditions specified in paragraphs (1) through (3), beginning with the first month after June 1974 for which he has filed application for such benefits and meets the conditions specified in paragraphs (1) through (3). An individual who met the conditions specified in paragraphs (1) through (3) for any month shall be deemed to be entitled to such benefits for such month if he files application in accordance with the requirements imposed pursuant to paragraph (4) prior to the end of the twelfth month following such month.

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

"TRUST FUND ACCOUNT FOR PERSONS COVERED UNDER TITLE XX

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

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

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

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

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

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

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

TITLE III—FINANCING OF HEALTH INSURANCE

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

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

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

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

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

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

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

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

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

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

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

(5) The amendment made by paragraph (1) shall be effective only with respect to remuneration paid after December 1971; the amendments made by paragraphs (2) and (3) shall be effective only with respect to taxes imposed by chapter 21 of the Internal Revenue Code of 1954 with respect to service performed after December 1971; and the amendments made by paragraph (4) shall be effective only in the case of wages received during calendar years after the calendar year 1971.

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

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

(2) The amendment made by paragraph (1) shall be effective only with respect to taxable years ending after December 1971.

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

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

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

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

"(3) Notwithstanding the provisions of any agreement entered into under this section prior to January 1, 1972, no State shall be required to pay or be under any obligation to pay to the Secretary of the Treasury, with respect to service covered under the agreement and performed after December 31, 1971, amounts equivalent to the taxes which would have been imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 if such service constituted employment as defined in section 3121 of such Code."

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

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

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

(c) The amendment made by subsections (a) and (b)(2) of this section shall be applicable only with respect to service performed after December 31, 1971; and the amendment made by subsection (b)(1)(A)

shall apply with respect to agreements under section 218 of the Social Security Act which are entered into after December 31, 1970, or which are entered into prior to such date but which first become effective on or after January 1, 1972.

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

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

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

"(1) with respect to wages paid during the calendar year 1972, the rate shall be 0.7 percent;

"(2) with respect to wages paid during the calendar year 1973, the rate shall be 0.9 percent;

"(3) with respect to wages paid during the calendar year 1974, the rate shall be 2.0 percent;

"(4) with respect to wages paid during the calendar year 1975, the rate shall be 3.1 percent; and

"(5) with respect to wages paid during the calendar year 1976, or any calendar year thereafter, the rate shall be 3.3 percent."

(2) The amendment made by paragraph (1) shall be effective only with respect to remuneration paid after December 31, 1971.

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

"(1) with respect to wages paid during the calendar year 1972, the rate shall be 0.7 percent;

"(2) with respect to wages paid during the calendar year 1973, the rate shall be 0.9 percent;

"(3) with respect to wages paid during the calendar year 1974, the rate shall be 2.0 percent;

"(4) with respect to wages paid during the calendar year 1975, the rate shall be 3.1 percent; and

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

(2) The amendment made by paragraph (1) shall be effective only with respect to remuneration paid after December 31, 1971.

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

"(1) in the case of any taxable year beginning after December 31, 1971 and before January 1, 1973, the tax shall be equal to 0.7 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1972 and before January 1, 1974, the tax shall be equal to 0.9 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1973 and before January 1, 1975, the tax shall be equal to 2.0 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1974 and before January 1, 1976, the tax shall be equal to 3.1 percent of the amount of the self-employment income for such taxable year; and

"(5) in the case of any taxable year beginning after December 31, 1975, the tax shall be equal to 3.3 percent of the self-employment income for such taxable year."

(2) The amendment made by paragraph (1) shall apply only with respect to taxable years beginning after December 31, 1971.

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

"(i) In addition to the funds appropriated for each fiscal year to the Federal Health Insurance Fund pursuant to subsection (a), there is authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1973, an amount which is equal to 50 per centum of the amount appropriated to such Fund for such year pursuant to such subsection, and such additional amount as the Secretary estimates would have been so appropriated if he had not entered into any agreements pursuant to section 1886."

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

FINDINGS AND DECLARATION OF PURPOSE

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

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

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

BASIC AUTHORITY

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

ELIGIBILITY FOR ASSISTANCE

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

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

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

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

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

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

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

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

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

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

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

FINANCIAL AND TECHNICAL ASSISTANCE FOR PLANNING COMPREHENSIVE HEALTH SERVICE SYSTEMS

SEC. 404. (a) The Secretary is authorized to make grants to, and to contract with, any public or nonprofit hospital, or any medical school or other institution of higher education, or any insurance carrier or nonprofit prepayment plan providing health coverage, or any nonprofit community organization, or any community group organized for this purpose in a geographically defined primary service area and representing a broad range of income and social groups, or any combination of two or more such entities, to pay 80 percent of the cost of planning and develop-

ing a plan for a comprehensive health service system (as defined in section 407) which will meet the requirements of section 403. The Secretary is also authorized to undertake such activities as he determines to be desirable to provide, either directly or by contracts or other arrangements, technical assistance to such entities for the development of plans for such comprehensive health service systems.

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

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

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

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

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

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

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

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

APPROPRIATIONS

SEC. 406. There are authorized to be appropriated for the purposes of this title $——— for the fiscal year ending June 30, 1971, $——— for the fiscal years ending June 30, 1972 and June 30, 1973, $——— for each of the three fiscal years thereafter, and for succeeding fiscal years sums sufficient to carry out contracts entered into pursuant to this title.

DEFINITIONS

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

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

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

TITLE V — FEDERALLY CHARTERED HEALTH INSURANCE CORPORATIONS

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

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

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

S. 837

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 "Local Comprehensive Health Services Systems Act of 1971".

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 2. (a) The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE X—FEDERAL AID TO ESTABLISH LOCAL COMPREHENSIVE HEALTH SERVICE SYSTEMS

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 1001. (a)(1) The Congress hereby finds and declares that improving the provision and the delivery of health care is of critical importance and of the highest national priority and that present programs of health services do not provide for continuing, efficient and comprehensive health care, and lead to an unnecessary duplication of facilities, equipment, and personnel.

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

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

"BASIC AUTHORITY

"SEC. 1002. The Secretary of Health, Education, and Welfare (hereinafter in this title referred to as the 'Secretary') is authorized to make loans and grants and to provide technical assistance, as provided by this title, to enable comprehensive health service systems (as defined in section 1007) to plan and develop comprehensive health care programs in accordance with the purpose of this title, and to assist them to become self-supporting.

"ELIGIBILITY FOR ASSISTANCE

"SEC. 1003. (a) A comprehensive health service system (as defined in section 1007 of this title) is eligible for assistance under section 1005 of this title if—

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

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

"(3) all persons, whether or not residing within the primary service area, are eligible to become members of such system, except that (A) the number of members may be limited, with or without giving preference to persons living within the primary service area, to avoid overtaxing the resources of the

system, and (B) such restrictions upon enrollment may be imposed as are approved by the Secretary as necessary to prevent undue adverse selection; and the system is so designed and operated as to encourage enrollment from as broad as practicable a range of income and social groups;

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

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

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

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

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

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

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

"FINANCIAL AND TECHNICAL ASSISTANCE FOR PLANNING COMPREHENSIVE HEALTH SERVICE SYSTEMS

"SEC. 1004. (a) The Secretary is authorized to make grants to, and to contract with, any public or nonprofit hospital, or any medical school or other institution of higher education, or any insurance carrier or nonprofit prepayment plan providing health coverage, or any nonprofit community organization, or any community group organized for this purpose in a geographically defined primary service area and representing a broad range of income and social groups, or any combination of two or more such entities, to pay 80 percent of the cost of planning and developing a plan for a comprehensive health service system (as defined in section 1007) which will meet the requirements of section 1003. The Secretary is also authorized to undertake such activities as he determines to be desirable to provide, either directly or by contracts or other arrangements, technical assistance to such entities for the development of plans for such comprehensive health service systems.

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

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

"SEC. 1005. (a) The Secretary is authorized to approve a plan for a comprehensive health service system (as defined in section 1007) if, after review of the plan, he determines that such plan satisfies the criteria set forth in section 1003.

"(b) The Secretary is authorized to contract, in accordance with section 1003(a)(1), with a comprehensive health service system, if he has approved the plan for such system, to pay so much of the administrative, operating, and maintenance costs of such system as exceed its income for the first five years of operation after approval under this section. Any such contract shall require the system to make all reasonable efforts to enroll members, to control costs and the utilization of services, facilities, and supplies, and otherwise to maximize its income and minimize its costs. If at any time the Secretary finds that the system is not making reasonable progress toward becoming self-supporting, he may, after hearing, terminate the contract on not less than six months' notice.

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

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

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

"(f) Of the sums appropriated pursuant to section 1006 for any fiscal year, 2 per centum shall be available for grants by the Secretary to pay 100 per centum of the costs (but in no case to exceed $100,000) of projects, in areas designated by the Secretary as urban or rural poverty areas, for assessing local needs for comprehensive health service systems, obtaining local financial and professional assistance and support for local comprehensive health service systems, or for comprehensive health service system projects which, in his judgment, are of national significance because they will assist in meeting the needs of the disadvantaged for comprehensive health services systems or demonstrate new or particularly effective or efficient methods of delivery of health care through comprehensive health service systems.

"APPROPRIATIONS

"SEC. 1006. There are authorized to be appropriated for the fiscal year ending June 30, 1971, and for each of the four fiscal years thereafter, such sums as may be necessary to carry out the puposes of this title.

"DEFINITIONS

"SEC. 1007. As used in this title, the term 'comprehensive service system' means a system providing health care to an identified population group in a primary service area and its environs enrolled as members, on the basis of contractual arrangements (which embody group practice, are established by a medical school, a hospital medical staff or a medical center, or similar arrangements) among participating providers of service and other persons organized so as to—

"(1) assure continuity of care and the ready referral and transfer of patients where medically appropriate.

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

(b) Section 1 of the Public Health Service Act is amended to read as follows:

"SECTION 1. Titles I to X, inclusive, of this Act may be cited as the 'Public Health Service Act'."

(c) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title X (as in effect prior to the enactment of this Act) as title XI, and by renumbering sections 1001 through 1014 (as in effect prior to the enactment of this Act), and references thereto, as sections 1101 through 1114, respectively.

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

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

To: Hon. JACOB JAVITS.
From. Education and Public Welfare Division.
Subject: Review of the major provisions of your proposed National health insurance plan.

This is in reply to your recent request asking for a review and description of the ma- States. The description of the provisions of National health insurance for the United States. The description of the provisions of the bill, which is outlined below, is intended only to summarize the principal features of the legislation and in no way is it intended to constitute a comprehensive analysis of any single provision in the legislation. Because

of the time requirements imposed on us by this request, we are unable to touch upon every aspect of the proposal. We have, therefore, confined this discussion to capsule statements summarizing the principal features of each part of the proposal. In the event you would like us to examine the bill in greater detail, please let us know.

PURPOSE AND ORGANIZATION OF THE LEGISLATION

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

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

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

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

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

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

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

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

SELECTIONS OF THE DRAFT PROPOSAL

Title I—Amendments relating to the present title 18 Health Insurance Program

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

Part A

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

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

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

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

Sec. 105—*Effective Date:* the effective date of the Part A provisions would be July 1, 1972.

Part B

Sec. 110—*Coverage of Drugs under the New Health Insurance Program:* expands the benefit coverage under the new title 18 program to include protection against the costs of certain maintenance drugs appropriate to the treatment of certain long-term conditions. Provides for the cost-sharing by beneficiaries for such maintenance drugs available on an outpatient basis. Establishes the conditions for which drugs are to be included, how drug costs are to be paid, and other standards for administering and supervising a drug benefit under the program. The inclusion of a maintenance drug benefit would be effective with respect to drugs dispensed after June 30, 1974.

Part C

Sec. 120—*Coverage of Physical Examination:* adds a new benefit to the revised title 18 program by covering the costs of physical checkups to include eye examinations, ear examinations, and such other diagnostic tests or examinations which would be likely to reveal defects, diseases or conditions susceptible to effective treatment and control. Checkup services would also include the costs of physicians' service appropriate for the interpretation, evaluation or analysis of these tests. The deductible provision, now applicable to the Part B program, would not apply in the case of expenses incurred for checkups, except that limits are placed upon the maximum charges which would constitute incurred charges for checkups. These additional benefits would become available after June 30, 1975.

Part D

Sec. 130—*Dental Services for Children:* amends the new health insurance program to provide for routine dental care for children under 8 years of age. As in the case of physical checkups, the deductible provisions of the present Part B program would not apply. These benefits would become available after June 30, 1975.

Part E

Sec. 140—*Limitations on Certain Charges for Services:* amends effective January 1, 1972 the current "reasonable charges" section of the present Part B program and substitutes the phrase "appropriate and reasonable charges."

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

Part F

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

Part G

Sec. 160—*Improvement in the Organization of Health Care:* amends Title 18 of the Social Security Act (the revised medicare program) by adding a new "Part D" to the program. The purpose of this part is to encourage the rational organization of health care services and facilities so as to provide greater continuity and comprehensiveness of care of the individual, to provide greater consumer education and participation, and to emphasize preventive, diagnostic, and early therapeutic services, to control the costs of services paid for under the title and to stimulate diversity and innovation in the provision of health insurance protection.

Part D would authorize the Secretary to develop, by means of contracts and by other methods, the growth of "comprehensive health service systems." Such systems would agree to provide the basic benefits provided for in the revised health insurance program and also agree to carry out appropriate utilization and cost control responsibilities in connection with the provision of benefits. Such systems would have to be consistent

with comprehensive health plans developed by each State. The Secretary would be authorized to use various means of reimbursement (other than a reasonable cost system) to pay for benefits provided by comprehensive health service systems, and could develop special incentive provisions for these systems if their costs were generally less than costs otherwise experienced by the health insurance program. A special employer-employee health plan option is authorized where employers provide for their employees' health care benefits under a qualified plan in lieu of benefits otherwise provided by the new program. The effective date for the new Part G program would be July 1, 1972.

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

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

Sec. 2001—*Entitlement to Benefits for the Uninsured:* provides that any person, who is a resident and a citizen (or an alien lawfully admitted for permanent residence), not otherwise entitled to the revised title 18 program (by reason of Sec. 226 of the Act) would be entitled to the same benefits of that program on July 1, 1974. Special provisions would govern the manner and period during which such entitlement would be established.

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

Title III—Financing of health insurance

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

Sec. 301—*Wage and Income Bases for Purposes of Health Insurance:* amends those sections of the Internal Revenue Code of 1954 (relating to definitions for the purposes of Federal Insurance Contributions) by adding new subsections setting forth definitions of wage and self-employment income bases for purposes of health insurance. The wage and income bases on which taxes are imposed in connection with the financing of health insurance benefits provided under the proposed Act would be set at $15,000 rather than $7,800 per annum, with respect to the tax paid by employees or the self-employed. No ceilings are placed on the wages with respect to taxes paid by the employer. The bill indicates that the effective date of the tax change and wage base would begin with taxable years ending after December, 1970.

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

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

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

[In percent]

Calendar years	Employers	Employees	Self-employed
1972	0.7	0.7	0.7
1973	.9	.9	.9
1974	2.0	2.0	2.0
1975	3.1	3.1	3.1
1976 and thereafter	3.3	3.3	3.3

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

Title IV—Federal aid to establish local comprehensive health service systems

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

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

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

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

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

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

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

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

Title V—Federally chartered health insurance corporations

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

Sec. 501—*National Health Insurance Corporations:* Authorizes the Secretary of Health, Education, and Welfare to establish and contract with one or more Federally chartered health insurance corporations for provision of health benefits under Title 18 of the Social Security Act. Health Insurance corporations so organized will act as agents of the U.S. Government under the guidance of the Secretary of HEW.

LEVEL OF BENEFITS: NATIONAL HEALTH INSURANCE ACT OF 1971

The benefits provided to all citizens of the United States under my national health insurance bill—subject to existing coinsurance and deductibles—shall consist of no less than the following (effective for over 65 and disabled, July 1, 1972; for general public, effective July 1, 1974):

1. Up to 90 days—with a lifetime reserve of 60 additional hospital days—of bed patient

care in any participating general care, tuberculosis or psychiatric hospital. When a bed patient in a hospital, some of the services paid for include:

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

Operating room charges;

Regular nursing services (including intensive care nursing);

Drugs furnished by the hospital;

Laboratory tests;

X-ray and other radiology services;

Medical supplies such as splints and casts;

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

Medical social services.

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

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

Regular nursing services;

Drugs furnished by the extended care facility;

Physical, occupational, and speech therapy;

Medical supplies such as splints and casts;

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

Medical social services.

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

Part time nursing care;

Physical, occupational, or speech therapy;

Part-time services of home health aides;

Medical social services;

Medical supplies furnished by the agency; and

Use of medical appliances.

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

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

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

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

Other services which are ordinarily furnished in the doctor's office and included in his bill, such as: Diagnostic tests and procedures, Medical supplies, Services of his office nurse, Drugs and biologicals which cannot be self-administered.

5. Ambulance services to a hospital when—

(a) ambulance services are medically necessary to protect the health of the patient,

(b) transportation by other means could endanger the patient's health, and

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

6. Outpatient hospital benefits which include:

Laboratory services such as blood tests and electrocardiograms;

X-ray and other radiology services;

Emergency room services; and

Medical supplies such as splints and casts.

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

Part-time nursing care;

Physical, occupational, or speech therapy;

Part-time services of home health aides;

Medical social services;

Medical supplies furnished by the agency; and

Use of medical appliances.

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

Diagnostic tests such as X-rays and laboratory tests;

Radiation therapy;

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

Surgical dressings, splints, casts, and similar devices;

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

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

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

10. Payment of up to $75 for annual physical checkups, which include eye examinations for the purposes of prescribing, fitting, or changing eyeglasses; ear examinations for the purpose of determining the need for hearing aids; and such diagnostic X-ray, laboratory and other tests as are likely to reveal defects, diseases or conditions susceptible to effective treatment or control; including physician's services appropriate for interpretation, evaluation and analysis of such tests, for all over and under 65, effective July 1975.

11. Dental services for children under 8 years of age, including oral examinations and diagnosis, oral prophylaxis, fillings and removal of teeth, effective July 1, 1975.

Mr. JAVITS. Mr. President, for the information of Senators, I am the ranking Republican member of the Committee on Labor and Public Welfare, which handles health measures other than those related to financing health care, which would go to the Committee on Finance. I shall do my utmost to bring about the earliest possible hearings on the bills I have introduced and other bills which may be referred to our committee, in the deep conviction that 1971 will be the year in which Congress will enact, and the President will make into law, a national health system at long last assuring every American of an equal opportunity for decent health care.

I thank the Senator from West Virginia (Mr. BYRD) for affording me this time.

Mr. BYRD of West Virginia. The Senator is welcome.

APPOINTMENT BY THE VICE PRESIDENT

The VICE PRESIDENT. The Chair, pursuant to the provisions of Senate Resolution 281, 90th Congress, as amended and supplemented, appoints the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Ohio (Mr. TAFT) to the Select Committee on Nutrition and Human Needs.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to the consideration of the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The VICE PRESIDENT. Under the previous order, the time between 12 noon and 1 p.m., will be equally divided and controlled between the majority and minority leaders or their designees.

Mr. MANSFIELD. Mr. President, I yield control of the time to the distinguished Senator from Idaho (Mr. CHURCH).

Mr. CHURCH. Mr. President, I yield to the distinguished Senator from Kansas (Mr. PEARSON), the cosponsor of this resolution, such time as he may require.

The VICE PRESIDENT. The Senator from Kansas is recognized.

Mr. PEARSON. Mr. President, I am most hopeful that the Senate today will act pursuant to rule XXII on this cloture motion filed, and filed reserving all constitutional rights that may be the property of those who seek to modify rule XXII under Resolution 9.

Yet, Mr. President, I do not deceive myself that this is a possibility today. It is only one hurdle along a course that needs to be run. I would hope, in this Congress, at this time, that we would finally see some modification and some solution to this problem. For it is, I submit, Mr. President, a reasonable and practical modification of rule XXII that seeks some balance in protecting the rights of the minorities within this Chamber while at the same time permitting the majority to govern.

It is, Mr. President, I submit, a balance between the right of free and complete debate and the right finally to vote at some time.

This resolution is offered, Mr. President, when the winds of change are high. I think it fair and proper to say that the distinguished Senator from Idaho and myself have not and do not favor majority cloture. It is not that balance, we think, that is necessary to proceed with orderly consideration of business, and, moreover, it is our persuasion, I think, that to deny this change now will increase the forces of modification until the Senate, in some years in the immediate future, will be face to face with the prospect of majority cloture.

I think the Senate can and should recognize the riptides of change, the acceleration of events and the magnification of our problems, all of which are sweeping upon this Congress, not in sequence or in turn but at the same time; and to have some sensitivity for the attitudes of the people of this country today, who have lost some confidence in their institutions and who are asking questions about whether we are capable, within the Congress and within the Senate in particular, effectively to meet

the needs and the issues caused by the great growth which has taken place in this country not only in people but also in technology.

Mr. President, I am very much pleased that President Nixon has made some expression on this issue and has done so within proper limits indicating not only confirmation of his prior ruling in an advisory opnion but also properly recognizing the division between the executive and the legislative bodies, to make some expression as to the need for change in changing times.

With that, Mr. President, I ask unanimous consent to have printed in the RECORD an article dated February 12, 1971, published in the Washington Post, entitled "Nixon Backs Filibuster Reform Move"; and also an editorial published in the Washington Post of this date, entitled "A Chance To Vote in the Senate."

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

NIXON BACKS FILIBUSTER REFORM MOVE

(By Carroll Kilpatrick)

KEY BISCAYNE, FLA., Feb. 12.—President Nixon gave encouragement today to Senate backers of a change in the filibuster rule and took a stand bound to antagonize many of his Southern and Midwestern supporters.

Speaking through his press secretary, the President made it clear that he would like to see a reform of Senate rules so that business may be conducted "more promptly and expeditiously."

Last year the Senate effectively blocked attempts to enact the Nixon proposals for Social Security and trade legislation as well as his Family Assistance Plan by the use of the filibuster; it delayed for some weeks in the same way a vote in 1969 on his proposal for the antiballistic missile.

Earlier, when asked about the President's position regarding the current attempt to amend the Senate's Rule 22, which requires a two-thirds vote to end cloture, White House spokesmen had said that the President would not interfere with the Senate's right to make its rules.

But today they broke with tradition in a move carefully designed to strengthen the hand of those who want to make it easier to limit filibusters.

Senate Republican leaders are understood to have urged the President to make his statement in an attempt to persuade some Midwestern Republicans to vote for filibuster reform rather than with Southern Democrats. The issue comes to its first test vote Feb. 18.

When asked about Mr. Nixon's position today, Press Secretary Ronald L. Ziegler first emphasized that the President has not taken a position regarding rules changes in the House or Senate.

"However," Ziegler went on, "I think many of you recall the President has said on several occasions that it was unfortunate that procedural delays stalled the important legislation before the Congress.

"And I believe the President would support any rules or precedural changes which would facilitate consideration of legislation."

Finally, Ziegler said that "the President would be in favor of Congress taking action that it feels necessary and that it determines as a body to reform or to adjust its work procedures and schedules in a way that allow them to deal with business more promptly and expeditiously."

Ziegler emphasized that he was expressing "the President's point of view."

In debate Thursday, Sen. Edmund S. Muskie (D-Maine) called on Mr. Nixon to "publicly and forcefully back the efforts of those who are attempting to modernize the Senate procedures."

The proposal by Sens. James B. Pearson (R-Kan.) and Frank Church (D-Idaho) now being filibustered by Southern Democrats would make it possible to close debate by a three-fifths rather than two-thirds vote.

[From the Washington Post, Feb. 18, 1971]

A CHANCE TO VOTE IN THE SENATE

The first effort to break the filibuster now blocking a Senate vote on the proposal to modify the filibuster rule is supposed to take place some time today. The proposed modification is a modest one: it would alter the existing rule under which debate can be forced to an end only through a cloture vote by two-thirds of the Senators present; under the proposed rule, cloture could be imposed by three-fifths of the Senators present. The alteration is hardly monumental; but it would make it somewhat more difficult for a minority to keep the Senate as a whole from settling an issue by bringing it to a vote.

The debate on the filibuster rule has been going on for about a month—with Southern Senators leading a filibuster designed to prevent a vote on the proposed change. It had been hoped that Vice President Agnew would rule, from his eminence as president of the Senate—as Vice President Humphrey did when he occupied that office in 1969—that the Senate, at the beginning of a new Congress, may alter its rules by a simple majority vote. But Mr. Agnew made it plain that he will not duplicate Mr. Humphrey's stand; and so only a two-thirds majority can cut off debate today. It is not anticipated that opponents of the filibuster can muster two-thirds right now. Ten to 15 Senators will probably be absent from the floor today. Something like 58 or 60 votes would be needed for cloture therefore, and it is not likely that they will now be available. The debate, if it can be called that, will drone on, in consequence, until another effort to impose cloture is made a fortnight or so in the future.

Frustration has a way of mounting in the wake of a filibuster. And Senators unwilling to cut short debate in its early stages sometimes become ready to do so when they are convinced that the supporters of a filibuster have had ample opportunity to say all that they have to say in behalf of their position. If cloture is not voted today, we hope heartily that it will succeed on the next try. For the Senate ought to be free to bring questions before it to a decision and get on with its other business.

President Nixon gave encouragement the other day to the backers of a change in the filibuster rule. His press secretary said that "the President would be in favor of Congress taking action that it feels necessary and that it determines as a body to reform or to adjust its work procedures and schedules in a way that allow them to deal with business more promptly and expeditiously." This is a cautious statement—or perhaps it would be more accurate to call it an extremely tactful way of recognizing and respecting the Senate's acutely sensitive feeling of independence. It says plainly enough, however, that the President would be glad to see the filibuster rule altered. And indeed only an alteration of it affords any hope that controversial measures such as his Family Assistance Plan can be brought to a decision in the Senate.

If tact has prompted the President to speak very softly in public, it need not by any means prevent him from speaking very fervently in private. The best hope for amending the filibuster rule lies in Mr. Nixon's quietly persuading a few midwest Republicans to join liberal Democrats in voting for the change. And the liberal Democrats themselves—some of whom have resorted to filibustering when they thought it beneficent—must close ranks and adhere to the principle that the Senate must be able to bring issues to a vote after a reasonable period of debate. That principle lies, after all, at the very heart of representative government.

Mr. PEARSON. Mr. President, I thank my distinguished colleague from Idaho for yielding me this time.

Mr. CHURCH. Mr. President, I yield now 1 minute to the distinguished Senator from West Virginia (Mr. BYRD).

The VICE PRESIDENT. The Senator from West Virginia is recognized for 1 minute.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I shall need only 30 seconds. Mr. President, I ask unanimous consent that at the beginning of the yea-and-nay vote and continuing throughout that vote until the results thereof are announced, the Sergeant at Arms be directed to clear the floor of all clerks to Senators with one exception, that one exception being Mr. Wes Barthelmess who is an assistant to the Senator from Idaho (Mr. CHURCH) who is leading the debate for the proponents of cloture.

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

Mr. GRIFFIN. Mr. President, I yield myself 30 seconds.

The VICE PRESIDENT. The Senator from Michigan is recognized for 30 seconds.

Mr. GRIFFIN. Mr. President, under the unanimous-consent agreement that was entered into, the time was equally divided between the majority and the minority leaders. It happens that the majority and the minority leaders as well as the assistant minority leader are all on the same side of this issue. I intend to vote with the Senator from Kansas (Mr. PEARSON) and the Senator from Idaho (Mr. CHURCH).

Therefore, in order to assure that time will be equally divided between the opponents and the proponents, I designate the Senator from Alabama (Mr. ALLEN) to control the time for the opponents.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from Michigan, and I yield myself 4 minutes.

The VICE PRESIDENT. The Senator from Alabama is recognized for 4 minutes.

Mr. ALLEN. Mr. President, I oppose Senate Resolution 9, which is an effort to reduce to three-fifths of Senators present from two-thirds of Senators present the number required to invoke cloture and stop debate on measures and issues pending before the Senate.

The Senate is the only legislative body in the world that has the right of extended debate. Rule XXII does not give that right. Without rule XXII, there would be no way under the rules—no way in the world—to stop debate in the Senate, except through the power of public opinion.

Rule XXII provides a method, which was adopted in 1917, to stop debate in the Senate by empowering two-thirds of Senators present to stop that debate.

Mr. President, I challenge those who seek to amend rule XXII to offer any evidence whatsoever that any worthwhile

and constructive legislation necessary for the well-being of this Republic has been killed through the use of extended debate in the Senate.

Every conceivable civil rights bill has been passed. Cloture has been invoked time and time again by obtaining a two-thirds vote in the Senate. It should not be reduced to three-fifths. That is the entering wedge, the opening wedge, to reduce the number down to majority cloture.

Why do we need extended debate in the Senate?

Because it protects the rights of the minority. It slows down, on occasion, the speedy enactment of legislation in the Congress. It gives the country an opportunity to catch up, to come abreast of what is going on in the Congress. There is no meaningful debate in the other body, so that when a bill comes to the Senate it should be subjected to the closest scrutiny. Efforts should be made to agree on compromises on controversial legislation. That ability to compromise on legislation can exist only if we have the right to extended debate.

We need extended debate in the Senate to protect the minority against a ruthless and tyrannical majority.

Who knows but what the minority today will be the majority in the next Congress or in the next decade.

Mr. President, we need the right of extended debate as a protection against big government getting bigger, as protection against a mushrooming Federal bureaucracy.

Why cut off this debate?

Mr. President, I hold in my hand the calendar of business we have for the Senate today. If this debate ends, there will only be one item on the calendar besides the one under discussion at this time. This resolution was passed by the Senate in the last session of Congress and it could pass again in 2 minutes' time.

There is no occasion at this time to cut off this debate. I hope that Senators will preserve this rule which we have had since 1917, because during that time the Senate has passed literally tens of thousands of bills and not one single bill of a constructive nature necessary for the preservation and well-being of this Republic has been killed by a filibuster.

Let us leave the two-thirds cloture requirement that makes this body the greatest deliberative body in the world. Let us not deprive this body of the feature that does make it the greatest deliberative body in the world.

The VICE PRESIDENT. The Senator's time has expired. Who yields time?

Mr. CHURCH. Mr. President, I yield 5 minutes to the distinguished minority leader.

The VICE PRESIDENT. The Senator from Pennsylvania is recognized for 5 minutes.

A MODEST MODIFICATION OF CLOTURE

Mr. SCOTT. Mr. President, the debate over a change in the cloture rule of the U.S. Senate is now in its third week. The change, as embodied in Senate Resolution 9, would reduce the present formula of two-thirds of Senators present and voting as necessary to cutoff debate on a pending matter to three-fifths of Senators present and voting. I judge such a change a most desirable change—one that is modest as to its reach and its scope.

More than 70 years ago, a distinguished Republican Senator, John Sherman of Ohio, addressed himself to the abuse of the right of debate in this Chamber:

> We are not here for any other purpose than to legislate. The right to debate a question broadly has been recognized by the Senate of the United States from the beginning of our government; but when the rules of this body, intended to expedite legislation, are used as an obstruction by the minority in order to defeat the will of the majority, those rules should as soon as possible be corrected, changed and altered.

Now, Mr. President, I submit that this statement of Senator Sherman is as sound today as the day it was spoken. It is typical of the numerous statements of Senators over the years who seek a change in rule XXII as it now stands. Senator Sherman, like those of us in this Chamber today who favor change, had impeccable credentials. He was a reasoned man. He was a man of high standing in his own political party. He was a firm, even fervent, defender of the traditions and privileges and rights of the Senate, this unique legislative assembly. But, he did not flinch from his responsibility to correct flaws in his beloved Senate.

Those who care deeply about the Senate are compelled by this care and this concern to help remedy a fault, in this case rule XXII—not pretend a fault does not exist. Consequently, I believe we are amiss not to correct the debilitating consequences of the cloture rule. It should be remembered that those who sat in the Senate Chamber in 1917 responded positively to an absence of any restraints upon debate that then existed. After a few days of discussion, the Senate adopted rule XXII by an overwhelming margin of 76 to 3. At the time, this was regarded as a step toward making the Senate a more effective body.

But the stark statistics of this rule XXII show that the rule, as presently devised, is unworkable. On 49 occasions cloture has been attempted. Only eight attempts—16 percent—have been successful. Statistics aside, we have surely acknowledged that the implicit threat of filibuster has itself exerted an influence upon our legislative agenda. Many a bill has been enfeebled in the cloakroom of this Senate under these circumstances. Some bills have been aborted before delivery.

Moreover, the prestige of the Senate has declined, particularly in those instances where the other body has acted and the Senate is exceedingly anxious to act on such critical measures as confronted it, for example, toward the end of the 91st Congress.

Truly, as Cicero observed in his De Amicitia:

> Jam videor videre populum disjunctum a senatu: "Already do I seem to see the people disunited from the Senate."

A three-fifths formula lowers the virtually insurmountable barrier that now exists without lowering it to the point that "transient majorities," which opponents of change fear, would work their will in some hasty and uninformed fashion.

Mr. President, I wish to state what other proponents of change have pointed out. The President of the United States, Richard Nixon, once presided as Vice President over this Chamber. Several times he indicated that a change in the Senate rule XXII was desirable. As President, he has indicated that he is still of the same opinion. On January 5 of this year, the President said:

> Further, the Congress may wish to consider revision of the "turn-of-the-century" work schedules and procedures that now obtain on Capitol Hill. While there are many excuses for congressional inaction—there are no good reasons.

The proposed change in rule XXII is a reasoned modification that has been reasonably propounded by its advocate during these 3 weeks. I support Senate Resolution 9.

It does not in any way inhibit extended debate. It simply provides that when all the pros and cons of a matter have been thoroughly discussed, then three-fifths of Senators, if such a large majority exists, may vote to put an end to the discussion and vote on the merits of the matter at hand. Extended debate in this Chamber is good practice. Carried to extremes, as it has been, converts it into a serious, even grave, defect.

Parenthetically, I remind my colleagues that even when cloture is successfully applied, that the rule would still allocate 1 hour for each Senator who wishes to talk further. I submit that by any definition, in or out of a dictionary, Senate Resolution 9 is a reasonable proposal. The fears of opponents are grossly exaggerated and ill-founded. Consequently, Mr. President, I will vote for cloture on this matter after a petition is filed; furthermore, I will vote, as a cosponsor, for Senate Resolution 9. I hope my colleagues in sufficient numbers will do the same. To act otherwise, in my judgment would be a grave error and would reflect adversely upon the ability of the Senate to put its own house in order.

Mr. ALLEN. Mr. President, I yield 3 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, certain references have been made here to allege the downgrading of the Senate and the role of the Senate in debate. I totally disagree with such sentiments. We had some of the finest debates here last year that I have heard within the more than 20 years I have served here.

The President was a little miffed at Congress because it did not pass some of his bills. He made some unfavorable remarks about the work schedule of Congress. The President is the hardest working man in the Government, but a lot of hard work goes on among Members of this body, also. I cannot believe that he in any way intended to discredit the Senate. In any event, the Senators are the judges of the Senate rules. We have to work on our rules and dispose of our business within those rules.

A great deal of time last year was spent in debating the Cooper-Church amendment. Over one-half of that time was spent defending the President's position

in opposition to the amendment and not the proponent of the amendment. It was a far-reaching and important debate on a delicate and explosive issue.

I think we can lose face mighty fast before the people by passing a lot of unsound bills that work harm rather than benefits to the people and the Nation.

I have noticed statements in the press that there was a filibuster here on the military defense bill of 1969. It was said that that bill was filibustered here on the floor of the Senate.

I was on the floor during all of that debate, with the exception of about 20 minutes, during the entire 6 weeks. In fact, I was floor manager of the bill. And I know that there was not an iota of a suggestion of a filibuster here. No one was trying to delay the bill. It was honest, conscientious, valid debate, the exchange of views, and the clash of ideas. Many rollcall votes were had. This was also the situation regarding the debates on the military procurement bill in 1970. There was no filibuster in either, year, not any.

I do not use the term "liberal" with respect to any fellow Senator. Senators are classified that way sometimes by the press.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. ALLEN. Mr. President, I yield 1 additional minute to the Senator from Mississippi.

Mr. STENNIS. Mr. President, it seems to me that our so-called liberal friends have already passed all of the legislation that they can think of. They already have it in the lawbooks. Some might now want to repeal some of it. The liberals might want to fall back on Senate rule XXII should there be a wave of sentiment for repeal of these liberal laws that would blow across the country and through this Chamber that would result in the repeal of such legislation.

I am not talking about civil rights laws now on the books.

I am talking about other so-called progressive legislation. I think it is time for us to stop and think. Certainly this rule actually has not hurt anyone. Even the appropriation bill for the Department of Transportation was handled satisfactorily in December 1970, even though there was a persistent filibuster. I trust that the Senate will keep rule XXII intact as now written.

Mr. CHURCH. Mr. President, I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, the substantive argument as to why we should change the cloture rule have been made thoroughly and I do not wish to repeat them. I do wish to say a word about the statement just made by the Senator from Mississippi with respect to the attitude on this matter of those generally classified by the press as liberals, justified or not. They, too, have used the privilege of extended debate in respect of trade and other legislation and important matters, just as it was used on the welfare measures in the closing days of the last session.

So long as this provision is on the books it is going to be used and it should be used. It is as good for the goose as it is for the gander. The important thing is that the liberals, generally speaking, do not want to see this provision on the books and believe it represents retrogression of the constitutional process of our country by introducing an extra constitutional power in the Senate, which is what it is. The Constitution never contemplated that one-third could block legislation in this country—veto it—yet that is the case.

The other point I wish to make is that the Vice President, who is now presiding, will have a very major role in determining what happens. This matter can wind back upon itself if proponents of the rule change are relegated constantly to a debatable proposition in terms of leaving it to the Senate.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. JAVITS. Mr. President, will the Senator yield to me 1 additional minute?

Mr. CHURCH. I yield 1 additional minute to the Senator from New York.

Mr. JAVITS. Mr. President, former Vice President HUMPHREY ruled on one occasion, although he was reversed by the Senate, that he had a right to say in this constitutional situation that at a given point debate should end, that there had been enough debate, and that the Senate had heard enough on the subject. It is contended there is no rule where a change is sought and the Senate has a right to make its rules under the Constitution and a right to say that debate has ended. As I said, the Senate reversed then Vice President HUMPHREY, but that is not an irrevocable position. It is the only way the matter can be brought to issue.

I express the hope that this Presiding Officer will say that this constitutional tangle or dilemma cannot be resolved in any other way. It would give the Senate a chance to express its will. But if we devolve back upon ourselves and operate under the two-thirds rule, a solution is more difficult.

Mr. ALLEN. Mr. President, I yield 3 minutes to the Senator from Florida.

Mr. CHILES. Mr. President, while I was campaigning for the Senate, the issue of cloture was not raised in my campaign, so I came to the Senate uncommitted and without a position on the question.

During the last month, I have tried to listen and understand the arguments, both for and against, reducing the number necessary to limit debate. I am persuaded by the argument that the Senate is a deliberative body and must be capable of reaching a conclusion—that the people lose condence and respect for the Senate when a filibuster can, by tying up major funding measures, virtually grind our country to a halt. Last December, I listened to and read many of the comments when many major and vital measures were caught in a logjam by the filibuster on the funding of the SST. On reflection, however, the culpable problem there was not the extended debate, but the fact that so much major legislation had been delayed and was only brought to the floor in the closing hours and then was tied together so that Senators were not free to vote on separate items. The distinguished Senator from the State of Washington (Mr. JACKSON) raised this issue early in this session and I understand the Senator is going to propose recommendations to the democratic caucus that would require committee chairmen to identify and move expediently appropriation measures and other major bills. I commend this approach and feel that it offers a far better solution to the problem of the logjam of motor legislation, with the resulting loss of Senate prestige, than to restrict the right of prolonged debate.

It appears to me that many Senators are for or against reducing the number necessary to limit debate for historical reasons that applied when they first came to the Senate but are no longer relevant and, but for this, many of the Senators would now find themselves more comfortable on the other side of the question. The attempted use of the filibuster to block or retard the passage of civil rights legislation, being the prime example of a historic reason Senators locked into position for or against the proposition and, while this reason is no longer relevant, it continues to cast an indelible shadow which prevents many Senators from evaluating this issue in the light of the relevant issues today.

While there is a number of valid reasons for opposing the move to ease the requirement to limit debate, not the least of which is the fact that free and unlimited debate has been the hallmark and distinguishing feature of the U.S. Senate from other parliamentary bodies, the argument that is most persuasive to me and which causes me to cast my vote today against an attempt to limit debate is the argument that the continuing, accelerating growth of Presidential power requires and necessitates the Senate preserve and encourage free and unlimited debate as a check and safeguard for the welfare of our country.

I am now reading a book written in 1957 by a Frenchman, Amaury de Riencourt, who lived in this country for a number of years, entitled "The Coming Caesars." In the preface, he quotes Tocqueville's Democracy in America:

> The English, after having cut off the head of one king, and expelled another from his throne, were still wont to address the successors of those princes only upon their knees. On the other hand, when a republic falls under the sway of one single man, the demeanor of the sovereign remains as simple and unpretending as if his authority was not yet paramount. When the emperors exercised unlimited control over the fortunes and the lives of their fellow citizens, it was customary to call them Caesar in conversation; and they were in the habit of supping without formality at their friends' houses.

The author, Riencourt, believes that our Western World is threatened with the advent of caesarism on a scale unknown since the Roman Empire. This caesarism is not dictatorship, not the result of one man's overriding ambition, nor a brutal seizure of power through revolution—but a slow unconscious development brought about by the tremendous increase of America's power in the Western World and the President's power within America.

My conviction is that it is essential that we find some way to check and bal-

ance the tremendous growth of Presidential or Executive power and the best hope for that is the Congress wherein, today, the best tool is the Senate's right to engage in prolonged debate. This, in my opinion, is not a sufficient or balancing safeguard, but to weaken this tool is to lose our one device to protect the fabric of our system while we try to balance the scales between the respective branches of our Union.

To cite two recent examples of this growing Executive power: the President recently, by a statement to the press, ordered a halt and termination to the Cross Florida Barge Canal. Quite apart from the merits of whether the canal should have been completed or not is the fact that Congress had authorized the project and continuously appropriated funds. And now the President has halted the project without even a written Executive order—night before last on the news, it was reported that the Secretary of Transportation, Mr. Volpe, had stated that two models of the SST would be built, period. I was laboring under the impression that this Congress was going to make that decision.

It is my understanding, since 1961 there have been 28 votes on the question of limiting debate and that there are 14 Senators who have never voted to limit debate.

While this is their right, I feel this adds to the pressure for the change and reduction of the number necessary to limit debate and I intend to feel free to vote for cloture under the existing rule on any given issue and not be "hidebound" to never curtail debate. Knowing, also, that, if rule 22 is not amended this time, this proposition will, no doubt, be raised in the future. I intend to observe if other reforms can be effected which will allow us to retain this right. But, if that is not possible and I feel it is necessary to preserve the reputation of the Senate, I will reluctantly change my stand on this issue.

Mr. CHURCH. Mr. President, I yield 4 minutes to the Senator from Washington (Mr. JACKSON).

Mr. JACKSON. Mr. President, I wish to speak briefly in support of the proposal to permit debate in the Senate to be ended by three-fifths of those Senators present and voting on the issue. In my view, this is a modest but important step toward making the Senate a more effective body.

Opponents of this change have brought forth all the time-honored arguments in favor of unlimited debate. They have paraded the historical precedents. They insist that a minority of Senators must, on occasion, be able to forestall the ill-considered action of a majority. They assert that the right to unlimted debate is what makes the Senate unique.

These are familiar arguments but they are less convincing than ever before. They are less convincing, Mr. President, because they assume a static, unchanging legislative environment. They do not recognize the changing needs of the country and the changing responsibilities of the Senate. They do not take account of the fact that at this point in our history, too many people in the United States have paid too high a price for the right to vote to see that right diluted by the archaic procedures of the Senate.

The filibuster has not been the special province of any Senator or group of Senators. In recent years, we have experienced filibusters by Senators from every part of the country, reflecting every political viewpoint. At one time or another, a majority of Senators have exercised their right to engage in unlimited debate. But this fact does not justify the perpetuation of this right in its present form.

It is astounding but true, Mr. President, that some of those who for years opposed the right to unlimited debate as a matter of high principle are now opposing change in the cloture rule because the filibuster has now become a convenient weapon for their own use. The filibuster does not become any more appealing or defensible a technique because of the subject matter involved or the Senators who use it.

No one contends that the proposed change in the cloture rule will dramatically change the Senate's methods of doing business. Such a change does not sound the death knell for unlimited debate. But it would serve notice that the Senate is less likely to tolerate the abuse of unlimited debate. Hopefully, it would deter the irresponsible use of this procedure which hamstrings the effective operation of the Senate.

The VICE PRESIDENT. The Senator's time has expired.

Mr. JACKSON. May I have 1 additional minute?

Mr. CHURCH. I yield 1 additional minute to the Senator from Washington.

Mr. JACKSON. The simple fact is, Mr. President, that we can no longer afford the luxury of an unlimited resort to unlimited debate. The work of the Senate has increased enormously—both in volume and complexity—over the past decade. There is every indication that this trend will continue in the 1970's. To handle this workload effectively, we must update Senate rules and procedures. And we must be willing to exercise greater restraint in imposing on the time of the Senate in order to discharge our responsibilities.

Mr. President, the proposed change in the cloture rule is more than symbolic. At the same time, no one can study the history of recent filibusters and seriously contend that this change will diminish the character or effectiveness of the Senate. What it will do is serve to make the Senate a more responsible and responsive institution.

I yield back the remainder of my time.

Mr. ALLEN. Mr. President, I yield the remaining 16 minutes of our time to the distinguished Senator from Arkansas (Mr. FULBRIGHT).

The VICE PRESIDENT. The Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, much has been said about this matter. I do not know that there is anything new I can say. I would like to try to put it in a little different context, and I particularly appeal to the new Members of the Senate who have recently gone through a hard election to become Members of this body. If they have time to give this question sufficient thought, I cannot believe they would like to undermine the significance of the Senate, of which they have become Members after a great effort in most cases. The significance of this matter, it seems to me, is a question of procedure. I always think of democracy not as a status that one achieves; it is a procedure; it is a process by which we solve differences or develop programs of mutual benefit. Democracy is not a specific program, it is a way to create one. It is a respect for reasonable discussion, for persuasion and accommodation rather than for power alone.

The significance of this rule is not to insure long and involved discussions. Actually, the so-called debate and talk that has taken place on this very question has not been a debate at all. The proponents of the resolution were not interested in a debate. They were not interested in dialog. There has hardly been one of them on the floor when any Senator who opposed it was talking about it. I have been in here several times, and there would be nobody but two or three Senators interested in one or the other side of the subject. The proponents of this change were not interested in listening to the debate. They were simply interested in the delaying action, hoping to create the impression in the country that there was something evil about the rule. That, I submit, is the real fact. It was not delayed by us.

I and my colleagues who oppose the resolution would have been perfectly willing for Senators to bring their cloture motion up at the beginning and have the vote and get it over with. They wished to prolong it, in order to be able to say, "Look how long this futile debate has gone on and how much time we have wasted." No time has been wasted on the floor of the Senate, because no legislation is ready for action. This is true at the beginning of every session.

The real significance of the issue is not that we can talk a long time. Nobody is interested in that. The significance is that of the role of the Senate in our constitutional system. Is it to remain an important element for the adjustment of the differences that arise in a great community? Is it to remain an institution which can influence decisions, or are we to abdicate our authority and responsibilities under the Constitution and allow the executive department to do it all? That is truly what has happened in almost all the other countries of the world. Far more countries of the world are ruled by authoritarian systems than by democracies. None of the other countries has the democratic system we have. They have gone into either civilian dictatorships or military juntas. We are the only institution in which it is possible to insure a deep consideration of controversial issues.

I strongly disagree with the Senator from Pennsylvania that the Senator is in disgrace and has lost the confidence of the people.

On the contrary, I think people today who are deeply worried about the course of our Government look to the Senate as the only place where we can possibly work out reconciliations and adjustments of these issues. That is what this

is about. It is not to precipitate long debate. It is in recognition of the fact that in a country with 50 States, with over 200 million people, from time to time there arise certain deeply controversial issues which should not be imposed upon a large minority by a simple majority.

The very basis of our Constitution is not majority rule. I do not know how anyone can say that majority rule is essentially democratic. Majorities have often imposed the most unjust decisions upon minorities throughout history, beginning with the well-known crucifixion and with many subsequent events.

The fact is that some issues arise in our kind of community which require delay, the putting off of the decision until some compromise and adjustment may be worked out. Debate is simply a vehicle. It is not a very happy way to exhibit that disagreement and necessity for further consideration. But, as we contemplate the role of the Senate, it is that we are the only body which, when such issues arise, can insure that there is delay sufficient to give not only the Senate but the country as a whole the opportunity to consider those particular divisive issues.

There were differences over civil rights. Today there is a similar division in this country over the war in Vietnam. Regardless of what one may think about it, no one can deny that there is a division over the wisdom of that decision.

I do not think a simple majority should be handed the authority to handle that kind of issue and say, "Take it or leave it." It should be by a large majority—in this case two-thirds. In this kind of issue, two-thirds is not too much to require. As has been pointed out by some of the greatest liberal writers of this country, this is the kind of issue which, if you impose it on a large minority—say 45 or 40 percent—will result in setting the stage for revolution and setting the stage for violent disagreement with the decision of the majority. So it has much more significance than merely delay.

I am not looking, and neither are my colleagues who oppose the resolution, for more opportunity to talk. We have been talking to an empty Chamber here. The proponents of this resolution have never really wished to engage in a dialog on this issue. I suggest to new Members of this body that they cannot engage in a dialog because it is not available. I think they ought to consider the matter from the point of view of whether they wish the Senate of the United States to continue to be an influence in the decisions of our Government. Do 100 Members of this body from every State of the Union want to have anything to contribute to the wisdom of the decisions of government?

In my opinion, one of the important reasons why our Government and our country are in great difficulty is that the Senate has not been able, even with the present rule, to exert as much influence as it should under our Constitution. I shall not go into any other reasons at this time, but I shall be glad to in other circumstances when we are not under limited time.

I do hope that new Members of this body who have not had time to think about this issue as deeply as the older ones would consider that aspect of the issues—that is, that the role of the Senate is involved; it is not an issue of extended debate. It is whether or not the Senate can have an influence.

The very fact that we have the capacity to resist an arbitrary proposal makes those who make the proposals—of course, I am speaking of the executive branch—consider the Senate very seriously—much more seriously than otherwise—if they know they may run into resistance in the Senate. The fact that the rule exists, without its being used, is most significant to a continued balance within our system.

Now, one may well accept the proposition that an executive branch government is more efficient. Dictatorships are more efficient in the sense of getting action more quickly. I do not think they are efficient in getting wise action, but just in getting action.

But if you really believe that this body of 100 men can make a contribution to the wisdom, if not to the velocity, of the passage of legislation, then I cannot see how you can object to it being necesary that a majority of two-thirds be obtained on those issues on which there is deep division of opinion within our country, reflected in this body, over changes or proposals that come before us, ranging all the way from civil rights to the making of war.

I think it is very significant, Mr. President, that just recently one of our best known and generally considered most liberal writers has taken this same view, much to my surprise. I believe Mr. Nicholas von Hoffman has made an outstanding and timely contribution to the public debate on rule XXII. I refer to his column appearing in yesterday's Washington Post entitled "Shouting Back, Not Shutting Up." Mr. von Hoffman displays a remarkable perceptiveness in his articulation of the real issue underlying this debate; namely, the Senate's intended role within our constitutional system.

I would particularly hope that the Senate "liberals," who for so long have associated rule XXII with civil rights battles, will give their very closest attention to this commentary, for it points out, correctly I believe, the irony that those Senators with the most to lose are the ones who now insist that rule XXII be changed.

I ask unanimous consent that Mr. von Hoffman's article be printed in the RECORD at this point.

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

SHOUTING BACK, NOT SHUTTING UP

(By Nicholas von Hoffman)

Tomorrow the Senate liberals will have another go at making it easier to kill off a filibuster. They've been trying for 20 years, but they may get it this time because the President is on their side, and that ought to make them wonder how good an idea knocking out the filibuster was.

The White House contends that without the filibuster the Senate can do its work "more promptly and expeditiously." Congress, and especially the Senate has of late been much taxed with being inefficient and old-fashioned, a thick-sapped institution in an age of speed and transistorized judgments.

The Senate's job isn't speed or neat dispatch, but wisdom, and these elements don't always go together. In legislation part of wisdom is delay and procrastination, knowing how not to get swept off your feet, how to temporize because it's better to be late than sorry.

Stalling around and pulling on its beard and not being hasty is an aspect of the Senate that pre-dates its coming into existence. During the Constitutional Convention of 1787, James Madison argued on the floor that the first purpose of the Senate was "to protect the people against their rulers; secondly to protect the people against the transient impressions into which they themselves might be led . . . They themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. A necessary fence against this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous counsels . . . How is the danger in all cases of interested coalitions to oppress the minority to be guarded against? Among other means by the establishment of a body in the government sufficiently respectable for its wisdom and virtue, to aid on such emergencies, the preponderance of justice by throwing its weight into that scale."

The Senate hasn't often lived up to Madison's hopes for it, but it has sometimes, and one of the ways it does is through the filibuster. A lone, filibustering senator, if he's got the guts, may be able to make the whole country think twice before it's carried off by enthusiasm or hysteria.

Because of the South's use of the device to fight down civil rights legislation the filibuster may now have too bad a name to save it. People forget that the filibuster didn't prevent the passage of the great civil rights act legislation of the '60s. It delayed them. In this way it acted like the temporary veto in the English House of Lords; in effect the filibuster asked the country, "Hey, did you really mean it with this civil rights legislation?"

That angered a lot of people who wanted the civil rights laws on the books immediately, people who had no patience with the Southern contention that much of this legislation was unconstitutional. Since then the courts have said they are constitutional, but even so they were a sharp departure from past practice . . . such things as taking away the freedom to refuse to rent, sell or service people because of their race or religion.

These aren't the kind of laws that should be passed with a 51 per cent majority. They are too important to slip into passage by seven or eight votes. The Senate's famous rule XXII requires a two-thirds vote to break a filibuster, and that's the kind of numbers needed to ensure such important laws have a chance of being enforced. The Reconstruction Congress passed all kinds of civil rights legislation that was not only ignored but literally forgotten. There just wasn't enough steam behind them to do more than pass them so that they became a kind of legislative tokenism.

But the filibuster and civil rights is history. Nixon certainly doesn't want to weaken the filibuster in order to pass a new civil rights act. He's concerned about such matters as the anti-ballistic missile, the draft and the SST. A Northern liberal can use the device as well as a Southern reactionary, and in the next couple of years the Northerners are going to need it more than the Southerners.

The big winner in the cutting down of the filibuster will be the White House, which will need to twist fewer senatorial arms to get what it wants passed. That's why Nixon's

for it, and it's why everyone who wants to see congressional power diminished should be for it.

Killing the filibuster is presented as a reform measure. Words like modernize and expedite are used when talking about it. As if the Senate is old-fashioned because the senators talk too much. The problem is that half the time the senators don't know what they're talking about, and eliminating the filibuster isn't going to cure that. What might help, what might be a true modernization would be if the congressional research and information gathering facilities were significantly enlarged. The legislative branch is dangerously dependent on the executive for too much of what it knows.

Minor mechanical adjustment in the rules isn't going to make a better Congress. This is so of the filibuster, and of the furor over the seniority system. Those old coots run things, not because of the rules, but because the good guys don't have enough votes. When they do have the votes seniority doesn't matter.

You can see that in the case of Congressman John L. McMillan, the superannuatedly impossible gent from South Carolina who chairs the House District of Columbia Committee. The liberals had a chance to vote him out but they didn't have the numbers; then later, they were able to clip his power in the committee because they constitute a majority.

The last 50 years ought to have schooled us to watch out for reforms that promise us business-like procedures by strengthening centralized power. The problem isn't to get Congress to shut up but to get them to shout back.

Mr. FULBRIGHT. This is a view quite similar to the one Walter Lippmann took in 1949. It is doubtless quite surprising to some that Walter Lippmann could have taken almost exactly the same position on rule changes that von Hoffman took in yesterday's Post. As I say, I myself was very surprised, but he is a perceptive man, and could see the danger to the so-called liberals who wish to change the processes of the Senate.

Democracy is only a set of rules. It is not a state that either you have or you do not have; all it is is a set of rules by which people can work out their differences, and of course there will always be differences.

I can understand a man who expects to be President and sees himself in the White House saying, "I would like to get rid of that obstacle." All Presidents have had that wish. Perhaps Woodrow Wilson is the most glaring example. Before he was President, he supported the right and function of the Senate. When he became President, and ran into the problem of Henry Cabot Lodge and the Senate, he deplored the fact of the Senate being an obstacle to his plans.

Aside from that substantive question, the procedures we have followed, in my opinion, are the primary reason why this democratic government has survived as long as it has. No other government in the world today has survived as long as ours with even a modicum of democratic practice. Nearly every one of them, with a few exceptions of small parliamentary governments, which are not like ours, have disappeared. This problem does not arise in a parliamentary government; I remind all new Members of this body to make that distinction. Parliamentary systems do not need this kind of a rule. But with our system of a separate executive and legislature, I submit it is most important that the role of the Senate as an institution be preserved.

On any specific substantive issue, one can say this rule may be abused. All rules may be abused, no matter what they are. By and large, I submit that our record has been good. I am not at all ashamed of the record of the Senate. In fact, I think it has performed a great service to this country in being able to inform and influence not only its own Members, but the public, by calling attention to what is involved in very deeply divisive and complicated questions which have afflicted our country, and always will afflict a great society.

Mr. President, I understand that the Senator from Kentucky (Mr. COOPER) wishes me to yield him some time. How much time do I have remaining, Mr. President?

The VICE PRESIDENT. The Senator has 4 minutes remaining.

Mr. FULBRIGHT. Of course, much more can be said. I have spoken before. If the Senator from Kentucky wishes me to yield, I yield him my remaining 4 minutes.

Mr. COOPER. Mr. President, I thank the Senator from Arkansas.

May I say that I feel some reluctance in following his eloquent and reasoned argument, and I emphasize the word "reasoned."

Mr. President, I shall vote against cloture today, and I shall vote against it because I support rule XXII in its present form.

I have not always held this position. Members of the Senate may recall that in 1957 I joined with the Senator from New Mexico (Mr. ANDERSON) and in 1959 with my then colleague from Kentucky, Mr. Morton, in introducing a similar resolution, to reduce the number of Senators required to secure cloture from two-thirds to three-fifths. I do not hold that position now, and I shall state my reasons.

At that time, I felt that a great body of our fellow citizens—the black citizens—were being deprived of their constitutional rights, and I felt it morally as well as constitutionally wrong. It seemed to me that that situation was so plain that it did not require extended debate. But all of us know that the filibusters did not prevail, that the Senate was able to vote upon those questions, and between 1954 and 1968 approved the comprehensive provisions for securing to all our fellow citizens their constitutional rights of nondiscrimination and the equal protection of the law. In addition, legislation to secure economic justice has been enacted, although not yet fully realized.

I hold that similarly, other controversial legislative proposals which will come before this body can be enacted if in truth they are supported by a majority of the people of our country.

One situation which has caused me to change my mind, although I had been troubled before, was the situation the Senate faced last year in the closing days of the session. A number of constitutional amendments, including one which I believe would have changed the Federal structure of this country—involving the manner of election of the President and legislation of greatest importance, yet controversial, were before the Senate——

The VICE PRESIDENT. The Senator's time is expired.

Mr. COOPER. May I have an additional minute?

Mr. FULBRIGHT. I yielded the Senator all my remaining time.

Mr. CHURCH. Mr. President, I am happy to yield the Senator from Kentucky a minute of my time.

Mr. COOPER. I thank the Senator. We knew that there was no time for proper consideration of the measures before us. We saw filibusters carried on by Members of different persuasions. I do not think that the Senator from Washington (Mr. JACKSON) suggested that it was wrong, evil, arbitrary, or capricious. Their actions simply pointed out the truth that Senators of all persuasions know that at times legislation before the Senate is of such importance or of such a controversial nature that it must be fully debated and considered if great harm to our country is to be avoided and beneficial legislation assured.

My good friend the Senator from New York (Mr. JAVITS) suggested that the founders never contemplated such a provision as rule XXII.

In the narrowest terms he may be correct, but they were children of the enlightenment. They lived in the age of reason. They believed that reason would prevail in government.

I believe rule XXII is necessary to keep available to Members of the Senate the opportunity to reason, the opportunity to appeal to reason, the opportunity to appeal to reason throughout the country.

The VICE PRESIDENT. The Senator's additional time has expired. Who yields time?

Mr. CHURCH. Mr. President, I yield myself the balance of the time which remains before the vote.

Let me say, at the outset, that I feel unequal to the task of responding to two such eminent Members of this body as the Senator from Arkansas and the Senator from Kentucky, not to speak of the Senator from Mississippi, who also addressed himself to this subject a few minutes ago. Nevertheless, that responsibility is mine as one of the cosponsors of the resolution, and I shall do my best to discharge it.

No one should question the fidelity of any Senator to this institution. I have not served as long as some Senators who have spoken, but I have been here 15 years. I also believe in the Senate and the importance of its role in our political life.

I recognize there is much validity to the argument that majority rule has not always been exercised in a prudent way. It is true that great injustices have been done by majorities. But, if the case is imperfect for majority rule, it nevertheless is better than the case for rule by the minority. History is also replete with injustices done by minorities possessed of the power to impose their will upon the majority. If one had to choose between the two, if one had to ask which of the

two more closely implements democratic government, I would have to choose majority rule over minority rule.

At present, rule XXII empowers a minority of one-third plus one to govern the Senate. On any matter of real gravity, rule XXII enables the minority to govern. Philosophically, I find that difficult to reconcile with my belief in democratic principles.

The distinguished Senator from Arkansas has said that great and controversial issues ought not be decided by a mere majority—one that is quite possibly transient, one that might be swayed by the emotions of the moment. I concede that this argument, also, has validity. But, Mr. President, the resolution we propose does not enable a mere majority to decide great and controversial issues. The resolution would simply reduce from two-thirds to three-fifths the number of Senators present and voting required to limit debate. Is that such a radical proposition? Would it really change the essential character of the Senate? Does anyone here honestly believe that it would undermine the tradition of extended debate?

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

Mr. CHURCH. I would prefer to complete my statement.

Mr. FULBRIGHT. The Senator asked a question. I do.

Mr. CHURCH. Then, the Senator from Arkansas does, but I do not.

I think the traditions of the Senate clearly show that there is no disposition in this body to summarily cut off debate. If this resolution were adopted, it would still require 60 percent of the Senators voting to concur before any limitation on debate could be imposed.

So I suggest, Mr. President, that this is a very prudent modification of rule XXII. It is brought here simply because history demonstrates that the present rule is too strict. In the past 54 years, 49 attempts have been made to invoke cloture, and only eight have succeeded.

I believe it was the distinguished Senator from Arkansas who said that we should preserve the role of the Senate as a deliberative body, that we should protect the procedures of the Senate, since this is a unique institution, and it is our responsibility to safeguard the role it plays. I agree with that argument. But I suggest that the best way to safeguard the Senate, the best way to preserve its rules against the vicissitudes of the future, is to make a prudent change in the filibuster rule now. We need to relax the rule just enough to give us better assurance that, after extensive debate has occurred, and the needs of the country call for action, the Senate can reach a vote. Eight successful attempts in 49; that is not enough.

We are simply asking for another occasion, such as that which occurred in 1917, when the Senate was asked to approve a bill to arm our merchant ships. At that time, there was no rule, no procedure for securing any limitation on debate, and the result was that a few Senators were able to talk the bill to death. But the country felt that action on the bill was required, that the vital interests of the United States were being challenged in the Atlantic, where German submarines were attacking American merchant ships. Yet the Senate, paralyzed by its own procedures, could not act. Then what happened, Mr. President? Why, then there was a tide, a great upsurge of public sentiment, of public anger, and its focus was upon the Senate. Faced with overpowering public indignation, the very Senators who previously had championed unlimited debate ran for cover; and rule XXII, establishing the first procedure for limiting debate was adopted by a near-unanimous vote of 76 to 3.

I would hope that we could avoid in the future another deadlock and upheaval that could rip our rules asunder, I suggest that the best way to do it, the best way we can insure that the essential character of the Senate—the right of extended debate, the uniqueness of our role—is protected against the uncertainties of the future is to make a prudent change in rule XXII now, so that when the occasion is right, when the national need is great, when a long and extended debate has taken place, it will be more reasonably certain that a substantial majority of Senators may work their will. That is the best way to protect the Senate. That is the best way to preserve it in its role.

This debate commenced 25 days ago, and it has been said that the proponents of this resolution have not participated fully in the debate. That charge is true. The reason we have not participated more fully is that this debate has gone on for years and years. Every time there is a new Congress, we spend a month or more debating rule XXII. There is no mystery about the proposed change. There is no subtle mischief it can do. There is no argument that has not been propounded here a hundred times over. There is no Member of the Senate who cannot recite the arguments, pro and con, in his sleep.

Twenty-five days have passed, while this debate contributes nothing either to the education of the country or the Senate. Indeed, its very purpose is not to educate or instruct, but to prevent the Senate from working its will, from proceeding in due course to a vote on the merits. We are all aware of it. That is why it has now become necessary to file a cloture motion and to ask the Senate, in its wisdom, to invoke a limitation on this debate, so that we can proceed to a vote on Senate Resolution 9, the long-pending business.

Mr. KENNEDY. Mr. President, we are now in the fifth week of the 92d Congress and throughout that period we have been engaged in a debate over the internal rules of the Senate. It is a debate which has not drawn the attention of the Nation. To many, it has seemed an internal matter affecting the Nation very little.

But if we do not resolve this matter in favor of change, then the time will come during this session when not only the proponents of a certain measure, but the groups arrayed in favor of that measure in the Nation, will deeply regret the failure of the Senate to push for a rules change today.

In an age of moonwalks and malnutrition, we cannot afford to allow a handful of Senators to forever bind the will of Members of this body, who represent a majority of the people in this Nation.

The proposed change in the Senate rules is neither unreasonable nor revolutionary. It does not seek to restrict the opportunity for unlimited debate unduly. We are merely attempting to prohibit a small group of the Members of this body from denying to the rest, the right to decide an issue by a recording of the yeas and nays.

During the past decade, we have seen 24 attempts at cloture with ouly four of them successful. In the 43 years before 1960, there were only 20 attempts at cloture, also with four achieving success. The pressure of the times and the urgency of the issues has brought an increase in the use of the filibuster just as it has prompted a greater frequency of efforts to close off the filibuster.

The pressures have been great and the failures to invoke cloture have proved serious for the Nation. A delay in passage of civil rights legislation and a delay in voting rights are among the offspring of filibusters during this decade.

For a nation trying to meet the legitimate demands of all of its citizens for full and equal participation in the political system, these delays meant long summers of mounting frustration.

Beyond the immediate consequences of the Senate's inability to act on a specific issue, there has been a general decline in the prestige of the Senate and perhaps for the first time, the vitality of this democratic institution has been openly questioned.

We are sent here to be both representatives of our State constituencies and representatives of the national interest. We operate in the balance between majority rule and the protection of minority rights. We receive our sustenance from a political system that seeks through compromise and persuasion to further the interests of all of our citizens.

In that process, we are rarely called upon to examine our own institutional integrity. Today we have that responsibility. It has been thrust upon us by a nation uneasy with the appearance of ineffectiveness in its leaders.

Some 37 Senators have signed this motion for cloture to bring about a change in the rules. Many, if not all of us, believe that this legitimately can be done by simple majority vote under section 5 of article I of the Constitution, and I would hope the Vice President would so rule if the question were formally placed before him.

The two rights of Members of the Senate that are critically important in this democracy are the right to debate and the right to vote. In responding to the needs of the Nation and to their constituents, Senators have corresponding responsibilities to utilize those privileges in the exploration of each issue in full debate and ultimately by voting a measure up or down.

In this balance between the right to debate and the right to vote, ultimately

the right to vote must take precedence. The only matter at issue is how much of a majority is necessary before the right to debate shall give way.

For 59 years, we have operated, often painfully, under a rule that requires a two-thirds majority. Today, with the experience of past decades, we would take the reasonable and modest step of lowering that requirement to a three-fifths majority.

When the times demand many more urgent decisions from all of our institutions, increasing the ability of the Senate to act decisively appears to me a thoroughly rational and justifiable decision.

Mr. TUNNEY. Mr. President, the Senate today has an opportunity to make significant progress in the area of congressional reform.

After almost a month of extensive debate, the Senate will decide whether or not to cut off debate in order to allow a vote on an amendment to rule XXII. I will vote to end debate.

Senate procedural rule XXII now requires the affirmative vote of two-thirds of the Senators present and voting before a filibuster can be ended.

The purpose of this rule is clear and, philosophically and historically speaking, laudatory. Minority rights must be protected and the minority must be given an ample opportunity to be heard.

The Senate has maintained a tradition of allowing lengthy debate and this has proven effective in protecting the minority against a stampeding majority. Walter Lippmann has said:

> If the sovereign himself may not act willfully, arbitrarily, by personal prerogative, then no one may. His ministers may not. The legislature may not. Majorities may not. Individuals may not. Crowds may not. The National State may not.

I would not be able to support an amendment which would permit cloture by a majority vote.

However, it is also clear that rule XXII has been abused and the will of the majority thwarted on matters of great national concern.

As presently constituted, rule XXII permits tyranny by the minority. This is just as unacceptable.

All of us were elected for the primary purpose of legislating. In our campaigns, we pledged to the people that we would initiate legislation and that we would vote for or against measures of national and State concern. Yet one of the deepest frustrations prevailing in my home State and elsewhere is that Government is impotent to act in their behalf. The virtually unreachable two-thirds cloture requirement of rule XXII, along with the seniority system, has become symbolic of this frustration. Cloture under rule XXII has been attempted 49 times in 54 years and invoked only eight times. Fifteen times, three-fifths of those present and voting supported cloture; 24 times a majority of the Senate voted for cloture; 34 times a majority of those present and voting favored cloture.

Although it is, of course, difficult to draw the fine line between majority rule and minority rights, it is clear that the wishes of a substantial majority should not be permanently frustrated. I believe that Senator CHURCH's amendment is an appropriate compromise. The amendment offers the opportunity to preserve Senate tradition of extended debate while at the same time allowing the Senate to do its job—to legislate—at the proper time.

Reducing the required vote under rule XXII from two-thirds to three-fifths ensures continued minority protection while lessening the possibility of abuse.

It is my hope that this reasonable reform will be adopted and that cloture will be invoked today in order to give the Senate an opportunity to vote on the amendment.

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

Mr. CHURCH. I yield.

Mr. MILLER. I just want to make the observation that if the proponents would see fit to adopt my amendment to their amendment, I think we would have cloture, we would have progress, and we would have assured genuine bipartisanship in this very serious matter.

Mr. CHURCH. I thank the Senator for his observation, and I only want to note that 51 Senators have affixed their names to this resolution, it already stands endorsed by a constitutional majority made up from both sides of the aisle. Thus I hope that if we cannot make it on this vote, we will soon come to a cloture vote that will enable the Senate to proceed to a final vote on the merits of a rule that the majority should be entitled to pass upon.

The VICE PRESIDENT. All time has now expired.

Pursuant to rule XXII and the hour of 1 o'clock having arrived, the Chair lays before the Senate the pending cloture motion which will be stated by the clerk.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the motion to proceed to the consideration of the Resolution (S. Res. 9) amending Rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

FRANK CHURCH, JAMES PEARSON, WM. B. SAXBE, ROBERT TAFT, JR., HUGH SCOTT, JACOB JAVITS, ROBERT GRIFFIN, CLIFFORD P. CASE, J. GLENN BEALL, JR., MIKE MANSFIELD.

EDWARD KENNEDY, JENNINGS RANDOLPH, CHARLES MCC. MATHIAS, JR., STUART SYMINGTON, THOMAS F. EAGLETON, PHILIP A. HART, JOHN V. TUNNEY, CLAIBORNE PELL, ADLAI STEVENSON, HUBERT HUMPHREY.

HARRISON WILLIAMS, FRED HARRIS, WM. PROXMIRE, LEE METCALF, DANIEL INOUYE, GEORGE MCGOVERN, HAROLD E. HUGHES, CLINTON P. ANDERSON, ALAN CRANSTON, JOHN O. PASTORE.

VANCE HARTKE, CHARLES H. PERCY, THOMAS MCINTYRE, GAYLORD NELSON, LLOYD BENTSEN, WALTER F. MONDALE, EDMUND S. MUSKIE, HENRY M. JACKSON.

The VICE PRESIDENT. Under rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 5 Leg.]

Aiken	Ervin	Nelson
Allen	Fannin	Packwood
Anderson	Fulbright	Pastore
Baker	Gambrell	Pearson
Beall	Goldwater	Pell
Bellmon	Gravel	Percy
Bennett	Griffin	Prouty
Bentsen	Gurney	Proxmire
Bible	Hansen	Randolph
Boggs	Harris	Ribicoff
Brock	Hart	Roth
Brooke	Hartke	Saxbe
Buckley	Hatfield	Schweiker
Burdick	Hollings	Scott
Byrd, Va.	Hughes	Smith
Byrd, W. Va.	Humphrey	Sparkman
Cannon	Jackson	Spong
Case	Javits	Stennis
Chiles	Jordan, Idaho	Stevens
Church	Kennedy	Stevenson
Cook	Long	Symington
Cooper	Magnuson	Taft
Cotton	Mansfield	Talmadge
Curtis	Mathias	Thurmond
Dole	McClellan	Tunney
Dominick	McGovern	Weicker
Eagleton	Miller	Williams
Eastland	Mondale	Young
Ellender	Montoya	

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Utah (Mr. Moss) are absent on official business.

I also announce that the Senator from North Carolina (Mr. JORDAN) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT) is necessarily absent.

The Senator from Hawaii (Mr. FONG) and the Senator from Texas (Mr. TOWER) are absent on official business.

The Senator from Nebraska (Mr. HRUSKA) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The VICE PRESIDENT. A quorum is present.

Under the previous order, beginning with the yea-and-nay vote and continuing throughout that vote until the results are announced, the Sergeant at Arms is directed to clear the floor of all clerks of Senators with one exception, that one exception being Mr. Wes Barthelmes, who is an assistant to the Senator from Idaho (Mr. CHURCH).

The question is, Is it the sense of the Senate that debate shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMINICK (when his name was called). On this vote I would vote "yea." My colleague, the senior Senator from Colorado (Mr. ALLOTT), would vote "yea." The Senator from Texas (Mr. TOWER), would vote "nay." I withhold my vote.

The rollcall was resumed and concluded.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana

(Mr. BAYH), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Utah (Mr. Moss) are absent on official business.

I also announce that the Senator from North Carolina (Mr. JORDAN) is absent because of illness.

Mr. President, on this vote, the Senator from Wyoming (Mr. MCGEE) has a pair with the Senators from Utah (Mr. Moss) and Hawaii (Mr. FONG). If they were present and voting, the Senator from Wyoming would vote "nay," and the Senators from Utah and Hawaii would each vote "yea."

Also, Mr. President, the Senator from North Carolina (Mr. JORDAN) has a pair with the Senators from Montana (Mr. METCALF) and New Hampshire (Mr. MCINTYRE). If they were present and voting, the Senator from North Carolina would vote "nay" and the Senators from Montana and New Hampshire would each vote "yea."

The Senators from Indiana (Mr. BAYH) and Maine (Mr. MUSKIE) have pairs with the Senator from Nebraska (Mr. HRUSKA). If they were present, the Senators from Indiana and Maine would vote "yea," and the Senator from Nebraska would vote "nay."

Finally, Mr. President, the Senators from Hawaii (Mr. INOUYE) and California (Mr. CRANSTON) are paired with the Senator from South Dakota (Mr. MUNDT). If they were present and voting, the Senators from Hawaii and California would vote "yea," and the Senator from South Dakota would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT) is necessarily absent.

The Senator from Hawaii (Mr. FONG) and the Senator from Texas (Mr. TOWER) are absent on official business.

The Senator from Nebraska (Mr. HRUSKA) is absent because of death in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote the Senator from Hawaii (Mr. FONG) and the Senator from Utah (Mr. Moss) are paired with the Senator from Wyoming (Mr. MCGEE). If present and voting, the Senator from Hawaii and the Senator from Utah would each vote "yea" and the Senator from Wyoming would vote "nay."

The pair of the Senator from Colorado (Mr. ALLOTT) and that of the Senator from Texas (Mr. TOWER) has been previously announced.

On this vote, the Senator from Indiana (Mr. BAYH) and the Senator from Maine (Mr. MUSKIE) are paired with the Senator from Nebraska (Mr. HRUSKA). If present and voting, the Senator from Indiana and the Senator from Maine would each vote "yea" and the Senator from Nebraska would vote "nay."

On this vote, the Senator from California (Mr. CRANSTON) and the Senator from Hawaii (Mr. INOUYE) are paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from California and the Senator from Hawaii would each vote "yea" and the Senator from South Dakota would vote "nay."

The yeas and nays resulted—yeas 48, nays 37, as follows:

[No. 6 Leg.]

YEAS—48

Aiken	Hatfield	Pell
Anderson	Hughes	Percy
Beall	Humphrey	Prouty
Bellmon	Jackson	Proxmire
Bentsen	Javits	Randolph
Boggs	Kennedy	Ribicoff
Brooke	Magnuson	Saxbe
Burdick	Mansfield	Schweiker
Case	Mathias	Scott
Church	McGovern	Smith
Cook	Mondale	Stevens
Eagleton	Montoya	Stevenson
Griffin	Nelson	Symington
Harris	Packwood	Taft
Hart	Pastore	Tunney
Hartke	Pearson	Williams

NAYS—37

Allen	Dole	Long
Baker	Eastland	McClellan
Bennett	Ellender	Miller
Bible	Ervin	Roth
Brock	Fannin	Sparkman
Buckley	Fulbright	Spong
Byrd, Va.	Gambrell	Stennis
Byrd, W. Va.	Goldwater	Talmadge
Cannon	Gravel	Thurmond
Chiles	Gurney	Weicker
Cooper	Hansen	Young
Cotton	Hollings	
Curtis	Jordan, Idaho	

PRESENT AND GIVING LIVE PAIRS AS PREVIOUSLY RECORDED—1

Dominick, for

NOT VOTING—14

Allott	Inouye	Moss
Bayh	Jordan, N.C.	Mundt
Cranston	McGee	Muskie
Fong	McIntyre	Tower
Hruska	Metcalf	

The VICE PRESIDENT. On this vote, the yeas are 48 and the nays 37.

Two-thirds of the Senators present and voting not having voted in the affirmative, the motion is rejected.

Mr. BUCKLEY. Mr. President, a vote for cloture at the present time is in effect a vote in favor of the three-fifths proposal. I voted against cloture because I am convinced that the present two-thirds rule is in the best interests of the Senate and of the country.

The indictment raised against the two-thirds rule, however well intentioned, is unfortunately misdirected. To my knowledge, no measure which enjoyed genuine—as opposed to apparent—majority support in the Nation has ever failed to pass because of rule XXII in its present form. A number of important bills have been delayed, to be sure, but there is none which was not better for the delay. This is not to deny that the present rule, like all rules, has been abused in the past; and it may be abused in the future. But if it is abused in the future, many who now support it will vote for a change.

It is true that democracy in the final analysis must rest on majority rule. But nothing in human experience recommends, and certainly nothing in the Constitution requires, that we embrace a mindless majoritarianism. President Jefferson said in his first inaugural address:

> The will of the majority is in all cases to prevail, but that will, to be rightful, must be reasonable.

The ultimate purpose of the two-thirds rule is not to thwart majority rule, but to keep the majority reasonable. The right—as opposed to the power—of the majority to rule rests on its ability to acquire the consent of the minority. When a majority chooses to rule by force rather than by consent, or when a minority refuses to grant its consent when it is justly asked for, representative government faces a crisis which can lead to tyranny or to civil war. It is the avoidance of such a crisis that the two-thirds rule is ultimately dedicated. But this high purpose imposes an obligation upon those who seek the protection of rule XXII to use it prudently and with restraint, reserving its invocation for measures of the gravest national importance. By the same token, Members of a would-be majority must pay heed to the right of the minority to demand reasonable concessions.

It will be argued, of course, that the three-fifths proposal will adequately protect minority interests. My study of the problem, however, convinces me that three-fifths would be an inadequate safeguard for the right we seek to protect.

In practice, because of necessary absences, three-fifths of those present and voting will often mean barely more—and sometimes less—than a simple majority of the Senate as a whole. Further—and this is ultimately more important—I have yet to hear an argument against the present two-thirds rule which could not with equal force be applied to the three-fifths proposal were it to be adopted. Although some proponents of the three-fifths measure will deny it, adoption of the three-fifths rule at the present time would be a fatal step down the road toward cloture by simple majority. And when that day arrives, the distinctive deliberative character of the Senate will have been destroyed, and, with it, one of the bulwarks of the American constitutional system.

The defenders of the two-thirds rule are frequently depicted as reactionary gadflies on the hide of progress. By contrast, the proponents of three-fifths or simple majority cloture are commonly cast in the role of enlightened reformers. But even a cursory glance at the history of the Senate will demonstrate the falsity of this convenient compartmentalization of opponents and proponents. For one thing, the filibuster has in recent years been used with greater effectiveness by liberals than it has been by conservatives. For another, the greatest Senate liberals of this century—I have in mind George Norris and Robert LaFollette—wisely and steadfastly opposed shortsighted attempts to diminish the right of extended debate in the Senate. They did so, I might add, in the full knowledge that rule XXII might sometimes work to their own disadvantage. They did so, in short, because they thought it in the best interests of the Senate and of the Nation.

It is true that most liberals today will be found on the side of the three-fifths proposal; some, indeed, go to the extreme of advocating cloture by simple majority. In so doing, they have fallen into a kind of ideological lock-step, preferring the

logical consistency of an abstraction to the prudent restraints of commonsense. In so doing, they ignore the teaching of the most famous expositor of liberal ideas of his generation, Mr. Walter Lippmann, who has written that "the filibuster under the present rules of the Senate conforms with the essential spirit of the American Constitution. It is one of the very strongest practical guarantees we possess for preserving the rights which are in the Constitution."

The ultimate test of the Senate is neither the speed with which it passes laws, nor the quantity of laws it passes. The true test of the Senate, rather, is the ultimate wisdom of its decisions. I believe that Congress in general and the Senate in particular have suffered in recent years from a tendency to embrace ill-considered legislative proposals. Indeed, among the most commonly heard complaints these days across the land—it can even be heard at the White House—is that the Federal Government has undertaken too much. The pressing need at the present hour, it seems to me, is not for more laws, but for better laws. Rule XXII in its present form is one of the few devices at our disposal for seeing to it that the counsels of prudence can prevail over the thoughtlessness of haste. The two-thirds rule, of course, cannot possibly guarantee that all, or even most, legislation will be as well-considered as it ought to be. But it can serve as a salutary restraint upon hasty action and ill-considered schemes. It can serve to moderate passions. It can serve to keep majorities reasonable and minorities contented. It can serve to restore the distinctive character of what has been justly called the world's greatest deliberative body.

It is commonplace to remark that these are troubled times. Many citizens are understandably perplexed by the variety and complexity of the problems which beset the Nation. Some, unfortunately, seem to have lost confidence in the capacity of government to solve them. But the reasons for this loss of confidence have less to do with the failure of Congress to enact numerous laws than they have to do with the failure of Congress to enact wise laws. Given the confusion which abounds in the land today, and given the passions which may at any moment ignite, this is hardly the time to speed up a process that already suffers from the evils of excessive haste. It is time, rather, to take stock, to proceed cautiously. The two-thirds rule is at present a necessary means to that end.

It is worthy of note, I think, that the respected New Republic, in a principled and forthright editorial in its February 20 issue, defends the present two-thirds rule. I concur in the spirit which prompted that editorial and enjoin my colleagues, liberal and conservative alike, to pay heed to its arguments. In particular, I enjoin my liberal friends to heed its argument, for, unless they are careful, they may find themselves permanently on the short end of the cloture stick. If the three-fifths proposal carries, the liberals may soon find that they have won a Pyrrhic victory.

Mr. President, I cannot think of a better way to close my remarks than to quote from the concluding paragraph of the New Republic editorial:

> The filibuster could be destructive, if used indiscriminately by incontinent men, or if no majority, however large, were sufficient to overcome it. But all the institutions and devices of our government, not alone the filibuster, have it in them to destroy everything else in the process, once restraint and ultimate civility are gone. And the power of a majority that is large enough and, what is more important, that is confident of the validity of its purposes and correspondingly determined, is ensured by the present Senate rule, under which cloture can be imposed by a two-thirds majority of members present and voting.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a morning hour for the transaction of routine morning business, with a time limitation of 3 minutes attached thereto.

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

REFERRAL OF PRESIDENT'S MESSAGE ON HEALTH AND HOSPITALIZATION (H. DOC. NO. 92-49)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the message at the desk from the President of the United States on health and hospitalization be jointly referred to the Committee on Labor and Public Welfare and the Committee on Finance.

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

The message from the President is as follows:

To the Congress of the United States:

In the last twelve months alone, America's medical bill went up eleven percent, from $63 to $70 billion. In the last *ten* years, it has climbed 170 percent, from the $26 billion level in 1960. Then we were spending 5.3 percent of our Gross National Product on health; today we devote almost 7% of our GNP to health expenditures.

This growing investment in health has been led by the Federal Government. In 1960, Washington spent $3.5 billion on medical needs—13 percent of the total. This year it will spend $21 billion—or about 30 percent of the nation's spending in this area.

But what are we getting for all this money?

For most Americans, the result of our expanded investment has been more medical care and care of higher quality. A profusion of impressive new techniques, powerful new drugs, and splendid new facilities has developed over the past decade. During that same time, there has been a six percent drop in the number of days each year that Americans are disabled. Clearly there is much that is *right* with American medicine.

But there is also much that is wrong.

One of the biggest problems is that fully 60 percent of the growth in medical expenditures in the last ten years has gone not for additional services but merely to meet price inflation. Since 1960, medical costs have gone up twice as fast as the cost of living. Hospital costs have risen five times as fast as other prices. For growing numbers of Americans, the cost of care is becoming prohibitive. And even those who can afford most care may find themselves impoverished by a catastrophic medical expenditure.

The shortcomings of our health care system are manifested in other ways as well. For some Americans—especially those who live in remote rural areas or in the inner city—care is simply not available. The quality of medicine varies widely with geography and income. Primary care physicians and outpatient facilities are in short supply in many areas, and most of our people have trouble obtaining medical attention on short notice. Because we pay so little attention to preventing disease and treating it early, too many people get sick and need intensive treatment.

Our record, then, is not as good as it should be. Costs have skyrocketed but values have not kept pace. We are investing more of our nation's resources in the health of our people but we are *not* getting a full return on our investment.

BUILDING A NATIONAL HEALTH STRATEGY

Things do not have to be this way. We can change these conditions—indeed, we must change them if we are to fulfill our promise as a nation. Good health care should be readily available to all of our citizens.

It will not be easy for our nation to achieve this goal. It will be impossible to achieve it without a new sense of purpose and a new spirit of discipline. That is why I am calling today not only for new programs and not merely for more money but for something more—for a *new approach* which is equal to the complexity of our challenges. I am calling today for a new National Health Strategy that will marshal a variety of forces in a coordinated assault on a variety of problems.

This new strategy should be built on four basic principles.

1. Assuring Equal Access. Although the Federal Government should be viewed as only one of several partners in this reforming effort, it does bear a special responsibility to help all citizens achieve equal access to our health care system. Just as our National Government has moved to provide equal opportunity in areas such as education, employment and voting, so we must now work to expand the opportunity for all citizens to obtain a decent standard of medical care. We must do all we can to remove any racial, economic, social or geographic barriers which now prevent any of our citizens from obtaining adequate health protection. For without good health, no man can fully utilize his other opportunities.

2. Balancing Supply and Demand. It does little good, however, to increase the demand for care unless we also increase the supply. Helping more people pay for more care does little good unless more care is available. This axiom was ignored when Medicaid and Medicare were created—and the nation paid a high price for that error. The expectations of many beneficiaries were not met and a severe

inflation in medical costs was compounded.

Rising demand should not be a source of anxiety in our country. It is, after all, a sign of our success in achieving equal opportunity, a measure of our effectiveness in reducing the barriers to care. But since the Federal Government is helping to remove those barriers, it also has a responsibility for what happens after they are reduced. We must see to it that our approach to health problems is a balanced approach. We must be sure that our health care system is ready and able to welcome its new clients.

3. Organizing for Efficiency. As we move toward these goals, we must recognize that we *cannot* simply *buy* our way to better medicine. We have already been trying that too long. We have been persuaded, too often, that the plan that *costs* the most will *help* the most—and too often we have been disappointed.

We cannot be accused of having underfinanced our medical system—not by a long shot. We have, however, spent this money poorly—re-enforcing inequities and rewarding inefficiencies and placing the burden of greater new demands on the same old system which could not meet the old ones.

The toughest question we face then is not *how much* we should spend but *how* we should spend it. It must be our goal not merely to finance a more expensive medical system but to organize a more efficient one.

There are two particularly useful ways of doing this:

A. Emphasizing Health Maintenance. In most cases our present medical system operates episodically—people come to it in moments of distress—when they require its most expensive services. Yet both the system and those it serves would be better off if less expensive services could be delivered on a more regular basis.

If more of our resources were invested in preventing sickness and accidents, fewer would have to be spent on costly cures. If we gave more attention to treating illness in its early stages, then we would be less troubled by acute disease. In short, we should build a true "health" system—and not a "sickness" system alone. We should work to maintain health and not merely to restore it.

B. Preserving Cost Consciousness. As we determine just who should bear the various costs of health care, we should remember that only as people are aware of those costs will they be motivated to reduce them. When consumers pay virtually nothing for services and when, at the same time, those who provide services know that all *their* costs will also be met, then neither the consumer nor the provider has an incentive to use the system efficiently. When that happens, unnecessary demand can multiply, scarce resources can be squandered and the shortage of services can become even more acute.

Those who are hurt the most by such developments are often those whose medical needs are most pressing. While costs should never be a barrier to providing needed care, it is important that we preserve some element of cost consciousness within our medical system.

4. Building on Strengths. We should also avoid holding the whole of our health care system responsible for failures in some of its parts. There is a natural temptation in dealing with any complex problem to say: "Let us wipe the slate clean and start from scratch." But to do this—to dismantle our entire health insurance system, for example—would be to ignore those important parts of the system which have provided useful service. While it would be wrong to ignore any weaknesses in our present system, it would be equally wrong to sacrifice its strengths.

One of those strengths is the diversity of our system—and the range of choice it therefore provides to doctors and patients alike. I believe the public will always be better served by a pluralistic system than by a monolithic one, by a system which creates many effective centers of responsibility—both public and private—rather than one that concentrates authority in a single governmental source.

This does not mean that we must allow each part of the system to go its own independent way, with no sense of common purpose. We must encourage greater cooperation and build better coordination—but not by fostering uniformity and eliminating choice. One effective way of influencing the system is by structuring *incentives* which reward people for helping to achieve national goals without forcing their decisions or dictating the way they are carried out. The American people have always shown a unique capacity to move toward common goals in varied ways. Our efforts to reform health care in America will be more effective if they build on this strength.

These, then, are certain cardinal principles on which our National Health Strategy should be built. To implement this strategy, I now propose for the consideration of the Congress the following six point program. It begins with measures designed to increase and improve the supply of medical care and concludes with a program which will help people pay for the care they require.

A. REORGANIZING THE DELIVERY OF SERVICE

In recent years, a new method for delivering health services has achieved growing respect. This new approach has two essential attributes. It brings together a comprehensive range of medical services in a single organization so that a patient is assured of convenient access to all of them. And it provides needed services for a fixed contract fee which is paid in advance by all subscribers.

Such an organization can have a variety of forms and names and sponsors. One of the strengths of this new concept, in fact, is its great flexibility. The general term which has been applied to all of these units is "HMO"—"Health Maintenance Organization."

The most important advantage of Health Maintenance Organizations is that they increase the value of the services a consumer receives for each health dollar. This happens, first, because such organizations provide a strong financial incentive for better preventive care and for greater efficiency.

Under traditional systems, doctors and hospitals are paid, in effect, on a piece work basis. The more illnesses they treat—and the more service they render—the more their income rises. This does not mean, of course, that they do any less than their very best to *make* people well. But it does mean that there is no economic incentive for them to concentrate on *keeping* people healthy.

A fixed-price contract for comprehensive care reverses this illogical incentive. Under this arrangement, income grows not with the number of days a person is sick but with the number of days he is well. HMO's therefore have a strong financial interest in preventing illness, or, failing that, in treating it in its early stages, promoting a thorough recovery, and preventing any recurrence. Like doctors in ancient China, they are paid to keep their clients healthy. For them, economic interests work to re-enforce their professional interests.

At the same time, HMO's are motivated to function more efficiently. When providers are paid retroactively for each of their services, inefficiencies can often be subsidized. Sometimes, in fact, inefficiency is rewarded—as when a patient who does not need to be hospitalized is treated in a hospital so that he can collect on his insurance. On the other hand, if an HMO is wasteful of time or talent or facilities, it cannot pass those extra costs on to the consumer or to an insurance company. Its budget for the year is determined in advance by the number of its subscribers. From that point on it is penalized for going over its budget and rewarded for staying under it.

In an HMO, in other words, cost consciousness is fostered. Such an organization cannot afford to waste resources—that costs more money in the short run. But neither can it afford to economize in ways which hurt patients—for that increases long-run expenses.

The HMO also organizes medical resources in a way that is more convenient for patients and more responsive to their needs. There was a time when every housewife had to go to a variety of shops and markets and pushcarts to buy her family's groceries. Then along came the supermarket—making her shopping chores much easier and also giving her a wider range of choice and lower prices. The HMO provides similar advantages in the medical field. Rather than forcing the consumer to thread his way through a complex maze of separate services and specialists, it makes a full range of resources available through a single organization—often at a single top—and makes it more likely that the right combination of resources will be utilized.

Because a team can often work more efficiently than isolated individuals, each doctor's energies go further in a Health Maintenance Organization—twice as far according to some studies. At the same time, each patient retains the freedom to choose his own personal doctor. In addition, services can more easily be made available at night and on weekends in an

HMO. Because many doctors often use the same facilities and equipment and can share the expense of medical assistants and business personnel, overhead costs can be sharply curtailed. Physicians benefit from the stimulation that comes from working with fellow professionals who can share their problems, appreciate their accomplishments and readily offer their counsel and assistance. HMO's offer doctors other advantages as well, including a more regular work schedule, better opportunities for continuing education, lesser financial risks upon first entering practice, and generally lower rates for malpractice insurance.

Some seven million Americans are now enrolled in HMO's—and the number is growing. Studies show that they are receiving high quality care at a significantly lower cost—as much as one-fourth to one-third lower than traditional care in some areas. They go to hospitals less often and they spend less time there when they go. Days spent in the hospital each year for those who belong to HMO's are only three-fourths of the national average.

Patients and practitioners alike are enthusiastic about this organizational concept. So is this administration. That is why we proposed legislation last March to enable medicare recipients to join such programs. That is why I am now making the following additional recommendations:

1. We should require public and private health insurance plans to allow beneficiaries to use their plan to purchase membership in a Health Maintenance Organization when one is available. When, for example, a union and an employer negotiate a contract which includes health insurance for all workers, each worker should have the right to apply the actuarial value of his coverage toward the purchase of a fixed price, health maintenance program. Similarly, both medicare and the new Family Health Insurance Plan for the poor which I will set out later in this message should provide an HMO option.

2. To help new HMO's get started—an expensive and complicated task—we should establish a new $23 million program of planning grants to aid potential sponsors—in both the private and public sector.

3. At the same time, we should provide additional support to help sponsors raise the necessary capital, construct needed facilities, and sustain initial operating deficits until they achieve an enrollment which allows them to pay their own way. For this purpose, I propose a program of Federal loan guarantees which will enable private sponsors to raise some $300 million in private loans during the first year of the program.

4. Other barriers to the development of HMO's include archaic laws in 22 States which prohibit or limit the group practice of medicine and laws in most States which prevent doctors from delegating certain responsibilities (like giving injections) to their assistants. To help remove such barriers, I am instructing the Secretary of Health, Education, and Welfare to develop a model statute which the States themselves can adopt to correct these anomalies. In addition, the Federal Government will facilitate the development of HMO's in all States by entering into contracts with them to provide service to medicare recipients and other Federal beneficiaries who elect such programs. Under the supremacy clause of the Constitution, these contracts will operate to preempt any inconsistent State statutes.

Our program to promote the use of HMO's is only one of the efforts we will be making to encourage a more efficient organization of our health care system. We will take other steps in this direction, including stronger efforts to capitalize on new technological developments.

In recent years medical scientists, engineers, industrialists, and management experts have developed many new techniques for improving the efficiency and effectiveness of health care. These advances include automated devices for measuring and recording body functions such as blood flow and the electrical activity of the heart, for performing laboratory tests and making the results readily available to the doctor, and for reducing the time required to obtain a patient's medical history. Methods have also been devised for using computers in diagnosing diseases, for monitoring and diagnosing patients from remote locations, for keeping medical records and generally for restructuring the layout and administration of hospitals and other care centers. The results of early tests for such techniques have been most promising. If new developments can be widely implemented, they can help us deliver more effective, more efficient care at lower prices.

The hospital and outpatient clinic of tomorrow may well bear little resemblance to today's facility. We must make every effort to see that its full promise is realized. I am therefore directing the Secretary of Health, Education, and Welfare to focus research in the field of health care services on new techniques for improving the productivity of our medical system. The Department will establish pilot experiments and demonstration projects in this area, disseminate the results of this work, and encourage the health industry and the medical profession to bring such techniques into full and effective use in the health care centers of the nation.

B. MEETING THE SPECIAL NEEDS OF SCARCITY AREAS

Americans who live in remote rural areas or in urban poverty neighborhoods often have special difficulty obtaining adequate medical care. On the average, there is now one doctor for every 630 persons in America. But in over one-third of our counties the number of doctors per capita is less than one-third that high. In over 130 counties, comprising over eight percent of our land area, there are no private doctors at all—and the number of such counties is growing.

A similar problem exists in our center cities. In some areas of New York for example, there is one private doctor for every 200 persons but in other areas the ratio is one to 12,000. Chicago's inner city neighborhoods have some 1,700 fewer physicians today than they had ten years ago.

How can we attract more doctors—and better facilities—into these scarcity areas? I propose the following actions:

1. We should encourage Health Maintenance Organizations to locate in scarcity areas. To this end, I propose a $22 million program of direct Federal grants and loans to help offset the special risks and special costs which such projects would entail.

2. When necessary, the Federal Government should supplement these efforts by supporting out-patient clinics in areas which still are underserved. These units can build on the experience of the Neighborhood Health Centers experiment which has now been operating for several years. These facilities would serve as a base on which full HMO's—operating under other public or private direction—could later be established.

I have also asked the Administrator of Veterans Affairs and the Secretary of Health, Education, and Welfare to develop ways in which the Veterans Administration medical system can be used to supplement local medical resources in scarcity areas.

3. A series of new area Health Education Centers should also be established in places which are medically underserved—as the Carnegie Commission on Higher Education has recommended. These centers would be satellites of existing medical and other health science schools; typically, they could be built around a community hospital, a clinic or an HMO which is already in existence. Each would provide a valuable teaching center for new health professionals, a focal point for the continuing education of experienced personnel, and a base for providing sophisticated medical services which would not otherwise be available in these areas. I am requesting that up to $40 million be made available for this program in Fiscal Year 1972.

4. We should also find ways of compensating—and even rewarding—doctors and nurses who move to scarcity areas, despite disadvantages such as lower income and poorer facilities.

As one important step in this direction, I am proposing that our expanding loan programs for medical students include a new forgiveness provision for graduates who practice in a scarcity area, especially those who specialize in primary care skills that are in short supply.

In addition, I will request $10 million to implement the Emergency Health Personnel Act. Such funds will enable us to mobilize a new National Health Service Corps, made up largely of dedicated and public-spirited young health professionals who will serve in areas which are now plagued by critical manpower shortages.

C. MEETING THE PERSONNEL NEEDS OF OUR GROWING MEDICAL SYSTEM

Our proposals for encouraging HMO's and for serving scarcity areas will help us use medical manpower more effectively. But it is also important that we *produce* more health professionals and that we educate more of them to perform

critically needed services. I am recommending a number of measures to accomplish these purposes.

1. First, we must use new methods for helping to finance medical education. In the past year, over half of the nation's medical schools have declared that they are in "financial distress" and have applied for special Federal assistance to meet operating deficits.

More money is needed—but it is also important that this money be spent in new ways. Rather than treating the symptoms of distress in a piecemeal and erratic fashion, we must rationalize our system of financial aid for medical education so that the schools can make intelligent plans for regaining a sound financial position.

I am recommending, therefore, that much of our present aid to schools of medicine, dentistry and osteopathy—along with $60 million in new money—be provided in the form of so-called "capitation grants," the size of which would be determined by the number of students the school graduates. I recommend that the capitation grant level be set at $6,000 per graduate.

A capitation grant system would mean that a school would know in advance how much Federal money it could count on. It would allow an institution to make its own long-range plans as to how it would use these monies. It would mean that we could eventually phase out our emergency assistance programs.

By rewarding *output*—rather than subsidizing *input*—this new aid system would encourage schools to educate more students and to educate them more efficiently. Unlike formulas which are geared to the annual number of enrollees, capitation grants would provide a strong incentive for schools to shorten their curriculum from four years to three—in line with another sound recommendation of the Carnegie Commission on Higher Education. For then, the same sized school would qualify for as much as one-third *more* money each year, since each of its graduating classes would be one-third larger.

This capitation grant program should be supplemented by a program of special project grants to help achieve special goals. These grants would support efforts such as improving planning and management, shortening curriculums, expanding enrollments, team training of physicians and allied health personnel, and starting HMO's for local populations.

In addition, I believe that Federal support dollars for the construction of medical education facilities can be used more effectively. I recommend that the five current programs in this area be consolidated into a single, more flexible grant authority and that a new program of guaranteed loans and other financial aids be made available to generate over $500 million in private construction loans in the coming Fiscal Year—five times the level of our current construction grant program.

Altogether, these efforts to encourage and facilitate the expansion of our medical schools should produce a 50 percent increase in medical school graduates by 1975. We must set that as our goal and we must see that it is accomplished.

2. The Federal Government should also establish special support programs to help low income students enter medical and dental schools. I propose that our scholarship grant program for these students be almost doubled—from $15 to $29 million. At the same time, this administration would modify its proposed student loan programs to meet better the needs of medical students. To help alleviate the concern of low income students that such a loan might become an impossible burden if they fail to graduate from medical school, we will request authority to forgive loans where such action is appropriate.

3. One of the most promising ways to expand the supply of medical care and to reduce its costs is through a greater use of allied health personnel, especially those who work as physicians' and dentists' assistants, nurse pediatric practitioners, and nurse midwives. Such persons are trained to perform tasks which must otherwise be performed by doctors themselves, even though they do not require the skills of a doctor. Such assistance frees a physician to focus his skills where they are most needed and often allows him to treat many additional patients.

I recommend that our allied health personnel training programs be expanded by 50% over 1971 levels, to $29 million, and that $15 million of this amount be devoted to training physicians' assistants. We will also encourage medical schools to train future doctors in the proper use of such assistants and we will take the steps I described earlier to eliminate barriers to their use in the laws of certain States.

In addition, this administration will expand nationwide the current MEDIHC program—an experimental effort to encourage servicemen and women with medical training to enter civilian medical professions when they leave military duty. Of the more than 30,000 such persons who leave military service each year, two-thirds express an interest in staying in the health field but only about one-third finally do so. Our goal is to increase the number who enter civilian health employment by 2,500 per year for the next five years. At the same time, the Veterans Administration will expand the number of health trainees in VA facilities from 49,000 in 1970 to over 53,000 in 1972.

D. A SPECIAL PROBLEM: MALPRACTICE SUITS AND MALPRACTICE INSURANCE

One reason consumers must pay more for health care and health insurance these days is the fact that most doctors are paying much more for the insurance *they* must buy to protect themselves against claims of malpractice. For the past five years, malpractice insurance rates have gone up an average of 10 percent a year—a fact which reflects both the growing number of malpractice claims and the growing size of settlements. Many doctors are having trouble obtaining *any* malpractice insurance.

The climate of fear which is created by the growing menace of malpractice suits also affects the quality of medical treatment. Often it forces doctors to practice inefficient, defensive medicine—ordering unnecessary tests and treatments solely for the sake of appearance. It discourages the use of physicians' assistants, inhibits that free discussion of cases which can contribute so much to better care, and makes it harder to establish a relationship of trust between doctors and patients.

The consequences of the malpractice problem are profound. It must be confronted soon and it must be confronted effectively—but that will be no simple matter. For one thing, we need to know far more than we presently do about this complex problem.

I am therefore directing—as a first step in dealing with this danger—that the Secretary of Health, Education, and Welfare promptly appoint and convene a Commission on Medical Malpractice to undertake an intensive program of research and analysis in this area. The Commission membership should represent the health professions and health institutions, the legal profession, the insurance industry, and the general public. Its report—which should include specific recommendations for dealing with this problem—should be submitted by March 1, 1972.

E. NEW ACTIONS TO PREVENT ILLNESSES AND ACCIDENTS

We often invest our medical resources as if an ounce of cure were worth a pound of prevention. We spend vast sums to treat illnesses and accidents that could be avoided for a fraction of those expenditures. We focus our attention on making people well rather than keeping people well, and—as a result—both our health and our pocketbooks are poorer. A new National Health Strategy should assign a much higher priority to the work of prevention.

As we have already seen, Health Maintenance Organizations can do a great deal to help in this effort. In addition to encouraging their growth, I am also recommending a number of further measures through which we can take the offensive against the long-range causes of illnesses and accidents.

1. To begin with, we must reaffirm—and expand—the Federal commitment to biomedical research. Our approach to research support should be balanced—with strong efforts in a variety of fields. Two critical areas, however, deserve special attention.

The first of these is cancer. In the next year alone, 650,000 new cases of cancer will be diagnosed in this country and 340,000 of our people will die of this disease. Incredible as it may seem, one out of every four Americans who are now alive will someday develop cancer unless we can reduce the present rates of incidence.

In the last seven years we spent more than 30 billion dollars on space research and technology and about one-twenty-fifth of that amount to find a cure for cancer. The time has now come to put more of our resources into cancer research and—learning an important lesson from our space program—to organize those resources as effectively as possible.

When we began our space program we

were fairly confident that our goals could be reached if only we made a great enough effort. The challenge was technological; it did not require new theoretical breakthroughs. Unfortunately, this is not the case in most biomedical research at the present time; scientific breakthroughs are still required and they often cannot be forced—no matter how much money and energy is expended.

We should not forget this caution. At the same time, we should recognize that of all our research endeavors, cancer research may now be in the best position to benefit from a great infusion of resources. For there are moments in biomedical research when problems begin to break open and results begin to pour in, opening many new lines of inquiry and many new opportunities for breakthrough.

We believe that cancer research has reached such a point. This administration is therefore requesting an additional $100 million for cancer research in its new budget. And—as I said in my State of the Union Message—"I will ask later for whatever additional funds can effectively be used" in this effort.

Because this project will require the coordination of scientists in many fields—drawing on many projects now in existence but cutting across established organizational lines—I am directing the Secretary of Health, Education, and Welfare to establish a new Cancer Conquest Program in the Office of the Director of the National Institutes of Health. This program will operate under its own Director who will be appointed by the Secretary and supported by a new management group. To advise that group in establishing priorities and allocating funds—and to advise other officials, including me, concerning this effort—I will also establish a new Advisory Committee on the Conquest of Cancer.

A second targeted disease for concentrated research should be sickle cell anemia—a most serious childhood disease which almost always occurs in the black population. It is estimated that one out of every 500 black babies actually develops sickle cell disease.

It is a sad and shameful fact that the causes of this disease have been largely neglected throughout our history. We cannot rewrite this record of neglect, but we can reverse it. To this end, this administration is increasing its budget for research and treatment of sickle cell disease fivefold, to a new total of $6 million.

2. A second major area of emphasis should be that of health education.

In the final analysis, each individual bears the major responsibility for his own health. Unfortunately, too many of us fail to meet that responsibility. Too many Americans eat too much, drink too much, work too hard, and exercise too little. Too many are careless drivers.

These are personal questions, to be sure, but they are also public questions. For the whole society has a stake in the health of the individual. Ultimately, everyone shares in the cost of his illnesses or accidents. Through tax payments and through insurance premiums, the careful subsidize the careless, the nonsmokers subsidize those who smoke, the physically fit subsidize the rundown and the overweight, the knowledgeable subsidize the ignorant and vulnerable.

It is in the interest of our entire country, therefore, to educate and encourage each of our citizens to develop sensible health practices. Yet we have given remarkably little attention to the health education of our people. Most of our current efforts in this area are fragmented and haphazard—a public service advertisement one week, a newspaper article another, a short lecture now and then from the doctor. There is no national instrument, no central force to stimulate and coordinate a comprehensive health education program.

I have therefore been working to create such an instrument. It will be called the National Health Education Foundation. It will be a private, non-profit group which will receive no Federal money. Its membership will include representatives of business, labor, the medical profession, the insurance industry, health and welfare organizations, and various governmental units. Leaders from these fields have already agreed to proceed with such an organization and are well on the way toward reaching an initial goal of $1 million in pledges for its budget.

This independent project will be complemented by other Federal efforts to promote health education. For example, expenditures to provide family planning assistance have beeen increased, rising fourfold since 1969. And I am asking that the great potential of our nation's day care centers to provide health education be better utilized.

3. We should also expand Federal programs to help prevent accidents—the leading cause of death between the ages of one and 37 and the fourth leading cause of death for persons of all ages.

Our highway death toll—50,000 fatalities last year—is a tragedy and an outrage of unspeakable proportions. It is all the more shameful since half these deaths involved drivers or pedestrians under the influence of alcohol. We have therefore increased funding for the Department of Transportation's auto accident and alcohol program from $8 million in Fiscal Year 1971 to $35 million in Fiscal Year 1972. I am also requesting that the budget for alcoholism programs be doubled, from $7 million to $14 million. This will permit an expansion of our research efforts into better ways of treating this disease.

I am also requesting a supplemental appropriation of $5 million this year and an addition of $8 million over amounts already in the 1972 budget to implement aggressively the new Occupational Safety and Health Act I signed last December. We must begin immediately to cut down on the 14,000 deaths and more than two million disabling injuries which result each year from occupational illnesses and accidents.

The conditions which affect health are almost unlimited. A man's income, his daily diet, the place he lives, the quality of his air and water—all of these factors have a greater impact on his physical well being than does the family doctor. When we talk about our health program, therefore, we should not forget our efforts to protect the nation's food and drug supply, to control narcotics, to restore and renew the environment, to build better housing and transportation systems, to end hunger in America, and—above all—to place a floor under the income of every family with children. In a sense this special message on health is one of *many* health messages which this administration is sending to the Congress.

F. A NATIONAL HEALTH INSURANCE PARTNERSHIP

In my State of the Union Message, I pledged to present a program "to ensure that no American family will be prevented from obtaining basic medical care by inability to pay." I am announcing that program today. It is a comprehensive national health insurance program, one in which the public and the private sectors would join in a new partnership to provide adequate health insurance for the American people.

In the last twenty years, the segment of our population owning health insurance has grown from 50 percent to 87 percent and the portion of medical bills paid for by insurance has gone from 35 percent to 60 percent. But despite this impressive growth, there are still serious gaps in present health insurance coverage. Four such gaps deserve particular attention.

First—too many health insurance policies focus on hospital and surgical costs and leave critical outpatient services uncovered. While some 80 percent of our people have some hospitalization insurance, for example, only about half are covered for outpatient and laboratory services and less than half are insured for treatment in the physician's office or the home. Because demand goes where the dollars are, the result is an unnecessary—and expensive—overutilization of acute care facilities. The average hospital stay today is a full day longer than it was eight years ago. Studies show that over one-fourth of hospital beds in some areas are occupied by patients who do not really need them and could have received equivalent or better care outside the hospital.

A second problem is the failure of most private insurance policies to protect against the catastrophic costs of major illnesses and accidents. Only 40 percent of our people have catastrophic cost insurance of any sort and most of that insurance has upper limits of $10,000 or $15,000. This means that insurance often runs out while expenses are still mounting. For many of our families, the anguish of a serious illness is thus compounded by acute financial anxiety. Even the joy of recovery can often be clouded by the burden of debt—and even by the threat of bankruptcy.

A third problem with much of our insurance at the present time is that it cannot be applied to membership in a Health Maintenance Organization—and thus effectively precludes such membership. No employee will pay to join such a plan, no matter how attractive it might seem to him, when deductions from his paycheck—along with contributions from his employer—are being used to

purchase another health insurance policy.

The fourth deficiency we must correct in present insurance coverage is its failure to help the poor gain sufficient access to our medical system. Just one index of this failure is the fact that fifty percent of poor children are not even immunized against common childhood diseases. The disability rate for families below the poverty line is at least 50 percent higher than for families with incomes above $10,000.

Those who need care most often get care least. And even when the poor do get service, it is often second rate. A vicious cycle is thus reinforced—poverty breeds illness and illness breeds greater poverty. This situation will be corrected only when the poor have sufficient purchasing power to enter the medical marketplace on equal terms with those who are more affluent.

Our National Health Insurance Partnership is designed to correct these inadequacies—not by *destroying* our present insurance system but by *improving* it. Rather than giving up on a system which has been developing impressively, we should work to bring about further growth which will fill in the gaps we have identified. To this end, I am recommending the following combination of public and private efforts.

1. I am proposing that a National Health Insurance Standards Act be adopted which will require employers to provide basic health insurance coverage for their employees.

In the past, we have taken similar actions to assure workers a minimum wage, to provide them with disability and retirement benefits, and to set occupational health and safety standards. Now we should go one step further and guarantee that all workers will receive adequate health insurance protection.

The minimum program we would require under this law would pay for hospital services, for physicians' services—both in the hospital and outside of it, for full maternity care, well-baby care (including immunizations), laboratory services, and certain other medical expenses. To protect against catastrophic costs, benefits would have to include not less than $50,000 in coverage for each family member during the life of the policy contract. The minimum package would include certain deductible and coinsurance features. As an alternative to paying separate fees for separate services, workers could use this program to purchase membership in a health maintenance organization.

The Federal Government would pay nothing for this program; the costs would be shared by employers and employees, much as they are today under most collective bargaining agreements. A ceiling on how much employees could be asked to contribute would be set at 35 percent during the first 2½ years of operation and 25 percent thereafter. To give each employer time to plan for this additional cost of doing business—a cost which would be shared, of course, by all of his competitors—this program would not go into effect until July 1, 1973. This schedule would also allow time for expanding and reorganizing our health system to handle the new requirements.

As the number of enrollees rises under this plan, the costs per enrollee can be expected to fall. The fact that employees and unions will have an even higher stake in the system will add additional pressures to keep quality up and costs down. And since the range within which benefits can vary will be somewhat narrower than it has been, competition between insurance companies will be more likely to focus on the overall price at which the contract is offered. This means that insurance companies will themselves have a greater motivation to keep medical costs from soaring.

I am still considering what further legislative steps may be desirable for regulating private health insurance, including the introduction of sufficient disincentive measures to reinforce the objective of creating cost consciousness on the part of consumers and providers. I will make such recommendations to the Congress at a later time.

2. I am also proposing that a new Family Health Insurance Plan be established to meet the special needs of poor families who would not be covered by the proposed National Health Insurance Standards Act—those that are headed by unemployed, intermittently employed or self-employed persons.

The Medicaid program was designed to help these people, but—for many reasons—it has not accomplished its goals. Because it is not a truly national program, its benefits vary widely from State to State. Sixteen States now get 80 percent of all Medicaid money and two States, California and New York, get 30 percent of Federal funds though they have only 20 percent of the poverty population. Two States have no Medicaid program at all.

In addition, Medicaid suffers from other defects that now plague our failing welfare system. It largely excludes the working poor—which means that all benefits can suddenly be cut off when family income rises ever so slightly—from just under the eligibility barrier to just over it. Coverage is provided when husbands desert their families, but is often eliminated when they come back home and work. The program thus provides an incentive for poor families to stay on the welfare rolls.

Some of these problems would be corrected by my proposal to require employers to offer adequate insurance coverage to their employees. No longer, for example, would a workingman receive poorer insurance coverage than a welfare client—a condition which exists today in many States. But we also need an additional program for much of the welfare population.

Accordingly, I propose that the part of Medicaid which covers most welfare families be eliminated. The new Family Health Insurance Plan that takes its place would be fully financed and administered by the Federal Government. It would provide health insurance to all poor families with children headed by self-employed or unemployed persons whose income is below a certain level. For a family of four persons, the eligibility ceiling would be $5,000.

For the poorest of eligible families, this program would make no charges and would pay for basic medical costs. As family income increased beyond a certain level ($3,000 in the case of a four-person family) the family itself would begin to assume a greater share of the costs—through a graduated schedule of premium charges, deductibles, and coinsurance payments. This provision would induce some cost consciousness as income rises. But unlike Medicaid—with its abrupt cutoff of benefits when family income reaches a certain point—this arrangement would provide an incentive for families to improve their economic position.

The Family Health Insurance Plan would also go into effect on July 1, 1973. In its first full year of operation, it would cost approximately $1.2 billion in additional Federal funds—assuming that all eligible families participate. Since States would no longer bear any share of this cost, they would be relieved of a considerable burden. In order to encourage States to use part of these savings to supplement Federal benefits, the Federal Government would agree to bear the costs of administering a consolidated Federal-State benefit package. The Federal Government would also contract with local committees—to review local practices and to ensure that adequate care is being provided in exchange for Federal payments. Private insurers, unions and employees would be invited to use these same committees to review the utilization of their benefits if they wished to do so.

This, then, is how the National Health Insurance Partnership would work: The Family Health Insurance Plan would meet the needs of most welfare families—though Medicaid would continue for the aged poor, the blind and the disabled. The National Health Insurance Standards Act would help the working population. Members of the Armed Forces and civilian Federal employees would continue to have their own insurance programs and our older citizens would continue to have Medicare.

Our program would also require the establishment in each State of special insurance pools which would offer insurance at reasonable group rates to people who did not qualify for other programs: the self-employed, for example, and poor risk individuals who often cannot get insurance.

I also urge the Congress to take further steps to improve Medicare. For one thing, beneficiaries should be allowed to use the program to join Health Maintenance Organizations. In addition, we should consolidate the financing of Part A of Medicare—which pays for hospital care—and Part B—which pays for outpatient services, provided the elderly person himself pays a monthly fee to qualify for this protection. I propose that this charge—which is scheduled to rise to $5.60 per month in July of this year—be paid for instead by increasing the Social Security wage base. Removing this admission cost will save our older citizens some $1.3 billion annually and will give them greater access to preventive and ambulatory services.

WHY IS A NATIONAL HEALTH INSURANCE PARTNERSHIP BETTER THAN NATIONALIZED HEALTH INSURANCE?

I believe that our government and our people, business and labor, the insurance industry and the health profession can work together in a *national partnership* to achieve our health objectives. I do *not* believe that the achievement of these objectives requires the *nationalization* of our health insurance industry.

To begin with, there simply is no *need* to eliminate an entire segment of our private economy and at the same time add a multibillion dollar responsibility to the Federal budget. Such a step should not be taken unless all other steps have failed.

More than that, such action would be dangerous. It would deny people the right to choose how they will pay for their health care. It would remove competition from the insurance system—and with it an incentive to experiment and innovate.

Under a nationalized system, only the Federal Government would lose when inefficiency crept in or when prices escalated; neither the consumer himself, nor his employer, nor his union, nor his insurance company would have any further stake in controlling prices. The only way that utilization could be effectively regulated and costs effectively restrained, therefore, would be if the Federal Government made a forceful, tenacious effort to do so. This would mean—as proponents of a nationalized insurance program have admitted—that Federal personnel would inevitably be approving the budgets of local hospitals, setting fee schedules for local doctors, and taking other steps which could easily lead to the complete Federal domination of all of American medicine. That is an enormous risk—and there is no need for us to take it. There is a better way—a more practical, more effective, less expensive, and less dangerous way—to reform and renew our Nation's health system.

CONFRONTING A DEEPENING CRISIS

"It is health which is real wealth," said Gandhi, "and not pieces of gold and silver." That statement applies not only to the lives of men but also to the life of nations. And nations, like men, are judged in the end by the things they hold most valuable.

Not only is health more important than economic wealth, it is also its foundation, it has been estimated, for example, that ten percent of our country's economic growth in the past half century has come because a declining death rate has produced an expanded labor force.

Our entire society, then, has a direct stake in the health of every member. In carrying out its responsibilities in this field, a nation serves its own best interests, even as it demonstrates the breadth of its spirit and the depth of its compassion.

Yet we cannot truly carry out these responsibilities unless the ultimate focus of our concern is the personal health of the individual human being. We dare not get so caught up in our systems and our strategies that we lose sight of *his* needs or compromise *his* interests. We can build an effective National Health Strategy only if we remember the central truth that the only way to serve our people well is to better serve each person.

Nineteen months ago I said that America's medical system faced a "massive crisis." Since that statement was made, that crisis has deepened. All of us must now join together in a common effort to meet this crisis—each doing his own part to mobilize more effectively the enormous potential of our health care system.

RICHARD NIXON.

THE WHITE HOUSE, *February 18, 1971.*

THE PRESIDENT'S MESSAGE ON HEALTH

Mr. JAVITS subsequently said: Since the introduction today of my National Health Insurance Act and Health Services Systems Act, I am pleased that the President's omnibus health message has been made public.

Included in the President's recommendations to achieve a comprehensive national health program are many provisions similar to those in the bills I have introduced today. I believe we in the 92d Congress have now marked the beginning of the end of a journey toward the fulfillment of one of the great social needs of our people—equal right to quality health care.

I am pleased that the President believes that we should not destroy our present private sector health insurance system, but improve it, for this is extremely important in the scheme of my bills—the concept of reliance upon the management talents, expertise, and experience of the health insurance industry to make a national health system work.

Essential to the strategy of my bills is the concept of establishing a commitment to provide Federal financial assistance, through grants and loans, to stimulate and develop comprehensive health service systems. Such comprehensive health service systems have a variety of forms and names and the President has applied the name HMO's—health maintenance organizations. I am deeply gratified that the President has recommended a program of grants and loans to help these HMO's start up and develop.

Another Presidential recommendation, similar to what I have proposed today, is the consolidation of the financing of part A of medicare, which pays for hospital care, and part B, which pays for outpatient service and the elimination of the monthly fee. This is done also by my bill.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. CHURCH. Mr. President, I have been asked by the distinguished Senator from Maine (Mr. MUSKIE) to announce that if he were present today he would have voted "aye," that he will be present to vote at the next vote on cloture, and he will vote "aye."

Mr. GRIFFIN. Mr. President, may we have order?

Mr. BYRD of West Virginia. Mr. President, the Senate is not in order.

The VICE PRESIDENT. The Senate will be in order.

Mr. CHURCH. Mr. President, I would like to announce for the information of the Senate that a second cloture motion will be filed on Friday and that a second attempt to limit debate will come next week, on Tuesday, and all Senators should be on notice.

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

Mr. CHURCH. I am happy to yield.

Mr. JAVITS. Mr. President, it is very significant that a constitutional question was not raised, that a majority having voted to close debate, and this matter being considered under the Constitution rather than under the existing rules of the Senate, debate should have been considered closed, thus calling for a ruling by the Vice President. I realize why it was not asked and I agree. I wish to make clear we do not consider any rights to have been waived nor do we wish to lull anyone to sleep and into thinking this question is foreclosed by the fact that the Vice President announced that this motion did not carry.

Is it not a fact that the proponents of this resolution still reserve their right to contest this question?

Mr. CHURCH. Mr. President, I would say to the Senator that whatever constitutional right resides in the Senate, in the opinion of the Senator from Idaho, can be asserted at any time, and that it is up to the Members of the Senate to decide whenever that question might be raised.

Personally I had hoped that it would be possible to act within the limits of the present rule, and that those opposed to any change whatever would at least permit the Senate to come to a vote on that question. I know there is a great reluctance in the Senate, a habit formed over the past century, not to limit debate and particularly on the first attempt. So it is my expectation, with 15 Senators absent today, the debate having gone on for 25 days, and the first attempt having been made and a second motion to be laid before the Senate at the end of the week, that on the second effort being made next week we will improve the vote, although clearly a substantial majority is in favor of limiting debate at the present time. Next week I hope we have an improved vote. But this certainly does not trespass upon any rights of the Senator from New York or others that they might wish to exercise at a later date to put the constitutional question to the test.

Mr. JAVITS. I thank the Senator.

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

Mr. CHURCH. I yield.

Mr. MANSFIELD. I wish to make clear for the RECORD that it is the understanding of the joint leadership that the distinguished senior Senator from Idaho has announced that on tomorrow he will file another cloture motion and that on Tuesday next, 1 hour after the convening of the Senate, there will be a vote on the second cloture motion in an attempt to cut off debate.

Mr. CHURCH. I thank the Senator.

Mr. FULBRIGHT. Does this mean that every 2 days from now on we will have a cloture motion filed?

Mr. MANSFIELD. Not necessarily. We will have to take things in stride.

I wish to commend the distinguished Senator from Idaho and the distinguished Senator from Kansas for operating within the rules of the Senate.

APPOINTMENTS BY THE CHAIR

The PRESIDENT pro tempore. The Chair, in accordance with the provisions of Public Law 91-510, appoints the Senator from New Jersey (Mr. CASE) and the Senator from Pennsylvania (Mr. SCHWEIKER) to the Joint Committee on Congressional Operations.

INTEREST RATES

Mr. BYRD of Virginia. Mr. President, one of the most encouraging signs in the economy during recent months has been the decline in interest rates.

Prime rates, which stood at 8½ percent in 1969, have now fallen to the point where many banks are offering 6 percent, and some have now reduced to 5¾ percent. The prime rate is generally taken to be the barometer of commercial banking.

It may be, however, that the fiscal policies of the Federal Government are working toward a reversal of the recent downward trend in interest rates.

I note that during the 4-month period from October 15, 1970, to February 15 of this year, the Government has sold $32 billion in short-term bonds and tax anticipation bill offerings.

A comparison of that figure with the figures for the corresponding periods of 1 year ago and 2 years ago makes an interesting pattern.

From October 15, 1968, to February 15, 1969, short-term bond issues by the Treasury totaled $29 billion.

That meant that the Government bid that much money out of the market, and that much less was available to meet private demand.

The interest rate picture during that period was this: from a level of 6½ percent in November 1968, the prime rate went up to 8½ percent by mid-1969.

A year later, the Government took a much smaller amount of money out of the market: from October 15, 1969, to February 15, 1970, the short-term bond issue total was only $15 billion.

And during the months following, interest rates declined, until today they are at 6 percent—lower than before the steep climb of 1968-69 began.

But the October-to-February bond issues of the Government for the current 1970-71 period were even greater than they were 2 years ago, when the drastic interest rate increases started.

The total of $32 billion for the period from October 15, 1970, to February 15, 1971, was $3 billion higher than the issues 2 years earlier—and it was nearly $18 billion greater than the period 1 year earlier.

Does that mean there will be a reversal in the downward trend of interest rates?

I do not know. I do not pretend to be an expert in high finance.

But I do know that economists consider that interest rates are the unmistakable and reliable barometer of inflation. Many economists consider them more reliable than the cost-of-living index.

I know, too, that if the law of supply and demand still is in effect, the withdrawal of $32 billion from the money market by the Federal Government certainly will not help to keep rates down.

Of course the reason for this heavy borrowing is the huge deficit we are incurring in Federal finances this year.

President Nixon has acknowledged that it will exceed $18 billion—and that is under the so-called unified budget, which unjustifiably includes trust fund surpluses in the general fund picture.

The real deficit for the current fiscal year, leaving the trust funds out, will be $25 billion—as great as the deficit incurred by the Johnson administration in fiscal 1968.

It is imperative that the Government put its financial house in order. If we are to make progress against inflation, we must control deficit spending.

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

The PRESIDING OFFICER. (Mr. STEVENSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORTS ON REAPPORTIONMENT OF APPROPRIATIONS

Two letters from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriations to the Veterans' Administration for "Compensation and pensions" and "Readjustment benefits" for the fiscal year 1971 have been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriations; to the Committee on Appropriations.

REPORT OF THE SECURITIES AND EXCHANGE COMMISSION

A letter from the Commissioner, Securities and Exchange Commission, transmitting, pursuant to law, a report of the Commission for the fiscal year ended June 30, 1970 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT BY THE COMPTROLLER GENERAL OF THE UNITED STATES

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report on the audit of Federal Deposit Insurance Corporation for the year ended June 30, 1970—limited by agency restriction on access to bank examination records (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE OFFICE OF WATER RESOURCES RESEARCH

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report of the Office of Water Resources Research for 1970 (with an accompanying report); to the Committee on Interior and Insular Affairs.

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session, the following favorable reports of nominations were submitted:

By Mr. BYRD of West Virginia (for Mr. HOLLING), from the Committee on Commerce:

James H. Wakelin, Jr., of the District of Columbia, to be an Assistant Secretary of Commerce;

Rear Adm. Don A. Jones, to be Director of the National Ocean Survey, National Oceanic and Atmospheric Administration;

Rear Adm. Harley D. Nygren, to be Director of the Commissioned Officer Corps, National Oceanic and Atmospheric Administration;

Robert M. White, of Maryland, to be Administrator of the National Oceanic and Atmospheric Administration;

Howard W. Pollock, of Alaska, to be deputy Administrator of the National Oceanic and Atmospheric Administration; and

John W. Townsend, Jr., of Maryland, to be Associate Administrator of the National Oceanic and Atmospheric Administration.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. JAVITS:

S. 836. A bill to provide a national health insurance program by extending the benefits, enlarging the coverage, expanding the role of private carriers, and otherwise improving the health insurance program established by title XVIII of the Social Security Act, by establishing a new title XX to such Act to provide comparable health insurance benefits to individuals not covered therefor under the program established by such title XVIII, by providing Federal assistance to develop local comprehensive health service systems, and by authorizing the establishment of federally chartered national health insurance corporations; to the Committee on Finance.

S. 837. A bill to amend the Public Health Service Act by establishing a new title X to such Act to provide Federal assistance to develop local comprehensive health service systems, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. SCOTT:

S. 838. A bill for the relief of Salvatore Butto;

S. 839. A bill for the relief of Carmela Verrecchia;

S. 840. A bill for the relief of Alfredo Giammatteo;

S. 841. A bill for the relief of Bee Ling Ang;

S. 842. A bill for the relief of Nasralla Aziz Barber (also known as Badry Barbar);

S. 843. A bill for the relief of Paola Falcetta, his wife Salvatrice Falcetta, and their daughter, Brigida Falcetta;

S. 844. A bill for the relief of Giustine Tucci;

S. 845. A bill for the relief of Giuseppe Zito;

S. 846. A bill for the relief of Antonetta Cella;

S. 847. A bill for the relief of Mamerto C. Comia;

S. 848. A bill for the relief of Maria Adela Foos;

S. 849. A bill for the relief of Giacomo Fiorello;

S. 850. A bill for the relief of Ibrahim Zakour Eskaf;

S. 851. A bill for the relief of Yung Suk Kang; and

S. 852. A bill for the relief of Sapat Mitrani; to the Committee on the Judiciary.

By Mr. GOLDWATER:

S. 853. A bill to establish a military medical college and to provide premedical courses at U.S. Service Academies; to the Committee on Armed Services.

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

By Mr. BOGGS:

S. 854. A bill for the relief of Keiko Toyoda; to the Committee on the Judiciary.

By Mr. COTTON (for himself and Mr. BOGGS, Mr. ROTH, Mr. PASTORE, Mr. PELL, Mr. SCHWEIKER, and Mr. THURMOND):

S. 855. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard Technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

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

By Mr. GURNEY (for himself, Mr. COOPER, Mr. BAKER, Mr. BOGGS, Mr. DOLE, Mr. FANNIN, Mr. PACKWOOD, Mr. SCOTT, Mr. THURMOND, Mr. TOWER, Mr. RANDOLPH, Mr. TUNNEY, Mr. HOLLINGS, Mr. EASTLAND, Mr. BENNETT, Mr. PASTORE, and Mr. BEALL):

S. 856. A bill to encourage States to establish junked motor vehicle disposal programs, and for other purposes to the Committee on Public Works.

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

By Mr. HARTKE:

S. 857. A bill to provide that individuals entitled to disability insurance benefits (or child's benefits based on disability) under title II of the Social Security Act, and individuals entitled to permanent disability annuities (or child's annuities based on disability) under the Railroad Retirement Act of 1937, shall be eligible for health insurance benefits under title XVIII of the Social Security Act.

S. 858. A bill to amend titles I, IV, X, XIV, and XVI of the Social Security Act to prevent recipients of assistance under programs established pursuant to such titles from having the amount of such assistance reduced because of increases in the monthly insurance benefits payable to them under title II of such act; and

S. 859. A bill to amend titles X and XVI of the Social Security Act to improve the programs of aid to the blind so that they will more effectively encourage and assist blind individuals in achieving rehabilitation and restoration to a normal, full, and fruitful life; to the Committee on Finance.

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

By Mr. BURDICK:

S. 860. A bill relating to the Trust Territory of the Pacific Islands; to the Committee on Interior and Insular Affairs.

By Mr. TALMADGE (for himself, Mr. GAMBRELL, and Mr. THURMOND):

S. 861. A bill to designate the Federal Office Building and U.S. Courthouse to be constructed in Atlanta, Ga., as the "Richard B. Russell Federal Building"; to the Committee on Public Works.

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

By Mr. NELSON:

S. 862. A bill to authorize the Secretary of the Interior to protect, manage, and control free-roaming horses and burros on public lands; to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS:

S. 863. A bill to extend certain benefits to National Guard technicians, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; and

S. 864. A bill to amend the Military Selective Service Act of 1967 to provide for the uniform application of the position classification and General Schedule pay rate provisions of title 5, United States Code, to all employees of the Selective Service System; to the Commitee on Armed Services.

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

By Mr. BYRD of West Virginia:

S. 865. A bill to amend title II of the Social Security Act to provide that monthly insurance benefits, when based upon attainment or retirement age, will be payable in full at age 62 and on an actuarially reduced basis at age 60; to the Committee on Finance.

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

By Mr. PACKWOOD:

S. 866. A bill to establish the French Pete Creek Intermediate Recreation Area; to the Committee on Interior and Insular Affairs.

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

By Mr. MONTOYA:

S. 867. A bill to create the Bureau of Consumer Protection and providing for the appointment of a director, and for other purposes; to the Committee on Government Operations.

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

By Mr. NELSON:

S. 868. A bill to amend the Fair Packaging and Labeling Act to require the disclosure by retail distributors of unit retail prices of packaged consumer commodities, and for other purposes; to the Committee on Commerce.

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

By Mr. RIBICOFF:

S. 869. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; referred to the Committee on Finance.

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

S. 870. A bill to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. TUNNEY (for himself, Mr. CRANSTON, and Mr. BAYH):

S. 871. A bill to provide for a national program of earthquake insurance; to the Committee on Banking, Housing and Urban Affairs.

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

By Mr. STEVENS:

S. 872. A bill to amend the Act entitled "An Act to establish a contiguous fishery zone beyond the territorial sea of the United States," approved October 14, 1966, to require that the method of straight baselines shall be employed for the purpose of determining the boundaries of such fishery zone, and for other purposes;

S. 873. A bill to amend the Fish and Wildlife Act of 1956 to authorize loans to fishermen's associations for certain purposes;

S. 874. A bill to amend the Fish and Wildlife Act of 1956 to authorize the Secretary of Commerce to make loans to associations of fishing vessel owners and operators organized to provide insurance against the damage or loss of fishing vessels or the injury or death of fishing crews, and for other purposes; and

S. 875. A bill to provide partial reimbursement for losses incurred by commercial fishermen as a result of restrictions imposed on domestic commercial fishing by a State or the Federal Government; to the Committee on Commerce.

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

By Mr. SPONG:

S.J. Res. 41. Joint resolution proposing an amendment to the Constitution of the United States with respect to the election of the President and Vice President of the United States; to the Committee on the Judiciary.

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

By Mr. GURNEY (for himself and Mr. CHILES):

S.J.Res. 42. Joint resolution to authorize the Administrator of the National Aeronautics and Space Administration to convey certain lands in Brevard County, Fla.; to the Committee on Aeronautical and Space Sciences.

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

By Mr. JAVITS (by request):

S.J. Res. 43. Joint resolution to provide alternate procedures to facilitate the settlement of the labor dispute between certain carriers by railroad and certain of their employees; to the Committee on Labor and Public Welfare.

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

By Mr. COOPER:

S.J. Res. 44. A joint resolution to extend the time for the proclamation of marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971; to the Committee on Agriculture and Forestry.

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

S. 853—INTRODUCTION OF A BILL TO ESTABLISH A UNIFORMED SERVICES UNIVERSITY OF HEALTH SCIENCES

Mr. GOLDWATER. Mr. President, today I am introducing legislation to establish a program leading to the construction and operation of a medical school for the uniformed military services. The proposal is offered as a Senate companion measure to H.R. 2, which has been introduced in the House of Representatives by the distinguished chairman of the House Armed Services Committee, Congressman F. EDWARD HÉBERT.

The need for the legislation arises out of the increasing difficulty in obtaining medical officers for the military. The problem is interrelated with the nationwide health manpower shortage, and the situation is going to get worse a long time before it gets better, if we follow the normal and present courses. It will be particularly accentuated once we develop an all-voluntary military service, and the

need for solutions is right now—before we reach the all-volunteer stage.

Mr. President, it is not commonly known, but the medical units of our Armed Forces have a patient population approaching 10 million individuals. Nearly 3 million of these persons are active duty personnel; and the others are civilians, generally the dependents of active duty personnel, or retired personnel and their dependents. In fact, half of the physicians now drafted are serving civilian patients.

It is not my purpose to challenge the vast size of the military's medical responsibilities. High quality medical care for dependents of active duty members and for retired members and their dependents is a very significant attraction leading to voluntary enlistments into the military services and career decisions by military personnel. In short, it is an indispensable element of the proposed voluntary military system.

The question rather is how we can obtain the professional medical personnel required to provide these promised health services. The answer is not found in any single solution, and the bill I present today is but one segment of the comprehensive approach which is demanded.

For example, one promising answer is to improve and expand the programs under which the education of doctors and dentists at civilian colleges is paid for by the Armed Forces in exchange for a commitment to serve in the military for a specified period of years.

Such a recommendation was made by the Gates Commission and would be implemented by one of the provisions included in the voluntary military proposal coauthored by the Senator from Oregon (Mr. HATFIELD) and myself. Also, I am told the Department of Defense plans to submit legislation aiming at the same end. The administration-backed measure will provide a substantial increase in the number of medical scholarships awarded in exchange for obligated military service. The President's 1972 fiscal year budget earmarks about $20 million for this program which will support at least 2,000 medical scholarships. To my mind, the President's request is an excellent and necessary step forward.

But as helpful as it will be, the scholarship program by itself will supply only about half the number of new physicians and dentists who are needed by the military each year. Other changes are clearly called for. Somehow we must attract a wider base of young physicians than the scholarship system is capable of achieving; and once they enter the service, we must induce more physicians to remain in the military.

Therefore, a second major solution in any program of fundamental changes must be increased pay for medical officers. For it is only in this way that we can significantly boost the retention of military doctors.

Even if it was not needed as an inducement, however, it is compelled as a matter of equity. In the words of the Gates Commission:

> No other group in our society has had such heavy relative demands placed upon it for military service.

Indeed, the doctors' draft has been so all-pervasive that 96 percent of all male physicians under 35 who are eligible for military service have served. All the while the Government has paid these doctors at less than 40 percent of their normal incomes.

Again, the legislation which the Senator from Oregon and I have drafted will seek to correct this injustice. Section 7 of our bill will make the special pay for physicians and dentists permanent and will increase the amount of their special pay by sums ranging from $150 a month in the case of officers with less than 2 years of active duty to $1,050 a month in the case of officers with 7 years of active duty. The cost of this program will be approximately $120 million annually.

A third change which may ease the medical manpower shortage in our military services is a shift of some portion of military patient care to civilian physicians. One way to accomplish this may be by substituting civilian physicians for military doctors under some form of group practice contract, and the volunteer military bill—which I have sponsored—will require that this approach be explored by the Secretary of Defense.

There is a fourth course of action, also, and it is contained in the bill I am introducing today. This is the establishment of a dual program of premedical courses at the service academies combined with the creation of a separate medical college for the military services.

The program I am suggesting looks to the long-range needs of the military forces and is a supplemental solution to, not a replacement for, the other changes I have discussed. The urgency of the military medical shortage demands a varied response.

The concept of building a special military medical school is designed to provide the services with a measure of self sufficiency in obtaining medical officers and in providing military medical education. We must not close our eyes to the growing antagonism at certain of our civilian universities toward military research, but should be providing for at least a minimum degree of Government operated education for prospective military medical officers.

What is more, many medical problems are unique to military conditions and are not adequately covered in civilian medical schools. Accordingly, the bill I introduce will authorize the military to establish their own medical college at a site picked by the Secretary of Defense within the metropolitan Washington area. The measure allows for a phased development of the institution, but sets a definite goal of the first class graduating within 10 years.

Along with the education provided to men attending the college will go the obligation that they shall serve their Government for at least 7 years. Eighty percent of the graduates will be required to serve on active duty with a military service and up to 20 percent may perform civilian Federal duty in lieu of active duty in a uniformed service.

In addition, the bill includes a provision requiring the Secretary of Defense to study and report on the feasibility of creating a medical college at one of the large military hospitals.

Further, the Secretaries of the military departments are directed to specifically provide for the improvement and expansion of premedical course programs at the service academies. The U.S. Air Force Academy has established a Department of Life Sciences which offers a premed course, and I am told it is eminently successful.

The Air Force program allows a maximum of 2 percent of the academy class to enter medical school immediately after graduation. At present there are 16 1970 graduates and 15 1969 graduates attending medical school. Their medical education is being subsidized in return for a service obligation which is in addition to their obligation for their academy education.

The U.S. Military Academy also offers courses which qualify cadets for admission to medical school. Two USMA graduates from the class of 1970 are now in medical school, and effective with the class of 1971, up to 1 percent of each graduating class may enter medical school.

The U.S. Naval Academy does not now have a program permitting a specified portion of their graduates to enter medical school, though I understand the Secretary of the Navy has placed that policy under review.

These undergraduate developments seem sensible and proper, and I think it is wise to move them along at an increased pace.

In closing, I will repeat my belief that any military medical program which Congress may enact must be a many-pronged attack on the basic problems. It must eliminate the doctor draft, it must increase compensation for military doctors and dentists, it must assure the continued provision of high quality medical care to military patients, and it must establish a self-supporting capacity whereby the military services can educate some percentage of their future medical officers. The bill I have offered today is one essential ingredient of any such comprehensive military medical system.

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

The bill (S. 853) to establish a military medical college and to provide premedical courses at U.S. services academies, introduced by Mr. GOLDWATER, was received, read twice by its title, and referred to the Committee on Armed Services.

S. 855—INTRODUCTION OF A BILL TO CORRECT CERTAIN INEQUITIES IN CREDITING NATIONAL GUARD TECHNICIAN SERVICE FOR CIVIL SERVICE RETIREMENT

Mr. COTTON. Mr. President, on behalf of myself and the Senators from Delaware (Mr. BOGGS and Mr. ROTH), the Senators from Rhode Island (Mr. PASTORE and Mr. PELL), the junior Senator from Pennsylvania (Mr. SCHWEIKER), and the senior Senator from South Carolina (Mr. THURMOND), I introduce a bill to correct certain inequities in the crediting of National Guard technician

service in connection with civil service retirement.

This bill is identical to S. 2031 of the 91st Congress, which I also introduced. When I submitted that previous measure, I pointed out that a retirement program had been established in the 90th Congress for the 41,000 National Guard technicians and that this action had helped retain these men who are often subject to attractive offers from private industry with superior retirement and fringe benefits. However, further improvements in their retirement program are warranted. This is the purpose of the bill I propose, and I call attention to the fact that it has the support of the association of National Guard civilian technicians at Peace Air Force Base in my own State of New Hampshire and the national association as well.

The men who serve our country as National Guard technicians are vital to the defense of this Nation. They deserve their full share of civil service benefits. I believe the equity of this proposal will result in favorable action by the Congress.

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

The bill (S. 855) to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes, introduced by Mr. COTTON (for himself and other Senators), was received, read twice by its title and referred to the Committee on Post Office and Civil Service.

S. 856—INTRODUCTION OF THE MOTOR VEHICLE DISPOSAL ASSISTANCE ACT

Mr. GURNEY. Mr. President, I introduce, on behalf of myself and Senators COOPER, BAKER, BOGGS, DOLE, FANNIN, PACKWOOD, SCOTT, THURMOND, TOWER, RANDOLPH, TUNNEY, HOLLINGS, EASTLAND, BENNETT, PASTORE and BEALL, a bill which would establish a "Motor Vehicle Disposal Assistance Act". This bill would afford a practical means of disposing of junked and abandoned motor vehicles. It would provide Federal financial assistance to the States to carry out programs approved by the Administrator of EPA to remove abandoned and junked motor vehicles which are an eyesore to our Nation.

Although we think of ourselves as a nation of consumers, in reality, we consume very little. Too often, we simply use an item until we decide it is no longer of value to our particular need and then discard it in the most personally convenient manner.

The junked motor vehicle is the most obvious and noticeable example of the solid waste disposal problem nationwide. As President Nixon said in his message to Congress on environmental quality a year ago:

> Few of America's eyesores are so unsightly as its millions of junk automobiles.

This environmental problem area includes the growing unsightly accumulation of junked automobiles, buses, and trucks encircling our cities, and scattered in fields and vacant lots in less populated areas.

In 1968, our motor vehicle manufacturing industry passed a significant milestone with the 250 millionth car coming off the assembly line. But as the size of our auto population grows, the number of vehicles becoming unusable and left abandoned also grows, and the Nation that relies on and enjoys the automobile is about to be overwhelmed by a proliferation of rusting hulks. We must realize now, that unfortunately, when old cars die, they do not fade away.

The dimensions of the problem are staggering. At the present time, there are a total of 105,403,557 registered motor vehicles in the United States. The Department of Transportation's Federal Highway Administration predicts that in 20 years—by 1990—there will be a total of 158.6 million registered cars, trucks and buses—a 51 percent increase over the 1969 total. The current annual retirement rate is approximately 7.9 million motor vehicles. The number of motor vehicles processed for scrap each year is between 6 and 7 million. Therefore, we can safely say that at least 1 million motor vehicles each year and perhaps more are added to the visible junkpiles around the country. Though nobody knows exactly how many rusting hulks are strewn across the American countryside, the current estimates run between 15 and 20 million.

This represents more than $1 billion of reusable metals. The number of motor vehicles in autowreckers' yards which have little or no parts value, added to the number of abandoned vehicles, added to the current number of motor vehicles annually retired which the scrap dealers do not process, comes to approximately 12 million rusted, unprocessed hulks which dot the landscape. Quite obviously, the scrap gap is widening.

Although discarded motor vehicle hulks constitute a small fraction of the waste disposal problem in terms of tonnage, they are higher in metal recycle value than most waste materials. The use of 1 ton of scrap eliminates the need for 1½ tons of iron ore, 1 ton of coke, and a half ton of limestone. Presently, American mills and foundries use from 60 million to 80 million tons of scrap annually. Without it, the iron and steel industry would have to rely entirely on dwindling supplies of American iron ore, coke, and limestone, or on imported ore from foreign mines. The export of scrap, averaging between 6 and 7 million tons a year, helps improve our Nation's balance of payments, for seldom are more than a few hundred tons of scrap imported in a year.

We must rid our Nation of the use and discard syndrome, for old motor vehicle hulks also represent a source of other valuable material for which our national need is likewise growing. Presently, 60 percent of all the rubber, 20 percent of all the steel, 10 percent of all the aluminum, over 7 percent of the copper, 13 percent of the nickel, 35 percent of the zinc, and over 50 percent of the lead consumed in the United States goes for automotive use.

Quite obviously, junk motor vehicles are truly a resource out of place. We must act now to take the necessary steps to recycle the ever-growing number of wornout hulks back into the steelmaking process at an increased rate—a move which would aid in changing our national eyesores into national assets. With this aim in mind, I am introducing a bill to establish a Motor Vehicle Disposal Assistance Act to provide aid to the States in retrieving junked motor vehicles and processing them for scrap.

This bill would offer Federal financial aid to the States and extracontinental territories administered by the United States to execute programs to remove junk motor vehicles from public thoroughfares, junkyards, and remote rural areas. Funds would be allotted to each State in an amount which bears the same ratio as the number of motor vehicles registered in such State bears to the number of such vehicles in all the States. The portion of any State's allotment for a fiscal year which will not be required will be reallotted no later than the 10th month of that fiscal year to other States in proportion to their original allotment.

Under this plan Federal regulations are to be established to spell out requirements for State participation. Such guidelines would include requirements to provide for the administration by a public agency in the State of a junked motor vehicle disposal plan to provide for the efficient removal to scrap processing facilities of junked motor vehicles. States would also provide an efficient means of transferring title of junked motor vehicles—or other evidence of ownership of such vehicles in States not requiring title certification—to public agencies or private business concerns charged with the responsibility of processing such motor vehicles.

The criteria established under the section on State plans will also include, after thorough study and evaluation by the Secretary of pertinent information available from authoritative sources—as DOT, HEW, Interior, Commerce, President's Council on Environmental Quality, the Institute of Scrap Iron and Steel—a description of the most efficient means of transporting junked motor vehicles as well as the average cost of such scrap transporting.

Payments under this act will be made from a State's allotment to any State agency which administers a plan approved by the Administrator of the Environmental Protection Agency. Payments from a State's allotment with respect to the cost of carrying out its State plan will equal 50 percent of the costs for any fiscal year. In other words, half will be Federal; the other half will be State. The Federal share for the total cost of carrying out this plan will be $25 million per year, for fiscal years 1972 through 1975.

Under this bill, and with Federal assistance, States will be able to shrink, or at least, begin to shrink the huge accumulation of junk hulks to nothing within a few years. The ultimate goal would be a smooth flow of old motor vehicles back into the steelmaking fa-

cilities without the intermediate stops on city streets, junkyard stockpiles or in woods off country roads. Unless this recycling occurs, we will soon find ourselves in a national crisis—buried in the effluents of our own affluence.

Mr. President, I feel this plan will assist the States in a two-fold fashion. First, it will aid the States, which in most cases lack the financial resources to carry on a meaningful program on their own initiative. Second, this financial assistance should provide the needed incentive to pass State legislation dealing with junked motor vehicles.

Mr. President, I realize my bill is not the be-all and end-all and I don't offer it as the final word or the final solution—but, I think it is a good working start and I feel that the hearings held on this bill in the 91st Congress pointed to this fact. I continue to be amendable to suggestions, modifications or improvements to my approach and I hope that the members of the Public Works Committee will view it in this light.

I have offered my bill at this time because I think it is a balanced, flexible, fundable, and easy to administer program, which fills a very real and pressing need. It is my sincere hope that some significant legislation will come out of this Congress to deal with this mounting problem of junked and abandoned motor vehicles.

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

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 856) to encourage States to establish junked motor vehicle disposal programs, and for other purposes, introduced by Mr. GURNEY (for himself and other Senators), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 856

Be is 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 "Motor Vehicle Disposal Assistance Act".

APPROPRIATIONS AUTHORIZED

SEC. 2. There is hereby authorized to be appropriated, not to exceed $25,000,000 for the fiscal year ending June 30, 1972, $25,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, and $25,000,000 for the fiscal year ending June 30, 1975.

GRANTS TO STATES

SEC. 3. The Administrator is authorized to make grants to States which have State plans approved by him, to pay the Federal share of the cost of carrying out motor vehicle disposal plans.

ALLOTMENTS TO STATES

SEC. 4. (a) From the sums available for the purposes of section 3 for any fiscal year, the Administrator shall allot not more than 2 per centum among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Canal Zone. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of motor vehicles registered in such State bears to the number of such vehicles in all States. For the purposes of this subsection, the term "State" does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Canal Zone.

(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Administrator determines will not be required to carry out the State plan for that fiscal year shall be reallotted not later than the tenth month in such fiscal year, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Administrator estimates such State needs and will be able to use for such period for carrying out its State plans approved under this Act, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(c) The number of motor vehicles registered in a State and in all States shall be determined by the Administrator on the basis of the most recent satisfactory data available to him.

STATE PLANS

SEC. 5. (a) Any State desiring to receive its allotment of Federal funds under this Act shall submit a State plan consistent with such basic criteria as the Administrator may establish. Such plan shall—

(1) provide for the administration by a public agency in the State of a junked motor vehicle disposal plan designed to provide for the efficient removal to scrap processing facilities of junked motor vehicles;

(2) provide assurances that a State law substantially in accordance with requirements established by the Administrator, after consultation with the Attorney General, has been enacted or will promptly be enacted by such State designed to provide an efficient means of transferring title of junked motor vehicles (or other evidence of ownership of such vehicles in States not requiring title certification) to public agencies or private business concerns charged with the responsibility of transporting such motor vehicles to scrap processing facilities;

(3) provide assurances that the State agency will pay from non-Federal sources the remaining costs of such program;

(4) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State agency (including such funds paid by the State agency to any agency of a political subdivision of such State) under this Act; and

(5) provide for making such reasonable reports in such form and containing such information as the Secretary may reasonably require to carry out his functions under this Act and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

(b) The Administrator shall approve any State plan and any modification thereof which complies with the provisions of subsection (a).

(c) Criteria established under this section shall include, after consideration by the Administrator of the latest and best information available, a description of the most efficient means of transporting junked motor vehicles, the average cost of such scrap transporting the requirements set forth in paragraph (2) of subsection (a), and other information as the Administrator deems relevant and necessary.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) In order to carry out the objectives of this Act, the Administrator is authorized to—

(1) promulgate such rules and regulations as may be necessary;

(2) appoint such advisory committees as he may deem advisable;

(3) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code; and

(4) use the services, personnel, facilities, and information of any other Federal department or agency, or any agency of any State, or political subdivision thereof, or any private research agency with the consent of such agencies, with or without reimbursement therefor.

(b) Upon request by the Administrator each Federal department and agency is authorized and directed to make its services, personnel, facilities, and information, including suggestions, estimates, and statistics available to the greatest practicable extent to the Administrator in the performance of his functions under this Act.

(c) Any agency or organization which receives assistance from a State under this Act shall make available to the Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, for purposes of audit and examination, any books, documents, papers and records that are pertinent to the assistance received by such agency or organization from the State under this Act.

PAYMENTS

SEC. 7. (a) Payments under this Act shall be made from a State's allotment to any such State agency which administers a plan approved under section 5. Payments under this Act from a State's allotment with respect to the cost of carrying out its State plan shall equal 50 per centum of such costs for any fiscal year. In determining the cost of carrying out a State's plan, there shall be excluded any cost with respect to which payments were received under any other Federal program.

(b) 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 to both.

WITHHOLDING OF GRANTS

SEC. 8. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a grant recipient under this Act, finds—

(1) that the program or project 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 project there is failure to comply substantially with any such provision;

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

DEFINITIONS

SEC. 9. As used in this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails. The Administrator may include classes of motor vehicles other than passenger automobiles from the definition of motor vehicle for the purpose of this Act upon a finding that to do so is in the public interest;

(3) the term "junked motor vehicle" means any motor vehicle which the owner desires to dispose of, including derelict motor vehicles;

(4) the term "derelict motor vehicle" means any obviously abandoned vehicle which has component parts missing, is inoperable, or is worth less than $100 in value;

(5) the term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

S. 857—INTRODUCTION OF A BILL TO AMEND TITLE XVIII OF THE SOCIAL SECURITY ACT TO INCLUDE DISABILITY BENEFICIARIES IN THE MEDICARE PROGRAM

Mr. HARTKE. Mr. President, although I believe the greatest legislative accomplishment of the 89th Congress was the establishment of the social security-based health insurance program for persons over the age of 65. I also believe that this program must not remain limited only to elderly persons.

Rather, I believe this program must be changed and so expanded that beneficiaries of social security-provided disability insurance payments may share in its benefits, may be included in the federal health insurance program.

To achieve this most worthwhile purpose, Mr. President, I am introducing a bill to provide that individuals entitled to disability insurance benefits (or child's benefits based on disability) under Title II of the Social Security Act, and individuals entitled to permanent disability annuities (or child's annuities based on disability) under the Railroad Retirement Act of 1937, shall be eligible for health insurance benefits under title XVIII of the Social Security Act.

Mr. President, just as the men and women who are elderly and retired on social security payments must live and manage on very limited income have a great need that their health care costs be met by the social insurance method, so, too, is it most necessary that the health care costs of those who must live and manage on limited income because they are disabled, because they are beneficiaries of the disability insurance program be met by the very same concept of social insurance enacted into Federal law.

For the limited income problem of the disabled insurance beneficiary is the very same as that of the retired elderly person—the amount of his payment is the same as the amount of the old age benefit for which he would be eligible if he were to retire.

It has been said, Mr. President, that older people, in general, have need for more medical and hospital care and less ability to pay for such care than is the case with younger persons.

It is equally true, Mr. President, that disabled persons with verified, medically determined disabilities, in general, have need for more medical and hospital care than retired persons who, though advanced in years, still may be robust and well.

It is equally true, Mr. President, that persons whose disabilities are chronic, are constantly in need of medical and hospital attention.

Mr. President, how do the disabled, living on a limited income of social security, pay for their health care costs now, when they are confronted by the shockingly high expenses of a sudden accident or a major illness, or the prolonged anguish of a terminal disease?

Some, of course, may have savings to draw upon—to pay doctors' and hospital bills, nurses's wages and druggists' charges. But, as you well know, Mr. President, savings, so long in building, soon disappear.

Savings, so slowly accumulated and so carefully hoarded for use to supplement insufficient social security payments, soon disappear.

Then, Mr. President, there are family reserves and the earnings of family members to draw upon—of course, the health care costs of the disabled can be imposed upon responsible relatives.

Finally, Mr. President, the disabled, beneficiaries of the Federal disability insurance program, faced with the disastrous financial consequences of impaired health or additional disabilities, may turn, in their grievous need, to charity—yes, for them there is always charity—there is always public welfare and private charity.

Mr. President, I reject these uneconomic and unsocial methods of meeting the health care costs of the retired elderly, and, with equal force and conviction, I reject them for paying the health care bills of disability insurance beneficiaries.

Mr. President, just as I supported the social insurance method for paying the price exacted for restored health and repaired bodies for the elderly, I urge its adoption for the disabled.

Just as I preferred the advanced payment with established rights method to the public or private charity method, or the responsible relatives method, for the elderly, I urge its adoption for the disabled.

My bill as Federal law would provide health care benefits to the disabled, benefits specified and described in Federal law and regulation rather than having such benefits dependent upon a social case worker's biased judgment or uncertain whim.

My measure as Federal law would provide health care benefits to disabled persons by right upon establishment of eligibility in accordance with requirements specified and described in Federal law and regulations, rather than have receipt of such benefits dependent upon a "means" test standard of proven poverty or demonstrated destitution.

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

The bill (S. 857) to provide that individuals entitled to disability insurance benefits (or child's benefits based on disability) under title II of the Social Security Act, and individuals entitled to permanent disability annuities (or child's annuities based on disability) under the Railroad Retirement Act of 1937, shall be eligible for health insurance benefits under title XVIII of the Social Security Act, introduced by Mr. HARTKE, was received, read twice by its title, and referred to the Committee on Finance.

S. 858—INTRODUCTION OF A BILL TO EXEMPT INCREASES IN SOCIAL SECURITY PAYMENTS IN THE U.S. SENATE

Mr. HARTKE. Mr. President, since the first enactment of the Social Security Act in 1935, Congress has acted many times providing for increases in social security payments.

Congress has taken these actions to raise the level of such payments, that aged and blind and other disabled beneficiaries might have more money in their monthly checks and be able to live better, to eat and cloth themselves better, to live in better circumstances.

Yes, many Congresses have acted to raise the level of social security payments, but far too often, the intended beneficiaries of congressional generosity have not benefited at all from such ameliorative legislation.

There are millions of social security recipients, Mr. President, whose social security checks are just not sufficient to allow them to live even at the lowest standard of decent and healthy living, so these vast numbers of people must supplement their totally inadequate income with public assistance, with veteran's compensation or with payments from private insurance plans.

And the structural nature of these supplemental income programs are such that as social security payments are increased, supplementary payments are decreased in the amount of the social security increase—thus, social security beneficiaries in large numbers are not one dollar better off, after an increase in social security payments has been passed by Congress than they were before.

Although I am concerned with the plight of social security recipients who get additional income from veteran's compensation and from private insurance plans, the bill I am introducing today, is particularly directed to help social security beneficiaries who also receive public assistance, for these are our most needy citizens, yet many of them fail to benefit at all when we in the Congress legislate increases in social security payments.

To understand the reason for this, requires an understanding of the operations of the Federal-State public assistance system:

When a person applies for aid, after consideration of various budgetary items—food, clothing, shelter, fuel, and similar necessaries—a dollar amount is determined upon and his total need is established—let us say, at $80 a month.

Then, available resources are ascertained—unexempt earnings, regular contributions from relatives, pensions, insurance, and other forms of fixed and regularly received income.

Social security payments, whether received because of retirement or disability, are classed as available resources.

Since public assistance is only intended as supplementary help—help provided in addition to available resources—social security payments are used to re-

duce the amount of public assistance grants.

So that the person who has an established need, according to public assistance standards, of $80 monthly, and who receives the minimum social security payment of $55, will be given a $25 monthly public assistance grant.

If this same person's social security payment should be raised from the present $55 to, let us say, $65, this rise in social security will have no value for this person.

It will only mean that, instead of his public assistance grant being $25 it will be $15 a month.

The person intended by Congress to be benefited by the social security payment increase will not benefit at all.

The State and county where the man lives, which provides his public assistance support, will be the only beneficiaries of the congressional generosity.

My bill would change this.

It would amend titles I, X, XIV and XVI—the public assistance titles of the Social Security Act—to exempt all increases in social security payments made subsequent to January 1, 1972, from consideration in determining a person's need for public assistance and the amount of aid he should receive.

This proposal, enacted into Federal law, would assure that increases in social security payments provided by Congress to improve and raise the living standards of elderly and disabled persons, would, in fact, be actually available to them as increased monthly income.

Nor is the concept which I propose of exempting certain income from consideration as an available resource when determining a person's need for public assistance a novel and startling concept to the Congress and to the Social Security Act.

Except that, Mr. President, previously adopted measures have only been half measures, and therefore, have almost totally failed to achieve the objective they were intended to further.

In the social security amendments of 1965, Mr. President, Congress acted as I now propose it act again—it provided that the social security increase of that year might be exempt up to $5 monthly from consideration in determining a person's public assistance need.

But, Mr. President, although, in 1965, Congress recognized the importance of providing for the $5 monthly exemption, it failed woefully to implement this recognition with effective legislation.

For it was left up to the States whether to exempt the $5 minimum increase in social security payments, and only 24 States have acted affirmatively in this matter.

Again in the 1967 social security amendments, it was the very same disappointing situation.

In the 1967 amendments to the Social Security Act, Congress authorized States to exempt up to $7.50 monthly of social security payments, and this time only nine States acted affirmatively.

Mr. President, my bill would do effectively what Congress did, ineffectively, both in 1965 and in 1967.

Mr. President, my bill as Federal law, would make sure that any proposed increase in social security payments would actually be received by social security beneficiaries, for my proposal would be mandatory on the States and not optional with them.

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

The bill (S. 858) to amend titles I, IV, X, XIV, and XVI of the Social Security Act to prevent recipients of assistance under programs established pursuant to such titles from having the amount of such assistance reduced because of increases in the monthly insurance benefits payable to them under title II of such act, introduced by Mr. HARTKE, was received, read twice by its title, and referred to the Committee on Finance.

S. 859—INTRODUCTION OF A BILL TO IMPROVE PROGRAMS OF AID TO THE BLIND

Mr. HARTKE. Mr. President, continuing my efforts to improve, through Federal legislation, the opportunities of needy blind persons who must depend for support upon publicly-provided programs of aid to the blind, I am introducing a bill containing several proposals to amend title X and title XVI of the Social Security Act.

Since my election to the U.S. Senate, Mr. President, it has been a particular privilege and, I believe, a particular opportunity for me to work with and for our sightless fellow citizens in their courageous struggle to achieve full and equal participation in all aspects and activities of our Nation's life.

Blind men and women throughout the country, join together in common cause in the National Federation of the Blind and working together in this organization toward the realization of common objectives and a shared philosophy—this organization and I, Mr. President, have joined forces to improve conditions and to equalize opportunities for all persons without sight in our nation.

One object of our labors has been the improvement of the Federal-State programs of aid to the needy blind, established under title X of the Social Security Act.

We, the blind, and I, have sought to make public assistance to the blind an adjunct to rehabilitation, a force to stimulate hope, to encourage initiative and effort, a means and a way of gaining restoration of self-sufficiency and independence.

It has been one of my greatest satisfactions as a U.S. Senator that some of the proposals I have sponsored have been accepted by Congress and are now Federal law—and because of this, blind men and women have received some measure of help as they strive so bravely and so determinedly to help themselves and to help each other.

Mr. President, although Congress has, on numerous occasions, indicated by its enactments that aid to the blind should be directed toward the goal of assisting blind persons to reduce or to entirely eliminate their dependence upon public welfare, to achieve self-support through the use of their talents and training—still, the ancient and outmoded concepts of the Elizabethan "poor laws" continue to oppress the needy blind and obstruct their efforts, making release from relief an almost unattainable possibility.

The bill I have introduced today would remove these unsocial and uneconomic roadblocks from the law and from the lives of blind people.

In summary, Mr. President, my bill would do the following:

Section 1 would not only require that the basic human needs of blind persons be met by the maintenance of standards compatible with decency and health by State programs of aid to the blind, but would also require that the specialized needs, the needs which blind persons have because they are blind, be fully met and provided for by such programs.

Section 2 would remove the length of time limitation—of 12 months obligatory and 36 months permissive—on the exemption of all income and resources of a recipient of aid to the blind having a State-approved rehabilitation plan for achieving self-support.

Section 3 provides the maximum amount for which a relative may be held liable to contribute to a needy blind person.

Section 4 would prohibit any State agency administering a federally supported program of aid to the blind from requiring recipients under such a program to subject their property to liens or to transfer their property to such agency as a condition for receiving aid and assistance.

Section 5 provides for a minimum public assistance payment, which would permit the satisfaction of basic needs, and, in addition, would recognize and allow for the satisfaction of the specialized needs resulting from the circumstances of blindness. This provision would also require that needs peculiar to an individual—diabetic diet, homemaker help, and so forth—be also adequately provided for by State programs of aid to the needy blind.

Section 6 provides that the social services which are to be made available to recipients of public assistance under the welfare amendments of 1962, shall be given only to persons who request them, that the amount of aid a person is entitled to receive in nowise shall be contingent upon his acceptance of social services, and that such services be defined and administered on a categorical basis.

Section 7 provides for an increase in the Federal financial participation in money payments to recipients of aid to the blind.

This proposed matching formula change would raise the present basic grant of $31 of the first $37 to $42.80 of the first $50; and it would raise the present matching ceiling from $75 to $100, with the variable grant formula determining an additional Federal share of 50 percent to 66 percent of the difference between $50 and $100.

Section 8 requires that any increase in Federal financial sharing in aid-to-the-blind payments intended to raise the level of money payments to recipients be given to States only upon the condition that the States will pass on the addi-

tional money to recipients without a reduction in the State's or the local share in such payments.

Section 9 prohibits the imposition of any durational residence requirement as an eligibility condition for receiving aid-to-the-blind payments.

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

The bill (S. 859) to amend titles X and XVI of the Social Security Act to improve the programs of aid to the blind so that they will more effectively encourage and assist blind individuals in achieving rehabilitation and restoration to a normal, full, and fruitful life introduced by Mr. HARTKE, was received, read twice by its title, and referred to the Committee on Finance.

S. 861—INTRODUCTION OF A BILL TO DESIGNATE U.S. COURTHOUSE AND FEDERAL OFFICE BUILDING IN ATLANTA, GA., AS THE "RICHARD B. RUSSELL FEDERAL BUILDING"

Mr. TALMADGE. Mr. President, I introduce a bill today to designate the U.S. courthouse and a Federal office building, to be constructed in Atlanta, as the "Richard B. Russell Federal Building."

I am very pleased that my colleague from Georgia, Senator DAVID H. GAMBRELL, has joined me in offering this legislation to honor the memory of our beloved departed colleague, the late senior Senator from Georgia, Richard Brevard Russell.

The new courthouse and Federal office building, authorized in the fall of 1966 by the Senate and House of Representatives, will house Federal courts for the northern district of Georgia and the Fifth U.S. Court of Appeals. It will also provide facilities for other Atlanta-based regional Federal agencies, such as offices of the Department of Agriculture, Department of Defense, General Services Administration, and 12 other agencies.

Naming this new facility for Senator Russell will be appropriate recognition of the leadership he provided in securing its authorization. Moreover, when constructed, it will stand as a permanent tribute to Senator Russell, without a doubt one of the most outstanding U.S. Senators of all time.

The U.S. courthouse and Federal office building in Atlanta, to be constructed at an estimated cost of $14 million, will be a 14-story, air-conditioned structure, with basement, subbasement, and interior parking for 230 automobiles. The overall building population is expected to be approximately 3,300 persons.

The Federal Northern District Court trial docket in Atlanta is the largest in the State of Georgia. The Fifth U.S. Court of Appeals, headquartered in Atlanta, has the largest case load of any circuit in the United States. Existing court and agency space in the present Post Office and Federal Courthouse building are totally inadequate and unsuitable. Current requirements are double that space being presently occupied.

I deem it a high honor to sponsor this legislation. I believe I can speak on behalf of all Georgians in saying that I hope this magnificent new Federal facility in Atlanta will be named for Senator Russell to honor his life and memory and the great service he rendered his State and Nation for half a century, including 38 years in the Senate. I also want to express the earnest hope that funds can be appropriated and construction begun on this building at the earliest possible time. It has already been demonstrated that the need is great.

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

The bill (S. 861) to designate the Federal Office Building and United States Courthouse to be constructed in Atlanta, Georgia, as the "Richard B. Russell Federal Building" introduced by Mr. TALMADGE (for himself, Mr. GAMBRELL, and Mr. THURMOND), was received, read twice by its title, and referred to the Committee on Public Works.

Mr. GAMBRELL. Mr. President, I would like to join with the distinguished senior Senator from Georgia in offering this bill for all the reasons that he gave and particulary with regard to the friendship and high regard that I have had for Senator Russell. It was my privilege, as president of the Atlanta Bar Association, in 1965 and 1966, to constitute a committee to work with Senators Russell and TALMADGE at that time to obtain the authorization for the construction of this magnificent facility in Atlanta. It is certainly a great privilege for me to join in sponsorship of this legislation.

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

Mr. GAMBRELL. I yield.

Mr. TALMADGE. I recall the genesis of this project during my colleague's presidency of the Atlanta Bar Association. I had the honor of meeting with the committee that had been appointed by the distinguished Senator from Georgia to give impetus to this project. I am happy those efforts are coming to fruition. I join with my colleague in his plea that the facility be named in honor of the late senior Senator from Georgia, Richard B. Russell, whose memory, I think, will be eminently honored by this magnificent structure in Atlanta, Ga.

Mr. GAMBRELL. I thank the Senator for his remarks and for all the efforts he has put into this project, bringing it into fruition.

S. 863—INTRODUCTION OF A BILL RELATING TO EQUITABLE PROMOTIONS AND RETIREMENT FOR NATIONAL GUARD TECHNICIANS

Mr. WILLIAMS. Mr. President, I am pleased to introduce again this year a bill that would correct several inequities of the 1968 National Guard Technicians Act. Under this law the National Guard Technicians were granted status as Federal employees. Accordingly, I feel they should share the benefits of retirement and promotion. This bill will establish a uniform merit promotion system for these skilled technicians. It would also provide an equitable retirement program. A technician over 50 years of age with 20 years of service can, with the approval of the Secretary of the Military Department and the Civil Service Commission, receive an annuity. This bill would make this annuity a right.

Mr. President, the inequality is clear and the need for the proposed legislation is apparent. I am very pleased to state that this legislation has received the endorsement of the National Federation of Federal Employees.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 863) to extend certain benefits to National Guard technicians, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes, introduced by Mr. WILLIAMS, was received, read twice by its title, referred to the Committee on Armed Services, and ordered to be printed in the RECORD, as follows:

S. 863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 709 of title 32, United States Code, is amended by adding at the end thereof the following new sentence: "The Secretary of the Army and the Secretary of the Air Force shall jointly establish and implement a uniform merit promotion program for technicians which shall apply in all States and the Commonwealth of Puerto Rico."

(b) Subsection (d) of such section 709 is amended by adding at the end thereof the following new sentence: "A technician may not be required to wear a military uniform while performing duties within the scope of his employment as a technician."

(c) Subsection (e) of such section 709 is amended by inserting "and" after the semicolon at the end of paragraph (4) and by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) A light of appeal to the adjutant general of the jurisdiction concerned exists with respect to paragraph (1), (2), (3), or (4) and if such appeal is made the adjutant general concerned shall make a written record of his decision and his findings supporting such decision. The technician concerned may appeal the decision by the adjutant general concerned to the Civil Service Commission in the manner provided for under chapter 77 of title 5, United States Code, with respect to adverse decisions affecting employees in the civil service. The adjutant general concerned shall take the corrective action which the Civil Service Commission finally recommends."

(d)(1) Paragraph (1) of subsection (g) of such section 709 is amended—

(A) by striking out "Secretary concerned may" and inserting in lieu thereof "Secretary concerned shall" and

(B) by striking out "may be fixed on an annual basis" and inserting in lieu thereof "shall be fixed on an annual basis".

(2) Paragraph (1) of such subsection (g) is further amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", except that such additional compensation shall be paid if such unusual or irregular duty or work on nonworkdays exceeds an average of eight hours per week. For the purpose of computing additional compensation, a technician shall be credited with twenty-four hours for each twenty-four hour period he is required to be at a missile site."

(3) Subsection (g) of such section 709 is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of law, any technician who is required to fulfill annual missile-firing requirements in order to qualify for his technician's position shall, during any calendar year, be granted appropriate military leave for the purpose of meeting such qualifications, and such military leave shall be in addition to any other annual military leave authorized by law or regulation in the case of such technician."

SEC. 2. (a) Section 8332(b) of title 5, United States Code, relating to creditable service for civil service retirement purposes, is amended by striking out the last sentence thereof which reads as follows: "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32, United States Code, on or after the effective date of the National Guard Technicians Act of 1968."

(b) Section 8334(c) of title 5, United States Code, relating to deposits for periods of creditable service for civil service retirement purposes, is amended by striking out the last sentence thereof which reads as follows: "Notwithstanding the foregoing provisions of this subsection, the deposit with respect to a period of service referred to in section 8332(b)(6) which was performed prior to the effective date of the National Guard Technicians Act of 1968 shall be an amount equal to 55 per centum of a deposit computed in accordance with such provisions.".

(c) Section 8336 of title 5, United States Code, is amended by adding the following new subsection at the end thereof:

"(h) A person performing service under section 709 of title 32, United States Code, who is separated from such service after becoming fifty years of age and completing twenty years of service in the performance of such duty is entitled to an annuity if the Secretary of the military department concerned recommends his retirement and the Civil Service Commission approves the recommendation."

(d) Section 8339 of title 5, United States Code, relating to computation of civil service retirement annuities, is amended by striking out subsection (1) thereof which reads as follows:

"(1) In determining service for the purpose of computing an annuity under each paragraph of this section, 45 per centum of each year, or fraction thereof, of service referred to in section 8332(b)(6) which was performed prior to the effective date of the National Guard Technicians Act of 1968 shall be disregarded.".

(e) Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; Public Law 90-486), relating to crediting of National Guard technician service for Federal employees' leave, death, and disability compensation, group life and health insurance, severance pay, tenure, and status, is amended by striking out the last sentence thereof which reads as follows: "This subsection shall apply only in the case of persons who perform service under section 709 of title 32, United States Code, on or after the effective date of this Act.".

(f) The foregoing provisions of this section (except subsection (c)) shall become effective as of January 1, 1969.

S. 864—INTRODUCTION OF A BILL RELATING TO CIVIL SERVICE STATUS FOR SELECTIVE SERVICE SYSTEM EMPLOYEES

Mr. WILLIAMS. Mr. President, I am today introducing a bill which would bring employees of the Selective Service System under the classified Civil Service.

In view of the proposed governmental reorganizations and the impending reconsideration of the Selective Service Act of 1967, we should endeavor to ensure that there are adequate safeguards to protect the employment security of these local employees.

Although selective service employees are Federal employees they have been denied many of the rights and benefits of other Federal employees. They are generally underpaid. The Selective Service System lacks the equity and order engendered by the Classification Act. More importantly they exist in the twilight zone between Federal and private employment. They enjoy the benefits of neither group.

This step to bring them under the provisions of the Classification Act is long overdue. Selective service employees should have the same opportunities other employees enjoy in connection with transfers, promotions, and other personnel action under the classified civil service system.

Mr. President, this is truly an inequitable situation. It is up to Congress to rectify this oversight. I ask unanimous consent that the bill be printed at this point in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 864) to amend the Military Selective Service Act of 1967 to provide for the uniform application of the position classification and General Schedule pay rate provisions of title 5, United States Code, to all employees of the Selective Service System; introduced by Mr. WILLIAMS, was received, read twice by its title, referred to the Committee on Armed Services, and ordered to be printed in the RECORD, as follows:

S. 864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) that part of section 10(b)(4) of the Military Selective Service Act of 1967 (50 App. U.S.C. 460(b)(4)) which precedes the words "That any officer on the active or retired list of the armed forces" is amended to read as follows:

"(4) to appoint, and fix, in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, the basic pay of such officers, agents, and employees (including employees of local boards and appeal boards) as he may deem necessary to carry out the provisions of this title: *Provided,*".

(b) Such section 10(b)(4) is further amended by striking out ": *Provided further,* That an employee of a local board having supervisory duties" and all that follows thereafter and inserting in lieu thereof a semicolon.

SEC. 2. The rate of basic pay of each employee in a position under a local board or appeal board of the Selective Service System on and immediately prior to the effective date of this section shall be adjusted, as of such effective date, as follows:

(1) If the rate of basic pay of such employee is equal to a scheduled rate of that grade of the General Schedule in section 5332 of title 5, United States Code, in which his position is placed, such rate of basic pay shall be the new rate of basic pay for such employee.

(2) If the rate of basic pay of such employee is less than the minimum scheduled rate of that grade of the General Schedule in which his position is placed, such minimum rate shall be the new rate of basic pay for such employee.

(3) If the rate of basic pay of such employee is between any two scheduled rates of that grade of the General Schedule in which his position is placed, the higher of such two rates shall be the new rate of basic pay for such employee.

(4) If the rate of basic pay of such employee is higher than the maximum scheduled rate of that grade of the General Schedule in which his position is placed, such rate of basic pay shall continue to be the rate of basic pay for such employee.

SEC. 3. The foregoing provisions of this Act shall take effect at the beginning of the first pay period which begins on or after the ninetieth day following the date of enactment of this Act.

S. 865—INTRODUCTION OF A BILL TO AMEND TITLE II OF THE SOCIAL SECURITY ACT

Mr. BYRD of West Virginia. Mr. President, I have been asked on some occasions to pinpoint the most important item facing this Congress. On each occasion I have answered that the enactment of meaningful social security legislation should be given the highest priority—that a 10-percent across-the-board increase in benefits should be passed, and that the increase in benefits should be accompanied by other reforms in the Social Security Act.

Therefore, Mr. President, I am today introducing a bill to amend title II of the Social Security Act to provide that monthly benefits, when based upon attainment of retirement age, will be payable in full at age 62 and on an actuarially reduced basis at age 60.

Throughout my more than 18 years in Congress, I have consistently worked and voted for legislation aimed at providing realistic benefits, and legislation designed to strengthen the structure, administration, and financing of the social security program. On previous occasions, in fact, I introduced bills and amendments to lower to 60 the age at which actuarially reduced benefits could be received.

The Senate has always given its approval to the legislation, but the House has never seen fit to agree. I believe, however, that the need for updated social security legislation is now clearly recognized by Members in both Houses of Congress, and I am hopeful that my bill will be enacted into law.

Mr. President, the social security system currently reaches over 26 million Americans, many of whom are totally dependent on the program for their existence. Yet, beyond these 26 million, there are other Americans who are being forced out of the labor market because of early retirement policies of many businesses and companies.

It is this group of citizens that my bill is aimed at assisting.

Lowering from 65 to 62 the age at which full benefits could be received would assist about 8 million citizens—that is the number that the Social Security Administration estimates would either receive larger benefits, or claim benefits for the first time. Of the 8 mil-

lion, 3.5 million would become eligible for the first time; and, of that number, an estimated 1 million persons would act to claim benefits in the first year. The Social Security Administration estimates the first-year cost at $2.6 billion, which means that providing full benefits at age 62 would increase the cost of the social security program by 0.8 percent of the taxable payroll.

In my home State of West Virginia, Mr. President, approximately 80,000 persons would receive larger or new benefits; and, of the 35,000 persons in West Virginia who would become eligible for the first time, an estimated 12,000 would claim benefits in the first year. The estimated initial increase for providing these West Virginians with full benefits at age 62 would amount to $25 million.

Under the provision of my bill allowing actuarially reduced benefits to be received at age 60, the Social Security Administration estimates that 3.5 million persons would become eligible. Of these, approximately 960,000 would claim benefits the first year, creating an initial cost of about $1 billion. But in the long run there would be no increased cost; it would balance out.

In West Virginia, approximately 11,000 persons would become eligible for actuarially reduced benefits if the age were lowered from 62 to 60. The increase in benefits for West Virginians would be about $11 million.

Mr. President, this bill would provide benefits for persons who need it most—citizens who have been forced to retire, or who, because of failing health, and so forth, would like to retire, but who have been unable to do so because the social security program does not yet cover them. These are people who have been paying into the program longest, and who deserve to have its provisions extended to cover them—and cover them now.

Mr. President, I hope the Senate will pass this bill, and that the House will concur.

Mr. President, I send my bill to the desk and I ask unanimous consent that it be printed in the RECORD and appropriately referred.

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

The bill (S. 865) to amend title II of the Social Security Act to provide that monthly insurance benefits, when based upon attainment or retirement age, will be payable in full at age 62 and on an actuarially reduced basis at age 60, introduced by Mr. BYRD of West Virginia, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 865

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1)(A) section 202(a)(2) of the Social Security Act is amended by striking out "62" and inserting in lieu thereof "60".

(B) Section 202(a)(3) of such Act is amended by striking out "65" and inserting in lieu thereof "62".

(2) Section 202(b)(1) of such Act is amended by striking out "62" wherever it appears therein and inserting in lieu thereof "60".

(3) Section 202(c) (1) and (2) of such Act is amended by striking out "62" wherever it appears therein and inserting in lieu thereof "60".

(4) (A) Section 202(f)(1)(B), (2), (5), and (6) of such Act is amended by striking out "62" wherever it appears therein and inserting in lieu thereof "60".

(B) Section 202(f)(1)(C) of such Act is amended by striking out "or was entitled" and inserting in lieu thereof "or was entitled, after attainment of age 62,".

(5) (A) Section 202(h)(1)(A) of such Act is amended by striking out "62" and inserting in lieu thereof "60."

(B) Section 202(h)(2)(A) of such Act is amended by inserting "subsection (q) and" after "Except as provided in".

(C) Section 202(h)(2)(B) of such Act is amended by inserting "subsection (q) and" after "except as provided in".

(D) Section 202(h)(2)(C) of such Act is amended by—

(i) striking out "shall be equal" and inserting in lieu thereof "shall, except as provided in subsection (q), be equal"; and

(ii) inserting "and section 202(q)" after "section 203(a)".

(6) (A) The first sentence of section 202(q)(1) of such Act is amended (i) by striking out "husband's, widow's, or widower's" and inserting in lieu thereof "husband's, widow's, widower's, or parent's", and (ii) by striking out, in subparagraph amended by striking out "65" and inserting in lieu thereof "62".

(B) Section 202(q) (2) of such Act is amended by striking out "65" and inserting in lieu thereof "62".

(C) (i) Section 202 (q) (3) (A) of such Act is amended (I) by striking out "husband's, widow's, or widower's" each place it appears therein and inserting in lieu thereof "huband's, widow's, widower's, or parent's", (II) by striking out "62' and inserting in lieu thereof "60", (III) by striking out "wife's, or husband's" and in inserting in lieu thereof "wife's, husband's, or parent's", and (IV) by striking out "65" and inserting in lieu thereof "62".

(ii) Section 202(q) (3) (B) of such Act is amended by striking out "or husband's" each place it appears therein and inserting in lieu thereof ", husband's, widow's, widower's, or parent's."

(iii) Section 202(q) (3) (C) of such Act is amended by striking out "or widower's" each place it appears therein and inserting in lieu thereof "widower's, or parent's".

(iv) Section 202(q)(3)(D) of such Act is amended by striking out "or widower's" and inserting in lieu thereof "widower's, or parent's".

(v) Section 202(q)(3)(E) of such Act is amended (I) by striking out "65" and inserting in lieu thereof "62", (II) by striking out "(or would, but for subsection (e)(1) in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he" and inserting in lieu thereof "(or would, but for subsection (e)(1), (f)(1), or (h)(1), be) entitled to a widow's, widower's, or parent's insurance benefit to which such individual was first entitled for a month before such individual", (III) by striking out "the amount by which such widow's or widower's insurance benefit" and inserting in lieu thereof "the amount by which such widow's, widower's, or parent's insurance benefit", and (IV) by striking out "over such widow's or widower's insurance benefit" and inserting in lieu thereof "over such widow's, widower's, or parent insurance benefit".

(vi) Section 202(q)(3)(F) of such Act is amended (I) by striking out "62" and inserting in lieu thereof "60", (II) by striking out "(or would, but for subsection (e)(1) in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he" and inserting in lieu thereof "(or would, but for subsection (e)(1), (f)(1), or (h)(1), be) entitled to a widow's, widower's, or parent's insurance benefit for which such individual was first entitled for a month before such individual", (III) by striking out "the amount by which such widow's or widower's insurance benefit" and inserting in lieu thereof "the amount by which such widow's, widower's, or parent's insurance benefit", and (IV) by striking out "over such widow's or widower's insurance benefit" and inserting in lieu thereof "over such widow's, widower's or parent's insurance benefit".

(vii) Section 202(q)(3)(G) of such Act is amended by striking out "62" each place it appears therein and inserting in lieu thereof "60".

(D)(i) Section 202(q)(5)(A) of such Act is amended by striking out "No wife's insurance benefit" and inserting in lieu thereof "No wife's insurance benefit to which a wife is entitled".

(ii) Section 202(q)(B) of such Act is amended by striking out "62" and inserting in lieu thereof "60".

(iii) Section 202(q)(5)(C) of such Act is amended (I) by striking out "woman" and inserting in lieu thereof "wife", and (II) by striking out "65" and inserting in lieu thereof "62".

(E)(i) Section 202(q)(6)(A) of such Act is amended by striking out "husband's, widow's, or widower's" and inserting in lieu thereof "husband's, widow's, widower's, or parents's".

(ii) Section 202(q)(6)(A)(i)(II) of such Act is amended by (I) by striking out "wife's insurance benefit" to which a wife is entitled", and (II) by striking out "or" at the end thereof and inserting in lieu thereof the following: "or in the case of a wife's insurance benefit to which a divorced wife is entitled, with the first day of the first month for which such individual is entitled to such benefit, or ".

(iii) Section 202(q)(6)(A)(i)(III) of such Act is amended by striking out "widow's or widower's" and inserting in lieu thereof "widow's, widower's, or parent's".

(F) Section 202(q)(7) of such Act is amended—

(i) by striking out "husband's, widow's, or widower's" and inserting in lieu thereof "husband's, widow's, or widower's, or parent's",

(ii) by striking out, in subparagraph (B) thereof, "wife's insurance benefits" and inserting in lieu thereof "wife's insurance benefits to which a wife is entitled", and

(iii) by striking out, in subparagraph (E) thereof, "widow's or widower's" and inserting in lieu thereof "widow's, widower's, or parent's".

(G) Section 202(q)(9) of such Act is amended to read as follows:

"(9) For purposes of this subsection, the term 'retirement age' means age 62."

(7) (A) The heading to section 202(r) of such Act is amended by striking out "Wife's or Husband's" and inserting in lieu thereof "Wife's, Husband's, Widow's, Widower's, or Parent's".

(B) Section 202(r)(1) of such Act is amended (i) by striking out "65" and inserting in lieu thereof "62", and (ii) by striking out "wife's or husband's" each place it appears therein and inserting in lieu thereof "wife's, husband's, widow's, widower's, or parent's".

(C) Section 202(r)(2) of such Act is amended (i) by striking out "65" and inserting in lieu thereof "62", and (ii) by

striking out "wife's or husband's" and inserting in lieu thereof "wife's, husband's, widow's, widower's, or parent's".

(b) Section 214(a)(1) of such Act is amended to read as follows:

"(1) one quarter of coverage (whenever acquired) for each calendar year elapsing after 1950 (or, if later, the year in which he attained age 21) and before the year in which he died or (if earlier) the year in which he attained age 62, except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage; or".

(c) The first sentence of section 215(b)(3) of such Act is amended to read as follows: "For purposes of paragraph (2), the number of an individual's elapsed years is the number of calendar years after 1950 (or, if later, the year in which he attained age 21) and before the year in which he died, or, if it occurred earlier but after 1960, the year in which he attained age 62."

(d) Section 215(f)(5) of such Act is amended to read as follows:

"(5) In the case of an individual who is entitled to monthly benefits for a month after June 1970, on the basis of the wages and self-employment income of an insured individual who prior to July 1970 became entitled to benefits under section 202(a), became entitled to benefits under section 223 after the year in which he attained age 62, or died in a year after the year in which he attained age 62, the Secretary shall, notwithstanding paragraphs (1) and (2), recompute the primary insurance amount of such insured individual. Such recomputation shall be made under the computation methods of this section, as amended by the Social Security Retirement Age Amendments of 1969, which would be applicable in the case of an insured individual who attained age 62 after June 1970."

(e)(1)(A) Section 223(a)(1)(B) of such Act is amended by striking out "sixty-five" and inserting in lieu thereof "62".

(B) Section 223(a)(1) of such Act is further amended by striking out "he attains age 65" and inserting in lieu thereof "he attains age 62".

(2) Section 223(a)(2) of such Act is amended by—

(A) striking out "(if a woman) or age 65 (if a man)",

(B) striking out "in the case of a woman" and inserting in lieu thereof "in the case of an individual", and

(C) striking out "she" and inserting in lieu thereof "he".

(3) Section 223(c)(1)(A) of such Act is amended by striking out "(if a woman) or age 65 (if a man)".

(f) Section 224(a) of such Act is amended by striking out "the age of 62—" and inserting in lieu thereof "the age of 60—".

(g) The first sentence of section 225 of such Act is amended by striking out "age 62" and inserting in lieu thereof "age 60".

(h) Subsections (b), (c), (f), and (g) of section 216 of such Act are each amended by striking out "62" and inserting in lieu thereof "60".

(i) Sections 209(i), 216(i)(3)(A), and 213(a)(2) of such Act are each amended by striking out "(if a woman) or age 65 (if a man)".

(j)(1) Section 216(i)(2)(B) of such Act is amended by striking out "65" and inserting in lieu thereof "62".

(2) Section 216(i)(2)(D) of such Act is amended by striking out "65" and inserting in lieu thereof "62".

SEC. 2. Section 3121(a)(9) of the Internal Revenue Code of 1954 is amended to read as follows:

"(9) any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of 62, if such employee did not work for the employer in the period for which such payment is made;".

SEC. 3. The amendments made by the first section of this Act shall apply with respect to monthly benefits under title II of the Social Security Act for months after June 1970. The amendment made by section 2 of this Act shall be applicable with respect to remuneration paid after June 1970.

SEC. 4. This Act may be cited as the "Social Security Retirement Age Amendments of 1969".

S. 866—INTRODUCTION OF A BILL TO ESTABLISH THE FRENCH PETE CREEK INTERMEDIATE RECREATION AREA

Mr. PACKWOOD. Mr. President, some 60 miles from Eugene, Oreg., in the Blue River district of the Willamette National Forest, is situated one of the most unique spots in the Oregon Cascades—French Pete. Thirty-nine square miles of unlogged, virgin, Oregon wilderness, named after an obscure shepherd who grazed his sheep in the rich valley. Sheep grazing was common there until about 1964.

In the mid-1860's fires had swept the area, leaving small pockets of older timber, sometimes ranging to over 400 years of age.

Last year, I introduced a bill to preserve this approximately 19,000-acre treasure, but Congress did not take action on the proposal, and it died with the adjournment of the 91st Congress. Today I am reintroducing that legislation on behalf of thousands of Oregonians who have expressed their desire to preserve this marvelous watershed. While Congress failed to take action last year on this bill, the people did take action, by thousands of handwritten, individually conceived, letters and cards to me, to the various newspapers, TV and radio stations in Oregon, and to many of my colleagues in Congress. The youth of Oregon took action. Nature's Conspiracy joined with the Save French Pete Committee, and some 500 University of Oregon students rallied to dramatize the importance of the issue involved. National headlines were inspired by this youthful grassroots support for preservation of a relatively small Oregon watershed.

In Washington, a decision to cut the timber was delayed by Forest Service, and a bill to preserve the area was introduced on the House side by the Honorable EDITH GREEN.

There is no doubt that the French Pete issue touched the hearts and the nerves of many Oregonians on both sides of the question. It roused dormant interest on both sides to spontaneous action; it caused many to take a stand they preferred not to take.

Mr. President, we have come upon a question in Oregon which is at the very core of the Environmental Protection Act. The French Pete issue must not be settled by one individual Federal agency, no matter how much we respect its integrity, when thousands of people are lined up on the opposite side of the question. The recent NBC nationwide production, "The American Wilderness," documented the magnitude of interest in this issue. We in Congress simply must provide the platform for honest, open debate on the question, by an open congressional hearing, and I am so requesting the distinguished chairman of the Senate Interior and Insular Affairs Committee to make this possible.

Mr. President, I ask unanimous consent to have the entire text of my bill printed in the RECORD.

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

The bill (S. 866) to establish the French Pete Creek Intermediate Recreation Area, introduced by Mr. PACKWOOD, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to develop, protect, and preserve for the use and enjoyment of present and future generations the area known as French Pete Creek Drainage, located within the Blue River Ranger District, Willamette National Forest, State of Oregon, such area is hereby established as the French Pete Creek Intermediate Recreation Area.

(b) The French Pete Creek Intermediate Recreation Area shall be administered by the Secretary of Agriculture in accordance with the provisions of this Act and the laws relating to the national forests. Within such area, there shall be no (1) road construction or timber harvest activities of any kind; (2) use of motor vehicles, motorized equipment, motorboats, or other form of mechanical transport; or (3) structures or installations; except as necessary to meet minimum requirements in connection with the purposes for which such area is administered (including measures required in emergencies involving the health and safety of persons within such area, and the removal of dead trees which create a fire hazard).

(c) Notwithstanding the provisions of subsection (b) of this section, the Secretary of Agriculture may provide for trail construction, primitive walk-in campsites, trail bridges, sanitary facilities, and other necessary facilities to further the purposes for which such area is administered. The lands within the recreation area established by this Act, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws.

SEC. 2 The Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the provisions of this Act.

SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 867—INTRODUCTION OF A BILL TO CREATE THE BUREAU OF CONSUMER PROTECTION

WHY WE MUST CREATE A SEPARATE CONSUMER PROTECTION AGENCY

Mr. MONTOYA. Mr. President, there are many different kinds of pollution. Each affects a different portion of our total environment. The marketplace where America shops for goods and services is polluted by questionable merchandise and practices. We require protection against these as well as against bad water and impure air.

The overwhelming majority of our manufacturers, businessmen, and repair people are scrupulously honest. A few, however, busily engaged in defrauding consumers and are muddying the waters for all of us, stirring up a cry for overdue action on the part of Congress.

Consumer protection is not merely a catchword. It has become a reality or a desperately desired necessity for millions of citizens. Our needs fall into several major categories.

First, there is enforcement of existing laws passed by the Congress. We have placed some very significant pieces of legislation on the books, and the people of the Nation have a right to expect conscientious enforcement of these laws.

I include in this category measures such as the Wholesome Meat Act, Wholesome Poultry Act, Flammable Fabrics Act, Truth-in-Lending, Truth-in-Packaging, Safe Toy Act, Poison Prevention Packaging Act, and several others. It is a sad fact of life today in the marketplace that a good many of these measures are not being enforced. This cannot be denied. It is one of the scandals of the Federal Government and its consumer protection structure. No evasions can avoid the guilt for this shameful state of affairs. Mr. President, the Nation desperately needs a central consumer protection agency within the Federal Government that will make it its business to oversee the enforcement of these laws.

It is absolutely certain that these measures I have already listed are but the cutting edge of major institutional reforms in the consumer protection area. In this Congress and in the years to come, it is virtually certain that major pieces of consumer protection legislation will be placed on the statute books by an aroused Congress motivated by an outraged public. Investigations are already afoot in several areas where reform has been badly needed for years. Auto insurance immediately suggests itself. Warranties and guarantees come to mind, also. Life insurance is another industry where a good long look around is merited. Auto safety cries out for Federal action, as does tire safety, clean fish, dating of foods and other perishables. And this is only the most partial listing of evils and abuses that have affected major portions of the consuming public.

It is not enough to deplore. It is not enough to solemnly condemn it and look to industry to police itself. In some cases, this will occur. In most instances, reform will only come after a national legislative initiative has been taken.

For this series of reasons, I believe we must have an independent agency within the Federal Government committed to consumer protection. I am therefore introducing today S. 867, the Consumer Protection Act of 1971. The bill would set up such an independent agency, to be called the Bureau of Consumer Protection. It is identical to S. 3165, which I introduced on November 20, 1969, during the first session of the 91st Congress. There have been attempts made to water down this concept. None have succeeded because none of the substitutes would do the job which now is required. Nevertheless, debate on this and several substitutes will, in all probability, mark this Congress.

Mr. President, the Senate passed on December 1, 1970, Senator RIBICOFF's measure, S. 4459—the Consumer Protection Organization Act of 1970. However, this valuable progressive measure died with adjournment of the 91st Congress because of the absence of final action on the part of the House of Representatives.

I understand that H.R. 14, recently introduced in the House, is the equivalent of this measure—the same as the one introduced in that body during the 91st Congress. One significant difference to be noted between the measure I am introducing here today and the House measure is that the House measure establishes an Office of Consumer Affairs in the Executive Office of the President. A similar office now exists in the form of Mrs. Knauer's office.

With all due respect to the efforts of Mrs. Knauer, I feel that such an office can be most effective when acting as an independent agent of the consumer. It must be an independent bureau rather than part of the Executive Office of the President. It must have responsibility to the consumer rather than primarily to the President. Independence is the key to effective Federal consumer protection. Without it, there will be no enforcement of any law, no matter how stringent its provisions. I made this point last year in testimony before the Subcommittee on Executive Reorganization and Government Research of the Senate Government Operations Committee.

During the first session of the 91st Congress, the President recommended to Congress establishment of a new White House Consumer Affairs Office. Such an office, together with a sub-Cabinet consumer protection unit within the Department of Justice, would supposedly provide adequate protection for the Nation's consumers. This proposal has proven out to be highly unsatisfactory. Once again, it must be asserted that consumer protection on a Federal level must be based in an independent agency in order to be viable, credible, and effective. Diffusing it in the manner described would only have the effect of diluting what power could be delegated to it.

Since that time, the administration has not seen fit to submit updated consumer protection proposals to the Congress. It has been suggested that this has been the case because of the Government reorganization plans which are under study.

The measure I have today reintroduced is badly needed, as most authorities in the field readily concede. There must be a central concentration point for the consumer protection effort. Existing regulatory agencies, such as the FTC, have come into nationwide disrepute in recent years. This has been because they have not utilized their powers of regulation effectively and consistently to protect the public. There is no reason to believe that giving one or another of them the kind of power needed to protect the consumer would lead to any radical new departure on their part.

What we must do now is utilize our knowledge of marketplace evils and consumer demands to creat a viable agency that can and will respond. This bill would effectively do just that. It is to be hoped that we will press forward in order to reach that goal.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the contents of my bill.

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

The bill (S. 867) to create the Bureau of Consumer Protection and providing for the appointment of a director, and for other purposes; introduced by Mr. MONTOYA, was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the RECORD, as follows:

S. 867

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 "Consumer Protection Act of 1971."

BUREAU OF CONSUMER PROTECTION

SEC. 2. (a) There is hereby established an independent agency in the Federal Government to be known as the Bureau of Consumer Protection, hereinafter referred to as the "Bureau". The Bureau shall be headed by a Director who shall be appointed by the President by and with the advice and consent of the Senate. There shall also be in the Bureau a Deputy Director who shall be appointed by the President by and with the advice and consent of the Senate. The Deputy Director shall perform such duties as the Director may designate, and during the absence or incapacity of the Director, he shall act as Director.

(b) The compensation of the Director of the Bureau shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Director of the Bureau of the Budget.

(c) The compensation of the Deputy Director of the Bureau shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Bureau of the Budget.

(d) There shall be in the Bureau a General Counsel (referred to herein as the "Consumer Counsel") who shall be appointed by the President by and with the advice and consent of the Senate. The Consumer Counsel shall perform such duties as the Director may direct. The Consumer Counsel shall also act as Director during the absence or incapacity of the Director and Deputy Director and may be designated by the Director to act as Deputy Director during the absence or incapacity of the Deputy Director.

(e) Except as hereinafter provided in this section, the Director and the Deputy Director shall hold office for fifteen years. The Director shall not be eligible for reappointment. The Director or the Deputy Director may be removed at any time by joint resolution of Congress after notice and hearing, when, in the judgment of Congress, the Director or Deputy Director has become permanently incapacitated or has been inefficient, or guilty of neglect of duty, or of malfeasance in office, or of any felony or conduct involving moral turpitude, and for no other cause and in no other manner except by impeachment. Any Director or Deputy Director removed in the manner provided in this section shall be ineligible for reappointment to that office.

(f) The Director, under such rules and regulations as the President may prescribe, shall appoint attorneys and other employees

and shall make whatever expenditures may be necessary to administer the Bureau and to carry out its mission within the appropriations made therefor.

FUNCTIONS

SEC. 3. In order to protect the interests of consumers in the United States the Bureau is authorized to perform the following functions:

(a) to coordinate the activities of all Federal departments concerned with matters affecting the interests of consumers and, where necessary, to submit such reports and make such proposals to the President to eliminate overlap, conflict or other problems tending to interfere with the Government's overall program on behalf of or in the interest of consumers;

(b) to represent the viewpoint of consumers of goods and services within the United States in the formulation and implementation of policies of the Government of the United States and of the several States which affect the economic and other interests of consumers;

(c) to establish and staff consumer centers in major population centers to facilitate the presentation of grievances by consumers, to advise consumers of methods available to them to resolve said grievances and to identify and recommend legislative or executive solutions to problems affecting substantial numbers of consumers; except that nothing contained herein shall be construed as a requirement that such a consumer center be established in any case where the State or local government has established a similar instrumentality to perform the functions enumerated in this section, but in any case standing the establishment of such a local or State instrumentality to perform functions enumerated in this section, to establish a consumer center, the duties and functions of said consumer center shall be limited in order to avoid conflict and duplication with those being performed by the State or local instrumentality;

(d) to receive, evaluate, and negotiate voluntary adjustments of complaints of consumers concerning consumer products and services and trade practices detrimental to the economic and other interests of consumers, and to receive, evaluate, and negotiate the voluntary adjustment of complaints of consumers with Government agencies of the United States and of the States;

(e) to collect, coordinate, and disseminate in appropriate form information compiled by other Federal agencies or departments relating to the safety, performance, and quality of consumer goods and services;

(f) to encourage, support, and coordinate research leading to improved products, services, and consumer information;

(g) to initiate programs and encourage the expansion of existing consumer education programs at all school levels and through adult continuing education programs and to encourage, assist, and coordinate neighborhood consumer counseling services, except that the execution and administration of such programs shall be conducted through the facilities of State and local governments where, in the discretion of the Director, the State or local programs are determined to adequately meet the needs of the consumer for such programs;

(h) to provide technical assistance to State and local government agencies engaged in consumer programs;

(i) to assist State and local governments in the enactment of laws designed to provide greater protection to all consumers where such assistance is requested by the State or local government; and

(j) to encourage and assist representatives of commerce and industry in their efforts to undertake programs designed to provide higher quality products and better service for consumers generally.

CONSUMER PROTECTION

SEC. 4. (a) Whenever there is pending before any regulatory agency of the United States (as defined by subsection (f) of this section) any matter or proceeding which does not involve the adjudication of the alleged violation, by any individual or corporation named as a defendant or respondent therein, of any statute of the United States or any rule promulgated thereunder, and the Director finds that the determination of such matter or proceeding may affect substantially the interests of consumers within the United States, the Director shall be entitled as a matter of right to intervene in such matter or proceeding as a party to represent the interest of consumers by filing with such agency a duly certified copy of the finding so made by the Director. Upon any such intervention, the Director, through the Consumer Counsel or any other employee of the Bureau designated by the Director for that purpose, shall present to such regulatory agency, in conformity with the rules of practice and procedure thereof, such evidence, briefs, and argument as it shall determine to be necessary for the effective protection of the interests of such consumers.

(b) Whenever—

(1) there is pending before any regulatory agency of the United States any matter or proceeding relating to the trade or commerce of the United States which does involve the adjudication of the alleged violation, by any individual or corporation named as a defendant or respondent therein, of any statute of the United States, or any rule promulgated thereunder, or

(2) there is pending before any district court of the United States any matter or proceeding involving the trade or commerce of the United States to which the United States or any regulatory agency of the United States is a party,

the Director upon his own motion may, and upon written request made by the officer or employee of the United States or such regulatory agency who is charged with the duty of presenting the case for the Government in that matter or proceeding shall, certify to such officer or employee all evidence and information in the possession of the Bureau relevant to that matter or proceeding.

(c) Whenever there is pending before any appellate court of the United States any matter or proceeding involving the review of—

(1) an order or determination made by any regulatory agency of the United States relating to the trade or commerce of the United States, or

(2) any judgment, decree, or order entered by a district court of the United States in any civil action involving the trade or commerce of the United States, and the Director finds that the action taken by the appellate court upon such review may affect substantially the interests of consumers within the United States, the Director, subject to the rules of practice and procedure of such appellate court, may make application to that court for leave to file in such matter or proceeding a brief as amicus curiae, or to present to the court oral argument therein, or both, except that no such application may be filed by the Director without the consent of the Attorney General in any matter or proceeding (A) to which the United States or any regulatory agency of the United States is a party, or (B) in which the Attorney General has been granted leave to intervene on behalf of the United States or any regulatory agency of the United States. Upon the filing by the Director of such application, supported by a duly certified copy of the finding so made by the Director and such other showing as the court may require to demonstrate that the action taken upon such review may substantially affect the interests of consumers within the United States, the appellate court in its discretion may grant such application.

(d) Whenever there is pending before any department or independent agency of the United States any matter or proceeding relating to the trade or commerce of the United States which does not involve the adjudication of the alleged violation, by an individual or corporation named as a defendant or respondent therein, of any statute of the United States, or any rule promulgated thereunder, and the Director finds that the determination of such matter or proceeding may affect substantially the interests of consumers within the United States, the Director shall be entitled as a matter of right to intervene in such matter or proceeding as a party to represent the interest of consumers by filing with such agency a duly certified copy of the finding so made by the Director. Upon any such intervention, the Director shall present to such agency, in conformity with the rules of practice and procedures thereof, all evidence and information in the possession of the Bureau relevant to that matter or proceeding.

(e) The Consumer Counsel, or any other Attorney of the Bureau specially designated by the Director for that purpose, shall be entitled to enter an appearance on behalf of the Director before any court (except the United States Supreme Court) or regulatory agency of the United States, without other compliance with any requirement for admission to practice before such court or agency, for the purpose of making any application or taking any action which is authorized by subsection (a), (b), (c), or (d) of this section.

(f) For the purposes of this Act the term "regulatory agency" includes any agency, board, commission, or other institution within the Federal Government which is charged with administrative or regulatory duties with respect to trade or commerce of the United States.

STUDIES AND CONSUMER COMPLAINTS

SEC. 5. (a) It shall be the duty of the Bureau and its consumer centers to conduct studies, and to receive and evaluate complaints from consumers of the United States without regard to membership in the Council, concerning—

(1) consumer products and commercial and trade practices employed in the production, distribution, and furnishing of goods and services to or for the use of consumers which may be detrimental to their economic or other interests; and

(2) governmental action or inaction on the part of Government agencies of the United States and of the States detrimental to the economic or other interests of consumers.

(b) Upon receipt of any complaint disclosing the distribution of a product, the rendering of a service, or the use of any commercial or trade practice detrimental to the economic or other interests of consumers within the United States in any consumer products industry or by any producer, distributor, or supplier of consumer goods or services, or governmental action or inaction detrimental to the economic or other interests of consumers, which in the opinion of the Bureau does not violate any law of the United States or any State, the Bureau or a consumer center may undertake to provide for the adjustment of that complaint with the consent of the parties to the controversy through voluntary negotiation or arbitration. If in the opinion of the Bureau such practice is in violation of any law of the United States or any State, the Bureau shall refer the complaint to the Government agency whose regulatory or other authority provides the most effective available means to obtaining appropriate relief or to proceed against such violation of law.

(c) If the Bureau finds that no equitable voluntary adjustment of the complaint can be obtained, that no public law has been

violated or if violated the Government agency having jurisdiction to enforce the law violated fails to act or is dilatory in action, that in its opinion legal remedial action is available by individual or class action for relief, and the matter involved in the complaint has sufficient economic effect upon consumers generally, the Bureau, subject to applicable statutes and rules of practice and procedure, may (1) furnish legal and other assistance necessary to the filing and prosecution of an appropriate remedial action in a State or Federal court of competent jurisdiction, or (2) institute and prosecute a class action to obtain appropriate civil relief for the benefit of a designated class of consumers.

CONSUMER INFORMATION

SEC. 6. (a) Under such regulations as the President may prescribe, the Director may request and shall receive from any Federal department or agency such information as he may from time to time require.

(b) The Director, or any employee of the Office acting for and on behalf of the Director, shall receive from consumers and evaluate complaints concerning trade or commercial practices or other matters which may adversely affect consumers and shall take whatever action may be appropriate to resolve the complaint or other matter, including, but not limited to, referral to an appropriate Federal, State, or local agency. If no agency exists to which the particular matter can be referred or the agency to which a matter is referred fails or refuses to take action in connection with said matter, or any part thereof, the Director may provide conciliation or mediation services or, if the parties agree, final and binding arbitration.

(c) The Director shall have for any of the purposes described in section 3 the authority to gather and compile information from governmental and nongovernmental sources and, where appropriate, shall analyze and make such information available in appropriate form to the public or other governmental agencies.

(d) For the purposes of conducting surveys and investigations under this Act, the Director shall have all powers which are conferred upon the Federal Trade Commission by section 9 of the Federal Trade Commission Act with respect to the conduct of investigations made by that Commission under that Act, except that the Director may not grant to any person any immunity from prosecution, penalty, or forfeiture in accordance with the provisions of that section without first obtaining the written consent of the Attorney General and serving upon such person a duly certified copy of any consent therefor granted by the Attorney General. The provisions of section 10 of the Federal Trade Commission Act shall apply to the act or omission of any person, partnership, or corporation with regard to any subpena, order, requirement, or information of the Director to the same extent, and with the same effect, as if such act or omission had occurred with regard to a like subpena, order, or requirement, or with reference to like information, of the Federal Trade Commission.

ANNUAL REPORT

SEC. 7. The Director shall transmit to the Congress in January of each year a report which shall include a comprehensive statement of the Bureau's activities, including a summary of the major problems confronting the Bureau, methods utilized in dealing with such problems, recommendations for additional legislation necessary or desirable to protect consumer interests, recommendations for organizational changes within the executive branch to provide more efficient service to the consumer, and such other information as the Director may deem pertinent to the mission of the Bureau, or as Congress may require.

APPROPRIATIONS

SEC. 8. There are hereby authorized to be appropriated to the Bureau such sums as may be required to carry out the provisions of this Act.

S. 868—INTRODUCTION OF A BILL RELATING TO IMPROVING THE TRUTH-IN-PACKING ACT

Mr. NELSON. Mr. President, today I am reintroducing a proposal which was first presented in the 91st Congress, which would relieve shoppers of the burden of having to be mathematicians when they go to the supermarket.

This bill is a modified version of the one introduced on March 7, 1969, as S. 1424. An identical companion bill is being introduced this week in the House of Representatives by Representative BENJAMIN ROSENTHAL of New York. Passage of this legislation would finally give this Nation's shoppers a real opportunity for comparative shopping—to be able to determine which product actually is the least expensive.

Consumer studies taken since the enactment of the Truth-in-Labeling Act have shown that this law has not succeeded in eliminating deception and confusion from the marketplace.

Despite the intent of Congress in 1966 to remove deceptively packaged products from supermarkets and stores, consumers today must still be mathematicians before they can select the best bargain from among the vast variety of odd-sized packages on the market.

It is virtually impossible for shoppers to compare prices when they are confronted for instances by 32 different choices of pancake mix in 13 different sized packages at 21 different prices.

This proposal would amend the 1966 Fair Packaging and Labeling Act to require posting of the price per unit of consumer commodities, including food, household goods, drugs, and cosmetics. This price per unit could be either affixed to the label of the particular commodity, or displayed on a sign in close proximity to the point of display.

For example, a 60-cent package of pancake mix, containing 42 ounces, would be priced not only at 60 cents but also at 23 cents per pound. Products would be priced on a per ounce or pound basis for solid commodities, per ounce, pint, or quart for fluids, and per unit for items like napkins.

This legislation is vitally needed because the Fair Packaging and Labeling Act of 1966 is not really giving the aid to consumers that Congress had hoped. Congress and the proponents of that act placed in it a provision that every consumer commodity be labeled both in terms of ounces, and, if applicable, in pounds for weight units. Similar requirements apply for volume packages as well as for liquid measure. Thus, on consumer packages today, a package contains a label stating its weight of 1 pound 7 ounces and also a total weight of 23 ounces.

It was hoped in 1966 that the act would enable consumers to make better comparisons of packages than had been possible with only one form of weight stated on the package. In urging passage of the Fair Packaging and Labeling Act of 1966, President Johnson pointed out that:

> Practices have arisen that cause confusion and conceal information even when there is no deliberate intention to deceive. The housewife often needs a scale, a yardstick, and a slide rule to make a rational choice. She has enough to do without performing complicated mathematics in the stores. An accurate and informative package and label need not add to the producer's cost. It will add to the welfare of the American consumer.

However, the results of two California consumer tests, conducted before and after the passage of the Truth-in-Packaging Act, have indicated that housewives are no better able today to select the most economical buys among everyday grocery items than they were 9 years ago.

In 1962, five college-educated housewives were asked to purchase a total of 70 items based on the lowest unit cost. The women made 36 correct choices and 34 incorrect ones.

In an identical test made after the Truth-in-Packaging Act, the women made 38 incorrect selections, four more than in 1962, and only 32 correct choices.

This and other similar research clearly shows that additional legislation is needed to end confusion in the marketplace. Every consumer should have the right to judge products on their merits alone and not be misled by deceptively priced packages.

This requirement for per unit pricing would not be new to American supermarkets. It has long been a practice to print the per pound price on packages of meat, fish, and poultry.

Also, since the first introduction of this proposal in 1969, several grocery chains across the country have instituted programs of unit pricing on some, or all, of their merchandise. In December of 1970, according to the National Association of Food Chains, some 35 supermarket chains had moved to unit pricing.

Although these uses of unit pricing are still in their early stages, it is apparent that once customers learn what unit pricing is and how to use it, their desire for it is overwhelming. As reported in the February 1971 issue of Consumer Reports magazine, preliminary studies showed that of those who attempted to use unit pricing labels, approximately 90 percent found them helpful in making the most of their shopping dollar.

Present experience with the concept of unit pricing thus emphasizes clearly that passage of this measure would be a boon to the American shopper.

As mentioned earlier, this bill is a modification of the earlier proposal. Of two major changes in the bill, the first would allow the price per unit to be posted on a sign or label in close proximity to the area of display, as well as on the label of the package itself, as was stipulated in the earlier version of this measure. Experience has shown that this method is equally helpful for the shopper, and considerably less expensive for the supermarket owner.

The second modification would exempt from the provisions of this act those small, individually owned stores for which the requirement of unit pricing would pose a financial burden. As has been shown in recent experiments,

the institution of unit pricing by large supermarket chains results in a negligible expense. Yet it is felt that some small stores would be significantly hurt if required to post unit prices, and this bill specifically exempts those establishments.

Mr. President, it is my belief that this proposal should receive an early hearing in the 92d Congress. The benefits and potential savings which unit pricing can provide should not be denied the American consumer any longer. If shoppers are expected to make intelligent decisions in their buying, they should be able to compare prices on products without having a calculating machine in their shopping carts.

I ask unanimous consent that an article from the January 1969 issue of Consumer Reports magazine, entitled "What's Happened to Truth in Packaging?" be placed in the RECORD at the conclusion of my remarks.

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

The bill (S. 868) to amend the Fair Packaging and Labeling Act to require the disclosure by retail distributors of unit retail prices of packaged consumer commodities, and for other purposes, introduced by Mr. NELSON, was received, read twice by its title, and referred to the Committee on Commerce.

The article submitted by Mr. NELSON is as follows:

[From Consumers Report, January 1959]

WHAT'S HAPPENED TO TRUTH IN PACKAGING?

"We can't compare prices," housewives complained during the long fight for a truth-in-packaging bill. Can prices be compared now, two years after the Federal Fair Packaging and Labeling Act was signed into law?

The troublemaker has been the odd-sized package, which almost completely superseded the pound, the pint and the quart as basic pricing units for household commodities. All manner of peculiar package sizes boggled the mind, often with deception intended. Manufacturers instituted the practice of "packaging to price"—taking covert price increases by cutting quantity. A 150-sheet box of tissues quietly dropped in quantity to 125, say, or a 16-ounce can of vegetables to 14½ ounces—with no reduction in price.

Down the long self-service aisles, the package has done the selling. Some consumers may have found cart-shopping more convenient and efficient than waiting while the corner grocer pulled down a package from a ceiling-high pile with his long-handled clamp. But the grocer at least knew his prices per pound—and would tell you. The odd-sized package defied you to find out for yourself. Somewhere—anywhere—on the surface of the can, bag, box, carton, or bottle a statement of net quantity lurked. Somewhere else, usually, was a price, often smudged and indecipherable. Once you'd managed to ferret out the pertinent data, all you had to do was engage in some modest calculating. Let's say a box of detergent was labeled "1 lb. 7 oz. net weight" and stamped "3/89."

Step 1: Convert odd-sized quantity to total ounces (1 pound 7 ounces equals 23 ounces).

Step 2: Convert multiple price into price per package (3 for 89¢ comes to about 30¢ a package) or price per total ounces (3 times 23 equals 69 ounces for 89¢).

Step 3. Divide price by quantity to get price per ounce (30¢ divided by 23 ounces or 89¢ divided by 69 ounces equals about 1.3¢ per ounce).

Step 4: Convert price per ounce to price per pound or pint, frequently a more realistic measure of effect on the purse (16 times 1.3¢ equals about 21¢ per pound).

Step 5: Repeat process for the several competing brands and sizes of the same product.

Step 6: Make whatever quality judgments you can, based on almost no label information about comparative quality.

Step 7: Make a selection based on price, quality judgment and brand preference.

THE PROWLING COMPUTER

"A woman in a store is a mechanism, a prowling computer," said Scott Paper Co. when arguing against truth-in-packaging legislation. To be a successful comparison shopper, one really *did* have to be some kind of calculating machine. But few women are.

The Fair Packaging and Labeling Act, which was signed into law November 3, 1966, was intended to allow flesh-and-blood shoppers to make intelligent price comparisons. As we said at the time, the act provided "some truth-in-packaging . . . but not enough" (Consumer Reports, February 1967). The act requires statements of net quantity in standard form to appear in a well-defined place and in reasonably large type on the front or main panel of every package entering interstate commerce. (State labeling laws are being revised to conform to the Federal rules.) The quantity declaration has to be made in total ounces to eliminate one conversion step from price computations. Larger units of measure must be declared as well, if the package holds from one to four pounds or from one quart to one gallon. Example: 28 oz. net weight (1 lb. 12 oz.).

The act also has provisions that could help the Government reverse the trend to proliferating package sizes, curb deceptive claims on cents-off labels, clamp down on oversized packages (slack fill), and standardize the meaning of such package-size rubrics as "Regular," "Giant" and "King."

A big problem facing the Federal Trade Commission and the Food and Drug Administration, which were the agencies assigned to write and enforce labeling regulations, has been cripplingly small budgets. As a result they have been slow in getting started. But "Truth Day" for labels on food products did finally come last July 1, although the FDA extended the deadline one more year for thousands of brands. Nonfood labeling comes under the gun on July 1, 1969, except that as this issue went to press, no date had been set for cosmetics and nonprescription drugs.

Even with administrative action proceeding at such a crawl, the Fair Packaging and Labeling Act has had an impact. Against the kaleidoscope of 8000 ever-changing package faces on supermarket shelves, a pattern of candor is already emerging. Net quantity statements on many if not most packages have moved around to the front and, usually, the lower third of the panel. The type is growing larger, bolder and more contrasting in color. Quantity is more and more often expressed in total ounces.

There was enough apparent improvement by the end of last October to justify a look at whether the new law is, indeed, helping consumers to compare prices. So CU commissioned a study of how that "prowling computer," the housewife, is doing these days.

As a point of reference we turned to a test conducted in 1962 in Sacramento, Calif., under the aegis of the California Consumer Counsel, Helen Ewing Nelson. She had sent to a supermarket five college-educated women who shopped regularly for the family larder. Their instructions were to buy 14 specified everyday grocery items. They were told to disregard brand preferences and quality in making their choices, but to buy the package that, in their judgment, offered the largest amount of the product for the lowest unit cost. The five women had a total of 70 items to buy. Of the 70 selections they made, 34 were wrong. About half of the time, those five women—experienced shoppers well above the average educational level—were just plain unable to recognize the best price when they saw it.

How well might they be expected to do in 1968? In practical consumer terms, what had the Fair Packaging and Labeling Act accomplished in its two years of existence? We arranged for five women, with educational backgrounds and homemaking experience similar to those of the 1962 group, to take an identical test. It was directed by a nonprofit group, the Consumer Research Foundation (headed by Mrs. Nelson, who has since returned to private life and is now on CU's Board of Directors). A list containing the same 14 everyday grocery items was handed to each of the five housewives. They were dispatched, half an hour apart and unbeknownst to each other, to the same Sacramento supermarket where the previous test had been held. Their instructions, as before: In a two-hour time limit, select the package of each item that offers the largest amount at lowest price per product unit.

The shopping list appears in the table below. Some items on it had not yet come under the act. Dog food was one. Because it contains meat, it is permanently exempt, but it does fall under the similar labeling rules of the Department of Agriculture. The four nonfood items—liquid dishwashing detergent, toilet soap, toilet tissue and shampoo—do not yet have to comply with the truth-in-packaging rules. The other nine items, however, had been packaged and labeled under the FDA rules for four months, and a new frankness in labeling was indeed discernible.

Not discernible, however, was any reduction in the number of package choices. In fact the display of groceries had continued to proliferate. In 1962 those 14 products were represented by 246 brands, types and sizes. This time the number had gone up to 286—an increase of 16 per cent. It was no surprise, then, that the women took longer to make their selections. In 1962 average shopping time was 43 minutes; last fall the average time was 50 minutes.

CURSES, FLUNKED AGAIN

It's discouraging to have to report that the 1968 shoppers did not improve on the record of correct choices made in pre-truth-in-packaging days. This time, in fact, the women were a bit less successful. They made 38 wrong choices, as compared with 34 wrong ones in 1962:

	1968 results		1962 results	
	Right choice	Wrong choice	Right choice	Wrong choice
Rice	3	2	0	5
Canned tomatoes	3	2	3	2
Hot cereal	2	3	4	1
Chunk Cheddar cheese	2	3	5	0
Canned tuna	5	0	2	3
Salt	4	1	2	3
Imitation maple sirup	2	3	3	2
Pancake mix	0	5	3	2
Peanut butter	3	2	3	2
Dishwashing detergent	3	2	3	2
Toilet soap	1	4	0	5
Toilet tissue	2	3	4	1
Liquid shampoo	1	4	1	4
Canned dog food	1	4	3	2
Total	32	38	36	34

It's obvious, then, that plainer labelling alone doesn't solve the shopper's difficulty. At the pancake-mix display, for example, most labels appeared to conform to regulations, and the rest at least made no secret of quantity. Yet nobody found the brand at lowest unit price (see below). One can sym-

pathize if the shoppers felt too discouraged to do the necessary mathematical computations for 32 selections in 13 different sizes of flour—excluding boxes and sacks. Under somewhat less unfavorable conditions (25 selections in 11 different sizes), three shoppers had made the correct choice last time.

At the dog-food shelf the results were little better. The (presumably) USDA-approved quantity declaration on each can was forthright enough. Yet the shoppers in 1968 had less success in buying the right dog food than the 1962 shoppers did. Perhaps it's no wonder in view of the explosion of brands and types—from 14 to 35, canned in nine net weights, up from five. Only one shopper recognized the day's bargain price for canned dog food.

Not only *didn't* the shoppers make a reasonable number of correct choices, they *couldn't*—not in any practical terms. It took the five-woman project staff six hours and the services of an electric calculating machine to get all the answers figured out.

PANCAKE MIXES FOUND ON DISPLAY IN 1 SACRAMENTO SUPERMARKET

	Net contents as stated on package	Price on package	Calculated price per pound
Albers flapjack buttermilk	32 oz. (2 lb.)	$0.41	$0.21
Aunt Jemima buttermilk	2 lb.	.65	.33
Do	4 lb.	.79	.20
Aunt Jemima buttermilk [2]	32 oz. (2 lb.)	.65	.33
Aunt Jemima	32 oz. (2 lb.)	.53	.27
Aunt Jemima buckwheat	32 oz. (2 lb.)	.57	.29
Aunt Jemima deluxe easy pour	2 lb.	.57	.29
Betty Crocker buttermilk	28 oz. (1 lb. 12 oz.)	.51	.29
Do	42 oz. (2 lb. 10 oz.)	.60	.23
Do	4 lb.	.83	.21
Betty Crocker complete buttermilk	26 oz. (1 lb. 10 oz.)	.55	.34
Do	40 oz. (2 lb. 8 oz.)	.69	.28
Do	56 oz. (3 lb. 8 oz.)	.85	.24
Bisquick Variety baking mix	20 oz. (1 lb. 4 oz.)	.31	.25
Do	40 oz. (2 lb. 8 oz.)	.44	.18
Do	60 oz. (3 lb. 12 oz.)	.63	.17
Fisher's Deluxe Biskit all purpose mix	40 oz. (2½ lb.)	.39	.16
Krusteaz old-fashioned buttermilk	56 oz. (3 lb. 8 oz.)	.79	.23
Lund's Sweedish pancake mix	1 lb.	.43	.43
Morrisons Bis-Kits prepared biscuit mix	6 oz.	.10	.27
Morrisons Pan-Kits prepared pancake mix	6 oz.	.10	.27
Pillsbury extra lights	48 oz. (3 lb.)	.55	.18
Do	4 lb.	.79	.20
Do	8 lb.	1.45	.18
Pillsbury buckwheat	32 oz. (2 lb.)	.55	.28
Pillsbury sweet cream	2 lb. (32 oz.)	.65	.33
Pillsbury Hungry Jack buttermilk	16 oz. (1 lb.)	.39	.39
Do	32 oz. (2 lb.)	.57	.29
Do	48 oz. (3 lb.)	.77	.26
Do	64 oz. (4 lb.)	.89	.22
Pillsbury Hungry Jack pure wheat	2 lb.	.49	.25
Sambos instant pancake mix	1 lb. 12 oz. (28 oz.)	.51	.29

[1] To nearest cent.

[2] With "free" 5½-oz. bottle of sirup.

But the shoppers tried. Lacking a calculating machine, and not themselves being prowling computers, they tried short-cuts. For example: All five bought the right can of tuna fish, probably because it was the only brand of grated tuna and because all the women correctly assumed that to be the lowest-priced type.

But shortcuts didn't always work. The largest size was not necessarily the one with the lowest unit price, for example, nor was the smallest necessarily the most costly. A 16-ounce can of tomatoes cost more per pound that an 8¼-ounce can, and a roll of 650 sheets of toilet tissue gave more sheets for the money than a 1000-sheet roll.

Even when the largest-quantity package did offer the lowest unit price, the shoppers didn't always spot it. Only two bought the five-pound box of *Buckeye Rolled Oats* as the right choice in thrifty hot cereals among the 31 different selections in 15 sizes filling the shelf. Feeling pressed for time, one shopper bought hominy grits on the logical—but incorrect—theory that it would give the most for the money. It cost half again as much per pound as the rolled oats. Indeed, the prices represented in those 31 different cereal packages ranged from 15c to 98c a pound.

Things went better at the rice display, where the number of package sizes had dropped from six in 1962 to four in 1968 (though the one-pound size, missing in 1962, was missing still). No one had found the right choice last time, but in 1968 three women did. That's progress of a sort in the Sacramento Valley, one of the nation's richest rice-growing regions.

It would appear, then, that the odd-sized package is still the consumer's most formidable foe in the battle of the bargains. Forthright disclosures of quantity and price are not much help so long as they are obscured by enough variety of package sizes to discourage the computations needed to make quantity and price figures meaningful.

PRODDING THE PACKAGER

The key to success in comparison shopping, CU and many others have argued, lies in mandatory Federal standards for package sizes. They should be limited for each product to as few as logically meet consumers' needs; and common-sense pound and pint units should be reestablished. Once held to a few logical quantities, manufacturers could no longer conceal price hikes by lopping off an ounce or a fraction of an ounce here and there.

When the present law was under consideration, the manufacturers concentrated their lobbying effort on defeating Federal regulation of package sizes. They succeeded in getting the proposed provision watered down to a point where the Secretary of Commerce may only make a *finding* of undue package proliferation in a given product line. He cannot force an industry to change its ways.

Nevertheless, the threat of a proliferation finding has served as a prod in itself. By late 1968, the Secretary had goaded 48 packaging industries toward reducing or agreeing to reduce the number of their package sizes to a standardized set. The whole program is strictly voluntary and unenforceable. But significant reductions in number of sizes have already been announced as in effect for most types of dry detergents, jams and jellies, mayonnaise and salad dressing, peanut butter and pickles. As of January 1, the list was to be expanded to include dry cereals (except single servings), cookies and crackers, instant coffee, and salad and cooking oils. A third batch of reductions is due to start July 1. The Commerce Department cautions, though, that nonstandard sizes will continue to be sold until inventories are used up.

The new standards, if adhered to, would be welcome. They would, for example, reduce the sizes of toothpaste from 57 to a mere 5; of dry detergent from 24 to 6; of adhesive bandage from 37 to 10; of paper towel from 33 to 8; of dry cereal from 33 to 16; of cookies and crackers from 73 to 56; and of macaroni products from 32 to 16. With that kind of reductions, the food industry itself should enjoy fat savings from marketing efficiencies.

But in many instances the consumer may be no better off than before because even a significant reduction in package sizes at the disposal of manufacturers will not necessarily reduce the variety of sizes displayed in any given supermarket. In the Sacramento store chosen for our shopping test shoppers found six sizes each of imitation maple syrup and peanut butter. With the kind of odd-size problem we've described, six computations were difficult enough. Yet the new standards would merely ask manufacturers to limit themselves to 16 sizes of syrup and 12 sizes of peanut butter. Whatever cutting down may take place during packaging, it's not likely to show upon the shelves of that particular supermarket in Sacramento, nor in stores anywhere else, we'd guess.

So much for truth-in-packaging, 1969. Judging by this look at it, the consumer still can't compare prices and cannot anticipate being able to compare them any time soon. CU is now convinced that we did not go far enough in our proposals for price disclosure.

The best method for making comparisons stares out from just about every supermarket meat counter. Because of their random size, meat and poultry have long been subject to state laws requiring declaration not only of weight and price but also of price per pound.

Why shouldn't all packages be labeled with the price per pound or pint or other relevant unit? In considering such a requirement, the drafters of the Fair Packaging and Labeling Act decided it might be too costly for the small, independent grocer. Since manufacturers could not usually print prices on their packages without violating the laws against price-fixing, the price labeling job would fall, as it does now, to the retailer. But regional offices of supermarket chains could readily include unit prices on the master price lists sent to all store managers, and suppliers could equip small groceries with easy-to-use price tables. The extra cost, if any, would probably prove negligible.

CU therefore urges Congress to amend the law to require unit pricing. Further, we suggest that the price unit should represent the quantities customarily purchased—not price per ounce (unless possibly for caviar, spices and such) but price per pound, per pint, per 100 paper towels and so forth). Many CU readers have already asked why that pricing system isn't used to solve their shopping problem. A letter-writing campaign to your Senators and Representatives would seem to be in order. It's high time to turn all those prowling computers back into people again.

S. 869—INTRODUCTION OF A BILL TO EXTEND TO UNMARRIED INDIVIDUALS THE TAX BENEFITS OF INCOME SPLITTING ENJOYED BY MARRIED INDIVIDUALS FILING JOINT RETURNS

Mr. RIBICOFF. Mr. President, I introduce for appropriate reference a bill to extend to unmarried persons the tax benefits of income-splitting now enjoyed by married persons filing joint returns.

As many of us know the income splitting procedure arose out of a historical accident. Before World War II, eight States had community property laws which treated income as divided equally between husband and wife. The U.S. Supreme Court ruled that married couples in these States could divide their income

and file separate U.S. tax returns. With this in mind, several other States soon passed laws giving their citizens a similar break. In an effort to restore tax equality and to prevent wholesale disruption of local tax and property laws, Congress in 1948 made income-splitting a national procedure.

This solved the problem for all the married couples, but only served to increase the relative tax burdens on single citizens. As Joseph Pechman has pointed out:

> The practical effect of income splitting is to produce large differences in the tax burdens of single persons and married couples, differences which depend on the rate of graduation and not the level of rates. Such differences are difficult to rationalize on any theoretical grounds.

The income tax should reflect differences in condition and responsibilities by allowing reasonable deductions. However, once the taxable income is determined the same rate should apply to all who have the same income, regardless of whether they are married or single.

Many people attempt to explain the present system by saying that single persons do not bear the costs and responsibilities of raising children. But income-splitting under the present law does not differentiate among taxpayers in this respect, since the benefit is the same whether or not they have children.

The Tax Reform Act of 1969 moved toward eliminating this inequity, but did not go far enough. The bill introduced today finishes the job. It provides the benefits of income-splitting for unmarried taxpayers placing them on an equal footing with married couples filing joint returns.

Much of the credit for the progress already made in this area goes, I am pleased to say, to a constituent of mine, Miss Vivien Kellems of East Haddam, Conn. Vivien has been the founder and guiding force behind the movement to free single persons from the inequities of higher taxes. She has refused to retreat from her position and has even gone so far as to join battle personally with the Internal Revenue Service.

Because of her efforts on behalf of millions of men and women across the land, Miss Kellems was chosen as Citizen of the Year, 1970, by the New Haven Register. It was a well deserved honor.

Vivien Kellems has pointed the way and now it is up to those of us in the Congress to follow through. I hope that my colleagues will join me in this effort.

I ask unanimous consent that the story of Miss Kellems' fight and her recognition be included at this point in the RECORD.

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

The bill (S. 869) to extend to all unmarried individuals the full tax benefits of income-splitting now enjoyed by married individuals filing joint returns, introduced by Mr. RIBICOFF, was received, read twice by its title, referred to the Committee on Finance.

The article submitted by Mr. RIBICOFF is as follows:

THE REGISTER AWARDS ITS CITIZEN OF THE YEAR CITATION TO VIVIEN KELLEMS

The thing about Vivien Kellems is that she has been a self-liberated woman for decades—a citizen first and a female second, and she has never wasted time in dreaming about revolutions when she could be straightening out some government bureaucrat on the best route toward reform.

In a year when women's liberationists have made themselves heard and felt all through the country, the New Haven Register has chosen as its 1970 Citizen of the Year a woman who has long been a champion of women's rights and who has fought countless battles to win those rights and to preserve them.

That woman is Miss Vivien Kellems of East Haddam. Miss Kellems has waged her battles from a standpoint of erudition and intelligence; from knowing both the historical and legal facts of a given issue and then attacking squarely. Perhaps nothing symbolizes her efforts better than her most recent campaign, to pressure Congress into equalizing taxes for married and single people. As a result of her unrelenting pressure such a provision has been written into a tax reform package scheduled for action this year. But that reform already is, in Miss Kellems' words "a fraud" and she plans to continue pressuring Congress to act on a separate bill to equalize taxation.

She still has a suit pending in Washington, designed to test the constitutionality of taxing unmarried people at a higher rate.

It was, however, Miss Kellems' refusal to pay her own taxes, saying she would do so only after the government refunded some $76,000 they have overtaxed her for being single, that produced a unique development this past year. In Federeal District Court in New Haven, the IRS filed suit against Miss Kellems to get access to her financial records. She refused to surrender the documents, citing Fifth Amendment guarantees against self-incrimination. The IRS, apparently believing she would win, withdrew the suit in order to prevent a court ruling. Though the court did not allow Miss Kellems to file a counter suit, the implication is that any taxpayer may follow the same course of action and challenge IRS demands for financial data.

Miss Kellems is no stranger to the courts. Some 20 years ago, in 1948, she nearly won her battle to prevent the government from forcing her to withhold taxes from the salaries of her employes at the Kellems Co. It was her contention that she should not be coerced into acting as the government's tax collector.

In 1964, in a struggle with Connecticut officialdom, this time, Miss Kellems staged a sit-in at the polls. After fighting for nearly 20 years to get the mandatory party lever taken off the voting machines she resorted to a one-woman demonstration and had to be hauled protesting from a home town voting machine. The machines were changed shortly thereafter, and the party lever has never been the same since.

But it is in the past few years that Miss Kellems has made her greatest gains. Exhibiting typical courage and persistence as well as a broad knowledge of income tax law, she took trip after trip to Washington to confer with leaders in both the Senate and House in an effort to make herself heard. At 74 she still finds the energy and impatience to fight against what she believes is wrong and to make the changes that will set it right.

That impatience is nearly lifelong. She was born in Iowa, daughter of a minister. She earned both a B.A. and M.A. at the University of Oregon and in 1921 enrolled in a Ph. D. program at Columbia University.

Miss Kellems also founded the Kellems Co., manufacturers of cable grips, a device invented by one of her younger brothers. That device was widely used by power companies throughout the country. As president of the Kellems Co., Miss Kellems was the first business woman to enter the electrical field.

In 1942 she ran against Clare Booth Luce for nomination to Congress on the Republican ticket. She lost and, in fact, has never been elected to public office. That did not keep her from running, however. As an Independent party candidate she has opposed four different men for a seat in the U.S. Senate: former Senators William Purtell, William Benton and Prescott Bush and Sen. Abraham A. Ribicoff. In 1954 she ran as the Independent candidate for governor.

Vivien Kellems, like every political maverick, has been accused of being a publicity hound even just a kook. But when it comes to getting things done, to making the changes in government she wants, few private citizens anywhere in America have been as effective.

And she has paid her way. Taking money out of her own pocket she has financed the long and expensive court battles which are axiomatic to Miss Kellems' idea of the way in which change must come. On any given issue she is prepared to go all the way to the Supreme Court.

She is absolutely committed to the ideals as put forth in the Constitution. Her every challenge to the laws of the land has been based on people being denied the rights outlined in the Constitution.

In an era when the "establishment" is lambasted right and left there are some who toss aside responsible citizenship in the belief that the window-breaking "rip-off" is the route to change in government and society. There are those who think that an "unresponsive" pile-up of bureaucracies at all levels of government frustrates the public good and forces on them a sullen withdrawal from all the processes of citizen action and democratic change.

Long before such theories became current Miss Vivien Kellems was busily, humorously, unfalteringly disproving them by tweaking bureaucratic noses and kicking government in the seat of the pants with eloquent written argument, vigorous speech-making, and persistent and productive appeals to the courts.

As she herself has said: "If an American citizen thinks a law is unconstitutional, it is not only his privilege, but, I believe, his duty to break that law and demand that it be submitted to the court. Every man who signed the Declaration of Independence was a lawbreaker and a rebel. He broke the law, but he formed a nation."

Vivien Kellems has broken laws without breaking windows. She has moved mountains of legalistic paperwork and poked into flexibility a host of regulation-rigid Federal and State offices. Se has reminded the Tax Collector that the Tax Payer is, in the end, his boss. And she has done it all while emphasizing her womanly self-respect, her womanly freedom to act, and her acceptance of total citizenship as expressed in a persistent struggle for improvement and change based upon a constant belief in the Constitution and the courts.

S. 870—INTRODUCTION OF THE EMERGENCY COMMUTER RELIEF ACT OF 1971

Mr. WILLIAMS. Mr. President, I am today together with the senior Senator from Illinois (Mr. PERCY) introducing legislation which would provide subsidies on an interim basis to State and local governments to assure adequate urban mass transportation. This legislation would also provide emergency grants to State and local bodies for the purpose of assisting mass transit systems in paying interest charges and other annual

obligations which have been incurred in order to provide essential services.

The Urban Mass Transportation Assistance Act, which was enacted during the last Congress provides long-range answers to our Nation's urban transit crisis.

It is a program intended to provide long-range benefits.

It will build carefully planned programs of capital improvements for our Nation's transit systems over the next 10 years. However, such programs will take time as they properly should. A modern transit system such as the one in San Francisco or the one planned for Washington, D.C., takes at least 10 years from the initial exploratory steps to final completion. And, while the first steps are being taken toward building these transit systems of the future, today's commuters are faced with today's problems.

But one fact is crystal clear—adequate mass transportation facilities are an immediate, absolute necessity for America's millions of commuters. Existing commuter services must be kept in operation until the large sums of money authorized by the Urban Mass Transportation Assistance Act begin to flow to State and local mass transportation agencies.

During the interim we are faced with what Newsweek has called "the agony of the commuter." Some of our bankrupt railroads may stop moving entirely because they cannot generate enough cash flow to pay their employees. This threat faced the Penn Central until the Congress took emergency action to keep it running. Another railroad, the Central of New Jersey, has been teetering on the brink of disaster for many months. An emergency grant of $2 million has kept the CNJ in operation. This money is on top of the $31 million in subsidies paid to the railroad by the State over the last 10 years. Additional subsidies have been paid by the States of Connecticut and Massachusetts to the New Haven Railroad and by New York and Pennsylvania to the commuter lines within their borders.

At the present time, the burden of maintaining these essential commuter services falls entirely upon the States and their inadequate tax sources. The States, already pressed to financial limits, cannot afford to carry the burden alone. They now are doing more than their fair share.

The situation has become critical. The Penn Central and the Jersey Central are bankrupt. The State of New York owns the Long Island Railroad and Massachusetts has taken over the operation of the commuter lines formally serviced by the Boston and Maine. Recently there even was a question as to whether or not the Jersey Central could meet its payroll.

This legislation would prevent these crises from occurring. Under the Emergency Commuter Relief Act funds for operating subsidies would be made available on a 5-year emergency basis to all forms of mass transportation. They would be channelled to State and other public bodies.

Before approving the grant which would be made on a two-thirds Federal, one-third local matching formula, the Secretary of Transportation would have to determine that the services were essential to the community. In addition, the State or public body applying for the grant along with the transit company involved must first submit a plan to the Secretary setting forth a program of the capital improvements to be undertaken for the purpose of providing more efficient and economic service and for placing the commuter operations of the system on a sound financial basis. These safeguards would guard against windfall profits by private promoters and would provide adequate insurance that the operating subsidy will not pay for existing inefficiency and poor service. The only purpose of this bill is to provide interim emergency operating subsidies to States like New Jersey, in order to keep essential commuter railroads running until they can be put on a sound financial footing.

While operating subsidies do not build new facilities or buy desperately needed new equipment in some instances a blood transfusion is called upon before curative surgery can be performed.

Given the current state of our Nation's mass transit systems a temporary transfusion such as the one contained in this legislation is necessary.

Transportation systems are too vital a part of the continued healthy growth of urban centers for their future operations to be governed solely by balance sheet considerations. Profitability and return on investment cannot and must not outweigh the social dividends which all of our citizens receive from good public transportation. Therefore, this legislation also contains provisions drafted by Senator PERCY who throughout his career in this body has been a leader in the fight for improved urban mass transportation, which allow the Secretary to make emergency grants to pay interest charges and other annual obligations which have been incurred by transit systems in order to provide essential services.

Such grants would be made only when the debt burden threatens the curtailment of needed commuter services or would increase fares to such a degree that low income groups who use the service are unfairly penalized.

An increase in transit fares or a curtailment of transit service works undue hardships on citizens earning less than $4,000 a year. As industry and business move to the suburbs, the tragic isolation of the inner city ghetto increases. Here is the most pressing need for low cost, efficient mass transit systems to take people to the jobs they so desperately demand. An increase in transit fares or a curtailment of service works undue hardships on these citizens.

The debt servicing provisions of this legislation would allow transit lines to continue to provide their essential services without the fare increases which all too frequently penalize the inner city dweller.

If existing commuter lines are allowed to collapse from financial weakness, severe hardships will result. The thousands of commuters who depend on these services to get them to and from work will be left stranded. And, in addition, these commuter lines will be far more costly to rebuild in the future than to preserve today.

Mr. President, prompt enactment of the Emergency Commuter Relief Act is an absolute necessity if we are to provide short-term Federal assistance to our Nation's struggling transit systems. Action is imperative if we are to preserve these systems while we are at the same time fulfilling tomorrow's transit needs.

I ask unanimous consent that the full text of the Emergency Commuter Relief Act of 1971 be printed in the RECORD.

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

The bill (S. 870) to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes, introduced by Mr. WILLIAMS (for himself and Mr. PERCY) was received, read twice by its title, referred to the Committee on Banking, Housing, and Urban Affairs, and ordered to be printed in the RECORD, as follows:

S. 870

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 "Commuter Emergency Relief Act".

FINDINGS

SEC. 2. The Congress finds—

(1) that over 70 per centum of the Nation's population lives in urban areas;

(2) that transportation is the lifeblood of an urbanized society and the health and welfare of that society depends upon the provision of efficient, economical, and convenient transportation within and between its urban areas;

(3) that for many years the mass transportation industry satisfied the transportation needs of the urban areas of the country capably and profitably;

(4) that in recent years the maintenance of even minimal mass transportation service in urban areas has become so financially burdensome as to threaten the continuation of this essential public service;

(5) that the termination of such service or the continued increase in its cost to the user is undesirable, and may have a particularly serious adverse effect upon the welfare of a substantial number of lower income persons;

(6) that some urban areas are now engaged in developing preliminary plans for, or are actually carrying out, comprehensive projects to revitalize their mass transportation operations; and

(7) that immediate substantial Federal assistance is needed on an interim basis to enable many mass transportation systems to continue to provide vital service during the period required to overhaul and revitalize mass transportation operations and to place such operations on a sound financial basis.

EMERGENCY GRANTS TO PAY INDEBTEDNESS

SEC. 3. The Urban Mass Transportation Act of 1964 is amended—

(1) by redesignating sections 6 through 16 as sections 8 through 18, respectively; and

(2) by inserting after section 5 a new section as follows:

"EMERGENCY GRANTS TO MAKE ANNUAL DEBT PAYMENTS

"SEC. 6. (a) Notwithstanding any other provision of this Act, the Secretary is authorized to make grants to States and local public bodies and agencies thereof to assist in paying the yearly interest on and dis-

charging annual obligations on securities, equipment trust certificates, or other similar instruments of indebtedness which have been incurred in the acquisition, construction, reconstruction, improvement, and leasing (exclusive of any charge for operation or maintenance) of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas. A grant may not be made under this subsection unless the Secretary determines that it is essential to prevent (1) the termination of a significant part of the transportation service for a community, or (2) the occurrence of a serious adverse effect upon the welfare of a substantial number of lower income persons who are dependent upon the transportation service of such community. The amount of any grant made by the Secretary under this subsection shall not exceed twice the amount provided by the grant applicant (from other sources than current revenues of a mass transportation system) for use in paying such interest or obligations during the year in which the grant is made.

"(b) To finance grants under subsection (a) of this section, there is authorized to be appropriated $75,000,000 for each of the fiscal years 1972, 1973, 1974, 1975, and 1976. Any amount appropriated pursuant to this subsection shall remain available until expended, and any amount so authorized but not appropriated for any fiscal year may be appropriated for any subsequent fiscal year."

INTERIM ASSISTANCE TO ASSURE ADEQUATE MASS TRANSPORTATION SERVICE IN URBAN AREAS

SEC. 4. The Urban Mass Transportation Act of 1964 is amended by inserting after section 6 (added by section 3 of this Act) a new section as follows:

"INTERIM ASSISTANCE

"SEC. 7. (a) For the purpose of providing interim assistance to assure adequate mass transportation service in urban areas, the Secretary is authorized to make grants to any State or local public body or agency thereof to enable it to assist any mass transportation system which maintains mass transportation service in an urban area within its jurisdiction to defray annual net operating deficits incurred as the result of providing such service to such areas. No grant shall be provided under this section unless (1) the Secretary determines that the mass transportation services provided by the system involved are needed for carrying out a program referred to in section 4(a), and (2) the applicant State, public body, or agency, and the operator (if a different entity) of such system, have jointly submitted to the Secretary a comprehensive mass transportation service improvement plan which is approved by him and which sets forth a program, meeting criteria established by the Secretary, for capital or service improvements to be undertaken for the purpose of providing more efficient, economical, and convenient mass transportation service in an urban area, and for placing the mass transportation operations of such system on a sound financial basis.

"(b) The amount of any grant under this section to a State or local public body or agency thereof to defray the operating deficit of any mass transportation system shall not exceed twice the amount of financial assistance provided by such State, public body, or agency to such system to defray such deficit.

"(c) The Secretary shall issue such regulations as he deems necessary to administer this section in an equitable and efficient manner. Such regulations shall include appropriate definitions of (1) the items of cost and revenue to be used in determining annual net operating deficits, and (2) the sources or types of State or local financial assistance which may be considered in computing the maximum allowable Federal grant.

"(d) To finance grants under this section, there is authorized to be appropriated not to exceed $75,000,000 for each of the fiscal years 1972, 1973, 1974, 1975, and 1976. Any amount so appropriated shall remain available until expended, and any amount so authorized but not appropriated for any fiscal year may be appropriated for any subsequent fiscal year. The Secretary is authorized, notwithstanding the provisions of section 3648 of the Revised Statutes, to make advance or progress payments on account of any grant made pursuant to this section.

"(e) The Secretary shall conduct a study of the operation of the subsidy program authorized by this section comparing it with other operating subsidy programs including those currently carried out by the Federal Government, with a view to determining the efficacy of such program in assuring adequate mass transportation service in urban areas. The Secretary shall submit an interim report of his findings not later than June 30, 1972, and a final report of such findings and recommendations not later than June 30, 1974.

"(f) No grants shall be made under this section after June 30, 1976, except pursuant to a commitment entered into prior to such date."

ADDITIONAL AMENDMENTS

SEC. 5. (a) The following sections of the Urban Mass Transportation Act of 1964 (as redesignated by section 3 of this Act) are amended as follows:

(1) Section 3(b) is amended by striking out "section 7" and inserting in lieu thereof "section 9".

(2) Section 4(c) is amended by striking out "7(b), and 9" and "section 12(d)" and inserting in lieu thereof "9(b), and 11" and "section 14(d)", respectively.

(3) Section 14(c) is amended—

(A) by striking out "and" at the end of clause (4);

(B) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon; and

(C) by adding after clause (5) the following new clauses:

"(6) the term 'mass transportation system' means any private company or public authority or agency providing mass transportation service; and

"(7) the term 'annual net operating deficit' means that part of the annual operating costs of a mass transportation system which could reasonably have been avoided by the elimination of all or part of the mass transportation service in an urban area, less the annual revenues derived by such system from the provisions of such service."

(4) Section 14(d) is amended by adding the following at the end thereof: "No funds appropriated pursuant to section 4(b) may be used for grants made pursuant to section 6 or 7. Grant assistance provided under any section of this Act shall be coordinated to the greatest extent practicable with any other financial assistance provided under this Act. With the specific exception of the prohibition contained in section 3(c), the extension of financial assistance to a State or local public body or agency thereof under any section of this Act shall not have the effect of prohibiting the extension of financial assistance to such entity pursuant to any other section of this Act."

(5) The first sentence of section 15(c) is amended by striking out "section 3" and inserting in lieu thereof "section 3, 6, 7, or 8".

(6) The part of the first sentence of section 17 which precedes the first semicolon is amended to read as follows: "Grants made under section 3 (before July 1, 1970) and grants made under section 6 or 7 of this Act (other than for relocation payments in accordance with section 9(b)) for projects in any one State shall not exceed in the aggregate 12½ per centum of the aggregate amount of grant funds authorized to be appropriated pursuant to sections 4(b), 6(b), and 7(c), respectively".

(7) Section 3(e) is amended by striking out "section 13(c)" and inserting in lieu thereof "section 15(c)".

(b)(1) Section 10 of the Urban Mass Transportation Assistance Act of 1970 is amended by striking out "and 6" and inserting in lieu thereof "and 8".

(2) Section 11 of such Act is amended by striking out "6(a), 9, and 11" and inserting in lieu thereof "8(a), 11, and 13".

Mr. PERCY. Mr. President, I am pleased to join with the distinguished Senator from New Jersey (Mr. WILLIAMS) in reintroducing legislation designed to prevent reduction of essential transportation services in the Nation's urban centers by providing for emergency Federal assistance.

This bill would provide emergency grants, requiring at least a one-third local contribution, to State and local public bodies in order to assist local mass transportation systems in paying for outstanding indebtedness and operating deficits incurred while maintaining service. Senator WILLIAMS authored the section which would provide operating subsidies, while the section which would underwrite indebtedness for capital expenditures originated with me. These proposals became title VIII of the Housing and Urban Development Act of 1970, which passed the Senate last year, but title VIII was deleted in conference.

I wish to commend very much the distinguished chairman of the Banking, Housing, and Urban Affairs Committee, the Senator from Alabama (Mr. SPARKMAN), who was extremely helpful in seeing that this legislation received overwhelming approval last year in the Banking and Currency Committee. Later when title 8 had been deleted in conference, Senator SPARKMAN indicated on the floor of the Senate, toward the latter part of the 91st Congress, that he would do everything within his power to insure that this legislation was expedited in the Banking, Housing, and Urban Affairs Committee. I feel quite confident that he believes this legislation will be adopted once again by the committee and by the Senate, because he recognizes and the committee members recognize, the urgent need that we are now facing.

Mr. President, I fully recognize the need to establish a more comprehensive program of assistance to urban mass transportation and I shall introduce legislation to that end later in this session. But an emergency situation exists now in many of our great urban areas. In my own State, the Chicago Transit Authority has been forced to raise its fares twice within the past year, to a level of 45 cents. At the same time, the CTA faces indebtedness of more than $20 million annually, primarily as a result of its having to pay interest on equipment bonds and to lay funds aside to retire the principal on such obligations. Moreover, it must contribute to a depreciation account to meet future needs.

This is not a case where, because of our urgent needs in Chicago and our urgent needs in Illinois, I am coming to the Federal Government because the

State is not doing its part or our local communities are not doing their part. We have had bus systems fail within the past year in such cities as Peoria. Private companies have failed. The city of Peoria has authorized a mass transit authority, and this authority, with the power to tax, is moving ahead to do its share locally to provide urgently needed bus transportation.

In many cities in Illinois, such as Danville and Joliet, we have had failing bus companies. Most hard hit are low-income people who do not have automobiles, or the physically handicapped, or the elderly people, who may have had their driver's licenses revoked because of age or inability to pass tests.

We have a pressing need to provide public transportation for those people who wish to move about the city and who are impaired because of the failing nature of our transportation systems.

Because of the urgent problems we face both in downstate Illinois and in Chicago, Governor Ogilvie has just announced, within the last 24 hours, a bold new plan for the establishment of a department of transportation in the government of our State. He has asked for a bond issue of some $900 million to enable us to finance our transportation needs, ranging from highways to airports to mass transit.

So I am not indicating that the Federal Government is being appealed to in the first instance. Certainly we have accepted responsibility in our own State. But I think we must recognize that, because of the preemption of the field of transportation financing for highways, we have imposed tremendous loads upon our mass transit system without participation by the Federal Government.

Mr. President, I ask unanimous consent that an article from this morning's Chicago Tribune describing Governor Ogilvie's transportation proposals be printed in the RECORD at this point.

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

[From the Chicago (Ill.) Tribune, Feb. 18, 1971]

ROAD, AIRPORT AND TRANSIT BONDS URGED

(By George Tagge)

SPRINGFIELD, Ill., February 17.—Gov. Ogilvie today gave the closely divided legislature his overall program to aid mass transit, highways, and airports with the help of $900 million in bonds.

The Republican governor said in the crowded House chambers that the emergency makes his plan "the most important challenge of 1971."

Illinois is the transportation hub of the United States and this is the foundation of its prosperity, he said.

As disclosed earlier this week by THE TRIBUNE, the Ogilvie plan does not propose any new taxes. Nor does it suggest diversion of present motor fuel taxes for mass transit.

The bond issue would finance a four-year program with these allocations: $600 million for construction of the first phase of a 1,950 mile supplementary freeway system, recommended two years ago by the Highway Study Commission; $100 million for planning, improving and developing airports, both new and existing facilities; $200 million for capital investments for mass transit systems.

Last year Ogilvie failed to get legislation to provide a mass transit subsidy thru a half-cent boost in the 7½-cent gasoline tax.

PREDICTS BID FOR SUBSIDY

Democratic legislative leaders delayed a statement on their position, but one predicted privately that Mayor Daley of Chicago will order a fight for cash from the state treasury to meet operating deficits of the Chicago Transit Authority.

Lt. Gov. Paul Simon, a down-state aspirant for the Democratic nomination for governor next year, assailed the proposed $600 million bond issues for highway construction as "reckless."

Ogilvie's plan for freeways is a partial substitute for the $2 billion bond issue project killed last year by the Illinois Supreme Court. Part of that program is going forward with current revenue from highway user taxes sharply increased in 1969.

SIMON URGES DELAY

"Beginning June 30, 1973, the federal government will pay 70 per cent of all highway construction," Simon said. "To move hastily now with a bond issue will not only mean wasting hundreds of millions of dollars on interest; it will also mean that Illinois taxpayers will assume an excessive portion of the burden of building the highway.

A member of the Highway Study Commission disputed Simon as to federal laws.

However, Simon supported Ogilvie's idea of creating a department of transportation to administer financing and to coordinate the state's actions in the field.

Observers said Ogilvie will need substantial Democratic help, because both sides agree that 60 per cent majorities in Senate and House will be needed to safeguard the program. The 1970 state constitution, effective July 1, requires three-fifths majorities on state bond issues. Anticipating court challenges, sponsors of the bills will seek this degree of legislative approval before July 1.

The Nov. 3 election produced a 29 to 29 tie in the Senate and a 90 to 87 G. O. P. edge in the House, but several Republican legislators are ailing.

Just before Ogilvie made his speech, the Illinois Commerce Commission authorized the West Towns Bus Co., serving 40 communities west and north of Chicago, to charge 5 cents for transfers starting Sunday. In the past transfers have been free.

Last July, after Mayor Daley blocked Ogilvie's rescue effort, the CTA increased its basic fare from 40 to 45 cents and doubled its transfer fee to 10 cents.

WANTS SIX-COUNTY AGENCY

Ogilvie wants the proposed department of transportation to set up a six-county transit agency in Northeastern Illinois. Work has started on this project in the new Office of Mass Transportation created by Ogilvie's executive order Monday in the Department of Local Government Affairs.

The six-county agency would distribute state funds "systematically and wisely without giving undue competitive advantage" to one railroad or bus line, Ogilvie said.

Matching local funds will be required, Ogilvie's message said, but it was vague on whether state funds need be matched dollar for dollar. An aide to the governor said this is being left "flexible."

Ogilvie said the $200 million of state bond money with matching federal funds under a 1970 act of Congress "will be sufficient—when matched by local money—not only to maintain but also to renew and to improve the existing system substantially."

CALLS NEED STATEWIDE

"The need for this assistance is pressing and immediate, and it is far more than a Chicago problem," he said. "Mass transit systems elsewhere in the state are in difficulties at least as dire as the CTA. During the past year three-fourths of the transit systems in downstate cities and suburbs were operating at a deficit. Almost one-half were receiving some type of local subsidy."

Altho Chicago commuter railroad services are "for the most part the finest in the nation," Ogilvie said, many are using equipment made before World War II.

Suburban and downstate bus companies are experiencing similar problems with capital improvements, he said, mentioning Bloomington, Normal, Quincy, Decatur, Rock Island, and Joliet.

He said state aid will ease the burden of property taxes voted to help mass transit in Springfield, Peoria, and Champaign-Urbana.

HELPS GET FEDERAL AID

Capital grants provide maximum leverage to get federal funds recently made available, he said.

"One local dollar can be expected to bring five additional state and federal dollars into the program," he said.

Chicago and Cook County were authorized in 1969 to use part of their shares of motor fuel taxes for the CTA, but Mayor Daley has prevented such subsidy.

"Capital investment will substantially reduce operating costs because new equipment is cheaper to maintain and operate," Ogilvie said.

"This program should be adequate to give substantial assistance to the CTA, the major portion of whose deficit is not in operations but in capital accounts."

He said this method will keep the state from being pulled down into a quagmire of constantly increasing operating deficits. The CTA is again being threatened with a strike for higher wages.

He credited in large part the 1970 state constitution's bond financing provisions not available for the battle over mass transit last year.

Illinois' state debt was only 51 per cent of the average for California, New York, Pennsylvania, Texas and Michigan, in the last figures available. Even after the $750 million pollution and his proposed $900 million bond issues, Illinois would still rank far below the average, he said.

He said the bonds would be "essentially pay-as-you-go," with no principal deferral and a 25-year payment schedule.

Mr. PERCY. Mr. President, we recognize this fact in the Mass Transit Act of 1969, but this act did not take care of many of the cities that went boldly ahead in the past, putting out heavy outlays for equipment that they purchased, incurring indebtedness to do so, and now find their operating revenues at the point where they simply cannot meet their depreciation costs or even finance and pay interest on their bonds.

Mr. President, we need immediate substantial Federal assistance to assure the continuation of essential transportation services and to revitalize urban mass transportation systems by putting them on a sound financial footing.

The bill would authorize the Secretary of Transportation to make the emergency grants to State and local bodies for the purpose of helping local mass transportation systems to pay interest charges and other annual obligations which have been incurred for capital equipment purchases. Such funds could be used to defray costs arising from the acquisition, construction, improvement or leasing of facilities and equipment, but not from their operation or maintenance. These grants would be made only when the Secretary determines that they are required to prevent (1) termination

of a significant part of a community's transportation service, or (2) serious adverse effect on the welfare of a substantial number of lower-income persons. To finance the emergency grants, an appropriation of $75 million annually would be authorized for each of the fiscal years from 1972 through 1976. The approval of any grant would be contingent upon the applicant's contribution of at least one-third of the required funds from sources other than the current revenues of the system.

In its second part, the bill would provide interim subsidies to State and local public bodies to defray the annual operating deficits of local mass transportation systems within the applicant's jurisdiction. Grants to any system would require at least one-third local contribution. An annual appropriation of $75 million for each of the fiscal years 1972 through 1976 would be authorized to finance these interim grants.

The Secretary would be authorized to make such grants only after he has one, determined that they are needed to support services which are included in the area's comprehensive development plan, and two, approved a long-range plan, submitted by the applicant and operating agency, to improve transportation services and to insure the financial soundness of the system.

The Urban Mass Transit Act, passed last year, will greatly assist in the construction of new systems or help existing systems purchase new equipment. It does not, however, help those systems that have had the foresight, initiative, and courage to purchase new equipment without the promise or commitment, of outside financial assistance. Thus, one system with courage incurs debt to preserve or improve transportation service while another plays it safe, does nothing, and receives Federal financial assistance. By rewarding delay and penalizing initiative, we are undermining the very spirit we need if we are to revitalize urban mass transportation. This bill is a major step in helping those systems which have tried to help themselves.

S. 871—INTRODUCTION OF THE NATIONAL EARTHQUAKE INSURANCE ACT

Mr. TUNNEY. Mr. President, if southern California is to lift itself from the debris of the devastating February 9 earthquake, the Federal Government must offer a helping hand.

And it must continue to do so until those who lost their homes because of the quake are permanently rehoused, those made jobless are reemployed, and those impoverished are again back on their feet.

Commitment as strong as the sympathy felt with the first grim news of the quake must assure that the various Federal assistance programs swiftly get the funds needed for reconstruction.

There is no question that the Office of Emergency Preparedness and the Small Business Administration will seek supplementary appropriations to complete their work in helping residents of the Los Angeles area to reoccupy homes and reopen businesses.

Congress, here and now, should vow that these funds shall be speedily approved when the full inventory of damage is completed and the supplementaries are requested.

Even the most preliminary estimates place damage at half a billion dollars, and the prudent expectations is that this figure will go much higher as the price of repair and replacement is calculated.

Any delay or deferment on the supplementaries by the agencies submitting them or by Congress in approving them will heighten the suffering and anxiety of the thousands of victims of the disastrous quake.

Furthermore, Congress immediately should set course on legislation that will provide improved protection for householders and businessmen against loss in earthquakes and other major disasters.

I specifically refer to the need to extend the Federal Flood Insurance program to embrace earthquakes, and I am introducing such legislation today with the cosponsorship of Senators CRANSTON and BAYH.

The bill I am introducing would establish a Federal earthquake insurance program to be administered under the direction of the Secretary of Housing and Urban Development. The program would rely upon the participation of the private insurance industry to the maximum extent feasible and would provide earthquake insurance for residential units housing 1 to 4 families with subsidized rates where necessary. The Secretary of HUD would be encouraged by the bill to expand coverage to other residential, commercial and public buildings as quickly as possible.

The bill is patterned after the Flood Insurance Act of 1968 and is analogous to that act. The insurance program is designed to be self sustaining through the participation of the private insurance industry along the lines of the presently successful flood insurance program. As of December 1970 the flood program had over 60,000 policies outstanding with a dollar value of $1 billion, yet all claims under the program have been covered by private companies out of the premium revenues without Federal reinsurance provisions.

Obviously, a comprehensive approach to disaster insurance on a more general basis is also needed. Legislation dealing with this broader issue has been introduced in the past and will I am sure be reintroduced in this session. The immediate need, however, is to guarantee the availability of insurance for the citizens of California and other States threatened by earthquakes.

Additionally, legislation should be enacted to provide Federal funds for the reconstruction of private, nonprofit hospitals. Two—Holy Cross and Pacoima Lutheran—and two public hospitals were destroyed by the quake, denying hospital services to the vast San Fernando Valley areas.

Other legislation should authorize the Department of Transportation to make emergency funds for freeway reconstruction available as soon as the President declares a major disaster.

Above all, however, the Federal Government—and those of us here in Congress—cannot forget the plight of the individual victim of the quake—his problems in returning to his home or reestablishing his business.

We cannot let him down, or shortchange those emergency programs designed to help him.

These programs offer some basic, bread and butter assistance and every American should be familiar with the help available to him when disaster strikes:

First. Removal of debris from homes, yards and other private property at no cost.

Second. Temporary housing, including mobile homes or other dwellings, rent free for up to 12 months, and even after that at rents based upon ability to pay.

Third. Temporary assistance for rent or mortgage payments up to a full year for anyone facing eviction, dispossession or foreclosure as a result of financial hardship caused by disaster.

Fourth. Low-interest loans from Small Business Administration for repair, rehabilitation, or replacement of property damaged or destroyed.

Fifth. Refinancing of mortgages through SBA to cover repairs to home or business.

Sixth. Same benefits are available through Farmers Home Administration for rural residents.

Seventh. VA loan payments may be extended.

Eighth. Major employers may get low-interest loans to resume operations.

Ninth. Food stamps for low-income families.

Tenth. Also legal services.

Eleventh. Anyone who is unemployed because of the earthquake who cannot get unemployment compensation from regular State programs, can get it from Federal Government.

Mr. President, I ask unanimous consent that the text of the bill I am introducing today, with Senators CRANSTON and BAYH, be printed at this point in the RECORD.

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

The bill (S. 871) to provide for a national program of earthquake insurance, introduced by Mr. TUNNEY, for himself, Mr. CRANSTON, and Mr. BAYH, was received, read twice by its title, referred to the Committee on Banking, Housing and Urban Affairs, and ordered to be printed in the RECORD, as follows:

S. 871

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Earthquake Insurance Act".

PURPOSE

SEC. 2. It is the purpose of this Act to provide for a Federal insurance program covering property loss or damage resulting from earthquakes.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "earthquake" means any earthquake, earth tremor, earthslide, mudslide, or other similar geophysical phenomenon as the Secretary may define by regulation to be covered by the term earthquake;

(2) "United States" means the several

States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Canal Zone;

(3) "State" means each of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Canal Zone;

(4) "Governor" means the chief executive of any State; and

(5) "Secretary" means the Secretary of Housing and Urban Development.

BASIC ANTHORITY

SEC. 4. (a) The Secretary is authorized to establish and carry out an earthquake insurance program which will enable interested persons to purchase insurance against loss resulting from physical damage to or loss of real property and personal property related thereto resulting from, or arising out of, any earthquake occurring in the United States.

(b) In carrying out the earthquake insurance program the Secretary shall, to the maximum extent practicable, encourage and arrange for—

(1) appropriate financial participation and risk-sharing in the program by insurance companies or other insurers; and

(2) other appropriate participation on other than a risk-sharing basis by insurance companies or other insurers, insurance agents and brokers, and insurance adjustment organizations.

SCOPE OF PROGRAM

SEC. 5. (a) In carrying out the earthquake insurance program the Secretary shall initially make earthquake insurance available to cover residential properties which are designed for the occupancy of from one to four families.

(b) If on the basis of—

(1) studies and investigations undertaken and carried out and information received or exchanged under section 7, and

(2) such other information as may be necessary, the Secretary determines that it would be feasible to extend the earthquake insurance program to cover other properties, he may take such action under this Act as may be necessary in order to make earthquake insurance available to cover, on such basis as may be feasible, any types and classes of—

(A) other residential properties;

(B) business properties;

(C) agricultural properties;

(D) properties occupied by private nonprofit organizations; and

(E) properties owned by State and local governments and agencies thereof.

Any such extensions of the program to any types and classes of such properties shall be established by order.

NATURE AND LIMITATION OF INSURANCE COVERAGE

SEC. 6. (a) The Secretary shall, after consultation with appropriate representatives of the insurance authorities of the respective States, provide by order for general terms and conditions of insurability which shall be applicable to properties eligible for earthquake insurance coverage under section 5, including—

(1) the types, classes, and locations of any such properties which shall be eligible for earthquake insurance;

(2) the nature of and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such insurance;

(3) the classification, limitation, and rejection of any risks which may be necessary;

(4) appropriate minimum premiums;

(5) appropriate loss-deductibles; and

(6) any other terms and conditions relating to insurance coverage or exclusion which may be necessary to carry out the provisions of this Act.

(b) In addition to any other terms and conditions under subsection (a), such orders shall provide that—

(1) any earthquake insurance coverage based on chargeable premium rates (under section 8) which are less than estimated premium rates (under section 7 (a)(1)), shall not exceed—

(A) in the case of residential properties which are designed for the occupancy of from one to four families—

(i) $25,000 aggregate liability for any dwelling unit and $75,000 for any single dwelling structure containing more than one dwelling unit, or such greater amounts as the Secretary may determine by regulation: *Provided*, That such greater amount shall not exceed $40,000 for any single dwelling unit or $100,000 for any single dwelling structure containing more than one dwelling unit, and

(ii) $5,000 aggregate liability per dwelling unit for any personal property related thereto; and

(B) in the case of any other properties which may become eligible for earthquake insurance coverage under section 5, $100,000 aggregate liability for any single structure; and

(2) any earthquake insurance coverage which may be made available in excess of any of the limits specified in subparagraphs (1) (A) and (B) of this subsection shall be based only on chargeable premium rates (under section 8) which are not less than estimated premium rates (under section 7 (a)(1)).

ESTIMATES OF PREMIUM RATES

SEC. 7. (a) The Secretary is authorized to undertake and carry out such studies and investigations and to receive or exchange such information as may be necessary to estimate on an area, subdivision, or other appropriate basis—

(1) the risk premium rates for earthquake insurance which,

(A) based on consideration of the risk involved and accepted actuarial principles, and

(B) including—

(i) applicable operating costs and allowances which, in his discretion, should properly be reflected in such rates, and

(ii) any administrative expenses (or portion of such expenses) of carrying out the earthquake insurance program which, in his discretion, should properly be reflected in such rates,

would be required in order to make such insurance available on an actuarial basis for any types and classes of properties for which insurance coverage shall be available under section 5, and

(2) the rates, if less than the rates estimated under paragraph (1) which would encourage prospective insureds to purchase earthquake insurance, and would be consistent with the purposes of this Act.

(b) In carrying out subsection (a), the Secretary shall, to the maximum extent feasible and on a reimbursement basis, utilize the services of other Federal departments or agencies, and for such purposes, may enter into contracts or other appropriate arrangements with any person.

ESTABLISHMENT OF CHARGEABLE PREMIUM RATES

SEC. 8. (a) On the basis of estimates made under section 7 and such other information as may be necessary, the Secretary from time to time shall, after consultation with appropriate representatives of the insurance authorities of the respective States, by order prescribe—

(1) chargeable premium rates for any types and classes of properties for which insurance coverage shall be available under section 5 (at less than the estimated risk premium rates under section 7(a)(1), if necessary), and

(2) the terms and conditions under which and areas (including subdivisions thereof) within which such rates shall apply.

(b) Such rates shall, insofar as practicable, be—

(1) based on a consideration of the respective risks involved,

(2) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses, or, if less than such amount, consistent with the objective of making earthquake insurance available, where necessary, at reasonable rates so as to encourage prospective insureds to purchase such insurance, and

(3) stated so as to reflect the basis for such rates, including the differences (if any) between the estimated risk premium rates under paragraph (1) of section 7(a), and the estimated rates under paragraph (2) of such section.

(c) If any chargeable premium rate prescribed under this section—

(1) is at a rate which is not less than the estimated risk premium rate under section 7(a)(1), and

(2) includes any amount for administrative expenses of carrying out the earthquake insurance programs which have been estimated under clause (ii) of section 7(a)(1)(B), a sum equal to such amount shall be paid to the Secretary, and he shall deposit such sum in the fund authorized under section 10.

TREASURY BORROWING AUTHORITY

SEC. 9. (a) The Secretary is authorized to issue to the Secretary of the Treasury from time to time and have outstanding at any one time, in an amount not exceeding $500,000,000 (or such greater amount as may be approved by the President), notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on the outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued under this subsection, and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations.

The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(b) Any funds borrowed by the Secretary under this authority shall, from time to time, be deposited in the Earthquake Insurance Fund established under section 10.

EARTHQUAKE INSURANCE FUND

SEC. 10. (a) To carry out the earthquake insurance program authorized by this Act, the Secretary is authorized to establish in the Treasury of the United States an Earthquake Insurance Fund which shall be available, without fiscal year limitation—

(1) to repay to the Secretary of the Treasury such sums as may be borrowed from him (together with interest) in accordance with the authority provided in section 9 of this title; and

(2) to pay such administrative expenses (or portion of such expenses) of carrying out

the earthquake insurance program as he may deem necessary; and

(3) to pay claims and other expenses and costs of the earthquake insurance program (including any premium equalization payments and reinsurance claims), as the Secretary deems necessary.

(b) The fund shall be credited with—

(1) such funds borrowed in accordance with the authority provided in section 9 of this Act as may from time to time be deposited in the fund;

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

(3) interest which may be earned on investments of the fund pursuant to subsection (c);

(4) such sums as are required to be paid to the Secretary under section 8(c); and

(5) receipts from any other operations under this Act which may be credited to the fund (including premiums and salvage proceeds, if any, resulting from reinsurance coverage).

(c) If, after all outstanding obligations have been liquidated, the Secretary determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

PAYMENT OF CLAIMS

SEC. 11. The Secretary is authorized to issue orders establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any damage to or loss of property which is covered by earthquake insurance made available under the provisions of this Act.

DISSEMINATION OF EARTHQUAKE INSURANCE INFORMATION

SEC. 12. The Secretary shall take such action as may be necessary in order to make information and data available to the public and to any State or local agency or official, with regard to—

(1) the earthquake insurance program, its coverage and objectives, and

(2) estimated and chargeable earthquake insurance premium rates, including the basis for and differences between such rates in accordance with the provisions of section 8.

PROHIBITION AGAINST CERTAIN DUPLICATIONS OF BENEFITS

SEC. 13. (a) Notwithstanding the provisions of any other law, no Federal disaster assistance shall be made available to any owner of real property for the physical loss, destruction, or damage of such property, to the extent that such loss, destruction, or damage is covered by a valid claim which may be adjusted and paid under earthquake insurance made available under the authority of this Act.

(b) For purposes of this section "Federal disaster assistance" shall include any Federal financial assistance which may be made available to any person as a result of—

(1) a major disaster proclaimed by the President,

(2) a natural disaster, as determined by the Secretary of Agriculture pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), and

(3) a disaster with respect to which loans may be made under section 7(b) of the Small Business Act, as amended (15 U.S.C. 636(b)).

PROPERTIES IN VIOLATION OF STATE AND LOCAL LAW

SEC. 14. No new earthquake insurance coverage shall be provided under this Act for any property which the Secretary finds has been declared by a duly constituted State or local zoning authority, or other authorized public body, to be in violation of State or local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in earthquake-prone areas.

COORDINATION WITH OTHER PROGRAMS

SEC. 15. (a) The Secretary shall coordinate the administration of this Act with the authority conferred on him by the National Flood Insurance Act of 1968, and may use the personnel and facilities engaged in carrying out the National Flood Insurance Program to carry out the provisions of this Act.

(b) In carrying out this Act, the Secretary shall consult with other departments and agencies of the Federal Government, and interstate, State, and local agencies having responsibilities for disaster assistance in order to assure that the programs of such agencies and the earthquake insurance program authorized under this Act are mutually consistent.

(c) The Veterans' Administration, the Federal Housing Administration, and any other Federal agency administering a program under which loans or mortgages on residential or other structures are guaranteed or insured by the Federal Government, may, by regulation, require that any such structure be insured under the earthquake insurance program administered by the Secretary, if insurance is available under such program for such structure.

JUDICIAL REVIEW

SEC. 16. Orders under this Act shall be established and issued in accordance with the provisions of section 553 of title 5, United States Code. In case of controversy as to the validity of any such order, a person who is adversely affected thereby may, at any time prior to the sixtieth day after such order is issued, file a petition with the United States District Court for the District of Columbia for judicial review of such order in accordance with the provisions of chapter 7 of such title.

IMPLEMENTATION

SEC. 17. After such consultation with representatives of the insurance industry as may be necessary, the Secretary shall implement the earthquake insurance program. In implementing such program, the Secretary is authorized, to the extent not inconsistent with this Act, to establish an industry program for earthquake insurance with Federal financial assistance or a Government program for earthquake insurance with industry assistance in the same manner and under the same terms and conditions as he is authorized to establish programs under chapter II of the National Flood Insurance Act of 1968.

PAYMENTS

SEC. 18. Any payments under this Act may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

GOVERNMENT CORPORATION CONTROL ACT

SEC. 19. The provisions of the Government Corporation Control Act shall apply to the program authorized under this Act to the same extent as they apply to wholly owned Government corporations.

FINALITY OF CERTAIN FINANCIAL TRANSACTIONS

SEC. 20. Notwithstanding the provisions of any other law—

(1) any financial transaction authorized to be carried out under this Act, and

(2) any payment authorized to be made or to be received in connection with any such financial transaction,

shall be final and conclusive upon all officers of the Government.

ADMINISTRATIVE EXPENSES

SEC. 21. Any administrative expenses which may be sustained by the Federal Government in carrying out the earthquake insurance program authorized under this Act may be paid out of appropriated funds.

AUTHORIZATION OF APPROPRIATIONS

SEC. 22. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act, including sums—

(1) to cover administrative expenses of carrying out the earthquake insurance program;

(2) to cover reimbursement of premium equalization payments made from the earthquake insurance fund and reinsurance claims paid under excess loss reinsurance coverage; and

(3) to make such other payments as may be necessary to carry out the purposes of this Act.

(b) All such sums shall be available with fiscal year limitation.

TECHNICAL AMENDMENT

SEC. 23. (a) Section 1302(f) of the Housing and Urban Development Act of 1968 is repealed.

(b) Section 1370 of such Act is amended by—

(1) striking out the subsection designation "(a)"; and

(2) striking out subsection (b) of such section.

EFFECTIVE DATE

SEC. 24. This Act shall take effect 120 days after the date of its enactment, except that the Secretary, on the basis of a finding that conditions exist necessitating a later effective date, may prescribe a later effective date which shall not be more than 180 days after such date of enactment.

S. 872, S. 873, S. 874, S. 875, AND SENATE CONCURRENT RESOLUTION 7—INTRODUCTION OF BILLS AND SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO PROBLEMS IN THE AMERICAN COMMERCIAL FISHING INDUSTRY

Mr. STEVENS. Mr. President, today I am introducing a series of bills which are designed to solve several serious problems presently confronting the American commercial fishing industry.

The first measure (S. Con. Res. 7) requests the President to convene a conference of fishing nations for the purpose of negotiating an international treaty giving coastal nations exclusive jurisdiction over anadromous fish, such as salmon, which spawn in their coastal streams. Such a treaty would minimize disputes over international rights while increasing the effectiveness of conservation laws imposed by coastal nations on their own commercial fishermen.

This concurrent resolution is offered as a companion measure to legislation which I have already introduced to widen the present U.S. contiguous fisheries zone. The latter measure would retain the present inward boundary of the contiguous zone, but would extend the outer limit so that each point on the boundary line would be 200 nautical miles from the nearest point on the inner line or at a point corresponding to a depth of 550 meters, whichever alternative produces the greater breadth. This formula would be used to compute the contiguous zone everywhere except in the Bering Sea off the coast of Alaska, where the outer

boundary would be the International Dateline.

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

The concurrent resolution (S. Con. Res. 7), which reads as follows, was referred to the Committee on Foreign Relations:

S. CON. RES. 7

Resolved by the Senate (the House of Representatives concurring), That the Congress declares that—

(1) anadromous fish, particularly the salmon species which inhabit the waters of the North Pacific Ocean, are a unique natural resource of the United States;

(2) the United States has imposed severe catch restrictions upon its fishermen in order to insure that adequate stocks of salmon will be permitted to return to their spawning grounds;

(3) existing international agreements governing the taking of salmon on the high seas do not adequately reflect the paramount interest of the United States as the principal spawning ground of this ocean resource;

(4) the failure of certain nations to adhere to existing international agreements governing the taking of salmon on the high seas threatens to undermine the efforts of the United States to conserve this resource;

(5) the United States will be compelled to act unilaterally to preserve its anadromous fish resources in the North Pacific Ocean unless an international accord is reached which grants exclusive jurisdiction to the United States for the establishment of high seas fishery conservation practices;

(b) The Congress therefore requests the President to call at the earliest convenient time a Conference on the International Conservation of Anadromous Fish and invite all nations interested in anadromous fish resources to attend the conference to consider the adoption of an International Convention on the Conservation of Anadromous Fish recognizing the exclusive right of coastal states to establish high seas conservation practices for those stocks of anadromous fish which spawn principally in their respective inland waters.

Mr. STEVENS. Mr. President, the first bill which I am introducing today would change the present method used for determining the inward boundary of the 3 mile territorial sea. In most instances, the low water line along the coast would still be used to determine the inward boundary. However, in places where the coastline is deeply indented or where there is a fringe of islands along the coast, the straight baseline method would be employed. Thus, except where the 24 mile closing rule applies, the inward boundary of the territorial sea would be computed by drawing a straight line between the two headlands of a bay or other indentation in the coastline. In the case of a bay which is more than 24 miles wide, the inward boundary would be determined by drawing a line across the width of the bay at the point where it exceeds 24 miles. Where there is a fringe of islands along the coast, the inward boundary would be computed by drawing a straight line between the islands. Any areas enclosed within the line would be designated as part of the inland waters of the United States. Since the inward boundary of the territorial sea would be drawn further from shore along certain streches of the coastline of my State of Alaska, the use of the straight baseline method would significantly widen the marine areas under the jurisdiction of Alaska or the United States in these coastal regions.

The net effect of the three measures which I have just described would be to protect the bountiful American fisheries from the depredations of foreign fishermen. Such protection is necessary for two reasons. First, foreign fishing activity off the coasts of the United States has seriously threatened our marine resources. American fishermen are required to adhere to very stringent laws and regulations respecting the time, place and manner governing fishing activities. However, foreign fishermen are subject to no such restrictions. As a result, the salmon run in my State has been threatened several times in the past few years by foreign nationals using harvesting techniques which are forbidden to our own fishermen.

Foreign fishing activity only a few miles off the coasts of the United States has also posed a severe economic threat to American commercial fishermen. Partly because of this activity, the United States ranks a poor sixth among the world's fishing nations in spite of our advanced technology and vast wealth. The economic consequences of foreign fishing are felt throughout the United States. However, the most deleterious effects are experienced in Alaska, where fishing is the second greatest revenue producing industry and where commercial fishermen represent a large proportion of the overall work force. These men and women look to the sea as their sole source of income, and many depend on the Alaskan fishery for a large part of their diet.

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

The bill (S. 872) to amend the act entitled "An Act to establish a contiguous fishery zone beyond the territorial sea of the United States", approved October 14, 1966, to require that the method of straight baselines shall be employed for the purpose of determining the boundaries of such fishery zone, and for other purposes, introduced by Mr. STEVENS, was received, and read twice by its title, and referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, I am introducing three other bills to provide assistance to America's commercial fishing industry. The first measure would authorize the Secretary of Commerce to make loans to fishermen's associations to defray costs incurred in purchasing and storing fish and shell fish or products; to provide operating capital; and to finance the acquisition by purchase or lease of vessels, land, buildings, and equipment used in connection with the storing, processing, and preparation for market of fish and fish products.

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

The bill (S. 873) to amend the Fish and Wildlife Act of 1956 to authorize loans to fishermen's association for certain purposes introduced by Mr. STEVENS, was received, read twice by its title, and referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, the second bill would authorize the Secretary of Commerce to make loans to associations of fishing vessel owners and operators organized to provide marine insurance at lower rates. Such insurance would cover loss of or damage to commercial fishing vessels, including machinery, equipment, and gear. The injury or death of crew members would also be compensable. To implement this insurance program, $10 million would be appropriated to a revolving fund. With certain limitations, the Secretary of Commerce could then make low-interest loans to fishing associations.

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

The bill (S. 874) to amend the Fish and Wildlife Act of 1956 to authorize the Secretary of Commerce to make loans to associations of fishing vessel owners and operators organized to provide insurance against the damage or loss of fishing vessels or the injury or death of fishing crews, and for other purposes, introduced by Mr. STEVENS, was received, read twice by its title, and referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, each of these two bills is designed to assist fishing vessel owners and operators to resolve difficulties that have proved especially onerous in recent years. Thus, for example, the first bill would enable fishermen to obtain loans more easily than ever before. Although both the Farmers Home Administration and the Small Business Administration are authorized to make loans to commercial fishermen, such loans are often impossible to obtain because of the nature of particular operations. By establishing a loan program especially designed to meet the needs of fishing associations, my bill would bring much needed stability, economy, and efficiency to many segments of the fishing industry which, in the past, have been plagued by a lack of capital.

The second bill is introduced in response to another problem confronting many fishermen in Alaska and elsewhere: the high cost of marine insurance. Recent studies indicate that insurance rates are increasing in almost every area of marine insurance and in almost every region of the United States. This trend is most acute in Alaska, where insurance rates as high as 14 percent of total coverage are being charged for hull insurance. These statistics indicate that Federal participation is necessary to provide adequate insurance coverage for the less wealthy sectors of the fishing community.

The last bill which I am introducing today would provide partial reimbursement to fishermen for losses incurred as a result of fishing restrictions imposed by a State or the United States because of water pollution. Under the bill, if a fisherman accepts reimbursement, he automatically authorizes the Federal Government to file suit in his behalf against those who polluted the waters. Any amount collected in excess of the initial reimbursement and court costs

would be turned over to the aggrieved fisherman by the governmental entity which initiated the suit. Although it is reasonable to expect that this method of reimbursement will ultimately be self-supporting, such a status will probably not be achieved for several years. Accordingly, my bill appropriates $4 million for operation of the program during the first year and $5 million for each of the 4 succeeding years.

The most obvious example of the bill's application is the Great Lakes area, where mercury-laden industrial wastes have forced the State of Michigan to ban commercial fishing. However, it would also apply if the Federal or a State government along the Pacific coast is ever forced to take drastic action against oil or other chemical pollution. At present, no Federal program exists to assist commercial fishermen to cope with the consequences of water pollution, although such programs are often available in other sectors of economic activity.

Mr. President, I want to emphasize the urgent need for the type of legislation which I have introduced today. The U.S. commercial fishing industry contributes a great deal to our society in both economic and nutritional terms. It would indeed be a national catastrophe if we in Congress were to neglect the needs of our fishermen at this critical juncture in the history of this vital industry.

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

The bill (S. 875) to provide partial reimbursement for losses incurred by commercial fishermen as a result of restrictions imposed on domestic commercial fishing by a State or the Federal Government introduced by Mr. STEVENS, was received, read twice by its title, and referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, I ask unanimous consent that the texts of these bills be printed in the RECORD at this point.

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

S. 872

A bill to amend the Act entitled "An Act to establish a contiguous fishery zone beyond the territorial sea of the United States", approved October 14, 1966, to require that the method of straight baselines shall be employed for the purpose of determining the boundaries of such fishery zone, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to establish a contiguous fishery zone beyond the territorial sea of the United States," approved October 14, 1966 (16 U.S.C. 1092), is amended by inserting "(a)" immediately after "SEC. 2." and by adding at the end thereof the following new subsection:

"(b) For the purposes of this section, the baseline for measuring the breadth of the territorial sea shall be established in accordance with the provisions of the Convention on the Territorial Sea and the Contiguous Zone which came into force on September 10, 1964, and, where applicable, the method of straight baselines shall be employed in drawing the baseline pursuant to article 4 of such convention."

SEC. 2. Such Act of October 14, 1966, is amended by adding at the end thereof the following new sections:

"SEC. 5. Within the two-year period beginning on the date of enactment of this section, the baseline for the purpose of charting the contiguous fishery zone, described in subsection (b) of section 2 of this Act, shall be marked on large-scale charts officially recognized by the United States.

"SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act."

S. 873

A bill to amend the Fish and Wildlife Act of 1956 to authorize loans to fishermen's associations for certain purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Fish and Wildlife Act of 1956 (70 Stat. 1121), as amended (16 U.S.C. 742c), is amended by adding at the end thereof the following new subsection:

"(f) The Secretary of Commerce is authorized, under such rules and regulations and under such terms and conditions as he may prescribe, to make loans to any fishermen's association meeting the requirements of the Act of June 25, 1934 (48 Stat. 1213), as amended (15 U.S.C. 521–522), and existing as of the date of enactment of this subsection, for the following purposes: (1) to finance the purchase of fish and shellfish or products thereof and the cost of storing fish and shellfish and the products thereof in cold storage or other storage facilities owned, leased, or used by such association; (2) to provide operating capital needed to supplement the capital funds of such association; and (3) to finance or refinance the acquisition by purchase or lease of vessels, land, buildings, and equipment and the construction or reconstruction of buildings or other improvements used by such association in connection with activities related solely to the storage, processing, preparation for market, handling, or marketing of fish and shellfish or the products thereof."

(b) The first sentence of section 4(b)(4) of the Fish and Wildlife Act of 1956, as amended, is amended by striking the period at the end thereof and adding the following: "and to fishermen's associations."

(c) Section 4(b)(5) of the Fish and Wildlife Act of 1956, as amended, is amended by striking the period at the end thereof and inserting "or to enable it, in the case of a fishermen's association, to operate and manage the association efficiently and effectively for the mutual benefit of the members thereof."

S. 874

A bill to amend the Fish and Wildlife Act of 1956 to authorize the Secretary of Commerce to make loans to associations of fishing vessel owners and operators organized to provide insurance against the damage or loss of fishing vessels or the injury or death of fishing crews, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) is amended by striking out "SEC. 4." and inserting in lieu thereof "SEC. 4a.".

SEC. 2. The Fish and Wildlife Act of 1956 is amended by inserting immediately after section 4a thereof (as redesignated in the first section of this Act) the following new section:

"INSURANCE LOAN PROCEDURES

"SEC. 4b. (a) The Secretary is authorized to make loans to any fishermen's marine insurance association to enable such association to carry out its insurance operations.

"(b) The Secretary may not make loans under this section to any fishermen's marine insurance association which in aggregate amount exceed an amount equal to 50 per centum of the amount of the capital and surplus of such association.

"(c) Any loan made by the Secretary under this section shall—

"(1) bear an interest rate of not less than (A) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (B) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose,

"(2) mature in not to exceed ten years,

"(3) be secured in a manner deemed satisfactory by the Secretary, and

"(4) be subject to such other terms and conditions as the Secretary deems necessary or appropriate.

"(d) The Secretary may, with respect to any loan made by him under this section, agree to a modification of—

"(1) the interest rate,

"(2) the time of payment of any installment of principal, but such modification may not extend the loan beyond ten years,

"(3) the security for the loan, or

"(4) any other terms or conditions made with respect to the loan by the Secretary.

"(e) There is created a Fishermen's Association Insurance Loan Fund which shall be used by the Secretary as a revolving fund to make loans under this section. Any funds received by the Secretary in payment of principal or interest on any loan so made shall be deposited in the Fund and be available for making additional loans under this section. There is authorized to be appropriated to the Fund the sum of $10,000,000 to provide initial capital.

"(f) As used in this section—

"(1) The term 'fishermen's marine insurance association' means any association, whether corporate or otherwise, which is formed by citizens of the United States who are owners or operators of commercial fishing vessels for the purpose of insuring themselves, in accordance with applicable State laws, against—

"(A) any loss of, or damage to, a commercial fishing vessel (including machinery, equipment, and gear) caused by marine perils, and

"(B) the injury or death of any officer, and any member of the crew, of a commercial fishing vessel incurred incident to the operation of such vessel for fishing purposes.

except that a fishermen's marine insurance association may not insure any commercial fishing vessel other than a vessel of which at least 75 per centum of the interest therein is owned by a citizen of the United States who is a member of such association.

"(2) The term 'citizen of the United States' includes a corporation, partnership, or association which—

"(A) is organized under the laws of any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and

"(B) is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802)."

S. 875

A bill to provide partial reimbursement for losses incurred by commercial fishermen as a result of restrictions imposed on domestic commercial fishing by a State or the Federal Government

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 "Domestic Fishermen's Emergency Assistance Act".

SEC. 2. As used in this Act—

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "domestic fishing" means commercial fishing which is subject to regulation or restriction under the laws of any State.

(3) The term "fishing equipment" includes nets, equipment, and vessels used in domestic fishing.

(4) The term "prohibitive Federal or State restrictions" means restrictions related to a deterioration in the quality of the aquatic environment and imposed on or after January 1, 1971, by any State or by any department or agency of the Federal Government which, in the judgment of the Secretary, impair the economic feasibility of any type of domestic fishing to such an extent as to reduce (1) by 50 per centum or more the fair market value, in the affected area, of fishing equipment principally useful for that type of fishing, or (2) by 20 per centum or more the market value of the commercial catch in the affected area which would have been realized in the calendar year concerned but for the imposition of such restrictions.

(5) The term "eligible owner" means any legal entity which—

(A) is the owner of fishing equipment, and

(B) was engaged in domestic fishing as his usual occupation for one month or more prior to the imposition of prohibitive Federal or State restrictions thereon.

SEC. 3. (a) Any eligible owner adversely affected by the imposition of prohibitive Federal and State restrictions in any calendar year may apply to the Secretary for a grant under this section for the purpose of enabling such owner to meet the usual business expenses which, but for the economic loss caused him by the imposition of such restrictions, such owner would ordinarily be able to meet.

(b)(1) In any case in which paragraph (2) does not apply, a grant made by the Secretary under this section may not exceed an amount equal to 70 per centum of the yearly gross earnings from domestic fishing operations which the eligible owner lost in the calendar year as a result of the imposition of such Federal or State restrictions. In determining lost gross earnings from domestic fishing operations for an eligible owner under this paragraph, the Secretary shall subtract the amount of actual or estimated gross earnings from such operations in the year in which such Federal or State restrictions were imposed from the yearly gross earnings from domestic fishing operations made by such eligible owner in the last calendar year in which no prohibitive Federal or State restrictions affected such owners' operations.

(2) In the case of an eligible owner who substantially increased his investment in fishing equipment for use in the calendar year in which such restrictions are imposed, as compared with his investment in fishing equipment in the calendar year immediately preceding such calendar year, a grant made under this section may not exceed an amount equal to 70 per centum of the estimated yearly gross earnings from domestic fishing operations which the eligible owner lost in the calendar year as a result of the imposition of such Federal or State restrictions. In estimating lost gross earnings under this paragraph, the Secretary shall take into account the size, type, and number of fishnets owned by the eligible owner and in use by him at the time of, or intended to be so used by him before, such Federal or State restrictions were imposed and the expected income per fishnet for that calendar year.

(c) No grant may be made under this section unless application therefor is made before the close of the calendar year after the calendar year in which the prohibitive Federal or State restrictions concerned are State restrictions concerned are imposed.

SEC. 4. The Secretary shall attach such conditions and limitations with respect to a grant made under section 6 of this Act as he deems necessary or appropriate to protect the interests of the United States. The acceptance of a grant made under section 3 of this Act shall operate as an assignment to the Secretary of all rights of the eligible person receiving the grant to recover damages against any party for committing or failing to commit acts which resulted in the imposition of the prohibitive Federal or State restrictions on the basis of which the eligible person obtained such grant. If the Secretary recovers damages by exercising any right assigned to him under this section, any amount so recovered in excess of the amount of the grant made under this Act and the administrative expenses incurred in exercising such right shall be paid to the eligible person concerned.

SEC. 5. There is authorized to be appropriated to carry out the purposes of this Act not to exceed $4,000,000 for the fiscal year ending June 30, 1972, and not to exceed $5,000,000 for each of the four succeeding fiscal years.

SENATE JOINT RESOLUTION 41—INTRODUCTION OF A JOINT RESOLUTION PROVIDING FOR CHANGES IN SYSTEM OF ELECTING PRESIDENT AND VICE PRESIDENT

Mr. SPONG. Mr. President, I introduce for appropriate reference a joint resolution proposing an amendment to the Constitution to provide for changes in our system of electing the President and Vice President.

The purpose of this proposed amendment is to meet the acknowledged defects of our present electoral system without, in the process, disrupting the operation of our two-party system. Briefly, the amendment would do three things.

First, it would eliminate electors as such and make the division of electoral votes an automatic process, thus avoiding the problem of the so-called faithless elector.

Second, it would improve the method for naming a President outside the electoral vote system by making it a matter for the entire Congress to decide—Senate and House sitting in joint session—with each Member having one vote.

Finally, the amendment would assure a direct popular voice in the election of the President by requiring the winner to have both an electoral majority and a popular plurality. In the event that no candidate met both tests, the Congress would choose between the person having the most electoral votes and the person having the greatest number of popular votes.

In fact, there has been only one occasion in our history when the electoral college has elected a President who had fewer popular votes than his rival candidate. That was in 1888 when Benjamin Harrison was named to the office even though he had about 100,000 fewer votes than Grover Cleveland. In all other instances, however, the electoral vote has faithfully followed the decision at the polls even in such close contests as we had in 1960 and 1968.

Nevertheless, as rare as such an incident has been, I believe it is important for public confidence in our electoral system that we remove any chance that it will happen again. And it could not under my amendment which, in effect, converts the electoral college system into a direct popular election. But by retaining the electoral division of votes it avoids all of the problems of proliferating parties and splinter candidates that a simple popular vote could induce.

Mr. President, last month the President called on the Congress to make the unfinished business of the 91st Congress the priority concern of the new session. Of all those issues, none is of greater importance in my judgment than improving our electoral college system, and I would hope that it will be among the first to be acted upon by the Senate.

The VICE PRESIDENT. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 41) proposing an amendment to the Constitution of the United States with respect to the election of the President and Vice President of the United States, introduced by Mr. SPONG, was received, read twice by its title and referred to the Committee on the Judiciary.

SENATE JOINT RESOLUTION 42—INTRODUCTION OF A JOINT RESOLUTION TO AUTHORIZE THE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TO CONVEY CERTAIN LANDS IN BREVARD COUNTY, FLA.

Mr. GURNEY. Mr. President, I am today submitting a joint resolution for myself and my distinguished colleague, Senator CHILES to authorize the Administrator of NASA to convey several acres of unimproved land at the John F. Kennedy Space Center to a nonprofit organization for the purpose of erecting a Chapel of the Astronauts.

Mr. President, it appears to me to be fitting and proper that there be erected at the Kennedy Space Center a nondenominational, nonsectarian, nonprofit, public facility open to all Americans where a man can express his gratitude to the Almighty God for the knowledge he has released to us, so that mortal man might penetrate deeper into the secrets of this infinite universe.

Over 2 years ago, a group of dedicated businessmen became aware and concerned with the fact that there exists no place of worship on, or very near, the vast expanse of the moonport—NASA's Kennedy Space Center. Their determination to create a chapel for worship was further spurred on by the historic reading of Genesis by the Apollo 8 astronauts. Finally, a nonprofit organization, the Chapel of the Astronauts, Inc., was established in early 1969.

The proposed Chapel of the Astronauts will be a $1 million facility paid for entirely by public subscription. It will be dedicated to no man, but to the worship of Almighty God. The pattern of worship within the building will be liturgical and ecumenical. The millions of people who come to visit the great port of departure and view the manmade wonders at the Kennedy Space Center

will also be able to visit this visible symbol of our faith.

The National Aeronautics and Space Administration has already given its informal approval to this project. I would hope that the Senate would also early consider and speedily and favorably act on this resolution.

The VICE PRESIDENT. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 42) to authorize the Administrator of the National Aeronautics and Space Administration to convey certain lands in Brevard County, Fla.; introduced by Mr. GURNEY (for himself and Mr. CHILES), was received, read twice by its title, and referred to the Committee on Aeronautical and Space Sciences.

Mr. CHILES. Mr. President, I am very pleased to join my distinguished colleague from Florida (Mr. GURNEY) in introducing legislation which will make it possible to establish a Chapel of the Astronauts at John F. Kennedy Space Center in Brevard County, Fla.

Nothing in modern history has captured the imagination of the peoples of the world as has space exploration. Without question our American program has delighted the hearts of everyone. And there can be no doubt that at the core of all our successes has been those men of courage, imagination, and great capacity—our astronauts.

This legislation would allow the space administration to sell to a nonprofit corporation sufficient land for the Chapel of the Astronauts, a nondenominational, nonsectarian and nonprofit facility for meditation and worship which would serve as a memorial to our astronauts.

How fitting it is that a place of worship serve as a memorial to our astronauts—men who have probed outer space, men who have journeyed into the heavens and returned to share their experiences with us.

This chapel would stand adjacent to the visitors' information center at the space center, available to the millions of visitors from throughout the world who go there each year. The purpose is appropriate. The place is significant. The time is right. I ask that this legislation be given serious consideration.

SENATE JOINT RESOLUTION 43—INTRODUCTION OF A JOINT RESOLUTION WITH RESPECT TO THE CURRENT RAILROAD LABOR DISPUTE

Mr. JAVITS. Mr. President, faced with the threat of a nationwide railroad strike, we acted on last December 10 to postpone such a strike until March 1, 1971. The law which was enacted at that time, Public Law 91-541, also required the President to send to Congress 15 days in advance of the new deadline a report on the progress of the negotiations and his recommendations for dealing with the dispute. Last Saturday, the President submitted his report and recommendations. I now introduce, by request, for appropriate reference, the joint resolution proposed by the President—it is also being introduced in the other body—and ask that the joint resolution together with the President's report and recommendations be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution and report and recommendations will be printed, as requested, at the conclusion of the Senator's remarks.

(See exhibit 1.)

Mr. JAVITS. Mr. President, I am pleased to report to the Senate that there is some basis for optimism that this dispute may be resolved before March 1, thus obviating the need for us to act on the President's proposals. Two of the four unions involved in this dispute have already reached agreement with the carriers. The two are the Brotherhood of Maintenance of Way Employees and the Hotel and Restaurant Employees. A third union, the Brotherhood of Railway Clerks, has reached tentative agreement. The fourth union, the United Transportation Union, is now engaged in intensive negotiations with the carriers, and there is reason to hope that these negotiations may be successful. Certainly, legislation, no matter how carefully shaped, is no substitute for an agreement reached through collective bargaining. I know that the parties, with the assistance of the National Mediation Board, Secretary of Labor Hodgson, and Assistant Secretary of Labor Usery, are making every effort to resolve their remaining differences.

We must, however, be prepared for any eventuality. If the dispute is not resolved, the President has asked for legislation which would provide him with two alternative courses of action: first, to put into effect with some revisions the recommendations of the Emergency Board No. 178; and second, to permit a selective strike against certain railroads under conditions that would insure that the health and safety of the Nation would not be adversely affected.

Mr. President, in view of the negotiations now going on, I do not believe that it would be appropriate for me to comment in detail on the President's proposals. I do think it is helpful to have them in advance, and there is no question but that they will be given the greatest weight in the regrettable event that we are forced to act again with respect to this dispute.

Mr. President, I also want to point out that whether or not this dispute is settled, and I certainly hope that it will be, the Congress still has a responsibility to pass permanent legislation to deal on a permanent basis with the emergency dispute problem. The President has sent up a bill for this purpose, and I have introduced a somewhat broader measure. An editorial in the Washington Evening Star of February 12 commented on the differences between my bill and the President's bill. I ask unanimous consent that the editorial be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. JAVITS. I note that the distinguished chairman of the Labor and Public Welfare Committee, Senator WILLIAMS, of New Jersey, yesterday introduced a bill to permit selective strikes in the railroad industry. All of these bills will, I am sure, be given the most careful consideration by the committee when hearings are held in March.

EXHIBIT 1

The joint resolution (S.J. Res. 43) to provide alternate procedures to facilitate the settlement of the labor dispute between certain carriers by railroad and certain of their employees introduced by Mr. JAVITS, by request, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S.J. RES. 43

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the labor dispute between the carriers represented by the National Railway Labor Conference and the Eastern, Western, and Southeastern Carriers Conference Committees and certain of their employees represented by the United Transportation Union (UTU), and the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees (BRAC), threatens essential transportation services of the Nation; and

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained; and

Whereas all the procedures for resolving such dispute provided for in the Railway Labor Act and the no-strike, no-lockout extension provided by the Joint Resolution of December 10, 1970 (Public Law 91-541) have been exhausted and have not resulted in settlement of the dispute; and

Whereas the Congress finds that emergency measures are essential to security and continuity of transportation services by such carriers; and

Whereas Emergency Board numbered 178 (created by Executive Orders 11558 and 11559, September 18, 1970) made its report to the President on November 9, 1970, which report has provided the basis for negotiation since that time resulting in a settlement between the carriers and two unions that were original parties to this dispute, has been generally accepted by the carriers, and has been partially adopted by the wage increases legislated by the Congress in the Joint Resolution of December 10, 1970; and

Whereas it is possible that resolution of this dispute could be best assured through the free action of the parties, restricted only to the degree necessary to assure the protection of the health and safety of all sections of the Nation; and

Whereas it is desirable to provide for alternative methods of resolution as an incentive to continued free collective bargaining: Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States may invoke, effective March 1, 1971, or not later than seven days after the enactment of this Resolution, whichever is later, either of the following alternative procedures (section 2, or section 3) but not both, for resolution of this dispute:

RECOMMENDATIONS OF EMERGENCY BOARD

SEC. 2. (a) If the President chooses to invoke the procedures provided in this section, no strike or lockout shall be permitted through the period of time granted the Spe-

cial Railway Dispute Commission, established in subsection (d) of this section, for resolving the dispute and, further, the decision rendered by the Commission shall have the same effect (including the preclusion of resort to either strike or lockout) as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.).

(b) The following items are descriptive only of the recommendations contained in the report of Emergency Board No. 178, which the Special Railway Dispute Commission shall use as the basis for defining, formulating, and making effective a final resolution of the dispute as provided by subsection (e) of this section: *Provided*, That the Commission in the exercise of its responsibility and authority under subsection (e) of this section shall not be limited by the following descriptions but shall deal with each such recommendation in accordance with the discussion and analysis of the recommendation contained in the report of Emergency Board No. 178.

(1) An increase in the rate of pay, in addition to that provided by Public Law 91–541, by 4 percent effective April 1, 1971; by 5 percent effective October 1, 1971; by 5 percent effective April 1, 1972; and 5 percent effective October 1, 1972.

(2) Elimination of "shift rules" granting premium pay for work performed on the day after a holiday notwithstanding the fact that the actual holiday falls on the employee's rest day. (Applicable to agreements between BRAC and the respective carriers.)

(3) Establishment of a rule permitting the carrier to blank an employee's birthday holiday instead of paying premium rates. (Applicable to agreements between BRAC and the respective carriers.)

(4) Extension of personal injury and liability group insurance to all employees traveling in off-track vehicles authorized by the carriers—similar to the April 21, 1969, agreement with the Brotherhood of Railroad Signalmen and Carriers. (Applicable to agreements between BRAC and the respective carriers.)

(5) Establishment of a rule requiring yard crews to service old industries located between the switching limits and industries currently served by such crews. (Applicable to agreements between UTU and the respective carriers.)

(6) Establishment of a rule modifying existing notice requirements for force reductions—similar to the 1969 Shop Craft Agreement.

(7) Establishment of a rule prohibiting additional and separate compensation for using radio communication systems. (Applicable to agreements between UTU and the respective carriers.)

(8) Establishment of a rule allowing the carriers to institute interdivisional runs. (Applicable to agreements between UTU and the respective carriers.) In defining, formulating and making effective this rule pursuant to subsection (e) of section 2 of this Resolution, the Commission shall also define, formulate and make effective a modification of existing rules covering away-from-home expenses.

(9) Establishment of a rule allowing the carriers more flexibility in interchange operations. (Applicable to agreements between UTU and the respective carriers.)

(10) Establishment of a rule implementing certain Presidential Railroad Commission findings combining road and yard service. (Applicable to agreements between UTU and the respective carriers.)

(11) Establishment of a rule requiring the merger of road and yard seniority rosters. (Applicable to agreements between UTU and the respective carriers.)

(12) Establishment of a rule permitting work assignments to be made interchangeably between clerks and telegraphers. (Applicable to agreements between BRAC and the respective carriers.)

(13) Establishment of a rule permitting the carriers to assign other employees to assist a worker who otherwise may be required to work overtime. (Applicable to agreements between BRAC and the respective carriers.)

(14) Establish a moratorium on issues relating to those disposed of in this round of bargaining.

(c)(1) The parties to the dispute for which Emergency Board No. 178 was originally established shall create, within three months of the effective date of this Resolution, a "standing committee" similar to the committee suggested by the Emergency Board, in order to effect a resolution of the issues which the Emergency Board recommended should be assigned to such a committee. At the conclusion of the three-month period, the parties shall notify the Secretary of Labor whether such a committee has been established and of the action which it has taken. If the parties report that no committee has been established, the Secretary of Labor shall provide such assistance to the parties as he deems appropriate to provide for the effective implementation of the recommendation.

(2) The following items are descriptive only of the issues the Emergency Board recommended be assigned to such standing committee:

(A) The revision or replacement of the dual system of pay, including the carrier request for restoration of the mileage holddown and the elimination of arbitraries, and the union request for revision of car sale additives. (Applicable to agreements between UTU and their respective carriers.)

(B) The possibility of combining all yard and road service. (Applicable to agreements between UTU and their respective carriers.)

(C) The elimination of Hostler positions. (Applicable to agreements between UTU and their respective carriers.)

(D) Any non-operating union rules otherwise not disposed of in the report of the Emergency Board.

(d) There is hereby established a Special Railway Dispute Commission consisting of two members appointed by the carriers, two members appointed by the unions, three public members appointed jointly by the unions and the carriers who shall be selected within five days of the date of the President's selection of this alternative procedure. If either party fails to name any of its members to the Commission, or if they fail to name the three public members, within the five-day period, the Secretary of Labor shall name said member or members. One member shall be chosen by the Commission as chairman. The Commission shall make decisions on the basis of a majority vote of the members. Members of the Commission shall receive compensation at a rate of up to the per diem equivalent of the rate for a GS–18 when engaged in the work of the Commission as prescribed by this section, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis. The National Mediation Board shall provide such services and facilities as may be necessary and appropriate in carrying out the purposes of this resolution. The Commission shall have the authority to hire experts and consultants, as provided in section 3(d)(3) of this Resolution.

(e)(1) The Commission shall have the authority and responsibility to define, formulate and make effective all of the recommendations of the report of Emergency Board 178 described in (b) above and no others, unless otherwise provided in this resolution. The Commission shall issue a final determination by May 1, 1971.

(2) The Commission shall hold hearings in the same manner as provided in section 3(e). The parties shall be afforded an opportunity to present their position on the definition and formulation of the Emergency Board's recommendations.

(3) The final determination by the Commission shall be binding on all parties and shall constitute a complete and final disposition of all issues involved: *Provided, however*, That an agreement between the parties before May 1, 1971, on any recommendation shall relieve the Commission from further consideration of that item and shall constitute a final disposition of the issue involved.

(f) Any party to the dispute aggrieved by the final determination of the Commission may obtain review thereof in the same manner as provided for review of a Panel decision in section 3(b)(4) and (5) of this Resolution.

(g) This section shall take effect immediately upon the invocation of its procedures by the President and shall remain in effect until such time as the Commission certifies to the President that it has completed its responsibilities or that a resolution of the dispute has been reached by the parties.

(h) The binding effect of the recommendations and the prohibition on strikes or lockouts required by this section shall expire on December 31, 1972, provided, however, that the Commission may extend such date for such a period of time as it deems appropriate under such terms as it considers equitable, including the granting of a pay rate increase or increases, in addition to those described in subsection (b)(1) of this section, on such dates and in such amounts as the Commission deems appropriate. Such time extension and rate increase determinations shall be binding on all parties as provided in subsection (e)(3) of this section.

SELECTIVE STRIKE/LOCKOUT

SEC. 3. (a) If the President chooses to invoke the procedures provided in this section, no strike or lockout shall be permitted except as authorized by an order of the Emergency Railway Dispute Panel (hereinafter referred to as Panel), established in subsection (d) of this section.

(b) When any party to this dispute intends to engage in a strike or lockout, it shall, by certified mail, notify the Secretary of Labor of such intention and send copies of the notification to the other parties to the dispute. The Secretary of Labor shall transmit such notifications to the Panel in the order in which they are received.

(1) Each notification shall state the intention of the party to engage in a total strike or lockout of an individual carrier fifteen days after the delivery of the notification to the Panel.

A separate notification shall be required in regard to each individual carrier. The notification shall state with particularity (a) the carrier to be struck or locked out and (b) the existence of alternative rail, water, highway, or air transportation services, or any combination thereof, which will not endanger the health or safety of the Nation or any section thereof.

(2) The Panel shall determine, by order, after a hearing, whether the proposed total strike or lockout of a carrier shall be permitted as consistent with the health and safety of the Nation and all sections thereof and shall make such decisions and issue such orders as are necessary to carry out this responsibility. The Panel, in developing its order approving any selective strike or lockout, shall make provision to insure that only the operations of the struck or locked out carrier shall be directly curtailed by such permitted action. The Panel shall, in making such a determination, take into account the

cumulative effect of any of its prior orders permitting a strike or lockout. The Panel shall be further authorized to consolidate notification proposals for the purpose of conducting hearings, rendering decisions, and issuing orders. If the notifications of two or more parties deal with the same or related rail operations, in a way in which any one such notification could be implemented, singly, without endangering health or safety, but not all of them could be so implemented, the Panel shall give preferred consideration to such notifications in the order in which they were received by the Secretary.

(3) The Panel shall not approve any notification proposing a strike or lockout where the effect of the proposal would be to (1) deprive the Nation of the transport of material or personnel essential to the national defense, or (2) to deprive any section of the Nation of the transportation services required to maintain the basic health or safety of that section: *Provided,* however, That mere inconvenience to a section of the Nation shall not be deemed a threat to its basic health or safety.

(4) The orders of the Panel shall be deemed final upon their issuance. Any party aggrieved by an order of the Panel may, within fifteen days after its issuance, obtain review of the order in the United States Court of Appeals, for the District of Columbia. The decision of the Court of Appeals may be reviewed in the Supreme Court by writ of certiorari or upon certification as provided for in section 1254 (1) and (3), Title 28, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Panel.

(5) An order of the Panel shall be conclusive unless found to be arbitrary or capricious.

(6) On notice to the parties, and following a hearing, the Panel may cancel an order authorizing a strike or lockout as it deems necessary to effectuate the purposes of this Act. Such cancellations are subject to the provisions of subsections (b) (3), (4) and (5) of this section.

(c) (1) If a settlement is reached in this dispute by any union with any one or more carriers, but less than all carriers, such settlement or settlements shall be submitted to the National Railway Labor Conference by the union. The National Railway Labor Conference shall have the option, for ten days from submission, of accepting any such settlement as a solution of the dispute for all member carriers represented by it; and that settlement shall be binding upon the union involved and the carriers represented by the Conference.

(2) If the settlement submitted to the Conference pursuant to paragraph (1) above is not accepted within the ten-day option period, each individual carrier shall be permitted ten additional days in which to individually accept the settlement, which acceptance shall be binding upon the union involved and the individual accepting carrier.

(3) The provisions of this subsection shall be invoked only once for each union which is a party to this dispute and no authorized strike or lockout need be suspended prior to acceptance of a settlement.

(d) (1) There is hereby established an Emergency Railway Dispute Panel consisting of two members appointed by the carriers, two members appointed by the unions, three public members appointed jointly by the unions and the carriers who shall be selected within 5 days of the date upon which the President invokes the procedures of this section 3. If either party fails to name any of its members to the Commission, or if they fail to name the three public members, within the five day period, the Secretary of Labor shall name said member or members. One member of the Panel shall be selected as chairman. The Panel shall make decisions based on a majority vote of the members.

(2) Members of the Panel shall receive compensation at a rate of up to the per diem equivalent of the rate for a GS–18 when engaged in the work of the Panel as prescribed by this section, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis. The National Mediation Board shall provide such services and facilities as may be necessary and appropriate in carrying out the purposes of this Resolution.

(3) For the purpose of carrying out its functions under this section, the Panel is authorized to employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

(e) The following rules of procedure shall be applicable to the Panel's functions under this section:

(1) NOTICE OF HEARING.—Upon receipt of notifications the Panel shall promptly notify and inform the Government and all parties to the dispute of the time, place, and nature of the hearings, and the matters to be covered therein.

(2) HEARING TO BE PUBLIC.—The Panel shall hold public hearings, unless it determines private hearings are necessary in the interest of national security, or the parties and the Government agree to present their positions in writing. The record made at such hearings shall include all documents, statements, exhibits, and briefs, which may be submitted, together with the stenographic record. The Panel shall have authority to make whatever reasonable rules are necessary for the conduct of an orderly public hearing. The Panel may exclude persons other than the parties at any time when in its judgment the expeditious inquiry into the dispute so requires.

(3) PARTICIPATION BY PANEL IN THE HEARING.—The Panel, or any member thereof, may, on its own initiative, at such hearing, call witnesses and introduce documentary or other evidence, and may participate in the examination of witnesses for the purpose of expediting the hearing or eliciting material facts.

(4) PARTICIPATION BY PARTIES IN HEARING.—The parties and the Government shall be given reasonable opportunity: (a) to be present in person at every stage of the hearing; (b) to be represented adequately; (c) to present orally or otherwise any material evidence relevant to the issues; (d) to ask questions relating to the evidence of other parties or of a witness relating to evidence offered or statements made by the party or witness at the hearing, unless it is clear that the questions have no material bearing on the credibility of that party or witness or on the issues in the case; (e) to present to the Panel oral or written argument on the issues.

(5) STENOGRAPHIC RECORDS.—An official stenographic record of the proceedings shall be made. A copy of the record shall be available for inspection by the parties.

(6) RULES OF EVIDENCE.—The hearing may be conducted informally. The receipt of evidence at the hearing need not be governed by the common law rules of evidence.

(f) This section shall take effect immediately upon the invocation of its procedures by the President and shall remain in effect until such time as the Panel certifies to the President that a resolution of the dispute has been reached by all of the parties.

(g) Any provision of interpretation of the Railway Unemployment Insurance Act, 52 Stat. 1094, as amended, 45 U.S.C. 351 et seq., which provides that an employee covered by the provisions of that Act shall receive benefits while on strike is hereby suspended for the duration of any strike with regard to any employee who participates in any strike in the above described dispute.

SEC. 4. During the period in which the President may select an alternative pursuant to the provisions of this Resolution, no strike or lockout shall be permitted.

SEC. 5. Any strike, lockout or other concerted activity in violation of this Resolution shall be subject to a penalty not to exceed $100,000. Each calendar day in which such a violation occurs shall be considered a separate violation. The Attorney General of the United States shall be authorized to maintain any civil action necessary to obtain compliance with any provision of this Resolution.

REPORT TO CONGRESS ON PROGRESS IN NEGOTIATIONS IN THE RAILWAY LABOR DISPUTE AND RECOMMENDATIONS FOR RESOLUTION OF THE DISPUTE

Pursuant to the Joint Resolution of December 10, 1970, P.L. 91–541, I hereby submit my report on the progress of the negotiations in the dispute between most of the Nation's railroads and four railway unions—the Brotherhood of Railway and Airline Clerks, the United Transportation Union, the Brotherhood of Maintenance of Way Employees, and the Hotel and Restaurant Employees—and my recommendations for a proposed solution to this dispute.

At the outset, I am pleased to report that the carriers and two of the unions—the Brotherhood of Maintenance of Way Employees and the Hotel and Restaurant Employees—have reached agreement on new contract terms. We had hoped that these agreements would lead to similar settlements with the United Transportation Union and the Brotherhood of Railway and Airline Clerks. However, as yet, we regret to report that these two unions and the carriers have not been able to resolve their differences. We will continue to work with them in their efforts to reach a timely settlement.

PROGRESS IN NEGOTIATIONS

The history of this dispute dates back to 1969 when the unions served notices on the carriers asking for improvements in wages and other benefits. This was countered by the carriers, who served notices requesting changes in various existing contractual arrangements. The initial negotiations between the parties proved unsuccessful and the services of the National Mediation Board were invoked. When the organizations and carriers were unable to resolve their differences, the NMB proferred arbitration as provided under the Railway Labor Act and subsequently released the parties on August 10, 1970, leaving them free to resort to self-help after 30 days.

There followed a period of intensive negotiations under the auspices of the Labor Department and the National Mediation Board. During this period, a selective strike took place but was enjoined by a temporary restraining order of the United States District Court of the District of Columbia.

I subsequently appointed Emergency Board No. 178 to investigate and report on the dispute. This Board undertook an extensive review of the issues and attempted unsuccessfully to mediate the dispute prior to the submission of its Report to me on November 9, 1970.

The recommendations set forth in the Emergency Board Report were cast in the light of encouraging the parties to negotiate a settlement which would provide benefits for both the employees and the industry. Thereafter, the Labor Department and the

National Mediation Board resumed their efforts to encourage the parties to reach agreement based on these recommendations. While considerable progress was made during these negotiations, a threatened strike against the Nation's railroads made it necessary for me to propose legislation to the Congress providing an additional period of time for further negotiations without a strike or lockout. Public Law 91–541 was subsequently enacted on December 10, 1970, and halted a one-day national rail shutdown.

The recent negotiations in this dispute have centered around the recommendations of Emergency Board No. 178. The Board sought to provide substantial wage increases for the unions in return for the relaxation of several restrictive work rules.

The wage increases called for a 5 percent increase retroactive to January 1, 1970, 32 cents an hour effective November 1, 1970, 4 percent on April 1, 1971, and three additional 5 percent increases effective October 1, 1971, April 1, 1972, and October 1, 1972. The first two of these increases were placed into effect by the Congress as part of the December 10, 1970 Joint Resolution. No work rule changes, however, were placed into effect as part of the Resolution.

The Board recommended work rule changes which cover such areas as interdivisional runs, interchange of cars, combining of the function of road and yard employees in many respects and combining clerk and telegrapher classifications.

On February 4, 1971, the Brotherhood of Maintenance of Way Employees and the Hotel and Restaurant Employees entered into an agreement with the carriers. The terms of that agreement generally followed the recommendations of the Emergency Board. However, an additional six-month extension of the contract period was agreed to with the unions receiving an additional 25 cents per hour increase effective April 1, 1973, an additional paid holiday effective January 1, 1973, and five weeks of vacation after 25 years of service effective January 1, 1973. The Hotel and Restaurant Employees elected to take a money equivalent instead of the holiday.

I wish it were possible to report to you that all of the parties had been able to reach a settlement. This I am unable to do. This is a highly complex dispute dealing with issues crucial to the parties. Changes in work rules in effect for many years and the impact of such changes on employment and on savings for the carriers have proven to be difficult labor-management issues.

This Administration has made exhaustive and wide-ranging efforts to assist the parties. During the period since enactment of Public Law 91–541 this Administration has conducted over 30 negotiating sessions under the auspices of Federal mediators. These sessions lasted anywhere from a few hours to all day, encompassed both joint and separate talks, and at various times involved all of the parties. Over 15 private sessions between the mediators and the parties have been held, many of which lasted an entire day. These face-to-face sessions have been supplemented by innumerable local and intercity telephone conversations between the mediators and the parties.

The Secretary of Labor has personally held meetings with the parties at the Department of Labor and participated in conferences with the parties elsewhere to encourage a settlement. He has remained in daily contact with the Government mediators throughout this period and held innumerable internal strategy and review conferences regarding efforts to settle the dispute.

Administration officials have also consulted with members of Emergency Board No. 178, senior officers of the AFL–CIO, the Association of American Railroads and numerous railroad labor leaders for their assistance and suggestions. While these intensive efforts were unsuccessful in resolving the disputes between the United Transportation Union, the Brotherhood of Railway and Airline Clerks, and the carriers they were instrumental in helping the other two unions and the railroads reach a voluntary settlement. A record of the day-to-day efforts to resolve the dispute is in existence and can be made available to the Congress.

RECOMMENDATIONS

My recommendation for resolution of this dispute is based on three overriding principles. First, the health and safety of the Nation must be protected. Second, any proposal I make must be fair in its application. Third, because time remains for the parties to settle their differences through bargaining, my proposal must take into account its impact upon collective bargaining and, indeed, provide incentive to the continuation of that bargaining process.

With these principles in mind, I am proposing legislation transmitted with this report, which, if the dispute continues unresolved and an emergency is threatened, will afford me a choice between alternative procedures.

The first alternative would be to complete, with some revisions, the implementation of the recommendations of Emergency Board No. 178. These recommendations were arrived at by the Board after nearly two months of study and deliberation on the issues in the dispute. They offer a balanced approach—substantial wage increases over the next two years as well as the modification of certain of the work rules. Indeed, Congress has already acted upon some of the recommendations by adopting the initial wage increases and placing them in effect in the enactment of its Joint Resolution of December 10, 1970, extending the strike deadline. Implementation of the report requires the establishment of a special Railway Dispute Commission to decide on final definition and application of the recommendations of the Emergency Board.

The other alternative would allow the parties, after the expiration of the Joint Resolution, to undertake a limited strike or lockout, if they so desire, so long as such action does not endanger the health or safety of the Nation, or any section thereof. Under this alternative, the parties would be required to submit notifications of proposed action to an Emergency Dispute Panel. The Panel would have the authority to accept any such proposal if acceptance would not jeopardize the health and safety of all sections of the Nation.

In so doing, the Panel would be empowered to approve proposals only where they provided for a selective strike or lockout. The approach would allow the total shutdown of some, but not all railroads, and only where alternative transportation services exist and to the extent that such a shutdown would not endanger any section of the country.

This is a "selective operation" not a "partial operation" proposal—a method which would allow for a partial shutdown of all railroads.

The latter is not considered a feasible alternative in the circumstances involved in this case. It requires a complex and costly administrative structure to operate it—to make the decisions about which goods are to move, when, and how. Further, the effective and safe operation of even a small percentage of each individual railroad's business requires a disproportionately large employee force. For example, the Secretary of Transportation advises me that a nationwide partial operation allowing for the movement of only 15 percent of normal railroad traffic would require a 30 percent operating level of the Nation's railroads. The economic burden of this type of partial strike would fall in disproportionate measure on the carriers. Such a partial operation plan, therefore, is not proposed.

Under a selective operation plan, it is anticipated that an individual railroad line would be either totally shut down or totally in operation. Individual railroads would not be required to keep the large employee workforce on hand or to operate the plan that would be required by nationwide partial operation.

In addition, and in order to move toward a balancing of economic pressures, I am proposing a suspension of unemployment benefits for striking railroad employees, thus moving toward an equalization of the economic pressures of such a strike.

In the interests of presenting a complete report, I must also mention that the "fireman manning" issue between the United Transportation Union and most of the Nation's railroads remains unresolved. This issue, which has plagued the Nation, the Congress, and the Executive Branch for years has now run through all existing dispute settlement procedures of the Railway Labor Act. Although a strike could occur at any time, negotiations are continuing in an effort to resolve the matter.

Thus, the legislative action I am recommending would preclude a national emergency, either by mandating acceptance of the Emergency Board's recommendations or by allowing such economic action by the parties as would be consistent with the national health and safety. At the same time nothing in the proposal would serve to discourage the parties in continuing negotiations.

EXHIBIT 2

STRIKE DEADLINE

Time is running out, again, for Congress to take action dealing with labor stoppages of prohibitive proportions.

The special law that cut off a nationwide railroad strike late last year expires March 1. On that date, the four affected unions will be legally free to strike, halting just about all the country's rail traffic and quickly crippling many industries dependent on train deliveries of fuel, raw materials and parts. While tentative agreement has been reached with two of the unions, either of the other two could still shut down the railroads. One of them, the Railway Clerks, broke off negotiations this week and announced plans to strike on the deadline.

The President's proposed law for heading off transportation strikes that pose national emergencies should be given prompt attention by Congress. The measure could be improved upon. But the Nixon plan, or something close to it, represents the least that should be done to prohibit strikes that the nation cannot afford.

The congressmen also should give thoughtful consideration to the wider kind of legislation proposed by Senator Javits of New York. His bill would give the President broader powers to deal with strikes or lockouts that threaten "national or regional health or safety." The Javits approach makes more sense than legislating only for the transportation industry. For instance, a shutdown of the steel industry, which is in prospect later this year, could cause immense damage to the economy.

There is no excuse for further congressional inertia on this problem. The administration's basic proposal has been available for study for many months, and the need for crisis legislation in December was notice enough that a more comprehensive law should be passed without delay. The unions oppose an additional inhibition of their right to strike, but it is hard to see how their members would suffer from an impartial adjudication of labor disputes that would,

among other things, keep people working and collecting paychecks.

Since strikes that paralyze the country are impermissible anyway, a law that handles the problem—rather than crisis-to-crisis legislation—is many years overdue.

SENATE JOINT RESOLUTION 44—INTRODUCTION OF A JOINT RESOLUTION TO EXTEND THE TIME FOR THE PROCLAMATION OF MARKETING QUOTAS FOR BURLEY TOBACCO FOR THE 3 MARKETING YEARS BEGINNING OCTOBER 1, 1971

Mr. COOPER. Mr. President, last week I introduced a bill, S. 789, to shift production controls for the burley tobacco price support program from acreage allotments to poundage quotas. The bill is similar to one I had introduced on December 31, so that this proposal could be considered by burley tobacco growers and farm organizations.

I had asked Senator TALMADGE, chairman of the Committee on Agriculture, to hold hearings as soon as possible on S. 789, because planting time is approaching, farmers need to make plans, and the Congress must act promptly if a change is to be made in the production control method for the 1971 burley crop. Further, the Secretary of Agriculture is now required to proclaim the national marketing quota for burley tobacco by March 1, which would be followed within 30 days by a farmer referendum on whether to have a burley price support program for the next 3 years. That would already have been done, except for a 30-day postponement enacted by the Congress in the closing days of the last session, for the specific purpose of obtaining time to consider such a change.

Senator TALMADGE has now scheduled hearings on S. 789 for March 2, at 10, in the hearing room of the Senate Committee on Agriculture and Forestry, room 324 of the Old Senate Office Building. They will be before the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, which is composed of Senator B. EVERETT JORDAN, North Carolina, chairman; and Senators MCGOVERN, EASTLAND, ELLENDER, HUMPHREY, YOUNG of North Dakota, MILLER, CURTIS, and BELLMON. Because of the absence of Senator JORDAN, who conducted the hearing on this subject held on December 8—and we regret his absence and expect that he will soon return in his customary good spirits and good health—the hearing will be chaired by Senator EASTLAND.

As it was not possible for the committees of the Senate and the House of Representatives to consider and take action on this proposal before March 1, and as the Secretary of Agriculture would be required under the formula in existing law to proclaim a cut in acreage allotments—perhaps 25 percent or more—I am today introducing a resolution to defer establishment of quotas until the Congress can act, or until the Secertary determines that growers must be notified of farm marketing quotas prior to normal planting time.

I understand an identical resolution has been introduced today in the House of Representatives by Congressman WAMPLER of Virginia, who also introduced a resolution in December like the one I introduced in the Senate, which was adopted.

Burley poundage bills, similar to but not identical to S. 789, were also introduced in the House yesterday by Congressman JOHN WATTS of Kentucky and by Congressman WATKINS M. ABBITT of Virginia, chairman of the Tobacco Subcommittee of the House Committee on Agriculture. We are hopeful that the House Committee on Agriculture will also consider this matter promptly.

Mr. President, I am very glad that this poundage proposal will receive early attention, for the burley tobacco price support program is in some difficulty, as I pointed out at the hearings on December 8, and in my statements of December 31 and February 11, and I know that burley tobacco farmers are concerned and are anxious that these problems be resolved promptly and in the best possible way.

Mr. President, I ask unanimous consent to have the joint resolution printed at this point in the RECORD.

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

The joint resolution (S.J. Res. 44) to extend the time for the proclamation of marketing quotas for burley tobacco for the 3 marketing years beginning October 1, 1971, introduced by Mr. COOPER, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S.J. RES. 44

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Agriculture may defer any proclamation under section 312 of the Agricultural Adjustment Act of 1938, as amended, with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, until the date he determines is necessary to permit growers to be notified of their farm marketing quotas and the referendum to be held prior to normal planting time.

ADDITIONAL COSPONSORS OF BILLS

S. 34

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the next printing, my name be added as a cosponsor of S. 34, a bill introduced by the distinguished senior Senator from Massachusetts (Mr. KENNEDY) having to do with the conquest of cancer.

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

S. 485

At the request of the Senator from Arizona (Mr. GOLDWATER), the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 485 to amend the Communications Act of 1934 to provide that certain aliens admitted to the United States for permanent residence shall be eligible to operate amateur radio stations in the United States and to hold licenses for their stations.

S. 662

At the request of the Senator from Oklahoma (Mr. BELLMON), the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 662, to promote the development and reform of penal and correctional systems.

S. 681

At the request of the Senator from Oklahoma (Mr. BELLMON), the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 681, to establish Environmental Research Centers within the States.

S. 745

At the request of the Senator from Oregon (Mr. PACKWOOD), the Senator from Utah (Mr. BENNETT), the Senator from Delaware (Mr. BOGGS), and the Senator from New Jersey (Mr. CASE), were added as cosponsors of S. 745, The Federal Environmental Pesticide Control Act of 1971.

ADDITIONAL COSPONSORS OF JOINT RESOLUTION

SENATE JOINT RESOLUTION 5

At the request of the Senator from Massachusetts (Mr. BROOKE), the Senator from Illinois (Mr. STEVENSON), the Senator from New Jersey (Mr. CASE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Michigan (Mr. HART), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. STEVENS), the Senator from New Mexico (Mr. ANDERSON), the Senator from Wisconsin (Mr. NELSON), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Missouri (Mr. SYMINGTON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. BENNETT), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Rhode Island (Mr. PELL), were added as cosponsors of Senate Joint Resolution 5, designating January 15 of each year as Martin Luther King Day.

SENATE JOINT RESOLUTION 7

At the request of the Senator from West Virginia (Mr. BYRD) on behalf of the Senator from West Virginia (Mr. RANDOLPH), the Senator from Georgia (Mr. GAMBRELL) was added as a cosponsor to the Senate Joint Resolution 7, proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or more.

SENATE JOINT RESOLUTION 34

At the request of the Senator from Pennsylvania (Mr. SCOTT), the Senator from Vermont (Mr. PROUTY), the Senator from New Hampshire (Mr. COTTON), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of Senate Joint Resolution 34, proposing an amendment to the Constitution of the United States with respect to the offering of voluntary prayer or meditation in public schools and other public buildings.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 45

At the request of the Senator from West Virginia (Mr. BYRD) on behalf of the Senator from West Virginia (Mr. RANDOLPH), the Senator from Kentucky (Mr. COOPER), the Senator from New York (Mr. JAVITS), and the Senator from Vermont (Mr. PROUTY) were added as cosponsors of Senate Resolution 45, to authorize the Committee on Interior and Insular Affairs to make a study of national fuels and energy policy.

SENATE CONCURRENT RESOLUTION 7—SUBMISSION OF A CONCURRENT RESOLUTION TO REQUEST THE PRESIDENT TO CALL A CONFERENCE ON THE INTERNATIONAL CONSERVATION OF ANADROMOUS FISH

Mr. STEVENS submitted a concurrent resolution (S. Con. Res. 7) to request the President to call a Conference on the International Conservation of Anadromous Fish, which was referred to the Committee on Foreign Relations.

(The remarks of Mr. STEVENS when he submitted the concurrent resolution appear earlier in the RECORD under the appropriate heading.)

ORDER FOR RECESS FROM TOMORROW UNTIL MONDAY, FEBRUARY 22, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in recess until 12 meridian on Monday next.

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

ORDER FOR RECESS FROM MONDAY, FEBRUARY 22, UNTIL TUESDAY, FEBRUARY 23, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, it stand in recess until 12 meridian on Tuesday next.

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

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ADDITIONAL STATEMENTS

HIGHWAY SAFETY PROGRAMS BEGIN TO SHOW RESULTS

Mr. RANDOLPH. Mr. President, in the past quarter-century the American people have become increasingly mobile. Our desire to move about is encouraged by an expanding, technological society, and is facilitated by the continuing development of fast, efficient means of transportation.

The United States is firmly committed to the automobile as its principal means of transportation. Our car ownership and usage is the highest in the world, and our highway network is the envy of many.

But, Mr. President, I continue to be alarmed about the number of people who are killed ever year on our roads. Concern for highway safety has been foremost in my mind on each occasion that the Committee on Public Works has considered highway legislation.

I am gratified that there now appears to be a downturn in the highway death rate. I hope that this is just the first dividend in our efforts to cope with this horrible waste of life and will be multiplied many times in each succeeding year.

During 1970 approximately 55,300 people were killed as the result of motor vehicle accidents. This is a decrease of 1,100 from the 1969 total and is cause for encouragement. It is even more encouraging when we realize that motor vehicle travel in the United States grew from 1,071 billion miles in 1969 to 1,125 billion miles last year.

If the deaths per mile traveled had remained the same in 1970 as it was in 1969 then the number of deaths from vehicle accidents would have been 59,200 instead of 55,300.

Mr. President, I believe we are finally making progress in this area.

In order to strengthen the Highway Safety Act of 1966, the Congress last year passed the Highway Safety Act of 1970. One of the important provisions of the act created the National Highway Traffic Safety Administration in the Department of Transportation. This reorganization will give proper status to this important activity and should increase the effectiveness of federally sponsored highway safety activities.

Two other important provisions of the 1970 act provided partial funding of the highway safety program from the highway trust fund and provided a new formula for the apportionment of these funds to the States on a more equitable basis. Two-thirds of the money to operate the safety program—a total of $440 million is authorized for fiscal years 1972 and 1973—will come from the trust fund.

The States, in the past, have never received the amount of money for highway safety that was authorized from the general fund. It is hoped that this change will assure the States of more adequate Federal funding which will induce them to provide more State funds for safety programs. The States must have adequate highway safety funding if they are going to develop effective highway safety programs with their political subdivisions. In my opinion, we will never attain the safety on our roads that we seek without strong, effective local highway safety programs. Safety on our roads is an integral part of the total road system, and I have long believed that the Federal share of funding the highway safety effort should come from the highway trust fund.

In addition to organizational and financial improvements in the safety program, developments in construction techniques and the opening of additional interstate mileage have contributed to the lower death rate. The Department of Transportation estimates that interstate mileage completed during 1970 alone saved 400 lives as more traffic is able to utilize the safer highways. Additional savings of lives can be expected as the Interstate System moves on toward completion.

While the progress we have made in lowering the highway death is gratifying, there is still much to be done. Ways must be found to cope with the menace of drinking drivers who continue to cause 50 percent of highway deaths. I am glad to note that the National Highway Traffic Safety Administration is moving in this direction with the development of alcohol safety action programs in the form of demonstration projects to be undertaken in large part by counties and cities.

Increased activity in such areas as driver licensing and law enforcement also are needed if we are to be successful in our efforts to reduce highway deaths. In this connection, the report of the President's Task Force on Highway Safety, "Mobility Without Mayhem," makes a number of sound and worthwhile recommendations that should be given careful consideration.

Mr. President, the United States has shown that it has the technical and industrial capacity and is willing to commit the funds necessary to construct the finest highway system in the world. We cannot, however, even consider that we have completed the task until there is a drastic reduction in the numbers of our citizens who are killed on these roadways.

NIXON ADMINISTRATION WINNING WAR ON HUNGER—WITH LITTLE FANFARE

Mr. GRIFFIN. Mr. President, Columnist Jeffrey Hart wrote in the Pontiac, Mich., Press on Monday of this week that the Nixon administration is being scorned when it should be praised for its efforts toward eradicating hunger in the United States.

I find the article worthy of the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

THE BIG HUNGER ISSUE NO LONGER APPETIZING

(By Jeffrey Hart)

Flash. The Nixon administration, it appears is well on the way to solving what by anyone's definition constitutes the problem of hunger in America. You may not remember it, but only about a year and a half ago hunger was Awfully Big.

There was even a major White House Conference on the subject, which made headlines by vociferously declaring that hunger was widespread in America. Whereas FDR, in the depths of the Depression, had claimed

that only one-third of the Nation was "ill-fed," by 1970 we were hearing that two-thirds or even one-half of the nation was "hungry."

The drum began to beat. Starvation in the midst of affluence. One more instance of America's depravity and the bankruptcy of the System.

Sen. George McGovern led the wave of enlistments in the hunger cause, becoming a sort of Mr. Hunger for the first quarter of 1970. Paperbacks on hunger poured from the presses.

CONVERSATION PIECE

You will not believe it, but I vouch for the fact: one New York travel agency actually advertised an Appalachian vacation. Those who were bored with Acapulco and the south of France could now spend 10 days on the hunger scene itself, maybe eating grits and deer meat. In this way, they might accumulate enough anecdotes to get through an entire cocktail party season.

But now it develops that the Nixon administration, without much fanfare at all, has in fact moved massively to pass out a lot of food. In New York City the number of people receiving food stamps, subsidized school lunches, and other forms of federal nutritional aid has increased fourfold since President Nixon took office. In Pennsylvania, the number of federally subsidized lunches has jumped from 25,000 per month two years ago to 2.8 million per month today.

Let us set aside the question of whether the federal approach is the best one here. On the surface, at least, it would seem to be what the hunger chorus actually desired. But are they celebrating this Nixonian achievement? They are not.

Of course, I know that the erstwhile Mr. Hunger has now become Mr. Lose the War, having very big things in mind. But what about all the others? Aren't they even interested in something like a solution?

The answer is no. And here I think we touch on something profound. For a certain kind of person, problems are much more interesting than solutions. And the reason is that the McGovern's and all the other hunger warriors are not primarily concerned about hunger, really, and not about something so pedestrian as food. Rather, they desire to dramatize their capacity for concern itself.

THE DRAMA

It is the dramatization that is all important. Therefore the hunger politician of 1969 can suddenly become the pollution politician of 1970.

When you have watched this process go on for some time, you discern that it even has a quasi-religious dimension. Dramatizing concern, setting up the correct vibrations, establishes a politician as a Man of Good Will, one of the saved, a member of the moral elect—in contrast to the Others, the mere politicians and administrators.

And no one needs to be told that Nixon hardly sets up the correct vibrations.

A TIME FOR CONCERN ABOUT THE ELDERLY

Mr. CHURCH. Mr. President, during the past 6 years several laws have been enacted which have brought new hope for our Nation's 20 million older Americans.

In 1965 the landmark medicare law was passed to help protect the elderly from costly and catastrophic illness. An Administration on Aging was established to provide a central focus in Government for enriching and improving the lives of the aged. And a measure was passed calling for this year's White House Conference on Aging to chart comprehensive action strategies for older Americans during the 1970's.

Despite these achievements there is still widespread concern today among our 65-plus population, as well as those nearing retirement. At a time when the administration is promoting an "expansionary" budget to bolster our economy, appropriations for aging programs are being cutback sharply. For example, the budget for the Older Americans Act has been slashed to the bone, bringing the funding back to the pre-1969 levels.

A mere 6-percent raise in social security benefits has been recommended by the administration, although most Members in Congress are proposing increases ranging from 10 to 15 percent. This is in recognition of the fact that the cost-of-living has risen by nearly 6 percent since the last social security increase. With prices expected to rise in the months ahead, the administration's proposal will fall far short in helping the aged to win their desperate race with inflation. Quite clearly, this stopgap measure will not be effective for easing the retirement income crisis now threatening millions of older Americans.

Medicare, though it has provided valuable protection, still covers less than one-half of the elderly's medical bills. As a group, the aged can expect to pay as much in out-of-pocket medical expenses as the year before medicare went into operation. Deductibles under part A—hospital insurance, and part B—supplementary medical insurance—continue to rise, and with no end in sight. The elderly's monthly premium charge for part B is scheduled to rise again from $5.30 to $5.60 this July. This represents almost a 90-percent increase from the 1966 charge of $3 per month. And many important items—such as out-of-hospital prescription drugs—are still not covered under medicare.

Equally disturbing are reports about "foot dragging" for the 1971 White House Conference on Aging. Meetings of task forces, representing nearly 400 national organizations, have been unexpectedly called off. Action has been deferred until the technical papers can be completed. But one participant responded:

I can't believe the White House couldn't get these papers finished and printed in time if they had a real sense of urgency—even if they had to be mimeographed.

And there is also widespread concern that the conference may not come to grips with the real issues affecting the elderly, but will simply be a reanalysis of old, familiar problems.

Mr. President, two articles published recently in the New York Times and the Washington Star provide hard-hitting information about issues now troubling the elderly. I commend these articles to the Senate and ask unanimous consent that they be printed in the RECORD.

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

MEDICARE: NO CURE YET FOR RISING BILL

WASHINGTON.—President Johnson told the nation on signing Medicare into law that "no longer will older Americans be denied the healing miracle of modern medicine—no longer will illness crush and destroy their savings—no longer will young families see their own incomes and their own hopes eaten away . . . carrying out their deep moral obligations—and no longer will this nation refuse the hand of justice to those who have given a lifetime of service . . ."

That was the hope of 1965. The reality of four and a half years of Medicare's operations has dimmed the original dream as the program has become ever more cumbersome and controversial.

Medical service to Americans aged 65 and over has increased, but in the next fiscal year this group will collectively be paying about as much in out-of-pocket funds for medical care as it paid the year before Medicare began. And there is some danger that they may have to pay more.

For the cost to the Federal Government has soared far beyond original estimates—it will reach a total of $30-billion by summer. And for the next fiscal year alone, as seen by medical planners in the White House and the Department of Health, Education and Welfare, the cost of Medicare will be $9.4-billion—some $400-million above the figure set forth in President Nixon's budget. They hope to make up the difference by means of a series of economy measures; and that's where the extra pinch may come for the Medicare patient.

The exact means of effecting the economics has yet to be decided, but oblique statements of various Federal officials, including H.E.W. Secretary Elliot L. Richardson, indicate their sights are on reducing hospitalization benefits, increasing the contributions to Medicare from its enrollees, forcing hospitals and nursing homes to economize on services, and restricting doctors' fees.

These fees, which have been the target of Congressional investigations and consumer groups for several years, were at the heart of a series of letters between Representative Samuel S. Stratton and H.E.W. officials. The New York Democrat said that Medicare beneficiaries were "being cheated" on reimbursements by H.E.W., which, he said, was not paying the share called for in the law. Mr. Stratton complained that while doctors' fees are rising, the Social Security Administration, which administers Medicare, is reducing its percentage of coverage of medical fees.

Social Security Commissioner Robert M. Ball denied Mr. Stratton's charge that revised fee procedures have been "seriously short-changing millions of American senior citizens." While conceding that some persons are paying more, Mr. Ball said that lack of action by the Social Security Administration in attempting to contain fees "would greatly increase the cost of the program by failing to offer discouragment to increases in charges."

Mr. Ball, Mr. Stratton and other administrators and Congressmen actually are expressing a feeling of exasperation over ever higher costs and what to do about them. Both the Legislative and Executive branches of the Government have ordered Mr. Ball in the past few years to crack down on financial inefficiencies and excesses in the Medicare program. But many of the savings are effected at the cost of cuts in benefits and bring complaints. Medicare, for example, is not supposed to pay for custodial care in nursing homes, only convalescent care. This distinction was widely ignored early in the program, but it is being enforced now amid growing complaints that Medicare recipients are being euchered.

When President Nixon announces the Administration's new look health care program, probably at the end of the month, it is expected to contain some proposals aimed at forcing doctors and hospitals to be more efficient. Hospitals, for example, traditionally operate on a cost-plus basis, meaning that when their costs rise they merely pass the increases along to the consumer. Criticism of this method has mounted. Gordon Chase,

New York City's Health Services Administrator, says hospitals should be paid on a "cost-minus" basis, meaning that as their costs rise their productivity and efficiency should also, thus holding down dollar outlays.

While criticism of the program mounts, the Nixon Administration says the Federal budget cannot abide unending increases in Medicare costs. Even if Congress approves a proposed $383-million cut in benefits, Medicare outlays for the fiscal year 1972 still will go up by $700-million.

"We're very despondent," said William Hutton, executive director of the National Council of Senior Citizens, which represents three million of the nation's elderly. The increased costs of both Medicare and out-of-pocket expenses, he said, "mean people are not going to doctors because they can't afford it." Speaking of the new proposals to cut benefits, Mr. Hutton said: "The Administration is trying to balance the budget on the backs of sick old people, and Congress will never go along with it."

CRITICISM OF ADMINISTRATION GROWING AMONG THE ELDERLY

(By Philip Shandler)

Planning for the once-a-decade White House Conference on Aging is faltering, adding to grumbles among organized oldsters about the Nixon administration.

Task forces set up to draft recommendations for the November conference—the second such parley and the first since 1961—began meeting the first week in February.

But participants unexpectedly were told that technical papers promised for their deliberations were not available, and one taks force resolved not to meet again until it had the data.

Last week, John B. Martin, conference director and President Nixon's special assistant for the aging, sent the several hundred participants telegrams "deferring"—until the papers were ready, further meetings scheduled this month and next.

TWO OTHER DEVELOPMENTS

The latest action deepened unhappiness produced by two other developments in recent weeks: The President's budget message, with apparent cuts in programs for the elderly; and reports of administration plans to reduce Medicare benefits while boosting fees.

Officials of both the labor-oriented National Council of Senior Citizens and the more conservative American Association of Retired Persons indicated, in interviews, increasing apprehension about prospects for aid to the elderly.

But Martin said the planning lags would not disturb the conference schedule. Such parleys in the past also were marked by charges of mishandling but were productive nonetheless, he observed.

INITIATIVE PREDICTED

The budget data has been misinterpreted, Martin said. And he predicted that a presidential health message next week would display "interesting initiatives" for the aging.

Martin, commissioner of the Administration on Aging within the Department of Health, Education and Welfare, was named in October 1969 by the President to direct the conference. The parley had been mandated by Congress a year earlier.

Martin put together 20 task forces, drawn from groups concerned with the problems of the elderly, and 14 technical committees to review the commissioned technical papers.

At the first of the planned series of task force meetings, Martin announced that the expected technical papers would not be ready until November. He provided summaries. Later he said some of the papers were sufficiently completed to be ready for meetings next month.

"VOTED TO ADJOURN"

"We decided there was no point to our trying to develop policy recommendations without data to back them up, so we voted to adjourn until November," said John Z. Schneider of Columbia, Md., delegate of the National Association of Life Underwriters to the task force on retirement.

That meeting was held despite a feeling by some participants that "there's no reason to meet at all," said Schneider, because of a story that morning in The New York Times.

The story quoted "public health sources" as saying the administration planned to both increase fees and cut benefits of Medicare the program of health care for the elderly. The President's budget, released 10 days earlier, anticipates a saving of $393 million in the fiscal year that starts July 1, it noted.

AGENCY FUNDS CUT

The budget also shows a drop from $33.6 million to $25.8 million in funding for the Administration on Aging (of $105 million authorized by Congress); and a cut in funding for community programs from about $9 million to $5 million.

In addition, the administration has requested a 6 percent increase in Social Security benefits in the face of a 10 percent boost voted by the Senate.

Together, the actions "reveal the low priority the White House places on the needs of the elderly," charged Nelson H. Cruikshank, president of the 3-million-member National Council of Senior Citizens, which has links with the AFL–CIO.

Bernard E. Nash, executive director of the rival American Association of Retired Persons (which he describes as "white collar") said he also was disturbed by planned cuts in the so-called "Foster Grandparents" program of care by the elderly for children from institutions. The program has been "universally acclaimed," he said.

"LACK OF EXPERIENCE"

As for the White House conference, the preparation reflects "at best a lack of experience and ability," Cruikshank charged.

And a participant who asked not to be named said, "I can't believe the White House couldn't get these papers finished and printed in time if they had a real sense of urgency—even if they had to be mimeographed."

"Either there's something in the papers they don't like or they're dragging this thing out so they'll be able to say 'We're working on the proposals' right before the election (in November 1972)," he asserted.

Martin said, he, too, was disappointed that the technical papers were not yet ready. Reviews by the technical committees of draft documents were completed two weeks ago, but rewriting was required for all but one or two, he said.

"STILL ON TARGET"

Martin said the conference preparations are still "on target."

The original schedule called for task force meetings in four groups here and in Chicago this week and again next month.

Other conferences to develop recommendations are scheduled at the state level in May and June. But these will not require the use of the anticipated task force recommendations, he said

As for the administration's budgeting for the elderly, Martin said $5.8 million of the asserted $7.8 million cut for the AOA has been shifted to other HEW accounts, "which I still will be able to sign off on."

Another $1.6 million, he said, represents funding in the present budget for the conference which does not have to be repeated in the 1972 budget.

The $4 million cut in grants of communities would be partly offset by a rise from $2.2 million to $4 million for so-called area-wide projects, he said.

And while the Foster Grandparents program would be cut from $10.5 million to $7.5 million, the Retired Senior Volunteer Program of carfare and lunch money for social-work volunteers would be boosted from $500,000 to $5 million, if Congress approves, Martin noted.

The disparity between what Congress authorized for the AOA and what the administration requested is "traditional," he added.

It also is determined by "other budgetary constraints," he said. "We have to work out our problems in relation to other needs," he said.

NEW YORK STATE AND THE ARTS

Mr. JAVITS. Mr. President, the increasing number of Americans, including Members of Congress and the administration, who are concerned with the development of the arts in our Nation, especially in smaller and more remote communities, will be heartened by a report which has recently come from New York State. The New York State Commission on Cultural Resources, under the chairmanship of a distinguished State senator, William T. Conklin, of Brooklyn, has recommended that the State expend $30 million for assistance to local cultural institutions in the next fiscal year.

The Conklin commission's recommendation for $30 million represents an appreciable increase over the $18 million being expended this year for the arts in New York State. There is an interesting parallel here. President Nixon has also proposed a budget of $30 million for the arts, which is almost double the amount appropriated for the current year. Thus, both in New York State and at the Federal level, in each of which budget restrictions are tight, there is a conviction that despite a stringent financial situation the arts must be nourished. This is most heartening for the people of New York and the American people.

Mr. President, I ask unanimous consent that an article published recently in the New York Times detailing the recommendations of the Conklin commission be printed in the RECORD:

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

STATE UNIT ASKS MORE AID FOR CULTURE

(By Howard Taubman)

The New York State Commission on Cultural Resources is recommending that the state appropriate $30-million for local assistance to cultural institutions in the next fiscal year.

In a wide-ranging report that it will submit to the Governor and the Legislature in the next fortnight, the commission urges that the program, instituted last year as an emergency measure with an $18-million appropriation, be made permanent.

The report recommends a shift in the program's philosophy. While the financial needs of a cultural institution must remain a significant factor, it holds that the key consideration should be the quality and extent of its contribution to community and state. In line with what it calls "the resource concept," the commission would like to encourage new programs and assist existing organizations to "reach their full potential."

The commission's money recommendation is believed to exceed by more than $10-million what Governor Rockefeller is likely to reqeust in his budget to be made public Monday. In the face of the stringencies of the state's economic situation, the Governor is not expected to go beyond the $18-million he suggested last year.

The commission's report reflects a reversal in the positions of the Governor and the

Legislature. Last year the Governor took the initiative in urging the $18-million program, and the Legislature went along only after intensive pressure from supporters of the arts throughout the state. This year members of the Legislature, five of whom are on the 10-member commission, will lead the fight for state support of the arts.

SET UP LAST AUGUST

The commission was set up last August after enactment of a law that required "a study of the current and long-range needs of cultural institutions in New York for the purpose of determining whether assistance is needed and if so, to recommend a series of alternatives to meet such fiscal needs."

In his charge to the commission, Governor Rockefeller asked it to address itself "to the long-term solution" and added:

"A civilization without culture and art is no civilization at all. The mission which this commission is now beginning touches, therefore, at one of the most important areas of our lives."

Under the chairmanship of Senator William T. Conklin, Brooklyn Republican, the commission undertook a series of trips and seminars throughout the state. The commissioners visited cultural institutions, talked to their executives and supporters and attended performances and exhibits.

What they saw impressed them. Mr. Conklin was struck by the caliber of the display of an upstate museum and began immediately to suggest ways of improving its usefulness to the community.

"The state should stop apologizing for its commitment to culture and the arts," he said yesterday. "They are just as important to the quality of our lives as the development of our bodies, the education of our minds and the cleanliness of our surroundings."

The commission's report, which will be the first in a series devoted not only to financial assistance but also to planning and management and the role of the arts in education, offers 10 findings and recommendations:

10 POINTS IN REPORT

1. Unless state funds are forthcoming during 1971 and beyond, the state faces "a severe cultural depression." The gap between escalating expenses and less rapidly increasing income and contributions is growing wider.

2. Last year's emergency program must be made permanent. Since the $18-million appropriation is inadequate, it should be raised to $30-million.

3. The "resource concept" must become the basis of policy, with the nature of public service becoming the criterion for assistance rather than the size of the deficit.

4. Five categories should be set up in the guidelines for grants: operating, program, development, fellowships and technical. The report stresses the commission's desire to have new programs and experimental projects supported wherever they would benefit the community and state. It would also allow up to 500 individual fellowships, which are not permitted under the present law.

5. Grants under all five categories should be awarded on the basis of merit, financial need and the caliber of the public service. Under the law authorizing last year's emergency appropriation, assistance could go only to cultural organizations in existence before April 1. The commission wants useful new organizations to be eligible for aid, too.

6. Local and private support must continue as in the past before any grants are made.

7. The New York State Arts Council is requested to set up regional offices in western New York, the Albany area and Long Island.

8. The council should have a larger staff to process the more than 1,000 grants anticipated under a permanent program.

9. The commission finds that the state, its cultural institutions and the public have been well served by the council.

10. The commission urges an examination of the possibility of creating a permanent cultural resources planning commission, in view of the fact that the state spends many additional millions—no one knows exactly how many—on cultural activities through its educational, library, parks and recreation, youth, agricultural extension, poverty, labor department and model Cities programs.

The members of the commission, besides Senator Conklin, are Assemblyman Fred W. Droms, vice chairman; William E. Taylor, secretary; Senators H. Douglas Barclay and Seymour R. Thaler, Assemblyman Franz S. J. Leichter, Joseph Thomas DeVitt, Kenneth G. Dewey, Mrs. James R. Dunne and Harvey Lichtenstein.

Only one member, Senator Thaler, is believed to have any reservation about the report. He is said to be uncertain whether the $30-million figure is too large or too small and would like further documentation.

Senator Conklin has no doubts.

"I didn't think I had a particular yen for this kind of activity," he said, "but when I got out and saw and heard, I changed my mind. Despite my meager background in this field, I quickly saw its value and importance. I wasn't sure people would think it had any political significance, but I now see that it has a higher priority than I thought when I went in."

AGRICULTURAL CITATION FOR SENATOR B. EVERETT JORDAN

Mr. ERVIN. Mr. President, anyone at all familiar with his record is fully aware of the valuable service which my good friend and colleague from North Carolina (Mr. JORDAN) has performed for North Carolina's farmers and those in other parts of the country during his years as an influential member of the Committee on Agriculture and Forestry.

I would, however, like to invite attention to a particularly important contribution he made during the last session of Congress and for which he was recently recognized by agricultural groups in our State.

I speak in that connection of his work in sponsoring and securing the passage of two bills which will be of significant long-range benefit to both producers and users of a wide variety of plant seeds. The first, known as the Uniform Certification Standards Act, became law in 1969; the second, the Plant Variety Protection Act, which he cosponsored, was enacted late last year.

The North Carolina Crop Improvement Association recognized those contributions by presenting him with its Distinguished Service Award in ceremonies on January 29 at North Carolina State University, in Raleigh.

I ask unanimous consent that the remarks of Prof. Foil McLaughlin, the organization's director in charge, in making the presentation, and the text of the report on the event, published in the Raleigh News and Observer, be printed in the RECORD.

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

A SPECIAL RECOGNITION FOR SENATOR B. EVERETT JORDAN

(Given at the Annual Meeting of the N.C. Crop Improvement Assn. and N.C. Foundation Seed Producers) January 29, 1971

President Sink, Senator Jordan, ladies and gentlemen.

The 91st Congress of the United States will be remembered for many things but to many of us, as the Congress that developed and passed major seed legislation. I say *major* because legislation enacted during the last two sessions of Congress will affect each and every person here today—whether seed growers, farmers, seedsmen (retail and wholesale) or the consuming public.

The first seed bill introduced into the 91st Congress during its first session was known as S. 1836. This legislation as passed, amended the Federal Seed Act to provide for Uniform Standards and Procedures for Certified Seed. Thus providing for the production, processing and distribution of certified seed under more uniform standards regardless of state of origin.

The second major piece of legislation was handled by the second session which has just concluded in December. This bill proceeded through Congress as S. 3070 and was an Act to provide Plant Variety Protection for developers of novel varieties of crops. This "Plant Variety Protection Act" as it is now called, provides protection for plant breeders very similar to the protection which patents provide to other inventors.

In my judgment, both of these laws as they are implemented, will be very meaningful, not only to North Carolina agriculture but to the nation. Today we want to pause and pay special tribute to a person who almost single handedly, guided these bills through Congress and into law. Our own Senator Jordan was author and chief sponsor of the Uniform Certification Standards Law. He was one of the sponsors of the Plant Variety Protection Act and as Chairman of the Senate Subcommittee on Agricultural Research and General Legislation, saw to it that the bill did not get bogged down in the legislative processes. It was during this last December as Chairman of the Senate Rules Committee that Senator Jordan gave the Protection Act its final thrust to passage.

(Senator Jordan, will you please come forward.)

Senator Jordan, it is a distinct honor and privilege for me, on behalf of the N.C. Crop Improvement Association and all assembled here today, to present you with this Distinguished Service Award in grateful appreciation for your outstanding work on behalf of agriculture. It is your capable leadership that we gratefully acknowledge and say thanks for a job well done. It is for your legislative interest on behalf of the seed industry—one of the states basic businesses—that we honor you today. Progress in this industry will be constructed upon the foundation that you have helped build through your sponsorship and support of the needed legislation. We thank you.

CROPMEN HONOR JORDAN

U.S. Sen. B. Everett Jordan was honored Friday in Raleigh for his role in getting two new national seed laws passed by the last Congress.

The N.C. Crop Improvement Association gave Jordan a special plaque for writing and guiding through the 91st Congress the Uniform Certification Standards Law and the Plant Variety Protection Act.

Foil McLaughlin, director of the Association, predicted that the new laws would help every American, regardless of whether they are farmers, seedsmen or consumers.

LIKE PATENTS

The Uniform Certification Standards Act defines, for the first time, a minimum standard for certified seed moving in interstate commerce. The Plant Variety Protection Act provides protection, much like patents, to developers of new varieties of plants reproduced from seed.

Along with the special award, the association gave its annual Crop Improvement Award to Edmund Mann, president of Blount-Midyette & Co., Washington, N.C. He

was cited for his leadership role in promoting better seeds for North Carolina agriculture.

The Crop Improvement Association, which met at N.C. State University, elected John Green, McNair Seed Farms, Laurinburg, as its new president. Charles L. Davis, Speight-Davis Seed Farms, Pollocksville, was elected vice president.

Marvin Godfrey, FCX, Raleigh, was elected president of the N.C. Foundation Seed Producers, which also met in Raleigh on Friday. C. Evans McSwain, McSwain & Sons, Norwood, was elected vice president of the Foundation Seed Producers.

New directors of the Foundation Seed Producers are Stanley Cross, Wilmington, and S. M. Cozart, Wilson. New directors of the Crop Improvement Association are M. L. Dilday, Belhaven, and Carl Patterson, China Grove.

SENATOR RANDOLPH SUPPORTS SENSE OF SENATE RESOLUTION ON RELEASE OF IMPOUNDED PUBLIC WORKS FUNDS

Mr. RANDOLPH. Mr. President, when the President found it advisable to impound in budgetary reserve funds for public works projects, funds appropriated in the Public Works Appropriation Act of 1971 in excess of his budgetary requests, he told Congress that he would evaluate these projects during his review of the 1972 budget. That review is complete, and the budget before us indicates that not all the projects placed in reserve will be undertaken, and many will not be started before 1972.

Mr. President, Congress had determined that all of these projects were justified and timely. Many are urgently needed. For this reason I join the able Senator from Oklahoma (Mr. HARRIS) in cosponsoring a resolution expressing the sense of the Senate that the funds for all these projects be released from budgetary reserve and that construction take place according to the schedules originally contemplated by Congress.

All of these projects were carefully considered by the Committee on Public Works, of which I am chairman, and by other authorizing committees. We studied proposed projects for their value in flood control or navigational improvement, the relationship of costs associated with the projects and benefits derived from them, the possible adverse environmental impact of them, and other factors. We took testimony from local people who dramatically expressed the need for many of these projects. Public works projects included in bills reported by the Committee on Public Works are there because of a demonstrated need and justification.

Mr. President, I am certain that the Committee on Appropriations acts in approving these projects with similar deliberation. Congress, when it passes a Public Works Appropriation bill, acts on a convincing need and intends that projects be constructed according to the schedules it contemplated when considering the projects.

The costs of deviating from the schedules established by Congress will be considerable. Deferral of these projects will surely increase costs of construction. They are not projects likely to create inflationary pressure. In fact, many of them are flood control or flood protection projects desperately needed, and the toll of a single flood in human health costs and property damage might well exceed any budgetary advantage from delaying construction.

One of the best examples of this potential magnification of costs is in the Washington metropolitan area. Flood protection on Four Mile Run is long overdue, and delay of construction even into 1972, would subject the Arlandria area to a high risk of destruction. The small budgetary savings cannot be worth destruction of the type Arlandria has know in the past.

Mr. President, there is a further reason why all of these projects should be begun at this time, with accelerated construction on the schedules originally contemplated by Congress. The President has embraced the concept of an expansionary full employment budget, using Federal spending to combat the recession and unemployment now plaguing many parts of the country. The impounded funds, if used for accelerated construction, could be a valuable stimulus to increasing employment. These need not be new funds reflected in the fiscal year 1972 budget, but could be brought quickly into the economy simply by the release from budgetary reserve.

Mr. President, I remind the Senate that twice before, in the Federal-Aid Highway Acts of 1968 and 1970, Congress has passed statements of the sense of Congress that no appropriated highway funds may be impounded or withheld from obligation by the executive branch. In order for a critical construction program of the magnitude of the highway program or public works construction to be accomplished without disruption and runaway costs, construction schedules established by Congrses must be followed. The importance of those timetables was recognized by the Congress in the highway legislation. We must make the same statement with respect to needed public works projects.

Mr. President, several of these impounded projects are important to my own State of West Virginia. The funds placed in budgetary reserve would be used in the construction of the Bloomington Reservoir, Burnsville Lake, Leading Creek Lake, and Stonewall Jackson Lake projects, and land acquisition for Rowlesburg Lake. Delays in these projects will increase costs, postpone project benefits in areas which urgently need them, and deprive the labor and retail markets of surrounding areas of an economic stimulus which construction expenditures would bring.

Mr. President, for these reason I support the resolution offered by Senator HARRIS.

RIVERTON EXTENSION UNIT OF MISSOURI RIVER BASIN PROJECT

Mr. HANSEN. Mr. President, last September 25, President Nixon signed Public Law 91–409. This legislation provided for the reauthorization of the Riverton extension unit as part of the Missouri River Basin project and for the sale of the Third Division lands of the project.

Public Law 91–409 followed hearings by the Senate and House Committees on Interior and Insular Affairs in both the 90th and 91st Congresses. A major part of this legislation dealt with the sale by the Bureau of Reclamation of lands on the third division of the Riverton project. During the course of the hearings and the executive sessions much time was devoted developing language which would insure that these lands, when sold, would be farmed successfully.

Mr. President, I take the Senate floor today to report on the sale of the third division lands as provided by Public Law 91–409. On February 8, 1971, a public sale was held in Riverton, Wyo., by the Bureau of Reclamation for the purpose of disposing of the third division lands. Forty-two of the 43 units on the third division were sold at or above the appraised value. The appraised value of the 42 parcels sold was $1,189,300. The bid price of the 42 parcels sold was $1,367,600.

The fact that this land was moved into private ownership is of great importance. The land will be placed on the tax rolls of Fremont County and will contribute to the school revenues of that area as well as help support local governmental services. In addition, the land will be farmed by people with pride of ownership who will be able to make the necessary improvements and investments for the land to prosper. Only an owner can afford to make the long-term investments necessary to insure that these lands can continue to be farmed successfully.

One point of interest concerning the sale is the fact that 39 of the 42 parcels sold were sold to people who were already farming on the Riverton project. These parcels will help round out existing units on the project and make for more economical and efficient farming in the area. These people are familiar with the project, with the soil, and with the potential for the area. They are willing to risk their money to back up their belief that this land is good land and can be farmed successfully.

It is also important to note the outstanding cooperation existing among the Farmers Home Administration, the Federal land banks, and the Wyoming Farm Loan Board to insure that proper financing is available for successful farming on the third division lands.

SENATOR KENNEDY OPPOSES WIDENING OF INDOCHINA WAR

Mr. CHURCH. Mr. President, at a Businessmen's Executive Movement for Peace in Vietnam breakfast meeting in Washington, D.C., on February 17, the distinguished senior Senator from Massachusetts (Mr. KENNEDY) spoke out against the continuing American "acts of war" in Indochina. Senator KENNEDY's statement to this important group of businessmen from all sections of the United States commands attention. I am pleased to ask unanimous consent that his statement be printed in the RECORD.

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

STATEMENT BY SENATOR EDWARD M. KENNEDY TO THE BUSINESSMEN'S EXECUTIVE MOVEMENT FOR PEACE IN VIETNAM

It is a pleasure for me to have this opportunity to be with you this morning. This organization is unique among groups in America—not simply because of your opposition to the war in Southeast Asia, but also because as business men you have gathered together under that title to bring the prestige and balance of your private lives to a great public effort.

I do not wish to take a great deal of your time this morning, for among those who share a common view of a grave national problem—and have shared that view for some years now—it should not take us any great amount of time to express our feelings of disappointment and dismay. When this nation that we love, and to which we are totally committed as men, continues acts of war that we find repugnant and not in her interest, an excess of words is not the order of the day. Rather each and every one of us must reaffirm our intentions to do all we can to change the course of national policy—you through this organization and its fine work, I through the United States Senate and the legislation necessary to end this war by a date certain.

Such a reaffirmation appears to be very much needed. For a gross step was taken in the invasion of Laos, and unlike times past, the people of this nation have uttered hardly a word of protest. No trains are coming from New York now filled with the finest legal minds. No law schools have prepared their briefs on the Constitutionality of it all. My mail room is not flooded with telegrams; no Senate Committees are meeting in public. Rather, we read in the weekly magazines that America is cooling off, that we are entering a period where each person will be more interested in literally doing his own thing and less interested in the larger events that do not seem to submit to control.

There are not many among us who wish to see this nation remain in a state of constant agitation—we do not want riots, disruptions, or turmoil in our institutions. But neither do we wish to see a complacency so great, a nation of individuals turned in upon themselves to such an extent, that the invasion of a neutral nation by another state under our guidance and control goes unanswered. In short, if, at long last, there is the hope of greater domestic quiet, we do not wish to see such an understandable and positive attitude exploited. But I think we saw that occur last week.

And the step into Laos was taken with great stealth. It is Asians, now, fighting Asians—and they do it for our purposes more than their own. What regard do we have for them, for those villages, those children, those women, those soldiers? They are merely Asians fighting Asians, and if luck smiles upon us in this great game of life and death in Southeast Asia, we will reap the political benefits from this new ante on war's table—the political benefit that will keep America cool, while Vietnam falls deeper into the pit, her armies in three theaters, her ultimate future more dismal.

So what can we say of this newest spread of war? What are the effects of this act, that, for whatever reasons, has been so quietly received by a nation heretofore so indignant?

First, we have now seen clearly what Vietnamization means. The invasion of Cambodia, the invasion of Laos, are the children of that policy. Vietnamization means war and more war; it has nothing to do with an end to violence, it is a policy of violence. The political negotiations long sought to end the killing and the fire in Southeast Asia now fade as a possibility. It is possible that we will, under Vietnamization, eventually reduce our involvement in Vietnam—only to step back to watch the ultimate agony of that place while washing our hand of it. That is what is so repugnant about the invasion of Laos and all it means. For those who care little about the violence we brought on, for those who care little for the civilian casualties, for those who care little about what eventually befalls that cluster of underdeveloped states—the policy may be judged a success. But for those who feel otherwise, who call for an end to the war and the death, the only solution to this political war is the political settlement that will end the violence.

Secondly, the invasion of Laos significantly raised the level of deception here at home. Soldiers were not dressed as civilians recently to deceive the enemy—but to deceive us. The embargo on news was not erected to deceive the enemy—but to deceive us.

No one seriously questions the right of our government to withhold some news in the field of foreign policy in the short run situation. Plebecites cannot be taken on every act of the government throughout the world. But Vietnam is not a short run situation—we have been living with it all these years and public opinion is now clear on the question of withdrawal or new acts of war versus any illusion of military victory. The public wants no part of it, yet our government persists in it, and so the news must be kept from us. How long it will take to reestablish the faith of the citizen in the word of their government is a matter of great speculation—but it is that faith and trust that has also fallen in this war.

Thirdly, the preoccupation with Vietnamization and the invasion of other states has caused serious damage to our foreign policy in the eyes of the world. What has it meant to the progress of arms limitation talks? What time and energy can we give to the situation in the Middle East—a situation now in a critical stage? When was the last time our government could focus on the rapidly changing situation in the Latin countries, or the African states? All this is put aside, as we compound the error of Vietnam.

And when will it end? That depends on the Congress, and whether or not we will be strong enough to pass the necessary legislation to guarantee withdrawal. Only at that time will the spell be broken. Only then will there be the realization that enough has finally become enough, and in view of the time remaining the only appropriate actions will be those taken in Paris.

In this endeavor we will need your help and assistance, and we will be looking to you and groups such as yours for support throughout the country.

If the President of the United States looks to protect American boys—rather than to justify every new act of war on them—let him bring them home to their families.

If the President of the United States looks for peace in Asia—a lasting peace, for a generation—let him give the word to his able negotiator in Paris.

And if we are not to fall complacent while an unwanted war continues to rage, let us renew our commitment to the task of legislating the date—the date to end our involvement in that conflict, and force the political solution.

LITHUANIAN INDEPENDENCE DAY

Mr. DOMINICK. Mr. President, February 16 marked the 53d anniversary of the Lithuanian Declaration of Independence. Lithuania presents a dramatic example of Soviet colonialism in Eastern Europe, as they are related neither ethnically nor culturally to the Germans or Russians. Through direct control of foreign affairs, economic planning, defense, currency, and foreign trade, the Soviet Union has usurped the independence and freedom possessed by Lithuania before the Red Army invasion and forced annexation in June 1940. With the invasion began a brutal and inhuman occupation, interrupted only briefly by a revolt and 6 weeks of short-lived independence. More than one-fourth of Lithuania's population has been exterminated or relocated since 1940, and her culture continues to be stifled by Russian customs and dictates.

The United States has refused to recognize the incorporation of Lithuania into the Soviet Union, supports a nonrecognition policy on Soviet possession, and continues to maintain diplomatic relations with the former free Government of Lithuania. The desire of these people for freedom was dramatically demonstrated last month by the unsuccessful defection attempt by Simas Kudirka on the U.S. Coast Guard Cutter *Vigilant*.

Although we yearly protest the Soviet domination of Lithuania, we have failed to enlist the needed support from other free countries of the world to pressure the Soviet Union toward a just self-determination for the peoples of the captive nations. The Western World has voluntarily granted independence to former colonies in many parts of the world, and we should and must insist ourselves and enlist the support of other countries to obtain the same freedom and independence for Soviet colonies held in involuntary servitude.

C. W. PARIS—MAN OF THE YEAR IN SERVICE TO GEORGIA AGRICULTURE

Mr. TALMADGE. Mr. President, each year the Progressive Farmer magazine honors an individual as "Man of the Year in Service to Georgia Agriculture."

The man selected for this year's award is C. W. Paris, general manager of Gold Kist, formerly known as the Cotton Producers Association. I wish to extend my personal congratulations to Mr. Paris for this well-deserved recognition of his many outstanding contributions to agriculture and agribusiness.

This is a high honor, and I ask unanimous consent that there be printed in the RECORD a profile of Mr. Paris that outlines the splendid work he is doing with Gold Kist.

There being no objection, the profile from Progressive Farmer magazine was ordered to be printed in the RECORD, as follows:

MAN OF THE YEAR—IN SERVICE TO GEORGIA AGRICULTURE

Gold Kist is the new name for Cotton Producers Association, so it seems an unusually appropriate time to recognize Gold Kist's relatively new general manager, C. W. Paris, as Man of the Year in Service to Agriculture for his contributions to agriculture and agribusiness.

It was 20 years ago that a similar award was made to D. W. Brooks, present chairman of the board, who became manager in 1933 when CPA organized as a cotton-marketing co-op with a net worth of $2,100. Current net worth is $76 million. C. W. Paris is one of the men responsible for Gold Kist's growth and greatly responsible for the appropriateness of the name change.

Paris' life is so closely woven into the life of farm cooperatives and allied businesses that recounting successes of Gold Kist is akin to telling of his personal successes. In addition to more than 30 years of successful operations with CPA/Gold Kist he has been president of United Co-operatives, the supply unit for many of the largest cooperatives in the United States. He also served two terms as president of the National Broiler Council, and currently serves as director with both organizations.

He's also director and president of Gold Kist, S.A., the fishmeal company based in Lima, Peru. Other organizations which he serves as director include: Cooperative Mills of Ohio; Institute of American Poultry Industries; Cotton States Life and Health Insurance Company; National Council of Farmer Cooperatives; the Columbia, Newberry & Laurens Railroad; and the Georgia Agribusiness Council.

He was a delegate to the World Poultry Congress in Russia in 1966 and the European-American Symposium on Agricultural Trade in the Netherlands in 1963, a member of USDA's Broiler Advisory Committee in 1961–62, and currently serves on the National Industrial Pollution Control Council.

His interest in poultry is reflected in Gold Kist's annual report, which reads: "Due to a good poultry market, efficient operations, and skillful overall management in Gold Kist Poultry, this division again produced the most net margin for patrons—$5,185,000. Refund to poultry producers will be $1.10 on each 100 pounds of poultry produced."

Additional income to all farmer members and to the communities in which Gold Kist operates remains the main objective of this agricultural cooperative. It has charted a course of continued expansion in the consumer market field, more joint venture operations, refined research, more diversification, and additional local marketing and purchasing services to members.

In recounting this course and the many fields in which Gold Kist operates when he announced the name change, Paris pointed out that "the same services to farmers and the same principles of organization will continue. Gold Kist will continue to be a farmer cooperative with savings being returned to members." Thus the appropriateness of remarks of Under Secretary of Agriculture J. Phil Campbell when he called the organization "one of the great examples of the American free enterprise capitalistic system."

He went on to express his confidence that co-ops such as Gold Kist would "continue to add substantially to farmers' receipts by getting them better prices, by finding them export and other markets they could not find by themselves, and by making it possible for the individual to share in the cost savings achieved by combining the strength of many individuals."

FLYING THE AMERICAN WAY: BIGGER PLANES, HIGHER FARES, MORE RED INK

Mr. PROXMIRE. Mr. President, an excellent article concerning the American airline industry was published recently in the New Republic. The article, entitled "Flying the American Way," was written by Robert Fink, who has had extensive experience in the air travel business.

Mr. Fink points out that the 20 United States scheduled air carriers are in serious financial difficulty. This problem has come about because the airlines have been operating with over 50 percent of their seats vacant, while expanding at a rate far in excess of the growth of the number of passengers who are able or willing to pay the rapidly rising cost. This expansion, which has led to most airlines having planes on the ground and unused, or operating at far below their capacity, has been encouraged by the tax incentive and depreciation system which encourages the airlines to continually invest in new and larger aircraft.

This has led to congestion at many major airports and contributed to noise and air pollution, as well as the waste of our natural resources.

Mr. Fink said:

For the past 20 years, it has been government policy to encourage open competition and restrict any form of capacity control on scheduled airlines' services within the U.S. and on overseas routes where U.S. carriers actively participate, such as on the North Atlantic. On affected international routes the effect has been similar to what has happened here, and the President of TWA recently noted that the excess seats of the two dozen carriers on the North Atlantic represented no less than the equivalent of 84 Boeing 707s daily flying empty.

The advent of the SST would hardly improve this situation. In fact, keeping up with the Jones or expansion for expansion's sake was one of the contributing factors leading to this financial crisis. The SST will only make matters worse and add to the severe financial burden of the major airlines in this country.

Mr. Fink believes the solution to be the reduction in the number of flights made by the airlines as well as regulation of the competition on the routes by the CAB. For example, a simple 10-percent reduction in flights would represent an 850 million gallon decline in the usage of aircraft fuel, reduce air congestion and cut down on emissions. A 10-percent reduction is not enough, but it does show how important this entire subject is when Congress is being asked at the same time to provide through funding for the SST for more expansion, more waste, and more pollution on the airways.

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:

FLYING THE AMERICAN WAY

(By Robert Fink)

The 20 US scheduled carriers are in dire financial straits, and it is possible that only a handful will survive the next two years. The industry generally concedes that some large companies will go under, and perhaps as few as four or five giants will emerge. Last week the airline industry, in the person of Stuart Tipton, the President of the Air Transport Association (see Correspondence, p. 34), appealed to Congress to let the industry raise passenger fares so "we can have a good, solid system and not have to come to Congress for government help."

That the airlines' plight was not anticipated years ago by airlines or federal regulatory bodies reflects their collective mentality, which appears to have lived for years in the never-never land of expansion for expansion's sake—despite the patently obvious fact that overall lift capacity was increasing at a substantially higher rate than even a healthy market increase could absorb at contemporary tariff levels, as each company generally followed a policy of buying aircraft to meet their own peak season demands. With the advent of the 747 Jumbo Jet, it was clear that scheduled seat capacity would probably exceed even that demand for the first time in the history of commercial aviation, just as it should now be clear that the coming of the wide-bodied tri-jets in 1972, with approximately twice the number of seats of the familiar Boeing 707 and DC–8, will increase the discrepancy between available seats and passengers to fill them, still more.

The airlines' compulsion to grow has been tuned to such tangible governmental expansion incentives as accelerated depreciation schedules, the 10.5 percent return on invested capital, and the now-cancelled 7 percent investment tax credit—an arrangement under which virtually all large aircraft now in service, and much of the fleets soon to be delivered, have been secured. This credit device encouraged companies to expand by purchasing equipment—in many cases aircraft they didn't vitally need—and subsequently their applicable annual net-after-tax profits by as much as 50 percent.

The 10.5 percent return on invested capital is a guideline that the Civil Aeronautics Board recognizes as being a reasonable rate. It is on this basis that the major scheduled carriers recently asked for a 20 percent fare increase, the amount they believe they need to guarantee themselves a 10.5 percent return. In arriving at this 20 percent figure, the airlines by their own calculations, generously acknowledge that substantial numbers of passengers will be driven away, and that if this were not the case they would only need a 12 percent fare boost. At a time when more and more seats are empty, both percentage-wise and in toto, the airlines are ironically proposing to aggravate the condition still further, and looking for their salvation to the government which contributed to their dilemma. But the higher tariff structure the carriers are now demanding can only provide temporary relief, and in the long run is not in the best interest of the airlines, the aircraft manufacturers and suppliers, or the general public.

No responsible industry goes in for major capital expansion primarily to obtain short-term financial advantages. Presumably, most airline executives had faith in massive and continued growth ad infinitum, and acted accordingly—and so it is a natural progression for them to now attribute their difficulties to a slump in the economy. Translated into airline passenger traffic, "slump" means the rate of anticipated growth has not materialized; it does not mean decrease in passenger seat-miles (actually up 8.3 percent in the first seven months of 1970), except in relation to overall expenses and available seat-miles. This combination of factors set off the plunge, but in a situation where, percentage-wise, fewer passengers carry an everwidening burden of costs, a cave-in is inevitable. The "slump" is a symptom of unsoundness, as are many of the soaring costs the airlines are saddled with: excess interest charges on unneeded aircraft, their maintenance and operating costs, and the waste in time and fuel spent in runway delays resulting from the congestion of unnecessary flights, are a few examples. These kinds of needless costs annually add up to tens of millions (if not hundreds of millions) of dollars thrown away, millions of man-hours wasted, and the squandering of natural resources.

How did the airlines, with all their management and marketing expertise, get in such a mess?

The answer partially lies in the curiosities of airline economics, and the blessing of the operating economies of modern jet aircraft. The actual cost of flying them is so low that once they are purchased, the sale of a relatively few seats on each flight will cover the expenses of aircraft operations. "Aircraft Operating Expenses" are calculated in block hours—time measured from the moment an

aircraft begins a flight by moving under its own power, to the time its engines are switched off at its destination. These expenses, in airline accounting procedures, include "out of pocket" costs of fuel, oil, crew salaries and flight insurance, as well as the major expenditures of direct maintenance, and depreciation. In actual figures, these various outlays average about $800 per block hour for a Boeing 707 or DC–8, about $850 for a stretch DC–8–61, and about $1550 for a Boeing 747 Jumbo.

Actual operating costs vary from route to route and from carrier to carrier, and the break-even point between any two points differs, depending on such variables as distance and tariff structure, but the break-even point is usually reached by the sale of between 16 to 25 percent of the available seats at the coach-class fare level, between most major cities. Hence, for example, a 747 flying from Los Angeles to New York requires about 65 coach passengers in its 340-odd seats—and it could comfortably have many more seats—to recoup the operator's aircraft expenses. Or a DC–8–61 flying between Chicago and Los Angeles can break-even with approximately 32 coach passengers in its 195-odd seats—plus the few passengers needed to cover the expenses of catering (a fixed expense per passenger), and ground handling (a variable expense per passenger, tied in to the frequency of flights and size of the aircraft, but obviously, the fewer the flights and the larger the aircraft to transport a given quantity of passengers, the lower the per passenger cost). Moreover, the minimal passenger figures given here assume no freight or mail are being transported; if they generate revenue, the passenger break-even points are further reduced, often to where no passengers are needed to pay the aircraft's operating expenses.

It is because of these kinds of figures that the airlines have seen their road to prosperity in keeping their half-full aircraft in the air, and their advertising budgets high ($220 million in 1969, and growing substantially)—figuring every extra seat sold is largely money in the bank, as well as being a defensive necessity to keep up with the competition. There is little incidentally, to indicate that massive advertising expenditures increase total airline traffic to any meaningful extent.

The golden calf of bigness, combined with this sort of economics, leads many carriers, when given a choice between operating, say, a 140-passenger Boeing 707 or a 340-passenger Boeing 747, on a service which would normally be expected to have, say, 75 passengers per flight, to opt for the larger aircraft, because the substantially greater income it can generate on the odd occasions when there's a surge of passenger or freight demand, will more than offset the higher operating costs. Furthermore, the prestige of a 747 is seen as a lure to attract passengers from the competition. This type of reasoning totally ignores the social costs of pollution and the unnecessary consumption of resources.

The airlines have gone wrong because the delicate balance between irresponsible overcapacity and enormous ground expenses (approximately equal to total aircraft operating expenses), has gone against them—as sooner or later it had to do. Seeing load factors steadily slipping in the last few years—on domestic scheduled services the 1970 results will probably be about 46 percent, down from 57.9 percent in 1966—the airlines have tried to combat the trend by instituting gimmick fares, by shenanigans as the "wider-seat war," and by crying out for higher fares. These would make their aircraft operational break-even points even lower than they already are, and concurrently allow the in efficiency and waste to continue until the next crisis.

Airline operating costs being so low, the airlines literally would have a license to print money at the present tariff levels if the industry were rationally operated. That it is not so operated is a responsibility shared by the companies themselves and the CAB. For the past 20 years, it has been government policy to encourage open competition and restrict any form of capacity control on scheduled airlines' services within the U.S. and on overseas routes where U.S. carriers actively participate, such as on the North Atlantic. On affected international routes the effect has been similar to what has happened here, and the president of TWA recently noted that the excess seats of the two dozen carriers on the North Atlantic represented no less than the equivalent of 84 Boeing 707s daily flying empty. Domestically, the CAB has gone out of its way to increase competition, a familiar practice being to put three or four carriers on a route which has proved profitable for one or two, so that it becomes unprofitable for all.

On the airlines' sides, excess competition has naturally been unwelcomed by carriers when it invaded routes they themselves dominated; at the same time, wanting the best of both worlds, the carriers' normal practice has been to get the maximum possible routes for themselves—with the exception that on occasion they have been obligated to take routes they didn't want (usually short-distances or between small markets) to get others they did. The result of "what's mine is mine, what's yours we share,' combined with the carriers' acquiescence to the CAB's directives, is the present chaos of largely empty planes standing on runways, waiting to take off minutes apart for the same destination.

The obvious solution is—and has been—to reduce the number of flights, but until last September the airlines made no collective attempt to do so. And on an individual basis it is only within the last few weeks that major carriers such as TWA and United have made individual curtailments of any consequence, even though government regulations have not interfered with their right to individually reduce the frequency and size of their flights over any given route. In practice, the carriers have felt they would put themselves at a competitive disadvantage by acting initially or unilaterally: they have been more concerned with the possibility of losing out to competitors than of losing money, and it is only now that the losses are getting uncomfortable, that they are willing to risk losing "their" share of the market.

Why haven't the airlines at least been able to agree among themselves to jointly cut their services? The reasons are partly institutional: (1) the nature of the business is to plunge forward and not retrench; (2) it is difficult to question, much less change, habits and tenets that take up attributes of universal truths inside a functioning and dynamic industry; and (3) it is against the unspoken rules and anticipitalistic to impede free competition. The airlines, like the federal agencies that regulate them, have made "free competition" synonymous with the quality of public service: the constant inference is that any restrictions will jeopardize the public's welfare.

And the reasons are partly governmental: the CAB has made it difficult for the airlines to cut down. Last September, American, TWA, and United, finally seeing the handwriting on the wall in terms of unacceptable losses, made a unique application to curtail capacity by requesting that ceilings be placed on the number of available seats offered on selected long-distance routes on which the load-factors were only 40 percent, leaving to the companies the option to withdraw services within modest limits. In November the CAB rejected the application on antitrust grounds.

Can it be that they see the public interest being served by hundreds of millions of gallons of excess fuel being burned in the atmosphere? A mere 10 percent flight reduction would represent a savings of approximately 850 million gallons annually at the present rate of consumption. Can it be that they see the public interest served by having aircraft circling dangerously saturated airspace, waiting to land? Can it be that while no one wishes these results, public officials tied in to archaic systems, and possibly to narrow interests, create and maintain by their policy decisions the very conditions leading to inevitably disastrous results?

All is not lost at the CAB. Some members, including Chairman Secor Browne, have long been in favor of, or now see the wisdom of capacity reductions, and the Board's objections to the September application are now viewed as procedural: it could not be approved because the three carriers met behind closed doors without asking prior governmental approval—a breach of antitrust law so flagrant that cynical observers within the industry suspect the carriers' application was not wholly serious. Be that as it may, and while the Board is against "pooling"—an arrangement much in use outside the US wherein competing carriers (usually nations) mutually establish flight frequency and size patterns, and share revenues and expenses on given routes—it has announced it would be receptive to receiving definite and precise airline proposals that are properly initiated, for markets of substantial size where low load factors prevail.

How far the reforms will extend in practice is not clear. In all likelihood, the airlines and the CAB will not find anything amiss if load-factors can be corrected up to the 50–52 percent level, with the free-for-all to continue above that, thereby satisfying themselves that the present system is kept almost wholly intact, the airlines would once again be making profits, and the reductions in frequencies would not be injurious to the travelling public. If such be the extent of the remedial steps, and there is reason to believe it is the maximum to be expected, it is a solution befitting a society that disregards the costs of pollution, waste, and economic sense.

A rational policy of scheduled commercial aviation should aim at load-factors in the vicinity of 70 percent between hub cities—a figure which, under the present system, airline management in this country considers preposterous, though it is often realized and even surpassed on some inter-European routes, and was common in this country in the pre-jet era of the early fifties. With the assiduous use of computers, airline marketing statistics and probability studies, the carriers should restructure their schedules to meet such a figure, and subsequently keep their excess aircraft on the ground in active reserve, strategically placed to be readily available for increased demand prompted by special events and peak periods.

This system can be carried a substantial step further. With carriers knowing approximately how many passengers to expect on any given flight on any given day (they have this information now), and building in a comfortable reserve for chance error and variability, a large part of the advance reservations systems now costing the airlines dearly, could be abandoned. Passengers arriving at the airport would merely supply the ticket agent with their names and addresses, which would be immediately entered on the flight manifest. When more passengers turn up than the computer probability studies have predicted, as will certainly happen from time to time, or when seasonal or special events indicate a greater demand, aircraft from the reserve supply would be immediately put in service—or where operationally feasible, a larger aircraft would be substituted.

With the hundreds of millions of dollars

saved by having fewer planes in the air, and communications and personnel expenses measurably reduced, the airlines could not only enjoy very substantial profits, but they could likely reduce fares to an extent that they could not only fill those portions of their fleets voluntarily grounded, but the mountains of giant aircraft they have on order. All parties stand to gain: the airlines, the manufacturers and suppliers, the travelling and nontravelling public, and the country.

In an era when costs and wages are rising steeply, the airlines are correctly claiming their costs are soaring, but they neglect to mention the anomaly of modern commercial aviation: the available seat cost per mile is now less than it has ever been. The case for higher fares is justified only in terms of rewarding the airlines for their past mistakes. Are the airlines to genuinely operate for the benefit of the widest possible public, or are they to pay them lip service while they make profits at 50 percent occupancy?

HEALTH MESSAGE AND ITS SIMILARITY TO PELL BILL

Mr. PELL. Mr. President, today the President has sent to Congress his proposals for improving the Nation's health care system. I commend him for his initiative and for the wide scope of his proposals.

In particular, I am very much encouraged that the President has decided to utilize my own basic approach to national health care as the keystone of his own health proposals.

In the last Congress I suggested a nontax approach to national health care reform. I proposed in my bill in the 91st Congress that employers provide employees a minimum level of health benefits just as they provide employees a minimum wage. The President now has proposed a similar approach.

In my bill I also proposed the development of community health corporations to encourage preventive medicine through group practice arrangements. The President in his message suggested he would encourage such an approach.

The thrust of my own approach is to restructure, rather than refinance through new taxes, the private sector by attempting to balance the demand for health care services with a new means of supplying health care services. From the tone of the President's message, it is evident that he shares this same philosophical approach.

EXCEEDING THE BOUNDS

Mr. GOLDWATER. Mr. President, on February 10 I took occasion to express my admiration for the courage of President Nixon in assisting the South Vietnamese invasion of Laos. At that time I offered the opinion that the war in Indochina would have been greatly shortened if this vital action had been taken 7 years ago. I also took note of the fact that the outcry of protest from antiwar units in this country was not all that the "doves" in our midst had hoped for.

Now we find a member of the Senate's antiwar faction, the Senator from Massachusetts (Mr. KENNEDY), complaining over the fact that Americans are not complaining. In a speech delivered here yesterday, the Senator from Massachusetts is reported to have said that he was disappointed and dismayed that Americans had not protested more about the incursion in Laos. At the same time Senator KENNEDY criticized bitterly the policy of Vietnamization which has permitted this country to withdraw many thousands of American fighting men from the scene of hostility. Mr. President, I might point out that whether you like the policy of Vietnamization or not, it is far superior to anything proposed by Senator KENNEDY's political party to facilitate a gradual termination of American participation in the Indochina war.

Mr. President, I believe we live in strange times when a Member of the Senate of the United States actually complains publicly because the American people fail to protest hard enough against an official policy of the man they elected President to facilitate the end of the war, to quicken the return of American fighting men, and to save American lives.

I believe, as does President Nixon, that all is fair in politics when truth and accuracy are brought to bear upon the public policies of people with whom we disagree. But I for one believe that it is exceeding the bounds of fair politics for an elected official to urge protest and dissension over an official policy of the Commander in Chief of this Nation. Senator KENNEDY says that he believes "a gross step was taken in the invasion of Laos," and that the action is in pursuit of a policy of violence. President Nixon and the vast majority of American people believe that it was a courageous step and a difficult step taken in the best interests of the Nation.

ADMINISTRATION'S MINED AREA PROTECTION ACT OF 1971

Mr. JACKSON. Mr. President, I submit for printing in the RECORD the Mined Area Protection Act of 1971. This measure is proposed by the administration as a part of the President's environmental message of February 8, 1971.

At the present time two other measures relating to surface and strip mine protection and reclamation are pending before the Senate Committee on Interior and Insular Affairs. These measures will all receive active consideration in this session of Congress.

Mr. President, I ask unanimous consent that the executive communication from the Secretary of the Interior accompanying the administration's draft proposal together with a section-by-section analysis be printed in the RECORD.

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

S. —

A bill to provide for the cooperation between the Federal government and the States with respect to environmental regulations for mining operations, and for other purposes

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 "Mined Area Protection Act of 1971".

TITLE I

SEC. 101. DEFINITIONS.—For the purpose of this Act, the terms—

(a) "Secretary" means the Secretary of the Interior;

(b) "mining operations" means (1) activities conducted on the surface of underground for the exploration for or extraction of minerals from their natural occurrences, including strip or auger mining, dredging, quarrying, in situ distillation or retorting and leaching; and (2) the cleaning, concentrating, refining, or other processing or preparation (excluding smeltering) and loading for interstate commerce of crude minerals at or near the mine site. It does not include the extraction of minerals in a liquid or gaseous state by means of wells or pipes unless the process includes in situ distillation or retorting;

(c) "underground mining operations" means those mining operations carried out beneath the surface by means of shafts, tunnels, or other underground mine openings and such use of the adjacent surface as is incidental thereto;

(d) "surface mining operations" means those mining operations carried out on the surface, including strip or auger mining, dredging, quarrying, and leaching, and activities related thereto;

(e) "mined area" means the surface and subsurface of an area in which mining operations are being or have been conducted including private ways and roads appurtenant to any such area, land excavations, workings, refuse banks, tailings, spoil banks, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, mining operations are situated;

(f) "operator of a mining operation" means an individual, society, joint stock company or a partnership, association, corporation, or other organization controlling or managing a mining operation;

(g) "State" means a State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam;

(h) "reclamation" means activity which is taken during and following a mining operation to avoid or correct adverse environmental effects of mining operations.

SEC. 102. Congressional Findings and Declarations. The Congress finds and declares—

(a) that mining operations are essential activities affecting interstate commerce which contribute to the economic well-being, security and general welfare of the Nation;

(b) that there are mining operations on public and private lands in the Nation which adversely affect the environment by destroying or diminishing the availability of public and private land for commercial, industrial, recreational, agricultural, and forestry purposes, by causing erosion and landslides, by contributing to floods and the pollution of waters and air, by destroying fish and wildlife habitat and impairing natural beauty, by frustrating efforts to conserve soil, water and other natural resources, by destroying public and private property, and by creating hazards to life and property;

(c) that the initial and principal continuing responsibility for developing and enforcing environmental regulations for mining operations should rest with the States;

(d) that the cooperative effort established by this Act is necessary to the prevention and elimination of the adverse environmental effects of present and future mining operations; and

(e) that it is the purpose of this Act to encourage a nationwide effort to regulate mining operations to prevent or substantially reduce their adverse environmental effects, and to assist the States in carrying out programs for those purposes.

TITLE II ENVIRONMENTAL REGULATIONS FOR MINING OPERATIONS

SEC. 201. State Environmental Regulations for Mining Operations.

(a) Each State, after public hearings and within two years of the date of enactment of this Act, may submit to the Secretary for review and approval or disapproval in accordance with this section State environmental regulations for mining operations on all lands within such State, except Federally-owned land or land held in trust by the United States for Indians. A State may at any time thereafter submit revisions to such regulations to the Secretary for review and approval or disapproval in accordance with this section. The Secretary shall approve the regulations or revision of such regulations submitted to him if in his judgment:

(1) the regulations require that each operator of a mining operation obtain a permit from a State agency established to administer the regulations, and file a mine reclamation plan describing the manner in which his reclamation activity will be conducted showing that such activity will be conducted in a manner consistent with the regulations;

(2) the regulations contain requirements designed to insure that the mining operation (i) will not result in a violation of applicable water or air quality standards, (ii) will control or prevent erosion or flooding, release of toxic substances, accidental subsidence of mined areas or land or rock slides, underground, outcrop, or refuse bank fires, damage to fish or wildlife or their habitat, or public or private property, waste of mineral resources, and hazards to public health and safety;

(3) the regulations require reclamation of mined areas by revegetation, replacement of soil, or other means; that a reclamation plan be prepared and approved in advance of initiation or continuance of mining operations, and that reclamation work be made an integral part of the mining operation and be completed within reasonably prescribed time limits;

(4) the regulations require posting of performance bonds in amounts at all times sufficient to insure the reclamation of mined areas in the event that the regulations are not complied with or that reclamation is not completed in accordance with the reclamation plan;

(5) the regulations provide for filing, updating, and permanent retention of engineering maps of all active surface and underground mining operations and of all inactive surface and underground mining operations for which engineering or other maps are available;

(6) the regulations provide that regular reports will be made to the Secretary concerning the progress made by the State in carrying out the purposes of this title;

(7) the regulations require regular monitoring by the State agency of environmental changes in mined areas to assess the effectiveness of the environmental regulations for mining operations;

(8) the regulations designate a single agency, or with the Secretary's approval, an interstate organization upon which the responsibility for administering and enforcing the regulations is conferred by the State which will insure full participation of those agencies responsible for air quality, water quality and other areas of environmental protection;

(9) the State agency or interstate organization responsible for the administration and enforcement of the regulations has vested in it the regulatory and other authorities necessary to carry out the purposes of this Act including, but not limited to, authority to prohibit mining operations where the area affected cannot be adequately reclaimed, to order cessation of mining operations, and to bring or request the bringing of civil and criminal actions for violation of applicable laws and regulations;

(10) the regulations were developed with full participation of all interested Federal departments and agencies, State agencies, local governments, and other interested bodies and groups;

(11) the regulations provide for regular review and updating, and for public notice and an opportunity for public participation in their revision;

(12) funding and manpower are or will be committed to the administration and enforcement of the regulations sufficient to carry out the purposes of this title;

(13) the regulations are authorized by law and will become effective no later than sixty days after approval by the Secretary;

(14) training programs will be established, as necessary, for persons engaged in mining operations and in enforcement of environmental regulations; and

(15) the regulations are compatible to the maximum extent practicable with approved regulations of adjacent States.

(b) The criteria set forth in subsection (a) of this section shall be further elaborated by the Secretary through guidelines which will be issued within 30 days after enactment of this act and revised periodically as the Secretary deems appropriate. Such guidelines shall attempt to assure that State regulations provide the operator of a mining operation sufficient flexibility to choose the most economically efficient means of meeting the requirements of section 201(a)(2) and shall be based on consideration of:

(1) the differences between the various States and regions;

(2) the effectiveness and experience gained under present State mining reclamation regulations and Federal regulations for Federal lands;

(3) the available technology for achieving the requirements of section 201(a)(2);

(4) a comparison of the costs and benefits of achieving alternative levels of the requirements of section 201(a)(2).

(c) To advise the Secretary in developing guidelines under subsection (b) of this section, there is established an Advisory Committee composed of representatives from the Departments of Agriculture and Commerce, the Environmental Protection Agency, the Tennessee Valley Authority and the Appalachian Regional Commission and such other representatives as the Secretary may designate.

(d) The Secretary shall not approve regulations submitted by a State pursuant to this section until he has solicited the views of Federal agencies principally interested in such regulations. In case of serious disagreement between any Federal agency and the State in the development of the regulations the Secretary shall seek to mediate the differences. The Secretary shall approve or reject the State regulations within 180 days after such regulations are filed. If no action is taken by the Secretary within the allotted time it shall be presumed, as a matter of law, that the State regulations are approved.

(e) If the Secretary approves the regulations or revision thereof submitted to him by a State for approval, he shall conduct a continuing review and evaluation of the effectiveness of the regulations and the administration and enforcement thereof. As a result of the evaluation and review the Secretary may determine that:

(1) the State has failed to enforce the regulations adequately;

(2) the State's regulations require revision as a result of experience or the guidelines issued by the Secretary pursuant to section 201(b);

(3) the State has otherwise failed to comply with the purposes of this Act.

Upon making such determination the Secretary shall notify the State and suggest appropriate action, remedies, or revisions to the regulations affording the State an opportunity for a hearing. If within a reasonable time, as determined by the Secretary, the State has not taken appropriate action as determined by the Secretary, the Secretary may withdraw his approval of the regulations, and issue regulations for such State under section 202 of this title. After withdrawal of his approval and pending the issuance of regulations under section 202 the Secretary may administer and enforce the State regulations. Following the issuance of regulations under section 202 and while they are in effect the Secretary is authorized to administer and enforce such regulations within such State.

SEC. 202. Federal Regulation of Mining Operations.

(a) If, at the expiration of two years after the date of enactment of this Act, a State has failed to submit environmental regulations for mining operations, or has submitted regulations which have been disapproved and within such period has failed to submit revised regulations for approval, the Secretary shall promptly issue environmental regulations for mining operations within such State. The Federal regulations issued by the Secretary for a particular State shall meet the requirements of the principles set forth in subsection (a) of section 201 of this Act.

(b) Regulations under this section shall be issued pursuant to the Federal rule making procedure set forth in 5 U.S.C. 553.

(c) The Secretary may from time to time revise such regulations in accordance with the procedure prescribed in 5 U.S.C. 553.

SEC. 203. Where the Secretary administers and enforces the program for the State, or when the Secretary administers and enforces State regulations under section 201(e) of this title, he shall recover the full cost of administering and enforcing the program through the use of mining permit charges to be levied against mining operations within the State.

SEC. 204. Termination of Federal regulations. If a State submits proposed State regulations to the Secretary after Federal regulations have been issued pursuant to section 202 of this title, and if the Secretary approves such regulations, such Federal regulations shall cease to be applicable to the State at such time as the State regulations become effective. Such Federal regulations, as changed or modified by the Secretary, shall again become effective if the Secretary subsequently withdraws his approval of the State regulations pursuant to subsection (e) of section 201 of this title.

SEC. 205. Inspections and Investigations. The Secretary is authorized to make such inspections and investigations of mining operations and mined areas as he considers necessary or appropriate to evaluate the administration and enforcement of any State's regulations, or to develop or enforce Federal regulations, or otherwise to carry out the purposes of this Act, and for such purposes authorized representatives of the Secretary shall have the right of entry to any mining operation and into any mined areas. In order to enforce the right of entry into a specific mining operation or mined area the Secretary may obtain a warrant from the appropriate district court to authorize such entry.

SEC. 206. Injunctions. At the request of the Secretary, the Attorney General may institute a civil action in a district court of the United States or the highest court in a U.S. territory for an injunction or other appropriate order (1) to prevent any operator of a mining operation from engaging in mining operations in violation of Federal regulations issued under section 202 of this title or State regulations which the Secretary is authorized to enforce under section 201(e) of this title; (2) to prevent an operator of a mining operation from placing in commerce the minerals produced by a mining operation in vio-

lation of State regulatins approved under section 201 of this title; (3) to enforce a warrant issued under section 205 of this title; or (4) to collect a penalty under section 207(a) of this title. The district court of the United States for the district in which such operator of a mining operation resides or is doing business shall have jurisdiction to issue such injunction or order.

SEC. 207. Penalties. (a) If any person fails to comply with any regulation issued under section 202 of this title for a period of fifteen days after notice of such failure, the Secretary may order cessation of such person's mining operations and such person shall be liable for a civil penalty of not more than $1,000 for each day of continuance of such failure after said fifteen days.

(b) Any person who knowingly violates any regulation issued pursuant to section 202 of this title shall, upon conviction, be punished by a fine not exceeding $10,000, or by imprisonment not exceeding one year, or both.

(c) The penalties prescribed in this section shall be in addition to any other remedies afforded by this title or by any other law or regulation.

SEC. 208. Research. The Secretary is authorized to conduct or promote research, or training programs to carry out the purposes of this title. In so doing, the Secretary may enter into contracts with institutions, agencies, organizations, or individuals and make grants to non-profit organizations and collect and make available information resulting therefrom.

SEC. 209. Grants. (a) The Secretary is authorized to make a grant to any State for the purpose of assisting such State in developing, administering and enforcing environmental regulations under this title provided that such grants do not exceed 80 per centum of the program development costs incurred during the year preceding approval by the Secretary and do not exceed 60 per centum of the total costs incurred during the first year following approval, 45 per centum during the second year following approval, 30 per centum during the third year following approval and 15 per centum during the fourth year following approval, at which time the Federal grants shall cease.

(b) The Secretary is authorized to cooperate with and provide non-financial assistance to any State for the purpose of assisting it in the administration and enforcement of its regulations. Such cooperation and assistance may include:

(1) technical assistance and training, including provision of necessary curricular and instructional materials, in the administration and enforcement of the State regulations or program; or

(2) assistance in preparing and maintaining a continuing inventory of mining operations and mined areas in such State for the purposes of evaluating the effectiveness of its environmental regulations for mining operations programs and identifying current and future needs of the State's activities under this Act.

SEC. 210. In extending technical assistance to States under section 209 and in the enforcement of regulations issued by the Secretary under section 202 concerning matters relating to the reclamation of areas affected by surface mining, the Secretary may utilize the services of the Secretary of Agriculture, and may transfer funds to cover the cost thereof.

SEC. 211. Rules and Regulations. The Secretary is authorized to promulgate such rules and regulations as he considers necessary to carry out the provisions of this title.

SEC. 212. Authorization of Appropriations. There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the provisions of this Act.

TITLE III

SEC. 301. (a) The heads of all Federal departments or agencies which have jurisdiction over land on which mining operations are permitted are authorized to promulgate environmental regulations to govern such mining operations. Such department or agency heads shall issue regulations to assure at least the same degree of environmental protection and reclamation on lands under their jurisdiction as is required by any law and regulation established under an approved State program for the State in which such land is situated. Each Federal department and agency shall cooperate with the Secretary and the States, to the greatest extent practicable, in carrying out the provisions of this Act.

(b) Nothing in this Act or in any State regulations approved pursuant to it shall be construed to conflict with any of the following Acts or with any rule or regulation promulgated thereunder:

(1) the Federal Metal and Nonmetallic Mine Safety Act (80 Stat. 772; 30 U.S.C. 721–740);

(2) the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742);

(3) the Federal Water Pollution Control Act, as amended (79 Stat. 903, 33 U.S.C. 1151–1175), the State laws enacted pursuant thereto, or other Federal laws relating to preservation of water quality;

(4) the Clean Air Act, as amended (79 Stat. 992; 42 U.S.C. 1857); and

(5) the Solid Waste Disposal Act, as amended (79 Stat. 997; 42 U.S.C. 3251).

SEC. 302. Separability. If any provision of this Act or the applicability thereof to any person or circumstance is held invalid the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., February 10, 1971.

HON. SPIRO T. AGNEW,
President of the U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To provide for the cooperation between the Federal government and the States with respect to environmental regulations for mining operations, and for other purposes."

We recommend that this bill be referred to the appropriate committee for consideration and we recommend that it be enacted.

This legislative proposal was referred to in that part of President Nixon's environmental message dealing with environmental regulations for mining operations which was submitted to the Congress on February 8, 1971.

The adverse environmental effects that can result from mining operations has been a subject of growing national concern in recent years. The ever-increasing demand for minerals coupled with dramatic developments in our ability to recover them has led to an increase in mining activity, particularly surface mining.

These activities are an important part of the American economy and will continue to be. But we are coming to realize that they may contain hidden costs in terms of environmental deterioration that do not appear in the market transaction of the commodity.

Recent studies and investigations in the past 5 years documented some of the adverse environmental effects that may result from surface mining. Over 3.2 million acres of land had been disturbed by surface mining, with approximately 150,000 acres being added annually. By 1980, if this trend continues unchecked, 5 million acres will have been affected by mining activity, an area roughly the size of the State of New Jersey.

Underground mines also pose a serious threat to the environment. Like surface mines, underground mines can produce unsightly spoil heaps which disfigure the countryside and contribute to water pollution. Mine fires and unintentional subsidence are also major problems associated with underground mines in some areas.

In varying degrees State legislatures and mining companies have responded to the problem with the result that much land is being reclaimed by the mining industry as a part of the mining operation. Twenty-two States have laws regulating some aspects of surface or underground mining. This effort, however, suffers from lack of uniformity and lack of unanimity.

There are two distinct problems involved in meeting the challenge which mining operations can present to the environment:

(1) requiring ongoing and future mining activities to be conducted in a way as to minimize the environmental impact, and

(2) healing the wounds that have been inflicted by past mining operations.

The proposed bill deals only with the first problem, the solution to which is largely a matter of developing regulations which will require environmental considerations to be built into the mining operation. An integral part of this effort will be research programs promoted by the Secretary of the Interior with Federal funds.

The proposed bill recognizes that the initial responsibility for developing and enforcing regulations should rest with the States. It also recognizes, however, that the effort must be nationwide and based, to the fullest extent possible, on national standards, so that industry will be placed on an equal footing in every State.

The proposed bill therefore gives the States the opportunity to develop and submit regulations for approval by the Secretary of the Interior in accordance with certain specific criteria set forth in the bill.

If a State fails to develop an acceptable program within two years after enactment, the proposed bill authorizes the Secretary to promulgate regulations for mining operations within the State.

The problem of healing damage inflicted in the past is more complicated. Typically, the party responsible is not available for legal action to require him to repair the damage he has caused. Consequently the solution is largely a matter of spending taxpayers dollars. In order to justify a massive Federal grant program to clean up past mined-areas, a detailed cost-benefit analysis must be undertaken to assure that this problem deserves top priority among the great number of other environmental problems the solution to which requires Federal funds. The tools for such an analysis are in the formative stages. Until they have been further refined, it is felt that a restoration program is premature.

A section-by-section analysis of the bill is enclosed.

This legislation is long overdue. The longer it is put off, the larger the ultimate cost will be.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

SECTION-BY-SECTION ANALYSIS

To provide for the cooperation between the Federal government and the States with respect to environmental regulations for mining operations, and for other purposes.

TITLE I

Section 101—contains definitions. "Mining operations" includes surface and underground mining but excludes extraction of

minerals in a liquid or gaseous state through pipes. "Reclamation" means environmental protection built into mining operations.

Section 102—contains Congressional findings and declarations and states specifically that mining operations affect interstate commerce but that the initial and principal continuing responsibility for regulating them rests with the States.

TITLE II

Section 201—permits each State to submit for approval by the Secretary of the Interior environmental regulations for mining operations. Such regulations must cover all land within the State except Federally-owned land or land held in trust for Indians. The section contains criteria for secretarial approval, including provision that the regulations contain requirements designed to insure compliance with air or water quality standards and control or prevention of other specific types of environmental damage. The section sets up an Advisory Committee to establish guidelines further elaborating upon the criteria. The section allows the Secretary to withdraw his approval of State regulations if he finds that the State has failed to enforce the regulations adequately or otherwise failed to comply with the purposes of the Act.

Section 202—provides that if, after two years from the date of enactment of this Act, a State has failed to submit regulations to the Secretary for approval, the Secretary shall issue regulations for mining operations within that State.

Section 203—provides that, when the Secretary administers and enforces the program for a State, he shall recover the cost of so doing through permit charges levied on the mining operations within that State.

Section 204—provides that Federal regulations issued under section 202 shall cease to apply whenever the Secretary approves regulations submitted to him by the State.

Section 205—authorizes the Secretary to make inspections of mining operations in carrying out his responsibilties under the Act.

Section 206—authorizes the Attorney General to institute a civil action in the Federal district court to enforce Federal regulations, and to enforce certain other provisions of the Act.

Section 207—prescribes penalties for violation of Federal regulations.

Section 208—authorizes the Secretary to conduct research or training programs to carry out the purposes of title II.

Section 209—authorizes the Secretary to make grants to States to cover 80% of the cost of developing the regulations during the year prior to approval and to cover the following portion of the administering and enforcing costs for the four years following approval; 60% the first year, 45% the second year, 30% the third year and 15% the fourth year. The section also authorizes the Secretary to provide technical assistance to the States.

Section 210—authorizes the Secretary to utilize the services of the Secretary of Agriculture in extending technical assistance to the States.

Section 211—authorizes the Secretary to promulgate rules and regulations.

Section 212—authorizes appropriations as necessary.

TITLE III

Section 301—authorizes heads of Federal agencies to issue environmental regulations governing mining operations on lands under their jurisdiction. It directs such agency heads to require at least the same degree of environmental protection and regulation as is required by the State on other lands within the State. The section also provides that the Act shall not conflict with certain other Federal laws.

Section 302—provides for the separation of any provisions of the Act held invalid.

ACTION LONG OVERDUE ON THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, during the preparation of the various drafts of the Genocide Convention, active support was given by the United States. Indeed, it was largely through the efforts of the United States that the convention was completed in 1948 and adopted by the General Assembly on December 9 of that year.

At that time the position of the United States on the Genocide Convention was clearly set forth in a speech made to the General Assembly by the then Assistant Secretary of State Ernest Gross:

> It seems to the United States delegation that, in a world beset by many problems and great difficulties, we should proceed with this Convention before the recent memory of horrifying genocidal acts has faded from the minds of conscience of men. Positive action must be taken now. My government is eager to see a genocidal convention adopted at this session of the General Assembly and signed by all member states before we quit our labors here.

The General Assembly responded by unanimously adopting the convention with 55 nations voting, the other three being absent.

In June 1949, President Truman submitted the Genocide Convention to the Senate with an enthusiastic endorsement. In January 1950 a special Genocide Subcommittee under the chairmanship of the late Senator Brian McMahon of the Senate Foreign Relations Committee conducted public hearings. Leaders of more than 50 important organizations, representing millions of citizens, appeared before it to urge early ratification. On behalf of the State Department, Dean Rusk offered reassurance as to the possible effect of the convention on the domestic concerns of the United States. Mr. Rusk said:

> In terms of practical application throughout the United States, genocide means the commission of such acts as killing members of a specified group and thus destroying a substantial portion of that group, as part of a plan to destroy the whole group within the territory of the United States. It can thus be readily seen that genocide, as defined in the Convention, has never occurred in the United States, and is not likely to occur in the future.

In its report to the full Committee on Foreign Relations following these extensive hearings, the special subcommittee recommended ratification of the Genocide Convention, urging the inclusion of four reservations. However, months, then years, elapsed and the convention did not get out of committee.

In 1970 a major step toward U.S. ratification of this convention was taken by the President who called for Senate approval of the United Nations Genocide Convention. In a special message to the Senate on February 19, 1970, the President stated:

> I believe we should delay no longer in taking the final convincing step which would reaffirm that the United States remains as strongly opposed to the crime of genocide as ever.

The President endorsed the recommendations of Secretary of State William Rogers and concurred with the judgment of Attorney General Mitchell that there are no constitutional obstacles to U.S. ratification and that ratification at this time would serve the national interest.

President Nixon further stressed that Senate action "will demonstrate unequivocably our country's desire to participate in the building international order based on law and justice."

A principal obstacle to ratification of the convention was eliminated in 1970 by the positive recommendations of all the relevant divisions of the American Bar Association, including the section on individual rights and responsibilities, the standing committee on world order through law, and the section on international and comparative law. In contrast to past years when there was little support for the convention, at a meeting of the ABA House of Delegates in February 1970, nearly half the members endorsed ratification.

Senate Hearings on the Genocide Convention were held on April 24 and 27 and May 22 of last year under the chairmanship of Senator CHURCH.

A major step toward ratification was taken when the subcommittee reported the convention favorably to the full committee. The full committee reported favorably by a vote of 7 to 3.

The Genocide Convention has become the most widely ratified United Nations agreement with the exception of the U.N. Charter itself. Seventy-five countries have adopted it thus far. The United Kingdom became the 75th party to the Convention on Genocide on January 30, 1970, when its instruments of accession was received by the United Nations Office of Legal Affairs.

The failure of this Nation to ratify the Genocide Convention is unjustified. If we are to safeguard human rights and freedom, we must ratify this Convention. I sincerely urge the Senate to do so.

ARIZONA AND PENNSYLVANIA

Mr. GOLDWATER. Mr. President, a funny thing happened to the great State of Arizona on its way to affluence and prosperity the other day.

It seems that an organization called the Citizens Conference on State Legislatures has ranked the legislative body of my State 43d in a Nation of 50 States.

At the same time the Pennsylvania Legislature was ranked 21st and thereby hangs an interesting story of comparison.

You see, Mr. President, Arizona is financially solvent and in no danger of running out of operating funds—a condition that the State legislature played a major role in bringing about. On the other hand Pennsylvania, which ranks so far ahead of Arizona in the view of Citizens Conference, is flat broke and will be unable to meet its financial obligations by the end of February. This assessment of conditions in the Keystone State is not mine. It was outlined in a statement from the office of Gov. Milton Shapp, of Pennsylvania, a few weeks ago.

This interesting situation has led Governor Williams, of Arizona, to make some pungent remarks and the Arizona Re-

public newspaper to publish an interesting editorial. Entitled "Smart But Poor," the editorial concludes with these words:

Arizona's Legislature may not be smart, and it certainly does not represent a rich State, but its fiscal policies have not set it on the road to the poor house.

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

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

[From the Arizona Republic, Feb. 9, 1971]

SMART BUT POOR

"If you're so smart," runs a standard American retort, "why aren't you rich?"

This question was propounded, in effect at least, by Governor Williams when he commented on Arizona's place—43rd in the nation—in a ranking of state legislatures released by the Citizens' Conference on State Legislatures.

Noting that the Pennsylvania legislature was ranked 21st among the 50 in this country, Governor Williams quoted from a statement from the office of the governor of Pennsylvania admitting that his state would be out of money and unable to meet some of its obligations by the end of February.

In contrast, said Governor Williams, Arizona is financially solvent and in no danger of running out of operating funds.

One reason for Arizona's comparative affluence is the constitutional provision against the state's going into debt. During the last Democratic state administration a major drive was launched to allow the state to issue $100 million worth of bonds for various public purposes. The proposal was soundly defeated at the polls.

In the view of some, this was a regressive step by Arizona taxpayers. But it had much to do with keeping the state in a sound financial position. Had the bonds been authorized, the money probably would have been spent by now. And a large part of current income would now be going to pay off the bonds.

In sharp contrast, Pennsylvania does bond itself for public buildings, etc. Yet, unless it boosts its taxes or gets a windfall from President Nixon's revenue-sharing program, the Keystone State will be tottering on the edge of bankruptcy in three weeks.

Arizona's legislature may not be smart, and it certainly doesn't represent a rich state, but its fiscal policies haven't set it on the road to the poor house.

AMENDMENT OF LAND AND WATER CONSERVATION FUND ACT OF 1964

Mr. JACKSON. Mr. President, on behalf of the senior Senator from Colorado (Mr. ALLOTT) and myself, I submit for printing in the RECORD a bill to amend the Land and Water Conservation Fund Act of 1964, as amended.

The proposed legislation was submitted and recommended by the Department of the Interior and was referred to in that part of President Nixon's environmental message dealing with the Land and Water Conservation Fund which was submitted to Congress on February 8, 1971.

I ask unanimous consent that the letter from the Secretary of the Interior accompanying this draft proposal and an analysis of the bill be printed in the RECORD.

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

S. —

A bill to amend the Land and Water Conservation Fund Act of 1965, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 4601–4 *et seq.*), is further amended as follows:

(a) In the title of the Land and Water Conservation Fund Act of 1965 and in subsections 1(b), 5(a), 5(d), and 5(f), after the word "outdoor" wherever it appears insert "and other".

(b) In the first sentence of subsection 5(b), delete paragraphs numbered (1) and (2) and substitute the following:

"(1) 20 per centum shall be apportioned equally among the several States;

"(2) 75 per centum shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this Act. The determination of need shall include, among other things, consideration of population density and urban concentration within individual States as well as a consideration of the Federal resources and programs in the particular State; and

"(3) 5 per centum shall be made available to individual States to meet special or emergency needs, as determined by the Secretary."

(c) In the third sentence of subsection 5(b), delete "7" and substitute "10"; at the end of the fifth sentence of said subsection, change the period to a comma and add "without regard to the 10 per centum limitation to an individual State specified in this subsection."; and delete the last sentence of said subsection.

(d) In subsection 5(d), delete paragraph numbered (2) and substitute the following:

"(2) an evaluation of the present and future demand for and supply of outdoor recreation resources and facilities in the States;"

(e) In subsection 5(e) delete the paragraph numbered (2) and substitute the following paragraph:

"(2) DEVELOPMENT.—For development of basic outdoor recreation facilities to serve the general public, including the development of Federal lands under lease to States for terms of twenty-five years or more. Not more than 25 per centum of the total amount allocated to a State in any one year may be approved by the Secretary for the development of indoor recreation facilities within areas where the unavailability of land or climatic conditions provide no other feasible or prudent alternative to serve identified unmet demands for recreation resources."

(f) After the third paragraph of subsection 5(f) of the existing law, insert the following new paragraph:

"The Secretary shall annually review each State's program to implement the statewide outdoor recreation plan and shall withhold payments to any State until he is satisfied that the State has taken appropriate action (1) toward insuring that new recreation areas and facilities are being located to satisfy the highest priority unmet demands for recreation, especially in and near cities, particularly with respect to the resources that have been acquired or developed with funds apportioned to the State under section 5(b)(2) of this Act; (2) to consider preservation of small natural areas, especially near cities; (3) to consider preservation of scenic areas through the acquisition of development rights, scenic easements, and other less-than-fee interests in lands or waters; and (4) to provide for appropriate multiple use of existing public lands, waters, and facilities, to help satisfy unmet demands for recreation resources."

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., February 10, 1971.

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

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill "To amend the Land and Water Conservation Fund Act of 1965, as amended."

We recommend that this bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

This legislative proposal was referred to in that part of President Nixon's environmental message dealing with the Land and Water Conservation Fund which was submitted to the Congress on February 8, 1971.

The proposed legislation will accomplish several reforms in the administration of the Land and Water Conservation Fund, designed to increase the effectiveness of the expenditures in providing public recreation opportunities and open spaces where the unmet demands are greatest. The formula for apportionment of assistance among the States would be altered to give increased emphasis to the demands for additional recreation opportunities and open spaces in and near heavily populated urban areas. The Secretary of the Interior will be given added authority to review State implementation plans in order to assure compliance with this goal.

The bill will also authorize a State to use up to 25% of its total annual allocation to develop indoor recreation facilities within areas where the unavailability of land or climatic conditions provide no other feasible or prudent alternative to serve identified unmet demands for recreation resources.

These amendments are recommended as a part of the President's program which he mentioned in his State of the Union Message on January 22, 1971, as follows:

"And not only to meet today's needs but to anticipate those of tomorrow, I will put forward the most extensive program ever proposed by a President of the United States to expand the Nation's parks, recreation areas, open spaces, in a way that truly brings parks to the people where the people are. For only if *we* leave a legacy of parks will the next generation have parks to enjoy."

A detailed analysis of this draft bill is enclosed.

The Office of Management and Budget has advised that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

ROGERS C. B. MORTON,
Secretary of the Interior.

ANALYSIS OF DRAFT BILL

Subsection (a) would remove the requirement in the Land and Water Conservation Fund Act that financial assistance to the States for recreation planning, acquisition, or development be for *outdoor* facilities only.

Subsection (b) would change the existing formula for apportioning Land and Water Conservation Fund Moneys to the States. At present 60 percent of such moneys is apportioned on the basis of need, as determined by the Secretary of the Interior in accordance with certain prescribed considerations. One such consideration is the proportion which the population of each State bears to the total population of the United States.

The proposed apportionment in subsection (b) is based upon the following formula:

1. 20 percent on an equal basis;

2. 75 percent on the basis of need as determined by the Secretary; and

3. 5 percent on the basis of special or emergency needs as determined by the Secretary.

Subsection (c) would change the present annual limitation on the total apportionment of Fund moneys to an individual State

from 7 to 10 per centum of the total amount allocated under paragraphs (1) and (2) to the several States, and would provide that if such apportionment has not been paid or obligated within a prescribed period it will be reapportioned on the basis of need as determined by the Secretary without regard to the 10 per centum limitation. In addition, the subsection would delete the provision under which the populations of the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa are included in the population computation of the United States since under subsection (b) such a computation would no longer be made.

Subsection (d) modified one of the existing requirements of State comprehensive recreation plans which must be approved by the Secretary before financial assistance may be given to the States for acquisition or development projects. The subsection requires such plans to contain an evaluation of present and future demands for and supply of outdoor recreation resources and facilities in the States.

Subsection (e) would permit a State to use up to 25 percent of its total annual allocation to develop indoor recreation facilities in those areas where the unavailability of land or climatic conditions provide no feasible or prudent alternative to serve identified unmet demands for recreation resources.

Subsection (f) would require that the Secretary withhold payments to States until he is satisfied that they have taken appropriate action to ensure, consider, or provide for certain items listed in said subsection.

CAMPAIGN COSTS

Mr. FANNIN. Mr. President, last year Congress passed piecemeal legislation to cut down the cost of campaigning for political office.

President Nixon very wisely vetoed the bill which was limited to radio and television campaigning.

It is obvious that the cost of campaigning for public office is completely out of hand. We must put some restrictions on it. But these restrictions must be comprehensive and they must be fair.

Leaders of the broadcast industry and of the press are deeply concerned, of course, and are offering some thoughts that are very worthwhile.

Mr. President, I ask unanimous consent to have printed in the RECORD two brief editorials which were broadcast by KOOL Radio Television in Phoenix, Ariz.

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

CONTROL POLITICIANS, NOT MEDIA

There is little doubt but that there will be introduced in this session of Congress a bill, or more likely a number of bills, designed to control the costs of campaigning for public office.

A bill to just control the amount spent on radio and television campaigning was introduced, passed by Congress, and vetoed by President Nixon last year.

It is important that if indeed any law is necessary, such a law or laws place controls on all forms of campaign expense and that the control is on the politicians, not on the media.

Further, it is important, especially to the politician, that the controls not be broken down into how much can be spent in each media, but how much can be spent over-all so that the candidate can himself choose what he believes to be the most effective method of presenting himself to the voters.

If the Congress would then repeal the discriminatory Section 315 from the rules and regulations enforced by the FCC on broadcasting, we could properly report the conduct of political campaigns.

LOWEST RATES IN ALL MEDIA

There is no question but that we need some reforms in our election procedures. It costs too much money to campaign for political office.

Because such large amounts of money are necessary, a candidate must either be himself wealthy, or he must make too many deals with large contributors for the public good.

To improve our election procedures, five things should be done. The Congress should limit campaign expenses to a reasonable over-all amount, permitting the candidate himself to determine how to spend the campaign fund.

All advertising media, including newspapers and billboards, should be required to sell political advertising at the lowest rate available to any commercial advertiser for comparable time or space, a practice that is now observed only by radio and television.

The so-called equal time provision of the Communications Act regulating broadcasting should be repealed so that election campaigns can be properly reported by the broadcast press. We believe election campaigns are too long and should be, by law, shortened. Then, declare Election Day a national 24 hour holiday, with all polls opening simultaneously, and closing simultaneously, 24 hours later, so that early reporting of election returns cannot possibly influence voting in western states.

MILLARD CASS

Mr. TUNNEY. Mr. President, on January 30 of this year the Federal Government lost one of its most valuable and dedicated employees when Millard Cass, the Deputy Under Secretary of Labor, left the Federal service after 30 years.

As Deputy Under Secretary since 1955, Millard assisted the Secretary and the Under Secretary in directing and coordinating the programs and the operations of the Department of Labor. Mr. Cass also served as the Secretary's liaison with the 50 State Governors.

His contributions have been recognized on several occasions in the past. He has been awarded the Rockefeller Public Service Award, 1966, and the National Civil Service League Career Service Award, 1969. He has also received the Arthur S. Flemming Award for outstanding young men in the Federal Government, 1955, and the Department of Labor's Distinguished Service Award, 1960.

Millard has served as Deputy Under Secretary since 1955, when he was appointed to that position by the late Secretary of Labor James Mitchell. Prior to this he had served in that Department and throughout the Federal Government in a variety of posts including Special Assistant to the Secretary of Labor, with the National Labor Relations Board, and as an attorney with Securities and Exchange Commission. Before entering the Federal service in 1941, Millard was in the private practice of law in Portsmouth, Va.

I am sure that Millard Cass' career in the Federal service has been both challenging and rewarding. But too often the accomplishments of men like Millard Cass go unnoticed.

Since my entrance into Congress in 1965, Millard Cass has never ceased to be a source of wise counsel and keen information to both me and my staff. I have always valued him both as a friend and as a counselor.

I am sure that many tributes will be made to his career, as they ought to be; but in the final analysis men like Millard Cass are hard to find and even harder to replace. No tribute can ever make up for what the Federal Government and the Labor Department lose in terms of experience, counsel, and judgment.

It is my hope that in whatever Millard undertakes upon his resignation, he will meet with the same success that he has had while serving his country for the last three decades.

THE U.S. MARITIME INDUSTRY

Mr. LONG. Mr. President, earlier this month, on February 2, 1971, Andrew E. Gibson, Assistant Secretary of Commerce for Maritime Affairs, spoke before the Port of Washington, D.C., Propeller Club luncheon meeting. I invite the attention of the Senate to his remarks and ask unanimous consent that his speech be printed in the RECORD.

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

REMARKS BY A. E. GIBSON

I very much appreciate the opportunity to speak to you today. A little over a year ago I had the pleasure of addressing your organization in this same room and much has happened to the U.S. maritime industry in the interim. Much that is good—and a few things we could have done without.

Last year at this time the legislation encompassing President Nixon's maritime program had just been submitted to the Congress. The extensive hearings—during which some 60 witnesses were to testify—were about to begin.

I believe that the prevailing attitude of the audience I addressed a year ago could be characterized as one of guarded optimism. Most, I am sure, hoped that some improvements would accrue to the industry from the legislative program that the Administration had just presented, but few, I suspect, could have anticipated that the total package that the President requested would emerge virtually unscathed and in some instances—strengthened.

This program has to validate once again the adage that "nothing can stand in the way of an idea whose time is come." The Administration recognized this, as did the Congress and many others that are here today.

Last October President Nixon signed into law the Merchant Marine Act of 1970. In so doing he provided the maritime industry with the opportunity to rebuild our aging merchant fleet, improve the competitiveness of our ship-building industry, and restore the United States to the rank of a first-class maritime nation.

It is particularly appropriate in these surroundings that we acknowledge the enormous support the Congress extended to the Administration's efforts to develop a program to correct our critical maritime deficiencies.

The two Committees concerned with this Nation's maritime affairs—the House Merchant Marine and Fisheries Committee, and the Senate Commerce Subcommittee on the

Merchant Marine—are both comprised of extremely capable and dedicated legislators. The dogged perseverance over the years of these Committees in refusing to write off the U.S. merchant marine deserves the gratitude of all associated with the industry.

In fact, if I were to compile an inventory of this Nation's maritime resources, these two Committees would be placed at the top of the column. They had the patience and wisdom to recognize that a day would come when the traditionally fragmented and divisive segments of the industry would begin to put aside their parochial viewpoints in the interest of developing a sound future.

Certainly, these Committees, whose concern over the plight of our merchant marine transcends party affiliation, have been models of the cooperative approach to common objectives, that our maritime industry must emulate.

Those of us in the Maritime Administration who were involved in formulating the legislative provisions of the President's program are deeply grateful for the counsel and advice we received from the members of these Committees—on both sides of the political aisle.

I cannot let this opportunity pass without acknowledging the effective efforts of the ranking members of these Committees. Congressmen Garmatz and Mailliard in the House and Senators Long and Griffin on the Senate Subcommittee all warrant particular appreciation.

Because of the efforts of these members of the Congress and scores of others who worked with equal dedication, the enabling legislation received nearly unanimous approval when it came up for floor action in the House and the Senate. This overwhelming endorsement is indicative of the strong commitment the Congress has given the President and the American Merchant Marine.

Having expressed my appreciation and that of the Administration for the tremendous assistance of the Congress in the passage of the Merchant Marine Act of 1970, I would like to go on to consider what this Nation might expect as the result of this legislation.

It has been said that the longest journey begins with the first step. We have taken that first step and we are on the way to our objective. However, we have still a long way to go and this is no time to relax or rest on our oars.

The President, when he submitted his Maritime Message to the Congress, recognized that one of the obstacles to the fulfillment of his program was the chronic instability of labor-management relations that had characterized this industry in the past. He made it a point to warn that the upgrading of our merchant marine would ultimately depend on the ability of labor and management to settle their differences without costly strikes and work stoppages.

Said the President:

"Past government policies and industry attitudes have not been conducive to cooperation between labor and management. Our program will help to improve this situation by ending the uncertainty that has characterized our past maritime policy. Labor and management must now use this opportunity to find ways of resolving their differences without halting shipping operations. If the desired expansion of merchant shipping is to be achieved, the disruptive work stoppages of the past must not be repeated."

Congresswoman Leonor Sullivan, during the hearing, made it clear that she shares the concern of the President and that labor-management stability is absolutely essential if the new program is to succeed. At one point, during my appearance before the Committee, she said:

"I think we have seen more and more stoppage of using U.S.-flag ships, the use of foreign lines, because of the sudden strikes and the uncertainty of cargo being shipped on schedule."

And she went on to say:

"If we can't get these (U.S.-flag) ships to run as well as the (foreign-flag) ships that carry the cargo produced here in the United States, I don't see any hope for an expanded maritime program."

In reply I had to agree with her premise but said that as a result of my talks with a number of labor leaders, I was encouraged by their recognition of the need to avoid future disruptive work stoppages.

It has been suggested that the Administration is reconsidering its commitment to the program because of recent events which disrupted the maiden voyage of the LASH ITALIA. That is plain nonsense and indicates a fundamental lack of understanding of the program itself. This is a conditional program. It is an "opportunity" with a very definite "challenge." The Government is called on to make its subsidy payment *only* after the private capital has been committed in the amount that would be required to build the ship in a foreign yard.

During the hearings in the Senate, a vice president of a prominent New York bank stressed that labor stability was a major factor influencing the approval of any investment. He observed that:

"Labor relations must be stable enough to allow a lender reasonably accurate profit projections on which to base his decision. Many analysts are loath to spend the time necessary to explore an industry that appears, on the surface, to be complicated at best, and at worst, unstable."

In previous legislative proposals it was suggested that certain compulsory features be included for the settlement of labor-management disputes. Such suggestions were again forwarded during the formulation of this legislation. These proposals, however well-meaning, we rejected—for it is my considered judgment that it is impossible to legislate common sense. If one's instincts for self preservation do not clearly tell him that the constant resort to jungle tactics for the settlement of disputes is suicidal, then no law, no matter how well drafted, will do so.

As this audience is well aware, the success of the President's program will require a number of specific and demanding challenges to be met. Among them, it requires the development of innovative designs of high-productivity ships that can compete effectively against lower-cost foreign competitors. It requires the ship operator to aggressively market his services and recapture the commercial cargoes so that there is less dependence on declining government cargoes.

I have absolutely no doubt about the ability of our ship designers to develop the advanced ship types we need to make the American merchant marine an effective force on the world's trade routes. This they have demonstrated in the past. Almost every advancement in ship technology in the postwar period has been pioneered by Americans. Yet, in almost every instance, it has been the foreign merchant marine that has ultimately benefited. The introduction of new technology in the American merchant marine has all too often been met with a type of blind opposition that has discouraged further development. Having once been shown the way, the foreign ship operator with no such encumbrance has rapidly taken over the lead. We have seen this happen to ship automation—it's beginning to happen to containerization—and I submit that the inauguration of the new barge-carrying LASH vessels has not been one that would readily "turn on" future investors.

It is said that we study the past to obtain guidance for the future. With this in mind, we might review the efforts by a few companies to automate our merchant fleet. Beginning in 1963, a strong effort was made to achieve lower manning scales on new construction through the introduction of new technology. These operators, with government cooperation, were working to introduce to their fleets some of the elements of machinery control that had become standard in shore-based power plant operation. Disputes and work stoppages started almost immediately, culminating in a prolonged strike in 1965. The strike finally ended with an agreement dictated by the President directing the Secretary of Labor and the President of the AFL–CIO to convene a committee of the labor and management parties to develop procedures which could resolve such disputes in the future without resort to work stoppages. The President's directive was never implemented. The required procedures still do not exist. We were reminded of this again a year ago when a West Coast company attempted to put into operation ships which included the barest essentials of an automated system. Again this resulted in an extended work stoppage.

As early as 1938 attempts were made to find solutions to this growing problem. The Merchant Marine Act of 1936 was amended in 1938 by adding Title X which established a three-man, presidentially appointed Maritime Labor Board. When requested by the parties, this Board would:

1. Assist in collective bargaining negotiations
2. Act as a mediator
3. Use its best efforts to secure the assent of both parties to arbitration.

This Labor Board had only mixed success and was allowed to expire in 1941. It is of interest to note that it was mainly due to management opposition that the Board was not continued.

I believe the time has come for the labor and management of this industry to develop the appropriate means for the rule of reason to prevail in the settlement of future disputes. If they are incapable of this, then they should call on some knowledgeable third party to develop the necessary procedures for them.

In his recent speech at the University of Nebraska, President Nixon said, "Defeat . . . can be an occasion for learning, for weighing the wisdom of our own purposes, examining the strength of our own resources."

The resources of this industry to withstand such continued warfare are virtually exhausted. We should be aware that regardless of our "defeats" in this area and the difficulty in solving these problems, the maritime nations of this world are not sitting back. If we want to dissipate our technological advantages it must be recognized that they will not encumber theirs, and will fully exploit those we lack the wisdom to utilize. We can expect the foreign ships of the future to take maximum advantage of the cost reductions which the advanced systems offer.

You might say that resistence to change is not new and certainly is not unique to this industry. Why then is it so critical at this time? There are many reasons. In the past most of the higher U.S. operating costs, in the form of wage increases or enlarged crew sizes, could be passed on either in the form of higher freight rates for carrying government cargo or be absorbed by direct subsidies. Recent events drastically limit the ability to transfer these higher costs.

First, the amount of government cargo is decreasing and the competition for it has forced freight rates down to a level that in some instances are non-compensatory, let alone capable of absorbing higher costs.

Second, those lines receiving direct subsidy are diminishing as a proportion of our over-all liner trade with a number of relatively strong unsubsidized companies coming to the fore. These companies will only be able to compete against the foreign lines if they are allowed to utilize existing technol-

ogy to the fullest to offset the lower costs of their foreign competitors.

Third, the change in the 1970 Merchant Marine Act from full parity for operating wages to an index system which ties future increases to those gained by other American labor is fundamental, and any costs in excess of this level will have to reduce profits if they cannot be transferred in the form of increased freight rates.

Lastly, crew sizes for subsidy purposes are determined at the time that the construction contracts are let, and no prudent investor would undertake a building program involving millions of dollars without some assurance that he can expect his ships to operate without undue interference when delivered.

Ladies and gentlemen, we are at a critical time in our journey. True, we have taken a giant first step, but we are at a point where shortly the future direction of the industry will be determined. We must recognize now, if we haven't already, that times have changed, ships have changed, the industry has radically changed, and labor relations have got to change with it. The tyranny of the few has to give way to the well-being of the many. The self-seeking pride of one or two individuals cannot be allowed to deprive this industry and this Nation of a long-sought opportunity which may not readily come again.

I have great confidence in the integrity and plain common sense of the American seaman and his union leadership. I have an abiding trust that the American free enterprise system, unencumbered, can prevail against any competition. It is time to put this common sense to work and remove the fetters from our advancing technological achievements in order that all concerned—labor, management and our Nation—may derive the benefits of the finest merchant fleet the world has ever seen.

RESOLUTION BY THE RIVERSIDE COUNTY MEDICAL SOCIETY ON THE DANGERS OF AIR POLLUTION

Mr. TUNNEY. Mr. President, I invite the attention of the Senate to a letter containing a resolution adopted by the Riverside County Medical Society and presented before the meeting of the air quality committee of the State of California Environmental Quality Study Council.

Dr. Gerschen L. Schaefer has been particularly active in the area of environmental health. Dr. Schaefer's many activities in this vital area include the following:

Chairman, environmental health committee, Riverside County Medical Association.

Chairman, committee of environmental health, comprehensive health planning association of Riverside County.

Chairman, program committee, tuberculosis and respiratory disease association, Riverside County.

Member, college committee on air pollution, American College of Chest Physicians; chairman, ad hoc committee on oxidants.

Member, smog alert committee, Riverside Board of Supervisors.

Member, committee on air pollution health warning systems, South Coast Air Basin.

Member, the committee on environmental health, California Medical Association.

Member, county board of supervisors technical advisory committee on air pollution.

I believe that the following resolution demonstrates how serious a problem air pollution has become in California.

Mr. President, I ask unanimous consent that the resolution of the Riverside County Medical Society be printed in its entirety in the RECORD.

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

GENTLEMEN: The degree of air pollution existing in California, particularly in the south coast air basin, is no longer a problem of esthetics, but is a realistic progressive health hazard. The physicians of California once concerned about the true jeopardy and possibly even death potential of polluted air on our patients with bronchopulmonary and cardiovascular disease, now by necessity are feeling increasing anxiety about the future of our healthy populace, particularly children. It is no longer a problem of just eye irritation. Laboratory and clinical evidence clearly spell out the increase symptomatology and morbidity amongst our patients in the above categories. Our critically ill patients, even in the intensive care and coronary care units of our hospitals, are no longer safe from the noxious toxic agents present in the air they breathe. Epidemiologic studies strongly point to the increased incidence of bronchopulmonary infections, emphysema, carcinoma of the lung, and mortality from cardiovascular disease.

The council of the Riverside County Medical Association passed the following resolution on October 6, 1969.

Whereas: The problem of pollution of the air in our community appears to be continuous and progressive; and

Whereas: The present efforts to date to control atmospheric contaminants are visibly and obviously inadequate; and

Whereas: Although there is a divergence of opinion concerning the sole causation of chronic respiratory diseases by inhaled materials; there is, however, a substantial and respectable body of convergent evidence (epidemiologic, experimental, pathologic and statistical) that establishes a strong relationship, this mounting tide of devastating evidence incriminates inhaled polluted air in respiratory complaints, susceptibility to infection, genesis of cancer, the development of emphysema and bronchitis, and increasing severity of cardiovascular diseases, and its presence is considered emotionally and physically harmful to the entire population and is therefore a public health problem of increasing proportion; and

Whereas: No individual can protect himself against the contamination in the air he breathes; now therefore be it

Resolved: That the Riverside County Medical Association in the interest of the public welfare, for the mental and physical health of all those who live in this polluted environment, strongly recommend that urgent recognition be given to the fact that we are living in a state of chronic and increasing emergency, that the ability to breathe pure air is a right and not a luxury, and therefore, immediate priority be given by the leaders of our government on a local, regional, and national level to expedite the establishment and enforcement of those criteria necessary to obviate the dangerous problem of air pollution.

Then came 1970. Where despite legislative controls by our State Legislature the level of pollutants in the air in almost all of its parameters increased to an almost constant emergency state. On not one day this past summer was the peak level of oxidants in Riverside low enough to even approximate that level as recommended by the Air Resources Board as a safe level for man. And, there are many of us who believe the criteria as adopted by the Air Resources Board is too high. The technical advisory committee to this board is even now in the process of revising some of these standards to lower levels.

On June 1, 1970 the Council of the Riverside County Medical Association passed the following Resolution:

Whereas: Air pollution has reached the degree where it has become a public health problem.

Whereas: The frequency of high levels of pollutants and the increase in the levels of pollutants is a hard reality.

Whereas: The air pollution disasters in the past have caused death and disability not only among children but adults with chronic broncho-pulmonary and cardiac disease; and epidemiologic studies have suggested a cumulative time-concentration relationship to disability in the future.

Resolved: The Riverside County Medical Association strongly urges that the Riverside City Council and the County Board of Supervisors of Riverside adopt a Smog Alert plan as now used by Riverside and other Unified School Districts for the public as a whole and implement it with an adequate public alert system. So that people in high level areas can be warned to limit their degree of physical activity during times when dangerous levels of pollutants are in the air.

At the present time the public health officers and, air pollution control officers, of San Bernardino, Orange, Riverside, and Los Angeles Counties are meeting with representatives of the State Health Department, Air Resources Board, and California Medical Association as well as myself in an attempt to come up with a unified alert systems for those people in our counties who have medical conditions making them most susceptible to the harmful effects of air pollution.

As important as these steps are to protect our populace—we cannot and must not stop at only developing a warning system. One does not combat atomic warfare by building fallout shelters. The time to philosophize, the time to procrastinate, the time to compromise has come to an end.

No, we cannot accept compromise on air pollution controls. How can one possibly conceive of compromising with the health of man.

Yes, true control will be expensive. You know it, I know it, our legislators know it, and the public should be informed of it. But who here would like to put a price on the prevention of illness and possibly death.

It should be emphasized that the Technical Advisory Committee to the Air Resources Board has recently reported to the Board, in effect, that when the strictest standards now legislated against moving vehicles take effect, we will still not be near reaching the Ambient Air Quality Standards adopted by the Board.

We are gathered here today to consider proposing legislative action. In view of my prefacing remarks, I would like to recommend the following legislation.

I. In view of evidence that the level of oxidants in hospitals are 50% that of the outside ambient air; and intensive care and coronary care units, which, by necessity must use unrecirculated air without make up air, approximating ⅔ the level of ambient air, the Council of Riverside County Medical Association voted the following resolution on September 14, 1970.

(1) The Riverside County Medical Association strongly recommends to the Bureau of Hospitals of the State of California that it be mandatory that all future hospital construction in areas of high air pollution be equipped with an air pollution-air filtering system. The Committee recommends passage of this with copies of this resolution being sent to CMA Legislative Committee, CMA Environmental Health Committee, State of California Bureau of Hospitals and fourthly, that our Delegate to the House of Delegates of CMA be instructed to introduce this reso-

lution at the next House of Delegates meeting.

(2) That the Riverside County Medical Association recommend all existing Health Facilities in Riverside County where dangerous levels of air pollution exist have installed as soon as feasible, air pollution filters, with special priority to intensive care, and coronary care units; that no plans be made for any future construction unless such filters are included.

A similar resolution was passed by the Comprehensive Health Association of Riverside County, The Tuberculosis and Respiratory Disease Association of Riverside County, and The Environmental Health Committee of the American College of Chest Physicians. I urge enactment of such legislation.

II. No matter how efficient an air pollution control device be that is installed on an automobile, if there is not a mandatory inspection of such devices this system of control will break down. This has been demonstrated by a survey by an organization in Riverside County.

I therefore urge legislation necessitating mandatory inspection by the State of all vehicles using air pollution control devices at least on a yearly basis.

III. Again not willing to compromise, I urge enactment of legislation prohibiting the use of engines manufactured after January 1, 1975 which discharge any pollutants into the atmosphere. (Similar to SB66 of the 1970 Legislature which was held in the Assembly Transportation Committee).

IV. In view of increasing evidence of the possible harmful effects of inspired lead on man I urge legislation that would prescribe progressively more stringent standards, for the lead content of gasoline, reaching zero on January 1, 1974. (Similar to SB860 of the 1970 Legislature that was held in the Senate Health and Welfare Committee.)

V. And lastly, with the full realization that absolute control of emissions from motor vehicles by themselves will not yet reach our goal of safe air, I urge adoption of legislation that would prohibit the emitting of air pollutants from stationary sources of not only new and expanding industries, but existing industries as well.

Gentlemen, the stakes are high. They are the physical and emotional health and well being of the people of California. Are you willing to gamble?

PRESIDENT'S ENVIRONMENTAL PROPOSALS

Mr. COOPER. Mr. President, Congress has received the formal transmittal of the legislative proposals described in the President's environmental message on February 8. As I mentioned in my remarks on the President's message on Monday the eighth, many of the proposals will be referred to the Committee on Public Works on which I serve as ranking minority member. It is my intention to introduce the bills so referred after circulating a letter, dated February 16, among all Members of the Senate inviting cosponsorship. I expect to introduce the bills on Wednesday, February 24. As two of the bills, the noise pollution bill and the Environmental Financing Authority bill will be jointly referred to the Commerce Committee and the Banking Committee respectively, I intend to introduce these two bills with the Senator from Oregon (Mr. HATFIELD) and the Senator from Texas (Mr. TOWER) as principal cosponsors.

To assist in understanding these proposals, I would like to briefly describe the bills that will be referred to the Committee on Public Works and insert in the RECORD certain materials, including the text of the proposals.

The President has transmitted three bills to amend the Federal Water Pollution Control Act of 1965, as amended. One would amend section 7 of the act to provide, a. increased authorizations for appropriations to assist State and interstate water pollution control programs, and, b. additional flexibility to the Administrator in awarding such grants through the increased use of incentives. In addition, this bill would amend section 5 of the act to provide additional research and development authority and would amend section 6 of the act to provide for the development of new technology in the area of advanced waste treatment, combined sewers, and industrial waste treatment.

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

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

SECTION-BY-SECTION ANALYSIS OF A BILL TO AMEND SECTION 7 OF THE FEDERAL WATER POLLUTION CONTROL ACT (STATE PROGRAM GRANTS)

Subsection (a) would amend section 7 to increase authorizations for appropriations for purposes of State and interstate water pollution control programs from the present $10 million to $15 million in FY '72, $20 million in FY '73, $25 million in FY '74, and $30 million in FY '75. Not less than $10 million of those sums would be available for the basic State or interstate programs.

Subsection (b) would provide for allotments to the States of sums for purposes of basic State programs. This corresponds to the present section 7(c).

Subsection (c) would provide for the payment to the States of their allotment for purposes of their basic program. This corresponds to the present section 7(d). Clarification is provided in authorizing the use of such funds by a State through participation in an interstate agency.

Subsection (d) provides for the allotment and payment of sums to interstate agencies for purposes of basic interstate agency water pollution control programs. This corresponds to the present section 7(e).

Subsection (e) provides for the components of a basic State interstate agency basic water pollution control program. These components correspond to those presently recited in section 7(f) of the Act, except that the criteria whereby States determine the priorities for waste treatment facilities projects must be criteria acceptable to the Administrator. The grant program would be changed from a mandatory to a discretionary authority.

Subsection (f) provides for the termination of grant support in the event the plan is inadequately executed or otherwise fails to meet the requirements of section 7. This subsection corresponds to the present section 7(g). It eliminates the public hearing and judicial review now provided in the event of grant termination, and would substitute therefore a conference with the Administrator.

Subsection (g) provides for the determination of the "Federal share" of the grant. This corresponds with the present subsection (h), (i) and (j).

Subsection (h) provides for grants to States and to interstate agencies to develop an improved water pollution control program consisting of five program components. This grant is in addition to the basic program grant.

Subsection (i) authorizes grant bonuses to States or interstate agencies for the achievement of the following program elements: (1) a mandatory permit system, (2) a sewage treatment facilities program, (3) a program of personnel training, (4) a personnel system, including a merit system for classification and competitive salaries, and (5) a planning capability.

Subsection (j) provides for the payment of bonus grants in the amount of 40% of the basic grant for each "improved program" element achieved. If all five elements are achieved a grant in an amount of 250% of the basic grant may be made.

Subsection (k) would authorize the Administrator to make grants, not in excess of 10% of the funds authorized by section 7, to States and interstate agencies for support of exceptional projects dealing with significant water pollution problems.

Section 2 of the bill would amend section 5 of the Act, relating to research and development, by extending authorizations for appropriations for those authorities through FY '72.

Section 3 of the bill would amend section 6 of the Act, relating to the development of technology in the areas of advanced waste treatment, combined sewers and industrial waste treatment, to provide authority to pursue the development of such technology within the Environmental Protection Agency as well as through grants and contracts.

Section 4 of the bill would amend section 23 of the Act to include American Samoa and the Trust Territory of the Pacific Islands within the definition of "State" for all purposes of the Act. Those areas would be able to participate in all State programs and activities under the Act.

S. —

A bill to amend the Federal Water Pollution Control Act, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Water Pollution Control Act, as amended (33 U.S.C.A. 1151 *et seq.*) is further amended as follows:

SECTION 1. Section 7 of the Act is amended to read as follows:

"SEC. 7. (a) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section—

$15,000,000 for the fiscal year ending June 30, 1972;

$20,000,000 for the fiscal year ending June 30, 1973;

$25,000,000 for the fiscal year ending June 30, 1974; and

$30,000,000 for the fiscal year ending June 30, 1975

for grants to States and to interstate agencies to assist them in meeting the costs of establishing and maintaining adequate measures for the prevention and control of water pollution; *Provided*, That not less than $10,000,000 shall be available for the allotments authorized by subsections (b) and (d) hereof.

"(b) From the sums available therefor for any fiscal year, the Administrator shall make allotments to the several States for their basic State water pollution control program, in accordance with regulations, on the basis of (1) population, (2) extent of water pollution, and (3) financial need.

"(c) From each State's allotment under subsection (b) for any fiscal year, the Administrator may pay to such State an amount equal to its Federal share (as determined under subsection (g)) of the cost of carrying out its basic State water pollution control program pursuant to a plan approved under subsection (e), including the cost of training personnel for State and local water pollu-

tion control work and including the cost of administering the State plan. Nothing herein shall prevent a State from expending grant funds for State program purposes through participation in interstate agencies.

"(d) From the sums available therefor for any fiscal year, the Administrator shall, from time to time, make allotments to interstate agencies for their basic interstate water pollution control program in accordance with regulations on such basis as the Administrator finds reasonable and equitable. The Administrator may, from time to time, pay to each such agency from its allotment, an amount not in excess of such portion of the cost of carrying out its basic interstate water pollution control program pursuant to a plan approved under subsection (e), as may be determined in accordance with regulations, including the cost of training personnel for water pollution control work and including the cost of administering the interstate agency's basic program.

"(e) The administrator may approve any plan for a program to prevent and control water pollution which is submitted by the State water pollution control agency or an interstate agency, if such plan—

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

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

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

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

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

"(6) provides acceptable criteria to be used by the State in determining priority of projects as provided in section 8(a)(2)(D).

The Administrator shall not disapprove any plan without first giving reasonable notice and opportunity for a conference with the Administrator to the State water pollution control agency or interstate agency which has submitted such plan.

"(f)(1) Whenever the Administrator, after reasonable notice to a State water pollution control agency or interstate agency and an opportunity for a conference of such agency with the Administrator, finds that—

"(A) the plan submitted by such agency and approved under this section has been so changed that it no longer complies with a requirement of subsection (e) of this section; or

"(B) in the administration of the plan there is a failure to comply substantially with such a requirement,

the Administrator shall notify such agency that no further payments will be made to the State or to the interstate agency, as the case may be, under this section (or in his discretion that further payments will not be made to the State, or to the interstate agency, for projects under or parts of the plan affected by such failure) until he is satisfied that there will no longer be any such failure. Until he is so satisfied, the Administrator shall make no further payments to such State, or to such interstate agency, as the case may be, under this section (or shall limit payments to projects under or parts of the plan in which there is no such failure).

"(g)(1) As used in this section, the "Federal share" for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that—

"(A) the Federal share shall in no case be more than 66⅔ per centum, and

(B) the Federal share for Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be 66⅔ per centum.

"(2) The Federal shares shall be promulgated by the Administrator between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the continental United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce.

"(3) As used in this subsection, the term 'United States' means the fifty States and the District of Columbia.

"(4) The population of the several States shall be determined on the basis of the latest figures furnished by the Department of Commerce.

"(5) The regulations relating to the portion of the cost of carrying out the interstate agency plan which shall be borne by the Federal Government shall be designed to place such agencies, so far as practicable, on a basis similar to that of the States.

"(h)(1) If the Governor of any State or the head of an interstate agency files a letter of intent with the Administrator that such State or interstate agency will develop an improved water pollution control program which takes into account the provisions of subsection (i) of this section; and if the Administrator, in accordance with regulations, is reasonably assured that such State or interstate agency will develop an improved water pollution control program, he may make a grant in any fiscal year to such State or interstate agency in an amount not to exceed 25 per centum of such State or interstate agency's Federal share under subsections (c) or (d) of this section during such fiscal year.

"(2) No grant shall be made to any State or interstate agency under this subsection in any fiscal year unless during such fiscal year such State or interstate agency is conducting a basic program to prevent and control water pollution under a plan approved pursuant to subsection (e) of this section.

"(i) As used in this section, 'improved water pollution control program' shall be one which the Administrator determines, in accordance with regulation, is developed by a State or interstate agency whereby such State or interstate agency enhances the quality of its waters for required uses and needs. In making his determination, the Administrator shall consider whether such program includes—

"(1) an effective mandatory permit system covering all municipal, industrial, and other significant waste sources, including discharge requirements, with adequate State implementation and enforcement authority;

"(2) a sewage treatment facilities program pursuant to which such facilities are planned, constructed, and maintained so as to achieve efficiency, economy, and water quality enhancement, including comprehensive regulation of the operation and maintenance of such facilities; a program of comprehensive State review of engineering plans and specifications for all proposed waste collection and treatment facilities; adequate State manpower to implement the program, and mandatory certification of facility operators;

"(3) a program of training and development of water pollution control personnel designed to achieve full implementation of the State water pollution control program;

"(4) balanced State personnel recruitment program, with an adequate merit system, job classifications, and competitive salary schedules; and

"(5) a program of planning, including the development and maintenance of planning capability in the State agency and the capacity to adequately evaluate river basin, regional, and metropolitan water quality planning."

"(j)(1) If the Administrator determines in accordance with regulations, that a State or interstate agency has developed one or more of the provisions enumerated in subsection (i), he may grant to such State or interstate agency an amount not in excess of 40 per centum of the Federal share for such State or interstate agency for each fiscal year for each such element; except that the amount of such grant may be increased to an amount not exceeding 250 per centum of the Federal share of such State or interstate agency if the Administrator determines that such agency has developed all five of the elements enumerated in subsection (i).

"(2) Whenever the eligible bonuses under this section are greater than the amount appropriated, bonuses shall be made available to States in order of priority corresponding to the times when such States initially become eligible for such bonuses.

"(3) Grants made under this subsection shall be in addition to any grants made under other subsections of this section.

"(k)(1) From any sums that may be available therefor in any fiscal year, which are not expended for grants under other subsections of this section, and which do not exceed ten per centum of the total amount of funds appropriated for grants under this section in such fiscal year, the Administrator may make grants to States and to interstate agencies to support water pollution control projects which are exceptional because of the nature and scope of the water pollution problems toward which they are directed and the impact on State or interstate programs."

SEC. 2. Section 5 of the Act is hereby amended by amended subsection (n) thereof to read as follows:

"(n) There is authorized to be appropriated to carry out this section, other than subsections (g)(1) and (2), not to exceed $65,000,000 for the fiscal year ending June 30, 1972. There is authorized to be appropriated to carry out subsection (g)(1) not to exceed $7,500,000 for the fiscal year ending June 30, 1972; and to carry out subsection (g)(2) not to exceed $2,500,000 for the fiscal year ending June 30, 1972."

SEC. 3. Section 6 of the Act is hereby amended as follows:

(1) by amending subsection (a) as follows:

"(a) The Administrator is authorized to conduct in the Environmental Protection Agency and to make grants to and enter into contracts with any State, municipality, or intermunicipal or interstate agency for the purpose of—

"(1) developing or assisting in the development of any project which will demonstrate a new or improved method of controlling the discharge into any waters of untreated or inadequately treated sewage or other wastes from sewers which carry storm water or both storm water and sewage or other wastes, or

"(2) developing or assisting in the development of any project which will demonstrate advanced waste treatment and water purification methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvement to existing treatment processes) or new or improved methods of joint treatment systems for municipal and industrial wastes, and for the purposes of reports, plans, and specifications in connection therewith."

(2) by amending subsection (b) thereof to read as follows:

"(b) The Administrator is authorized to conduct in the Environmental Protection Agency and to make grants to and enter into contracts with appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals for the conduct of, research and demonstration projects for prevention of pollution of waters by industry including, but not limited to, treatment of industrial waste.

(3) by amending subsection (e) thereof to read as follows:

"(e) For the purposes of this section there are authorized to be appropriated—

"(1) for the purposes set forth in subsections (a) and (b) of this section, the sum of $20,000,000 for the fiscal year ending June 30, 1972;

"(2) for the purposes set forth in clause (2) of subsection (a), the additional sum of $20,000,000 for the fiscal year ending June 30, 1972; and

"(3) for the purposes set forth in subsection (b) the additional sum of $20,000,000 for the fiscal year ending June 30, 1972."

SEC. 4. Section 23 of the Act is hereby amended by striking out "the Virgin Islands and Guam" from subsection (d) thereof, and by inserting in lieu thereof the following: "Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands."

Mr. COOPER. Mr. President, the second water pollution bill would amend section 8 of the Water Pollution Control Act to provide a new program of financial assistance to States and municipalities for the construction of treatment works. This bill includes new provisions to assure the development of financial, and operation and maintenance capability in the States and municipalities in the construction and maintenance of waste treatment works. It is this bill which would authorize $6 billion Federal; $2 billion for each of the next 3 fiscal years, to match on a 50-percent basis, State and local funds for the construction of a total of $12 billion of waste treatment works throughout the Nation. In addition, the bill would revise the allocation formula to provide greater flexibility to meet the most critical water pollution problems, and, further, provide a new formula for the reimbursement of prefinanced Federal shares that is so important to many of our larger States.

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

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

S. —

A bill to amend section 8 of the Federal Water Pollution Control Act, as amended, 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 Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 *et seq.*), is further amended as follows:

SECTION 1. Section 8 of the Act is hereby amended to read as follows:

"FINANCIAL ASSISTANCE FOR CONSTRUCTION OF WASTE TREATMENT FACILITIES

"SEC. 8(a)(1). The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of necessary treatment works to prevent the discharge of untreated or inadequately treated sewage or other waste into any waters, for the purpose of reports, plans and specifications in connection therewith, and for such additional reports and studies necessary for the grantee to develop the institutional arrangements and financial capacity to assume adequate future operation, maintenance, expansion and replacement of such works.

"(2) Federal grants under this subsection shall be subject to the following limitations:

"(A) No grant shall be made for any project pursuant to this subsection unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator;

"(B) No grant shall be made unless the grantee agrees to pay for all project costs which are not paid for by the grant or by the State financial contribution;

"(C) No grant shall be made for any project under this subsection until the applicant has made provision satisfactory to the Administrator for assuring (i) that there will be proper and efficient operation and maintenance of the treatment works, including adequate provision for trained management and operational personnel, and (ii) that the applicant has or will take measures to establish or acquire adequate legal, institutional, managerial and financial capability for meeting foreseeable future needs with respect to operation, maintenance, expansion and replacement of the treatment works in order to meet water quality standards;

(D) No grant shall be made for any project under this subsection unless such project is in conformity with the Senate water pollution control plan submitted pursuant to section 7 of this Act, and the Administrator finds that such project is consistent with any planning requirements designated pursuant to regulation, including the economic and engineering feasibility, and the architectural, legal, fiscal and economic investigations, studies, surveys, designs, plans, drawings and specifications, and has been certified by the appropriate State water pollution control agency as entitled to priority over other eligible projects on the basis of criteria submitted as part of the approved State water pollution control plan;

(E) No grant shall be made for any project in an amount exceeding 30 per centum of the estimated reasonable cost thereof as determined by the Administrator, except as hereinafter provided;

"(F) The percentage limitation of 30 per centum imposed by subparagraph (E) of this paragraph shall be increased to a maximum of 40 per centum in the case of grants made under this subsection from funds allocated for a fiscal year to a State under paragraph (4) of this subsection if the State agrees to grant, loan or otherwise finance not less than 25 per centum of the estimated reasonable cost (as determined by the Administrator) of all projects for which Federal grants are to be made under this subsection from such allocation, or if the grantee has a treatment works user charge system and otherwise has legal, institutional, managerial and financial capability to assure adequate operation, maintenance, expansion and replacement of treatment works throughout the grantee's jurisdiction, as determined by the Administrator;

"(G) The percentage limitations imposed by clause (B) of this paragraph shall be increased to a maximum of 55 per centum in the case of grants made under this subsection from funds allocated for a fiscal year to a State under paragraph (4) of this subsection if (i) the State agrees to grant, loan or otherwise finance not less than 25 per centum of the estimated reasonable costs (as determined by the Administrator) of all projects for which Federal grants are to be made under this subsection from such allocation or the grantee has a treatment works user charge system and otherwise has legal, institutional, managerial and financial capability to assure adequate operation, maintenance, expansion and replacement of treatment works throughout the grantee's jurisdiction, as determined by the Administrator, and (ii) enforceable water quality standards have been established for the waters into which the project discharges, in accordance with section 10(c) of this Act;

"(H) No grant shall be made unless the applicant complies with such regulations as the Administrator may prescribe to assure the effective and efficient use of funds under this section; and

"(I) No grant shall be made for any project which will treat industrial wastes of a liquid nature unless the grantee makes provisions satisfactory to the Administrator, in accordance with regulations promulgated by him, for the full recovery by the grantee, from the industrial users of the project, of that portion of the estimated reasonable cost of construction of such project (as determined by the Administrator) which is allocable to the treatment of such industrial wastes. The amount of estimated reasonable project costs recovered from each industrial user shall be equitably based on the proportion which the volume and strength of such user's wastes treated by the project bears to the volume and strength of all wastes treated by the project. Revenues derived from such cost recovery, to the extent apportionable to the Federal share of eligible project costs allocable to the treatment of industrial wastes, shall revert to the Treasury of the United States, unless the grantee has, or, in accordance with regulations to be promulgated by the Administrator, makes satisfactory provision for developing, a user charge system and other legal, institutional, managerial and financial capability to assure adequate operation, maintenance, expansion and replacement of treatment works throughout the grantee's jurisdiction, in which case such revenues may be retained by the grantee to assist in providing the financial capability referred to in this subparagraph.

"(3) In approving Federal financial aid for proposed projects for treatment works, the Administrator shall make a determination as to the public benefits to be derived by the construction, the relation of the ultimate cost of constructing and maintaining the works to the public interest and to the public necessity for the works, and the adequacy of the applicant's legal, institutional, managerial and financial capability, or provisions made by the applicant to develop such capability, for meeting foreseeable future needs with respect to operation, maintenance, expansion and replacement of treatment works in order to comply with applicable water quality standards. The Administrator may from time to time issue regulations or guidelines to assist in the administration of this subsection.

"(4) The sums authorized to be obligated pursuant to subsection (c) of this section for each fiscal year beginning on or after July 1, 1971, shall be allotted by the Administrator, from time to time, in accordance with regulations, as follows:

"(A) 45 per centum of all sums authorized to be obligated in the ratio that the population of each State bears to the population of all the States;

"(B) Not to exceed 20 per centum of such sums as determined by the Administrator to those States which agree to grant, loan or otherwise finance not less than 25 per centum of the estimated reasonable cost, as determined by the Administrator, of all projects for which Federal grants or other commitments of financial assistance are to be made under this section during any fiscal year, which allotment shall be in the ratio

that the population of each such State bears to the population of all such States;

"(C) Not to exceed 25 per centum of such sums to those States which have projects the construction of which was initiated after June 30, 1966, which were approved by the appropriate State water pollution control agency and which the Administrator found met the requirements of this subsection but which were constructed without such assistance, or with a lesser amount of such assistance than that for which it was eligible, because of the unavailability of adequate funds, which allotment shall be in the ratio that the total of such unavailable funds for such projects in a State bears to the total of all such unavailable funds for all such projects in all the States;

"(D) The remainder of such sums shall be distributed to States, municipalities, and intermunicipal or interstate agencies to meet the most serious water pollution control problems as determined by the Administrator.

Any sums allotted to a State which are not obligated at the end of the fiscal year for which they are allotted because of a lack of projects which have been approved by the State water pollution control agency under subparagraph (2)(A) of this subsection and certified as entitled to priority under subparagraph (2)(D) of this subsection shall be reallotted by the Administrator, on the basis provided in subparagraph (D) of this paragraph. Any sum made available to a State by reallotment under the preceding sentence shall be in addition to any funds otherwise allotted to such State under this Act. Allotment or reallotment of sums under or on the basis provided in subparagraph (D) of this paragraph shall be subject to any special priorities for the use of such sums established by any other provision of law. The total allotments of a State under the first and second sentences of this paragraph (4) shall be available, in accordance with the provisions of this subsection, for payments with respect to projects in such State which have been approved under this subsection. For purposes of this subsection, population shall be determined on the basis of the last year for which satisfactory population figures are available from the Department of Commerce.

"(5) Any project in a State on which construction was initiated after June 30, 1966, but prior to July 1, 1971, which was approved by the appropriate State water pollution control agency, and which the Administrator finds meets the requirements of section 8 of this Act in effect at the time of initiation of such construction, but which was constructed (1) without financial assistance authorized by said section 8, or (2) with financial assistance authorized by said section 8 but in a lesser percentage of the cost of construction than authorized by said section 8, shall qualify for payments in reimbursement of State or local funds used for such project prior to July 1, 1974, from sums allocated to such State under subparagraph 4 of this subsection for any fiscal year ending prior to July 1, 1974, to the extent that assistance could have been provided under said section 8 if such project had been approved thereunder and adequate funds had been available. Neither a finding by the Administrator that a project meets the requirements of this paragraph, nor any other provision of this paragraph, shall be construed to constitute a commitment or obligation of the United States to provide funds to make or pay any grant for such project.

"(6) Any project in a State on which construction is proposed to be initiated after June 30, 1971, which is approved by the appropriate State water pollution control agency and which the Administrator finds meets the requirements of this subsection, but for which financial assistance as authorized by this subsection is unavailable in the fiscal year in which the project is approved by the Administrator, or is available in such fiscal year only in a lesser percentage of the cost of construction than authorized by this subsection, shall qualify for payments in reimbursement of state or local funds used for such project prior to July 1, 1974, from sums allocated to such State under subparagraph 4 of this subsection for any fiscal year ending prior to July 1, 1974: *Provided*, that prior to the initiation of construction of such project, the Administrator finds (1) that the State in which such project is located, in approving projects for Federal financing out of the sums allocated to such State under paragraph (4) of this subsection for the fiscal year in which qualification for payments in reimbursement is sought; has given priority to eligible projects in the more advanced stages of construction, (2) that such project is necessary to achieve compliance with applicable water quality standards, and (3) that the initiation of such project will be commenced within a reasonable period of time. Neither a finding by the Administrator that a project meets the requirements of this paragraph, nor any other provision of this paragraph, shall be construed to constitute a commitment or obligation of the United States to provide funds to make or pay any grant for such project.

"(7) The Administrator shall make payments under this subsection through the disbursing facilities of the Department of the Treasury. Funds so paid shall be used exclusively to meet the cost of construction of the project for which the amount was paid.

"(8) The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on projects for which grants or other financial assistance are made under this subsection shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. secs. 276a through 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z–15) and section 2 of that Act of June 13, 1934, as amended (48 Stat. 948: 40 U.S.C. 276c).

"(9) For the purposes of this section, the term—

"(A) 'industrial wastes' means the waste discharges (other than domestic sewage) of industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented under the category 'Division D—Manufacturing', and other wastes which in the opinion of the Administrator may appropriately be considered industrial wastes for the purposes of this subsection.

"(B) 'construction' includes preliminary planning to determine the economic and engineering feasibility of treatment works, the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the construction of treatment works; the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works; and the inspection and supervision of the construction of treatment works.

"(b) The Administrator shall administer the provisions of this section and related sections of this Act in a manner to encourage and assist any State, municipality, or inter-municipal or interstate agencies which will receive Federal assistance for the construction of treatment works, to achieve adequate legal, institutional, managerial and financial capability for meeting forseeable future needs with respect to operation, maintenance, expansion and replacement of such works in order to achieve compliance with applicable water quality standards. The Administrator shall pursue this objective through the determination of eligible costs under subsection (a)(1) of this section and percentage limitations under subparagraphs (a)(2)(F) and (a)(2)(G) of this section, through consideration of the adequacy of provisions for operation and maintenance under subparagraph (a)(2)(C) of this section, through provisions relating to industrial participation in municipal projects under subparagraph (a)(2)(I) of this section, through the exercise of his authority concerning approval of Federal financial aid under subparagraph (a)(3) of this section, through the provision of technical assistance, and through such other provisions for administering this section as he may designate by regulation.

"(C) There are hereby authorized to be appropriated for the purpose of making grants under this section, $2,000,000,000 for the fiscal year ending June 30, 1972; $2,000,000,000 for the fiscal year ending June 30, 1973; and $2,000,000,000 for the fiscal year ending June 30, 1974. Sums so appropriated shall remain available until expended."

SEC. 2. The provisions of this Act shall be effective on July 1, 1971.

LEGISLATIVE PROPOSAL TO AMEND SECTION 8

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill would amend section 8 of the Federal Water Pollution Control Act.

Subsection 8(a) would authorize Federal grants for the construction of treatment works to prevent the discharge of inadequately treated wastes and for other purposes. Paragraph 8(a)(1) would retain the provisions of the present Act authorizing the Administrator to make grants for treatment works and related reports, plans and specifications. No change would be made in the existing definition of "treatment works" in section 23 of the Act and no change would be made in those eligible to receive grants, which would include States, municipalities, intermunicipal agencies and interstate agencies.

Grant limitations would be listed in paragraph 8(a)(2). There would be some modifications and additions to the grant limitations in the present Act. Subparagraph 8(a)(2)(A) would prohibit a grant unless it were approved by the State water pollution control agency and by the Administrator. Subparagraph 8(a)(2)(B) would prohibit a grant unless the grantee agreed to pay all costs not paid for by Federal and State funds.

Subparagraph 8(a)(2)(C) would permit a grant only if the grantee made provision for satisfactory operation and maintenance of the treatment works. Adequate provision would have to be made for an operating and managerial staff of well qualified personnel. A new provision in this subparagraph would require the grantee to have or develop the financial and other capability necessary to satisfy future waste treatment needs.

Subparagraph 8(a)(2)(D) would retain the provisions of the existing Act which prohibit a grant unless the project conforms with a section 7 State plan and is entitled to priority over other eligible projects. In addition, the project would have to be consistent with any planning requirements specified by the Administrator in regulations.

Subparagraph 8(a)(2)(E) would retain the provision of the present Act which specifies that the basic Federal grant share is 30 percent of the cost of the project.

Modifications would be made in the provisions of the present Act relating to the requirements for an increased Federal share and the requirements for matching payments

by States. Subparagraph 8(a)(2)(F) would provide that the Federal share shall be increased to a maximum of 40 percent if the State agrees to "grant, loan or otherwise finance" 25 percent of the cost. (The required State share is 30 percent in the present Act). The words "to grant, loan, or otherwise finance" would replace the words "to pay" in the present Act to make it clear that the State matching funds need not be an outright grant but may be in the form of a loan. This subparagraph would also provide that the Federal share shall be increased to 40 percent, regardless of whether there are State matching funds, if the grantee has a user charge system as well as other capability for satisfying future waste treatment needs.

Subparagraph 8(a)(2)(G) would change the provisions of the present Act which provide that the Federal share shall be increased to 50 percent if the State agrees to pay 25 percent of the cost and if enforceable water quality standards have been established. The new provision would increase the Federal share to 55 percent if there are enforceable water quality standards and either the State agrees to grant, loan or otherwise finance 25 percent of the cost, or the grantee has a user charge system as well as other capability for satisfying future waste treatment needs.

Subparagraph 8(a)(2)(H) would add a new provision to prohibit grants unless the grantee provides assurance that it comply with regulations to assure the effective and efficient use of funds under the section.

Subparagraph 8(a)(2)(H) would add a new provision designed to make more effective and efficient use of construction grant monies and to avoid certain abusive practices and inequities associated with the treatment of industrial wastes in municipal waste treatment facilities. Grants would be prohibited for projects treating industrial wastes unless the industrial user were required by the grantee to pay back that portion of the project cost attributable to the treatment of industrial wastes. The Federal share of such recovered costs would be used by the grantee to operate and maintain its works and for meeting future waste treatment needs.

Paragraph 8(a)(3) identifies the factors which would be considered by the Administrator in approving a grant under subsection 8(a). Two factors specified in the present Act would be retained, specifically, an assessment of public benefits and the relation of project costs to the public interest. In addition, the Administrator would be required to assess the capability of the grantee to satisfy its own future waste treatment needs.

Paragraph 8(a)(4) would provide a new allocation formula to permit the optimum distribution of funds over the next three fiscal years in closer relationship to the construction needs of the respecting States. Four factors would be employed in distributing construction grant funds among the States. First, 45 percent of the amounts authorized to be obligated in each fiscal year would be allocated on the basis of relative State population; second, up to 20 percent would be allocated to States which agree to grant, loan or otherwise finance at least 25 percent of all project costs during a given fiscal year; third, up to 25 percent would be allocated to States which have approved projects for which grants have not been made or which have been made in a reduced amount because of lack of Federal funds; and fourth, the remainder would be distributed to meet the most serious water pollution control problems as determined by the Administrator. The new allocation formula would give the Administrator a degree of flexibility to direct construction grant funds to areas where funds are most critically needed and where they can be most effectively used. This paragraph would also provide for the reallotment of any sums which are not obligated by a State at the end of a fiscal year because of a lack of certified projects. [The Act now calls for reallotment after 18 months.] These funds would be realloted by the Administrator to meet the most serious water pollution control needs in accordance with the fourth factor mentioned above.

Paragraph 8(a)(5) would authorize Federal payments in reimbursement of State or local funds used to pre-finance the Federal share of qualified projects on which construction was initiated after June 30, 1966, but prior to July 1, 1971. Paragraph 8(a)(6) would extend this authorization with respect to projects on which construction is initiated after June 30, 1971, in order to continue to provide some encouragement to localities to initiate projects even though Federal funding is not then available. However, projects commenced after June 30, 1971, would not qualify for reimbursement unless, prior to the initiation of construction, the Administrator makes three findings. He would be required to find (1) that the State in which the project is located has given funding priority in the current fiscal year to projects in more advanced stages of construction; (2) that the project is necessary to achieve compliance with water quality standards; and (3) that construction on the project will be initiated within a reasonable period of time. This approach would give the Administrator some control over the accumulation of reimbursables and thus minimize abusive practices.

Paragraph 8(a)(7) would direct the Administrator to make grant payments through the disbursing facilities of the Department of the Treasury. Such payments would be required to be used exclusively to meet the costs of construction.

Paragraph 8(a)(8) would retain the provisions from the present Act which direct the Administrator to make certain determinations with regard to the adequacy of wages of laborers working on projects funded under subsection 8(a).

Paragraph 8(a)(9) would define certain terms used in subsection 8(a). Subparagraph 8(a)(9)(A) would define "industrial wastes" as waste discharges (other than domestic sewage) from industries identified in the Standard Industrial Classification Manual and other wastes as determined by the Administrator. Subparagraph 8(a)(9)(B) would retain the same definition of "construction" as appears in the present Act which includes a range of activities from preliminary planning to the actual installation of the facility and alterations and improvements of the facility.

Subsection 8(b) would direct the Administrator to administer section 8 and related sections so as to encourage and assist grantees in developing adequate legal, institutional, managerial and financial capability for meeting foreseeable future waste treatment needs to achieve compliance with applicable water quality standards. Future waste treatment needs would include the operation, maintenance, expansion and replacement of treatment works. This would be an important new provision to encourage local self-sufficiency and possibly to reduce the future levels of Federal funding needed for treatment works construction.

Subsection 8(c) would authorize the appropriation of $2 billion in each of fiscal years 1972, 1973, and 1974 for the purpose of making grants under this section. Sums appropriated would remain available until expended.

Section 2 of the bill would provide that the provisions of the bill take effect on July 1, 1971.

Mr. COOPER. Mr. President, the third water pollution proposal of the President would amend section 10 of the act to provide for a strengthened program to establish, implement, and enforce water quality standards. This amendment would extend the Federal-State program for the establishment and approval of standards and plans applicable to all navigable and ground waters of the United States. The bill, in addition, would clearly establish effluent standards as the primary pollution abatement mechanism in implementation plans to achieve water quality standards. The bill would also modify the enforcement provisions to include provisions for, first, immediate Federal abatement; third, information acquisition; and fourth, emergency abatement authority. In many respects these elements are similar to the pollution control provisions recently enacted by Congress and signed into law by the President in the Clean Air Amendments of 1970.

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

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

LEGISLATIVE PROPOSAL TO AMEND SECTION 10

SUBSECTION-BY-SUBSECTION ANALYSIS

Subsection (a) defines the terms to be used in the section, particularly "water quality standards" and the components of such standards.

Subsection (b) states a Federal policy in favor of encouraging State and interstate action to abate pollution, and provides that the Administrator may not initiate an enforcement action if he determines that a State is taking appropriate abatement action.

Subsection (c) identifies the waters for which water quality standards would be required. These waters would include interstate waters already subject to standards under the present Act, and, in addition, navigable waters; ground waters; tributaries of any such waters; the contiguous zone (with respect to pollution which threatens the territorial sea); and the high seas (with respect to discharges of matter transported from or originating within the United States).

Under a new requirement contained in subsection (d), the Administrator would be required, within six months after the enactment of the section and from time to time thereafter, to publish in the *Federal Register* regulations establishing specifications for water use designations, water quality criteria and effluent requirements for the purpose of advising the States in adopting or revising water quality standards. The regulations concerning water use designations will provide methods for assuring that legitimate factors are taken into account. The regulations concerning water quality criteria would, on the basis of the latest scientific knowledge about the effects of identifiable pollutants on health, welfare and the environment, specify minimum and maximum water quality characteristics required to protect various legitimate and beneficial water uses. The regulations concerning effluent requirements would specify the minimum levels of treatment or control which would be generally applicable to various categories of industrial and municipal facilities and other pollution sources, and would specify procedures for determining additional treatment required to comply with water quality criteria or to prevent the degradation of high-quality waters. The Administrator would also be required to publish information concerning recommended pol-

lution control techniques for complying with water quality criteria and effluent requirements.

Under subsection (e), States would have up to one year after the publication of regulations under subsection (d) to submit required new standards and revisions of old standards for all waters specified in subsection (c) which are within their jurisdiction. The Administrator would be required to advise the States as to which elements of existing standards require revision. If the State did not act within the one-year period, the Administrator would be authorized, after a public hearing, to publish regulations setting forth water quality standards for waters over which the State has jurisdiction. The Administrator would be required to promulgate such standards if, within 60 days after publication of the regulations, appropriate standards were not adopted by the State.

If the Administrator published regulations under subsection (d) twice in one year, publication of the later regulations would not extend the time for adopting water quality standards pursuant to the earlier regulations except with respect to elements thereof required to be revised by the later regulations.

Water quality standards established under the Water Quality Act of 1965 would continue to be effective, until superseded by new standards. The Administrator would be able to utilize the new enforcement authorities in subsection (f) to enforce standards established under existing law while new standards are being developed.

No provision is made at present for the Governor of a State to initiate revision of standards. The proposed subsection (e)(2)(D) would authorize the Governor of a State to submit revised standards at any time. If the Administrator determined that the revised standards met the requirements of subsection (d), such standards would become effective.

The authority of the Administrator to promulgate standards for waters in areas of exclusive Federal legislative jurisdiction, or where the States do not have jurisdiction, is unclear under existing laws. Subsection (e)(3) would provide the Administrator with clear authority to establish standards in such areas after public hearings.

Two administrative enforcement procedures are authorized under the existing provisions of section 10: the Administrator may convene an enforcement conference, or, in cases of violation of water quality standards, he may issue 180-day notices, followed by court action. Under the present proposal, these procedures would be replaced by a new administrative procedure based on the violation of water quality standards (or of effluent requirements for hazardous substances established under subsection (1)). The Administrator would be required, upon a finding based on any information however obtained that any person is in violation of water quality standards or the requirements of subsection (l), to notify such person of the violation and the required remedial action, and simultaneously to provide notification to the water pollution control agencies of the States involved. If the required remedial action or appropriate State action were not taken within 30 days, the Administrator would be authorized to issue an order requiring compliance within a specified time, or bring a civil action for an injunction under subsection (f)(6). The recipient of an order directing compliance would be authorized to request a hearing within 15 days following receipt of the order. Following such hearing, the Administrator would be required to affirm, modify or revoke the order by written decision constituting his final order. In cases in which the recipient of the order did not make a timely request for a hearing, the original order would become the final order unless modified by the Administrator on his own initiative. Judicial review would be provided for all final orders after exhaustion of administrative remedies. It is intended that an appeal or a request for a hearing would not operate as a stay of an order, except where a court determined a stay to be necessary as provided in the Administrative Procedure Act. The Administrator would be authorized to assess a civil penalty for violation of a final order of up to $25,000 per day of violation.

Under subsection (f)(6) the Administrator could enforce his final orders and recover fines upon petition to the appropriate U.S. Circuit Court of Appeals.

Under subsection (f)(7), the Administrator would be authorized to commence a civil action in the appropriate U.S. district court for injunctive relief in any case of violation of water quality standards or of effluent requirements for hazardous substances established under subsection (—). Under subsection (f)(8), the Court in any such proceeding would be authorized to assess a civil penalty of not more than $25,000 per day of violation. Subsection (f)(9) would authorize the imposition of criminal fines of up to $10,000 and imprisonment of up to six months, for making any false statement in any document or tampering with any monitoring device required by the section.

Although the enforcement conference would be eliminated by this proposal, its useful features would be retained in subsection (g), authorizing the Administrator to call fact-finding public hearings for the purpose of obtaining information necessary to carry out the Act, including the investigation of possible water quality standards violations. Notice of any hearing would be required to be published in the *Federal Register* and in a newspaper of general circulation in the area in which the hearing is to be held. The hearing would be conducted before a hearing panel, consisting of the Administrator's representative and representatives of the States involved. Any interested person would be permitted to make a statement of views.

At the conclusion of the hearing, the hearing panel would make findings concerning the existence of pollution, and would report such findings to the Administrator, including recommendations for remedial action. The Administrator would review the findings, and would take such action as he deemed appropriate, which are understood to include the issuance of an administrative order or the initiation of a civil action pursuant to subsection (f), or, the establishment of water quality standards under subsection (e)(2)(A). If, after a hearing under subsection (g), the Administrator determined that the public health or welfare required revision of water quality standards he would be authorized to request a State or States to adopt revised standards within 60 days. If the State did not adopt acceptable standards within such period, the Administrator would be authorized, after notice and hearing, to publish standards and to promulgate them after 30 days following publication. Subsection (g)(7) would make it clear that the Administrator could issue administrative orders to require compliance with water quality standards even while a hearing is being held under subsection (g).

Subsection (h) would provide the Administrator with broad authority to compel the attendance and testimony of witnesses at hearings, and to order the production of records. However, Agency representatives would still be subject to the provisions of 18 U.S.C. 1905 with regard to protection of trade secrets.

Subsection (i) would authorize the Administrator to require any discharger to perform effluent monitoring and to report the results to EPA. In exercising this authority the Administrator would be required to take into consideration the availability of the desired information from State or local monitoring programs. Further provisions of this subsection would authorize the Administrator's representatives to enter and inspect facilities from which discharge is made into sewers or waters specified in subsection (c), and to have access to monitoring or other records. Any information obtained under subsection (i) would be available to the public except information which is shown to the satisfaction of the Administrator to contain trade secrets.

Subsection (j) would provide emergency authority for the Administrator to commence an action in the appropriate U.S. district court for an injunction or other appropriate equitable relief whenever a pollution source presents or may present an imminent and substantial danger to the health or welfare of any person, or to water quality. It would also provide for the consolidation of suits.

Subsection (l) would require the Administrator within 60 days after enactment of the new section 10, to publish in the *Federal Register* a list of substances which in his opinion possess a high potential for causing substantial danger to the public health or the environment and which shall be subject to a prohibition or effluent requirement. Within six months after publication of the list, the Administrator would be required to publish proposed effluent requirements or prohibitions for such substances, and within ninety days after such publication, he would be required to promulgate such requirements and prohibitions in final form.

S. —

A bill to amend the Federal Water Pollution Control Act, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Federal Water Pollution Control Act, as amended, is further amended to read as follows:

"WATER QUALITY STANDARDS AND ENFORCEMENT

"SEC. 10.(a) As used in this Act:

"(1) The term, 'water quality standards' shall mean—

"(A) Water use designations, water quality criteria, effluent limitations, and a plan of implementation and enforcement adopted pursuant to subsection (e) of this section; and

"(B) Water quality standards, including water quality criteria and a plan of implementation and enforcement, adopted pursuant to the Water Quality Act of 1965, until superseded by water quality standards adopted pursuant to this section.

"(2) The term, 'water use designation' shall mean the legitimate and beneficial uses which are or shall be permitted and protected in waters specified in subsection (c) of this section or portion thereof.

"(3) The term 'water quality criteria' shall mean those physical, chemical, and biological characteristics of water quality which, for a given body of water are required to permit and protect the uses identified in the water use designation.

"(4) The term 'effluent limitations' shall mean the permissible quantities of physical, chemical, biological, and other constituents of effluents which are discharged into waters specified in subsection (c) of this section.

"(5) The term 'plan of implementation and enforcement' shall mean a plan for the achievement and maintenance of water quality criteria and effluent limitations, including provisions for the enforcement of such criteria and effluent limitations.

"(6) The term 'discharge' means any addition of matter to waters specified in subsection (c) of this section, whether such matter enters such waters directly or from runoff or percolation.

"(7) The term 'person' means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body, and

"(8) The term 'municipality' means city, town, burrough, county, parish, district, or other public body created by or pursuant to State law.

"(b) Consistent with the policy declaration of this Act, State and interstate action to abate and control water pollution shall be encouraged. No action shall be initiated by the Administrator under subsection (f) of this section in any case if he determines that the State or States involved are taking appropriate and sufficient action in such case to secure compliance with water quality standards.

"(c) Water quality standards adopted pursuant to subsection (e) of this section shall apply to:

"(1) All interstate waters of the United States;

"(2) All navigable waters of the United States;

"(3) Ground waters;

"(4) The waters of the Contiguous Zone of the United States, with respect to pollution thereof, which causes or is likely to cause pollution of the territorial sea of the United States;

"(5) The waters of the high seas beyond the territorial sea of the United States, with respect to discharges of matter transported from or originating in areas over which the United States has sovereignty; and

"(6) Portions or tributaries of any of the waters specified in paragraphs (1) through (5) hereof, whether discharges reach such waters, tributaries, or portions thereof directly or from runoff or percolation.

"(d)(1) For the purpose of advising States in adopting or revising water quality standards, the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within the time specified in paragraph (6) of this subsection, and from time to time thereafter, regulations providing specifications and methods to assure that in the establishment of water use designations, the use and value of water for public water supplies, propagation of fish and wildlife, recreational purposes, agricultural, industrial, navigational, and other legitimate uses are adequately taken into account.

The Administrator shall not approve water use designations if:

(i) such water use designation specifies transport or assimilation of waste as a primary use; or

(ii) the Administrator determines that the use and value of the waters in question for public water supplies, propagation of fish and wildlife, recreational purposes, agricultural, industrial, navigational, and other legitimate uses have not been adequately taken into account.

"(2) For the purpose of advising States in adopting or revising water quality standards, the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish, within the time specified in paragraph (6) of this subsection and from time to time thereafter, regulations establishing specifications for water quality criteria. Such regulations shall reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on health and welfare and water quality which may be expected from the presence of a pollutant or combination of pollutants in any body of water in varying quantities. Such regulations shall, on the basis of such scientific knowledge, specify the water quality characteristics required to protect and enhance water quality, including those minimum or maximum characteristics required to permit and protect uses identified in water use designations, as well as analytical and test procedures to be used in determining such characteristics.

"(3) In cases where the quality of water on the effective date of this section is higher than water quality criteria applicable to any use designation, such high quality shall be maintained in accordance with regulations.

"(4) For the purpose of advising States in adopting or revising water quality standards, the Administrator shall also, after consultation with appropriate Federal and State agencies and other interested persons, publish, within the time specified in paragraph (6) of this subsection and from time to time thereafter, regulations providing specifications for effluent limitations. Such regulations shall set forth the minimum acceptable levels of treatment or control, including allowable amounts of constituents of effluents, and permissible physical, chemical, and biological characteristics of effluents, which shall be based on the availability of practicable treatment or control measures and shall be generally applicable to discharges from various categories of:

"(i) Industrial facilities on which construction was commenced prior to the effective date of this subsection;

"(ii) Industrial facilities on which construction shall be commenced after the effective date of this subsection (taking into account the best available technology);

"(iii) Sanitary sewers and sewage treatment plants; and

"(i) Other sources.

"(5) For the purpose of providing guidance to the States in adopting and revising water quality standards, the Adminisrator shall also, after consultation with appropriate Federal and State agencies and other interested persons, develop and publish within the time specified in paragraph (6) of this subsection and from time to time thereafter, recommended pollution control techniques necessary to achieve applicable water quality criteria and effluent limitations, including identification of available technology and data on the effectiveness, cost, and economic feasibility of alternative methods of prevention and control of water pollution.

"(6) No later than six months after the date of enactment of this subsection, the Administrator shall promulgate concurrently, in accordance with 5 U.S.C. § 553, regulations under paragraphs (1), (2), (3), and (4) of this subsection, after allowing a reasonable time of at least 45 days, but not to exceed 60 days from the publication of proposed regulations, for interested persons to submit written comments. Revisions of such regulations shall follow the procedures prescribed in this paragraph.

"(7) All water quality standards established pursuant to this section shall be such as to protect the public health and welfare, enhance the quality of water, and serve the purposes of this Act.

"(8)(A) Plans of implementation and enforcement shall include remedial or other measures required to achieve compliance with effluent limitations and water quality criteria.

"(B) No plan of implementation and enforcement shall be approved by the Administrator unless

(i) in the case of industrial and municipal dischargers, it provides a phased schedule for the attainment of compliance with effluent limitations established pursuant to this subsection as expeditiously as practicable; and

(ii) in the case of sources other than those specified in subparagraph (B)(1) of this paragraph, it provides for the attainment of applicable effluent limitations as expeditiously as practicable; and

(iii) it identifies the nature and extent of improvement of water quality that is expected to result from measures in this plan.

"(9) Nothing in this section shall require the revision of compliance dates specified in plans of implementation and enforcement included in water quality standards established pursuant to the Water Quality Act of 1965; provided, that such dates may be revised pursuant to subsections (e)(2)(B), (e)(2)(D), and (g)(6) of this section.

"(e)(1) If a State, after public hearings, adopts within the time specified in paragraph (2) of this subsection water quality standards applicable to (i) all waters specified in subsection (c) hereof over which the State has jurisdiction, or (ii) portions thereof, and if the Administrator determines that such standards are consistent with the regulations and requirements established pursuant to subsection (d) of this section, such State standards shall be approved by the Administrator as the water quality standards applicable to such waters or portions thereof.

"(2)(A) Water quality standards established pursuant to this Act prior to the effective date of this subsection shall continue in effect until superseded. If a State has not adopted, within one year after the promulgation of initial regulations under subsection (d) of this section, water quality standards applicable to all waters specified in subsection (c) hereof over which such State has jurisdiction; or if such State does not, within one year after the promulgation of regulations, other than initial regulations, pursuant to subsection (d) of this section, adopt such revisions of water quality standards as are consistent with regulations and requirements established pursuant to subsection (d) of this section, or if the Administrator determines that any water quality standards adopted by a State pursuant to this subsection are not consistent with the requirements of regulations established pursuant to subsection (d) of this section, the Administrator is authorized, after reasonable notice and a public hearing, to be held in or near the place where the standards will take effect, to publish proposed regulations setting forth water quality standards for those waters specified in subsection (c) hereof over which the State has jurisdiction. If within 60 days from the date the Administrator publishes such proposed regulations, the State has not adopted water quality standards which the Administrator finds to be consistent with subsection (d) of this section, the Administrator shall promulgate standards which shall be the water quality standards applicable to such waters or portions thereof.

"(B) Water quality standards which, prior to the effective date of this paragraph, were adopted by a State and approved by the Administrator under this Act or submitted to him but not yet so approved by him prior to such date, and which do not include all of the elements of water quality standards as defined in subsection (a)(1)(A) of this section, shall be supplemented within the appropriate time specified in subparagraph (A) of this paragraph by those elements which are not included. The Administrator shall consult with the States and shall advise them what elements, if any, of existing approved standards shall be required to be revised pursuant to this subparagraph, giving due consideration to the desirability of preserving existing standards to the extent they are consistent with the purposes of this Act. After the effective date of this section, the Administrator may continue to approve standards or portions thereof submitted to him prior to the effective date of this subsection.

"(C) Where the Administrator publishes regulations pursuant to subsection (d) of this section subsequent to the initial publication of regulations thereunder, such publication shall not constitute an extension of the date on which a State is required to submit standards pursuant to any prior publication of regulations, provided that where:

"(i) the Administrator has issued regulations pursuant to subsection (d) of this section; and

"(ii) less than one year after the issuance of such regulations the Administrator issues subsequent regulations; and

"(iii) such subsequent regulations affect the same specific criteria or other elements of water quality standards as the prior regulations;

a State may, in submitting standards pursuant to the prior regulations, omit the elements for which revision will be required pursuant to the subsequent regulations.

"(D) If at any time the Governor of a State or the State water pollution control agency, on his or its own initiative or at the request of the Administrator, revises all or part of the water quality standards established under this section for the waters in subsection (c) hereof over which the State has jurisdiction, and if the Administrator determines that such revised standards are consistent with the regulations and requirements of subsection (d) of this section, such standards shall thereafter be the water quality standards applicable to such waters.

"(3) For waters in subsection (c) hereof over which the States do not have jurisdiction, the Administrator shall, after reasonable notice and a public hearing, promulgate regulations setting forth such water quality standards for such waters. Such hearings shall be held in or near the place where such standards will take effect. Affected States, interstate agencies, Federal departments and agencies, municipalities, industries, and other interested persons shall be given an opportunity to make a full statement of views.

"(f)(1) Whenever, on the basis of any information available to him, the Administrator determines that any person is in violation of water quality standards or any element thereof or limitations established under subsection (1) hereof, he shall notify such person and the water pollution control agency of the State or States in which such violation is occurring of his determination and of the remedial action which is required to achieve compliance. If the Administrator determines at any time after 30 days following such notice that required remedial action or appropriate State action has not been taken, he may issue an order for compliance or request that the Attorney General bring a civil action pursuant to paragraph (6) of this subsection.

"(2) An order issued pursuant to paragraph (1) of this subsection shall state with reasonable specificity the nature of the violation and shall specify: a time for compliance, taking into account the practicability of compliance; any applicable compliance schedule which is part of either the applicable standards or a permit issued under section 407 of title 33 of the United States Code; the requirements of subsection (1) hereof; the seriousness of the violation; and any good faith efforts to comply with water quality standards, requirements of subsection (1) hereof, or such permit. A copy of any order issued under this subsection shall be sent to the State water pollution control agency of the State in which the violation occurs. In any case in which an order or notice under this subsection is issued to a corporation, a copy of such order or notice shall be issued to such corporate officers as the Administrator may determine to be appropriate.

"(3) If within 15 days following receipt of an order under paragraph (1) of this subsection, the person to whom such order is issued files a request for a hearing, the Administrator shall promptly hold a public hearing to permit such person to present information relating to the order or the violation or both. The person requesting the hearing may be required to file, in such form as the Administrator may specify, a report furnishing such information concerning the nature and amounts of discharges from facilities which he owns, leases, manages, or controls and which are subject to the order, as the Administrator may prescribe. Any hearing held pursuant to this paragraph shall be of record, and shall be subject to the provisions of section 554 of title 5 of the United States Code. Based on the record, the Administrator shall affirm, modify, or revoke the original order by a written decision which shall constitute his final order. If no hearing is duly requested pursuant to this paragraph and the Administrator does not on his own initiative modify or revoke an order issued pursuant to paragraph (1) of this subsection, such order shall constitute his final order.

"(4) Any final order under paragraph (3) hereof shall be subject to judicial review in accordance with section 701 of title 5 of the United States Code by the United States Court of Appeals for the circuit in which the violation occurred, upon the filing of a petition in such court within thirty days from the date of such order by any person aggrieved thereby praying that such order be modified or set aside in whole or in part. The petitioner shall send a copy of such petition to the Administrator and the appropriate State water pollution control agency by registered mail. The Administrator shall certify and file in such court the record upon which the final order was issued. The court shall hear the petition on the record made before the Administrator. The court may affirm, modify, or revoke any order of the Administrator, or may remand the proceedings to the Administrator for such further action as it may direct.

"(5) Any person who violates or fails or refuses to comply with a final order of the Administrator shall be liable to a civil penalty in an amount, not to exceed $25,000 per day of violation, to be determined by the Administrator and subject to compromise by him, after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with such standards and any good faith efforts to comply with such order.

"(6) Any final order under paragraph (3) not appealed by an aggrieved person and any fine assessed by the Administrator under paragraph (5) shall be enforced by the Attorney General, upon the request of the Administrator, by petition to the United States Court of Appeals for the circuit in which the violation occurred.

"(7) The Administrator may request the Attorney General to commence a civil action for a permanent or temporary injunction, an order compelling testimony or the production of records, or such other relief as may be appropriate, whenever any person—

"(i) violates water quality standards;

"(ii) fails or refuses to comply with any requirement of subsection (h) of this section; or

"(iii) fails or refuses to comply with any requirement of subsection (1) of this section.

Any action under this paragraph may be brought in the appropriate United States district court, and such court shall have jurisdiction to restrain violations and to require compliance, after taking into account the factors specified in subsection (f)(2) of this section. Notice of the commencement of any such action shall be given to the appropriate State and interstate water pollution control agencies.

"(8) The court, in any action under paragraph (7) of this subsection may assess a civil penalty of not more than $25,000 per day of violation in case of

"(i) any violation of water quality standards;

"(ii) any discharge in violation of subsection (1) of this section."

The amount of such penalty shall be determined by the court after considering the nature, circumstances, and extent of the violation and any good faith efforts to comply. In any action under paragraph (7) of this subsection which is subsequent to one or more previous such actions resulting in the assessment of a penalty for a violation at the same facility, the court may assess a penalty of not more than $50,000 per day of violation.

"(9) Any person who knowingly makes any material false statement or representation in any application, record, report, plan, or other document filed or required to be maintained under this section or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to this section shall upon conviction be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"(g)(1) Whenever the Administrator, on the basis of any information available to him or at the request of the Governor of a State:

"(A) believes or has reason to believe that pollution of any waters specified in subsection (c) of this section is occurring which endangers the health or welfare of any persons, or that water quality standards are being or may be violated, or

"(B) wishes to investigate any acts, conditions, practices, or matters in order to determine whether any person has violated or is about to violate any provision of this Act or any standards established pursuant thereto or to aid in the carrying out of any of the provisions of this Act, including the promulgation of water quality standards, rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation concerning the matters to which this Act relates, he may call a public hearing for the purpose of obtaining information and determining the remedial or other action which may be appropriate.

"(2) Notice of such hearing shall be published in the *Federal Register* and in a newspaper of general circulation in or near the place where the hearing is to be held, and given to the State and interstate water pollution control agencies of the State or States in which any discharge causing or contributing to any pollution which is to be considered at the hearing originates, and of any other State or States adversely affected by any such pollution, to the municipalities concerned, and to any person believed to be causing or contributing to any such pollution.

"(3) The Administrator shall give the State or States, any interstate agency, and the municipalities involved, and every person contributing to any pollution referred to in paragraph (1) of this subsection or affected by it, and other interested persons, an opportunity to make a full statement of views at the hearing. Such statements may be made under oath or otherwise, and may be written or oral, as the Administrator may prescribe.

"(4) The Administrator shall prescribe by regulation the procedures to be followed in any hearing under this subsection.

"(5) In any hearing under this subsection, the Administrator or his representative shall invite representatives of the States in which pollution may be originating, and representatives of States affected by such pollution, to assist him in conducting such hearing. After any such representatives have been impaneled, they shall be entitled to question witnesses, to present evidence, and otherwise fully participate in the hearing. At the conclusion of the hearing, the hearing panel shall make a report which may contain findings concerning the existence of pollution, violations of any provisions of this Act, and recommendations for corrective action and any dissenting views of panel members. After such report is prepared, the Adminis-

trator may take such action pursuant to this Act as may be appropriate.

"(6) Where, after reviewing the report of a hearing panel, the Administrator determines that pollution is occurring which endangers the quality of water or the health and welfare of persons, and that revision of previously established standards is required, he may request that a State adopt within a reasonable time, not less than 60 days, specified by the Administrator, revised standards for those waters specified in subsection (c) hereof over which the State has jurisdiction. The Administrator shall specify the waters for which revision is required, and the specific criteria, effluent limitations, or provisions of the plan of implementation and enforcement which require revision. If the State adopts revised standards pursuant to the Administrator's request, and the Administrator determines that such revised standards are consistent with the requirements of subsection (d) of this section, such revised standards shall be the water quality standards for such waters. If the State does not, within the time specified by the Administrator, adopt acceptable revised standards, the Administrator is authorized, after reasonable notice and a public hearing, to publish proposed regulations setting forth such water quality standards. If within 30 days from the date the Administrator publishes such regulations, the State has not adopted water quality standards which are consistent with subsection (d) of this section and with the purposes of this Act, the Administrator shall promulgate such standards.

"(7) Notwithstanding any other provision of this subsection, the authority of the Administrator pursuant to other subsections of this section is not affected.

"(h)(1) For the purpose of any hearing held under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act. Such attendance of witnesses and the production of any such records may be required from any place in the United States at any reasonable place designated for the hearing. Witnesses summoned by the Administrator to appear before him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(2) The testimony of any witness may be taken, at the instance of a party, in any hearing under this Act, by deposition, at any time after the notice of the proceeding is published. The Administrator may also order testimony to be taken before any person authorized to administer oaths who is not counsel or attorney to the party making the deposition.

"(3) If a witness whose testimony may be desired to be taken by deposition is in a foreign country, the deposition may be taken before an officer or person designated by the Administrator, or agreed upon by the parties by stipulation in writing to be filed with the Administrator. All depositions must be promptly filed with the Administrator.

"(4) Witnesses whose depositions are taken as authorized in this Act, and the person or officer taking the same, shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

"(i)(1) After the effective date of this subsection, any person who owns, leases, manages or controls any public or private property or facility from which discharge is being made into water specified in subsection (c) shall with respect to such discharge install, use, and maintain such monitoring equipment or methods and establish and maintain such records, make such reports, and provide such information as the Administrator may require for the purpose of ascertaining compliance with water quality standards, taking into account the extent to which such information is available to the Administrator from State or locally required monitoring.

"(2) The Administrator or his authorized representative, upon presenting appropriate credentials, is authorized—

"(A) to enter, at reasonable times, any public or private property from which discharge is being made into waters specified in subsection (c);

"(B) to inspect and investigate, at reasonable times, within reasonable limits and in a reasonable manner, the operation of collection systems, waste treatment works or facilities, or conditions relating to pollution or the possible pollution of such waters; and

"(C) to have access to such records in connection therewith, including reports or information required by paragraph (1) of this subsection, as the Administrator may require.

"(3) Any records, reports, or information obtained under paragraph (1) of this subsection shall be available to the public, except that upon a showing satisfactory to the Administrator that records, reports, or information, or a particular part thereof (other than effluent data), to which the Administrator has access under this subsection constitute trade secrets or other matter referred to in section 1905 of title 18 of the United States Code, the Administrator shall consider such record, report, or information or particular portion thereof confidential, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, and such information may be disclosed *in camera* relevant in any proceeding under this Act.

"(j) Notwithstanding any other provision of this section, the Administrator, upon his determination that any discharge or combination of discharges into any of the waters specified in subsection (c) presents an imminent and substantial danger to the health or welfare of any person or persons, or to water quality, may request the Attorney General to bring a suit on behalf of the United States in the appropriate United States district court to enjoin immediately any person contributing to the alleged pollution from further discharges causing such danger and to take such other action as may be necessary.

"(k)(1) Except as provided in paragraph (2) hereof, any person may commence a civil action on his own behalf—

"(A) against any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the Eleventh Amendment to the Constitution), who is alleged to be in violation of any standard or limitation under this section or a final order issued by the Administrator of a State with respect to such a standard or limitation, or

"(B) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this section which is not discretionary with the Administrator.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, taking into account the practicability of compliance; any applicable compliance schedule which is part of either the applicable standards or a permit issued under section 407 of title 33 of the United States Code; the requirements of subsection (1) hereof; the seriousness of the violation; and any good faith efforts to comply with water quality standards, requirements of subsection (1) hereof, or such permit.

"(2) No action may be commenced—

"(A) under subparagraph (1)(A) hereof—

"(i) prior to 60 days after the plaintiff has given notice of the violation to the Administrator, to the State in which the violation occurs, and to any alleged violator of the standard, limitation, or order; or

"(ii) if the Administrator or State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the standards, limitation, or order; or

"(iii) if the Administrator has issued and is diligently seeking to enforce an order pursuant to subsection (f) of this section.

"(B) under subparagraph (1)(B) hereof prior to 60 days after the plaintiff has given notice of such action to the Administrator in such manner as the Administrator shall prescribe by regulation.

"(3)(A) Any action respecting a violation of a standard or limitation or an order respecting such standard or limitation may be brought only in the judicial district in which the violation occurs.

"(B) In any such action under this subsection in which the United States is not a party, the Attorney General, at the request of the Administrator, may intervene on behalf of the United States as a matter of right.

"(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) hereof, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

"(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

"(6)(A) In order to direct notice of the commencement of any action brought pursuant to paragraph (1) of this subsection to persons who may join in the action under subparagraph (B) of this paragraph, the court, upon motion of any party made within sixty days of the commencement of the action, shall order notice published in at least one newspaper of general circulation in the place where the court sits and shall direct the Administrator to publish notice in the Federal Register. The notice shall advise that the judgment, whether favorable or not, will be binding on all such persons and that any such person may if he desires join the suit, and shall contain such other matters and be in such form as the court may provide.

"(B) Any person who might have brought suit on his own behalf on the matters alleged in the complaint may join such suit as a plaintiff, and, in any case where notice was given as provided in subparagraph (A) of this paragraph, a failure to join shall bar any subsequent suit under this subsection by such person as if such person has joined in such suit.

"(C) In any action under this subsection the court, in its discretion, may make such orders as it deems appropriate to prevent undue repetition or complication in the presentation of evidence or argument, including

orders that one or more parties may adequately and fairly represent other parties.

"(1) (1) The Administrator shall, within sixty days after the enactment of this section and from time to time thereafter, publish in the Federal Register a list of those elements and compounds other than oil as defined in section 11 of this Act, or combination of such elements and compounds which in his judgment possess a high potential for presenting an imminent and substantial danger to the health or welfare of persons or to water quality because of their nondegradable or persistent nature or because they can be biologically magnified, or because they can be immediately lethal, or because they otherwise cause or tend to cause detrimental cumulative effects, and which may be subject to an effluent limitation established under this section. He shall simultaneously publish a summary of all evidence available to him concerning the effects of those elements, compounds, and combinations thereof on the health or welfare of persons or on water quality.

"(2) Within six months after the publication of such list, or revision thereof, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish for comment proposed effluent limitations including, if appropriate, prohibition of discharges, of each such element and compound or combination of elements and compounds together with a summary of the evidence on which such limitations are based. No later than ninety days after such publication the Administrator shall promulgate final limitations.

"(3) Prior to publishing any lists or regulations pursuant to this subsection the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, independent experts, and Federal departments and agencies.

"(4) The President may exempt any person from any limitation or limitations established under this subsection for a period of not more than two years if he finds that such exemption is required for reasons of national security. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed two years."

SEC. 2. Section 23 of the Federal Water Pollution Control Act, as amended, is amended to revise subsection (a) to read as follows:

"(a) The term 'State water pollution control agency' means a single State agency designated by that State as the official State water pollution control agency for purposes of this Act."

and to add the following subsection (g):

"(g) 'Contiguous zone' means the entire zone defined by article 24 of the Convention on the Territorial Sea and the Contiguous Zone."

Mr. COOPER. Mr. President, in addition to the amendments to the Water Pollution Control Act, the President has proposed an innovative regulatory framework to control the dumping of waste material into the oceans and coastal waters. This proposal is titled "The Marine Production Act of 1970." It would implement the recommendations of the Council on Environmental Quality in its report on ocean dumping released in October of last year. In my judgment, that report represents the fine work performed by the Council on Environmental Quality to date. The bill which the President has sent to the Congress measures up to the same standard. The bill would authorize the Environmental Protection Agency to issue permits controlling the discharge of waste material in the oceans and prohibit the discharge of such materials without such permits.

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

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

FINDINGS AND RECOMMENDATIONS OF THE REPORT TO THE PRESIDENT PREPARED BY THE COUNCIL ON ENVIRONMENTAL QUALITY ENTITLED "OCEAN DUMPING: A NATIONAL POLICY," OCTOBER 1970

The Council on Environmental Quality concludes that there is a critical need for a national policy on ocean dumping. It is not a serious, nationwide problem now, but the decisions made by municipalities and industries in the next few years could lead to dramatic increases in the level of dumping. Once these decisions are made and ocean dumping proceeds, it will be costly and difficult to shift to land-based disposal at some future date.

Ocean-dumped wastes are heavily concentrated and contain materials that have a number of adverse effects. Many are toxic to human and marine life, deplete oxygen necessary to maintain the marine ecosystem, reduce populations of fish and other economic resources, and damage esthetic values. In some areas, the environmental conditions created by ocean disposal of wastes are serious.

The Council study indicates that the volume of waste materials dumped in the ocean is growing rapidly. Because the capacity of land-based waste disposal sites is becoming exhausted in some coastal cities, communities are looking to the ocean as a dumping ground for their wastes. Faced with higher water quality standards, industries may also look to the ocean for disposal. The result could be a massive increase in the already growing level of ocean dumping. If this occurs, environmental deterioration will become widespread.

In most cases, feasible and economic land-based disposal methods are available for wastes currently being dumped in the ocean. In many cases, alternatives to ocean dumping can be applied positively for purposes such as land reclamation and recycling to recover valuable waste components.

Current regulatory activities and authorities are not adequate to handle the problem of ocean dumping. States do not exercise control over ocean dumping, and generally their authority extends only within the 3-mile territorial sea. The Army Corps of Engineers authority to regulate ocean dumping is also largely confined to the territorial sea. The Corps has responsibility to facilitate navigation, chiefly by dredging navigation channels. As such, it is in the position of regulating activities over which it also has operational responsibility. The Coast Guard enforces several Federal laws regarding pollution but has no direct authority to regulate ocean dumping. The authority of the Federal Water Quality Administration does not provide for issuance of permits to control ocean dumping. And the Atomic Energy Commission has authority only for disposal of radioactive materials. The Council believes that new legislative authority is necessary.

Finally, this report recognizes the international character of ocean dumping. Unilateral action by the United States can deal with only a part—although an important part—of the problem. Effective international action will be necessary if damage to the marine environment from ocean dumping is to be averted.

POLICY AND REGULATORY RECOMMENDATIONS

The Council on Environmental Quality recommends a comprehensive national policy on ocean dumping of wastes to ban unregulated ocean dumping of all materials and strictly limit ocean disposal of any materials harmful to the marine environment. In order to implement the policy, new regulatory authority is necessary. The Council on Environmental Quality recommends legislation that would:

Require a permit from the Administrator of the Environmental Protection Agency for the transportation or dumping of all materials in the oceans, estuaries, and the Great Lakes.

Authorize the Administrator to ban ocean dumping of specific materials and to designate safe sites.

Establish penalties for violation of regulations.

Provide for enforcement by the Coast Guard.

The Administrator of the Environmental Protection Agency would be guided by the following principles in exerting his authority:

Ocean dumping of materials clearly identified as harmful to the marine environment or man should be stopped.

When existing information on the effects of ocean dumping are inconclusive, yet the best indicators are that the materials could create adverse conditions if dumped, such dumping should be phased out. When further information conclusively proves that such dumping does not damage the environment, including cumulative and long-term damage, ocean dumping could be conducted under regulation.

The criteria for setting standards for disposing of materials in the ocean and for determining the urgency of terminating disposal operations should include:

1. Present and future impact on the marine environment, human health, welfare, and amenities.
2. Irreversibility of the impact of dumping.
3. Volume and concentration of materials involved.
4. Location of disposal, i.e., depth and potential impact of one location relative to others.

High priority should be given to protecting those portions of the marine environment which are biologically most active, namely the estuaries and the shallow, nearshore areas in which many marine organisms breed or spawn. These biologically critical areas should be delimited and protected.

The Council on Environmental Quality recommends the following policies relating to specific types of wastes currently being dumped in the ocean, in estuaries, and in the Great Lakes:

Ocean dumping of undigested sewage sludge should be stopped as soon as possible and no new sources allowed.

Ocean dumping of digested or other stabilized sludge should be phased out and no new sources allowed. In cases in which substantial facilities and/or significant commitments exist, continued ocean dumping may be necessary until alternatives can be developed and implemented. But continued dumping should be considered an interim measure.

Ocean dumping of existing sources of solid waste should be stopped as soon as possible. No new sources should be allowed, i.e., no dumping by any municipality that currently does not do so, nor any increase in the volume by existing municipalities.

Ocean dumping of polluted dredge spoils should be phased out as soon as alternatives can be employed. In the interim, dumping should minimize ecological damage. The current policy of the Corps of Engineers on dredging highly polluted areas only when absolutely necessary should be continued, and even then, navigational benefits should be weighed carefully against damages.

The current policy of prohibiting ocean dumping of high-level radioactive wastes should be continued. Low-level liquid dis-

charges to the ocean from vessels and land-based nuclear facilities are, and should continue to be, controlled by Federal regulations and international standards. The adequacy of such standards should be continually reviewed. Ocean dumping of other radioactive wastes should be prohibited. In a very few cases, there may be no alternative offering less harm to man or the environment. In these cases ocean disposal should be allowed only when the lack of alternatives has been demonstrated. Planning of activities which will result in production of radioactive wastes should include provisions to avoid ocean disposal.

No ocean dumping of chemical warfare materials should be permitted. Biological warfare materials have not been disposed of at sea and should not be in the future. Ocean disposal of explosive munitions should be terminated as soon as possible.

Ocean dumping of industrial wastes should be stopped as soon as possible. Ocean dumping of toxic industrial wastes should be terminated immediately, except in those cases in which no alternative offers less harm to man or the environment.

Ocean dumping of unpolluted dredge spoils, construction and demolition debris, and similar wastes which are inert and non-toxic should be regulated to prevent damage to estuarine and coastal areas.

Use of waste materials to rehabilitate or enhance the marine environment, as opposed to activities primarily aimed at waste disposal, should be conducted under controlled conditions. Such operations should be regulated, requiring proof by the applicant of no adverse effects on the marine environment, human health, safety, welfare, and amenities.

RESEARCH NEEDS

In the long term, additional information is required in the implementation of this policy. Serious information deficiencies exist, and research is required in the following major areas:

Broad-based ecological research is needed to understand the pathways of waste materials in marine ecosystems. Such studies should be directed to a better understanding of the food chain from microscopic plants and animals to high predators; how pollutants concentrate in the food chain; the origin and ultimate fate of pollutants in the oceans; and the effects of concentration on the marine environment and eventually man.

Marine research preserves should be established to protect representative marine ecosystems for research and to serve as ecological reference points—baselines by which man-induced changes may be evaluated.

Oceanographic studies of basic physical and chemical processes should be directed toward gaining a thorough understanding of the marine environment, with special emphasis on estuaries and coastal areas.

Toxic materials should be identified and their lethal, sublethal and chronic long-term effects on marine life investigated. Information is needed on the persistence of toxic substances; how pollutants are degraded chemically and biologically; the effects of radioactivity on the marine environment and man; and the capacity of waters to assimilate waste materials.

More information is needed about public health risks from ocean pollution. Studies should determine what pathogens are transported in marine ecosystems and how. Better methods of measuring public health dangers are also needed.

Research is needed on the recycling of wastes and the development of alternatives to ocean dumping. Technical problems must be solved, but there is also a great need to study the social, institutional, and economic aspects of waste management.

Effective national and international monitoring systems need to be developed. Research is necessary to develop improved methods and technology so that alterations in the marine environment may be detected. But there is also a need for data coordination so that data gathering and analysis efforts are not duplicated.

SUMMARY

The Nation has an opportunity unique in history—the opportunity to act to prevent an environmental problem which otherwise will grow to a great magnitude. In the past, we have failed to recognize problems and to take corrective action before they became serious. The resulting signs of environmental degradation are all around us, and remedial actions heavily tax our resources. This is clearly the time for a conscious national decision to control ocean dumping.

RUSSELL E. TRAIN,
Chairman.
ROBERT CAHN,
GORDON J. MACDONALD.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED MARINE PROTECTION ACT OF 1971

The title of the proposed act is designated as the "Marine Protection Act of 1971."

Section 2, drawing on the report of the Council on Environmental Quality made public by the President October 7, 1970, makes a finding by the Congress that unregulated dumping of material in the oceans, coastal, and other waters endangers human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities. It declares a federal policy of regulating dumping of all types of material in the relevant waters and of vigorously limiting the dumping of material which could have an unfavorable effect.

Section 3 defines certain terms used in the proposal. Subsection 3(a) defines the responsible official for implementation of the legislation as the Administrator of the Environmental Protection Agency (EPA). Subsection 3(b) provides that the proposal applies to the oceans, to gulfs, bays, and other similar salt waters, other coastal areas where the tide ebbs and flows, and to the Great Lakes.

Subsection 3(c) defines material, the transportation for dumping and dumping of which are regulated by the proposal, very broadly as "matter of any kind or description", and then, for illustrative purposes, but without limiting the comprehensive scope of this initial definition, lists specific materials which are included in the general definition. Oil and sewage from vessels, discharges of which are covered by the Federal Water Pollution Control Act, are excluded from the scope of this Act.

Subsection 3(e) defines "person" in such a way that all Federal, State, and foreign governmental organizations, employees, and agents, along with private persons or entities, are included within the prohibition on transportation for dumping or dumping contained in Section 4. Federal organizations, employees, and agents, however, are excepted from the definition of "person" insofar as section 6, providing for penalties, is concerned. Thus, Federal organizations, employees, and agents must comply with the permit and standard-setting provisions of the Act, *i.e.*, they would be required to obtain approval from the Administrator of EPA for the transportation for dumping or the dumping of materials in the relevant waters, but they are not liable for or subject to the penalty provisions.

Subsection 3(f) defines dumping for purposes of the Act as "a disposition of material". Provisos make two important exceptions to this general rule of applicability. The first proviso excepts from the Act's coverage disposition of effluents from any outfall structure or routine discharges of effluents incidental to the propulsion of vessels. Municipal sewage outfalls or industrial waste outfalls come within this priviso. Discharges of effluents other than sewage from outfalls come within the purview of standards set pursuant to the Federal Water Pollution Control Act and also will be subject to the proposed permit program under the Refuse Act (33 U.S.C. § 407). Municipal sewage outfalls also come under the Federal Water Pollution Control Act's standards and also are affected by that Act's assistance programs.

The second proviso could be called the "lobsterpot" proviso. It excepts intentional placement of devices in the relevant waters or on the submerged lands beneath those waters. Several federal departments and agencies place testing, monitoring, sensing, or surveillance devices on the ocean floor. Under this proviso, the placement of such items or their transportation for placement is not within the coverage of the proposal. Private activities similarly not within the proposal would include placing into the ocean and other pertinent waters lobster traps, off-shore drilling platforms, pipelines, or cables. The latter portion of the proviso ensures that any excepted placement of devices does not include placement of material to produce an effect attributable only to the physical presence of the material in the ocean or other relevant waters. Thus, if car bodies or other similar material were placed in the ocean to serve as a shelter for fish, the effect from placing the car bodies would be attributable only to the physical presence of the car bodies in the ocean, and the placement would constitute a dumping for which a permit would be required under the Act.

Special note should also be made of the fact that "dumping" as defined in subsection 3(f) would not include an activity which has as its primary purpose a result other than "a disposition of material" but which involves the incidental depositing of some debris or other material in the relevant waters. For example, material from missiles and debris from gun projectiles and bombs ultimately come to rest in the protected waters. Such activities are not covered by this Act.

Except where the Administrator has issued a permit for such activity, subsection 4(a) of the proposal prohibits transportation of material from the United States for the purpose of dumping it in the oceans, coastal, and other waters. Similarly, except where a permit has been granted, section 4(b) prohibits dumping of material in that part of such waters which is within that territorial jurisdiction of the United States, or in the Contiguous Zone of the United States when the dumping affects the territorial sea or territory of the United States.

Section 5 places authority to grant transportation and dumping permits in the Administration of EPA, provides standards for his use in acting on permit applications, and governs the nature of permits which may be issued.

Section 5(a) allows issuance of a permit where the applicant presents information which indicates that the transportation or dumping or both will not unreasonably degrade or unreasonably endanger human health, welfare, or amenities, or the marine environment, ecological systems or economic potentialities. The Administrator is directed to establish and apply criteria for reviewing and evaluating permit applications. In establishing or revising the criteria, the Administrator is required to consider the likely impact of the proposed dumping along with alternative locations and methods of disposal, including those based on land, the probable impact of using such alternatives on considerations affecting the public interest, and the probable impact of issuing or denying

permits on such considerations. In establishing or revising criteria, the Administrator is directed to consult with the heads of concerned departments and agencies.

Subsection 5(b) authorizes the Administrator to establish and issue various categories of permits. If he deems such a step to be desirable, the Administrator could set different procedures for handling applications in the various categories. Subsection (b)(2) allows the Administrator to require applicants for permits to provide necessary information. The Administrator could require differing amounts and types of information according to category.

Subsections 5(c) and 5(d) set out the requirements which may be incorporated into permits issued under the authority of subsection 5(a). They also allow the Administrator, as he deems appropriate, to state further requirements and actions, such as charges for permits or reporting on actions taken under a permit.

Subsection 5(e) authorizes the Administrator to grant general permits for the transportation for dumping or dumping of quantities and types of materials which he determines will have a minimal effect on the ocean. This provides flexibility to give general permits for certain types of periodic or continuing activities where the amounts dumped are minimal.

Subsection 5(f) authorizes the Administrator to limit or deny the issuance of permits involving specified substances where he finds that the substance cannot be dumped consistently with the provisions of and criteria established under subsection 5(a). In such cases the Administrator may also alter or revoke partially or entirely the terms of existing permits.

Subsection 5(g) allows the Administrator to designate recommended sites for dumping specified materials. This would give guidance to applicants and facilitate the Administrator's implementation of the control programs.

Subsection 5(h) establishes a very limited exemption from the prohibition on transportation for dumping or dumping where no permit has been granted. Such transportation or dumping is not prohibited where it is necessary in an emergency to safeguard human life. In such cases reports of the excepted emergency actions must be made to the Administrator.

Section 6 provides for penalties. Under subsection 6(a) the Administrator could assess a civil penalty recoverable in federal district court, of up to $50,000 for each violation. Subsection 6(b) establishes, in addition, criminal sanctions for knowing and willful violations. The court could assess a fine of up to $50,000 or order imprisonment for a period of up to one year, or both. For those cases where violations are of a continuing nature, and for the purpose of imposing civil penalties and criminal fines but not imprisonment, subsection 6(c) makes each day of such a violation a separate offense. Under the provisions of subsection 6(d), the Attorney General is authorized to seek equitable relief to redress violations. Subsections 6(e) subjects vessels used in violations to in rem liability for any civil penalty assessed or criminal fine imposed. Public vessels within the meaning of subsection 13(a)(3) of the Federal Water Pollution Control Act and other public property of a similar nature would not be subject to the remedy authorized by this provision. Subsection 6(f) adds authority for the Administrator to revoke or suspend a permit issued under subsection 6(a) if the permit's provisions have been violated.

Section 7 deals with the relationship of this legislation to other laws. Generally, except as provided in subsections 7(b) and 7(c), it provides that after the Act's effective date, existing licenses, permits, or authorizations would be terminated to the extent they authorize activity covered by this proposal, and that further licenses, permits, or authorizations of a similar nature could not be issued.

Subsection 7(b) maintains present responsibility and authority contained in the Atomic Energy Act of 1954, and provides that the provisions of Sections 4 and 7(a) of this proposal do not apply to actions taken under that Act. However, the AEC must consult with the Administrator before issuing a permit to conduct any activity otherwise regulated by this proposal. Moreover, the AEC must comply wth the radioactive-material standards set by the Administrator, and the Administrator is directed to consider the policy expressed in subsection 2(b) of this proposal along with the factors stated in subsections 5(a)(1) and 5(a)(2) in setting such standards for the waters covered by this proposal.

Subsection 7(c) relates to authorities contained in the Rivers and Harbors Act of 1899, respecting dredging, filling, harbor works, and maintenance of navigability. The powers are exercised for the most part by the Secretary of the Army and the Chief of Engineers. Except for the limited supersession found in subsection 11(e), the Rivers and Harbors Act authorities are not negated or abrogated, nor are existing licenses or permits issued under the Act terminated. Rather, in situations where this Act and the Act of 1899 both apply to dumping of material in connection with a dredge, fill or other permit issued by the Corps of Engineers, issuance of the permit requires a certification by the Administrator of EPA that the activity is in conformity with this proposal and any regulations issued under it. The Administrator will not issue separate permits in such cases.

After this Act becomes effective, the Department of the Army's permit program under the Refuse Act, which is administered in close cooperation with EPA on all water quality matters, will continue to regulate the disposition of any effluent covered by the Refuse Act from any outfall structure regardless of the waters into which this disposition occurs, in addition to regulating all depositing of material into other navigable waters of the United States not covered by subsection 4(b) of this Act.

Subsection 7(d) provides for consultation by the Administrator of EPA with the Secretary of the Army in cases where the Administrator finds that the proposed activity may affect navigation or create an artificial island on the Outer Continental Shelf.

Subsection 7(e) saves State or local laws from being preempted by this proposal.

Section 8 allows the Administrator to use, by agreement, resources of other federal agencies, on either a reimbursable or nonreimbursable basis. In subsection 8(b) the Administrator is authorized to delegate responsibility for acting on permit applications to an officer of EPA or, by agreement, to the head of other federal departments or agencies, such as the Commandant of the Coast Guard. Subsection 8(c) directs that surveillance, and other appropriate enforcement activity be conducted by the Secretary of the department in which the Coast Guard is operating.

Section 9 gives the Administrator power to issue appropriate regulations in carrying out the responsibilities and authority conferred by the Act.

Section 10 directs the Secretary of State, in consultation with the Administrator, to seek appropriate international action and cooperation to support the policy of this proposal.

Subsections 11(a) and 11(b) repeal the Supervisory Harbors Act of 1888, as amended (33 U.S.C. §§ 441–451b), and the provision of the Rivers and Harbors Act of 1899 (33 U.S.C. § 418) which preserved the Supervisory Harbors Act from supersession by the 1899 Act. The Supervisory Harbors Act provides a special authority to control transit in and from the harbors of New York, Baltimore, and Hampton Roads, Virginia. This authority has been used to regulate ocean dumping. The proposed Act would replace that authority. A portion of the Act of August 5, 1886 (33 U.S.C. § 407a), which pertains to deposits of debris from mines and stamp works, and which is covered by this bill or the Refuse Act, is also repealed. A provision contained in the Rivers and Harbors Act of 1905 (33 U.S.C. § 419), which has been used to buttress the Corps of Engineers' authority to regulate ocean dumping, is superseded, insofar as it authorizes action that would be regulated by this proposal. Lastly, section 13 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 407), commonly known as the Refuse Act, is superseded, but only insofar as it applies to dumping of material in the waters covered by subsection 4(b) of this proposal.

Section 12 provides that this proposal shall take effect six months after its enactment and further saves from being affected by this proposal legal actions begun or rights of action accrued prior to the proposal's effective date.

Section 13 contains an authorization for appropriations to carry out the purposes and administration of the proposal.

A BILL—MARINE PROTECTION ACT OF 1971

To regulate the dumping in the oceans, coastal, and other waters and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That: This Act may be cited as the "Marine Protection Act of 1971."

SECTION 2. FINDING, POLICY, AND PURPOSE

(a) Unregulated dumping of material into the oceans, coastal, and other waters endangers human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities.

(b) Congress declares that it is the policy of the United States to regulate the dumping of all types of material in the oceans, coastal, and other waters and to prevent or vigorously limit the dumping into the oceans, coastal, and other waters of any material which could adversely affect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. To this end, it is the purpose of this Act to regulate the transportation of material from the United States for dumping into the oceans, coastal, and other waters, and the dumping of materials by any person from any source if the dumping occurs in waters over which the United States has jurisdiction.

SECTION 3. DEFINITIONS

For the purposes of this Act the term—

(a) "Administrator" means the Administrator of the Environmental Protection Agency.

(b) "Oceans, coastal, and other waters" means oceans, gulfs, bays, salt-waters, lagoons, salt-water harbors, other coastal waters where the tide ebbs and flows, and the Great Lakes.

(c) "Material" means matter of any kind or description, including, but not limited to, dredge spoil, solid waste, garbage, sewage sludge, munitions, chemical, biological, and radiological warfare agents, radioactive materials, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial waste, *provided*, that it does not mean oil within the meaning of section 11 of the Federal Water Pollution Control Act or sewage from vessels within the meaning of Section 13 of said Act.

(d) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the territories and possessions of the United

States and the Trust Territory of the Pacific Islands.

(e) "Person" means any private person or entity, any employee, agent, department, agency, or instrumentality of any State or local unit of government, or foreign government, and, except as to the provisions of section 6, any employee, agent, department, agency, or instrumentality of the Federal Government.

(f) "Dumping" means a disposition of material, *provided*, that it does not mean a disposition of any effluent from any outfall structure, or a routine discharge of effluent incidental to the propulsion of vessels, and *provided further*, that it does not mean the intentional placement of any device in the oceans, coastal, or other waters or on the submerged land beneath such waters, for the purpose of using such device there to produce an effect attributable to other than its mere physical presence.

(g) "District Court of the United States" includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii, which court shall have jurisdiction over actions arising therein.

SECTION 4. PROHIBITED ACTS

Except as such transportation or dumping or both may be authorized in a permit issued by the Administrator,

(a) No person shall transport material from the United States for the purpose of dumping it into the oceans, coastal, and other waters, and

(b) No person shall dump material (1) in that part of the oceans, coastal, and other waters which is within the territorial jurisdiction of the United States, or, (2) in a zone contiguous to the territorial sea of the United States, extending to a line 12 nautical miles seaward from the base line of the territorial sea as provided in Article 24 of the Convention on the Territorial Sea and the Contiguous Zone, to the extent that it may affect the territorial sea or the territory of the United States.

SECTION 5. PERMITS

(a) The Administrator may issue permits to transport material for dumping into the oceans, coastal, and other waters, or to dump material into the waters described in subsection 4(b), or both, where the applicant presents information respecting the proposed activity which in the judgment of the Administrator indicates that such transportation, or dumping, or both will not unreasonably degrade or unreasonably endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator shall establish and apply criteria for reviewing and evaluating such permit applications, and, in establishing or revising such criteria, shall consider, but not be limited in his consideration to, the following:

(1) the likely impact of the proposed dumping on human health, welfare, and amenities, and on the marine environment, ecological systems, and economic potentialities, including an assessment of—

(A) the possible persistence or permanence of the effects of the proposed dumping,

(B) the volume and concentration of materials involved, and

(C) the location proposed for the dumping.

(2) alternative locations and methods of disposal, including land-based alternatives; the probable impact of requiring the use of such locations or methods of disposal on considerations affecting the public interest; and the probable impact of issuing or denying permits on considerations affecting the public interest.

In establishing or revising such criteria, the Administrator shall consult with the Secretaries of Commerce, Interior, State, Defense, Agriculture, Health, Education and Welfare, and Transportation, the Atomic Energy Commission, and other appropriate Federal, State, and local officials. With respect to such criteria as may affect the civil works program of the Department of the Army, the Administrator shall also consult with the Secretary of the Army. In reviewing applications for permits, the Administrator shall make such provision for consultation with interested Federal and State agencies as he deems useful or necessary. No permit shall be issued for a dumping of material which will violate applicable water quality standards.

(b)(1) The Administrator may establish and issue various categories of permits, including the general permits described in subsection (e).

(2) The Administrator may require an applicant for a permit under subsection (a) to provide such information as the Administrator may consider necessary to review and evaluate such an application.

(c) Permits issued under subsection (a) may designate and include (1) the type of material authorized to be transported for dumping or to be dumped; (2) the amount of material authorized to be transported for dumping or to be dumped; (3) the location where such transport for dumping will be terminated or where such dumping will occur; (4) the length of time for which the permits are valid and their expiration date; and (5) such other matters as the Administrator deems appropriate.

(d) The Administrator may prescribe such processing fees for permits and such reporting requirements for actions taken pursuant to permits issued under subsection (a) as he deems appropriate.

(e) Notwithstanding any other provision of this Act, the Administrator may issue general permits for the transportation for dumping, or dumping, or both, of classes of materials which he determines will have a minimal impact, considering the factors stated in subsection (a).

(f) The Administrator may limit or deny the issuance of permits, or may alter or revoke partially or entirely the terms of permits issued by him under this Act, for the transportation for dumping, or the dumping, or both, of specified material, where he finds that such material cannot be dumped consistently with the criteria established pursuant to subsection (a). No action shall be taken under this subsection unless the affected person or permittee shall have been given notice and opportunity for hearing on such action as proposed.

(g) The Administrator may, considering the criteria established pursuant to subsection (a), designate recommended sites for the dumping of specified materials.

(h) Nothing in this Act shall prohibit any transportation for dumping or dumping of material where such transportation or dumping is necessary, in an emergency, to safeguard human life. Such transportation or dumping shall be reported to the Administrator within such times and under such conditions as he may prescribe by regulation.

SECTION 6. PENALTIES

(a) A person who violates section 4 of this Act, or regulations promulgated under this Act, or a permit issued under this Act by the Administrator shall be liable to a civil penalty of not more than $50,000 for each violation to be assessed by the Administrator. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such violation. Any such civil penalty may be compromised by the Administrator. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation shall be considered by said Administrator. Upon failure of the offending party to pay the penalty, the Administrator may request the Attorney General to commence an action in the appropriate district court of the United States for such relief as may be appropriate.

(b) In addition to any action which may be brought under subsection (a), a person who knowingly and willfully violates section 4 of this Act, regulations promulgated under this Act, or a permit issued under this Act by the Administrator shall be fined not more than $50,000 or imprisoned for not more than one year, or both.

(c) For the purpose of imposing civil penalties and criminal fines under this section, each day of a continuing violation shall constitute a separate offense.

(d) The Attorney General or his delegate may bring actions for equitable relief to redress a violation by any person of this Act, regulations promulgated under this Act, and permits issued under this Act by the Administrator, and the district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

(e) A vessel, except a public vessel within the meaning of subsection 13(a)(3) of the Federal Water Pollution Control Act or other public property of a similar nature, used in a violation shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof, *provided*, that no vessel shall be liable unless it shall appear that the owner was at the time of the violation a consenting party or privy to such violation.

(f) If the provisions of any permit issued under subsection (a) of section 5 are violated, the Administrator may revoke the permit or may suspend the permit for a specified period of time. No permit shall be revoked or suspended unless the permittee shall have been given notice and opportunity for a hearing on such violation and proposed suspension or revocation.

SECTION 7. RELATIONSHIP TO OTHER LAWS

(a) After the effective date of this Act, all licenses, permits, or authorizations which have been issued by any officer or employee of the United States under authority of any other provision of law shall be terminated and of no effect to the extent they authorize any activity regulated by this Act. Thereafter, except as hereafter provided, no license, permit, or authority shall be issued by any officer or employee of the United States other than the Administrator which would authorize any activity regulated by this Act or the regulations issued hereunder.

(b) Nothing in this Act shall abrogate or negate any existing responsibility or authority contained in the Atomic Energy Act of 1954, as amended, and section 4 and subsection 7(a) of this Act shall not apply to any activity regulated by that Act, *provided*, the Atomic Energy Commission shall consult with the Administrator prior to issuing a permit to conduct any activity which would otherwise be regulated by this Act. In issuing any such permit, the Atomic Energy Commission shall comply with standards set by the Administrator respecting limits on radiation exposures or levels, or concentrations or quantities of radioactive material. In setting such standards for application to the oceans, coastal, and other waters, or for specific portions of such waters, the Administrator shall consider the policy expressed in subsection 2(b) of this Act and the factors stated in subsections 5(a)(1) and 5(a)(2) of this Act.

(c)(1) The provisions of subsection (a) shall not apply to actions taken before or after the effective date of this Act under the authority of the Rivers and Harbors Act of 1899.[1]

(2) Except as provided in subsection 11(e),

[1] 33 U.S.C. § 401 et. seq.

nothing in this Act shall be construed as abrogating or negating any existing responsibility or authority contained in the Rivers and Harbors Act of 1899, *provided*, that after the effective date of this Act, no Federal license or permit shall be issued under the authority of the Rivers and Harbors Act of 1899 to conduct any activity otherwise regulated by section 4 of this Act and the regulations issued hereunder, unless the Administrator has certified that the activity proposed to be conducted is in conformity with the provisions of this Act and with the regulations issued hereunder.

(3) Where a license or permit to conduct an activity has been granted under the authority of subsections (c)(1) and (c)(2) of this section and of the Rivers and Harbors Act of 1899, no separate permit to conduct such activity shall be required under this Act.

(d) Prior to issuing any permit under this Act, where it appears to the Administrator that the disposition of the material to be transported for dumping or to be dumped may affect navigation in the navigable waters of the United States or may create an artificial island on the Outer Continental Shelf, the Administrator shall consult with the Secretary of the Army and no permit shall be issued if the Secretary of the Army determines that navigation will be unreasonably impaired.

(e) Nothing in this Act shall be construed as preempting any State, Federal Territory or Commonwealth, or subdivision thereof from imposing any requirement or liability.

SECTION 8. ENFORCEMENT

(a) The Administrator may, whenever appropriate, utilize by agreement, the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis.

(b) The Administrator may delegate responsibility and authority for reviewing and evaluating permit applications, including the decision as to whether a permit will be issued, to an officer of the Environmental Protection Agency, or he may delegate, by agreement, such responsibility and authority to the heads of other Federal departments or agencies, whether on a reimbursable or nonreimbursable basis.

(c) The Secretary of the department in which the Coast Guard is operating shall conduct surveillance and other appropriate enforcement activity to prevent unlawful transportation of material for dumping or dumping.

SECTION 9. REGULATIONS

In carrying out the responsibilities and authority conferred by this Act, the Administrator is authorized to issue such regulations as he may deem appropriate.

SECTION 10. INTERNATIONAL COOPERATION

The Secretary of State, in consultation with the Administrator, shall seek effective international action and cooperation to ensure protection of the marine environment, and may for this purpose, formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations in support of the policy of this Act.

SECTION 11. REPEAL AND SUPERSESSION

(a) The second proviso to the last paragraph of section 20 of the Act of March 3, 1899 (30 Stat. 1154), as amended,[2] is repealed.

(b) Sections 1, 2, 3, 4, 5, 6, and 7 of the Act of June 29, 1888 (25 Stat. 209), as amended,[3] are repealed.

(c) Section 2 of the Act of August 5, 1886 (24 Stat. 329),[4] is repealed.

(d) To the extent that it authorizes action regulated by this Act, section 4 of the Act of March 3, 1905 (33 Stat. 1147),[5] is superseded.

(e) Section 13 of the Rivers and Harbors Act of 1899 (30 Stat. 1152), as amended,[6] is superseded insofar as it applies to dumping, as defined in subsection 3(f) of this Act, of material in the waters covered by subsection 4(b) of this Act.

SECTION 12. EFFECTIVE DATE AND SAVINGS PROVISION

(a) This Act shall take effect six months after its enactment.

(b) No legal action begun, or right of action accrued, prior to the effective date of this Act shall be affected by any provision of this Act.

SECTION 13. AUTHORIZATION FOR APPROPRIATIONS

There is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the purposes and administration of this Act.

Mr. COOPER. Mr. President, last year the President recommended to Congress the establishment of an Environmental Financing Authority to be administered by the Secretary of the Treasury to provide a market for the revenue bonds of municipalities otherwise unable to generate the financial capability necessary to match the Federal share of waste treatment works construction under section 8 of the Federal Water Pollution Control Act of 1965. The President has again recommended the establishment of this financing institution.

Mr. President, we are all aware of the difficulties in providing revenues for essential domestic purposes. Money is, perhaps, the most serious obstacle in the path of the adequate control of water pollution. The President's proposal to make available to States and municipalities the marketing power of the Federal Government could be tremendously helpful.

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

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

SECTION-BY-SECTION SUMMARY OF THE ENVIRONMENTAL FINANCING ACT OF 1971

Section 1. This section provides for the Act to be cited as the "Environmental Financing Act of 1971."

Section 2. Creation of Authority. This section establishes the Environmental Financing Authority as an instrumentality of the United States subject to the general supervision and direction of the Secretary of the Treasury and authorizes the Authority to establish offices to conduct its business.

Section 3. Purpose. This section states that the purpose of the Act is to assure that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out a waste treatment works project eligible for financial assistance under the Federal Water Pollution Control Act.

Section 4. Board of Directors. This section provides a five-member Board of Directors consisting of the Secretary of the Treasury or his designee as Chairman and four others appointed by the President from the officers or employees of the Authority or of any Federal agency. The Board would meet at the call of the Chairman and would determine the general policies of the Authority. The Chairman would appoint the officers of the Authority.

Section 5. Functions. This section authorizes the Authority to purchase obligations issued by State and local public bodies to finance the non-Federal share of the cost of a waste treatment construction project. No purchase could be made unless the Administrator of the Environmental Protection Agency has certified that the seller is unable to obtain sufficient credit on reasonable terms, has approved the project as eligible under the Federal Water Pollution Control Act, and has agreed to guarantee principal and interest payments on the obligation. No purchase could be made of obligations issued to finance projects the permanent financing of which occurred prior to this Act. Interest rates on such purchases would be determined by the Secretary of the Treasury taking into consideration (i) current market yields on obligations of comparable maturity issued by the Treasury or the Authority and (ii) market yields on municipal bonds. The Authority would charge fees to cover expenses and to accumulate reasonable reserves, and such fees would be included in project costs.

Section 6. Initial Capital. This section authorizes appropriations to the Secretary of the Treasury to advance up to $100 million for initial capital to the Authority. The interest rate on advances would be not less than a rate determined by the Secretary of the Treasury taking into consideration current market yields on Treasury obligations. Interest payments could be deferred at the discretion of the Treasury.

Section 7. Obligations of the Authority. This section authorizes the Authority, with the approval of the Secretary of the Treasury, to issue its own obligations in the market. The Secretary of the Treasury could purchase such obligations, as authorized in appropriations acts. Purchases by the Secretary would be public debt transactions and would be at interest rates determined by him taking into consideration current market yields on outstanding Treasury obligations of comparable maturities.

Section 8. Federal Payment to the Authority. This section directs the Secretary of the Treasury to make annual payments to the Authority in the amount by which the Authority's interest expense exceeds its interest income.

Section 9. General Powers. This section provides the Authority with general corporate powers.

Section 10. Tax Exemption. This section generally exempts the Authority and its income from all taxes except real and personal property taxes and taxes on the principal or interest on obligations issued by the Authority, which would be taxed to the same extent as obligations of private corporations.

Section 11. Obligations as Lawful Investments, Acceptance as Security. This section makes obligations issued by the Authority lawful investments, acceptable as security for all fiduciary, trust, and public funds, and exempt from SEC requirements.

Section 12. Preparation of Obligations. This section authorizes the Secretary of the Treasury to prepare, hold, and deliver obligations for the Authority on a reimbursable basis.

Section 13. Annual Report. This section requires the Authority to transmit to the President and Congress an annual report of its operations and activities.

Section 14. Obligations Eligible for Purchase by National Banks. This section permits national banks to invest in or deal in obligations of the Authority.

Section 15. Government Corporation Control Act. This section subjects the Authority to the budget and audit provisions of the Government Corporation Control Act in the same manner as they are applied to a wholly-owned Government corporation.

---

[2] 33 U.S.C. § 418.
[3] 33 U.S.C. §§ 441–451b.
[4] 33 U.S.C. § 407a.
[5] 33 U.S.C. § 419.
[6] 33 U.S.C. § 407.

Section 16. Permanent Appropriation for Federal Payment to Authority. This section provides a permanent indefinite appropriation to permit the Secretary of the Treasury to make interest payments to the Authority as required by section 8.

Section 17. Separability. This section makes the provisions and validity of the Act separable if any of the provisions is held invalid.

S. —

A bill to establish an Environmental Financing Authority to assist in the financing of waste treatment facilities, and for other purposes

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 "Environmental Financing Act of 1971".

CREATION OF AUTHORITY

SEC. 2. There is hereby created a body corporate to be known as the Environmental Financing Authority, which shall have succession until dissolved by Act of Congress. The Authority shall be subject to the general supervision and direction of the Secretary of the Treasury. The authority shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

PURPOSE

SEC. 3. The purpose of this Act is to assure that inability to borrow necessary funds on reasonable terms does not prevent any State or local public body from carrying out any project for construction of waste treatment works determined eligible for assistance pursuant to section 5 of this Act.

BOARD OF DIRECTORS

SEC. 4. (a) The Authority shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury or his designee as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Authority or of any department or agency of the United States Government.

(b) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Authority. The Chairman of the Board shall select and effect the appointment of qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Authority and shall discharge all such executive functions, powers, and duties. The members of the Board, as such, shall not receive compensation for their services.

FUNCTIONS

SEC. 5. (a) The Authority is authorized to make commitments to purchase and to purchase on terms and conditions determined by the Authority, any obligation or participation therein which is issued by a State or local public body to finance the non-Federal share of the cost of any project for the construction of waste treatment works which the Administrator of the Environmental Protection Agency has determined to be eligible for Federal financial assistance under the Federal Water Pollution Control Act (33 U.S.C. 466).

(b) No commitment shall be entered into, and no purchase shall be made, unless the Administrator of the Environmental Protection Agency (1) has certified that the public body is unable to obtain on reasonable terms sufficient credit to finance its actual needs; (2) has approved the project as eligible under the Federal Water Pollution Control Act (33 U.S.C. 466); and (3) has agreed to guarantee timely payment of principal and interest on the obligation. The Administrator is authorized to guarantee such timely payments and to issue regulations as he deems necessary and proper to protect such guarantees. Appropriations are hereby authorized to be made to the Administrator in such sums as are necessary to make payments under such guarantees, and such payments are authorized to be made from such appropriations or from any other available funds.

(c) No purchase shall be made of obligations issued to finance projects, the permanent financing of which occurred prior to the enactment of this Act.

(d) Any purchase by the Authority shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury taking into consideration (i) the current average yield on outstanding marketable obligations of the United States of comparable maturity or in its stead whenever the Authority has sufficient of its own long-term obligations outstanding, the current average yield on outstanding obligations of the Authority of comparable maturity; and (ii) the market yields on municipal bonds.

(e) The Authority is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves and such fees shall be included in the aggregate project costs.

INITIAL CAPITAL

SEC. 6. To provide initial capital to the Authority, the Secretary of the Treasury is authorized to advance the funds necessary for this purpose. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this section without fiscal year limitation.

OBLIGATIONS OF THE AUTHORITY

SEC. 7. (a) The Authority is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Authority. Such obligations may be redeemable at the option of the Authority before maturity in such manner as may be stipulated therein.

(b) As authorized in appropriation Acts, and such authorizations may be without fiscal year limitation, the Secretary of the Treasury may in his discretion purchase or agree to purchase any obligations issued pursuant to subsection (a) of this section, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force, are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

FEDERAL PAYMENT TO THE AUTHORITY

SEC. 8. The Secretary of the Treasury is authorized and directed to make annual payments to the Authority in such amounts as are necessary to equal the amount by which the dollar amount of interest expense accrued by the Authority on account of its obligations exceeds the dollar amount of interest income accrued by the Authority on account of obligations purchased by it pursuant to section 5 of this Act.

GENERAL POWERS

SEC. 9. The Authority shall have power—

(a) to sue and be sued, complain and defend, in its corporate name;

(b) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(c) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(d) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this Act in any State without regard to any qualification or similar statute in any State;

(e) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(f) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Authority;

(g) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(h) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof; and

(i) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

TAX EXEMPTION

SEC. 10. The Authority, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (1) any real property and any tangible personal property of the Authority shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (2) any and all obligations issued by the Authority shall be subject both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

OBLIGATION AS LAWFUL INVESTMENTS, ACCEPTANCE AS SECURITY

SEC. 11. All obligations issued by the Authority shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the Authority pursuant to this Act shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are issued by the United States.

PREPARATION OF OBLIGATIONS

SEC. 12. In order to furnish obligations for delivery by the Authority, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Authority may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Authority. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Authority shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

ANNUAL REPORT

SEC. 13. The Authority shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

OBLIGATIONS ELIGIBLE FOR PURCHASE BY NATIONAL BANKS

SEC. 14. The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations of the Environmental Financing Authority" immediately after "or obligations, participations or other instruments of or issued by the Federal Mortgage Association or the Government National Mortgage Association."

GOVERNMENT CORPORATION CONTROL ACT

SEC. 15. The budget and audit provisions of the Government Corporation Control Act (31 U.S.C. 846) shall be applicable to the Environmental Financing Authority in the same manner as they are applied to the wholly owned Government corporations.

PERMANENT APPROPRIATION FOR FEDERAL PAYMENT TO AUTHORITY

SEC. 16. Section 3689 of the Revised Statutes, as amended (31 U.S.C. 711), is further amended by adding a new paragraph following the last paragraph appropriating moneys for the purposes under the Treasury Department to read as follows:

"Payment to the Environmental Financing Authority: For payment to the Environmental Financing Authority under section 8 of the Environmental Financing Act of 1971."

SEPARABILITY

SEC. 17. If any provision of this Act or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected.

Mr. COOPER. Mr. President, the Committee on Public Works last year was responsible for the enactment of title IV of the Clean Air Amendments of 1970, which authorized a study of noise pollution and established the beginning of a regulatory program in the Environmental Protection Agency.

The President has transmitted to Congress, as part of his environmental message, a bill which would establish a comprehensive noise control program administered by the Environmental Protection Agency. The bill would authorize the Administrator to a. issue criteria on the technology of noise pollution control; b. identify major sources of noise pollution; and c. establish standards for the generation of noise from such sources. The bill would also authorize the Administrator to approve standards controlling noise emissions from aircraft; a program which has been administered exclusively by the Federal Aviation Agency. The Administrator would also be required to establish labelling requirements for products producing noise as designated by the Environmental Protection Agency. The bill would also provide necessary correlative enforcement authority.

The din surrounding all of us who reside in metropolitan communities is reaching the point of intolerability. The President recognizes the grave problem and is proposing a regulatory plan which will begin to restore peace and quiet to our urban and rural life.

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

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

PROPOSED NOISE CONTROL ACT OF 1971
SECTION-BY-SECTION ANALYSIS

The title of the proposed act is designated as "The Noise Control Act of 1971."

Section 2 contains a statement of congressional findings and policy. Subsection 2(a) states findings that noise, particularly in urban areas, presents a growing danger to the public health and welfare; that the major sources of noise include a variety of manufactured articles that move in commerce; and that the Federal Government bears a responsibility to deal with major noise problems requiring national uniformity of treatment. Subsection 2(b) declares a Federal policy to promote an environment for all Americans free from noise that jeopardizes their health or welfare. This subsection further states that the purpose of the proposed act is to establish a means for effective coordination of Federal noise programs, to supplement existing Federal authority for regulation of the noise characteristics of articles moving in commerce, and to authorize Federal noise labeling requirements for such articles. The Act is not intended to relieve States and localities of their responsibilities to control other aspects of noise within their jurisdictions.

Section 3 defines certain terms used in the proposal. Subsection 3(a) defines the official primarily responsible for implementing the legislation as the Administrator of the Environmental Protection Agency (EPA). Subsection 3(b) defines "person" in such a way that all Federal, State, or local governmental organizations, employees, and agents, along with private persons or entities, are included within the enforcement provisions of section 12. However, Federal organizations, employees, and agents are excepted from the definition of "person" insofar as subsection 12(a), providing for civil penalties, is concerned. Thus, Federal organizations, employees, and agents must comply with the prohibitions of section 8, but they are not liable for or subject to the civil penalties authorized in subsection 12(a).

Subsection 3(c) defines "product" to include any article or good manufactured for sale in, or introduction into, commerce with three general exclusions. "Product" does not include aircraft or aircraft components that are covered by Title VI of the Federal Aviation Act of 1958. The noise characteristics of these aircraft and aircraft components are already subject to regulation under that Act, which will continue in effect subject to the amendments made by section 6 of the proposed legislation, discussed below.

"Product" also excludes any article that, although otherwise within the broad definition, is designed for military combat use. National security requires that the responsible authorities be free to determine to what extent noise control objectives must be subordinated to military necessities in the use of such articles. Therefore, they are excluded from the definition of "product" to exempt them entirely from the standard-setting and labeling provisions of sections 6 and 7 without regard to the exercise by the Administrator of his power under section 8(b)(1), discussed below, to grant specific exemptions for national security reasons. The policy of the proposed legislation will, however, dictate that all feasible steps be taken to improve the noise characteristics of even these articles. "Product" also excludes equipment designed for use in experimental work done by or for the National Aeronautics and Space Administration or other agencies of the Federal Government.

Subsection 3(d) defines "ultimate purchaser" to be the first person who purchases a new product for a use other than resale. This excludes both those intermediaries who may handle the product before sale to the first user, and subsequent users who may obtain the product second-hand. Subsection 3(e) defines "new product" to mean a product the title to which has not yet been transferred to an ultimate purchaser.

Subsection 3(f) defines "manufacturer" to include any person who manufactures or assembles new products or who acts on behalf of such a person in the distribution of new products. "Commerce" is defined in subsection 3(g) to include all forms of interchange involving two or more States, or a State and a place outside thereof the District of Columbia or a possession of the United States.

Section 4 entrusts to the Administrator of EPA the primary responsibility for promoting coordination of Federal programs relating to noise. To assist him in exercising this responsibility, subsection 4(a) directs each other Federal agency to furnish him with any information he may reasonably request about the agency's noise programs.

Subsection 4(b) directs the Administrator, on the basis of consultation with appropriate Federal agencies, to publish a periodic report covering the noise-related activities of all Federal agencies. It is intended that this report will provide a means for assessing the overall progress of Federal noise control efforts.

Section 5 gives the Administrator of EPA responsibility to develop and publish basic documents on noise and its control. Subsections 5(a) directs him to develop criteria for noise, taking into account up-to-date scientific knowledge on noise effects. These criteria should make clear what quantities and qualities of noise are consistent with protection of public health and welfare under differing circumstances. The Administrator is directed to seek consistency between these criteria and the criteria and standards for occupational noise exposure produced by the Secretaries of Health, Education, and Welfare and Labor under the Occupational Safety and Health Act of 1970.

Subsection 5(b) directs the Administrator, after initial publication of criteria under subsection 5(a), to publish one or more reports identifying major sources of noise and discussing techniques for controlling noise from such sources. It is not intended that any single report published under subsection 5(b) must cover all or most major noise sources. Rather, as information becomes available, the Administrator may publish individual reports identifying one or more major sources and outlining the noise control technology applicable to each identified source. Subsection 5(c) directs the Administrator to review and, when appropriate, revise both the criteria and the control technology documents published under section 5, to ensure that these reflect changes in available knowledge. Subsection 5(d) requires announcement of each publication or revision of criteria or control technology documents in the Federal Register and release of copies to the public. This provision is intended to ensure adequate public knowledge of the content of these publications.

Subsection 6(a) authorizes the Administrator of EPA to prescribe noise standards for construction equipment, transportation

equipment, and equipment powered by internal combustion engines that he has identified as a major source of noise and for which he has discussed control technology in a report published pursuant to section 5. When the Administrator determines to impose standards, subsection 6(a) requires that they be set at the level required, in light of the published criteria, to protect health and welfare, taking into account the feasibility of such a level of control and the appropriateness of Federal regulation. Standards under subsection 6(a) shall not apply to products manufactured on or before the effective date of the standards. Subsection 6(b) alters the procedures under the Administrative Procedure Act by granting a manufacturer the right to a public hearing on proposed standards that would cover his products.

Subsection 6(c) amends section 611 of the Federal Aviation Act, which authorizes regulation of the noise characteristics of civil aircraft and aircraft components. Subsection 6(c) provides that standards, rules, and regulations prescribed by the Federal Aviation Administration under section 611 must be approved by the Administrator of EPA, and that such standards, rules, and regulations become effective only upon such approval. However, subsection 6(c) contains a saving clause which allows all standards, rules, and regulations prescribed under section 611 prior to the effective date of the proposed legislation to continue in effect until superseded by new standards, rules, or regulations prescribed in accordance with the proposed legislation.

Subsection 6(c) further provides that after the effective date of the proposed act the Federal Aviation Administrator shall not issue a type certificate for any aircraft unless he has already prescribed standards, rules, and regulations governing the noise characteristics of that aircraft. This requirement also applies to any aircraft engine, propeller, or appliance that affects significantly the noise characteristics of any aircraft in which it is to be used. This provision will ensure that in the future the noise characteristics of any new aircraft or aircraft component will be ascertained and controlled prior to its introduction into air commerce or air transportation.

Subsection 6(c) further provides that if the Administrator of EPA has reason to believe that an existing standard, rule, or regulation prescribed under 611 of the Federal Aviation Act inadequately protects the public from noise, he may request the Federal Aviation Administrator to review the standard, rule, or regulation and report to him on the advisability of revising it. Any such request must be accompanied by a detailed statement of the reasons therefor. The Administrator of EPA may invoke this provision with respect to a standard, rule, or regulation prescribed before or after the effective date of the proposed act.

Subsection 6(d) provides that when the Administrator of EPA has prescribed standards for any product under subsection 6(a), no State or subdivision thereof shall adopt or enforce noise standards for that product different from the standards set by him. Nothing in section 6 preempts any existing powers of the States or localities to set noise standards for products for which the Administrator has not yet set standards under the proposed act, to set State standards identical to standards set by the Administrator for the same product, or to regulate the use, operation, or movement of products.

Section 7 authorizes Federal noise labeling requirements for products in commerce. Subsection 7(a) authorizes the Administrator of EPA to designate classes of products that either produce noise capable of adversely affecting the public health or welfare, or are sold at least in part on the basis of their effectiveness in reducing noise. These products need not be limited to those for which noise standards have been set under section 6 or which have been discussed in a control technology document under section 5. Subsection 7(b) authorizes the Administrator to prescribe a noise-generation or noise-reduction labeling requirement for any product designated under subsection 7(a). To assure that such notices are informative and useful in facilitating choices by buyers in the marketplace, the Administrator is directed to prescribe the form of the notice and the methods and units of measurement used in its preparation. Subsection 7(c) leaves intact any existing powers of the States to regulate product labeling, except that such regulation may not conflict with regulations promulgated by the Administrator under section 7.

Subsection 8(a) prohibits a number of acts in violation of the proposed legislation. Paragraph 8(a)(1) forbids any manufacturer to sell a product manufactured after the effective date of noise-generation standards prescribed under subsection 6(a) that apply to the product, unless the product conforms with such standards. Paragraph 8(a)(2) forbids any person who owns or operates a product to use it in commerce after the effective date of noise-generation standards prescribed under subsection 6(a) that apply to it, unless the product conforms with such standards. Paragraph 8(a)(3) forbids any person to remove or render inoperative, other than for maintenance, repair, or replacement, any device or element of design incorporated into a product to make the product comply with noise-generation standards prescribed under subsection 6(a). This proscription applies both prior to sale of the product to the ultimate purchaser and during its term of use.

Paragraph 8(a)(4) forbids any manufacturer to sell a product manufactured after the effective date of labeling regulations promulgated under section 7 that apply to the product, unless the product conforms to such regulations. Paragraph 8(a)(5) forbids any person, prior to sale of a product to the ultimate purchaser, to remove a notice affixed to the product or its container pursuant to regulations promulgated under section 7. Paragraph 8(a)(6) forbids the importation into the United States of any products in violation of regulations under section 13, discussed below, relating to imports. Paragraph 8(a)(7) forbids any person to fail to comply with the provisions of section 9, discussed below, respecting access to required records and reports.

Subsection 8(b) creates two exceptions to the prohibitions in paragraphs 8(a)(1), (2), (4), and (6). First, the Administrator is authorized to exempt any new product from those prohibitions, upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security. Second, subsection 8(b) provides that a product produced solely for export, and visibly labeled or tagged to that effect, is exempted from the prohibitions of paragraphs 8(a)(1), (2) and (4).

Section 9 requires every manufacturer of a product covered by noise regulation or labeling regulations under subsection 6(a) or section 7 to maintain such records, make such reports, and provide such information as the Administrator may reasonably require to enable him to determine whether the manufacturer has acted or is acting in compliance with the proposed act. This may include the availability of products coming off the assembly line for testing by the Administrator. The manufacturer shall, on request, permit a representative of the Administrator to view and copy such records. Any information obtained by the Administrator or his representatives pursuant to section 9, if it contains or relates to a matter referred to as confidential in section 1905 of title 18 of the United States Code, shall be protected from disclosure as provided in that section, except that it may be disclosed to other Federal employees or when relevant in any proceeding under the proposed act. Disclosure to other Federal employees or in a proceeding under the proposed act will not terminate the confidential status of the information.

Section 10 authorizes and directs all Federal agencies to administer the programs within their control in such a manner as to further the policy of the proposed Act, to the fullest extent consistent with the agencies' existing authority.

Section 11 authorizes the Administrator of EPA, in furtherance of his responsibilities under the proposed act, to conduct and assist noise research, to provide technical assistance to State and local governments, and to disseminate to the public information on noise. The enumeration in section 11 of particular activities within these categories is not intended to exclude other activities but only to stress the importance of those enumerated. However, it is not intended that the activities of the Administrator under section 11 will duplicate activities carried on in other agencies.

Section 12 provides for enforcement of the prohibitions in subsection 8(a) of the proposed act. Subsection 12(a) establishes a civil penalty of not more than $25,000 for each violation of subsection 8(a), and provides for imposition of this fine either by the Administrator or by a court in a proceeding authorized by subsection 12(b) or (c), discussed below. Subsection 12(a) further provides that in any administrative proceeding for imposition of such a civil penalty by the Administrator the person charged must be given notice and an opportunity for a hearing, and the Administrator must, in determining the penalty or the amount accepted in compromise, consider the gravity of the violation and the efforts of the person charged to achieve rapid compliance after notice of the violation. If the offending party fails to pay any penalty assessed, the Administrator may request the Attorney General to sue in the appropriate district court for appropriate relief. For the purpose of imposing cumulative penalties, the commission of any act prohibited by paragraph 8(a)(1), (2), (3), (4), (5), or (6) will be a separate violation for each day or product involved. For example, sale of 10 identical products in violation of noise-generation or labeling regulations would constitute 10 violations, punishable by a maximum cumulative fine of $250,000.

Subsection 12(b) gives jurisdiction to the Federal district courts to entertain actions brought by and in the name of the United States to restrain violations of the proposed act or to enforce civil penalties authorized by it. This provision will allow the Administrator of EPA, by recommending that the Attorney General bring suit, to seek equitable relief or judicial imposition of a civil penalty, or both, as an alternative to the administratively imposed fine also authorized by section 12.

Section 12(c) enables the Administrator to enlist the aid of State or local governments in the enforcement of the proposed act. While neither the executive nor the judicial bodies of any State will be required to participate, they may do so where this is authorized by State law and also by the Administrator of EPA in an agreement with the appropriate State authorities. Under this provision the Administrator may authorize State personnel to sue in State court both to restrain violations and to impose civil penalties; he may not authorize State personnel to impose fines administratively. Any civil penalty imposed under the proposed act by a State court in a suit under subsection 12(c) will be payable one-half to the appropriate State authorities and one-half to the United States Treasury.

S. —

A bill to control the generation and transmission of noise detrimental to the human environment, and for other purposes

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 "Noise Control Act of 1971".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds—

(1) that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's population, particularly in urban areas;

(2) that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other manufactured articles that move in commerce; and

(3) that, while primary responsibility for control of noise rests in many respects with the States and local governments, Federal action is essential to deal with major noise problems requiring national uniformity of treatment.

(b) The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of Federal research and activities in noise control, to supplement existing Federal authority for regulation of the noise characteristics of articles moving in commerce, and to authorize Federal noise labeling requirements for such articles. Nothing in this Act is intended to diminish the responsibilities of State and local governments to regulate other aspects of noise within their jurisdictions.

DEFINITIONS

SEC. 3. As used in this Act the term—

(a) "Administrator" means the Administrator of the Environmental Protection Agency;

(b) "person" means any private person or entity, any officer, department, agency, or instrumentality of any State or local unit of government, and, except with respect to the provisions of section 12(a), any officer, department, agency, or instrumentality of the Federal Government;

(c) "product" means any article or goods manufactured for sale in, or introduction into, commerce, including but not limited to transportation vehicles and equipment, machinery, and appliances, *provided,* that it does not include (i) aircraft, aircraft engines, propellers, or appliances that are covered by title VI of the Federal Aviation Act of 1958 (49 U.S.C. Secs. 1421–32), (ii) those military aircraft, weapons, or equipment that are designed for combat use; or (iii) those aircraft, rockets, or equipment that are designed for research or experimental or developmental work to be performed by the National Aeronautics and Space Administration, or other machinery or equipment designed for use in experimental work done by or for the Federal Government;

(d) "ultimate purchaser" means the first person who in good faith purchases a new product for purposes other than resale;

(e) "new product" means a product the equitable or legal title to which has never been transferred to an ultimate purchaser;

(f) "manufacturer" means any person engaged in the manufacturing or assembling of new products or who acts for, and is controlled by, any such person in connection with the distribution of such products;

(g) "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a place in a State and any place outside thereof, or within the District of Columbia or a possession of the United States, or between points in the same State but through a point outside thereof.

COORDINATION AND EVALUATION OF FEDERAL PROGRAMS

SEC. 4. (a) The Administrator shall promote coordination of the programs of all Federal departments and agencies relating to noise research and noise control. Each Federal department or agency shall, upon request, furnish to the Administrator such information as he may reasonably require to determine the nature, scope, and results of the noise-research and noise-control programs of the department or agency.

(b) On the basis of regular consultation with appropriate Federal departments and agencies, the Administrator shall compile and publish, from time to time, a report on the status and progress of Federal activities relating to noise research and noise control. This report shall describe the noise programs of each Federal department or agency and assess the contributions of those programs to the Government's overall efforts to control noise.

NOISE CRITERIA AND CONTROL TECHNOLOGY

SEC. 5. (a) The Administrator shall, after consultation with appropriate Federal departments and agencies, develop and publish such criteria for noise as in his judgment may be requisite for the protection of the public health and welfare. Such criteria shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing quantities and qualities of noise. The Administrator shall confer with the Secretaries of Health, Education, and Welfare, and of Labor to assure consistency between the criteria published under this subsection and the criteria and standards for occupational noise exposure produced under the Occupational Safety and Health Act of 1970.

(b) The Administrator shall, after publication of the initial criteria pursuant to subsection (a) of this section and after consultation with appropriate Federal departments and agencies, compile and publish a report or series of reports identifying major sources of noise and giving information on techniques for control of noise from such sources. This information shall include such data as are available on the technology, costs, and alternative methods of noise control.

(c) The Administrator shall from time to time review and, as appropriate, revise or supplement any criteria or information on control techniques published pursuant to this section.

(d) The publication or revision of any criteria or information on control techniques pursuant to this section shall be announced in the Federal Register, and copies shall be made available to the general public.

NOISE-GENERATION STANDARDS

SEC. 6. (a) If the Administrator, in a report published pursuant to section 5, identifies as a major source of noise any product or class of products of one or more of the following types:

(1) construction equipment,

(2) transportation equipment (including recreational vehicles and related equipment), or

(3) equipment powered by internal combustion engines,

he may, after consultation to the extent desirable with appropriate Federal departments and agencies, by regulation prescribe and amend standards limiting the noise-generation characteristics (including reasonable durability over the life of the product) of such product or class of products. The standards so prescribed shall be the standards that the Administrator determines, consistent with criteria published pursuant to section 5, to be requisite to protect the public health and welfare. In prescribing and amending such standards the Administrator shall consider whether any proposed standard is economically reasonable, technologically practicable, and appropriate for the particular products to which it will apply, and whether the particular products can more effectively be controlled through Federal regulation of interstate commerce or through State or local regulations. *Provided,* that no standards prescribed under this section shall apply to products manufactured on or before the effective date of such standards.

(b) The Administrator shall publish any standards proposed under subsection (a) in the Federal Register at least 60 days prior to the time when such standards shall take effect. In addition to submissions of written views, any person who will be adversely affected by such proposed regulation may, within 45 days of the date of publication of the proposed regulation, or within such other time period as the Administrator may prescribe, file objections with the Administrator and request a public hearing. Requests for a public hearing made by a manufacturer of a product covered by the proposed standards shall be granted. Requests for a public hearing by other persons may be granted at the discretion of the Administrator. If a public hearing is held, final regulations will not be promulgated by the Administrator until after the conclusion of such hearing.

(c) Section 611 of the Federal Aviation Act of 1958 (49 U.S.C. Sec. 1431) is amended as follows:

(1) In subsection (a), after "with the Secretary of Transportation", insert "and subject to the approval of the Administrator of the Environmental Protection Agency".

(2) At the end of subsection (a), insert "Standards, rules, and regulations prescribed and amended under this section shall become effective only upon approval by the Administrator of the Environmental Protection Agency; *provided,* that, all standards, rules, and regulations prescribed pursuant to this section prior to the effective date of the Noise Control Act of 1971 shall remain in effect until amended or revoked by subsequent standards, rules, or regulations prescribed and approved pursuant to this section."

(3) After subsection (a), insert the following new subsections:

"(b) The Administrator of the Federal Aviation Administration shall not issue a type certificate under section 603 of this act for any aircraft, or for any aircraft engine, propeller, or appliance that affects significantly the noise or sonic boom characteristics of any aircraft, unless he shall have prescribed standards, rules, and regulations under this section that apply to such aircraft, aircraft engine, propeller, or appliance.

"(c) If at any time the Administrator of the Environmental Protection Agency has reason to believe that an existing standard, rule, or regulation under this section does not protect the public from aircraft noise or sonic boom to the maximum extent that is consistent with the considerations listed in subsection (d) of this section, he may request the Administrator of the Federal Aviation Administration to review and report to him on the advisability of revising such standard, rule, or regulation. Any such request shall be accompanied by a detailed statement of the information on which it is based."

(4) Subsections (b) and (c) are redesignated as (d) and (e).

(d) No State of subdivision thereof shall adopt or enforce, with respect to any product for which noise-generation standards have been prescribed by the Administrator under subsection (a) of this section, any standard limiting noise-generation characteristics different from the standards prescribed by the Administrator. Nothing in this section shall diminish or enhance the rights of any State or subdivision thereof otherwise to control, regulate, or restrict the use, operation, or movement of such products.

LABELING

SEC. 7. (a) The Administrator may by regulation designate products or classes thereof:

(1) that produce noise capable of adversely affecting the public health or welfare; or

(2) that are sold wholly or in part on the basis of their effectiveness in reducing noise.

(b) For each of such products or classes the Administrator may, after consultation to the extent desirable with appropriate Federal departments and agencies, by regulation require that a notice of the actual level of noise generation, or notice of the actual effectiveness in reducing noise, be affixed to the product and to the outside of its container at the time of its sale to the ultimate purchaser. He shall prescribe the form of the notice and the methods and units of measurement to be used for this purpose.

(c) Nothing in this section shall preclude or deny to any State or subdivision thereof the right to regulate product labeling in any way not in conflict with regulations promulgated by the Administrator under this section.

PROHIBITED ACTS

SEC. 8. (a) The following acts or the causing thereof are prohibited:

(1) in the case of a manufacturer of new products, the sale, the offering for sale, or the introduction or delivery for introduction into commerce of any product manufactured after the effective date of regulations promulgated under section 6(a) (respecting noise-generation characteristics) that are applicable to such product, unless it is in conformity with such regulations (except as provided in subsection (b) of this section);

(2) in the case of an owner or operator of a product, the use in commerce of such product after the effective date of regulations promulgated under section 6(a) that are applicable to such product, unless it is in conformity with such regulations (except as provided in subsection (b) of this section);

(3) the removal or rendering inoperative by any person, other than for purposes of maintenance, repair, or replacement, of any device or element of design incorporated into any product in compliance with regulations promulgated under section 6(a), prior to its sale or delivery to the ultimate purchaser or during its term of use.

(4) in the case of a manufacturer of new products, the sale, the offering for sale, or the introduction or delivery for introduction into commerce of any product manufactured after the effective date of regulations promulgated under section 7 (respecting noise labeling) that are applicable to such product, unless it is in conformity with such regulations (except as provided in subsection (b) of this section);

(5) the removal by any person of any notice affixed to a product or container pursuant to regulations promulgated under section 7, prior to sale of the product to the ultimate purchaser;

(6) the importation into the United States by any person of any product in violation of regulations promulgated under section 13 that are applicable to such product; and

(7) the failure or refusal by any person to permit access to, or copying of, records or to make reports or provide information required under section 9.

(b)(1) The Administrator may exempt any product, or class thereof, from paragraphs (1), (2), (4), and (6) of subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

(2) A product intended solely for export, and so labeled or tagged on the outside of the container and on the product itself, shall not be subject to paragraph (1), (2), or (4) of subsection (a).

RECORDS, REPORTS, AND INFORMATION

SEC. 9. (a) Every manufacturer of a product for which applicable regulations have been promulgated under section 6(a) or section 7 shall establish and maintain such records, make such reports, and provide such information (which may include the availability of products coming off the assembly line for testing by the Administrator) as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this Act and shall, upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to such information and to copy such records.

(b) All information obtained by the Administrator or his representatives pursuant to subsection (a) of this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of that section, except that such information may be disclosed to other Federal officers or employees, in whose possession it shall remain confidential, or when relevent in any proceeding under this Act.

(c) This section shall apply only to manufacturers in the United States.

FEDERAL PROGRAMS

SEC. 10. The Congress authorizes and directs that all agencies of the Federal Government shall, to the fullest extent consistent with existing authority, administer the programs within their control in such a manner as to further the policy declared in section 2(b).

RESEARCH, TECHNICAL ASSISTANCE, AND PUBLIC INFORMATION

SEC. 11. In furtherance of his responsibilities under this Act and to complement, as necessary, the noise-research programs of other Federal departments and agencies, the Administrator is authorized to:

(a) Conduct research, and finance research by contract with other public and private bodies, on the effects, measurement, and control of noise, including but not limited to:

(1) Investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and determination of acceptable levels of noise on the basis of such effects;

(2) Development of improved methods and standards for measurement and monitoring of noise, in cooperation with the National Bureau of Standards, Department of Commerce; and

(3) Determination of the most effective and practicable means of controlling noise generation, transmission, and reception;

(b) Provide technical assistance to State and local governments to facilitate their development and enforcement of ambient noise standards, including but not limited to:

(1) Advice on training of noise-control personnel and on selection and operation of noise-abatement equipment; and

(2) Preparation of model State or local legislation for noise control; and

(c) Disseminate to the public information on the effects of noise, acceptable noise levels, and techniques for noise measurement and control.

ENFORCEMENT

SEC. 12. (a)(1) Any person who violates section 8(a) of this Act shall be subject to a civil penalty of not more than $25,000 for each violation, which may be assessed by the Administrator or by a court in any action authorized by subsection (b) or (c) of this section.

(2) In any proceeding by the Administrator to assess a civil penalty under this subsection, no penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Administrator shall consider the gravity of the violation and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification by the Administrator of a violation. Upon failure of the offending party to pay any penalty assessed, the Administrator may request the Attorney General to commence an action in the appropriate district court for appropriate relief.

(3) For the purpose of this subsection, the commission of any act prohibited by paragraph (1), (2), (3), (4), (5), or (6) of section 8(a) shall constitute a separate violation for each day or product involved.

(b) The district courts of the United States shall have jurisdiction of actions brought by and in the name of the United States to restrain violations of this Act or to enforce civil penalties authorized by this Act. Any civil action authorized to be brought by the United States under this Act shall be referred to the Attorney General for appropriate action.

(c) By agreement with any State, with or without reimbursement, the Administrator may authorize law enforcement officers or other personnel of such State to enforce the prohibitions of section 8(a) by bringing actions in the appropriate State courts. When authorized by State law, the courts of such State may entertain actions brought by such officers or personnel to restrain violations of this Act or to enforce civil penalties authorized by this Act. In any action under this subsection, any civil penalty imposed shall be payable one-half to the State and one-half to the United States Treasury.

IMPORTS

SEC. 13. (a) Products offered for importation shall be subject to the same general standards and labeling requirements that are applied to like domestic products. The Administrator shall by regulation prescribe the procedures by which this will be accomplished with a minimum detrimental effect on domestic and international trade.

(b) The Secretary of the Treasury shall, in consultation with the Administrator, issue regulations to carry out the provisions of this Act with respect to products offered for importation.

APPROPRIATIONS

SEC. 14. There are authorized to be appropriated to carry out this Act for Fiscal Year 1972 and for each fiscal year thereafter such sums as are necessary.

REPORT OF NOISE STUDY

SEC. 15. Section 402(a) of the Clean Air Act is amended by deleting everything before "a full and complete investigation" and inserting in lieu thereof "The Administrator shall carry out".

Mr. COOPER. Mr. President, in transmitting these bills to Congress, the President has carried out his constitutional functions in an enlightened and progressive manner. He has proposed the most comprehensive environmental program ever undertaken in this country. He is now asking the Congress to assist him by providing new authority to implement the clear national policy to enhance the environment. The responsibility on Congress is great.

As I mentioned on Monday, I know the Committee on Public Works will respond to the challenge and will legislate in this session in the areas where the President has submitted recommendations. In fact, the committee has begun to explore the general subject of water pollution with the Administrator of the Environmental

Protection Agency, the Honorable William Ruckelshaus, in 2 days of oversight hearings on February 4 and 9. It is our expectation that the Administrator will again come before our committee during the week of March 15 to testify on the President's proposed bills. In addition, many other public hearings will be scheduled for the latter part of February and during the month of March.

Mr. President, the Honorable Russell E. Train, the Chairman of the Council on Environmental Quality which is responsible for many of the innovative proposals contained in the President's message, described the legislative proposals in a recent article in the New York Times. I ask unanimous consent that the article be printed at this point in the RECORD.

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

[From the New York Times, Feb. 11, 1971]

TOWARD A BETTER ENVIRONMENT

(By Russell E. Train)

WASHINGTON.—As we read about, live through, and see one environmental crisis after another, perhaps the most difficult task facing each of us is to put the environmental picture into perspective.

The view today from the President's Council on Environmental Quality is one of very concerned optimism. It is not that the problems aren't monumental. They are and they will continue to be. The cause of our optimism is growing awareness of these problems and determination to solve them that is shared by all of our nation's people from young schoolchildren to the White House.

A problem isn't solved by awareness that it exists. But it is the best of beginnings. A problem isn't solved entirely by a Presidential attitude of leadership; but it is the best of beginnings.

The more than 300 pages of legislation that are going to Congress this week are much more than a beginning, of course, in our struggle for a better environment. The President's 37-point environmental program sent to Congress a year ago this week set the stage for the new explosion of proposals which were outlined by President Nixon in his second environmental message.

This surge of new legislation—coming two weeks after the President in his State of the Union address declared environmental improvement to be one of the "great goals" of the Administration—is somewhat unique in Washington both in speed and scope. The total, 14 new bills and three recommendations for new tax legislation, indicates both the complexity of our environmental problems and the breadth of the Administration's attack.

For example, the message emphasizes dealing with problems beforehand rather than simply reacting after the fact. Such is the case with the proposal for the control of dumping in our oceans, the Great Lakes, and estuaries. Another strategy calls for testing potentially toxic substances before their introduction into commercial use and authority to ban those found to be harmful. The key to effective management of the environment is anticipation of potential problems and action before they become critical.

A major innovation is the proposed clean air charge on sulphur fuels to create a strong incentive for reducing sulphur oxides in the atmosphere. This charge will harness the powerful forces of our economic system to work for cleaner air. Sulphur oxides from smokestacks are estimated to cost the American people about $2 billion annually in lowered health, damaged crops, and deteriorating plants and equipment.

In past years we have moved to protect our air and water. Now is the time to protect our lands. The message contains new initiatives designed to do just that, including development by the states of land use plans, advanced planning of power plan sites, taxes to discourage development of our important wetlands, and to encourage preservation and rehabilitation of historic buildings.

The comprehensive positive program for environmental improvement was developed over the past six months by the Council on Environmental Quality, working closely with many other federal agencies. The administration of many of the antipollution proposals would be the responsibility of the new Environmental Protection Agency set up in December on President Nixon's recommendation and already giving forceful new leadership to our fight against pollution.

The message emphasizes that laws and regulations alone will never build a high-quality environment and that we must "enlist the active participation of the American people." The President speaks particularly of the role of housewives, businessmen and young people and he urges communities to encourage citizen involvement in environmental issues.

It was in this vein that the Council on Environmental Quality recently proposed new Federal procedures for handling the environmental impact statements of Government agencies by providing the public with the opportunity to get information and make comments at early stages of the environmental decision-making process.

The Administration realizes that the proposals submitted by the President are by no means free from controversy. Everyone may be "for" a good environment. But when we get down to cases the choices become harder. Special interests will be threatened whether they be the interests of business, labor, or the average citizen in his role as consumer and landowner. But the benefits will be enormous.

While his environmental proposals will involve tough choices, the President has made clear he is not looking for issues but for action.

These are the things we are doing and trying to do. There are many other things to be done—by the Congress of the United States, by state, county and city governments, by the communications business, by agriculture, industry and by each and every American. The growing commitment of the nation to building a better environment for the future is cause for optimism. But much remains to be done.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to the consideration of the resolution (S. Res. 9) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to postpone until the next legislative day consideration of the motion of the Senator from Kansas (Mr. PEARSON) that the Senate proceed to the consideration of Senate Resolution 9 to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. TALMADGE. Mr. President, the fact that opponents of free debate come back session after session with proposals to put a gag on the Senate would indicate that their purpose far transcends the mere revision of rules to be followed in this Chamber.

The fact is, the ramifications extend to the very heart of our form of government, and candor compels the conclusion that the effect—if indeed not the goal—of their efforts would be to repudiate the Senate's assigned constitutional role and function.

This is more than just a rules fight.

It is a fight to preserve the Senate itself as a deliberative body. It is a fight to save the Senate as a forum of individual and sovereign States.

It is a fight to maintain the delicate checks and balances system in our Government, that was conceived by the Founding Fathers.

It is a fight to secure the rights of the minority against the potential brute force of a rampant majority.

We are not dealing here with just constructive evolution of the rules of the Senate. To the contrary, proposals that the Senate repudiate its continuity, and weaken freedom of debate are nothing short of destructive revolution for this body and its unique and essential role in our federal-national system of government.

There was no greater champion of the rules of the Senate and freedom of debate in the Senate than our late beloved colleague, Senator Richard B. Russell. Senator Russell knew and loved the Senate, and everything it stood for, as no other man of modern history.

When Senator Russell spoke of the Senate, he did so with reverence and respect for the rules that make it a great legislative institution. Senator Russell's profound wisdom and insight on the Senate are reflected in the following selection taken from testimony given to the Senate Rules Committee in 1951, and I quote:

The Senate of the United States is unique among all parliamentary bodies. It has a peculiar composition. It has unusual rules. It is a very unusual agency of government. All of those things grew out of compromise, as all legislation is the result of compromise.

The American people have been proud of the fact that it can be called the greatest deliberative body in the world.

Of course, deliberation in this day and time does not appeal to some people. It never

appeals to any Senator when he knows he has the votes to pass his measure; but nevertheless the rules and the composition of the Senate have admirably enabled the Senate to discharge its proper function in maintaining the very delicate system of checks and balances envisioned by the founding fathers when they created our system of government, with the legislative, the judicial, and the executive branch.

Mr. LONG. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. I am happy to yield to my distinguished friend and colleague from Louisiana.

Mr. LONG. I would like to ask the Senator, when one speaks about majority rule, if it is not well to keep in mind that what constitutes a majority depends on one's point of view. Everyone in this country is a part of a majority in one respect or another, yet all are parts of the minority in other respects. For example, one might be a part of a majority by being regarded as a Democrat. He may be part of a majority because he might come from a certain section of the country, or he might be part of a majority because he believes in a greater power than man himself; but, on the other hand, he might be a minority because he chooses to join one religious group or another or to disassociate himself from all such groups who believe in a Being greater than himself; or one might be a majority in his State on a particular issue, yet it may be that the majority of the people in his State do not share the same view about that matter as do the majority of people in the entire United States. In other words, what constitutes a majority just depends on time, place, and condition. It can depend upon a great number of circumstances. I would ask the Senator if it is not true that even the Senate is not so constituted that one may contend that a majority of this body speaks for the majority of the country.

Mr. TALMADGE. The Senator is eminently correct. The fact is, as the Senator knows, a majority is a transitory thing. A majority today on an issue may be a minority tomorrow, and vice versa. As the Senator knows, the Senate is composed of two Senators from each State regardless of its size. I believe that New York and California each have something on the order of 18 million people, whereas Nevada has less than 500,000; yet its representation in the Senate is equal to the States of New York and California. That representation cannot be changed unless the individual State concerned and every other one of the 50 States in the Union agree to change it.

As the Senator knows, our entire form of government was designed to protect the individual. The whole of our 205 million people may be arrayed against one citizen of Georgia or one citizen of Louisiana, yet the full power and might of this government and its 205 million people cannot deny that one single individual the rights and protections of the Constitution of the United States which is vested in the Senate. It protects him against illegal search and seizure. The sheriff of a parish in Louisiana, the Governor of the State of Louisiana, the President of the United States, the Army, Navy, Marine Corps and all the might of that parish, that State, and this government, might be arrayed against that one poor, little, insignificent, lonely man, without any resources to defend himself. But the Constitution of the United States was designed to protect him.

I would hope that we would not abrogate that right. Those who most frequently criticize unlimited debate in the Senate are the very ones who most frequently use it, as the Senator well knows. They would be the first ones to feel the effects of it. It would be like Mordecai on the scaffold he built. They would be the first to be hanged by any change in their own rules.

Mr. LONG. It is often complained that in the field of legislation, everyone talks too much. But I would like to ask the Senator, is it not often a fact that Senators and others, including the press, do not listen enough and do not study enough so that they are not familiar enough with the issues involved?

Mr. TALMADGE. The Senator is eminently correct.

Mr. LONG. Has the Senator read the press reports which were available to the Senator from Louisiana, stating that the Social Security bill was killed by a filibuster last year?

Mr. TALMADGE. I have. Nothing could be more inaccurate, as the Senator knows.

Mr. LONG. Has the Senator from Georgia seen that in newspaper accounts recently?

Mr. TALMADGE. I have. The Senator is correct. Moreover, as the Senator knows, last year, the Senate, according to the majority leader—and I take his word—said that we had filibuster on filibuster and sometimes filibusters within filibusters, but we had cloture motions filed galore in the first and second sessions of the 91st Congress and not a single one of those cloture motions received a majority vote. Even if we had had majority cloture in the Senate last year, it would not have changed the results one iota.

As the Senator knows, during the shank of a session, when we have to adjourn under the constitutional process by a certain date, any one Senator out of 100 can delay and frustrate the will of the Senate. They took advantage of that procedure, in the dilemma in which the Senate found itself last year, and no change in the rules would have changed it at all. What we have to do is to get legislation supported by the Senate earlier and considered earlier, so that we can pass important legislation.

I point out that last year, those who were most adamant in their desire to change the rules of the Senate, debated the issue for 7 full weeks, whether this country was going unilaterally to disarm. That was our military procurement program. They wanted us unilaterally to disarm the United States in the dangerous world in which we live today; yet no one accused then of filibustering at any time.

I think there was debate for a period of something like 8 weeks whether the President of the United States was, indeed, the Commander in Chief of the military forces of this country, even though the Constitution makes that very clear and there is nothing the Senate or Congress can do in the way of changing that provision in the Constitution that would add or detract in any manner whatever from the constitutional power vested in the President of the United States to be Commander in Chief of our Armed Forces.

Even so, those are the very people who want to change the rules of the Senate. After utilizing free debate themselves on issues of that transcendent importance, they would gag other Senators who may have something of overwhelming and compelling importance for the country that they think needs to be illuminated in this body, which means illuminated to the people of the country, so that the people can have adequate time to make a decision about a matter of overwhelming importance.

It never ceases to amaze me how Senators that want to gag other Senators are the very Senators who make the most frequent use of the right of free and unlimited debate. I have no quarrel with them, except I think it is a little odd for them to be utilizing that weapon yet trying to deny other Senators the right to do likewise.

Mr. LONG. Is the Senator aware of the fact that the principal reasons the Senate did not act last year on the so-called welfare reform proposal was that it failed to be what it was claimed to be? It was not a welfare reform proposal at all, but one that would make the welfare mess twice as large.

Mr. TALMADGE. Yes, just compound it, as the Senator knows. It would add something like 12 to 15 million people to the welfare rolls, which already includes 13 million people.

The sum and substance of it would be that 1 citizen out of every 8 in the United States of America would be on welfare whether he wanted to be on welfare or not. And in some States, as the Senator knows, 35 percent of the people would be on welfare.

According to a previous Georgia director of the Department of Family and Children's Services—we have around 159 counties in my State—over half of these counties in Georgia would have three-fourths of their people on welfare, whether they were working, desired to work, or were able bodied and did not desire to work.

The Senator has been a great friend of the aged, the disadvantaged children, the blind, and the disabled. The Senator has offered many amendments in the Finance Committee, as I have, to improve the lot of these people. These amendments have usually been approved by the Finance Committee, the Senator's amendments and mine also.

I have great sympathy with the disabled, the aged, the disadvantaged children, and the blind. I want to help them in every way I can. But I do not believe that the people of Georgia sent me to Washington to levy an increased tax burden on them in order to support other families that choose not to work and would rather be on welfare.

I know that is the position of the Senator from Louisiana also, and I compliment him for it.

Mr. LONG. Mr. President, with respect to the matter of free debate, is not the whole purpose of debate to try to educate not only the Senators but also the Nation as a whole on what is involved?

Mr. TALMADGE. The Senator is absolutely right. If the Senator will look at the press gallery, he will see that there is not a single newspaper reporter there to report to the country what the Senator and I are discussing.

Mr. LONG. There are some there.

Mr. TALMADGE. I withdraw my statement. The Senator from Louisiana has a better vantage point than I. The only way that the people of the country can get the facts on this issue is through the CONGRESSIONAL RECORD. The CONGRESSIONAL RECORD goes out throughout the country. It takes time for the people to read the CONGRESSIONAL RECORD and learn what the issues are.

Mr. LONG. Is it not true that some of us in the very beginning of the consideration of the so-called family assistance plan pointed out that the welfare law was presently being applied in Washington, D.C., in such a fashion that it was more advantageous for a person to be on welfare than to go to work. In other words, a person on welfare would actually lose money by going to work.

Mr. TALMADGE. The Senator is eminently correct. We discovered that situation to be true not only in the District of Columbia, but we also found horrible examples in New York, Illinois, and Arizona.

We did not think that was a very strong inducement to go to work.

If the Senator recalls, the classic example was for a family of four living in the city of New York or State of New York that consists of a mother with three children. Usually the husband has either abandoned the family or gone into the business of raising children without obtaining a marriage license, and there are three illigitimate children as a result.

Under those circumstances, if the President's program had become law and they were living in public housing and drawing New York State supplements and benefits under Medicaid from the State of New York and also food stamps, they would have an equivalent income in cash of $6,210 a year.

If that mother were fortunate enough to obtain a job and go to work at what would be considered a fairly high salary for some, $7,000 a year, she would have an equivalent net income exactly one dollar less. Her net income would be $6,209 rather than $6,210.

The Senate Finance Committee did not think that was a very good inducement to go to work.

So there was no welfare reform in it. It would compound, as the Senator has said, both the existing fallacies and the inequities in the program. Yet, everytime we would bring that out in the hearings, the Department of HEW would revise the plan. They revised it some 6 times when the issue was pending before the Finance Committee. Every revision made it worse rather than better. That was the issue we were dealing with last year.

Mr. LONG. Mr. President, is it not true that, although we exposed the fact that not only was there no incentive for anyone to go to work and there was less incentive than there was under the old law, the public never got that word? The people across the country never knew the first thing about the welfare plan.

The various magazines and newspaper publications that we rely upon to inform the public never got that word to the public. The people were led to believe that it consisted of welfare reform when, in fact, it would have weakened rather than strengthened work incentives.

Mr. TALMADGE. The Senator is exactly correct about that. Unfortunately, very little of the information from the hearings of the Senate Finance Committee was ever reported in the press. None of its widely distributed. People did not have the slightest idea what was in the bill. If they had known what was in the bill, I think that we would have had a march on Washington and a deluge of telephone calls such as the Capital has never seen before. The people did not realize that it would put 26 million or 27 million people on welfare and keep them there in perpetuity.

Mr. LONG. Mr. President, is it not true that the problem was not that the Senators were talking too much, but that the facts were not being reported to the people of the country? The people of the country had no idea of the problems that would have been created by the bill. If we had acted on the bill, we would not have possibly been able to act on the basis of full knowledge of its effects, since a majority of the Senators, like the majority of the people, did not understand that the bill would make it advantageous for people not to work rather than to go to work.

Mr. TALMADGE. The Senator is correct. I had several conversations with Senators who were not on the Senate Finance Committee. When I told them some of the problems with the bill, they would look at me in utter amazement. They could not believe that such a fantastic scheme had ever been proposed. Yet they were Senators of the United States, whose business it was to vote on legislation on important issues pending before the Senate and the country. They did not understand all of the facets of that 600 page bill. I can understand that the 205 million Americans who were busy making a living in other pursuits, other than voting on bills, would not understand the complexities of the issue.

Mr. LONG. Is it not true that when we debated the family assistance plan and the Senator from Delaware got up with charts and figures and proceeded to show how the so-called welfare reform bill would double welfare costs, Senator after Senator could not believe his ears. Notwithstanding that fact, not one word of the basic argument presented by the Senator from Delaware was conveyed to the American public, though he clearly demonstrated that the effect of the bill would make the welfare mess twice as bad because it would not clean up the mess that existed but instead would make it worse.

Mr. TALMADGE. The Senator is absolutely correct. The unfortunate thing is that not only did Senators not answer the argument of the Senator from Delaware, but unfortunately the news media of this country did not communicate that information to the American people.

Mr. LONG. Mr. President, is the Senator aware of the matter that came up since that time, when the Governor of the State of Nevada, with such resources as were available to him, initiated through his individual efforts an investigation of the welfare caseload existing in his State? This investigation disclosed that 50 percent of the families on welfare in his State were totally or partially ineligible for welfare. The State blamed this appalling situation on the HEW push to make all States use a so-called "simplified method" of determining welfare eligibility.

Mr. TALMADGE. Yes, I read that in the news media. Of course, that is the direct result, as the Senator knows, of a regulation that Secretary Cohen put into effect before he left office as Secretary of HEW. It authorized any citizen of America to walk into a welfare office and say, "I am entitled to welfare," and to receive it with no questions asked. Under that regulation, written by Secretary Cohen, the president of the Chase National Bank in New York City could go into the welfare office and demand welfare and his right to receive welfare payments could not be questioned.

Also, under a ruling put into effect, which was subsequently changed by a ruling from New York State, no welfare official could go into his home or into his office to determine whether need existed for the President of the Chase National Bank to receive welfare payments.

I do not think the people of America know about that.

Mr. LONG. Does not the fact that these things happen without Congress and without the public knowing about it indicate there is not enough discussion to explain the matter? When there is discussion, it is not reported so that people can have the benefit of that knowledge.

Mr. TALMADGE. I concur fully in what the Senator has said.

Mr. LONG. Mr. President, will the Senator yield so that I may ask another question?

Mr. TALMADGE. I yield.

Mr. LONG. Is the Senator aware of the statement which this Senator once heard from one that he regarded as a great Senator, former Senator Burt Wheeler? He said that if a Senator wanted to explain something to the Senate, he should plan to make at least two speeches because he would not catch all the Senators the first time the speech was made, and it would be necessary to find an additional opportunity to speak to them in order to be sure that Senators knew of the problem. Is the Senator aware of that situation?

Mr. TALMADGE. Indeed, I am. I concur in what the Senator has said.

Mr. LONG. Even if a Senator had to make five, 10, or 20 speeches, is it not a lot better that the public and the Senate should eventually be informed rather than to have a horrible mistake calling for an expenditure of taxpayers' money of $5 billion a year, and frankly, a mis-

take that could lead to $50 billion a year, a mistake that would be perpetrated on the public because of lack of information with respect to what is being done?

Mr. TALMADGE. I agree fully with what the Senator has said. As the Senator knows, the estimate of increased cost by HEW is $4.3 billion the first year. But the Senator and I know we must take any HEW estimate not with a grain of salt but with a ton of salt. They were 1,000 percent off on their estimates on medicaid and they may be 1,000 percent off in their estimates on the welfare plan. So it is necessary to look at it cautiously and carefully before making this drastic change in the law.

Mr. LONG. Does the Senator recall the problem that was created by putting all of these so-called poverty lawyers on the payroll of the Office of Economic Opportunity? Was it not our thought when we put them on that those people would represent the poor people, the woman who has children, for example, in an effort to help her obtain support from a husband who has abandoned her, or to help her get a divorce if she had been mistreated, with the hope that another family unit might be formed to look after the mother and the children; and did we not find that these lawyers, instead of helping those mothers who had runaway fathers, or where there had been mistreatment of a woman and her children, were devoting their efforts instead to suing the States in order to load the welfare rolls down with people that no one ever thought should be put on the welfare rolls?

Mr. TALMADGE. The Senator is correct. The decision of the courts was that welfare workers did not have the right to go into the home to ascertain if a mother had as many children as she claimed. They might have a houseful of narcotics and she could be earning as much as several hundred dollars a day, but the welfare workers could not go in there to ascertain the true situation in the home or the need of the mother and the children. That is an outrageous situation, because certainly the government that is supporting the family should have the right to ascertain whether or not the needs of the family come within the purview of the law. There have been any number of similar decisions handed down by the courts.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. TALMADGE. I yield to the Senator from Louisiana.

Mr. LONG. When the Federal Government starts paying lawyers to sue the States, would not ordinary commonsense indicate that the Federal Government at least should know what they are suing the States about?

Mr. TALMADGE. I agree.

Mr. LONG. Would the Senator not agree that they should at least pass some judgment on why the Government of the United States, which is supposed to be an alliance of all 50 States, should be suing one of its members or financing a suit against one of its members?

Mr. TALMADGE. I agree with the Senator. Under the constitution of the State of Georgia, a citizen cannot sue the State without the consent of the State. Here we are using Federal money to hire an army of lawyers to institute suits not only against the States but against the Federal Government to strike down laws which Congress has passed and which are designed to benefit all the people of this country.

Mr. LONG. Can the Senator explain to me by what rationale the Federal Government should be financing lawsuits against the Federal Government? What logic is there in that?

Mr. TALMADGE. I cannot understand it.

Mr. LONG. Does the Senator believe we could make the kind of mistakes that were inherent in that kind of fiasco if we ever took the time to study matters carefully here on the floor of the Senate?

Mr. TALMADGE. Certainly the Committee on Finance did make tremendous improvements in the bill. If the bill reported by the Committee on Finance had become law, in my judgment the unfortunate people on welfare would have a vastly improved lot in this country. They would have the opportunity for training, the opportunity to seek jobs, and the opportunity to become taxpayers rather than recipients of welfare.

In many States, including my State, in some instances we have had three generations of the same family that have known no other way of life except welfare year after year, decade after decade, and generation after generation. That is the real reform we should have in welfare, rather than compounding the existing mistakes and creating a new generation of welfare recipients. Welfare expenditures have grown so heavy that it is bankrupting cities, municipalities, counties, States, and the Federal Government. In New York one of every seven Americans is on welfare.

Mr. LONG. If the Senator will yield further, beyond all the difficulties involved in that legislation which should be discussed, is it not correct that there were cases—perhaps two in number—when a proposed constitutional amendment failed to come to a vote because those debating it continued to speak aginst it and cloture was not invoked? Can the Senator tell me why we should pass a measure if the very two-thirds of the Senate required to propose a constitutional amendment did not consider the time had come when debate should be closed?

Mr. TALMADGE. The Senator is correct. It takes two-thirds to invoke cloture and two-thirds of this body to submit a constitutional amendment. The mathematics are the same.

Mr. LONG. Is it not patent on its face, with regard to a proposed constitutional amendment, that if the two-thirds necessary to invoke cloture could not be mustered, then obviously the two-thirds necessary to pass the measure must not have agreed that debate had been sufficiently exhausted?

Mr. TALMADGE. That is absolutely correct.

Mr. LONG. I thank the Senator.

Mr. TALMADGE. I thank the distinguished Senator for his contribution.

Mr. President, I return now to what our late colleague, Senator Russell, was testifying to before the Rules Committee in 1951 about the U.S. Senate:

> The Senate has had attack after attack made upon its rules. Almost every President of the United States, who had a majority and was convinced that he was right in his position, has assailed the Rules of the Senate. The party in power, generally speaking, is more often than not very restive under the Rules of the Senate.
>
> All those who wish to make quick and drastic changes in our Government violently condemn the Rules of the Senate, but the Senate has served its purpose throughout the years.
>
> All Senators have had feelings of great frustration at times in debate in the Senate. As I stated a moment ago, the majority always thinks it is right, and is impatient to act, but there have been a great many times when the majority was wrong. There will be times in the future when the majority will be wrong.
>
> I would be the last to deny that there have been abuses of freedom of debate in the Senate of the United States. We all know that the constitutional guaranty of freedom of speech is also often abused. We value highly freedom of the press, which is also guaranteed by the Constitution. The freedom of the press is oftentimes abused.
>
> I submit that the benefits we derive from all of those freedoms greatly outweigh the detriment of the abuses that we suffer as the result, and no sound thinker would advocate changing or curtailing or modifying the freedom of speech or freedom of press, because they have been abused.
>
> I have studied this question of the proposal to institute a more restrictive gag rule in the Senate. Almost always those who sought to change the rules to gag his adversary of the minority when he was in power became a great advocate of freedom of debate when he was translated from the majority to the minority. Further, almost invariably men who came to the Senate determined to change the Rules of the Senate, if they stayed there long enough, came to defend the rules. I could give illustrations of that by the hour.
>
> However, there is a clamor that we should have more speed in the legislative body. Our representative Government was never designed to act with speed. If it is speed and speed alone that you wish to have, why, of course, we should adopt the system of Hitler because we could get action and get it immediately. No one could debate any of his proposals. It was either 'ja' or death—that was Mr. Hitler's cloture rule.
>
> The rule of freedom of debate in the Senate has deterred power-seeking Executives from seeking corruptive powers at the hands of the legislative branch because any Chief Executive must have known that, as long as there was freedom of debate in the Senate and courageous men in the Senate, he would not only be thwarted but that he would be discredited if he sought unconscionable power.
>
> If the majority had the power, as in the House of Representatives, to come in with a rule that even prevents an amendment to a bill, that the debate shall be very limited on a bill, and permit a bare majority to jam through such a proposal, not only would the Senate lose its value as a bulwark of individual liberty in this country, but it would be subordinated completely to the will of the party in power.

Mr. President, Henry Cabot Lodge, who served in the Senate for 31 years, wrote a book entitled "The Senate of the United States." It is a scholarly book, and one which is worthy of our attention at this time in connection with the present debate.

Indeed, I am becoming increasingly convinced that many members of the Senate could profit very much from more study of the history of the Senate, its assigned constitutional role, and its purpose as a unique institution in the American Government. With all due respect to my colleagues, I believe this to be a far more worthy pursuit than persistently attempting to alter the Senate and, in effect, to change the very nature of our government.

I would like now to refer the Senate to sections of Mr. Lodge's book, in which he outlines the historical purpose of this body and the importance of freedom of debate that Senators have traditionally enjoyed.

I might add that Mr. Lodge refers to freedom of debate in the Senate that overall was beneficial to the American people during his time, has been beneficial to the American people since his passing in 1924, and which is still beneficial to the American people.

I now quote Mr. Lodge:

Under the provisions of the Constitution framed in 1787 the Senate met for the first time on the fourth day of March, 1789. The quorum required by the Constitution was not obtained until the 6th of April, when the Senate was organized by the election of the President pro tempore and by the appointment of a Secretary and other subordinate officers.

From that day to this the Senate has never been, legally speaking, reorganized. It has been in continuous and organized existence for one hundred and thirty-two years, two-thirds of the Senate being always in office. There never has been such a thing as a Senate requiring reorganization, as is the case with each newly elected House. When, at intervals of four years, a new President comes into office, the first act at twelve o'clock noon on that day it for the outgoing Vice President, or for the President pro tem of the Senate, to administer the oath to the new Vice President and hand him the gavel, the symbol of the presiding officer in a body then and there ready to transact business. There is no break in the existence of the Senate, and before the President elect can be inaugurated or the members elect of the House of Representatives can meet and choose a Speaker, the Senate of the United States has transferred the authority from one presiding officer to another, and goes forward with its organization unchanged and in full possession of all the qualifications necessary to the performance of its duties.

There may be no House of Representatives, but merely an unorganized body of members elect; there may be no President duly installed in office, but there is always the organized Senate of the United States. This fact is not without an important significance.

When the delegates from the various states gathered at Philadelphia in May, 1787, for the purpose of framing a new and better general government for the Union of States, it must never be forgotten that these delegates represented States and not people.

The sentiment in the larger States was generally favorable to the idea of a new Constitution, but the smaller States, which were in the majority when the vote was by States, regarded all changes with profound suspicion. They feared, and not wholly without reason, that if too much power was given to the central Government, acting directly upon the people and deriving its power from the people at large, three or four of the largest States would be able practically to control the Government of the Union.

It is not necessary to trace the long struggle between these opposing forces which ended in the most famous compromise of the Constitution of which the Senate was the vital element and which finally enabled the Convention to bring its work to a successful conclusion. It is sufficient here to point out that as the Constitution was necessarily made by the States alone, they yielded with the utmost reluctance to the grants of power to the people of the United States as a whole and sought in every way to protect the rights of the several States against invasion by the national authority.

Here Mr. Lodge reflected the deep concern of the founding fathers and the individual States about protecting the rights of these States against possible tyranny by an all-powerful national, centralized government.

Continuing to read from Henry Cabot Lodge's book, we see how the U.S. Senate was instituted as a forum of States, with each State equal in representation, and with each Senator on an equal footing with every other, regardless of how large or how small the States they represented.

The States, it must be remembered, as they then stood were all sovereign States. Each one possessed all the rights and attributes of sovereignty, and the Constitution could only be made by surrendering to the general Government a portion of these sovereign powers.

In the Senate accordingly the States endeavored to secure every possible power which would protect them and their rights. They ordained that each State should have two Senators without reference to population, thus securing equality of representation among the States. They then provided in Article V of the Constitution that "no State without its consent should be deprived of its equal suffrage in the Senate."

This clause, it will be noted, is the only provision of the Constitution which requires the assent of every State for amendment or change. Having made the Senate in this way as immovable in its representation as possible, and having provided that its members should be chosen by the legislatures of the States, thus securing it, as they believed, from the sudden changes incident to popular voting, they proceeded so far as they could to invest it with the most important of the sovereign powers which they themselves possessed.

They gave to the Senate not only legislative but executive and judicial powers. There is only one limitation upon the legislative power of the Senate. Bills to raise revenue must originate in the House of Representatives but the Senate can propose or concur amendments

In practice, the Senate, although possessing the power to originate bills appropriating money, has ceded to the House this right in the case of the great Appropriation Bills. The Senate still originates bills containing an appropriation of money for a single object, but on the great Supply Bills it is content with its right of unlimited amendment, which it always exercises without restraint. In all other respects, so far as legislation is concerned the Senate is on absolute equality with the House.

The Senate shares with the President the executive functions. No treaty can be made without the assent of two-thirds of the Senate. The President can enter upon any negotiations that he pleases, but no treaty which he may make can become the supreme law of the land without the consent of the Senate. The President can nominate, but without the advice and consent of the Senate he cannot appoint "ambassadors, judges, etc."

The judicial functions of the Senate consist in its being the court before which all impeachments must be tried. They can even try the President of the United States upon articles presented by the House, as was done in one instance, and in that event the Chief Justice presides over their deliberations, but in all other cases of impeachment the Senate selects its own presiding officer.

To Congress is given the power to declare war. To the President and the Senate alone is given the power to make a treaty of peace, as is the case with all other treaties. Thus it will be observed that the assent of the Senate is necessary both to make peace and war. War can be declared without the assent of the Executive, and peace can be made without the assent of the House, but neither war nor peace can be made without the assent of the Senate.

The makers of the Constitution also gave to the Senate the longest tenure conceded to any of the political branches of the Government—six years—and this term enabled the Convention to arrange the election of Senators in such a way that only one-third of the Senate goes out at each biennial national election and the inevitable result of such an arrangement was that two-thirds of the Senators were always in organized existence.

Thus we see beyond any shadow of a doubt that the Senate is unique in its constitutional role and unlike any other legislative body in the world. Thus was the genius of the Founding Fathers.

When we hear proposals for majority cloture vote or a three-fifths cloture vote, amid contentions that this is the democratic way and that this is how the Senate ought to operate, I for one find myself confronted with some very perplexing questions.

In paying tribute to so-called majority rule, are we supposed to believe that the Senate and even the Constitution should be modified so that treaties would be ratified by a simple majority or a three-fifths vote?

We might ask the same thing of proposed constitutional amendments. Are we someday to consider the adoption of constitutional amendments to a majority of one or by three-fifths of the Senate?

In the name of so-called majority rule are we also to alter the Constitution—the very foundation for our Government—to provide for a majority or three-fifths vote to override a Presidential veto or to convict an impeachment?

I think not, Mr. President. This would be sheer folly, and certainly no Member of the Senate contemplates such radical action. Yet, a continuing watering down of rule XXII, the cornerstone for freedom of debate in the Senate, is just as radical. It strikes at the very vitals of our Government envisioned by the Constitution that we have all sworn to uphold.

I return now to quote from Henry Cabot Lodge's book on the Senate:

The Seventeenth amendment changing the method of electing Senators which has been adopted affects in no way the power, the tenure of office, or the permanency of existence conferred upon the Senate by the makers of the Constitution. They provided that Senators should be elected by the legislatures because they wished in every possible manner to impress upon the office of Senator the State characteristics and to make it as clear as possible that a Senator represented a State and not a constituency. They also believed that the legislatures would choose better men to fill the senatorial office than could be expected from a popular vote.

Senators of long service, no matter how much they might be divided on purely political issues, in dealing with that wide range of questions which are not necessarily connected with party have constituted a most important element in our past history and have exercised a very great influence in forming the traditions and guiding the operations of the Government of the United States.

The makers of the Constitution knew, of course, that in the last resort the popular will would control and ought to control absolutely, but upon the democracy for which they were forming a Government they wished to put limitations. They desired to give ample space for deliberation, and for this reason they sought for checks and balances, gave the federal judges a life tenure, raised the courts above the duty atmosphere of the hustings, and strove to make the operation of the popular will depend for its final expression upon the calm second-thought of the community and not be governed by the passions of the moment. They tried to secure limitations by making amendment to the Constitution difficult by separating the judicial, executive and legislative powers into three coordinate and independent branches, and by the peculiar power and authority with which they invested the Senate.

Except on some rare occassions the Senate has been the conservative part of the legislative branch of the Government. The closure and other drastic rules for preventing delay and compelling action which it has been found necessary to adopt and apply in the House of Representatives have never except in a most restricted form been admitted in the Senate. Despite the impatience which unrestricted debate often creates it has been most important and indeed essential to free and democratic Government to have one body where every great question could be fully discussed.

Undoubtedly there are evils in unlimited debate, but experience shows that these evils are far outweighed by the benefit of having one body in the Government where debate cannot be shut off arbitrarily at the will of a partisan majority. The Senate, I believe, has never failed to act in any case of importance where a majority of the body really and genuinely desired to have action, and the full opportunity for deliberation and discussion, characteristic of the Senate, has prevented much rash legislation born of the passion of an election struggle and has perfected still more than which ultimately found its way to the statute books.

Mr. President, it is the deep conviction of the Senator of Georgia that proposals for further limiting debate in the Senate—which ultimately will lead to gag rule over all the Members of this body—are matters of grave consequence.

They should not be adopted lightly without due consideration, forethought, and especially consideration given to all the attendant ramifications, present and future.

Debate in the Senate certainly should not be stifled to accomplish some other transient objective. Debate in the Senate—the right of all Senators to make their views known as fully as possible—should not be denied merely to satisfy some temporary whim. Most assuredly, the Senate should not abandon its role as a deliberative body and acquiesce to whatever emotions may be rampant in the land.

It was out of this conviction that the Senator from Georgia, as a member of the Senate Committee on Rules and Administration during the 85th Congress, insisted that comprehensive hearings be held on various resolutions then pending to amend Senate rule XXII.

I was named chairman of that special subcommittee. I endeavored to obtain through those hearings "grassroots" sentiment on the question that confronts the Senate with regularity every 2 years. This was the first time such a large-scale effort was made.

I carefully studied the transcripts of those hearings at that time, during the 85th Congress. I have carefully studied them many times since. I have gone over them time and time again up to the present.

The question of cloture, of course, has been a recurring issue before the Senate since 1917. Hearings on the subject were held in 1947, 1949, and 1951. But it was not until 1957 that any effort was made to determine the thinking of the American people about it. They, after all, are what this Government is all about. They after all are the ones we are most responsible to. They, after all, have the greatest stake in the preservation of stability in the Government—their Government, if you please—and it is they who are most concerned about the protection of their rights.

And, most importantly, it is the people of the United States who do not desire to see an unrestrained and sometimes runaway majority given the power to trample over the rights of the minority.

And this, Mr. President, in the final analysis, is what rule XXII is all about—stability in Government and protection of the minority.

The Special Rules Subcommittee, composed of the senior Senator from New York (Mr. JAVITS) and the Senator from Georgia heard, either in person or by prepared statement, from 132 Senators, spokesmen for organizations with widespread national memberships, and other knowledgeable parties.

I refer today to those hearings. I invite the attention to those hearings of all Senators who wish to be responsive to the will of their constituents and who wish to honor the role of the Senate in our Government, as assigned by the Constitution.

I would like at this time to offer to the Senate some of my conclusions that are contained in a report that I filed following the hearings held by Mr. JAVITS and myself. They are, of course, as pertinent to the immediate question today as they were during the 85th Congress. I quote from my report:

> It must be recognized that the Senate of the United States, as an instrumentality of the States and their citizens, is the property of every American and does not belong to the individuals who transiently occupy the seats in its Chamber. Individual Senators have no proprietary rights in the operation of the Senate except as they act as creatures of the will of the States and constituents they represent.
>
> Therefore, it is certain that no Senator honestly seeking to be responsive to the will of those he serves will wish to close his mind on this issue before giving careful study and consideration to the transcript compiled by this special subcommittee and the unmistakable conclusions of public opinion it affords.
>
> An analysis of that transcript discloses that more than three-fourths of those presenting their views to the subcommittee expressed approval of Senate rule XXII as it now stands and confidence in it as the major bulwark of the people in the maintenance of constitutional government and individual liberty in this Nation. . . .
>
> There is only one conclusion which can be drawn logically and dispassionately from the actions of those who persist in their efforts to change rule XXII: That their onslaught to stifle freedom of speech on the floor of the Senate is an attack not only on the Senate itself but also on the stature, prerequisites, and prerogatives of each Senator in national affairs and every other responsibility incident to the senatorship.
>
> It is an attack which threatens the whole fabric of our form of government and strikes at the very vitals of representative government.
>
> It is an attack which seeks to destroy the constitutional balance of Federal and state power and deal a death blow to the States as political entities.
>
> It is an attack which seeks to make big government bigger and to centralize more and more power in Washington in a government less responsive to the wishes of the citizenry.

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

Mr. TALMADGE. I am delighted to yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I refer the Senator to the remarks made on the floor of the Senate this morning—I am sure the Senator from Georgia was present—when the Senator from Arkansas (Mr. FULBRIGHT) discussed the pending measure and in a very fine manner gave the reasons why he was opposed to change in rule XXII. The Senator from Georgia will recall that the Senator from Arkansas based his major argument in behalf of keeping rule XXII in that it was the only effective safeguard, we might call it, that Congress had to stop the Presidential pressure, prestige, and influence—I am sure he was not referring to President Nixon, and I am not—but the power of the President, whoever he is, to push through and get his way on major matters of far-reaching consequence. I know the Senator from Georgia well enough to know that he has that point very much in mind, himself.

My question is this: The Senator has noted the article on the desk from the Washington Post of yesterday, February 17, 1971, by the columnist, Nicholas von Hoffman.

Mr. TALMADGE. Yes, sir.

Mr. STENNIS. Has the Senator read that?

Mr. TALMADGE. I have.

Mr. STENNIS. Again the Senator from Arkansas pointed out that it was almost identical in substance in major points with the famed editorial written by Walter Lippmann in 1949 who was then generally thought of as one of the foremost if not the foremost columnist of his day and he was termed a liberal. It has been a long time since 1949, many things have happened in world affairs; our country has changed a good deal and the form of our Government has been modified substantially. However, is it not a striking illustration of these two outstanding and so-called liberal columnists, applying their reasoning to this different time and different state of the Nation, reaching a conclusion that, superficially, would

be considered contrary to what their real, regular position and reasoning would be?

Would not the Senator comment on that, as to the continuity and soundness of rule XXII?

Mr. TALMADGE. I agree implicitly with what the Senator has just inferred from the argument of the able Senator from Arkansas. I heard his argument and it was clear, incisive and, in my judgment, eminently correct. I have read the writings, also, of Mr. Walter Lippmann and I concur fully with what he had to say.

The executive branch at the present time, with millions of American boys wearing the uniform of their country, with millions more of our citizens in the employ of the Federal Government, with the power of the purse to spend some $200 billion-plus annually, plus the prestige of the Office of the President, plus the use of the news media, radio, television and press, so that anything the President says is calculated to make the headlines—with all that power arrayed, it is imperative, in my judgment, that there be some branch of the legislature which has the power to delay, in order to insure that adequate deliberation will be given on any matter the President recommends.

I can give the Senator a recent example. During the administration of President Truman, on the railway strike—and we are threatened with one now—the President's answer was to draft all the strikers into the Army. A bill was introduced in the House, as I recall, without any hearings and voted on the same day with something like only 14 dissenting votes in the House, and then it came over to the Senate where Senator Taft, acting under the Senate rule of free speech—and he was not considered any particular friend of labor—opposed the bill until reason, maturity, judgment, calm, and stability could reassert itself.

I think it is imperative that some legislative body have that power.

As the Senator knows, the House was organized not to represent the States but the people. The House is too large to have freedom of debate and they wisely have rules there for the limiting of debate.

However, the Senate is composed of two Senators from each State regardless of population. The Senate is the place where free speech should and must continue. I think it has served the Nation well for almost 200 years, and I think it will serve the Nation well in the future.

The Senator from Mississippi will remember one Chief Executive who proposed that the Supreme Court be packed with his own appointees so that they could hand down decisions that were in accordance with what the President thought those decisions should be. It was free speech in this body in those days that blocked that impetuous action. There will be times in the future—many times, in fact—when free speech can prevent hasty action that would imperil the well-being and the freedom of all the people of this great Republic of ours.

Mr. STENNIS. I thank the Senator for his comments. A more recent illustration—not dealing in any personalities but an historical fact, as the Senator knows—we would have a different Chief Justice of the United States today if it had not been for rule XXII and what happened to rule XXII on this floor. The President was totally within his rights, of course, to make that appointment. I was never attracted by the argument that President Johnson was not entitled to make that appointment. However, we had some slight help from rule XXII to block that appointment, and subsequent events brought out far more facts that illuminated the case and made it much stronger, with all deference, against the nominee's being confirmed.

I think that is the most striking illustration that has happened recently.

If I may mention another matter here which happened on the floor today, our esteemed friend from Kentucky (Mr. COOPER), as the Senator knows, in years passed, as he said this morning, along in the 1950's and 1960's had been a great proponent of the change desired in rule XXII. He thought it was necessary, based on the facts existing then. But, as time has gone on, and particularly the problem he had in mind then had been changed and legislation had been passed, he made the very strong statement—I do not remember whether the Senator from Georgia was in the Chamber this morning when the Senator spoke——

Mr. TALMADGE. Yes; I heard part of the Senator's statement, and I share the view that it was a strong statement and, I agree, it was also an eloquent one. I thought it entirely appropriate, as the Senator from Kentucky pointed out, why he changed his mind. He has had long experience in the Senate on that issue. Many other Senators have, likewise, but, unfortunately, many people involved in campaigns for the office of Senator and seeking votes, without knowing what rule XXII is and the significance of freedom of debate in the Senate Chamber, and throughout the history of this country, make pledges to various groups to work to change the rule. They feel they are dutybound, regardless of the arguments, to honor those pledges, but frequently, after long service in the Senate, they change their minds, recognizing that free speech and free debate in this body are the greatest protections we can have to the liberties and freedoms of our people in upholding the Constitution.

Mr. STENNIS. I thank the Senator from Georgia. As a testimonial to the distinguished Senator from Kentucky (Mr. COOPER), I do not believe I have known of anyone on this floor who has as fine a concept of his duties—almost a reverence, almost a worship of that word "duty"—than the Senator from Kentucky. He is the opposite of one who hops and skips around an issue in any way, because there might be a small change in public opinion. Certainly he is a man of great deliberation, a man with a very fine mind and a stout character.

Mr. President, I think that the statement made by the Senator from Kentucky this morning will be very influential, and I trust that he will see fit to enlarge on his remarks as this debate progresses.

Mr. TALMADGE. I likewise share the high opinion the Senator from Mississippi has of the Senator from Kentucky. I, too, hope that he will express himself further on the subject. Unfortunately, not too many of our colleagues were present on the floor at the time he spoke. Sometimes it takes several speeches to gain the attention of our colleagues who, of course, have many other matters to attend to that require their time away from the Chamber. However, I hope that the Senator from Kentucky will again address himself to the subject.

Mr. STENNIS. Mr. President, let me quote from Mr. Von Hoffman's column in the Washington Post, to which I have referred,

> The big winner in the cutting down of the filibuster will be the White House, which will need to twist fewer senatorial arms to get what it wants passed. That's why Nixon's for it, and it's why everyone who wants to see congressional power diminished should be for it.

I say that is not an attack on the President by Von Hoffman or by the Senator from Mississippi. It is merely a statement of a sound principle of government. I commend this columnist for coming out in such a fine fashion.

Mr. TALMADGE. Mr. President, I concur. I agree implicitly with what he has said. I thank the able Senator from Mississippi for his contribution to this debate.

Mr. President, I return to a report that I filed in the Senate to give my views on this issue in 1957:

> It is an attack which seeks to eliminate the spirit of compromise and respect for divergent views which has characterized the Senate for more than 1½ centuries and to substitute for it the brute force of numbers.
>
> It is an attack which seeks to put Congress only a short step from the unicameral system and which has as its ultimate aim the destruction of the seniority system which has given Congress its stability and sense of responsibility over the years.
>
> Standing Senate rule XXII is a wise rule—the result of compromise—which protects full and free discussion of legislative proposals yet serves as a barrier to thwart those few Members who would abuse the privilege of free speech.
>
> Standing Senate rule XXII is fair and to change it again would be to militate against the historic tradition of unlimited debate in the Senate.
>
> The first change in rule XXII to authorize cloture was adopted in 1917 following a bitter controversy over the failure in the Senate of a proposal for arming American merchant ships prior to this Nation's entry into World War I. It was offered by Senator Martin as a "war measure" and, after debate at length, was adopted March 8, 1917, by an overwhelming vote of 76 to 3.
>
> It required the votes of two-thirds of the Senators present and voting to invoke cloture. . . .
>
> They complain that standing rule XXII in its application thwarts the wishes of the majority. However, authoritative observers of the American legislative process hold that a determined majority of Senators can find ways of passing any measure it desires without resorting to changing the very character and complexion of the body itself. The 1st session of the 85th Congress affords a case in point.
>
> To argue that rule XXII by holding forth a threat of prolonged debate serves to prevent Senators from insisting upon legislation with controversial features is to challenge the

depth and sincerity of the convictions of all 96 Senators.

Ample means are available at present to overcome what a majority at any time may feel to be needless obstruction in debate. The use of protracted sessions and strict enforcement of all Senate rules afford adequate safeguards to bring to an end even the most determined and prolonged debate.

Whenever any issue of overriding importance to the welfare of the Nation arises, it goes without saying that debate will be limited accordingly. . . .

Frankness compels the observation that the ultimate objective of opponents of free debate in the Senate is cloture by a simple majority vote of Senators present at any given time. Eventual adoption of such a rule would make it possible for 25 Senators, a majority of a quorum, to impose gag rule.

Historically, freedom of debate in the Senate is not a party or sectional device. It has served the whole country and both political parties well at one time or another. History records the fact time and again that the benefits of free debate far outweigh the few instances where the privilege to speak thoroughly may have been abused—and only the most partisan would not admit there have been some abuses. . . .

Under our plan of government the United States Senate is the great safety valve. It is a body which can prevent impasses from developing in our Nation and it is the best instrument for resolving seemingly irreconcilable conflicts. It has afforded a permanent basis for American unity; and that basis has its foundation in the right of every Senator, regardless of the size of the State from which he comes, to talk things out before the country.

The only real protection remaining for States which find themselves from time to time in the minority on any given issue in the Senate is a safe two-thirds rule on limiting debate.

Through the medium of free debate, the Senate provides the machinery by which all measures affecting the lives, fortunes, and sacred honor of the American people can be put to the critical test of unhurried examination by the collective intellect of a body expressly created as one of our governmental checks and balances.

Those who would destroy this right contend it imperils democracy and thwarts the wishes of the majority. In their zeal they forget that its very purpose is to provide a restraint upon the abuses of unbridled majority rule and, even more important, to protect the rights of the minorities of this nation.

Our wise Founding Fathers were aware that the excesses of democracy can be as fearful in their consequences as are the excesses of totalitarianism. To safeguard against both extremes they gave us our republican form of government with its delicately contrived system of checks and balances of which freedom of debate in the Senate is at least an implied, if not actual, part.

If minority rights are trampled in the Senate there is only one remaining remedy available to those who do not happen to be with the majority; that is, affiliation with a multiplicity of splinter parties. No greater catastrophe could befall our country than such enforced destruction of the two-party system and substitution of a countless number of political parties.

It does not take much vision to perceive that under such circumstances a small militant minority exercising the balance of power, could be catapulted into a position of leadership where it could inflict great harm on constitutional government and democratic processes.

Since its establishment the Senate of the United States has refused to be bound in a straitjacket. Its rules have had the flexibility the nature of the body demands.

Mr. President, that was only a portion of the report that I submitted to the Senate on this issue in 1957. At a later date I intend to speak further on this question and submit the remainder of that report in some detail.

I hope that the Senate will remember that for almost 200 years it has served as the guardian of our Constitution, the bulwark of the liberties of our people, the protector of the rights of our citizens. If freedom of debate is stricken down in the U.S. Senate, we might as well go all the way and abolish the U.S. Senate as a legislative body and adopt a unicameral system of government and let the House of Representatives be the legislative body.

There would be no need for a Senate because free debate and the right of free speech had been stricken down. The Senate would become a mere appendage of the House of Representatives.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE WELFARE MESS—BENEFITS FOR FRAUD DURING THE APPEALS PROCESS

Mr. LONG. Mr. President, on February 13, 1971, the Department of Health, Education, and Welfare published new regulations concerning continuation of welfare payments while a welfare recipient appeals a decision involving either eligibility for or amount of welfare benefits. I would like to outline for my colleagues the events leading to these new regulations and to then discuss some of the problems raised by the regulations themselves.

Let me begin by saying that I am sure all Senators would agree that needy persons should be able to obtain the full welfare benefits they are entitled to under the law and to obtain them within a reasonable time after applying for aid. Arbitrary administrative procedures should not become roadblocks to the receipt of this assistance, and applicants should receive fair treatment in accordance with the law. Ever since the Social Security Act of 1935, Federal law has required States to provide an opportunity for a fair hearing when an individual has been determined to be ineligible for welfare payments. Section 402(a)(4) of the Social Security Act today, for example, requires States to "provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness."

The situation that has developed recently, however, goes far beyond offering reasonable protection of the rights of the needy. One year ago, the Supreme Court ruled in two cases that assistance payments could not be terminated before a recipient is afforded an evidentiary hearing. The decision was made on the constitutional grounds that termination of payments before such a hearing would violate the due process clause. A majority of the Court argued that welfare payments are a matter of statutory entitlement for persons qualified to receive them and that—

It may be realistic today to regard welfare entitlements as more like "property" than a "gratuity." . . . The Constitutional challenge cannot be answered by an argument that public assistance benefits are "a 'privilege' and not a 'right.'"

Justice Black, in dissenting from the majority's opinion felt that the Court had no basis for exercising legislative power in the guise of a judicial decision. He stated:

In my judgment there is not one word, phrase, or sentence from the beginning to the end of the Constitution from which it can be inferred that judges were granted any such legislative power. True, *Marbury v. Madison* held, and properly, I think, that courts must be the final interpreters of the Constitution, and I recognize that the holding can provide an opportunity to slide imperceptibly into constitutional amendment and law making. But when federal judges use this judicial power for legislative purposes, I think they wander out of their field of vested powers and transgress into the area constitutionally assigned to the Congress and the people. That is precisely what I believe the Court is doing in this case.

Turning to the substance of the decision, Justice Black rejected the majority view which he felt stated that:

In other words, although some recipients might be on the lists for payment wholly because of deliberate fraud on their parts, the Court holds that the Government is helpless and must continue, until after an evidentiary hearing, to pay money that it does not owe, never has owed, and never could owe. . . . It somewhat strains credulity to say that a government's promise of charity to an individual is property belonging to that individual when the Government denies that the individual is honestly entitled to receive such a payment. . . . Although the majority attempts to bolster its decision with limited quotations from prior cases, it is obvious that today's result depends neither on the language of the Constitution itself or the principles of other decisions, but solely on the collective judgment of the majority as to what would be a fair and humane procedure in this case.

If no applicant for welfare assistance was ever dishonest, the whole matter would cause little concern. But frankly, Mr. President, welfare fraud is much more prevalent than the Department of Health, Education, and Welfare would like to admit. In 1969 the General Accounting Office monitored a special review of the program of aid to families with dependent children in New York City. Based on this review, the GAO estimated that 10.7 percent of the AFDC families were ineligible for any benefits and that 34.1 percent of the AFDC families were receiving payments higher than what they were entitled to. I might mention that GAO originally found 14 percent ineligible; they were able to get the city welfare agency to agree to at least 10.7 percent. The net cost of these

illegal payments amounted to about $70 million annually—$35 million of which is paid by the Federal Government. New York City, as is well known, has a larger welfare caseload than any other city in the Nation with more than 1 million persons drawing welfare payments—and the number is going up all the time.

Welfare fraud not only costs the taxpayers more—it also hurts the needy who should be receiving welfare. In most States, appropriations for welfare payments are fixed by the State legislature, and unanticipated increases in the caseload may result in prorated cutbacks for all welfare recipients to fit payments within available funds.

It is a sad situation for those deserving needy persons, Mr. President, when there is a cutback on welfare payments to families with dependent children because of these erroneous Supreme Court decisions, which had the effect of loading down the welfare rolls with people who were never intended to be there.

The Federal Government paid for the services of poverty lawyers who were supposed to help poor people get their legal affairs straightened out. Instead, the lawyers have undertaken to challenge State and Federal law to add new categories of families to the welfare rolls that the Congress never intended to be there.

As much as we like to hope that the Supreme Court will be right in all cases, it does not stand to reason that the Supreme Court is going to be infallible when the very basis of having a Supreme Court is the fact that the lower courts err. If lower courts can make a mistake, why not the Supreme Court? If enough erroneous lawsuits are brought to plead enough ridiculous causes, then some of those far-fetched contentions will be agreed to by the Supreme Court, if only through error. By its suggesting all these different ways that States can be made to do more for the poor, we find the welfare rolls loaded with people who were not intended to be there, and that those who are on the rolls suffer as a result of cutbacks because welfare funds are limited, and by having to share the available funds with numbers of people who never should have been put on the welfare rolls, those who have a right to be on the rolls must receive lower payments. Just applying the New York City percentages of ineligibility and overpayments, if 11 percent of the welfare recipients in a particular State are ineligible for any benefits and another 34 percent are receiving more than they are entitled to, this may well result in persons who are poor and needy receiving a cut in the welfare assistance they legitimately need, or it may prevent the State from raising payment levels as the cost of living goes up.

In its review of the welfare programs last year, the Finance Committee let its views be known on this issue of welfare as a right. I quote in full an excerpt from the committee report on the 1970 social security bill dealing with this question:

> It should be remembered that welfare is a statutory right, and like any other statutory right, is subject to the establishment by Congress of specific conditions and limitations which may be altered or repealed by subsequent congressional action. In fact, the Social Security Act, in section 1104 makes explicit what would be the case in any event, that "the right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress." . . .
>
> The "right to welfare" implies no vested, inherent or inalienable right to benefits. It confers no constitutionally protected benefit on the recipient. To the contrary, the right to welfare is no more substantial, and has no more legal effect, than any other benefit conferred by a generous legislature. The welfare system as we know it today has its legal genesis in the Social Security Act and the statutory rights granted under, and pursuant to, that Act can be extended, restricted, or otherwise altered or amended—or even repealed—by a subsequent act of Congress (or of a State legislature). It is this ability to change the nature of a statutory right which distinguished it from a property right or any right considered inviolate under the Constitution. The committee firmly restates this view of the nature of the "right" to a welfare benefit.

With respect to the appeals process, the committee bill last year would have required State welfare agencies to reach a final decision on the appeal of a welfare recipient within 30 days following the day the recipient was notified of the agency's intention to reduce or terminate assistance. The committee bill would have also required that a recipient pay back amounts received during the appeal period if it was subsequently determined that he was not entitled to them. The committee felt that its action would both assure that the appeals procedure would be handled expeditously by the States to protect the rights of the needy and also assure that appeals would not be made frivolously.

Now let us look at the new regulations of the Department of Health, Education, and Welfare. These regulations go well beyond anything the Court required in its decision. The whole tone and emphasis of these regulations seems to assume that the recipient is entitled to the full welfare payment and that he has done no wrong. The regulations give no serious consideration to the fact that fraud may have been committed.

I can well understand why every recipient is entitled to an opportunity to appeal an unfavorable decision by the welfare agency, but the HEW regulation goes well beyond this to state that "agency emphasis must be on helping the claimant to submit and process his request, and in preparing his case, if needed." This means that even if the welfare agency terminated a recipient on the grounds that the application was fraudulent it must still help him prepare his case against the agency for doing what it had to do under the law, and trying to protect the taxpayers' money.

The welfare agency must not only notify the recipient of his right to appeal, it must also notify him that his assistance will be continued during the appeal period if he decides to appeal. A provision of last year's committee bill would have required disposition of all cases within thirty days. The HEW regulation places a 60-day limitation, with one monumental exception:

> Prompt, definitive, and final administrative action will be taken within sixty days from the date of the request for a fair hearing, *except where the claimant requests a delay in the hearing.*

Simply stated, Mr. President, this means that any welfare recipient can stall the hearing process in order to continue to receive welfare payments.

The new HEW regulations state that when the hearing decision is favorable to the claimant, any cumulative payments must be made retroactively if they have not already been paid to the recipient. There is not one mention in the regulations, however, that the welfare recipient has any obligation whatever to repay any portion of funds he was ineligible to receive and received illegally.

Let us look at this in the context of other regulations of the Department of Health, Education, and Welfare. For the past 2 years, this Department has spared no effort to bring into being the use of the so-called simplified declaration method of determining eligibility for welfare. Under this method, a recipient merely fills out a simplified form which serves as the basis of determining if he is eligible for welfare payments. Welfare agencies then check a sample of these cases, if they can get around to it, to determine whether the applicant is actually eligible. Under the simplified declaration method getting on welfare is as easy as filling out a simple form.

Under the Court decision and the HEW regulations, however, it becomes almost impossible to get anyone off welfare even if the initial application was fraudulent. I might note that the State of Nevada recently reduced its welfare rolls by 22 percent after they checked into every single AFDC case in the State. In a letter to me, the State welfare administrator, Mr. George E. Miller stated:

> The results of the review show conclusively that the declaration system, as imposed by Federal regulations, is unrealistic and unworkable.

Mr. President, the same investigation effort by the department in Nevada demonstrated that more than 50 percent of those people were getting more money than they were entitled to receive. Twenty-two percent were totally ineligible, and 38 percent of them were receiving more money than they were entitled to.

In other words, the State felt that use of the so-called declaration method had resulted in more than 50 percent of the families on the rolls getting more than they were entitled to, with 22 percent of them not being entitled to be on the rolls at all.

Despite this phenomenally high percentage, the HEW regulations would have all 50 percent entitled to continue to get that money, and informed of their rights to continue to get it, without any plan being made to get back for the Government the money of which it was wrongfully deprived as a result of fraud or error made to the advantage of the welfare applicant.

Is it any wonder, Mr. President, that welfare costs are rising catastrophically, and that the States are urging the Federal Government to take over the welfare burden? It is the activity of the Fed-

eral Government itself—by ridiculous regulations out of Washington and by paying the so-called poverty lawyers to sue the States—that have succeeded in making the program anything but what it was supposed to be, a program to help honorable people who, through no fault of their own, were in necessitous circumstances.

As far as this Senator is concerned, the Congress had better think twice before it turns over the responsibility of welfare programs to a Department which can write welfare regulations the way the Department of Health, Education, and Welfare had done.

I might point out that the same kind of people who wrote these regulations, where the Government is on the short end of a heads-I-win, tails-you-lose sort of proposition, those who have proposed the family assistance plan. Is it any wonder that all the problems inherent in the existing welfare mess—and then some—are included in the so-called welfare reform plan, when the same people who write this kind of regulation are the proponents and the architects of the so-called family assistance plan?

I must say that there is a great deal that should be done, and I would like to see it done, to help working people, who work hard and make little, and are presently ineligible for welfare. But about the last thing we ought to do is to continue to build upon a structure that has all the faults within it that are inherent in the existing welfare program—and for that matter, to make it worse with ridiculous regulations. Until some headway is made toward correcting what is wrong and stopping the additional wrongs that are being forced into the program by those who are presently running it, I, for one, would not be able to vote for this so-called welfare reform package.

I would very much like to do a great deal more for the poor. I have every sympathy on earth for the unfortunate cases of persons who have every right to come to the Government asking for help, and whom I have voted to assist year after year. But I do not see how I can be enthusiastic about any program that further rewards fraud, that further encourages people not to go to work, that further fails to require people to do that which is in their long-term best interests, and further penalizes the taxpayer unjustly by making welfare fraud simple, attractive, and expensive.

Any real welfare reform must undo the horrible mischief that was done to the existing welfare program administratively, right here in Washington, by the institution of the so-called declaration method for placing recipients on the rolls. When we can have an investigation in a State such as Nevada and discover that more than 50 percent of the people are getting more than they are entitled to and 22 percent are totally ineligible to receive anything, it can be seen what a ridiculous idea the declaration method is.

Before we build on top of that kind of structure, we ought to first clean up the present mess by providing reform without adding more recipients to the rolls. Then, having corrected what is wrong with our present program, we should proceed to provide more generous care for those who need it, and we will have found the money to pay for that more generous care from the savings due to denying benefits to those who are not eligible or who are being paid more than they are entitled to. Cleaning up the present caseload must be a condition of passing any further welfare legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the new HEW regulations and a copy of the press report.

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

TITLE 45—PUBLIC WELFARE

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Part 205—General administration—Public assistance programs

Notice of proposed rule making for the programs administered under titles I, IV–A, X, XIV, XVI, and XIX of the Social Security Act, relating to fair hearings in public assistance programs, was published in the *Federal Register* on May 29, 1970 (35 F.R. 8448). After consideration of the views presented by interested organizations, agencies, and individuals, the following changes were made:

1. Section 205.10(a)(5) now requires that the State agency shall determine whether the issue is one of fact or judgment or of State agency policy; that assistance will continue until such determination is made, and—where the issue is one of fact or judgment—until a fair hearing decision is reached. It incorporates the substance of the proposed § 206.11 (which has been omitted) and requires a minimum advance period of 15 days rather than 7 days. It clarifies the State's option of continuing assistance regardless of the nature of the issue, and even if the request for a hearing is made after expiration of the advance notice period.

2. Section 205.10(a)(3)(v) is changed to provide that any claimant scheduled for a group hearing may withdraw and be given an individual hearing instead.

3. Clarifying changes are also made in § 205.10(a)(3), first paragraph (opportunity for a fair hearing regarding suspension of assistance), § 205.10(a)(9) (medical assessment from a source satisfactory to a claimant) and § 205.10(a)(10)(i) (opportunity to examine hearing evidence in advance).

4. The requirement for provision of legal services contained in §§ 205.10 and 220.25 was separately revoked (see 35 F.R. 10591, June 30, 1970).

Accordingly, section 205.10, Part 205, Chapter II, Title 45 of the Code of Federal Regulations is revised to read as follows:

§ 205.10 Fair hearings.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, XVI or XIX of the Social Security Act must provide for a system of fair hearings under which:

(1) The single State agency responsible for the program will be responsible for fulfillment of fair hearings provisions.

(2) Every claimant will be informed in writing at the time of application and at the time of any action affecting his claim:

(i) Of his right to fair hearing;

(ii) Of the method by which he may obtain a hearing;

(iii) That he may be represented by legal counsel, or by a relative, friend, or other spokesman, or he may represent himself; and

(iv) Of any provision for payment of legal fees by the agency.

(3) An opportunity for a fair hearing before the State agency will be granted to any individual requesting a hearing because his claim for financial or medical assistance is denied, or is not acted upon with reasonable promptness, or because he is aggrieved by any other agency action affecting receipt, suspension, reduction, or termination of such assistance or by agency policy as it affects his situation. Under this requirement:

(i) A request for a hearing is defined as any clear expression (oral or written) by the claimant (or person acting for him, such as his legal representative relative, or friend) to the effect that he wants the opportunity to present his case to higher authority.

(ii) The freedom to make such a request must not be limited or interfered with in any way, and agency emphasis must be on helping the claimant to submit and process his request, and in preparing his case, if needed.

(iii) The claimant must be provided reasonable time in which to appeal an agency action.

(iv) The fair hearing shall include consideration of:

(*a*) Any agency action, or failure to act with reasonable promptness, on a claim for financial or medical assistance, which includes undue delay in reaching a decision on eligibility or in making a payment, refusal to consider a request for or undue delay in making an adjustment in payment, and suspension or discontinuance of such assistance in whole or in part;

(*b*) The agency's interpretation of the law, and the reasonableness and equitableness of the policies promulgated under the law, if the claimant is aggrieved by their application to his situation;

(*c*) Agency decision regarding:

(*1*) Eligibility for financial or medical assistance in both initial and subsequent determinations,

(*2*) Amount of financial or medical assistance or change in payments,

(*3*) The manner or form of payment, including restricted or protective payments, even though no Federal financial participation is claimed, and

(*4*) Conditions of payment, including work requirements.

(v) States may respond to a series of individual requests for fair hearings by conducting a single group hearing. States may only consolidate cases in which the sole issue involved is one of an agency policy. In such a situation, each individual must be given the right to withdraw from the group hearing in favor of an individual hearing. If recipients request a group hearing on such an issue the State must grant it. In all group hearings, whether initiated by the State or by the claimants, the policies governing fair hearings must be followed. Thus, each individual claimant must be permitted to present his own case and be represented by his own lawyer.

(vi) The agency shall not deny or dismiss a request for a hearing except where it has been withdrawn by claimant in writing, or abandoned.

(4) Hearing procedures will be issued and publicized by the State agency for the guidance of all concerned.

(5) In cases of any proposed action to terminate, suspend or reduce assistance:

(i) The State or local agency will give timely and adequate advance notice detailing the reasons for the proposed action. Under this requirement:

(*a*) "Timely" means that the notice is mailed at least 15 days before the action is to be taken.

(*b*) "Adequate advance notice" means a written notice that includes details of reasons for the proposed agency action, explanation of the individual's right to conference, his right to request a fair hearing and

the circumstances under which assistance is continued if a fair hearing is requested.

(ii) If, within the advance notice period, the individual responds by indicating his wish for an agency conference, an opportunity is provided for the recipient (or his representative) to discuss his situation with agency staff, obtain an explanation of the reasons for the proposed action, and present information to show that the proposed action is incorrect. Under this requirement:

(*a*) During this conference, the recipient is given the opportunity to speak for himself or be represented by legal counsel or by a friend or other spokesman.

(*b*) The opportunity for a conference does not in any way diminish the recipient's right to a fair hearing.

(iii) In cases in which there is a request for a fair hearing within the advance notice period:

(*a*) Assistance is continued until the fair hearing decision is rendered and through a period consistent with the State's established policies for issuance of payments unless a determination is made by the State agency, in accordance with criteria issued by the Social and Rehabilitation Service, that the issue is one of State agency policy and not one of fact or judgment relating to the individual case, including a question of whether the State agency rules or policies were correctly applied to the facts of the particular case.

(*b*) The agency promptly informs the claimant in writing if assistance will be discontinued, based on the State agency's determination.

Alternatively, the State may provide for continuing assistance in all cases.

In cases in which a fair hearing is requested after expiration of the advance notice period, the State may provide for an additional period during which time the request for a hearing will result in reinstatement of assistance to be continued until the fair hearing decision.

(6) Information and referral services are provided to help claimants make use of any legal services available in the community that can provide legal representation at the hearing.

(7) The hearing will be conducted at a time, date and place convenient to the claimant, and adequate preliminary written notice will be given.

(8) The hearings will be conducted by an impartial official (or officials) of the State agency. Under this requirement, the hearing official must not have been involved in any way with the action in question.

(9) When the hearing involves medical issues such as those concerning a diagnosis, or an examining physician's report, or the medical review team's decision, a medical assessment other than that of the person or persons involved in making the original decision will be obtained at agency expense from a source satisfactory to the claimant and made part of the record if the hearing officer or the appellant considers it necessary.

(10) The claimant, or his representative, will have adequate opportunity:

(i) To examine all documents and records used at the hearing at a reasonable time before the date of the hearing as well as during the hearing;

(ii) At his option, to present his case himself or with the aid of others including legal counsel;

(iii) To bring witnesses;

(iv) To establish all pertinent facts and circumstances;

(v) To advance any arguments without undue interference;

(vi) To question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

(11) Prompt, definitive, and final administrative action will be taken within 60 days from the date of the request for a fair hearing, except where the claimant requests a delay in the hearing.

(12) The claimant will be notified of the decision, in writing, in the name of the State agency and, to the extent it is available to him, of his right to judicial review.

(13) When the hearing decision is favorable to the claimant, or when the agency decides in favor of the claimant prior to the hearing, the agency will make corrective payments retroactively to the date the incorrect action was taken or such earlier date as is provided under State policy.

(14) Recommendations of the hearing officer or panel shall be based exclusively on evidence and other material introduced at the hearing. The verbatim transcript of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, and the recommendations of the hearing officer or panel will constitute the exclusive record for decision by the hearing authority and will be available to the claimant at a place accessible to him or his representative at any reasonable time.

(15) Decisions by the hearing authority, rendered in the name of the State agency, shall specify the reasons for the decision and identify the supporting evidence. They shall be binding on the State and local agency. Under this requirement:

(i) No person who participated in the local decision being appealed will participate in a final administrative decision on such a case;

(ii) The State agency is responsible for seeing that the decision is carried out promptly.

(16) The State agency will establish and maintain a method for informing, at least in summary form, all local agencies of all fair hearing decisions by the hearing authority and the decisions will be accessible to the public (subject to provisions of safeguarding public assistance information).

(17) In respect to title XIX, when the appeal has been taken on the basis of eligibility determination, the agency responsible for the determination of eligibility for medical assistance, if different from the single State agency administering the medical assistance plan, shall participate in the conduct of the fair hearing.

(b) *Federal financial participation.* Federal financial participation is available for the following items:

(1) Payments of assistance continued pending a hearing decision;

(2) Payments of assistance made to carry out hearing decisions, or to take corrective action after an appeal but prior to hearing, or to extend the benefit of a hearing decision or court order to others in the same situation as those directly affected by the decision or order. Such payments may be retroactive in accordance with applicable Federal policies on corrective payments.

(3) Payments of assistance within the scope of Federally aided public assistance programs made in accordance with a court order.

(4) Service costs incurred by the agency at the applicable matching rates, for:

(i) Providing legal counsel to represent clients at hearings or in judicial review;

(ii) Providing transportation for the claimant, his representative and witnesses to and from the place of the hearing;

(iii) Meeting other expenditures incurred by the client in connection with the hearing.

(5) Administrative costs incurred by the agency in carrying out the hearing procedures, including expenses of obtaining an additional medical assessment.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302.)

Effective date: These regulations shall become effective 60 days from the date of their publication in the *Federal Register*.

Dated: November 23, 1970.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: February 6, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[From the Washington Post, Feb. 15, 1971]

HEW TO CHANGE WELFARE POLICY

The Health, Education and Welfare Department announced yesterday it is instituting a policy effective in 60 days to issue welfare payments to clients while hearings are being held on challenges to their eligibility.

The policy change comes nearly a year after the U.S. Supreme Court ruled that welfare clients have a constitutional right to formal hearings before officials cut off their benefits.

A spokesman said the new regulation, which the states receiving federal welfare aid are instructed to enforce, will mean that even if a client loses his case, he will get to keep the benefits he received during the hearings.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on tomorrow, following approval of the Journal, if there is no objection, the recognition of the majority and minority leaders under the previous standing order, and the calling up of any unobjected-to items on the calendar, if there be any, there be a period for the transaction of routine morning business not to exceed 45 minutes, with statements therein limited to 3 minutes.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock meridian following a recess. Following approval of the Journal if there is no objection, and recognition of the two leaders or their designees and the call of unobjected to items on the legislative calendar, if there be any, and there will be a period for the transaction of routine morning business for not to exceed 45 minutes, with statements therein limited to 3 minutes; following which the Senate will continue its consideration of pending business.

Under the previous order, the Senate, upon completion of its business tomorrow, will then stand in recess until 12 o'clock meridian on Monday next.

RECESS

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 12 o'clock meridian tomorrow.

The motion was agreed to; and (at 4 o'clock and 1 minute p.m.) the Senate recessed until tomorrow, Friday, February 19, 1971, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 18 (legislative day of February 17), 1971:

IN THE NAVY

Adm. Waldemar F. A. Wendt, U.S. Navy, for appointment to the grade of admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. William F. Bringle, U. S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

Rear Adm. Thomas J. Walker III, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. Malcolm W. Cagle, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

HOUSE OF REPRESENTATIVES—*Thursday, February 18, 1971*

The House met at 12 o'clock noon.

Bishop Anthony L. Deksnys, Ph. D., Titular Bishop of Lavellum for Lithuanians in Western Europe, offered the following prayer:

Eternal Father, we raise our minds and hearts to You, invoking Your benediction upon our President and his entire administration, as well as upon every Member of Congress, elected by the free citizens of this Republic, that the laws enacted by Congress would be inspired and guided by Your wisdom, flow from hearts dedicated to the needs of neighbor, and be beneficial to all the inhabitants of our land.

The Lithuanian people, commemorating the 53d anniversary of the proclamation of their independence, also pray Your Majesty to restore to her the independence of which she was so brutally stripped, appealing at the same time to the conscience of the world and especially to the United States—the champion of self-determination for all nations—at whose shores all the oppressed seek protection and help.

We pray, too, that the fortunate citizens of this noble Republic would dedicate themselves in these trying times to the good of their country, that our star-spangled banner would ever gloriously wave on high, and that, from the hearts of all beholding it, would pour forth in a paean of love and thanksgiving the glorious strains of "God Bless America." Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announced to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries.

DESIGNATION OF MEMBER TO READ GEORGE WASHINGTON'S FAREWELL ADDRESS ON FEBRUARY 22

The SPEAKER. Pursuant to a special order agreed to on February 8, 1971, the Chair designates the gentleman from Virginia (Mr. ROBINSON) to read George Washington's Farewell Address immediately following the approval of the Journal on February 22, 1971.

BISHOP ANTHONY L. DEKSNYS

(Mr. PRICE of Illinois asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Illinois. Mr. Speaker, it is indeed appropriate that our opening prayer today has been offered by his Excellency Anthony L. Deksnys, Titular Bishop of Lavellum. Today, we officially observe the 53d Anniversary of the Independence of Lithuania. As the Bishop of Lavellum, Bishop Deksnys is responsible for providing for the spiritual assistance of Lithuanians living in Western Europe.

Long before his ordination as the Bishop of Lavellum, my good friend Bishop Deksnys worked diligently and tirelessly for the Lithuanian people. In his long years in the Resettlement Council in the United States and as pastor of the Immaculate Conception Church in East St. Louis, Ill., Bishop Deksnys has provided spiritual strength and guidance for his fellow countrymen.

As leader of the Lithuanian community in East St. Louis for many years, Bishop Deksnys has special understanding of the needs of his people. His counsel and advice was sought by all. I consider it a distinct privilege and honor to have Bishop Deksnys as a longtime friend. Throughout the years we have worked together on many problems and projects affecting our Lithuanian friends. I am especially pleased that Bishop Deksnys could be with us today on such an auspicious occasion.

THE LOST ART

(Mr. ASPINALL asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, just recently I have read the most thought-provoking article entitled "The Lost Art." It was written by Elmer Shaw, research production assistant in the Environmental Policy Division of the Library of Congress, and published in the National Parks magazine.

Mr. Speaker, because of the thought conveyed in the article, I commend it to the reading of my colleagues:

THE LOST ART

Have we, here in America, lost the art of doing nothing? Have we forgotten how to relax, how to meditate, and how to be at ease when alone?

For most of us, life has become too ultra-modern. Like automatons, we are controlled by clockwork. We have forsaken the vastness of mountains, prairies, and forests, for a cubicle deep in the city. We swarm in the streets like bees in a hive. In the big cities we are all John Doe; in the wilderness we are Adam.

When we grow weary of speed, schedules, and smog, some deep homing instinct calls us out of the cities into the great quiet places of the earth—to the deserts, the forests, the mountains, and to the shores of the sea. Here, Time itself seems to sleep and clocks are forgotten. Once again, almost without effort, we learn to do nothing, to play in the sand, to dream westward with the sunset, to live as only a child can live—free and unfettered.

High in the mountains, time becomes infinite; space seems eternal—and both fade to nothingness.

Released and free, the mind explores the universe. It wanders through the corridors of space. It dreams; it soars; it finds itself—not through action and struggle, not through the magic of some formula, but by simply being still, by doing nothing.

OUR MOST CERTAIN DEFENSE IS OUR OWN STRENGTH

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, our most effective weapon for survival remains the ready strength to insure survival. We must have immediate power for instant use. Our friends need this assurance; our enemies will respect it. A case in point is the threat of the Red Chinese to intervene in Laos. This is to offset the South Vietnamese drive to cut Communist supply lines to Indochina. The Premier of Laos has expressed apprehension about this possibility. This is a natural reaction. His small country has been harassed by threat of Communist takeover for years and he recalls the Chinese invasion of North Korea during the Korean war. The circumstances now are different and there is much less likelihood of a repetition of this action by the Red Chinese.

However, just to help the Red Chinese to keep their minds made up that involvement in Indochina is not for them, we should make certain that they understand our feelings toward additional Red aggression and our ability to react forcefully if we are required to do so.

If there are not sufficient weapons in our arsenal to handle a threat from the East or the West, simultaneously if necessary, we should proceed immediately to beef up our arsenal to the point that our potential enemies fully understand our capabilities. It is a waste of time to attempt to reason with communism. They are accustomed to the use of force when it is to their advantage and they understand the use of threat as well. We