By Mr. REES:

H.R. 5169. A bill for the relief of Violetta Stylianou; to the Committee on the Judiciary.

H.R. 5170. A bill for the relief of James Yu-Wan Sun; to the Committee on the Judiciary.

By Mr. RHODES:

H.R. 5171. A bill for the relief of Gregorio E. Mamerto; to the Committee on the Judiciary.

Mr. ROONEY of New York:

H.R. 5172. A bill for the relief of Miss Emma Falco; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 5173. A bill for the relief of Andres Carrasco-Villapudua; to the Committee on the Judiciary.

By Mr. RUNNELS:

H.R. 5174. A bill for the relief of Glover Packing Co.; to the Committee on the Judiciary.

By Mr. RYAN:

H.R. 5175. A bill authorizing the President of the United States to present a gold medal to the widow of Martin Luther King, Jr.; to the Committee on Banking and Currency.

H.R. 5176. A bill for the relief of Michael Davis; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 5177. A bill for the relief of Simeon Agapito Alejon; to the Committee on the Judiciary.

H.R. 5178. A bill for the relief of Orlando D'Amato; to the Committee on the Judiciary.

H.R. 5179. A bill for the relief of Soo Yong Kwak; to the Committee on the Judiciary.

H.R. 5180. A bill for the relief of Nguyen van My; to the Committee on the Judiciary.

By Mr. TEAGUE of California:

H.R. 5181. A bill for the relief of Rene Paulo Rohden-Sobrinho; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

34. The Speaker presented petition of the Village Assembly, Tomigusuku, Okinawa, relative to granting jurisdiction to the Government of the Ryukyu Islands over criminal offenses committed by members and civilian employees of the U.S. Armed Forces, which was referred to the Committee on Armed Services.

SENATE—*Thursday, February 25, 1971*

(Legislative day of Wednesday, February 17, 1971)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by the President pro tempore (Mr. ELLENDER).

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

Almighty God, in whom we live and move and have our being, help us to face this day and the distant future unafraid. Show us a vision of a world made new and the way by which it can come into being.

Forbid us to be satisfied with things as they are, or content with having our own way, when it is Thy way which we seek and Thy will which is to be done. Open our minds to the wisdom in others and our hearts to the loveliness men hide from us. We do not ask that Thou wilt keep us secure where we are, but that Thou wilt keep us loyal and true in service to our fellow man.

While we pray to make us worthy servants in this place, we ask Thy continued blessing upon the whole Nation, that it may be so committed to righteous purposes as to be a beacon of hope for our troubled world.

In the name of Him who gave His life for others. Amen.

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, February 24, 1971, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER FOR RECOGNITION OF SENATOR TALMADGE ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on Monday next, immediately after the approval of the Journal, if there is no objection, and the recognition of the two leaders under the standing order, the able Senator from Georgia (Mr. TALMADGE) be recognized for not to exceed 15 minutes.

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

MESSAGES FROM THE PRESIDENT

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

REPORT ON PRESIDENTIAL REVIEW OF U.S. FOREIGN POLICY—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

In a democracy, policy is the public's business. I believe the President has an obligation to lay before the American people and its Congress the basic premises of his policy and to report fully on the issues, developments, and prospects confronting the Nation.

Shortly before my inauguration, I concluded that an annual Presidential report on foreign policy would serve these ends well. Each report would measure progress and outline what remains to be done.

I hereby transmit to the Congress the second annual Presidential review of United States foreign policy.

This year my message will be supplemented by two major documents: the Secretary of State's review—the first of its kind—and the annual Defense Report by the Secretary of Defense. Both of these will be comprehensive and detailed accounts, filling out the basic framework and philosophy set forth in this Presidential message.

RICHARD NIXON.

THE WHITE HOUSE, *February 25, 1971.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore 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.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 45 minutes, with statements therein limited to 3 minutes.

QUORUM

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

THE PRESIDENT'S MESSAGE ON THE STATE OF THE WORLD

Mr. GRIFFIN. Mr. President, today the President of the United States sent to Congress a comprehensive message on the state of the world. The report, 180 typewritten pages in length, entitled "United States Foreign Policy for the 1970's—Building for Peace," is a comprehensive statement on U.S. foreign policy.

In addition, President Nixon today addressed the Nation on radio, and summarized many of the points made in his state of the world message.

Mr. President, I ask unanimous consent that the text of the President's radio address to the Nation today be printed in the RECORD.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

TEXT OF A NATIONWIDE RADIO ADDRESS BY THE PRESIDENT ON U.S. FOREIGN POLICY FOR THE 1970's

Over the past ten years, Presidents of the United States have come before the American people in times of crisis to talk about war or the threat of war.

Today I am able to talk to you in a more hopeful and positive vein—about how we are moving this Nation and the world toward a lasting peace.

We have brought ourselves to a time of transition, from war toward peace, and this is a good time to gain some perspective on where we are and where we are headed.

Today I am sending to the Congress my second annual comprehensive report on the conduct of our foreign affairs. It discusses not only what we have done, but why we have done it, and how we intend to proceed in the future.

I do not intend to summarize all that is in my detailed report on foreign policy with you now. Instead, I would like to focus on three key points:

How we are getting out of the war this Nation has been in for the past six years;

How we have created a new and different foreign policy approach for the United States in a greatly changed world;

And how we are applying that approach in working with others to build a lasting peace.

The most immediate and anguishing problem that faced this administration two years ago was the war in Vietnam.

We have come a long way.

Two years ago, when this administration took office, there were almost 550,000 Americans in Vietnam. But within 60 days we will have brought home 260,000 men, and this spring I will announce a new schedule of withdrawals.

Two years ago, our casualties each month were five times as high as they are today.

Two years ago, the additional demands of the Vietnam War cost us approximately 22 billion dollars per year. That cost has been cut in half.

Much of the progress in Indochina was due to the success of the allied operations against the enemy sanctuaries in Cambodia last spring.

The clear proof is in this figure: American casualties after Cambodia have been half the rate they were before Cambodia. Our decision to clean out the sanctuaries in Cambodia saved thousands of American lives. And it enabled us to continue withdrawing our men on schedule.

Just as last year's cutoff of supplies through Cambodia has saved lives and insured our withdrawal program this year, the purpose of this year's disruption of the Ho Chi Minh Trail in Laos is to save lives and insure the success of our withdrawal program next year.

The disruption of the Communist supply line through Laos is being accomplished by South Vietnamese troops, with no U.S. ground troops or advisers. Their army is doing the fighting, with our air support, and the intensity of the fighting is evidence of the importance of that supply line to the Communists.

Consider this combination of events that many people thought was impossible only two years ago:

We have kept our commitments as we have taken out our troops. South Vietnam now has an excellent opportunity not only to survive but to build a strong, free society.

Thanks to the disruption of so much of the enemy's supplies, Americans are leaving South Vietnam in safety; we would much prefer to leave South Vietnam in peace. Negotiation remains the best and quickest way to end the war in a way that will not only end U.S. involvement and casualties, but will mean an end to the fighting between North and South Vietnamese.

On October 7 we made a proposal that could open the door to peace; we proposed:

An immediate standstill ceasefire throughout Indochina to stop the fighting.

An Indochina Peace Conference.

The withdrawal of all outside forces.

A political settlement fair to both sides.

The immediate release of all prisoners of war.

I reaffirm that proposal today. It is supported by every government in Indochina but one—North Vietnam.

I once again urge Hanoi to join us in this search for peace.

If North Vietnam wishes to negotiate with the United States, they will have to recognize that time is running out. With the exception of the prisoner of war issue, if North Vietnam continues to refuse to discuss our peace proposals, they will soon find they have no choice but to negotiate only with the South Vietnamese.

Our eventual goal is a total withdrawal of all outside forces. But as long as North Vietnam continues to hold a single American prisoner, we shall have forces in South Vietnam. The American prisoners of war will not be forgotten by their Government.

I am keeping my pledge to end America's involvement in this war. But the main point I want to discuss with you today—and the main theme of my report to the Congress—is the future, not the past. It matters very much how we end this war.

To end a war is simple.

But to end a war in a way that will not bring on another war is far from simple.

In Southeast Asia today, aggression is failing—thanks to the determination of the South Vietnamese people and to the courage and sacrifice of America's fighting men.

That brings us to a point that we have been at several times before in this century: aggression turned back, and a war ending.

We are at a critical moment in history: What America does—or fails to do—will determine whether peace and freedom can be won in the coming generation.

That is why the way in which we end this conflict is so crucial to our efforts to build a lasting peace in coming decades.

The right way out of Vietnam is crucial to our changing role in the world.

To understand the nature of the new American role we must consider the great historical changes that have taken place.

For 25 years after World War II, the United States was not only the leader of the non-Communist world, it was the primary supporter and defender of this world as well.

But today our allies and friends have gained new strength and self-confidence. They are now able to participate much more fully not only in their own defense, but in adding their moral and intellectual strength to the creation of a stable world order.

Today our adversaries no longer present a solidly united front; we can now differentiate in our dealings with them.

Today neither of the superpowers any longer has a clear-cut nuclear advantage; the time is ripe to come to an agreement on the control of arms.

The world has changed. Our foreign policy must change with it.

We have learned in recent years the dangers of our over-involvement. The other danger—a grave risk we are equally determined to avoid—is underinvolvement. After a long and unpopular war, there is temptation to turn inward—to withdraw from the world, to back away from our commitments. That deceptively smooth road of the new isolationism is surely the road to war.

Our foreign policy today steers a steady course between the past danger of overinvolvement and the new temptation of underinvolvement.

That policy, which I first enunciated in Guam 19 months ago, represents our basic approach to the world:

We will maintain our commitments, but we will make sure our own troop levels or any financial support to other nations is appropriate to current threats and needs;

We shall provide a shield if a nuclear power threatens the freedom of a nation allied with us or of a nation whose survival we consider vital to our security.

We will look to threatened countries and their neighbors to assume primary responsibility for their own defense, and will provide support where our interests call for that support and where it can make a difference.

These principles are not limited to security matters.

We shall pursue economic policies at home and abroad that encourage trade wherever possible and that strengthen political ties between nations. As we actively seek to help other nations expand their economies, we can legitimately expect them to work with us in averting economic problems of our own.

As we continue to send economic aid to developing nations, we will expect countries on the receiving end to mobilize their resources; we will look to other developed nations to do more in furnishing assistance; and we will channel our aid increasingly through groups of nations banded together for mutual support.

This new sharing of responsibility requires not less American leadership than in the past, but rather a new, more subtle, form of leadership. No single nation can build a peace alone; it can only be built by the willing hands—and minds—of all. In the modern world, leadership cannot be "do it yourself"—the path of leadership is in providing the help, the motive and the inspiration to do it together.

In carry out what is referred to as the Nixon Doctrine, we recognize that we cannot transfer burdens too swiftly. We must strike a balance between doing too much and preventing self-reliance, and suddenly doing too little and undermining self-confidence. We intend to give our friends the time and the means to adjust, materially and psychologically, to a new form of American participation in the world.

How have we applied our new foreign policy during the past year? What is our future agenda as we work with others to build a stable world order?

In Western Europe, we have shifted from predominance to partnership with our allies. Our ties with Western Europe are central to the structure of peace because its nations are rich in tradition and experience, strong economically, and vigorous in diplomacy and culture; they are in a position to take a major part in building a world of peace.

Our ties were strengthened in my second trip to Europe and reflected in our close consultation on arms control negotiations. At our suggestion, the NATO alliance made a thorough review of its military strategy and posture. As a result, we have reached new agreement on a strong defense and the need to share the burden more fairly.

In Eastern Europe, our exchange of State visits with Romania, and my meeting last fall with Marshal Tito in Yugoslavia, are examples of our search for wider reconciliation with the nations that used to be considered behind an Iron Curtain.

Looking ahead in Europe:

We shall cooperate in our political and economic relations across the Atlantic as the Common Market grows;

We and our allies will make the improvements necessary to carry out our common defense strategy;

Together we stand ready to reduce forces in Western Europe in exchange for mutual reductions in Eastern Europe.

The problems of Africa are great but so is her potential. The United States will support her people's efforts to build a continent that provides social justice and economic expansion.

In Latin America, there was too much tendency in the past to take our closest neighbors for granted. Recently, we have paid new respect to their proud traditions. Our trade, credit and economic policies have been re-examined and reformed, to respond to their concerns and their ideas, as well as to our own interests.

Our new Latin American policy is designed to help them help themselves; our new attitude will not only aid their progress, but add to their dignity.

Great changes are brewing throughout the hemisphere. We can have no greater goal than to help provide the means for necessary change to be accomplished in peace, and for all change to be in the direction of greater self-reliance.

A new Asia is emerging. The old enmities of World War II are dead or dying. Asian states are stronger and are joining together in vigorous regional groupings.

Here the doctrine that took shape last year is taking hold today, helping to spur self-reliance and cooperation between states. In Japan, South Korea, Thailand and the Philippines, we have consolidated bases and reduced American forces. We have relaxed trade and travel restrictions to underline our readiness for greater contact with Communist China.

Looking ahead in that area:

While continuing to help our friends help themselves, we must begin to consider how regional associations can work together with the major powers in the area for a durable peace.

We will work to build a strong partnership with Japan that will accommodate our mutual interests.

We will search for constructive discussions with Communist China while maintaining our defense commitment to Taiwan. When the government of the People's Republic of China is ready to engage in talks, it will find us receptive to agreements that further the legitimate national interests of China and its neighbors.

For in Asia, we can see tomorrow's world in microcosm. An economically powerful democratic nation, Japan, is seeking new markets; a potentially powerful Communist nation, China, will one day seek new outlets and new relations; a Communist competitor, the Soviet Union, has interests there as well; and the independent non-Communist nations of Southeast Asia are already working together in regional association. These great forces are bound to interact in the not too distant future. In the way they work together, and in the way we cooperate with their relationship, is the key to permanent peace in that area—and the Far East, the scene of such a painful legacy of the recent past, can become an example of peace and stability in the future.

In the Middle East, the United States took the initiative to stop the fighting and start the process of peace.

Along the Suez Canal a year ago, there was daily combat on the ground and in the air. Diplomacy was at an impasse. The danger of local conflict was magnified by growing Soviet involvement and the possibility of great powers being drawn into confrontation.

America took the lead in arranging a ceasefire and getting negotiations started. We are seeing to it that the balance of power, so necessary to discourage a new outbreak of fighting, is not upset. Working behind the scenes, when a crisis arose in Jordan, the United States played a key role in seeing that order was restored and an invasion was abandoned.

We recognize that centuries of suspicion and decades of hostility cannot be ended overnight. There are great obstacles in the way of a permanent, peaceful settlement, and painful compromise is required by all concerned.

We are encouraged by the willingness of each of the parties to begin to look to the larger interest of peace and stability throughout the Middle East. There is still the risk of war, but now—for the first time in years—the parties are actively calculating the risks of peace.

The policy of the United States will continue to be to promote peace talks—not to try to impose a peace from the outside, but to support the peace efforts of the parties in the region themselves.

One way to support those efforts is for the United States to discourage any outside power from trying to exploit the situation for its own advantage.

Another way for us to help turn a tenuous truce into a permanent settlement is this: The United States is fully prepared to play a responsible and cooperative role in keeping the peace arrived at through negotiation between the parties.

We know what our vital interests are in the Middle East. Those interests include friendly and constructive relations with all nations in the area. Other nations know that we are ready to protect those vital interests. And one good reason why other nations take us at our word in the Middle East is because the United States has kept its word in Southeast Asia.

We now come to a matter that affects every nation—the relations between the world's two great superpowers.

Over the past two years in some fields the Soviet Union and the United States have moved ahead together. We have taken the first step toward cooperation in outer space. We have both ratified the treaty limiting the spread of nuclear weapons. And just two weeks ago, we signed a treaty to prohibit nuclear weapons from the seabeds.

These are hopeful signs, but certain other Soviet actions are reason for concern. There is need for much more cooperation in reducing tensions in the Middle East and in ending harassment of Berlin. We must also discourage the temptation to raise new challenges in sensitive areas such as the Caribbean.

In the long run, the most significant result of negotiations between the superpowers in the past year could be in the field of arms control.

The Strategic Arms Limitation Talks with the Soviet Union have produced the most searching examination of the nature of strategic competition ever conducted between our two nations. Each side has had the chance to explain at length the concerns caused by the posture of the other side. The talks have been conducted in a serious way without the old lapses into propaganda.

If both sides continue in this way, there is reason to hope that specific agreements will be reached to curb the arms race.

Taking a first step in limiting the capacity of mankind to destroy itself would mark a turning point in the history of the postwar world; it would add to the security of both the Soviet Union and the United States, and it would add to the world's peace of mind.

In all our relations with the Soviets, we shall make the most progress by recognizing that in many cases our national interests are not the same, and it serves no purpose to pretend they are; our differences are not matters and mood, they are matters of substance. But in many other cases, our separate national interests can best be pursued by a sober consideration of the World Interest.

The United States will deal, as it must, from strength: We will not reduce our defenses below the level I consider essential to our national security.

A strong America is essential to the cause of peace today. Until we have the kind of agreements we can rely on, we shall remain strong.

But America's power will always be used for building a peace, never for breaking it—only for defending freedom, never for destroying it.

America's strength will be, as it must be, second to none; but the strength that this nation is proudest of is the strength of our determination to create a peaceful world.

We all know how every town or city develops a sense of community when its citizens come together to meet a common need.

The common needs of this world today, about which there can be no disagreement or conflict of national interest, are plain to see.

We know that we must act as one world in restoring the world's environment, before pollution of the seas and skies overwhelms every nation. We know we must stop the flow of narcotics; we must counter the outbreaks of hijacking and kidnapping; we must share the great discoveries about the oceans and outer space.

The United States is justly proud of the lead it has taken in working within the United Nations, and within the NATO alliance, to come to grips with these problems and opportunities.

Our work here is a beginning, not only in coping with the new challenges of technology and modern life, but of developing a world-wide "sense of community" that will ease tension and reduce suspicion, and thereby promote the process of peace.

That process can only flourish in a climate of mutual respect.

We can have that mutual respect with our friends, without dominating them or letting them down.

We can have that mutual respect with our adversaries, without compromisng our principles or weakening our resolve.

And we can have that mutual respect among ourselves, without stifling dissent or losing our capacity for action.

For a full generation of peace depends not only on the policy of one party, or one nation, or one alliance or one bloc of nations.

Peace for the next generation depends on our ability to make certain that each nation has a share in its shaping, and that every nation has a stake in its lasting.

This is the hard way, requiring patience, restraint, understanding and—when necessary—bold, decisive action. But history has taught us that the old diplomacy of imposing a peace by the fiat of great powers simply does not work.

I believe that the new diplomacy of partnership, of mutual respect, of dealing with strength and determination will work.

I believe that the right degree of American involvement—not too much and not too little—will evoke the right response from our other partners on this globe in building for our children the kind of world they deserve—a world of opportunity in a world without war.

Mr. BYRD of West Virginia. Mr. President, I am glad the able minority whip has asked that the prepared address made by the President today be printed in the RECORD.

I regret to say I was not supplied with a copy of this address in advance. I was supplied with a copy of the summary of the 180-page report on foreign policy about 30 minutes before the address began.

I am delighted the Senator has suggested it be printed in the RECORD so that all Senators may have it.

PROGRAM FOR MONDAY—CONSIDERATION OF MONEY RESOLUTIONS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it be in order on Monday next to have a

call of the legislative calendar of general orders, beginning with Calendar order No. 8; I ask unanimous consent that the various money resolutions thereon be called in order of their appearance on the calendar; and I ask unanimous consent that rule VIII be waived with respect to the 5-minute limitation on debate therein.

The PRESIDENT pro tempore. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object—I wish to be sure we understand each other. This unanimous-consent request is limited to Monday; is that right?

Mr. BYRD of West Virginia. It is limited to Monday and with respect to the money resolutions that are on the calendar.

Mr. JAVITS. I understand, but suppose they go over until Tuesday, Wednesday, Thursday, Friday. Then what? There may be extended debate on them. As the Senator has asked for suspension of the 5-minute rule, we cannot tell how long it will take. So what is the Senator's unanimous-consent request? Is it for Monday? Let us say Monday and Tuesday. Let us put some limit on the debate, so we do not have the debate on rule XXII preempted by some new debate on the money resolutions.

Mr. BYRD of West Virginia. I think the verbiage that was in my unanimous-consent request would provide for the calling of these resolutions only on Monday.

Mr. JAVITS. Only on Monday?

Mr. BYRD of West Virginia. Yes.

Mr. JAVITS. As far as I am concerned—and I do not know whether the Senator has consulted with other Senators on the rule XXII debate—we would vote on cloture on Tuesday. I do not see any objection to going through with the money resolutions, subject to the cloture vote which must take place, until, say, the close of Senate business on Tuesday. They could go over. There is no reason for hamstringing, and that was not my point; I just did not want to have an open-ended proposal on the money resolutions. I would make it Monday and Tuesday, with the cloture vote to be taken at the appropriate time, and if cloture is voted, it will start on Wednesday.

Mr. BYRD of West Virginia. My unanimous-consent request comprehended only Monday. There has been no cloture motion laid before the Senate as yet.

The PRESIDENT pro tempore. It was the Chair's understanding that it will include Monday only.

Mr. JAVITS. That is all right.

Mr. BYRD of West Virginia. It is anticipated that a third cloture motion will be introduced, with the requisite number of signatures, tomorrow. That means we would have a vote on cloture Tuesday. But my unanimous-consent request pertains to Monday next only.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED POWER PLANT SITING ACT OF 1971

A letter from the Director, Office of Science and Technology, Executive Office of the President, transmitting a draft of proposed legislation to assure protection of environmental values while facilitating construction of needed electric power supply facilities, and for other purposes (with accompanying papers); to the Committee on Commerce.

PROPOSED APPROPRIATIONS PROVIDING PROCUREMENT AND CONSTRUCTION FOR THE COAST GUARD

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard (with accompanying papers); to the Committee on Commerce.

REPORT OF ACTIVITIES OF THE DEPARTMENT OF COMMERCE

A letter from the Secretary of Commerce, transmitting, pursuant to law, the 58th annual report of the Secretary for the fiscal year ended June 30, 1970 (with an accompanying report); to the Committee on Commerce.

PROPOSED NOISE CONTROL ACT OF 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the communication from the Environmental Protection Agency, together with a draft of a proposed bill to control the generation and transmission of noise detrimental to the human environment, and for other purposes, be referred to the Committee on Commerce and the Committee on Public Works.

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

PROPOSED LEGISLATION RELATING TO CONDEMNATION PROCEEDINGS BY THE DISTRICT OF COLUMBIA

A letter from the Assistant to the Commissioner, The District of Columbia, transmitting a draft of proposed legislation to amend section 16–1311 of the District of Columbia Code relating to condemnation proceedings by the District of Columbia (with an accompanying paper); to the Committee on the District of Columbia.

REPORT OF THE SECRETARY OF THE SENATE

A letter from the Secretary of the Senate, transmitting, pursuant to law, a report on the receipts and expenditures of the Senate, for the period July 1, 1970 through December 31, 1970 (with an accompanying report); which was ordered to lie on the table and be printed pursuant to law.

REPORT OF THE POSTMASTER GENERAL

A letter from the Postmaster General of the United States, transmitting, pursuant to law, the annual report of the Post Office Department for the fiscal year ended June 30, 1970 (with an accompanying report); to the Committee on Post Office and Civil Service.

PROPOSED LEGISLATION TO ESTABLISH AN ENVIRONMENTAL FINANCING AUTHORITY

A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to establish an Environmental Financing Authority to assist in the financing of waste treatment facilities, and for other purposes (with an accompanying paper); to the Committee on Public Works and to the Committee on Finance for section 10 of the bill.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. TALMADGE, from the Committee on Agriculture and Forestry, with amendments:

S. 70. A bill to amend the Rural Electrification Act of 1936, as amended, to provide an additional source of financing for the rural telephone program, and for other purposes (Rept. No. 92–21).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. PEARSON, from the Committee on Commerce:

Robert Wells, of Kansas, to be a member of the Federal Communications Commission.

Mr. SCHWEIKER. Mr. President, as in executive session, from the Committee on Armed Services I report favorably the nominations of 98 flag and general officers in the Army, Navy, Air Force, and Marine Corps. I ask that these names be placed on the Executive Calendar.

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

The nominations, ordered to be placed on the Executive Calendar, are as follows:

Lt. Gen. Frank Thomas Mildren, U.S. Army (major general, U.S. Army), to be assigned to a position of importance and responsibility designated by the President, in the grade of general;

Maj. Gen. John Hancock Hay, Jr., U.S. Army, to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general;

Gen. Ben Harrell, Army of the United States (major general, U.S. Army), to be placed on the retired list in the grade of general;

Maj. Gen. Fillmore Kennady Mearns, U.S. Army, to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general;

Maj. Gen. Willard Perarson, U.S. Army, to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general;

William J. Weinstein, Marine Corps Reserve, for temporary appointment to the grade of major general;

Harold Chase, Marine Corps Reserve, for brigadier general;

Maj. Gen. David Stuart Parker, Army of the United States, to be Governor of the Canal Zone;

Maj. Gen. Walter Philip Leber, U.S. Army, to be assigned to a position of importance and responsibility designated by the President, in the grade of lieutenant general;

Lt. Gen. Alfred Dodd Starbird, Army of the United States (major general, U.S. Army), to be placed on the retired list in the grade of lieutenant general;

Comdr. Edgar D. Mitchell, U.S. Navy, for permanent promotion to the grade of captain in the Navy;

Adm. Waldemar F. A. Wendt, U.S. Navy, for appointment to the grade of admiral, when retired;

Vice Adm. William F. Bringle, U.S. Navy, for commands and other duties of great importance and responsibility determined by the President, for appointment to the grade of admiral while so serving;

Rear Adm. Thomas J. Walker III, U.S. Navy, for commands and other duties of great importance and responsibility determined by the President, for appointment to the grade of vice admiral while so serving;

Rear Admiral Malcolm W. Cagle, U.S. Navy, for commands and other duties of great importance and responsibility determined by the President, for appointment to the grade of vice admiral while so serving; and

Maj. Gen. Richard F. Shaefer (brigadier general, Regular Air Force), U.S. Air Force, and sundry other officers, for appointment in the Regular Air Force.

Mr. SCHWEIKER. Mr. President, in addition, I report favorably 1354 appointments in the Marine Corps in the grade of colonel and below. Since these names have already been printed in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

The nominations, ordered to lie on the desk, are as follows:

Thomas H. Bruce, and sundry other officers, for permanent appointment in the Marine Corps;

Joe V. Langston, for reappointment in the active list of the Regular Army of the United States, from temporary disability retired list;

Thomas R. Ostrom, and sundry other persons, for appointment in the Regular Army; and

John G. Bugenske, and sundry other persons, for appointment in the Regular Army of the United States.

By Mr. MAGNUSON, from the Committee on Commerce:

Thomas J. Houser, of Illinois, to be a member of the Federal Communications Commission.

Mr. MAGNUSON. Mr. President, as in executive session, from the Committee on Commerce, I also report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

The nominations, ordered to lie on the desk, are as follows:

James W. Brawley, Jr., and sundry other officers, for promotion in the Coast Guard; and

Charles Stuart Allen, and sundry other graduates of the Coast Guard Academy, for permanent assignment in the Coast Guard.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. SCOTT (for himself, Mr. MATHIAS, Mr. JORDAN of Idaho, Mr. COOPER, Mr. SCHWEIKER, and Mr. GURNEY):

S. 956. A bill to revise the Federal election laws, and for other purposes. Referred jointly to the Committee on Commerce, the Committee on Rules and Administration, the Committee on Finance and the Commitee on Post Office and Civil Service.

Mr. SCOTT. Mr. President, I am today introducing the Federal Election Reform Act of 1971. I ask unanimous consent that the bill be referred simultaneously to the Committee on Rules, Finance, Commerce, and Post Office, and that the bill, along with a brief outline, be printed in the RECORD following my remarks.

The PRESIDENT pro tempore. Without objection, the bill will be received and referred as requested; and, without objection, the bill and the outline will be printed in the RECORD.

Mr. SCOTT. Mr. President, joining me in this effort, as the principal cosponsor, is the distinguished senior Senator from Maryland (Mr. MATHIAS). I am especially pleased to have as additional cosponsors, Senators JORDAN of Idaho, COOPER of Kentucky, SCHWEIKER of Pennsylvania, and GURNEY of Florida.

I wish to acknowledge the technical advice and assistance of Dr. Herbert Alexander, executive director of the Citizens Research Foundation in Princeton, N.J. His good counsel is most appreciated.

In the course of my work, I was also assisted by the highly respected National Committee for an Effective Congress. As citizen-veterans of the political wars, I value their advice and judgment. I am especially pleased that the NCEC has indicated its support for my bill.

As early as March 12, 1906, nearly 65 years ago, Congress felt that it ought to take more than a cursory look at the contributions made to political committees in presidential and other campaigns. We are still just looking. Since that day in March, Congress has held no less than 23 sets of hearings, encompassing no less than 45 days. The fruits of these hearings can be seen in the 26 or so special committee reports and the 11 public laws enacted. Since 1937, before which none of the present Members of the Senate were sitting, about 150 bills have been introduced in the Senate covering the broad range of election reform. It is my feeling, and I know others join me, that we must now be about the real business of reforming our election campaign laws. The problem has been with us too long to ignore. The proposals being offered today are not new in themselves. But they are offered in an attempt to bring some order out of the chaos we each face at every election.

The public has never been more aware of the need for campaign reform than it is now. Reports surface almost daily about one candidate or another engaging in some sort of questionable undertaking. During the 91st Congress, a rather inadequate attempt was mounted to give candidates more access to the broadcast media; however, the result might have been to provide candidates with less access to the media than under present laws.

Prior to the Senate's action in sustaining President Nixon's veto of last year's political broadcasting bill, I announced that I would "offer, early in the first session of the 92d Congress, comprehensive campaign reform legislation." I said that the measure would "meet the objection laid down by President Nixon in his veto message." And I further said that I would "consult the White House on the legislation I propose."

In response, President Nixon said that my "proposal to offer a comprehensive campaign reform bill in the 92d Congress is commendable." He indicated that the administration would work closely with me in an effort to arrive at a bill dealing with all aspects of political campaigns "in a direct, effective and enforceable manner." The bill I offer today is consistent both with my earlier statement and the President's. I have conferred and consulted with the White House on this legislation. They have seen the bill and they know of its contents.

At the time of the veto, I suggested several possibilties for inclusion in a new campaign reform bill. The President, similarly, indicated a number of approaches. However, these suggestions were offered only tentatively, pending, of course, a complete review of the entire subject. With that review now having been completed, I offer this bill as the one which most comprehensively and effectively deals with the problem. In other words, the desired goals of reducing the level of campaign spending and increasing a candidate's accessibility to the electorate can both be met through the inclusion of tough reporting and disclosure provisions rather than through the enactment of ceilings on candidate expenditures.

This comprehensive legislation consists, basically, of four parts: financial reporting and disclosure; tax incentives for small political contributions; political broadcasting and advertising; and reduced rates for political mail.

FINANCIAL REPORTING AND DISCLOSURE

It is important to note, at the outset, that this reform approach does not include any spending limitations on the candidate. There are good reasons to support this as the most sensible approach. Further, it is an approach based on careful scholarship rather than on spongy semantics.

Most available research indicates that an approach embodying full reporting and disclosure is far superior to one embodying limitations on campaign expenditures. In 1960, the Citizens Research Foundation, in a study entitled "Money, Politics and Public Reporting," discussed the value of publicity:

If the people are given full and accurate information on the financing of candidates, political parties and committees, it is argued, they will be better able to act to their best interests when casting their votes. Publicity has a unique cleansing power which tends to reduce the potential influence of financial pressure on elected officials by inhibiting the contributor's expectation of favors and the official's willingness to grant them. Moreover, publicity provides information concerning the distribution, unequal or otherwise, of financial resources among rival candidates and parties, and may serve to keep

expenditures at reasonable levels through the fear that excessive spending will cause the electorate to react adversely.

Thus, the argument goes, an affective publicity system will create financial accountability, increase public confidence in the electoral process and curb excesses and abuses by increasing political risk for those who would undertake sharp practices.

At the same time, advocates claim publicity legislation is not intended to restrict the individual, nor to criticize the actions of anyone. No stigma is attached to contributions when made public; on the contrary, financial support of candidates and parties is considered as a legitimate and desirable form of political participation. It is a form, however, that should bear scrutiny. Nor is publicity necessarily intended to condemn prevailing methods of raising or expending funds as actually "wrong" or intentionally "corrupt." Rather, publicity affords public opinion an opportunity to decide as to the character of contributions and expenditures in individual cases. A system of publicity, then, has as its principal purpose the identification of sources and expenditures, not their regulation.

In 1962, President Kennedy's Commission on Campaign Costs recommended:

That an effective system of public disclosure be adopted and that the present meaningless ceilings . . . on total expenditures by political committees be abolished.

Even though the Commission focused on presidential campaigns, there is wide applicability to congressional campaigns as well. The Commission said:

The present statutory ceiling of $3 million on the annual receipts and expenditures of an interstate political committee . . . in no way limits expenditures. We recommend that it be repealed.

These purported ceilings on committee receipts and expenditures . . . has, if anything, simply stimulated an increase in the number of committees.

The imposition of "realistic ceilings" or "segmental limitations," the latter designed to limit expenditures for certain purposes, e.g., broadcasting, which has been urged by some, would only create a false impression of limitation. Moreover, there is doubt whether individuals could be prohibited from making certain expenditures . . . in view of constitutional guarantees of freedom of expression.

The dependence of candidates on large contributions can best be dealt with by encouraging a growth in small gifts and by an improved system of disclosure.

Under present statutory provisions, there has been inadequate reporting of campaign receipts and expenditures. This has presented to the public an incomplete and distorted picture of presidential and vice presidential campaign finance. The candidates themselves are not required to report at all, and only committees operating in more than one State in the general election must report.

Full and effective disclosure is the best way to control excessive contributions, on the one hand, and unlimited expenditures, on the other. Publicity has a cleansing and policing power far more powerful than that of limitations.

In 1968, the Committee for Economic Development, in its report entitled "Financing a Better Election System," further amplified this theme. Again, it was noted that repeal of spending ceilings and enactment of tough disclosure laws would do the job:

The inability to enforce ceilings on total . . . outlays has led many political authorities to call for its repeal. President Kennedy's Commission on Campaign Costs concluded that full public disclosure is a better way to control excessive expenditures. We concur. Broadening the base of financial support through enactment of tax incentives is a better way to minimize the influence of a few large donors than any effort to fix statutory ceilings.

With the enactment of tax incentives to broaden financial support and adoption of changes leading to lower campaign costs, all ceilings on . . . expenditures by candidates and political committees should be removed. It is our conviction that full public disclosure, strictly enforced, will inhibit excesses.

Just last year, a Twentieth Century Fund task force issued a report, entitled "Electing Congress—The Financial Dilemma," in which it made a series of recommendations based on its own research on election campaigns. In its discussion of spending limits, the Task Force said:

The traditional intent of campaign finance regulation in the United States has been to limit the size of campaign . . . expenditures and to prohibit contributions from certain sources. The Corrupt Practices Act limits the amounts candidates and political committees may spend in any one year. Contributions from corporations, unions, and government contractors are prohibited entirely.

We do not believe this policy of ceilings has served the public well because expenditures have been neither limited nor disclosed. The limits now in the law—$5,000 for a House candidate, $25,000 for a Senate candidate, and $3 million a year for a political committee—are unrealistically low. They do not significantly affect the amount of campaign spending. They are unenforceable and while some members of the Task Force would prefer legal limits we believe that no workable set of limits can be devised.

Many people are concerned that candidates spend too much in their campaigns. At least one candidate for the House in 1968 spent $2 million in the general election alone. In some Senate campaigns, in the primary and general elections, as much as $5 or $6 million have been spent. Current laws have been ineffective in preventing or disclosing these expenditures.

If there were full public disclosure and publication of all campaign contributions and expenditures during a campaign, the voters themselves could better judge whether a candidate has spent too much. This policy would do more to protect the political system from unbridled spending than legal limits on the size of contributions and expenditures.

We recommend that all spending limits for congressional campaigns be eliminated.

My approach, then, is full reporting and disclosure. I have successfully resisted the temptation to place arbitrary and meaningless ceilings on campaign expenditures. I have done so for a number of very significant reasons, the most important of which is the ability to contest in an election.

Limitations on campaign expenditures might tend to limit a challenger's ability to compete effectively, since he would be restricted to the same amount as the incumbent, who, of course, is usually much more well known. The challenger will, in all probability, need to spend more to get the same recognition as the incumbent. In this sense, limitations limit competition.

The main concern in my bill is to provide candidates with minimal levels of access to the electorate. This, of course, shifts the concern from spending limitations to the proposals I am offering such as guarantees of low rate political advertising in all media, reduced rate privileges for political mail, and tax incentives for small political contributions. My emphasis is to provide serious candidates with greater access to the electorate. As such, some candidates could spend more just so long as the other candidates are given at least the minimal means to conduct modern campaigns.

Dr. Herbert Alexander sums it up quite well when he discusses the inadvisability of limitations on campaign expenditures:

If limitations on committee spending are too low, they spur an increase in the number of committees. If limits on candidate spending are low, they invite other forms of evasion—such as channeling funds to party, labor, or other committees for spending on behalf of the candidate. In addition, the federal (and many state) limitations require reporting only of the spending that occurs with the candidate's "knowledge and consent." Candidates are able to comply with the expenditure limit personally while campaign committees or others—ostensibly without their "knowledge and consent"—do the spending for them. The exemptions in the federal law noted above are so broad that they vitiate the limit. Amounts spent before announcing candidacy may never be reported. Debts above limitations may be deferred or never reported.

On the other hand, if limitations are too high, they may spur spending to that level. In any case, politicians are unlikely to refrain from spending what they think necessary, and there are good reasons for assuming they know what is required to influence the electorate.

My bill contains two new features—one relating to limits on individual contributions and the other relating to limits on what a candidate may contribute to his own campaign. As much as my bill relies on disclosure to curb abuses, I still feel that if limitations are desirable, they should be applied to contributions and not expenditures.

First, individuals will be prohibited from contributing, in aggregate, more than $15,000 to any one presidential campaign, $10,000 to any one Senate campaign, and $5,000 to any one House campaign. Recognizing that abuses are still possible even with this tightly drawn provision, I am hoping to cut down on some of the overly large contributions that have been flowing into Federal campaigns. I am also giving recognition to the fact that it would be impossible to set a single dollar limit for all campaigns since each of the three types of campaigns generally operate at different levels of spending.

Second, candidates will be prohibited from contributing, in aggregate, to his own campaign, more than $50,000 if he is a candidate for President or Vice President, $35,000 if he is a candidate for the Senate, and $25,000 if he is a candidate for the House. In this instance, I am trying to reduce the advantage that wealthy candidates always have when they are able to finance their own campaigns. But, again, I am recognizing the possibilities for abuse and the relative differences among the campaigns themselves.

Notwithstanding these two new provisions, my approach continues to rely on full reporting and disclosure. As I

want to encourage, rather than discourage, full reporting, I believe that it is absolutely necessary to remove all existing expenditure ceilings.

One point, though, must be made abundantly clear. Limits on spending favor incumbent candidates. Since limits restrict competition, one can only assume that the more well known of two candidates will succeed since he already has a higher degree of recognition among the electroate. Some Members of Congress may think that it is politically popular to say that they favor strict spending limitations. However, these same individuals often neglect to say that such ceilings may tend to give them the edge in a tight election.

Congress has recently enacted a new Legislative Reorganization Act to enable Senators, Representatives, and their respective committees to be more responsive. Both parties, in both Houses, have taken significant steps to modify the seniority system. To act now by limiting campaign spending is to take a step backward. Such limits deceive an electorate that demands reform of its vital institutions, not regression. A vote for spending limitations is a vote for the status quo, a vote for incumbency. If one of the purposes of campaign reform is to restore some modicum of balance to the system, then we must face the issue squarely. We must allow challengers the same opportunities that incumbents take for granted.

The specifics of the reporting and disclosure section of my bill are not entirely new. Detailed reports of receipts and expenditures must be filed by candidates and political committees directly to an independent Federal Elections Commission. Information copies will be sent to the Secretary of the Senate, the Clerk of the House, and U.S. district court having jurisdiction over the area in which the candidate or committee operates. These reports must also be published in the CONGRESSIONAL RECORD. There are five filing dates per year, four prior to general elections, and one following. Such reports are filed by a candidate's central campaign treasurer on behalf of all the candidate's committees.

The Federal Elections Commission would make annual reports and keep files open for public inspection. It will also conduct audits and report violations to law-enforcement officials.

TAX INCENTIVES FOR SMALL POLITICAL CONTRIBUTIONS

This section of the bill is offered in an attempt to broaden the financial base of political participation. I am providing a maximum $25 tax credit or, as an alternative, a maximum $100 tax deduction. Tax credits will generally be used by moderate-income earners who do not itemize their deductions for income tax purposes. Deductions would be used by higher income earners who itemize certain deductible outlays.

I believe very firmly that small tax-reduced political contributions will further encourage donors to support political candidates and campaigns. Candidates can then shift from too heavy a reliance on certain vested interests to the small donors who have always indicated they would contribute if there were a small tax break.

I fully realize the resistance there is to breaking open the tax laws for this purpose. But consider the alternatives. Full public subsidies to candidates would be more costly to the Government. And a checkoff system might unnecessarily disrupt our strong two-party system, especially at the State and local levels. There is a revenue loss, but the actual amount is uncertain. There is simply no experience as to the number of claims that would be filed by eligible contributors. And, of course, the revenue loss would vary from year to year since voter participation similarly varies.

POLITICAL BROADCASTING AND ADVERTISING

This section of the bill represents one of the more realistic attempts to increase a candidate's accessibility to the advertising media and, thus, to the voters. Keeping that goal in mind, I felt that I did not want to dictate the approach of any candidate's campaign nor did I want to discriminate against the advertising media by either singling out one or by dictating percentage rate reductions to them.

There are provisions in this section which relate to broadcast media and nonbroadcast media as well. First of all, there is a firm declaration of congressional intent that broadcasters have certain obligations to the public and to political candidates during election campaigns. Most of this language is excerpted directly from existing Federal Communications Commission regulations and from Federal court decisions affecting the operations of broadcasters. I am simply codifying this language, thus making it clear, without specific congressional regulation, that Congress is dead serious in its belief that broadcasters must deliver the goods in the public interest. If past performance is any indicator, I am certain they will.

From the candidate's view, this approach represents an attempt to make the broadcast media available to him, should he wish it, at preferred advertising rates for 4 weeks before primaries and 6 weeks before general elections. Political advertising time can be purchased, at regular rates, any time outside of these preelection periods. In this way, I am attempting to get at the level of spending rather than the cost itself. I am also making an effort to shorten the length of campaigns by encouraging candidates to purchase time during the stated pre-election periods. Present campaigns are entirely too long.

The broadcast portion of my bill repeals the section 315(a) requirements for "equal time" only as they relate to the office of President or Vice President. This, I believe, will give broadcasters the flexibility they need in effectively presenting presidential campaigns to the public. Contrary to some thinking, there is absolutely no requirement whatsoever for any particular program format, nor any legal compulsion to participate.

The sale of political broadcast time is being made available to all candidates at the lowest unit cost, during specified preelection periods. In this way, political candidates are purchasing advertising time at preferred rates and the broadcaster is not being forced to take any undue financial loss on his sale.

My bill further requires broadcasters to sell "reasonable" amounts of time to all legally qualified candidates for public office. This will assure that those few broadcasters who happen to favor incumbent candidates cannot continue to do so by forbidding the sale of time to both candidates. The term "reasonable," of course, is open to interpretation; but it can, I believe, be given a quick test run through the FCC when a complaint is filed.

My bill also directs the FCC to report back to Congress within 1 year, on the implementation of the broadcast provisions, with recommendations for additional legislation.

The nonbroadcast portion of the bill assures candidates for Federal office who purchase political advertising space in newspapers, or magazines and other periodical publications, or through billboard facilities that the rates for such advertising are available at lowest unit cost. These preferred rates will similarly be made available during the 4-week and 6-week preelection periods.

The nonbroadcast media situation was discussed by the Committee for Economic Development in its 1968 report:

> We believe . . . that it is reasonable to expect periodicals with special mailing privileges to provide a public service. Moreover, advertising space should be equitably available at standard rates.

A committee member, Mr. William Benton, further explained it this way:

> The abdication of the press to cover candidates' TV activities is, in my judgment, a most serious indictment of the press in the '68 campaign. Perhaps a part of the explanation lies in the fact that many news editors are trained to view TV as a rival medium rather than as a major source of news.
>
> I think the following is worth quoting from an article by Jules Witcover in the Fall issue of the Columbia Journalism Review:
>
> "Newspapers should stop combating television's inroads simply by crying foul. If they began offering imaginative alternatives, perhaps they could start to regain the influence they once had in public affairs. To give television a make-or-break role in such key matters as a debate between candidates for the Presidency is a distortion, not a recognition, of its role in informing the public."

It is important to be nondiscriminatory in the treatment of political advertising media. But there will be some who raise constitutional questions with respect to this approach. To them, I say that it is moot. But I believe I am standing on firm constitutional ground in regard to Congress' right to regulate the conduct of Federal elections and in regard to Congress' right to regulate commerce, including postal rates for news distribution.

My treatment of certain nonbroadcast media in this bill is bound to stir controversy. And so it should. But what the proposed legislation does not do should be noted:

First. It does not require a newspaper or other nonbroadcast media to make available any of its space whatever for campaign advertising, to increase the scope of its customary publications, or to

reduce its news or other coverage in order to make space available for campaign advertising;

Second. It does not require such media to make available any of its space, but if it chooses to make its space available for one candidate for Federal office, then it must make an equivalent amount of space available, at the same rates, for all other candidates for such office;

Third. It does not require such media to make charges for seasonal or isolated-type campaign advertisements at the same rates which commercial users pay for regular, continuing advertising space on a yearly, monthly, or other continuing basis;

Fourth. It does not restrict or limit in any way the content or viewpoint of editorial or news comment;

Fifth. It does not deprive such media of the right to refuse to publish material that is offensive, deceptive, or otherwise contrary to basic media standards.

The legislation would also give the nonbroadcast communications media the option not to accept any campaign advertising at all—but if a particular medium elects to do so, it must extend to advertisers the same rates it charges commercial advertisers for equivalent advertising space.

Moreover, the proposed legislation would not abridge the freedom of the press contrary to the first amendment. In no way does it circumscribe the freedom of newspapers and other nonbroadcast communications media to publish news as they desire it published, nor does it interfere with editorial policies, nor with the right to reject campaign advertising entirely, nor to reject it because it is offensive. The legislation would merely prohibit a newspaper, for example, from charging rates for political campaign advertising space higher than it would charge an advertiser of peanuts or potatoes for the same space under the same circumstances. Since such a practice would be restrained by the proposed legislation without affecting the operations of a newspaper or other news medium as an organ of expression or opinion, first amendment rights of the press would not be abridged.

The nonbroadcast portion applies the same political advertising rate criteria as were applied in the broadcast portion. Although the media are different, in that one is directly under Federal control and the other is not, I believe that this approach will establish some equity in the treatment of political advertising. In any event, this is but one of many possible approaches. The Founding Fathers, in their wisdom, established a Supreme Court. If the Congress is deadlocked in judgment, let it be bold; our Nation's highest tribunal will be the final arbiter as to what is constitutional and what is not.

REDUCED RATES FOR POLITICAL MAIL

No campaign reform bill would be complete without consideration of the use of the mail. Presently, incumbent Members of Congress have the franking privilege, or the use of the mail at no cost. In an election, this advantage weighs heavily against the challenger. My bill addresses this inequity in a sensible manner.

In a general election, every major party congressional candidate is entitled to send two pieces of specially marked reduced rate political mail for every registered voter in the district or State. Every other congressional candidate may qualify for one piece.

In a primary campaign, every major party congressional candidate will be able to mail two pieces of specially marked reduced-rate mail for every registered voter in the district or State upon securing the signatures of 5 percent of the registered voters in that area. Every other congressional candidate may qualify for one piece upon securing the signatures of 3 percent of the registered voters in that area.

I am offering to such political mail the rates presently offered to nonprofit organizations. In this way, the revenue loss to the Government is not nearly as large as it would be with a free mailing. Also, only serious candidates would be using the reduced-rate privilege, since free mailings might tend to encourage those whose purposes do not relate to a legitimate campaign for Federal office.

Mr. President, my bill represents a comprehensive effort to reform Federal election campaigns. I believe that the bill must be looked at in its entirety, rather than piece by piece. If the bill be viewed as the reform package which it is, I believe it will receive the consideration it merits. I urge my colleagues to act swiftly on these proposals to assure that the 1972 elections are conducted in a fair and effective manner.

To fail to enact effective reform of campaign practices pursuant thereto will be justly regarded as a failure by this Congress to perform a long-neglected duty.

Mr. President, I ask unanimous consent to have printed in the RECORD an analysis of the major features of the bill and would respectfully request that the Senator from Maryland (Mr. MATHIAS) now be recognized for further comment.

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

S. 956

A bill to revise the Federal election laws, 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 "Federal Election Reform Act of 1971".

TITLE I—AMENDMENTS TO CRIMINAL CODE

SEC. 101. Section 591 of title 18 of the United States Code is amended to read as follows:

"§ 591. Definitions

"When used in sections 592 through 595, 597, 599, 608, 610, and 614 of this title—

"(a) 'election' means (1) a general, special, or primary election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary held for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of persons for election to the office of President and Vice President, and (4) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(b) 'candidate' means an individual who seeks nomination for election, or election, to Federal office whether or not such individual is elected, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he (1) has taken the action necessary under the law of a State to qualify him for nomination for election, or election, to Federal office, or (2) has received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such an office, or (3) has knowledge or information that any other person or political committee has received contributions or made expenditures, for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures;

"(c) 'Federal office' means the office of President or Vice President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States;

"(d) 'political committee' means any individual, committee, association, organization which accepts contributions or makes expenditures in excess of $1,000 during any calendar year;

"(e) 'contribution' means—

"(1) a gift, donation, payment, or loan of money, or a gift, donation, or loan of any thing of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential and vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of persons for election to the office of President and Vice President, or for the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for such purposes;

"(3) a transfer of funds by a political committee to another political committee; and

"(4) providing facilities, equipment, supplies, personnel, advertising, or personal or other services for such purposes without charge or at a charge which is below the usual charge for such facilities, equipment, supplies, personnel, advertising, or personal or other services;

"(f) 'expenditure' means—

"(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of persons for election to the office of President and Vice President, or for the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

"(2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure for such purposes; and

"(3) a transfer of funds by a political committee to another political committee;

"(g) 'Person' and 'whoever' mean an individual, partnership, committee, association,

corporation, or any other organization or groups of persons; and

"(h) 'State' means any of the United States, the District of Columbia, and the Commonwealth of Puerto Rico."

SEC. 102. (a) Section 592 of title 18 of the United States Code is amended by striking out "a general or special" and inserting in lieu thereof "any".

(b) Section 593 of such title is amended by striking out "any general or special election" wherever it appears therein and inserting in lieu thereof "any election".

(c) Section 594 of such title is amended by striking out "the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and Possessions" and inserting in lieu thereof "Federal office or for the office of Presidential elector".

(d) Section 595 of such title is amended by striking out "the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Resident Commissioner from any Territory or Possession" and inserting in lieu thereof "Federal office or for the office of Presidential elector".

SEC. 103. Section 600 of title 18 of the United States Code is amended to read as follows:

"§ 600. Promise of employment or other benefit for political activity

"Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or the support of or opposition to any candidate or any political party in any election, shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 104. Section 608 of title 18 of the United States Code is amended to read as follows:

"§ 608. Limitations on political contributions, expenditures, and purchases

"(a) (1) No person, other than a political committee or a candidate, may make contributions directly or indirectly during any calendar year in an aggregate amount in excess of—

"(A) $15,000 to any candidate for the office of President in connection with his campaigns for nomination for election, and election, to such office;

"(B) $10,000 to any candidate for the office of Senator in connection with his campaigns for nomination for election, and election, to such office; and

"(C) $5,000 to any candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress, in connection with his campaigns for nomination for election, and election, to such office.

"(2) Amounts contributed to the candidate of any party for the office of Vice President shall be held and considered to be contributions to the candidate of the same party for the office of President. Amounts contributed to a political committee which make contributions to, or expenditures on behalf of, any candidate shall be held and considered to be contributions to such candidate.

"(b) (1) No candidate for nomination for election, or election, to Federal office may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for such nomination or election in excess of—

"(A) $50,000, in the case of a candidate for the office of President or Vice President;

"(B) $35,000 in the case of a candidate for the office of Senator; or

"(C) $25,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress.

"(2) For purposes of this section, 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

"(c) (1) No political committee or candidate may sell any goods, commodities, advertising, articles, or services to any person other than a political committee or candidate. No person other than a political committee or candidate may purchase any goods, commodities, advertising, articles, or services from a poltical committee or a candidate.

"(2) This subsection shall not apply to a sale or purchase (A) of any political campaign pin, button, badge, flag, emblem, hat, banner, or similar campaign souvenir or any political campaign literature or publications (but shall apply to sales of advertising including the sale of space in any publication), for prices not exceeding $25 each. (B) of tickets to political events or gatherings, (C) of food or drink for a charge not substantially in excess of the normal charge therefor, or (D) made in the course of the usual and known business, trade, or profession of any person or which is a normal arm's-length transaction between persons, or a transaction between a candidate and his spouse, child or parent.

"(d) In all cases of violations of this section by a partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing heads thereof who knowingly and willfully participate in such violation shall be punished as herein provided.

"(e) Any person who violates any provision of this section shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 105. Section 609 of title 18 of the United States Code is repealed.

SEC. 106. Section 611 of title 18 of the United States Code is amended to read as follows:

"§ 611. Contributions by Government contractors

"Whoever (1) enters into any contract with the United States or any department or agency thereof, either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof, or selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, and (2) during the period of negotiation for, or performance under, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly makes any contribution of money or any other thing of value, or promises expressly or impliedly to make any such contribution, (i) to any person, association, or organization for the purpose of influencing the nomination for election, or election, of any person to any public office, or (ii) to any person, political party, committee, or candidate for any public office for any political purpose whatever; or

"whoever knowingly solicits any such contribution from any such person, for any such purpose during any such period—

"shall be fined not more than $1,000 or imprisoned not more than one year, or both."

SEC. 107. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 614. Use of contribution for personal purposes

"Whoever, being a Senator or Representative in, or Resident Commissioner or Delegate to, Congress, or an individual elected or appointed as Senator, or elected as Representative, Delegate, or Resident Commissioner, or a candidate for any such office, directly or indirectly receives any contribution as a result of a fund-raising event or activity organized in his behalf, and uses all or any part oy such contribution for personal, living, or family purposes, shall be fined not more than $2,000 or imprisoned not more than two years, or both."

(b) The table of contents of chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following:

"614. Use of contribution for personal purposes."

SEC. 108. So much of the sectional analysis at the beginning of chapter 29 of title 18 of the United States Code as relates to sections 600, 608, 609, and 611 is amended to read as follows:

"600. Promise of employment or other benefit for political activity.

"608. Limitation on political contributions, expenditures, and purchases.

"609. Repealed.

"611. Contributions by Government contractors."

TITLE II—DISCLOSURE OF FEDERAL CAMPAIGN FINANCING DEFINITONS

SEC. 201. For purposes of this title—

(a) "election" means (1) a general, special, or primary election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary held for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nominations of persons for election to the office of President and Vice President, and (4) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office whether or not such individual is elected, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he (1) has taken the action necessary under the law of a State to qualify him for nomination for election, or election, to Federal office, or (2) has received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such an office, or (3) has knowledge or information that any other person or political committee has received contributions or made expenditures, for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures;

(c) "Federal office" means the office of President or Vice President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States;

(d) "political committee" means any individual, committee, association, or organization which accepts contributions or makes expenditures in excess of $1,000 during any calendar year;

(e) "authorized candidate's committee" means a political committee which is organized specifically for the purpose of aiding, assisting, or promoting the nomination or election of a candidate for Federal office and which is authorized by such candidate for such purpose;

(f) "central campaign committee" means the single authorized candidate's committee designated in writing by such candidate as his agent for reporting contributions and expenditures to the Commission;

(g) "contribution" means—

(1) a gift, donation, payment, or loan of money, except a loan to a candidate by a national or State bank, savings and loan institution, or licensed lending institution, or a gift, donation, or loan of anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office or as a presidential or vice-presidential elector, or for the

purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President and Vice President, or for the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for such purposes;

(3) a transfer of funds by a political committee to another political committee; and

(4) providing facilities, equipment, supplies, personnel, advertising, or personal or other services for such purposes without charge or at a charge which is below the usual charge for such facilities, equipment, supplies, personnel, advertising, or services;

(h) "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or any thing of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential or vice-presidential elect, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of persons for election to the office of President and Vice President, or for the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure for such purposes, and

(3) a transfer of funds by a political committee to another political committee;

(i) "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons; and

(j) "State" means any of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

FEDERAL ELECTIONS COMMISSION

SEC. 202. (a)(1) There is hereby created a commission to be known as the Federal Elections Commission (referred to hereafter in this Act as "Commission"), which shall be composed of five members, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) A person may not be appointed to the Commission—

(A) if at the time of his appointment he was not a member of a major political party, or

(B) if his appointment results in more than three persons from his party being members of the Commission. For purposes of this paragraph, the term "major political party" means a national political party whose candidate for President received either the largest or the next largest popular vote in the preceding presidential election.

(3) One of the original members shall be appointed for a term of two years, one for a term of four years, one for a term of six years, one for a term of eight years, and one for a term of ten years beginning from the effective date of this title, but their successors shall be appointed for terms of ten years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Commission, and one member to serve as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the moneys it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

(e)(1) Members of the Commission shall, while serving on the business of the Commission, be entitled to receive compensation at a rate fixed by the Director of the Office of Management and Budget, 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.

(2) The Commission shall, in accordance with chapter 51 of title 5, United States Code, and subchapter III of chapter 53 of title 5, United States Code, appoint and fix the compensation of an Executive Director and such other officers, agents, attorneys, and employees as it deems necessary to assist it in the performance of its functions.

(3) The Executive Director shall be the chief administrative officer of the Commission. He shall perform his duties under the direction and supervision of the Commission, and the Commission may delegate any of its functions, other than the making of regulations, to him.

(f) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all of its powers at any other place.

(g) All officers, agents, attorneys, and employees of the Commission shall be subject to the provisions of sections 7324 and 7325 of title 5, United States Code, notwithstanding any exemption contained therein.

(h) It shall be the duty of the Commission—

(1) to develop prescribed forms for the making of the reports and statements required by this title;

(2) to prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements required by this title;

(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

(4) to make reports and statements filed with it available for public inspection and copying during regular office hours within 24 hours after filing and to make copying facilities available;

(5) to preserve such reports and statements for a period of ten years from date of receipt;

(6) to prepare and publish, within ten working days after the thirty-first day of January and the tenth days of March, June, and September of each year, and within three calendar days after the due dates of the reports required to be filed on the fifteenth and fifth days preceding an election, summaries of the respective reports received which shall contain, in addition to such other information as the Commission may determine, compilations disclosing the total receipts and expenditures appearing in each report by categories of amounts as the Commission shall determine, and shall also include the full name and address and amount of contribution of each person, listed alphabetically, shown to have contributed the sum of $100 or more; and such summaries shall be grouped according to candidates and parties;

(7) to prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as the Commission shall determine and broken down into candidate, party, and nonparty expenditures; (C) total amounts contributed according to such categories of amounts as the Commission shall determine; and (D) aggregate amounts contributed by any contributor shown to have contributed the sum of $100 or more during any calendar year;

(8) to prepare and publish from time to time special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections;

(9) to prepare and publish such other reports as it may deem appropriate;

(10) to assure wide dissemination of summaries and reports;

(11) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title;

(12) to report suspected violations of law to the appropriate law enforcement authorities; and

(13) to prescribe rules and regulations to carry out the provisions of this title.

(i)(1) Any person who believes a violation of this title has occurred may file a complaint with the Commission. If the Commission determines there is substantial reason to believe such a violation has occurred, it shall expeditiously make an investigation, which shall also include an investigation of reports and statements filed by the complainant if he is a candidate, of the matter complained of. Whenever in the judgment of the Commission, after affording due notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this title or any regulation or order issued thereunder, the Attorney General on behalf of the United States shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court.

(2) In any action brought under paragraph (1) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(3) Any party aggrieved by an order granted under paragraph (1) of this subsection may, at any time within sixty days after the date of entry thereof, file a petition with the United States Court of Appeals for the circuit in which such person is found, resides, or transacts business, for judicial review of such order.

(4) The judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(5) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection).

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 203. (a) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure for the purpose of influencing a nomination or an election shall be accepted or made by or on behalf of such a committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents, and no such expenditure shall be made unless such committee is registered with the Commission in accordance with the provisions of section 204.

(b) Every person who receives a contribution for a political committee shall, on demand of the treasurer, and in any event within five days after the receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the full name and address of the person making such contribution, and the date on which the contribution was received.

(c) All funds of a political committee shall be kept separate from other funds.

(d) It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

(1) all contributions made to or for such committee;

(2) the full name and legal mailing address of every person making any contribution, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee; and

(4) the full name and legal mailing address of every person to whom any expenditure is made, and the date and amount thereof.

(e) It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee of $100 or more in amount, and for any such expenditure in a less amount if the aggregate of expenditures to the same person in any year exceeds $100. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for periods of time to be determined by the Commission in accordance with published regulations.

REGISTRATION OF POLITICAL COMMITTEES

SEC. 204. (a) Any committee, association, or organization which anticipates receiving contributions or making expenditures in excess of $1,000 during any calendar year shall, within ten days after its organization, file with the Commission a statement of organization. For purposes of this section, such a committee, association, or organization shall be considered a political committee. Each political committee in existence upon the date of enactment of this Act shall file a statement of organization with the Commission at such time as may be prescribed by the Commission.

(b) The statement of organization shall include—

(1) the name and address of the committee;

(2) the names, addresses, and relationships of affiliated or connected organizations;

(3) the area, scope, or jurisdiction of the committee;

(4) the full name, address, and position of the custodian of books and accounts;

(5) the full name, address, and position of other principal officers, including officers and members of the finance committee of such committee if any;

(6) the name, office sought, and party affiliation of each candidate whom the committee is supporting; or, if the committee is supporting the entire ticket of any party, the name of the party;

(7) a listing of all banks, safety deposit boxes, or other repositories used;

(8) a statement whether the committee is required by law to file reports with State or local officers, and, if so, the names, addresses, and positions of such officers; and

(9) such other information as shall be required by the Commission by published regulation.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Commission within the ten-day period following the change.

(f) Any political committee which, after having filed one or more statements of organization, disbands, or determines it will no longer receive contributions or make expenditures shall so notify the Commission.

REPORTS BY POLITICAL COMMITTEES AND CENTRAL CAMPAIGN COMMITTEES

SEC. 205. (a) (1) The treasurer of each political committee which receives contributions or makes expenditures in connection with any candidate's election campaign shall file a report at such times and containing such information as the Commission may prescribe with such candidate's central campaign committee. The Commission shall prescribe such reporting times and such reporting items as will enable each candidate's central campaign committee to file the reports required of it under subsection (b) of this section in a timely, complete, and current manner.

(2) The treasurer of each central campaign committee shall file reports of receipts and expenditures with the Commission, on forms to be prescribed by the Commission, which shall transmit a copy of such reports to the clerk of the United States district court for the district in which the principal office of the committee is located and, in the case of candidates for nomination for election, or election, to the Senate or House of Representatives, to the Secretary of the Senate and the Clerk of the House of Representatives, as may be appropriate. Such reports shall be filed on the thirty-first day of January, the tenth day of March, June, and September of each year, and on the fifteenth and fifth days preceding the date on which an election is held. Such reports shall be complete as of such date as the Commission may prescribe, which shall not be less than five days before the filing date.

(b) Each report required under paragraph (2) of subsection (a) shall contain—

(1) the amount of cash on hand held by the candidate's authorized candidate's committees at the beginning of the reporting period;

(2) the full name and legal mailing address of each person who has made a contribution within the calendar year to such committees or to a political committee reported under the provisions of paragraph (3) together with the amount and date of such contribution;

(3) the name and address of each political committee and candidate from which the reporting committee received any transfer of funds, together with the amounts and dates of all such transfers;

(4) the full name and address of each person to whom an expenditure has been made by the committee during the calendar year in one or more items of the aggregate amount or value of $100 or more, together with the amount, date, and purpose of such expenditure;

(5) the total sum of expenditures made by such committee during the calendar year and not stated under paragraph (4); and

(6) the name and address of each political committee and candidate to which the reporting committee made any transfer of funds, together with the amounts and dates of all such transfers.

(c) (1) Each item of expenditure shall be described in sufficient detail to identify it accurately, including in the case of printed cards, pamphlets, circulars, posters, dodgers, booklets, or other such advertisements, writings, or statements (such as reprints from periodicals, books, newspapers, or other publications, the title and number of each; in the case of newspaper advertisements, the name and address of the newspaper; in the case of radio and television items, the name and address of the station; and in the case of the purchase of the services of campaign consultant firms, advertising agencies, media consultant firms, and other such commercial organizations, the name and address of the firm together with the particular services rendered.

(2) Each expenditure shall be described by general category, as prescribed by the Commission.

(d) The reports required to be filed by subsection (a) shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report only the amount need be carried forward.

(e) The report filed on January 31 of each year shall cover the entire preceding calendar year, and the information covering such year shall be stated separately from information covering the year in which the report is filed.

REPORTS BY CANDIDATES FOR SENATOR, REPRESENTATIVE, DELEGATE, AND RESIDENT COMMISSIONER

SEC. 206. (a) Each candidate for Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States shall file reports of contributions received and expenditures made with the Commission, on a form to be prescribed by it, and the Commission shall transmit a copy thereof to the Secretary of the Senate or Clerk of the House of Representatives, as may be appropriate. Such reports shall be filed on the fifteenth and fifth days preceding the date on which the election in which such candidate is a candidate is held, and be complete as of such date as the Commission may prescribe, but not less than five days before the filing date.

(b) Such report shall contain—

(1) a correct and itemized detailed report of all contributions received by the candidate, and not otherwise accounted for by his central campaign committee, including his own funds, and of all expenditures made by him not otherwise accounted for by his central campaign committee in the same manner as required by the treasurer of a political committee by section 205;

(2) a list of the names and addresses of each candidate's committee authorized by him to support his candidacy, together with the amount of contributions received, and expenditures made, on behalf of his candidacy cumulative for the reporting dates authorized in section 206 (a); and

(3) a list of the names and addresses of each political committee making contributions in support of his candidacy, together with the amount and date of each contribution.

REPORTS BY CANDIDATES FOR ELECTION AS PRESIDENT AND VICE PRESIDENT OR FOR NOMINATION FOR THE OFFICE OF PRESIDENT OR VICE PRESIDENT

SEC. 207. (a) Candidates for election as President and Vice President of the United States who are nominees of a political party shall jointly file reports of receipts and expenditures with the Commission, on forms to be prescribed by it. Such forms shall be complete as of the same dates, shall be filed with the same time limitations, and shall contain the same information as that prescribed in section 206 for candidates for the Senate and House of Representatives.

(b) Candidates for nomination for the office of President and Vice President shall file reports of receipts and expenditures with the Commission on forms to be prescribed by it. Such reports shall be complete as of the same

dates, shall be filed with the same time limitations, and shall contain the same information as that prescribed in section 206 for candidates for the Senate and the House of Representatives.

REPORTS ON CONVENTION FINANCING

SEC. 208. (a) Each committee, association, or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons in such State, in dealing with officials of a national political party with respect to matters involving a national convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for a national convention of such party held to nominate a candidate for the office of President or Vice President,

shall, within sixty days following the end of the convention (but not later than twenty days prior to the date on which presidential and vice-presidential electors are chosen), file with the Commission a full and complete financial statement, in such form and detail as the Commission may prescribe, the sources from which it derived its funds and the purposes for which such funds were expended.

(b) For purposes of this section, "national political party" means any political party whose candidate for the office of President of the United States campaigns for nomination for election, or election, to such office in more than 5 States during the year in which a presidential election is held.

REPORTS BY CONTRIBUTORS

SEC. 209. (a) Every person who, singly or together with the members of his immediate family, makes contributions to a political committee or candidate, or makes other contributions or expenditures for the purpose of influencing the nomination or election of a candidate, aggregating in all more than $1,000 within a calendar year, shall file with the Commission, at such times and in such form as shall be prescribed by the Commission, a report of such contributions and expenditures.

(b) For the purposes of this section, "members of his immediate family" means a candidate's spouse and any child, parent, grandparent, brother, or sister, of the candidate, and the spouses of any of the foregoing.

AUTHORIZATION OF CANDIDATE'S COMMITTEES: EXPENDITURES BY UNAUTHORIZED POLITICAL COMMITTEES

SEC. 210. (a) A candidate for nomination for election, or election, to Federal office may authorize in writing one or more candidate's committees to receive contributions or make expenditures in support of his candidacy and shall designate one such committee as his central campaign committee. Such authorization and designation shall be addressed to the chairman of the candidate's committee and a copy of such authorization and designation shall be promptly filed with the Commission. The Commission shall file a copy of each such authorization and designation received with the clerk of the District court of the United States in the district in which the candidate who filed the authorization or designation resides. Any withdrawal of authorization or designation shall also be in writing and addressed and filed in the same manner as was the original authorization or designation.

(b) No political committee shall, in support of any candidate who has not authorized such committee to support his candidacy—

(1) print or publish any card, pamphlet, circular, poster, dodger, sticker, advertisement, book, writing, or other statement without stating thereon in letters of such size as to be easily legible that such committee has not been authorized by such candidate to support his candidacy; or

(2) sponsor or pay any portion of the cost of a speech or radio or television broadcast without declaring, at the beginning and the end of such speech or broadcast, that such committee has not been authorized by such candidate to support his candidacy.

PROHIBITION OF CERTAIN CONTRIBUTIONS

SEC. 211. It is unlawful for any person to make a contribution or expenditure in connection with any election of candidates in any name other than his own full name, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section.

STATEMENTS FILED WITH CLERKS OF UNITED STATES COURTS

SEC. 212. (a) The Commission shall transmit a copy of each report filed with it to the appropriate United States district court. The appropriate court shall be—

(1) in the case of a report filed by a candidate's central campaign committee, the United States district court for the judicial district in which the principal office of such committee is located;

(2) in the case of a report filed by a candidate for Federal office, or any other person, the United States district court for the judicial district in which such person's residence is located; and

(3) in the case of reports filed under section 208, the United States district court for the judicial district in which the principal office of the reporting organization is located.

The Commission may transmit additional copies of any report filed with it under this title to the clerk of any other United States district court when the Commission determines that the public interest will be served thereby.

(b) It shall be the duty of the clerks under subsection (a)—

(1) to receive and maintain in an orderly manner all reports and statements required by this title to be filed with such clerks;

(2) to preserve such reports and statements for a period of at least ten years from date of receipt;

(3) to make the reports and statements filed with it available for public inspection and copying during regular office hours, commencing as soon as practicable after filing but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person; and

(4) to compile and maintain a current list of all statements, or parts of statements, pertaining to each candidate.

REQUIREMENTS FOR FILING REPORTS

SEC. 213. (a) The reports required to be filed by this title—

(1) shall be verified by the oath or affirmation of the person filing such reports, taken before any officer authorized to administer oaths; and

(2) shall be deemed properly filed when delivered to the specified recipient, or when deposited in an established post office within the prescribed time, duly stamped, registered, and properly addressed, but in the event it is not received a duplicate of such report shall be promptly filed upon notice of its nonreceipt by the officer with whom it is required to be filed.

(b) A copy of each such report shall be preserved by the person filing it for a period of one year from the date of filing.

ADMINISTRATIVE SUPERVISION; PUBLICATION IN CONGRESSIONAL RECORD

SEC. 214. (a) To assist the Congress in appraising the administration of this title and in developing such amendments or legislation relating thereto as it may deem necessary, the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives shall exercise continuous watchfulness over the administration of this title by the agencies concerned. It shall be the duty of these committees—

(1) to study all pertinent reports and summaries submitted to them by the Commission, and other such materials as may be necessary;

(2) to ascertain from the Commission whether candidates, political committees, or others have failed to file statements required by this title, or have filed defective statements;

(3) to review such reports at regular intervals to ascertain the actions taken by those agencies; and any department, official, or agency administering any of the provisions of this title shall, at the request of either of the committees, from time to time consult with such committee with respect to its activities under this title;

(4) to take such other actions as shall be deemed necessary and proper to carry out their duties under this subsection; and

(5) to report to the Senate or the House of Representatives, respectively, from time to time, on their activities under this title.

(b) Reports filed with the Commission under sections 205 through 209 shall be published in the Congressional Record next published after such reports are made available for public inspection and copying under section 202(h)(4). However, if there is no Congressional Record published on any of the 4 days following the date on which such reports are made available for public inspection and copying, then a Congressional Record containing such reports shall be published on the fifth day following such date.

PENALTIES

SEC. 215. (a) Except as provided by subsection (b), whoever violates any provision of this title, except a provision for which a specific penalty is provided, shall be fined not more than $1,000 or imprisoned not more than one year or both.

(b) Whoever willfully violates any provision of this title shall be fined not more than $10,000 or imprisoned not more than five years or both.

STATE LAWS NOT AFFECTED

SEC. 216. (a) Nothing in this title shall be deemed to invalidate or make inapplicable any provision of any State law, except where compliance with such provision of law would result in a violation of a provision of such title.

(b) The Commission shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.

PARTIAL INVALIDITY

SEC. 217. If any provision of this title, or the application thereof, to any person or circumstance is held invalid, the validity of the remainder of such title and the application of such provision to other persons and circumstances shall not be affected thereby.

REPEALING CLAUSE

SEC. 218. The Federal Corrupt Practices Act, 1925, as amended, is repealed.

AUTHORIZATION OF APPROPRIATIONS

SEC. 219. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

EFFECTIVE DATE

SEC. 220. This title shall take effect on the January 1 next following the calendar year in which it is enacted, except that section 202 shall take effect 60 days prior to such date.

TITLE III—COMMUNICATIONS

DECLARATION

SEC. 301. The Congress declares that—

(1) broadcast licensees have an affirmative duty generally to encourage and implement the broadcast of all sides of controversial public issues over their facilities, over and beyond their obligation to make available on demand opportunities for the expression of opposing views on such issues;

(2) broadcast licenses should play a conscious and positive role in bringing about balanced presentation of opposing viewpoints on controversial public issues;

(3) broadcast licensees have an obligation to devote a reasonable percentage of their broadcast time to the presentation of news and programs devoted to the consideration and discussion of public issues of interest in their communities, and, although each licensee must exercise discretion in discharging this obligation, he must act in the public interest and cannot refuse or withhold coverage of important issues or views because of his private beliefs; and

(4) the foundation stone of the American system of broadcasting is the right of the public to be informed, rather than any right on the part of the Government, any broadcast licensee, or any individual member of the public to broadcast his own particular views on any matter.

AMENDMENT OF COMMUNICATIONS ACT OF 1934

SEC. 302. (a) Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended by inserting after "public office" in the first sentence thereof a comma and the following: "other than the office of President or Vice President of the United States,".

(b) Section 315(b) of such Act is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any legally qualified candidate for any public office during the 30 days preceding the date of a primary election, and during the 45 days preceding the date of a general or special election, in which he is a candidate shall not exceed the lowest unit charge of the station for the same amount of time in the same time period."

(c) Section 315(c) of such Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and to insure that all licensees make available to legally qualified candidates for public office reasonable amounts of time for use of broadcasting stations under the provisions of this section."

(d) Within one year after the date of enactment of this Act, the Federal Communications Commission shall report to the Congress on the implementation of the amendments made by this section, together with any recommendations the Commission may have in connection with such report, including recommendations for additional legislation.

COMMERCIAL USER RATES FOR NONBROADCAST COMMUNICATIONS MEDIA SERVICES

SEC. 303. (a) As used in this section—

(1) "nonbroadcast communications media" means newspapers, magazines and other periodical publications, and billboard facilities;

(2) "person" means an individual, partnership, association or corporation engaged in the business of furnishing nonbroadcast communications media services; and

(3) "Federal office" means the office of President or Vice President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States.

(b) During the thirty days preceding the date of any primary election, and during the forty-five days preceding the date of any general or special election, to the extent a person chooses to make advertising space in his nonbroadcast communications medium available to a candidate for Federal office in connection with such candidate's campaign for nomination for election, or election, to such office, such space shall be made available at the lowest unit rate charged by that person to his commercial users for equivalent advertising space.

(c) Whenever a person chooses to make advertising space in his nonbroadcast communications medium available to any candidate for Federal office in connection with such candidate's campaign for nomination for election, or election, to such office, he shall make an equivalent amount of space available at the same rate to all candidates for the same office.

(d) Violation of the provisions of this section is punishable or a fine of not more than $500, imprisonment for not more than six months, or both.

TITLE IV—CAMPAIGN MAIL

SHORT TITLE

SEC. 401. This title may be cited as the "Congressional Campaign Mail Act".

DEFINITIONS

SEC. 402. As used in this title—

(1) "Federal office" means the office of Senator, or Representative in, or Delegate or Resident Commissioner to the Congress;

(2) "major party candidates" means—

(a) the legally qualified candidate of a political party whose candidate in the next preceding general election for the same Federal office received at least 30 percent of the total number of votes cast for all candidates for such office; or

(b) any legally qualified candidate for election to a Federal office who is not affiliated with a political party and who was a candidate for the same office in the next preceding general election for such office and who received at least 30 percent of the total number of votes cast in such election for all candidates for such office;

(3) "minor party candidate" means any legally qualified candidate for election to Federal office who is not a major party candidate;

(4) "State" means each of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(5) "campaign mail" means campaign literature mailed by a candidate for nomination for election, or election, to Federal office in connection with his campaign for nomination or election.

RATES

SEC. 403. On and after the first day of January following the date of enactment of this Act, campaign mail which is mailed in accordance with section 404 of this title and regulations promulgated by the Postal Service to carry out the provisions of this title (and the Postal Service is authorized to promulgate such regulations)—

(1) shall be considered matter mailed by a qualified nonprofit organization under section 4452(b) of title 39, United States Code, as such section existed on August 11, 1970; and

(2) may be mailed at the same rates of postage that any such organization is authorized to mail matter under such section or section 3626 of such title as enacted by section 2 of the Postal Reorganization Act.

ELIGIBILITY

SEC. 404. (a) A major party candidate in a general or special election shall be eligible to mail a number of pieces of campaign mail equal to x times the number of persons registered to vote in the State in which he seeks election, in the case of a candidate for election as Senator or as Delegate or Resident Commissioner to the Congress, or in the district in which he seeks election, in the case of a candidate for election as a Member of the House of Representatives.

(b) A minor party candidate in a general or special election shall be eligible to mail a number of pieces of campaign mail equal to the number of persons registered to vote in the State in which he seeks election, in the case of a candidate for election as Senator or as a Delegate or Resident Commissioner to the Congress, or in the district in which he seeks election, in the case of a candidate for election as a Member of the House of Representatives.

(c) Any candidate for nomination for election to Federal office shall be eligible to mail a number of pieces of campaign mail to equal to—

(1) 2 times the number of persons registered to vote in the State in which he seeks such nomination in the case of a candidate for nomination for election as Senator or as Delegate or Resident Commissioner to the Congress, or in the district in which he seeks such nomination in the case of a candidate for nomination for election as a Member of the House of Representatives if such candidate secures the signatures of such persons equal to 5 percent of such number; or

(2) the number of persons registered to vote in the State in which he seeks such nomination, in the case of a candidate for nomination for election as Senator, or as Delegate or Resident Commissioner to the Congress, or in the district in which he seeks such nomination, in the case of a candidate for nomination for election as a Member of the House of Representatives, if such candidate secures the signatures of such persons equal to 3 percent of such number.

(d) (1) The Postal Service may enter into contracts or other arrangements with the government of any State or political subdivision thereof in order to obtain information as to the number of persons registered in any State or district, and to verify signatures obtained by candidates for the purposes of subsection (c).

(2) In the event that the number of persons registered to vote in any State or district is unavailable to the Postal Service the number of persons registered to vote in such State or district shall be held and considered to be 150 percent of the total number of votes cast in the next preceding general election for all candidates for the office which a candidate for Federal office is seeking.

TITLE V—TAX INCENTIVES

INCOME TAX CREDIT

SEC. 501. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by renumbering section 40 as 41, and by inserting after section 39 the following new section:

"SEC. 40. CONTRIBUTIONS TO CANDIDATES FOR ELECTIVE FEDERAL OFFICE.

"(a) GENERAL RULE.—There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to one-half of the political contributions (as defined in subsection (c)) payment of which is made by such individual within the taxable year.

"(b) LIMITATIONS.—

"(1) AMOUNT.—The credit allowed by subsection (a) shall not exceed $25 for any taxable year.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property).

"(3) VERIFICATION.—The credit allowed by subsection (a) shall be allowed with respect to any political contribution, only if such political contribution is verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"(c) DEFINITION OF POLITICAL CONTRIBU-

TION.—For purposes of this section, the term 'political contribution' means a contribution or gift to—

"(1) an individual whose name is presented for election as President of the United States, Vice President of the United States, an elector for President or Vice President of the United States, a Member of the Senate, or a Member of (or Delegate to) the House of Representatives in a general or special election, in a primary election, or in a convention of a political party, for use by such individual to further his candidacy for any such office; or

"(2) a committee acting in behalf of an individual or individuals described in paragraph (1), for use by such committee to further the candidacy of such individual or individuals.

"(d) ELECTION TO TAKE DEDUCTION IN LIEU OF CREDIT.—This section shall not apply in the case of any taxpayer who, for the taxable year, elects to take the deduction provided by section 218 (relating to deduction for contributions to candidates for elective Federal office). Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulations.

"(c) CROSS REFERENCE.—

'For disallowance of credit to estates and trusts, see section 642 (a) (3)."

(b) The table of sections for such subpart is amended by striking out

"Sec. 40. Overpayments of tax."

and inserting in lieu thereof

"Sec. 40. Contributions to candidates for elective Federal office.

"Sec. 41. Overpayments of tax."

(c) Section 642 (a) of the Internal Revenue Code of 1954 (relating to credits against tax for estates and trusts) is amended by adding at the end thereof a new paragraph as follows:

"(3) POLITICAL CONTRIBUTIONS.—An estate or trust shall not be allowed the credit against tax for political contributions to candidates for elective Federal office provided by section 40."

DEDUCTION IN LIEU OF CREDIT

SEC. 502. (a) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by renumbering section 218 as 219, and by inserting after section 217 the following new section:

"SEC. 218. CONTRIBUTIONS TO CANDIDATES FOR ELECTIVE FEDERAL OFFICE.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction any political contribution (as defined in subsection (c)) payment of which is made by such individual within the taxable year.

"(b) LIMITATIONS.—

"(1) AMOUNT.—The deduction under subsection (a) shall not exceed $100 for any taxable year.

"(2) VERIFICATION.—The deduction under subsection (a) shall be allowed, with respect to any political contribution, only if such political contribution is verified in such manner as the secretary or his delegate shall prescribe by regulations.

"(c) DEFINITION OF POLITICAL CONTRIBUTION.—For purposes of this section, the term 'political contribution' means a contribution or gift to—

"(1) an individual whose name is presented for election as President of the United States, Vice President of the United States, an elector for President or Vice President of the United States, a Member of the Senate, or a Member of (or Delegate to) the House of Representatives in a primary election, or in a convention of a political party, for use by such individual to further his candidacy for any such office; or

"(2) a committee acting in behalf of an individual or individuals described in paragraph (1), for use by such committee to further the candidacy of such individual or individuals.

"(d) Election to take credit in lieu of deduction.—This section shall not apply in the case of any taxpayer who, for the taxable year, elects to take the credit against tax provided by section 40 (relating to credit against tax for contributions to candidates for elective Federal office). Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulations.

"(e) CROSS REFERENCE.—

"For disallowance of deduction to estates and trusts, see section 642(1)."

(b) The table of sections for such part is amended by striking out

"Sec. 218. Cross references."

and inserting in lieu thereof

"Sec. 218. Contributions to candidates for elective Federal office.

"Sec. 219. Cross references."

(c) Section 642 of the Internal Revenue Code of 1954 (relating to special rules for credits and deductions for estates and trusts) is amended by redesignating subsection (i) as subsection (j), and by inserting after subsection (h) a new subsection as follows:

"(i) Political Contributions.—An estate or trust shall not be allowed the deduction for contributions to candidates for elective Federal office provided by section 218."

EFFECTIVE DATE

SEC. 503. The amendments made by sections 501 and 502 shall apply to taxable years ending after December 31, 1971, but only with respect to contributions or gifts payment of which is made after such date.

CAMPAIGN REFORM BILL—HIGHLIGHTS

I. FINANCIAL REPORTING DISCLOSURE

A. Detailed reports must be filed by candidates and political committees directly to an independent Federal Elections Commission.

B. Information copies will be sent to the Secretary of the Senate, the Clerk of the House and the appropriate U.S. District Court; reports are to be published in the *Congressional Record*.

C. There are five filing dates per year, four prior to general elections, and one following.

D. Reports are filed by a candidate's central campaign treasurer on behalf of all the candidate's committees.

E. Federal Elections Commission would make annual reports and keep files open for public inspection. It will also conduct audits and report violations to law enforcement officials.

F. In aggregate, an individual may not contribute more than:

1. $15,000 to one Presidential campaign.
2. $10,000 to one Senate campaign.
3. $5,000 to one House campaign.

G. In aggregate, a candidate may not contribute to his own campaign more than:

1. $50,000 if he is a candidate for President or Vice President.
2. $35,000 if he is a candidate for the Senate.
3. $25,000 if he is a candidate for the House.

H. All ceilings on candidate expenditures are repealed.

II. TAX INCENTIVES FOR SMALL POLITICAL CONTRIBUTIONS

A. Maximum $25 tax credit, *or*

B. Maximum $100 tax deduction.

III. POLITICAL BROADCASTING AND ADVERTISING

A. Broadcast media

1. Repeal of Section 315(a) requirements for "equal time" only as they relate to the office of President or Vice President.

2. Sale of political broadcast time is being made available to all candidates, at lowest unit rates, during specified pre-election periods.

3. Requirement that broadcasters may not refuse to sell "reasonable" amounts of time to all legally qualified candidates for public office.

4. Directs an FCC study of these provisions, within one year from enactment, to be sent to Congress.

B. Nonbroadcast media

1. Applies to newspapers, magazines and other periodical publications, and billboard facilities.

2. Assures that political advertising space purchased by candidates for Federal Office is offered, at lowest unit rates, during specified pre-election periods.

IV. REDUCED RATES FOR POLITICAL MAIL

A. General election—two pieces of specially-marked reduced rate mail for every registered voter in the district or State.

B. Primary election—two pieces of the above mail upon securing the signatures of 5 per cent of the registered voters in the area.

C. The new rate will be that which is currently offered to non-profit organizations.

Mr. MATHIAS. Mr. President, I am proud to be able to join the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT) in this effort to bring about the most significant reform of Federal election procedures, I think, that has ever been undertaken. As he has said, he made a pledge last fall to bring this matter to the Senate early this year. His action today fully carries out that pledge.

Mr. President, although I differed from the view he took last fall with respect to the election reform bill then before us, I made a similar promise, and we have been able to join forces effectively. I want now to express my great appreciation to him for the leadership he has taken in this matter. I believe that what we have proposed is significant because it goes to the real heart of the difficulties that have plagued the electoral system and have created doubt and in some cases despair in the American electorate.

This is an important measure. It is one that I hope the Senate will consider promptly, because plans are now being made for the presidential and congressional elections of 1972 and they should be made within the context of a new federal system.

Mr. President, the subject of campaign reform is not a new one. As early as 1906 Congress decided to take a probing look into the subject of campaign contributions and their effect upon the credibility of government. It was recognized early in the history of our Republic that the way we elect representatives of the people and officials of the government affects the quality and responsiveness of government itself.

I do not have to recite to the Senate the extent to which we are now faced with campaign abuses. We all read the newspapers. We all watch television. We have all been involved in political campaigns. The call for reform is ringing across the country. The longer we delay the task of enacting meaningful legislation, the greater the risk of losing more and more to the growing number of

Americans who have become detached and apathetic about Government and its processes—dropouts from the American political system.

Any casual student of American Government will recognize the political sensitivity of such a legislative endeavor. It affects the political destiny of every Member of Congress as well as the Presidency. There is no subject with greater vested interest.

The Senate has responded. On two occasions we passed meaningful campaign reform legislation. We must try again.

The most recent pronouncement of the Senate on this subject was S. 3637. I voted in favor of this bill and in opposition to the President's veto. In doing so, I reflected, I thought, the views of the citizens of Maryland and their demand for urgent reform. The bill was not perfect. It had its shortcomings. But it was a start—a declaration of congressional intent and congressional responsibility. At the time of my vote to override the veto, I announced that I would introduce in the next Congress a comprehensive bill on campaign reform which would meet the President's objections to the vetoed bill. The distinguished minority leader, in voting to sustain the President's veto, made a similar pledge.

Today, I join with the minority leader in introducing the most comprehensive bill on campaign reform that this Chamber has ever seen, The Federal Election Reform Act of 1971. The fact that we voted differently on the President's veto, the fact that we both pledged to meet the President's objections, and the fact that we join together today in this legislation demonstrates our strong commitment as well as our Party's commitment to enact effective campaign reform legislation.

I want to make it perfectly clear that this is not a partisan bill: campaign abuse affects us all. It is not a partisan issue. It is for the benefit of all Americans and for the benefit of our electoral process.

We have sought the opinion and counsel of many sources in and out of Government. We have derived the language of this bill from months and months of consultation, deliberation, evaluation, study and reevaluation. We have contacted the best legal minds, the most qualified exports. In particular the bill reflects the patient and steady efforts of the National Committee for an Effective Congress, for which I am grateful. We are happy to have their endorsement.

The legislative package is divided into 5 separate substantive areas: Reporting and disclosure; monetary limitations; mail privileges; media; and tax incentives.

INTRODUCTION

In considering campaign reform, the issue narrows down to two alternative philosophical approaches: Should the Federal Government control the activities or spending of candidates, or, should the public, by being fully informed as to the candidate's campaign spending and sources of revenue, through its power of the vote be the ultimate judge of the candidate's activities and thus of campaign reform?

Examples of the former are illustrated in proposals to put spending ceilings on all campaign spending, spending ceilings on media and/or nonmedia services and limits on contributions. The latter is reflected in the numerous reporting and disclosure bills introduced in the Congress. One puts the responsibility on Government as Big Brother, while with the other the discernment and judgment rests with the public who in the end will enjoy the benefit or bear the burden of future election practices.

Bills have been introduced all along this legislative spectrum. As you will see we have adopted an approach which is the closest to the disclosure philosophy, yet providing some realistic limitations for candidates.

I believe that comprehensive reporting and disclosure is the best vehicle to stop campaign abuse, and in the long run one which will permanently put a stop to high campaign spending. I have approached the problem in this manner ever since my House days when I became a cosponsor of the model bill in this area—the Ashmore-Goodell bill.

The present law, the Corrupt Practices Act, seeks to combine all approaches. It has limits on individual contributions, limits on spending and contains provisions for the disclosure and reporting of campaign costs. Its limitations are unrealistic and the disclosure ineffective. There are more holes in the bill than there are provisions. I mention this only to make the point that the most important characteristic of any campaign practice bill must be that it is workable—it must be realistic.

At one time, out of a sense of utter outrage at campaign costs and campaign abuse, I spoke of spending ceilings; but after much thought and evaluation I have come to believe that it is ultimately unrealistic to assume that we can construct flexible spending figures which are adaptable in each and every political race throughout each and every State of our country. A spending limit that may dictate a lean campaign budget in one area might authorize a Roman carnival in another part of the country. The impractical attempt to legislate a uniformity that does not exist in practice is among the reasons for the ineffectiveness of the present Corrupt Practices Act.

I believe it is much better to control the cost of campaigns in their inception and during their planning rather than attempting to control the level of spending once the snowball is headed down the hill. If the cost is controlled, more candidates would enter the race, rather than being financially afraid of not obtaining the minimum amount of money needed for a campaign. It has been with this spirit that we have drawn sections of the bill dealing with media, tax incentives, and mailing privileges.

The public learns a great deal about a candidate from the way he spends and receives his campaign money. If we would protect the public from this insight by putting unrealistic ceilings on spending, the public would never gain any real expectation of the candidate's integrity or credibility until after he is elected. The public should—it must—make its judgment on what it sees and hears, not on what it is prevented from seeing or hearing.

The beauty of America, I feel, is that we are not all alike. We have many different cultures, different religions, and different traditions. We cannot and should not reduce every candidate to a common level before the American electorate. There will always be somebody better looking, richer, or better educated, someone who will be a better speaker or a better performer. It is these differences among Americans that make our representative system work so effectively.

I believe that the public wants some monetary limitation. Rather than have meaningless limitations on spending, I would have limitations on contributions. If a candidate is to spend $1 million I would rather that he get that money from numerous people—from a broad base—rather than from a select few. By limiting the amount one can contribute to a campaign or the amount one can contribute to his own campaign, we are creating conditions to encourage the development of a broad base from which candidates will seek election. This notion is complementary to our provisions on tax incentives, mail privileges, and media. Limiting contributions is more in keeping with the philosophy of disclosure. And the result would be as if we did put direct spending ceilings on campaigns.

Thus, our bill is a practical bill which gives the opportunity and puts the burden and responsibility upon the voter, through the knowledge he will gain from comprehensive disclosure, to choose the extent of campaign abuse in any election. In addition, we provide through tax incentives, media regulation, contribution limitations, and mailing privileges a means to create broad base support for candidates, a means to offset the great disparities of power and influence among candidates, and a means of accessibility for all the candidates to the public.

REPORTING AND DISCLOSURE

Effective publicity of the financing arrangements of candidates creates financial accountability and public confidence in the electoral system. It is crucial in any package of campaign reform legislation that the public makes its choice of candidates based upon all available and pertinent information—for if that information is not available the public would not be makng any real choice at all. And I know from personal observation that the public is discriminating in this area.

The basic approach of disclosure and reporting has been adopted twice by this chamber. The Citizens Research Foundation, the Kennedy Commission on Campaign Costs, the Committee for Economic Development, and the Twentieth Century Fund Task Forces have all emphasized and recommended this approach.

This section of the legislation has been offered before in the House and the Senate. It was basically the Ashmore-Goodell bill now set forth in a more comprehensive version and with some variations.

The section covers all federally elected offices and includes conventions, primaries, caucuses, and other processes created for the purpose of nominating candidates for such offices.

Once an individual becomes a candidate, as contemplated by the bill, he must create one central committee to collect and distribute all campaign contributions. No money can be spent on behalf of any candidate until such a committee is established and a representative registered with the created Federal Elections Commission and thereafter a presumption of law is created that the candidate and the committee are cognizant of campaign finances. The committee is required to transmit to the Commission periodic reports on contributions and expenditures in the candidate's campaign. It is responsible for filing similar reports with the clerk of the U.S. district court for the district in which the principal office of the committee is located and with the appropriate Senate or House of Representative.

Subcommittees are not discouraged and can flourish as long as they coordinate their finances and reporting with the registered central committee. A broad definition is given to "contributions" to include all gifts and services.

A Federal Elections Commission is established for the purpose of publishing, disseminating and enforcing those provisions relating to reporting and disclosure. For example, the following are required by law to file reports directly to the Commission: First, each candidate's central committee registered with the Commission; second, all political committees which raise or spend in excess of $1,000; third, donors or their immediate family who contribute more than $1,000 to any campaign; and fourth, all candidates covered under the bill.

Each report must list all donors who have contributed $100 or more, their names and addresses, the amount of contributions, and the expenditures of money. The bill sets forth in detail the requirements for each report.

The reports are published for public consumption by the Commission at stated intervals prior to the election. Annual and special reports are also required. The Commission is instructed to transmit each report to the CONGRESSIONAL RECORD for publication.

The Commission is empowered to make field investigations and audits with respect to the required reports and is required for report suspected violations to the appropriate law enforcement authorities.

Any person who believes a violation has occurred can file a complaint with the Commission which in turn can make an investigation; if a violation is found, the Commission is to report the violation to the Justice Department for prosecution. Permanent and temporary injunctive relief is provided for complainants.

Those violating the law may be fined not more than $1,000 or imprisoned for not more than 1 year, or both, and if there is a willful violation, penalty may be a fine of up to $10,000 or imprisonment of not more than 5 years, or both.

CONTRIBUTION LIMITATIONS

It is important to assure that no one group or individual, through financial power, dominates or unduly influences an elected representative to the disservice of the broad public interest. Limitations on the size of contributions assure the broadest possible support for candidates and may reduce campaign spending without directly limiting the spending capacity of candidates.

The bill provides that no person is permitted to make either directly, or indirectly such as through a political committee, contributions in an aggregate amount in excess of $15,000 to any candidate for the Office of President; $10,000 for the office of Senator, and $5,000 for the office of Representative, Commissioner or Delegate.

In addition, the bill provides that no candidate can give to his own candidacy through his own funds or that of his immediate family more than: first, $50,000 in the case of his candidacy for the Presidency or Vice Presidency; second, $35,000 for the office of Senator; and third, $25,000 for the office of Representative, Commissioner, or Delegate.

TAX INCENTIVES

One of the principal challenges of our electoral system is to restore its credibility. One effective way of doing this is to get more people involved in the financial as well as the representative base of American politics. I myself would rather have 100,000 contributions of 1 dollar each than 10 contributions of $10,000 each. The money adds up to the same amount, but the political effect is different—100,000 active participants who put their money where their mouth is are vastly different from 10 rich supporters putting up all the money.

To further this objective of broad base support of candidates, a program of tax incentives is proposed by which the donor can take a deduction or credit on his Federal income tax return to offset his political contribution. Like limitations on contributions, this too is an excellent tool to gradually rid political campaigns of their dependency upon large contributors—and often large debts.

The bill provides a maximum of a $25 tax credit, or, alternatively, a maximum $100 tax deduction for support of candidates for Federal office. The tax credit will benefit the low- to middle-income tax bracket, while those higher income tax brackets who itemize deductions will benefit from the deduction approach.

We are aware of the political resistance to such a proposal. To some it tampers too much with the revenue process. To some it creates too much of a public subsidy. The amount of money the Federal Government would lose in such a program would be pennies in comparison to some comprehensive subsidy programs which have been proposed. The cost is meaningless compared to benefits to the electoral process derived from the involvement of more citizens in American politics.

REDUCED RATE ON POLITICAL MAIL FOR CONGRESSIONAL CANDIDATES

In a further effort to solicit broad political participation in American politics and to offset existing disparities of power and money between candidates, we are proposing a system by which all candidates, both incumbents and opponents, can receive reduced rates for political mailings in general and primary election campaigns. The franking privilege of incumbents is a powerful weapon. Even if the incumbent strictly uses the frank for nonpolitical materials, the exposure received from his mailings is a great advantage in the closing days of any election. Just because one is elected to office should not guarantee his reelection—or his defeat.

We must provide greater public accessibility to the other candidates. Although this will be another area in which those of us who are incumbents may be said to have great political vested interest, we must look beyond ourselves to the broad picture of the stability and growth of our electoral process.

The legislation provides that every major party's congressional candidate be entitled to two pieces of reduced rate political mail for every registered voter in the district or State in the general or special election. In order to get the same privilege in the primary, the candidate must secure the signatures of 5 percent of the registered voters in the respective representative area.

A minor party candidate—one not belonging to a major party or one which has not received more than 30 percent of the votes in the preceding election—would be entitled to one special mailing in any general or special election campaign. In a primary, he may also have one mailing if he secures the signatures of 3 percent of the registered voters.

The reduced rate shall be equivalent to the rates now given to nonprofit organizations. By not giving completely free mailing privileges, the revenue loss is minimized and the privilege is limited to those candidates who are earnestly seeking election.

Considering the alternatives, this is a cheap and effective way of somewhat balancing the political equation among candidates.

MEDIA

It is ironic but instructive that it has been the media that has brought the public closer to the candidate—that has educated the public. And it has been this same vehicle that has accelerated the need for campaign reform.

We all know how the broadcast media has affected the workings and integrity of campaigns. There are elected representatives and defeated candidates whose political status has been determined on the basis of their access to the television screens of the voters. And access requires money.

I have stated on numerous occasions that this crazy, self-destructive scheme must be curtailed. The system has acquired an advantage over the candidates and the candidates are taking advantage of the public.

It is clear that we must create a system which will secure greater access to the airwaves by more candidates, a system which will reduce the costs of advertising time and instill a sense of public respon-

sibility in the broadcast media, a system which will produce more free time for candidates to voice their views.

To accomplish these objectives, the alternatives are many. We can provide public subsidies in whole or in part for candidates' broadcasts. This has obvious disadvantages. It would be expensive. It would, in my mind, be inconsistent with the approach of disclosure and reporting. Also, it would be treating one medium, broadcasting, differently from the rest.

We can put limits on media spending, on all campaign spending, or a combination of the two. I have already discussed the disadvantages of this approach. It is unrealistic, arbitrary, and hardly enforceable on a nationwide basis with the diversity of rates and facilities.

We can demand that the broadcast media sell to the candidates political advertising time at the same rate it would sell that same time to its regular commercial clients, the so-called lowest unit cost approach. The broadcast media formerly on occasion used their timely bargaining power to charge higher rates to political candidates, although I understand that abuse has been voluntarily abandoned.

The lowest unit cost approach applied only to broadcasters has already passed the Congress and was vetoed by the President and singled out as being too arbitrary and discriminatory in its dealing with the broadcast media. We agree. And we have proposed a solution which treats all media similarly—for quite properly they all must share the responsibility.

We have proposed that during a certain period—30 days preceding the primary and 45 days preceding the general election—all media of mass communications — broadcasting, newspapers, billboards, and the like—must sell to candidates political advertising time at the lowest unit cost. During the periods of time outside these specified days, the respective media may charge its usual rates to political candidates.

The proposal has the obvious advantage of reducing the costs of campaigns by reducing the cost of media which in the end will contribute greatly to reducing campaign spending—all this without directly putting spending ceilings on candidates.

This approach also enhances the laudable objective of shortening the campaign time which in and of itself will reduce campaign costs and campaign spending. By reducing costs, the airwaves also become more accessible to more candidates.

In a further effort to assure equal treatment for all media services and political candidates, the bill requires broadcasters to sell reasonable amounts of time to all legally qualified candidates. This will assure that broadcasters who may favor one candidate over another will not be able to preclude one candidate from going on that station if he is ready, willing, and able to do so.

Another problem in this area and one which was covered by the recently vetoed bill, is section 315(a) of the Federal Communications Act. This section requires the broadcast stations to give "equal time" to all candidates once having given some time to another candidate in the same campaign. It is well documented that this strict inflexible rule stifles debate and the free and unencumbered airing of views—to the disadvantage of the public. It discourages broadcast stations from giving free time to the major candidates, knowing that it must give equal amounts of time to minor party candidates.

The bill revokes this section for presidential and vice-presidential elections. We feel it is more realistic and more appropriate to the problem to limit the repeal to just this one area. We have not discriminated against any one media. The bill is fair in its treatment. We hope, however, that the broadcast media recognizes a strong congressional caveat.

To make the point clear to the broadcaster, there is in the bill a declaration of congressional intent—admittedly meaningless now but a quick reference point for later congressional action. The declaration of intent states clearly that the broadcast industry has a certain obligation to the public and to political candidates during an election.

Most of this language has been lifted directly from existing Federal Communications Commission rules and regulations and from Supreme Court decisions affecting the operation of broadcasters.

The bill directs the FCC to make a report back to Congress within 1 year with recommendation for additional legislation.

CONCLUSION

This bill makes no claim to be a universal remedy—nor to containing all the possible remedies. Others are possible and may emerge in debate. All will be considered carefully.

We feel that this bill is realistic, fair and equal in its treatment. We have dealt with all the problems. We have approached the high costs of media spending. We have provided greater accessibility of candidates to the public during the campaign. We have assured the public that if a candidate is to spend hunks and hunks of money he will, however, get his money from a broad-base support rather than a few wealthy contributors. We have solved the problem of one rich candidate financing his own candidacy without the financial support of many Americans.

All the provisions of the bill must be read together in order to understand the bill's intent, spirit, and objective.

There are other provisions in the bill not mentioned in this short summary. Some are technical amendments, others substantive amendments which are self-explanatory.

By Mr. PASTORE (by request):

S. 957. A bill to amend the Atomic Energy Act of 1954, as amended, to provide for license fees to Government agencies, and for other purposes; and

S. 958. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes. Referred to the Joint Committee on Atomic Energy.

By Mr. FANNIN:

S. 959. A bill to designate the Pine Mountain Wilderness, Prescott and Tonto National Forests, in the State of Arizona; and

S. 960. A bill to designate the Sycamore Canyon Wilderness, Coconino, Kaibab, and Prescott National Forests, State of Arizona. Referred to the Committee on Interior and Insular Affairs.

Mr. FANNIN. Mr. President, today I am introducing two bills to establish the Pine Mountain and Sycamore Canyon Wilderness Areas in Arizona.

Arizona is blessed with an abundance of natural beauty. Designation of these two areas as part of the wilderness system will help guarantee this great resource for future generations.

Currently these are treated as primitive areas by the U.S. Forest Service. This is protecting the areas.

But administrative classifications are easily changed. By giving these areas congressional recognition as wilderness areas, we make it that much more certain that they will be retained in essentially their natural state.

Mr. President, I send to the desk these two bills and ask that they be appropriately referred.

By Mr. JAVITS:

S. 961. A bill to amend title II of the Social Security Act to provide that, for purposes of the provisions thereof relating to deductions from benefits on account of excess earnings, there be disregarded, in certain cases, income derived from the sale of certain copyrights, literary, musical, or artistic compositions, letters or memorandums, or similar property. Referred to the Committee on Finance.

Mr. JAVITS. Mr. President, I rise to introduce a bill to amend the Social Security Act with respect to exclusion of certain income received by artists and composers from the sale after age 65 of works created prior to their reaching age 65.

The Social Security Act now provides that individuals 65 years and over who are receiving royalty income attributable to copyrights or patents obtained before age 65 may exclude such income from their gross income in determining their social security entitlement.

The bill I am introducing today extends the provision to artists and composers who sell uncopyrighted works; thereby placing them on an equal basis with artists and composers receiving royalty income from copyrighted or patented works. The burden of proof remains upon the individual artist or composer to establish to the satisfaction of the Secretary of Health, Education, and Welfare when the art work or composition was created and when sold.

Although no precise estimates are available as to the number of individuals who would become eligible under this amendment, it should be noted that in order to be eligible, an individual author or artist must have created the work prior to age 65; and that he must remain active past age 65 so that his outside income does not exceed $1,680, the figure at which social security benefits

are reduced. Estimates of the numbers of artists taking advantage of the present royalty income exclusion range in the low hundreds.

Thus, we are talking about a relatively few individuals out of almost 26.2 million social security recipients.

This proposal should be relatively easy to administer. By placing the burden of proof upon the individual we have followed the pattern of the 1965 amendments to the Social Security Act. The individual is thus required to prove his claimed exclusion to the Secretary's satisfaction consistent with existing law. Finally, the Secretary already has general rulemaking powers under the law with which to establish an orderly procedure for individuals claiming the right to exclude income under this amendment.

I hope, Mr. President, that the Committee on Finance in its consideration of this year's social security legislation will favorably consider this proposal to correct an inequity in the law which penalizes older artists and composers at a time when they are living upon modest fixed incomes and dependent upon social security benefits.

By Mr. EAGLETON:

S. 962. A bill for the relief of Rizalina Animas. Referred to the Committee on the Judiciary.

By Mr. MONTOYA:

S. 963. A bill to authorize the Secretary of Agriculture to cooperate with and furnish financial and other assistance to States and other public bodies and organizations in establishing a system for the prevention, control, and suppression of fires in rural areas, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. MONTOYA. Mr. President, I now introduce a bill to assist rural areas in achieving a capability to combat structural and wildfires. I have long been concerned over the widespread tragic and shameful waste of lives, property, and natural resources caused by such fires. A similar bill has been proposed by me in previous sessions, with substantial support from many of my distinguished colleagues, but it failed to clear committee. Since this measure has much merit and minimal cost, I believe it deserves consideration once again.

It is now clear that positive measures to reverse the destruction of our natural resources must be taken if we are to avoid the specter of total exhaustion of these resources. There is much to be done and little time in which to do it. Each step we take toward remedying our plight not only reduces the needless waste of limited resources but also alerts increasing numbers of citizens to the problem. If we can also enlist their personal involvement in working toward a solution, other benefits are bound to accrue in addition to a savings in tax dollars.

This legislation would create a program of modest cost. It is needed throughout rural America to provide the capability to reduce the tragic loss of life and property resulting from fires. Nearly 1,000 rural people lose their lives in fires each year. Total farm fire losses in the United States in 1969 amounted to $227 million.

This program provides for technical assistance, training, and equipping of fire control forces to suppress both structural and wildfires in rural areas. Many of these areas are now under no organized protection or have only limited protection. The bill provides for a local effort supported by Federal-State cost sharing at a 75–25 percent level to assist those areas least capable of providing the expensive firefighting equipment and professional know-how required.

Potentially capable volunteer firefighters can be recruited in most rural areas. Local initiative can usually be counted upon to provide suitable space and storage facilities for apparatus and fire equipment. The program would provide adequate fire protection for rural people living in communities of 5,500 or less. Also affected will be nearly 420 million acres of cropland, pastureland, farmland, and rangeland located in each of the 50 States.

Property and scenic values are high in these areas. Exclusive of land, total direct investments which will be protected by the program approach $195 billion.

Fire insurance benefits will accrue to rural residents whose property is not insurable at the present time due to lack of protection. Farm property insurance is commonly discouraged by high premiums. It is estimated that fire insurance premiums would be reduced as a result of improved, organized protection in rural areas. Better fire protection and reduced insurance rates should attract residents and business and help reduce the migration to urban areas.

Rapid changes in land-use patterns along with soaring resource and improvement values have made the need for adequate fire protection an urgent matter. I know this is true for the State of New Mexico.

Significant program effectiveness has already been shown in the highly favorable reports received from five rural fire defense training projects located in Colorado, Florida, Kentucky, Missouri, and Oregon. Participation and acceptance of the training by local cooperators was excellent. These projects, however, did not provide for an equipment component, as this bill does. Much was learned from these efforts, and the urgent need to obtain this capability was a significant lesson.

I believe that the economic and social gains in rural America will be great from the early enactment of this legislation. The resulting savings of our natural resources compels enactment of a permanent program to insure its effectiveness and continuity.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 963

A bill to authorize the Secretary of Agriculture to cooperate with and furnish financial and other assistance to States and other public bodies and organizations in establishing a system for the prevention, control, and suppression of fires in rural areas, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to reduce the loss of lives, property, and natural resources from fires in rural areas there is a need for the combined efforts of Federal, State, and local governments and nonprofit organizations to facilitate the establishment of adequate organizations and systems for the protection, control, and suppression of fires of woodlands, rangelands, orchards, pastures, crops, farmsteads, and other improvements in rural areas, including those of a population of fifty-five hundred or less not included in a metropolitan area. To this end, the Secretary of Agriculture is authorized and directed to cooperate with State foresters or other appropriate officials of the several States for the development by States, other public bodies, and nonprofit organizations of effective organizations and systems and to provide financial and other assistance in organizing, training, and equipping forces for the prevention, control, and suppression of fires in rural areas and rural communities.

SEC. 2. The Secretary shall carry out this Act in accordance with cooperative agreements with appropriate State officials. Such agreements shall contain such conditions as the Secretary deems appropriate for the purposes of this Act. No such agreement shall provide for financial assistance by the Secretary under this Act in any State during any fiscal year in excess of 75 per centum of the total budgeted expenditures or the actual expenditures, whichever is less, of the undertakings of such agreement for such year, including expenditures of local public and private nonprofit organizations. Payments by the Secretary under such agreements may be made on the certificate of the appropriate State official that expenditures as provided for the appropriate State official that expenditures as provided for under such agreements have been made and funds may be made available, as determined by the Secretary, without regard to the provisions of the Act of July 31, 1823 (3 Stat. 723; 31 U.S.C. 529), concerning the advance of public moneys.

SEC. 3. There is authorized to be appropriated to carry out the provisions of this Act $3,500,000 for the fiscal year ending June 30, 1972; $4,500,000 for the fiscal year ending June 30, 1973; $6,000,000 for the fiscal year ending June 30, 1974; and thereafter such amounts as may be necessary.

By Mr. NELSON:

S. 964. A bill for the relief of Tomas Ballesta Dominguez and Maria Pilar Roman Ballesta; and

S. 965. A bill for the relief of Man OK Kim and Mrs. OK Kyung Rhee Kim. Referred to the Committee on the Judiciary.

S. 966. A bill for the relief of Lucille P. Steele. Referred to the Committee on the Judiciary.

By Mr. PEARSON:

S. 967. A bill to promote economic opportunity in communities and industries which suffer a reduction in defense-related production and employment caused by shifting patterns of Federal procurement, termination or relocation of Federal facilities, or the abatement of general defense requirements; to provide assistance to, and cooperate with, those defense-related industries which seek to expand economic opportunity and growth

within their communities during the transition from a wartime to a peacetime economy; to mitigate the hardships suffered by families and communities when local defense-related employment is no longer required to maintain national security, and for other purposes. Referred to the Committee on Government Operations.

Mr. PEARSON. Mr. President, I introduce a bill which provides the means for an orderly transition from wartime to peacetime economic conditions, a bill designed to facilitate alternative development and peacetime technology as the pressures of warfare abate and Americans seek solutions to the many distressing problems at home.

Under the leadership of President Nixon, the tragic cost of U.S. participation in the Indochina war has been diminished substantially. The prayerful hopes of millions of concerned Americans have been realized. Personnel casualties have been reduced from 500 to 50 per week. Vietnamization has permitted about 200,000 American boys to return home without replacement. The economic drain of the struggle has been reduced by more than half. Recent polls show that most Americans favor continued withdrawal until all the forces in the area have been evacuated.

Inauguration of the Nixon doctrine, along with the wholly consistent pattern of Vietnamization, has initiated adjustments in our domestic employment pattern—adjustments which all Americans should welcome.

Tables I and II which I ask unanimous consent to have printed in the RECORD, document the findings of a recent Department of Labor study on the impact of defense spending in terms of domestic jobs. Clearly the priorities of the 1970's have brought substantial reductions in defense-related employment opportunities. Similarly the progresss of the Apollo space program and long-range NASA plans have forced significant cutbacks in space-related employment.

To the Nation at large these developments have revived the hope that serious domestic problems—serious human problems—long relegated to second-class status at last will be confronted and solved. Environmental restoration, revitalization of the National transportation system, and rural development are among the challenges which Congress and the Nation now aspire to meet.

To those communities which have specialized in defense and space-related production or support, however, these new priorities have caused tragic and painful readjustments. Thousands of skilled and dedicated workers and professionals have been laid off with insubstantial prospects for immediate reemployment. Major corporations have cut adrift massive numbers of loyal employees—left to fend for themselves as management retrenches to protect shareholder equity and retain flexibility for future Federal contract competitions.

Mr. President, the largest city in Kansas—Wichita—is a case in point. Located in the heart of our State, Wichita is one of the Nation's most progressive cities. Wichita enjoys a proud heritage as a terminal for frontier-day cattle drives and railhead, and is a national leader in oil, grain, and aviation. And Wichita is in trouble.

Wichita is in trouble not because of a lack of dedication to community development, but rather, in a sense, because of such dedication. The citizens and firms of the Sedgwick County area have been able consistently to meet the rigorous challenges of defense and aviation technology. Their services have been in demand for many years. They have performed to the credit of all Kansas.

Largely because of defense-related expenditures, Wichita became vulnerable to any significant reordering of Federal spending priorities.

Overall, defense-related expenditures in Sedgwick County for fiscal year 1969 amounted to nearly $1,000 for each and every person in the civilian workforce. For every aerospace engineer and gasoline station attendant, for every oilfield worker and clerk, the defense effort provided about $1,000 to the Wichita economy in 1969.

Mr. President, Wichita involvement in defense production diminished when Federal spending patterns began to shift. The reordering of National priorities has had a profound impact on economic conditions in Wichita—the impact has come suddenly and with a vengeance.

Unemployment in Wichita climbed above the 4-percent level in January of 1970. By March it had risen to more than 6 percent. In June the rate of unemployment reached 10 percent, and has remained in that area during the ensuing months.

The Wichita Office of the Kansas Employment Security Division predicts a net loss of an additional 1,300 jobs by April of this year. Currently more than 15,000 persons are out of work. The situation has reached crisis proportions.

The Federal Government has a deep moral obligation to assist the Wichita community, and dozens of other communities in similar circumstances, with a program of economic revitalization and renewal.

Many cities throughout the country are experiencing the fate of Wichita already, and additional communities will suffer as time passes. Defense-related spending has become the sine qua non of economic survival for entirely too many American cities.

Defense spending is well known for its monumental size and pervasive influence on the economy of any community it reaches. More than 10 percent of the American labor force is employed in defense and defense related activities. There are about 22,000 prime contractors and more than 100,000 subcontractors charged with the responsibility of producing space-age hardware for a great Nation. Approximately 5,500 cities and towns have at least one defense plant or company doing business with the Department of Defense. There are about 1,000 DOD, AEC, and NASA installations within the continental limits of the United States.

While overall defense-related spending will be diminished only insubstantially in fiscal 1972, there is evidence that the spending will be buying fewer and fewer jobs. Because of the fantastic cost of some weapons systems, and because of technological progress, fewer and fewer production personnel are required to provide hardware needs. Clearly the figures in tables I and II reflect the fact that, even in recent years when defense spending has increased in the aggregate, defense related employment has declined.

Minor adjustments to overall defense spending patterns can bring economic disaster to dozens of communities in a matter of months. Major procurement patterns are shifted, from manned bombers to naval destroyers for instance, and depression-level conditions of unemployment result in some localities while boomtown prosperity is brought to others.

There is an element of mindlessness in permitting this pattern to continue unabated, without substantial Federal relief for those communities adversely affected. Nonetheless, we have tolerated the pattern during past years of overheated economic expansion and rampant inflation. We can tolerate it no longer.

THE ADAPT BILL

Mr. President, the legislation which I introduce today is a considered Federal response to the havoc which declining National priorities leave in their wake. This bill contains both an organizational structure and the authorization of sufficient funding for a program of economic conversion in communities which suffer significant losses in federally related employment.

This legislation is to facilitate Alternative Development and Peacetime Technological innovation—thus the acronym ADAPT for shorthand reference. The following paragraphs outline its provisions in brief summary.

Within the Executive Office of the President there is to be established an Office for Alternative Development and Peacetime Technology. The Director of this Office is authorized to initiate and supervise programs and policies to assist localities and business concerns to prepare for and convert to the production and furnishing of nondefense goods and services as defense needs locally are reduced.

The Office is authorized to provide funds to States and localities for the preparation of studies and conferences on the problems of economic conversion and revitalization.

The Office is authorized to award categorical grants to communities which qualify for assistance. These grants have very few strings attached; the purpose of this legislation is to enlist local citizens in federally supported efforts to diversify business and expand job opportunities.

So long as grants are used effectively for the broad purposes of economic revitalization and recovery from reduced Federal community involvement, they will be employed properly and in accordance with the legislative intent.

The bill does not create another massive bureaucracy. Rather the success of ADAPT depends in large measure upon the capacity of local citizens and enterprises to structure their own economic recovery.

I foresee the possibility that these funds might be used for acquisition of industrial parks, for other facilities demanded by most sophisticated companies in search of new plant sites. The management of these grants, in the final analysis, will depend upon local conditions in each case, and the imagination of local leaders.

The ADAPT bill contains authority to establish management, professional, and scientific institutes in cooperation with vocational or higher education institutions in the designated localities. These institutes would be federally funded to conduct short term training for management personnel, scientists, engineers and other technicians who are unemployed as a result of cutbacks in defense-related spending.

The training conducted in these institutes should be tailored to securing reemployment for students in nondefense jobs, and special courses should be offered to adapt the skills of former defense-related employees to the demands of environmental restoration, rural development, and other peacetime technology needs.

This legislation also contains loan guarantees for conversion projects when other credit channels are unavailable. Loans will be made through existing lending agencies, and $50 million shall be allocated for the initial capitalization of this program. Additionally an interest subsidy not to exceed $15 million per year is authorized to encourage small businessmen to participate in the loan program. Expanded job opportunities in the qualifying communities depends in many cases on the ability of small business to expand profitably. The loan program is tailored to the needs of small businesses which have the capacity to expand, but lack the initial capital to do so.

Finally, Mr. President, the ADAPT bill authorizes the Office to issue regulations which will insure that further defense contracts and grants contain provisions for diversification after termination of the Federal relationship.

Each general contractor, before entering into defense-related production, will be required by the Office to develop plans for an orderly economic transition to nondefense production after the completion of the contract. No Federal agency should enter into contracts which attract substantial numbers of skilled and unskilled citizens to a locality, then leave those citizens with prospects of unemployment after their skills have been exploited.

Both Federal administrators and civilian suppliers must realize, henceforth, that they have a deep responsibility to those who work for their benefit, to their families and their communities. Hopefully, this legislation will spark the social conscience so long left dormant in the pressure-filled years of cold-war production.

Mr. President, I urge all Senators to consider carefully the terms of this ADAPT proposal, to review the benefits which it would bring to all the States. Especially, I ask Members to consider the reliance which communities and families place on the Federal Government when they enter its employ—directly or indirectly.

This proposal reflects a national commitment to economic diversification and revitalization in communities hit hard by defense cutbacks. We should do no less for those who have performed so well, and in the national interest, for so long. I urge consideration of ADAPT by the appropriate committees at the earliest opportunity.

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

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

S. 967

A bill to promote economic opportunity in communities and industries which suffer a reduction in defense-related production and employment caused by shifting patterns of Federal procurement, termination or relocation of Federal facilities, or the abatement of general defense requirements; to provide assistance to, and cooperate with, those defense-related industries which seek to expand economic opportunity and growth within their communities during the transition from a wartime to a peacetime economy; to mitigate the hardships suffered by families and communities when local defense-related employment is no longer required to maintain national security, 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 "Alternative Development and Peacetime Technology Act of 1971."

STATEMENT OF FINDINGS

SEC. 2. (a) The Congress finds and declares that many communities in the United States rely heavily upon Federal defense expenditures, defense-related production and employment, defense facilities and defense procurement to maintain full employment and high levels of industrial output; that many communities have become dependent upon continuity in Federal spending patterns to maintain employment and production; that the requirements of national security cannot be met by inflexible patterns of Federal expenditure and resource allocation; and that when Federal employment opportunities or defense-related industrial requirements shift from locality to locality, severe dislocation and hardship often result.

(b) It is the purpose of this Act to provide Federal assistance to communities and industries which seek to diversify their production in order to fulfill legitimate nondefense demands of society while, at the same time, maintaining defense-related production and employment sufficient to meet the requirements of national security.

(c) It is the further purpose of this Act to minimize those economic dislocations and hardships which inevitably occur during periods of transition from a wartime to a peacetime economy.

ESTABLISHMENT OF THE OFFICE OF ECONOMIC DIVERSIFICATION

SEC. 3. (a) There is established in the Executive Office of the President the Office for Alternative Development and Peacetime Technology (hereinafter referred to as the "Office").

(b) The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) There shall be in the Office 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 functions as the Director may prescribe and shall be Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director.

FUNCTIONS

SEC. 4. The Director of the Office is authorized to—

(1) initiate, arrange for, and supervise, with the approval of the President, appropriate policies and programs to be carried out by departments and agencies of the Federal Government designed to assist localities and business concerns to prepare for and convert to the production and furnishing of non-defense goods and services as the defense needs of the United States are reduced or shifted from one locality to another locality;

(2) (A) consult with the Governors of the States to encourage (i) appropriate studies and conferences at State, local, and regional levels, and (ii) the adoption of appropriate programs for States, localities, and private concerns in support of expanding the nondefense sector of the economy of the appropriate area, and (B), provide financial assistance to each such State or locality in an amount not to exceed 80 percent of the total cost of the preparation of such studies or the holding of such conferences;

(3) make grants to localities in accordance with section 5;

(4) conduct training institutes for management, professional and scientific personnel in accordance with section 6;

(5) promulgate such regulations for the appropriate departments and agencies of the Federal Government as may be necessary for the implementation of section 7 of this Act; and

(6) consult with trade and industry associations, labor unions, and professional societies, and encourage and enlist their support for a coordinated effort to improve the capacity of the Nation's economy to convert to the production and furnishing of non-defense goods and services;

(7) prepare sure recommendations and perform such other functions as the President may request.

GRANTS TO LOCALITIES FOR ALTERNATIVE DEVELOPMENT PROGRAMS

SEC. 5. (a) From funds available pursuant to section 11, the Director is authorized to make grants to, or to enter into contracts with, eligible localities upon such terms and conditions consistent with the purposes of this Act as the Director deems appropriate, to pay not to exceed 80 percent of the cost of alternative development programs, including but not limited to—

(1) providing initial financial assistance designed to promote industrial development by either attracting new business concerns to the locality concerned or by expanding opportunities for existing private concerns in any such community;

(2) promoting job opportunities for individuals who are unemployed as a result of the closing of a plant or facility engaged in defense-related research, development or production or the closing of a defense facility; and

(3) providing financial assistance to support unusual privately sponsored programs to attract business to the community concerned.

(b) As used in this section the term "eligible locality" means any city or other municipality (or two or more municipalities acting jointly) or any county or other political subdivision of a State (or two or more acting

jointly) having general governmental powers, determined by the Director to have been adversely affected by the closing of a plant or facility engaged in defense-related research, development or production or the closing of a defense facility.

MANAGEMENT, PROFESSIONAL, AND SCIENTIFIC INSTITUTES

SEC. 6. (a) From funds available pursuant to section 11, the Director, either directly or by way of grant, contract, or other arrangement with public agencies, institutions of higher education, or nonprofit institutions or organizations, is authorized to conduct short-term training institutes designed to—

(1) train or retrain management personnel, scientists, engineers, and other technicians who are unemployed as a result of the closing of a plant or facility engaged in defense-related research, development or production or the closing of a defense facility, so that they may find constructive employment in their respective fields of expertise; and

(2) train or retrain such personnel, scientists, engineers and technicians in new professional, scientific and technical fields in which there is a demonstrated demand in the foreseeable future in the region or locality to be served by such institute.

(b) No payment may be made pursuant to this section except upon application therefor submitted at such time or times and accompanied by such information as the Director shall by regulation prescribe.

(c) As used in this section "institution of higher education" means any such institution as defined in section 1201(a) of the Higher Education Act of 1965.

LOAN GUARANTEE AND INTEREST PAYMENT PROGRAM

SEC. 7. Title IV of the Small Business Investment Act of 1958 is amended—

(1) by striking out the title heading and inserting in lieu thereof the following:

"TITLE IV—GUARANTEES

"Part A—Lease Guarantees";

(2) by striking out "this title", wherever it appears in sections 402 and 403, and inserting in lieu thereof "this part"; and

(3) by adding at the end thereof the following:

"Part B—Conversion Project Guarantees

"DEFINITIONS

"SEC. 410. As used in this part—

"(1) The term 'eligible lender' means an eligible institution, an agency, or instrumentality of a State, or a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, or a pension fund approved by the administration for this purpose.

"(2) The term 'conversion project' means the planning and carrying out of any project by a business concern which is designed to facilitate that business concern's conversion of its defense related research and development activities to nondefense related research and development activities.

"(3) The term 'defense related research and development activities' means any activity—

"(A) which involves—

"(i) research, development, or engineering, including necessary supporting services, performed under grant from, or contract with, the Department of Defense, the Atomic Energy Commission, or the National Aeronautics and Space Administration, or under subcontract to such a grant or contract; or

"(ii) the construction, reconstruction, repair, or installation of any building, plant, structure, facility, or equipment connected or necessary to such research, development, engineering, or supporting services; and

"(B) which requires at least six months to complete.

"AUTHORIZATION OF THE ADMINISTRATION

"SEC. 411. (a) The Administration may, upon such terms and conditions as it may prescribe, enter into a contract and guarantee any loan for a conversion project made by an eligible lender against loss as a result of the failure of any person to meet the terms of such loan, subject to the following conditions:

"(1) The person to whom the loan is made is a small business concern.

"(2) The loan is required in order for such person to carry out a conversion project.

"(3) Such person is not able to obtain such loan on reasonable terms and conditions without a guarantee under this section.

"(4) The loan bears interest at a rate not in excess of 8 per centum a year.

"(5) The Administration determines that there is reasonable assurance that such person will repay the loan.

"(6) The conversion project for which the loan is made meets requirements established by the Administration for feasibility and reasonableness of costs.

"(b) When entering into a contract to guarantee a loan for a conversion project which meets the six conditions specified in section 411(a) above, the Administration will—

"(1) give preference to small business concerns which have suffered severe financial difficulties resulting from the diminution or termination of Federal contracts for defense-related research and development activities; and

"(2) give preference to conversion projects aimed at aiding in the resolution of the Nation's pressing domestic problems.

"(c) Any contract of guarantee under this section shall obligate the Administration to pay upon default to an eligible lender the unpaid balance of the principal amount of the loan, other than interest added to principal.

"(d) The Administration shall fix a uniform annual fee for any guarantee under this section which shall be payable at such time as may be determined by the Administration. To the extent practicable, having due regard for the purpose of this section, the amount of any such fee shall be determined in accordance with sound actuarial practices and procedures. Any fee so established shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith.

"(e) The provisions of section 402 shall apply in the administration of this section.

"FUND

"SEC. 412. (a) There is established a revolving fund for use by the Administration in carrying out this part, except section 413 thereof. Initial capital for such fund shall consist of not to exceed $50,000,000 transferred from the fund established under section 4(c) 1(B) of the Small Business Act, but paragraph (6) of such section shall not apply to any amounts so transferred.

"(b) There shall be deposited into the fund established by this section all receipts from the guarantee program authorized by this part. Money in such fund not needed for the payment of current operating expenses or for the payment of claims arising under such programs shall be invested in bonds or other obligations of, or guaranteed by, the United States; except that money provided as initial capital for such fund shall be returned to the fund established by section 4(c)(1)(B) of the Small Business Act, in such amounts and at such times as the Administration determines to be appropriate, whenever the level of the fund established by this section permits the return of such money without endangering the solvency of the program under this part.

"INTEREST ASSISTANCE PAYMENTS

"SEC. 413. (a) In addition to any contract of guarantee entered into pursuant to section 411 of this title, the Administration is authorized to make, and to contract to make, interest assistance payments to any eligible lender which has made a loan subject to the provisions of such section 411, on behalf of any person to whom such loan is made. Such payments shall be made at such times and under such conditions as the Administration may by regulation provide. Interest assistance payments to any such lender shall be made only for the period equal to the repayment period as provided in the agreement evidencing such loan, but in no event for a period longer than five years.

"(b) No interest assistance payments made under this section for any loan for any year shall exceed the difference between 3 per centum and the interest such person would be required to pay under the agreement evidencing such loans.

"(c) (1) There are hereby authorized to be appropriated to the Administration such sums as may be necessary for the payment of interest assistance grants to eligible lenders in accordance with this section.

"(2) Contracts for interest assistance grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts, and in any event the total amount of interest assistance grants which may be paid to eligible lenders in any year pursuant to contracts entered into under this section shall not exceed $15,000,000."

DEVELOPMENT AND DIVERSIFICATION PROVISIONS IN DEFENSE CONTRACTS

SEC. 8. (a) Under such regulations as the Office shall prescribe, each defense contract or grant, entered into six or more months after the date of enactment of this Act, by the Department of Defense or any military department thereof, or by the Atomic Energy Commission, shall contain provisions effective to—

(1) require a general contractor, whenever appropriate to survey the economic impact upon the locality or localities in which the major portion of such contract or grant is to be carried out of (A) the completion of work under such contract or grant, or (B) a substantial reduction in the use of a facility operated under such contract or grant;

(2) require each contractor to estimate the degree of dependency, currently and prospectively, of such contractor upon defense contracts or grants; and

(3) require a general contractor, whenever practicable, to develop plans for the use of any facility, operated under, or personnel skills or other benefit derived from such a contract or grant, to supplement community and private efforts to foster economic diversification to such locality upon the completion of such contract or grant or substantial reduction of the use of a facility operated under such contract or grant.

(b) The Office shall encourage trade and industry associations, labor unions and professional organizations to make appropriate studies and plans to further the purposes of this section.

(c) As used in this section the term "defense contract or grant" means any contract or grant to business concerns, government agencies, universities, and other nonprofit organizations—

(1) which involves—

(A) the research, development, production, maintenance, or storage of any weapons systems, arms, armament, ammunition, implements of war, parts or ingredients of such articles or supplies, or plans for the use thereof; or

(B) the construction, reconstruction, repair, or installation of a building, plant, structure, or facility which the Secretary of Defense or his designee, or the Chairman of the Atomic Energy Commission or his designee, certifies to be necessary to the national defense;

(2) which requires that the number of employees engaged in work under such defense contract or grant, together with employees engaged in work under any other such contract or grant, exceeds forty-nine employees or 25 per centum of the total number of employees, whichever is greater, at any establishment operated by the contractor awarded such contract or grant; and

(3) which requires at least one year to complete.

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) The Director, subject to the direction of the President, is authorized to—

(1) appoint and fix the compensation of such staff personnel as he deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.;

(3) accept and utilize the services of voluntary and non-compensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(4) promulgate such rules and regulations as may be required to carry out the provisions of this Act;

(5) appoint such advisory committees as the Director may determine to be desirable to carry out the provisions of this Act;

(6) enter into contracts, grants or other arrangements, or modifications thereof to carry out the provisions of this Act, and such contracts or modifications thereof may be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statues (41 U.S.C. 5) or any other provision of law relating to competitive bidding;

(7) designate representatives to serve or assist on such advisory committees as the Director may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies developing or carrying out policies or programs related to the purposes of this Act; and

(8) use the services, personnel, facilities, and information (including suggestions, estimates, and statistics) of Federal agencies and those of State and local public agencies and private research agencies, with the consent of such agencies, with or without reimbursement therefor.

(9) make advance, progress, and other payments which the Board deems necessary under this title without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529); and

(10) perform such other duties as are necessary to carry out the provisions of this Act.

(b) Upon request made by the Director 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 Office in the performance of its functions.

COMPENSATION OF THE DIRECTOR AND DEPUTY DIRECTOR

SEC. 10. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(54) Director, Office of Economic Diversification.".

(b) Section 5315 of title 5, United States Code, is amended by adding the following new paragraph:

"(92) Deputy Director, Office of Economic Diversification.".

APPROPRIATIONS AUTHORIZED

SEC. 11. (a) There are hereby authorized to be appropriated $100 million for the fiscal year ending June 30, 1972; $100 million for the fiscal year ending June 30, 1973; $100 million for the fiscal year ending June 30, 1974; and $100 million for the fiscal year ending June 30, 1975, to carry out the provisions of section 5 relating to grants to localities.

(b) There are hereby authorized to be appropriated $10 million for the fiscal year ending June 30, 1972; $10 million for the fiscal year ending June 30, 1973; $10 million for the fiscal year ending June 30, 1974; and $10 million for the fiscal year ending June 30, 1975, to carry out the provisions of section 6 relating to the conduct of training institutes.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the other provisions of this Act.

TABLE I.—DOD civilian employees for the "military function"

Fiscal year:	Employees (in millions)
1968	1.075
1969	1.090
1970	1.057
1971 (estimated)	1.025

TABLE II.—Private employment generated by aggregate defense spending

Fiscal year:	Employees (in millions)
1968	3.6
1969	3.3
1970	2.9
1971 (estimated)	2.3

By Mr. HATFIELD:

S. 968. A bill to amend the Consumers Credit Protection Act to provide greater protection for consumers against unwarranted invasion of privacy. Referred to the Committee on Banking, Housing, and Urban Affairs.

Mr. HATFIELD. Mr. President, for sometime I have been concerned about the misuse of information collected on consumers who have requested credit from major credit firms. Many times the consumer's neighbors, employers, and friends are asked questions about the consumer's private life. At the completion of the investigation, the information collected is put into the computer whether it is true or not, and even without the knowledge of the consumer.

Mr. President, today I am introducing legislation that would amend the Consumer Credit Protection Act to provide greater protection for the consumer. This measure would require consumer protection reporting agencies to furnish a copy of all consumer credit reports to the consumer to whom it relates. It would further require that investigative consumer reports be undertaken only with the written permission of the consumer to whom it relates and that the consumer be furnished with a copy of the report. Finally, this legislation would also require that credit reporting agencies reveal to the consumer upon demand the sources of the information relating to the consumer.

With today's technological advances in information retrieval systems this legislation is needed to protect the consumer. Without it, the consumer is helpless against the machines which would be turning out information which is incorrect and which could damage the personal integrity of the consumer.

By Mr. HATFIELD:

S. 969. A bill to protect the individual's right of privacy by prohibiting the sale or distribution of certain information. Referred to the Committee on the Judiciary.

Mr. HATFIELD. Mr. President, the privacy of the individual is becoming an increasingly rare commodity. As the population of our Nation and world increases, the freedoms that we once enjoyed are no longer possible. Man must continually be aware of what his actions mean to the lives of his neighbors.

Today, in the 1970's many of us find the privacy of our homes are being invaded by unwanted and objectionable material coming through the mails. This is an invasion that should be and must be stopped. This objectionable material comes to many of us because our names have appeared on mailing lists which have been sold to commercial enterprises without our knowledge or consent.

Mr. President, today I present to the Senate a bill to protect the individual's right of privacy by prohibiting the sale or distribution of certain information. In effect, this bill would restore the right of the individual to control what is known about him and insure that information collected for one purpose will not be used for another purpose. There are certain individual rights that can and need to be protected. The right to control what one receives through the mails is certainly such a right, and I sincerely hope the Senate will give this measure its prompt consideration.

By Mr. HOLLINGS:

S. 970. A bill to amend section 2412 of title 28, United States Code, to provide for the recovery of attorney's fees and expenses in certain actions brought by or against the United States. Referred to the Committee on the Judiciary.

Mr. HOLLINGS. Mr. President, today I am introducing a bill which will amend section 2412 of title 28 of the United States Code, to provide that in a civil action involving a private litigant and the United States, the prevailing party shall be awarded a judgment for reasonable fees and expenses for attorneys if the court finds that the act or ommission of the other party was arbitrary, capricious or in bad faith, or if the conduct of the other party in instituting or prosecuting such action was frivolous, unduly dilatory or in bad faith. In short, this amendment would provide a vehicle whereby unnecessary litigation would be precluded or deterred under the threat of having the party be financially responsible if he maintains a judicially untenable position.

This is not a case of the traditional legal "gray area" where there is a genuine question of merit on both sides of the issue. It is strictly limited to those actions which should not have been brought in our courts, or actions that have been judicially found to be far beyond the standards of reasonableness.

On February 2, 1971, I introduced S. 529, a bill for the relief of T. Michael Smith, which is clearly a case in point on this subject. In 1953, after 19½ years of government service, Mr. Smith was fired from the Reconstruction Finance Corporation. Mr. Smith felt that such action was unwarranted and embarked upon the time-consuming and treacherous route of appeal through the Civil Service Commission and the courts. Seven years later, the U.S. Court of Claims found as a matter of law that the action by the U.S. Government was "arbitrary and capricious and in bad faith." *T. Michael Smith* v. *The United States*, 151 Ct. Cl. 205, 209 (1960). I certainly have no quarrel with the administrative proceedings and judicial remedies which Mr. Smith was required to follow; however, at the end of this 7-year period of litigation, Mr. Smith's expenses amounted to $17,577.49. The court awarded Mr. Smith $67,051.08, which award was for the back pay Mr. Smith was legally entitled due to his wrongful discharge by the Government. In other words, he was to be made whole from the arbitrary, capricious and bad faith action of the U.S. Government. It is quite clear, however, that he was not made whole, since it cost him $17,577.49 in order to pursue his claim.

Mr. President, I sincerely feel that when courts of competent jurisdiction initially find that any action by a party rises to the standard of being in bad faith, capricious, willful, frivilous, or unduly dilatory, the prevailing party should not be punished by having to pay the cost of prosecuting or defending his position. As I mentioned earlier, this is not the case where the determination has been based upon "weighing of the facts." It is somewhat akin to the doctrine of punitive damages where the action of the party has been judicially determined to be so willful or grossly negligent that punishment should also be financially evoked. There is precedent for this point in law, whereby a private litigant was awarded reimbursement for the expenses incurred in securing reinstatement after wrongful removal (Private Law 86–406) (74 Stat. 68). Rather than having private litigants turn to the vagaries and whims of Congress every time such a wrong has been perpetrated, I suggest we amend the law to include a provision whereby the court, after finding that the standards have been violated, could average such costs. This is true whether it be the U.S. Government or a private individual. We have heard a great deal about the unnecessary litigation clogging our courts, and I feel that this would be most beneficial in this regard. Attorneys would be hesitant to bring such actions when the facts would indicate that there was a chance that their client, whether the United States or an individual litigant, may be required to pay the cost of the litigation.

Mr. President, I sincerely hope that legislation will receive a proper review and that this question be thoroughly aired and considered.

By Mr. HOLLINGS:

S. 971. A bill for the relief of Dr. Haim I. Bicher. Referred to the Committee on the Judiciary.

By Mr. BAYH (for himself and Mr. EASTLAND):

S. 972. A bill to amend the Railroad Retirement Act of 1937 so as to permit certain individuals retiring thereunder to receive their annuities while serving as an elected public official. Referred to the Committee on Labor and Public Welfare.

Mr. BAYH. Mr. President, I introduce for appropriate reference a bill to amend section 2 of the Railroad Retirement Act. This bill is a modified version of one I submitted in the 90th and 91st Congress and which the Senate passed on October 9, 1970. Its purpose is to permit a currently employed railroad employee, who is eligible for retirement, to retain an elective or appointive public office paying compensation no more than $5,000 annually without being forced to give up his entitlement to an annuity.

This problem arises from the application of the so-called last person service provision of the Railroad Retirement Act of 1939, which stipulates that no employee is eligible for an annuity until he has ceased to render compensated service to any person. In addition it prohibits retired railroad workers from rendering compensated service to an employer or to the last person by whom he was employed prior to the date on which the annuity began to accrue. By interpretation this means that a railroad employee not only must resign from any other job or jobs which he might currently hold before retiring but also that he cannot later return to any such position and still receive retirement compensation. This general rule applies equally to public as well as private employment, so that an elective or appointive public official would first have to resign his office in order to obtain an annuity.

Apparently these restrictions were originally incorporated in the Railroad Retirement Act for good reasons. They were designed to discourage railroad employees from securing other remunerative positions with different employers and retaining those jobs after retirement from the railroad. Many employees now continue their railroad employment several years beyond the time they might first be eligible to retire. Without such limits, it is possible that employees might leave railroad positions as soon as they accumulated enough service for some retirement credit, secure other employment, and continue working on those other jobs after they became entitled to and were receiving railroad retirement benefits. It is argued that allowing a railroad employee to retain another job he is holding at the time of his retirement would indirectly constitute a burden on the retirement fund because of probable numerous early retirements and would increase the costs of the system.

It should be pointed out, however, that the law now does not prevent a retired railroad employee from securing a different kind of position or earning substantial sums after he has once retired. There is no legal limit on the type of employment engaged in or the amount of money earned by a retired railroad worker, as long as he resigns from all current employment at the time he retires and does not return to compensated service with any of his former employers.

Although the basic purpose of this provision is certainly defensible and probably meritorious, its application to railroad employees holding public office at the time of their retirement seems questionable if not discriminatory. There is no need to stress how important it is in a democracy to make it possible for all qualified citizens to offer themselves as candidates for public office and to serve in minor appointive posts, especially in local government. National welfare is ill served by laws or regulations which place obstacles in the way of those who are able and willing to seek office through the ballot box. In this instance, forcing a railroad employee who has been elected or appointed to public office either to relinquish that post or lose his annuity when he retires poses an unfair dilemma. Any career railroader, knowing about this mandate, would obviously be discouraged from becoming an active participant in the political process if he were approaching retirement years.

Elective or appointive policymakers serving on local governmental bodies frequently are part-time officers who receive comparatively small compensation. City and town councilmen, county supervisors or commissioners, township trustees, members of school boards, park boards, zoning, and planning commissions, as well as other local governmental officers usually perform their duties at times which do not conflict with their primary occupations. Even many State legislators are still regarded as part-time employees whose major tasks are completed during a 60- to 90-day session every year or two. The salary received by most of these State and local policymaking officers is usually not large and it is not expected to be their principal means of support.

The language of the Railroad Retirement Act, however, requires any railroad employee who has been selected to serve in a compensated public office to resign that position of trust in order to become eligible for retirement benefits. Moreover, under the law he could not be elected or appointed later to that same position without losing benefits. In effect, this results in a legislative denial of an American citizen's right to hold public office. This is unfair both to the railroad employee who is willing to serve his government and to the public which may be deprived of his services.

Apparently the Railroad Retirement Board has held that where remuneration for a public office is merely "incidental" or "insubstantial," a railroad employee holding such a position would not be rendering "compensated service" and would not have to resign from it in order to receive an annuity. However, it is questionable whether the specific terms of the law leave room for much flexibility on the definition of "compensated service." Except for payments to reimburse officers for actual out-of-pocket expenses, such as necessary travel, communication or secretarial costs, the phrase "compensated service" would seem to include all fees, salaries or per diem wages paid for holding an elective position, no matter how large or small their total amount.

Moreover, determining which amounts should be considered "incidental" or "insubstantial" appears to be extremely difficult and arbitrary. What criteria should be used? By what measure would particular payments, such as $15 per meeting, $40 per month, or $1,500 per year be ruled to be either within or without the acceptable standards? A salary of $100 per month as a city councilman paid to a top busienss executive might properly to him be considered incidental, but to a retired career railroad employee, dependent on retirement benefits for his livelihood, this sum could mean a substantial increase in his income. Should one be deprived of the privilege of serving his community merely because his income from other sources is so small that his public salary becomes substantial, whereas the identical salary would be incidental to another incumbent officeholder? To place a premium on level of income as a determinant for public service is contrary to all precepts of American Government.

Another inequitable aspect of the current application of the law results from the great variation in compensation paid by State and local governments to their elective officeholders. Comparable jobs in different cities, towns, counties and even States carry salaries and fees which range widely. For example, a city councilman in one city of approximately 25,000 population might be paid as much as $3,000 per year, whereas his counterpart in another city of similar size might receive only $300. Should the right of railroad personnel to hold office be qualified on geographical factors? Should a retired railroad employee be allowed to continue to serve in one city but not another?

The unfairness of this restriction becomes more evident if my understanding about its specific application is correct. Apparently retired railroad employees in some cases have been permitted by the Railroad Retirement Board to retain public offices where the compensation amounted to as much as $1,800 per year. Presumably this has been done on the grounds that $1,800 would be incidental or insubstantial. It is not clear what standards have been used to determine that, while payment of $150 per month is not contrary to the restrictions of the law forbidding all compensated service to a prior employer, a greater amount, such as $200 or $300 per month, would be a violation. In any case, it means that a retiree's right to serve in a public office to which he was elected or appointed before retirement has been arbitrarily limited to those paying no more than $1,800 annually.

This inequity first came to my attention because of the plight of one of my former constituents. A railroad employee for 46 years, for 33 of which he had made contributions to the retirement system, he had been eligible for retirement for some years and for personal reasons wanted to apply for a well-earned annuity. However, since he was serving in his third 4-year term as a part-time city council member in a fairly large city, for which the compensation was $3,600 per year, he had been informed officially that he would have to resign from the city council to which he could not be reappointed later if he were to draw retirement benefits.

Thus my constituent faced a very unfortunate dilemma. Fully entitled by years of service and contributory payments to an annuity, he could not retire unless he gave up his post on the city council. The fact that he had been elected to three consecutive 4-year terms demonstrated satisfaction with his performance and indicated that the electorate wanted him to continue in office. As a conscientious public servant, he hesitated to break faith with those who voted for him by not completing his full term in office, yet there were compelling personal reasons why he should have retired from his railroad job. He expected last fall that he would soon have to choose between two alternatives, one of which would have been contrary to his principles, the other of which would have been much to his personal financial disadvantage. Sadly, his untimely death late in 1970 resolved the dilemma only a few months before the final decision would have had to be made.

My bill would resolve this problem simply by amending the Railroad Retirement Act to permit currently working railroad employees to qualify for retirement benefits without being forced to resign from an elective or appointive public office, the compensation for which does not exceed $5,000 per year. Although valid arguments can be made for not extending this privilege to other types of jobs, the case for exempting part-time public officeholders is very clear and convincing. The number of railroad employees who would be affected by this amendment is not large, but this does not minimize the harm which present restrictions have on the comparative few to whom they apply.

I doubt whether it was the intention of Congress, when the Railroad Retirement Act was adopted, to legislate out of office duly elected or appointed officeholders of State or local governments. Surely it was not framed for the purpose of limiting the freedom of choice normally exercised by the people to choose their own representatives or by executives to appoint members of public boards and commissions. Yet this is exactly the effect which the law now has on railroad employees holding public office who wish to retire. My amendment would provide a remedy but at the same time would not disturb the basic principle of the law; except for elective and appointive public offices paying less than $5,000 a year, railroad retirees still would be required to give up other compensated service jobs.

As introduced in the 91st Congress (S. 988) the bill would have applied only to elective offices. However, after holding hearings and considering all aspects of the problem, the Subcommittee on Railroad Retirement and the Committee on Labor and Public Welfare both recommended that it should be modified to exempt appointive as well as elective offices paying up to $5,000 per year. The committee reported the bill favorably with this one modification on October 6, 1970, and the Senate passed the bill without objection on October 9. I was disappointed that the House of Representatives was not able to take action on S. 988 during the time remaining in the last session, but I hope that careful and prompt consideration may be given to this proposal in the new Congress in order to remove this injustice confronting any railroad employee who wants to serve his government without suffering retirement penalties.

Mr. President, I ask unanimous consent that the full text of my bill, which is very brief, be printed in full at the conclusion of my remarks.

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

S. 972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Railroad Retirement Act of 1937, as amended, is amended by adding at the end thereof the following new subsection:

"(k) For purposes of subsections (a) and (d) of this section, service performed by an individual as an elected or appointed public official shall not be regarded as 'compensated service' rendered to an employer or to any other person, if such service is compensable at a rate which does not exceed $5,000 per annum, and if such individual is deemed under section 1(o) to have a current connection with the railroad industry at the time he ceases to render compensated service to an employer."

By Mr. BAYH (for himself and Mr. RIBICOFF):

S. 973. A bill to amend the Federal-State Extended Unemployment Compensation Act of 1970 to expedite the implementation and to provide 100 percent Federal financing of the benefits payable thereunder. Referred to the Committee on Finance.

Mr. BAYH. Mr. President, the most critical problem facing this Nation today is the failing health of our economy. As a result of President Nixon's economic game plan, over 2.5 million more Americans are jobless today than when the President took office in January 1969.

Over most of the past decade, a healthy and expanding economy has been the foundation for much of our social progress. The Nixon game plan, in contrast, has produced the worst of both worlds—continued inflation and recession. Clearly, we cannot afford to continue a policy that results in a gap in output of $1 billion weekly.

I have been critical of the President's game plan from the very beginning. Two years of an inflationary recession have not convinced me otherwise. The 1970 congressional elections are proof that the American people, too, are impatient with the President's do-nothing policy.

Sensing the mood of the Nation, the President was finally moved to act—a year too late. In January of this year he announced a permanent cut in business taxes by accelerating depreciation allowances. The President's stated aim was to expand our productive capacity—at a time when one-third of our industrial capacity was idled.

I said then that the President's move was "the wrong prescription at the wrong time for our Nation's economic ills." The President's actions may have made him appear to be an economic activist, as he likes to describe himself, but they proved him to be a bad economist.

Then, on January 22 the President delivered his state of the Union message. To my surprise and dismay, he failed to deal with the critical problem of unemployment.

Having devoted myself increasingly to this problem recently and after having consulted with a number of prominent economists, I am today introducing a bill proposing a plan for improving the unemployment insurance system as a countercyclical economic tool.

I propose not only a speeding up of the effective date of the so-called extended benefits program adopted as part of the Employment Security Act of 1970, but a more realistic formula for triggering extended benefit payments and full Federal financing of the additional payments.

Last year, Congress passed an improved unemployment compensation package. Among other things, the Employment Security Act of 1970 provided, for the first time, for a permanent program of extended benefits during economic downturns. The 1970 act established an extended benefit period of 13 weeks, to be automatically triggered when the national rate of insured unemployment reached 4.5 percent for 3 consecutive months.

In the light of recent events, it is now clear the 1970 act included three very serious shortcomings. First, it delayed the effective date of the new program until January 1972—and in some States until July 1972. Second, it provided for the financing of extended benefits on the basis of the traditional 50–50 Federal-State matching formula. Third, it was based on a trigger mechanism that was set too high to be of practical use in anything but a prolonged and severe recession.

The Employment Security Act of 1970, while it recognized the need to provide extended benefits during a recession, mistakenly delayed the implementation of a national program until January 1972 (and for some States until July 1972). It was argued that because of the 50–50 Federal-State matching formula for financing extended benefits, the States required time to act. The bill I am proposing, since it is based on Federal financing, requires no State legislation. It could be triggered into operation, nationwide, upon enactment.

In 1969, while testifying before the Senate Finance Committee in behalf of the administration's federally financed extended benefits program, then Secretary of Labor Shultz acknowledged that "an interim Federal program to fill the gap in time" would be appropriate. Delayed as it is, I believe that we should still act now to fill that gap, particularly in view of the current unemployment situation.

If extended benefits are a necessary stabilization device—and I believe they are—then we should not have to wait until January 1972. Nor should we have to wait to begin alleviating the personal hardships caused by the President's policy, a policy that has added more than 2.5 million Americans to the jobless rolls. There simply is no good reason to delay the effective date of extended benefits.

Historically, the rate of insured unemployment has been about two-thirds of the national unemployment rate. As a result, in order to trigger the extended benefits program in the present law, the national unemployment rate would have to climb to an intolerable 6.7 percent. First, public policy should never permit unemployment to reach that level. Second, it certainly should not wait that long before taking the necessary stabilization actions. At that point in the downturn, moreover, it is doubtful that extended benefits would have much of a stabilizing effect. In my judgment, therefore, the present trigger formula is simply not responsive enough to today's needs.

I propose, instead of a 4.5-percent trigger, that extended benefits be made available when the insured unemployment rate reaches 4 percent—which corresponds to a national unemployment rate of 6 percent. The rate of insured unemployment has been above the 4-percent trigger since September 1970.

The most recent data published by the Bureau of Labor Statistics reveals that the number of persons jobless for 27 weeks or more as of December 1970 was 325,000—more than 200,000 greater than 1 year ago. More disturbing is the fact that the number of persons jobless for 15 weeks or more has now passed the 1 million mark, the highest level since 1964. In the next 2 or 3 months, most of these workers will be exhausting their standard benefits. The expected steady increase in exhaustions, in fact, already may have begun. In August 1970, it was 96,000. In October, the monthly figure was 114,300. In November, it jumped to 127,300. Clearly, now is the time to act.

As for full Federal financing, it seems to me that any time we have substantial numbers of workers exhausting their 26 weeks the source of our economic ills is national and reflects a failure in national economic policy. That is the situation that exists today. The Federal Government should move immediately to remedy it. My proposal seeks to do just that.

By Mr. MONDALE (for himself, Mr. SAXBE, Mr. BAYH, Mr. CRANSTON, Mr. EAGLETON, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HUGHES, Mr. HUMPHREY, Mr. MCGOVERN, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PROXMIRE, Mr. STEVENSON, Mr. TUNNEY, and Mr. WILLIAMS.

S. 974. A bill to amend the Foreign Assistance Act of 1961, as amended, to prohibit any involvement of participation of U.S. Armed Forces in an invasion of North Vietnam without prior and explicit congressional authorization. Referred to the Committee on Foreign Relations.

Mr. MONDALE. Mr. President, the Congress faces a crisis of responsibility.

The American people clearly want to get out of the war in Indochina.

They want an end to the killing and devastation.

But regardless of the people, regardless of an act of Congress to limit our involvement, our men are today bleeding and dying at a mounting toll in a wider war.

By one of the most grotesque technicalities ever seized by a government, they have been saved from fighting on the ground in Laos and Cambodia only to be sent out to die in helicopters 30 feet off the ground.

And this could be just the beginning.

The President has put us on notice that he intends to keep our men in the war indefinitely, and that they will fly—and die—all over Indochina, including North Vietnam.

With South Vietnamese forces now risking disaster in Laos, we may well be poised to mount an invasion of North Vietnam.

And this would not be simply another step in the progression that has taken us into Cambodia and Laos. An invasion of North Vietnam by either U.S. forces or South Vietnamese forces with U.S. support, would be tantamount to a declaration of war against North Vietnam.

The President has recently told us he does not intend to order a U.S. ground invasion of North Vietnam. But, the President has changed his policy before. With events pressing in Laos, he may feel he will have to do so again.

In any event, he has left open the option of U.S. air combat support for a South Vietnamese invasion.

Only this morning we have a clear warning from President Thieu that the South Vietnamese could invade North Vietnam. And we know all too well from Cambodia and Laos that the South Vietnamese do not make these attacks by themselves.

If the United States is to be involved in any way in an invasion of North Vietnam—a totally new and most ominous dimension to our nightmare in Indochina—then it can only be done with explicit congressional authorization.

This is no mere question of consultation between the Executive and Congress—it is a question of constitutional legitimacy.

A step of that gravity cannot be taken in our democracy without the authentic support of the American people and their elected representatives.

It is now clear that the President is widening this war rather than ending it.

If it is to be ended, if limits are to be firmly set, Congress must do so.

That is the crisis of responsibility which confronts us.

We cannot wait the weeks or months it could take for a vote on the Vietnam disengagement amendment.

There is no question that we must pass that amendment to end the war. We must bring our men home by Christmas.

That—and that alone—is the ultimate way out.

But we cannot fail the men who could die in a wider war before a total withdrawal.

I am introducing today a bill to require explicit and prior congressional authority for any U.S. combat forces invading North Vietnam, including U.S. combat air support for South Vietnamese ground forces invading North Vietnam.

If this bill is passed, the Congress will have added its authority to the President's express disavowal of a U.S. invasion of North Vietnam.

If it fails, we will be no worse off than

we are now. The President now acts as if he has the sanction of Congress—or as if he does not need it.

At least the country will know where we stand.

Those who would approve an invasion of North Vietnam should have a chance now to record their position for history—and for their constituents.

As for those of us who oppose the war, there has been enough hand-wringing frustration and inertia. The stakes are too horrendous. We must do all we can to draw the line before—as so often in the past—we are too late. Congress did not prevent U.S. forces from invading Cambodia. But I believe that without the Church-Cooper amendment, we might well have American ground troops in Laos and Cambodia today.

There are many who say Congress has failed the Nation and itself by surrendering its constitutional power over the fateful questions of war and peace.

Perhaps we have before.

Perhaps we will again.

But we must face that choice now with regard to a potential invasion of North Vietnam just as squarely and starkly as our men are now facing death all over Indochina.

Mr. President, I ask unanimous consent that the bill and article be printed at this point in the RECORD.

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

S. 974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter I of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 620 A. (a) Congress finds and declares that under the Constitution of the United States the President and the Congress share responsibility for establishing, defining the authority for and concluding foreign military commitments; that the United States can in no way participate in or support an invasion of North Vietnam without prior and explicit Congressional authorization.

"(b) On and after the date of enactment of this section, in accordance with public statements of policy by the President, no funds authorized or appropriated under this or any other Act shall be used to carry out an invasion of North Vietnam by United States Armed Forces without prior and explicit authorization of the Congress.

"(c) On and after the date of enactment of this section, no funds authorized or appropriated under this or any other Act shall be used to carry out combat air support activities within the borders of North Vietnam in support of a ground invasion of North Vietnam without prior and explicit authorization of the Congress."

[From the Washington Post, Feb. 25, 1971]

THIEU ASKS WHY NOT ATTACK THE NORTH

(By Lee Lescaze)

SAIGON, February 2.—President Thieu has raised the possibility that South Vietnamese troops will invade North Vietnam.

Thieu declared Monday that a major benefit of the current invasion of Laos is that it surprised the North Vietnamese and kept them off balance. "If we dare to launch operations into neutral Cambodia and Laos," Thieu added, "Why shouldn't we dare to attack the very origin of aggression?"

The president called the current Laos invasion the most important campaign of the war and also indicated that there will be additional invasions of Laos. "Why should we cease entering Laos," he asked rhetorically.

"When we have entered once, we can go back repeatedly and not let (the North Vietnamese) be undisturbed."

Thieu raised the possibility of an invasion during a speech to a graduation class of policemen and teachers at the coastal resort of Vungtau. Although he spoke Monday, news of his remarks did not circulate in Saigon until today when the government radio station and a leading newspaper reported on the speech.

His comments were the most recent in a series of sometimes conflicting statements from South Vietnamese and American officials on the possibility of a South Vietnamese drive across the Demilitarized Zone.

Vice President Ky advocated such a move early this month as the invasion of Laos was being mounted. U.S. officials threw cold water on speculation about an invasion and the general impression created in Washington and Saigon was that the often glibly hawkish vice president had once again spoken off the top of his head.

However, President Nixon attracted attention to a possible invasion of North Vietnam when he sidestepped a question on the subject at his press conference Feb. 17.

"I would not speculate on what South Vietnam may do in defense of its national security," Mr. Nixon said. "South Vietnam will have to make decisions with regard to its ability to defend itself."

An invasion of North Vietnam, as much if not more than the current invasion of Laos, would need American air support. President Nixon has said that his guideline is to use American air power where North Vietnamese forces threaten American troops.

Throughout recent days, top American officials here have dismissed the possibility of a South Vietnamese thrust into North Vietnam, often pointing out that South Vietnam is already supporting large forces in Laos and Cambodia and has limited combat and supply capabilities.

In addition to keeping North Vietnam uneasy about Saigon's intentions, Thieu said that the current Laos operation is valuable because:

"When we fight pirates outside our house only our mango and guava trees are damaged. But when we fight them inside the house, how can we keep the furniture from being destroyed?"

Thieu said that South Vietnam is ready "to accept a high cost" in the Laos operation in order to destroy the enemy's potential to attack the northern I Corps region of South Vietnam.

The Communists, he predicted, will be "suffocated" within South Vietnam because of operations disrupting their supply lines. To avoid suffocation they will fight and the battles will be fierce, Thieu said.

However, he reassured his audience that the South Vietnamese would win the battles. "If we lose 500 men (in Laos) they will lose two or three thousand men," he said. "If we lose 1,000 soldiers, they will lose nine or ten thousand."

Thieu also spoke about the presidential election next fall and asserted that all South Vietnam's progress of recent years would go down the drain if a president too conciliatory to the Communists were elected.

He denied charges by his political opponents that his trips to the provinces amount to campaign trips. The campaign does not officially begin until August, a month before the election, but it is generally conceded that all candidates will have to be active before that date to stand a chance.

By Mr. BAYH:

S. 975. A bill to protect the constitutional right of privacy of those individuals concerning whom records are maintained by Government agencies. Referred to the Committee on the Judiciary.

Mr. BAYH. Mr. President, the Subcommittee on Constitutional Rights is engaged in new and vitally important hearings concerning privacy, data banks, computers, and the Bill of Rights.

These hearings concern the basic right of every citizen to a sphere of privacy, of freedom from unwarranted intrusion. With the development of sophisticated technology, this issue has increasingly come to the attention of all of us in recent years, especially with Senator ERVIN's alarming disclosures about the dossiers the Army has been keeping on civilians.

We can all agree on some points. Few would approve of the collection of data—whether by the Government or by private interests—merely to harass, or to keep tabs on those who would dissent peacefully. But such surface accord must not lead us to believe that this is a subject characterized by simple solutions. There are not easy answers to these problems. We know, on the one hand, that as Government and industry grow larger and try to offer more services, it is essential that they be able to collect and use immense amounts of information, just to do their jobs effectively. But on the other hand we all know that guidelines must be created to prevent the misuse of this new technology, technology which endangers our constitutional rights of privacy, freedom of speech, and freedom of assembly.

I am not discouraged by the difficulty of this task. Formulating legislation is never easy when the aim is to protect our most fundamental rights. And no one knows this better than the esteemed chairman of the Subcommittee on Constitutional Rights, Senator ERVIN. He has been in the forefront of this body's efforts to prevent the erosion of our basic liberties. When the administration suggested a program of preventive detention to deal with our rising crime rate, he did not just voice his opposition to this illusory solution. He used the Justice Department's own statistics to show that preventive detention would not affect the crime rate. And he followed his solid demonstration of the unconstitutional aspects of this legislation with a constructive, workable, and thoroughly constitutional alternative—a bill to guarantee to every person who might be arrested the basic constitutional right to a speedy trial. I was pleased to join the Senator from North Carolina in this effort, to join in sponsoring his speedy trial bill last year, and I joined with him again this year.

I believe that we must make the same kind of effort when faced with the threat of invasions of privacy. Of course we must raise our voices in complaint when we see serious dangers to our democratic process. But we must do more. We must meet the problem head on, with prompt, realistic, constructive legislative alternatives.

In the field of privacy, reasonable expectations play a very important role. For no matter how carefully and completely we try to analyze the problem, it

all boils down to one thing: Americans have—and ought to have—certain broad, general understandings about what part of their personal and business life is public, and what part is private—none of the Government's business, none of anyone else's business.

But expectations of privacy have been shattered in recent years. Recent technological developments have narrowed the sphere of actual privacy by allowing intrusions—by bugging and so forth—into previously protected areas. And the development of the computer has for the first time made it practical to collect, analyze, and instantly retrieve vast amounts of information, however gathered. For the first time it is now possible to maintain a dossier on the activities of great numbers of people. These dossiers may be used—or intended—to stifle legitimate political dissent. And even where the actual use of such information is benign, the very existence of it poses a threat to individual liberty.

The purpose of the current hearings is to explore the problems. I believe we must survey the whole area of privacy, the right of the individual not to have certain kinds of information about him gathered at all, or to limit the means by which that information is collected. Who should be permitted to gather information about American citizens? What information is within their legitimate interest? By what means is it appropriate to obtain such information?

And we must also explore the question of confidentiality, the use of information once it has been gathered. Who should have access to it? Should we allow exchanges of information, for example, among Government agencies? What sort of review of information is necessary to make sure that outdated material is removed from the files? And most important, should the individual citizen have a right to review the contents of these files for accuracy and relevancy?

Last year we took a great step forward in allowing individuals to have access to financial information about them on file in credit bureaus. Subject to the legitimate—and expressly drawn—demands of law enforcement and national security, I believe we should grant the same rights of access in this area as well.

I believe that we must restore confidence in the American citizen's legitimate expectations of privacy. It is now clear beyond peradventure that we urgently need Federal legislation in this area. I would hope that legislation would be designed to accomplish two objectives.

First, we must define more precisely the nature of each individual's right to a sphere of privacy, a sphere in which he can be free from unwanted intrusion. Any such law should put specific limits on those who would gather and use this information. In short, everyone would know the ground rules and could act accordingly.

Second, a right without an effective remedy is useless. We must provide meaningful tools for enforcing these rights.

That is the kind of legislation which I believe we need. And I believe that we will be able to fashion such legislation as a result of these hearings.

In the hope of advancing us toward this goal, I am today introducing the Citizen's Privacy Act, legislation designed to meet one of the most serious needs we face in this area. This bill is designed to guarantee any individual about whom the Federal Government keeps records, the right to know that such a record exists; the right to prevent the disclosure of such information outside the agency, or, where such disclosure is expressly required by law, to know when and to whom such disclosure is made; and—most important—the right to see his own file, to make a complete copy of it, and to supplement his record where he believes it is appropriate. This is the bill introduced in the House by Representative KOCH, the distinguished Congressman from the 17th District of New York, and I applaud his excellent efforts on this legislation. I intend to work closely with him and to do what I can to urge that the Senate act promptly and favorably on this measure.

I do not propose this bill with the thought that it will be the end of the legislative process. Indeed, I would expect it to be refined and improved by the Senator from North Carolina and the subcommittee as a result of the current hearings. Moreover, I recognize that this bill deals with only a portion of the ground we need to cover. But I hope it will help us as we structure a solution, and spur us to move promptly when we complete our gathering of information and our deliberation.

We are quick to rejoice in the freedoms we have won. We must be just as diligent to protect and preserve them. As the late Adlai Stevenson once said:

> Freedom demands infinitely more care and devotion than any other political system.

That is the kind of effort we must undertake.

Mr. President, I ask unanimous consent that the complete text of the bill and a summary be printed at the conclusion of my remarks.

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

S. 975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter II of chapter 5 of title 5, United States Code, is amended by adding immediately after section 552 thereof the following new section:

"§ 552a. Individual records

"(a) Each agency that shall maintain records concerning any individual which may be retrieved by reference to, or are indexed under, the individual's name and which contain any information obtained from any source other than such individual shall, with respect to such records—

"(1) notify such individual by mail at his last known address that the agency maintains or is about to maintain a record concerning said individual;

"(2) refrain from disclosing the record or any information contained therein to any other agency or to any person not employed by the agency maintaining such record, except with permission of the individual concerned or, in the event said individual cannot be located or communicated with after reasonable effort, with permission from members of the individual's immediate family or guardian, or, only in the event that such individual, members of the individual's immediate family and guardian cannot be located or communicated with after reasonable effort, upon good cause for such disclosure: *Provided, however,* That if disclosure of said record is required under section 552 of this chapter or by any other provision of law, the individual concerned shall be notified by mail at his last known address of any such required disclosure;

"(3) maintain an accurate record of the names and positions of all persons inspecting such records and the purposes for which such inspections were made;

"(4) permit any individual to inspect his own record and have copies thereof made at his expense; and

"(5) permit any individual to supplement the information contained in his record by the addition of any document or writing containing information such individual deems pertinent to his record.

"(b) This section may be enforced in accordance with the provisions of paragraph (3) of subsection (a) of section 552 of this chapter.

"(c) Each agency may establish published rules stating the time, place, fees to the extent authorized, and procedure to be followed with respect to making records promptly available to an individual, and otherwise to implement the provisions of this section.

"(d) This section shall not apply to records that are—

"(1) specifically required by Executive order to be kept secret in the interest of the national security;

"(2) investigatory files compiled for law enforcement purposes, except to the extent that such records have been maintained for a longer period than reasonably necessary to commence prosecution or other action or to the extent available by law to a party other than an agency; and

"(3) interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

"(e) This section shall not be held or considered to permit the disclosure of the identity of any person who has furnished information contained in any record subject to this section.

"(f) If any provision of this section or the application of such provision to any person or circumstance shall be held invalid, the validity of the remainder of this section and the applicability of such provision to other persons or circumstances shall not be affected thereby."

(b) The table of sections of subchapter II of chapter 5 of title 5, United States Code, is amended by inserting:

"552a. Individual records."

immediately below:

"552. Public information; agency rules; opinions, orders, records, and proceedings.".

SEC. 2. The amendments made by this Act shall become effective on the ninetieth day following the date of enactment of this Act.

SUMMARY OF THE CITIZEN'S PRIVACY ACT

This bill would amend the Freedom of Information Act (Title 5 of the United States Code, Section 552) by adding a new section, Section 552a.

The bill would apply to all records maintained by federal government agencies containing information obtained from any source other than the subject, and filed or indexed under the names of individuals, or individuals, or retrievable by reference to names.

Each agency must notify each individual covered by such a file that they are maintaining a record concerning him, and must

give advance notice to individuals of any new files it is about to establish concerning them.

The agency must refrain from disclosing any part of the record to any person outside the agency unless they have the permission of the individual involved, or unless disclosure is expressly required by law. If any required disclosure is made, the individual must be notified. Furthermore, the agency must keep accurate records of those people who consult each file.

The bill would give each individual the right to inspect and copy records which concern him and to add whatever supplementary material he deems pertinent to the record.

The bill would apply to all records except those specifically required by Executive Order to be kept secret in the interest of national security, investigative files compiled for the purpose of criminal prosecution, and agency memoranda that would otherwise be protected by law in litigation.

By Mr. HART (for himself, Mr. MAGNUSON, Mr. MUSKIE, Mr. HARTKE, Mr. PROXMIRE, and Mr. RIBICOFF):

S. 976. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes. Referred to the Committee on Commerce.

Mr. HART. Mr. President, today I introduce a bill which could save American car owners several billion dollars a year in repair and insurance bills.

Impressive as that figure may be, my mail suggests that it would be overshadowed by the value of eliminating the frustrations repair problems give consumers.

The Subcommittee on Antitrust and Monopoly received more than 8,000 letters of complaint about auto repairs during its 3-year auto investigation. Applying one formula, those letters represent 8 million unhappy car owners—about one out of each six families which have cars.

The complaints were about the fragility of cars, the difficulty in getting the thing fixed the first time around, in fact frequently of the impossibility of ever getting it fixed. Overriding all these was the gripe that repair and insurance costs were eating up too much of consumer budgets.

The complaints were well founded, the subcommittee investigation showed.

American consumers spent $25 to $30 billion a year on auto repairs. Various studies on the quality of the work were presented to us. They rated the poor, unneeded, or not done work at amounts ranging from 36 to 99 percent. Even taking the low figure, that means consumers are wasting $8 to $10 billion that they lay out for auto repair work yearly.

And costs have jumped, too. Auto crash repair costs went up 52 percent from 1960 to 1967. The average Consumer Price Index increase during this period was 14.7 percent. Additional increases in repair costs since range from 10 to 20 percent, and some crash repair parts increased in price 30 percent this past November.

And the cars are delicate. Tests by the Insurance Institute for Highway Safety showed that when four popular sedans were crashed into a solid barrier at just 5 miles an hour, they averaged $200 each in damage.

Today I offer consumers a "pain killer"—the Motor Vehicle Information Act. It seeks to relieve the pain consumers are feeling in their heads, hearts, and pocketbooks due to the frilly, fragile design and resultant repair problems with their automobiles.

But it goes further. For it also seeks to save lives by both eliminating accidents and assuring that if accidents occur passengers and property will be less likely to be injured or killed or damaged.

Briefly, the bill does this by:

First, requiring that all cars manufactured after July 1, 1974, have a bumper that can withstand a 5-mile-an-hour collision into a solid barrier with no damage. Such a bumper would withstand a 10-mile-an-hour car-to-car collision.

The insurance industry has estimated that such a bumper would save consumers $1 billion annually in insurance and deductibles, and several companies have promised a 20-percent reduction on the collision premium for any car that has such a bumper.

We can put no price tag on the relief of driving a car that does not crumple $200 worth when we nudge the car ahead in the 6 p.m. traffic jam. Or, for that matter, on the worth of lessening traffic jams caused by such minor accidents.

Second, the bill requires manufacturers to rate their cars by their relative susceptibility to damage in low-speed collisions.

This information would be made available to the public and the insurance industry. This would make it possible for lower insurance premiums to be assigned to the car that will cost less over its lifetime for repairs. Consumers—it seems a safe assumption—would seek out the cars with the lower insurance premiums that also would cost them less in minor crash repairs where the damage is in the deductible and not insured.

Thus, without putting an overburdening layer of government regulation upon the auto industry, we would offer an incentive for manufacturers to produce less fragile cars.

The bill also directs the Department of Transportation to do a feasibility study as to how autos could be rated for relative occupant safety. Once this is possible, a similar incentive exists for production of a safer car. The value of such incentives to me is that they are inducing the competitive system to work—not tilting it out of balance with Government edicts that say "this and only this must be on your cars by such and such a date."

The provision for rating of the cars should contribute much to lowering the $5.2 billion crash repair bill being run up by the car owners each year.

Third, the bill provides a nationwide system of diagnostic inspection systems which may well prove to be the greatest money and frustration saver in the package.

These centers—whenever possible—would not be connected with a repair facility. Instead they would simply be the independent, impartial analyzer of the exact condition of the car presented for testing.

They would be used to inspect a car—new and used—before any consumer buys it. Thus, the consumer—who lays out $50 billion for cars yearly—would have at his side expert opinion on whether the car he was buying was all that the seller claimed it to be.

During our hearings we learned that this frequently is not the case—not simply because some smart salesman is trying to put one over on the consumer but also because cars today are too complex to be checked out by the mechanic's eye alone. This difficulty leads to many of the return trips—and arguments—to get a car into proper running order.

A study by the Automobile Club of Missouri indicated that safety defects in cars is frighteningly common. Based on inspection of 10,000 cars, the report showed 43 percent of the then-current models—1968's—driven less than 500 miles had potentially dangerous defects. The figure rose to 92 percent of cars 5 years old.

It is impossible to estimate the money and frustration saved consumers if they had the assurance that a car they were buying was in proper running order on delivery.

The diagnostic centers also would be used to check out repairs when a car suffered damage to safety-related equipment in an accident. Once again, this is to guarantee the consumer both gets what he pays for and that he returns to the road with a safe car—not one likely to end up in another accident down the road.

The centers also would be used by the States for periodic inspections required under their laws. While existing periodic inspection operations leave much to be desired, I think the fault is not in the theory but the implementation.

Most of us believe in a yearly cancer checkup; many still believe in an annual physical for everyone. The idea is preventive medicine. Or, as our grandmothers reminded us, a stitch in time saves nine.

Just how many accidents could be prevented by competent annual inspections is tough to estimate. But you could get some idea from looking at the test results for January-September 1970, at the Missouri Auto Club facility.

Twenty-seven percent of the cars failed the inspection. Forty percent of them were found to have defective brakes.

In order to make the inspection system meaningful, the bill provides that the DOT issue used-car standards. Obviously, machines—like our own bodies—deteriorate with age. It is impractical—and terribly expensive—to expect consumers to lay out the money necessary to bring their 1968 up to original performance. But at the same time, it is necessary for the lives of the passengers and others on the road that we determine exactly how much a car's performance can deteriorate and still be safe for it to be on the road.

The inspection system also would be a moneysaver for consumers who seek mechanical repairs for their cars. Currently, it is kind of a game of blind man's bluff when a consumer sets out to get a car

repaired. Most of us are totally at the mercy of the skill and integrity of the mechanic who gets first crack at the "funny noise up front."

With the inspection centers available, the trouble could be pinpointed exactly—giving the consumer the choice of replacing the car or shopping around for the best service at the best price. In other words, the benefits of competition would be available.

The fourth and final point of the bill is to establish a uniform titling code throughout the Nation. Currently, seven States have no titling code at all. Others vary in sufficient degree to make exchange of information difficult.

Yet, an efficient titling law—one which includes almost a family history of the ownership of each car—is the best method known to cut down on theft of cars for resale—and to insure better recovery of cars taken by the "joy riders."

Car theft is rapidly becoming our most serious street crime. In 1960, 325,000 cars were stolen. By 1968, that figure was 777,000. This is the third most frequently committed felony. One of four prisoners in Federal prisons is there for vehicle theft.

The insurance industry estimates the costs—direct and indirect—of stolen vehicles is $1.5 billion annually.

The impact a titling law can have on these figures can be easily demonstrated: In States that have titling acts, an average of 86 percent of cars are recovered compared with 51 percent in New York which has no title law.

An additional dividend of an efficient title system would be its assistance in locating cars which are recalled by the manufacturers for safety defects.

Currently, one-third of these cars are not returned for repairs of defects we know could cause accidents. Many of these do not get fixed because the owners move and cannot be located to be informed of the dangers.

Mr. President, the provisions of this bill will not be without cost to both industry and Government. But, I am convinced that the cost ratios will prove out so that the consumer benefits in the long run.

I think that consumers have made it clear that they want cars that get them there and back dependably and that do not have too much sick time. For consumers need their cars desperately for transportation. They—given the choice, I am sure—would rather some of the $2 billion spent annually by manufacturers for styling changes be allocated to producing a car that you can love for performance and not merely for looks. If the manufacturers believe this as strongly as I do, prices for the more durable new cars need not be higher than for the pretty delicate things we have had in the past.

It is merely a question of giving the consumer what he wants. Yet it must be environmentally compatible. It must not pollute the air or surface, clog our streets in a broken-down condition; and it must be safe and economical to operate. This bill is designed to stimulate competition among all manufacturers to build those factors into our future motor vehicles.

Mr. President, I ask unanimous consent that the text of the Motor Vehicle Information Act be printed at this point in the RECORD.

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

S. 976

A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, 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 "Motor Vehicle Information and Cost Savings Act".

PURPOSE

SEC. 2. (a) It is the purpose of this Act, (1) to amend the National Traffic and Motor Vehicle Safety Act of 1966 (hereinafter referred to as "the Act") in order to establish procedures for setting minimum property loss reduction standards and to promote competition among motor vehicle manufacturers in the design, production, and sale of motor vehicles which are less susceptible to damage in traffic accidents occurring at normal operating speeds and which lessen the risk of injury and death to occupants of motor vehicles and pedestrians involved in traffic accidents, and (2) to provide for the augmentation and implementation of certain Federal motor vehicle and highway safety standards.

(b) The first section of the Act (15 U.S.C. 1381) is amended to read as follows: "That the Congress finds and declares that—

"(1) it is necessary to establish motor vehicle safety standards for motor vehicles and equipment moving in interstate commerce, to establish testing procedures for passenger motor vehicles, to establish property loss reduction standards, to undertake and support necessary safety research and development, and to expand the national driver register; and

"(2) it is the purpose of this Act to reduce the number and severity of traffic accidents, the number of deaths and injuries resulting from such accidents, and the extent of property damage and economic losses resulting from such accidents."

DEFINITIONS

SEC. 3. Section 102 of the Act (15 U.S.C. 1391) is amended by—

(1) inserting in paragraph (1) after "injury to persons" the following: "and unnecessary damage to motor vehicles";

(2) adding at the end thereof the following new paragraphs:

"(14) 'Property loss reduction' means the reduction of economic loss suffered by the public as a result of property damage to motor vehicles involved in accidents.

"(15) 'Property loss reduction standards' means a minimum standard for motor vehicle performance, or motor vehicle equipment performance, which is practicable, which meets the need for motor vehicle property loss reduction and which provides objective criteria.

"(16) 'Make', when used in describing a motor vehicle, means the manufacturer's trade name or other designation for a particular line of motor vehicles.

"(17) 'Model' means a particular size and style of body of any make of motor vehicle, including distinctive sizes of sedans, convertibles, station wagons, and trucks, and such other classifications the Secretary may prescribe.

"(18) 'Passenger motor vehicle' means any motor vehicle manufactured primarily for the transportation of its operator and passengers upon the public streets, roads, and highways."

PROPERTY LOSS REDUCTION STANDARDS

SEC. 4. Title I of the Act (15 U.S.C. 1391 et seq.) is amended by adding at the end thereof the following new sections:

(a) the words "or property loss reduction" after the words "motor vehicle safety" wherever they occur following section 102;

(b) the words "or property loss reduction standards" after the words "motor vehicle safety standards" or "safety standard" wherever they occur following section 102 (except section 103(h); and

(c) the words "or property loss reduction standards" after the words "motor vehicle safety standard" wherever they occur following section 102 (except section 103(g)).

PUBLIC DISCLOSURE OF COMPARATIVE SAFETY AND SUSCEPTIBILITY TO DAMAGE OF PARTICULAR MOTOR VEHICLES AND ADDITIONAL STANDARDS

SEC. 5. Title I of the Act (15 U.S.C. 1391 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 125 (a) The Secretary shall develop and prescribe by regulations issued not later than July 1, 1972, a system of tests and testing procedures designed to allow a determination and comparison of the susceptibility to damage of passenger motor vehicles involved in traffic accidents which reasonably may be anticipated to occur at normal speeds and under normal operating conditions, including, but not limited to, collisions at speeds of five, ten, and fifteen miles per hour.

"(b) The Secretary shall, as soon as possible, after July 1, 1972, promulgate property loss reduction standards which will minimize economic losses associated with motor vehicle accidents. These standards shall be compatible with safety standards issued to protect motor vehicle occupants.

"(c) The Secretary shall, as soon as practicable, after July 1, 1972, promulgate a property loss reduction standard which requires that all motor vehicles manufactured after January 1, 1975, and offered for sale in the United States, are so designed and constructed with energy absorbing bumpers capable of withstanding impacts front and rear of 5 miles per hour into a solid, fixed barrier (as prescribed by the Society of Automotive Engineers Standard J580) and the vehicle shall withstand such impacts with a minimum prescribed amount of damage as may be determined by the Secretary.

"(d) (1) The Secretary shall undertake a study of the feasibility of developing tests and testing procedures designed to allow a determination and comparison of the risk of personal injury or death to occupants of passenger motor vehicles resulting from traffic accidents which reasonably may be anticipated to occur at normal speeds and under normal operating conditions. The Secretary shall report the results of such study, and his findings and recommendations, including any recommendations for additional legislation he deems necessary, to the President and the Congress by July 1, 1972.

"(2) If the Secretary finds that such tests are feasible he shall develop and prescribe by regulations issued as soon as may be practicable such a system of tests and testing procedures.

"SEC. 126. (a) Each manufacturer of motor vehicles shall test production models of every make and model of passenger motor vehicle manufactured or imported by him in accordance with the regulations promulgated by the Secretary under the provisions of section 125 of this title, and shall furnish the results of such testing, including such data as the Secretary deems necessary, to the Secretary.

"(b) No manufacturer shall sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States—

"(1) any passenger motor vehicle manufactured on or after January 1, 1973, unless production models of the make and model of such motor vehicle have been tested in accordance with the regulations promulgated by the Secretary under section 125(a) of this Act; or

"(2) any passenger motor vehicle manufactured on or before a date one hundred and twenty days after the date on which regulations governing tests and testing procedures are promulgated by the Secretary under the provisions of section 125(b) of this Act unless a production model of the make and model of such motor vehicle has been tested in accordance with such regulations.

"SEC. 127. (a) The Secretary shall compile information submitted to him under testing programs carried out under the provisions of sections 125 and 126 of this Act, and funish it to the public in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger motor vehicles with respect to the factors analyzed by such testing programs. The information shall include, but not be limited to a comparative analysis of the cost of repairing motor vehicles under section 125(a) and if practicable under section 125(d). The Secretary shall require that the results of such testing be made available to prospective purchasers of passenger motor vehicles by the manufacturer of such motor vehicles prior to their sale.

"(b) The Secretary shall—

"(1) make such information available to insurance companies and business organizations engaged in the business of selling or underwriting motor vehicle insurance in interstate commerce, for use in determining premium rates for insurance covering property damages and personal injury related to the factors tested under the provisions of section 126 of this Act. Information furnished shall include, but not be limited to, identification of parts, components, systems, and subsystems damaged or displaced in the motor vehicles tested; and

"(2) report to the President and the Congress on February 1, 1973, on the extent to which the motor vehicle insurance industry is utilizing such information in the determination of insurance premium rates, together with such additional findings and recommendations, including recommendations for additional legislation, as he deems appropriate. The Secretary is authorized to conduct such studies and surveys as may be necessary to carry out the purposes of this Act.

"(3) The Secretary, not later than February 1, 1974, shall establish procedures requiring the automobile dealers to provide insurance cost data to prospective purchasers that would enable the prospective purchasers to compare the difference in costs for auto insurance on the various makes and models of passenger motor vehicles having different occupant injury severity or vehicle property damage characteristics.

"SEC. 128. The Secretary shall, as soon as practicable, promulgate Federal motor vehicle safety and property loss reduction standards which require that all motor vehicles manufactured after January 1, 1975 and offered for sale in the United States, are so designed and constructed as to facilitate motor vehicle inspection, and to facilitate the repairs necessary to meet the requirements of such inspection."

JUDICIAL REVIEW

SEC. 6. Section 105(a)(1) of the Act (15 U.S.C. 1394(a)(1)) is amended by inserting after the words "any order under section 103" the following: "or 128, or any regulation issued under section 125."

SAFETY RESEARCH

SEC. 7. Section 106(a) of the Act (15 U.S.C. 1395(a)) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and inserting immediately after paragraph (1), the following new paragraph:

"(2) collecting data from any source for the purpose of determining the relationship between passenger motor vehicle performance and design characteristics and (A) property damage resulting from motor vehicle collisions, and (B) the occurrence of personal injury or death resulting from such accidents;"

COOPERATION WITH OTHER AGENCIES

SEC. 8. Section 107 of the Act (15 U.S.C. 1396) is amended by striking out the period at the end thereof, and inserting in lieu thereof a semicolon and the following:

"(3) tests and testing procedures established under section 125 and methods for inspecting and testing to determine compliance with such tests and testing procedures."

PROHIBITIONS AND EXCEPTIONS

SEC. 9. Section 108(b) of the Act (15 U.S.C. 1397(b)) is amended by—

(1) inserting in paragraphs (1), (3), and (5) of such section, immediately after the words "subsection (a)" wherever they appear in such paragraphs, a comma and the words "and section 126(b),"; and

(2) amending paragraphs (2) and (3) of such section 108 to read as follows:

"(2) Paragraph (1) of subsection (a), and section 126(b) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such vehicle or item of motor vehicle equipment is not in conformity with applicable Federal motor vehicle safety standards or property loss reduction standard or, in the case of a passenger motor vehicle, is not of a make and model which has been tested in accordance with the requirements of section 126(b), or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such motor vehicle or motor vehicle equipment, to the effect that such vehicles or equipment conforms to all applicable Federal motor vehicle safety standards, and (in the case of a passenger motor vehicle) is of a make and model which has been tested in accordance with the requirements of section 126(b), unless such person knows that such motor vehicle equipment does not so conform or (in the case of passenger motor vehicle) is not of a make or model which has been so tested.

"(3) A motor vehicle or item of motor vehicle equipment offered for importation in violation of paragraph (1) of subsection (a), or section 126(b), shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, authorize the importation of such vehicle or item of motor vehicle equipment into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or item of motor vehicle equipment will be brought into conformity with any applicable Federal motor vehicle safety or property loss reduction standard prescribed under this title, brought into conformity with the requirements of section 126(b), or will be exported or abandoned to the United States.".

PENALTIES

SEC. 10. Section 109(a) of the Act (15 U.S.C. 1398(a)) is amended to read as follows:

"SEC. 109. (a) Whoever—

"(1) violates any provision of—

"(A) section 108 (relating to motor vehicle safety standards or property loss reduction standards);

"(B) subsection (c) or (d) of section 112 (relating to keeping records and reporting data);

"(C) section 114 (relating to certification); or

"(D) section 126 (relating to passenger motor vehicle testing); or

"(2) refuses to permit an inspection authorized under section 112 (a) and (b) shall be subject to a civil penalty of not to exceed $5,000 for each such violation or refusal. A violation of a provision of such sections or regulations issued thereunder, shall constitute a separate violation with respect to each motor vehicle sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States in violation of such provisions or regulations, and with respect to each failure or refusal to allow or perform an act required thereby. A refusal to allow an inspection authorized under section 112(a) and (b), or a refusal or failure to allow or perform an act required thereby, shall constitute a separate violation with respect to each day such refusal or failure continues."

INJUNCTIVE RELIEF

SEC. 11. Section 110(a) of the Act (15 U.S.C. 1399(a)) is amended by inserting in the first sentence thereof, immediately after the words "standards prescribed pursuant to this title", a comma and the following: "or to the requirements of section 126(b)".

REPURCHASE OR REPLACEMENT

SEC. 12. Section 111(a) of the Act (15 U.S.C. 1400(a)) is amended by inserting immediately after the words "applicable Federal motor vehicle safety standards" or property loss reduction standards the following: "or the requirements of section 126(b)".

INSPECTION OF MANUFACTURING FACILITIES

SEC. 13. Section 112(b) of the Act (15 U.S.C. 1401(b)) is amended by inserting, immediately after the words "or are held for sale after such introduction", a comma and the following: "or are held after being tested in accordance with the requirements of section 126(b)".

CERTIFICATION OF CONFORMITY

SEC. 14. Section 114 of the Act (15 U.S.C. 1403) is amended by inserting before the period at the end of the first sentence a comma and the following: "and that the particular make and model of such motor vehicle has been tested in accordance with the requirements of section 126(a)"

TITLE V.—DIAGNOSTIC INSPECTIONS, REGISTRATIONS, AND TITLING STANDARDS

SEC. 501. (a) The Secretary of Transportation shall, not later than January 1, 1973, amend highway safety program standard number 1, relating to periodic motor vehicle inspection, issued June 27, 1967, under the provisions of section 402(a) of title 23, United States Code, to include the following additional provisions:

(1) The standard shall require inspection of a motor vehicle whenever the title to the motor vehicle is transferred for purposes other than resale, and whenever the motor vehicle sustains damage if any safety-related mechanism, subsystem, or functional nonoperational part, as defined by the Secretary, is damaged.

(2) The standard shall require that a certificate of safe operating condition shall be delivered by the seller of a motor vehicle to the purchaser at the time of sale. The certificate shall be prepared and signed by an inspector trained to perform this duty. The inspector shall be certified by the State in accordance with provisions established by the Secretary. No motor vehicle inspector may be certified by any State if he owns or receives any benefit in or from a business or enterprise engaged in the repair or sale of motor vehicles, automotive repair parts

or accessories: *Provided*, That upon approval of the Secretary, a State may certify a motor vehicle inspector receiving such benefit where the vehicle population to be served is insufficient to make independent motor vehicle inspectors feasible and such State makes provision for protecting the public from any conflict of interest resulting from such certification.

(3) The standard shall be expressed in terms of motor vehicle safety performance applicable to new or used motor vehicles.

(b) The Secretary shall, not later than January 1, 1973, amend highway safety program standard No. 2, relating to motor vehicle registration, issued on June 27, 1967, under the provisions of section 402(a) of title 23, United States Code, to include requirements for a State motor vehicle registration and uniform certificate of title program similar to the registration and title program contemplated by the Uniform Motor Vehicle Code and Model Traffic Ordinance, chapter 3, "Certificates of Title and Registration of Vehicles" revised 1968 and published by the National Committee on Uniform Traffic Laws and Ordinances, Washington, D.C.

REPORTS ON IMPLEMENTATION

SEC. 502. (a) The Secretary shall report to the President and Congress by January 1, 1972, the extent to which the States have implemented programs in accordance with the provisions of highway safety program standards numbered 1 and 2, relating to periodic motor vehicle inspection and motor vehicle registration, respectively, as issued on June 27, 1967, and make legislative recommendations for Federal financial and other assistance, as he deems necessary in order to facilitate compliance by the States by January 1, 1973.

(b) The Secretary shall provide for the States financial incentive programs for establishing the inspection and titling standards of this title. Each State certified by the Secretary as being in compliance with the provisions of this title shall, after January 1, 1973 receive not less than 10 per centum nor more than 50 per centum of the annual costs of such programs, the percentage to be determined by the Secretary based on degree of compliance. The funds for these incentive programs shall be paid from the Federal Aid Highway Trust Funds apportioned on or after January 1, 1973.

(c) The Secretary shall report to the President and Congress by January 1, 1974, the extent to which the States have implemented programs in accordance with the provisions of section 501 of this Act, and make legislative recommendations, for Federal financial and other assistance, as he deems necessary to facilitate complete compliance by the States not later than January 1, 1975.

(d) Not later than July 1, 1973 the Secretary shall—

(1) certify each State program of motor vehicle inspection and motor vehicle registration which meets the requirements of the applicable standard;

(2) the Secretary shall not approve any State highway safety program under this section which does not establish motor vehicle inspection or motor vehicle registration programs meeting the requirements of section 501 of this title and the appropriate Federal highway safety program standard; and

(3) funds authorized to be appropriated to carry out the provisions of section 501 and this section shall be used to aid the States to conduct the highway safety program approved in accordance with subsection (a), (b), and (c) hereof. Federal aid highway funds apportioned on or after January 1, 1975, to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section shall be reduced for the first year of noncompliance by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of title 23, United States Code, with the reduction of an additional 10 per centum for each succeeding year of noncompliance, but not in excess of a total of 50 per centum, until such time as the State is implementing an approved highway safety program certified by the Secretary in accordance with this subparagraph (d). Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States.

(e) In order to carry out the provisions of this section, the Secretary may—

(A) assist, by contract, grant, or any other arrangement, any State in establishing or improving programs of periodic motor vehicle inspection and motor vehicle registration;

(B) use the personnel, facilities, and information of Federal agenices, and of State and local public agencies, with the consent of such agencies, with or without reimbursement for such use;

(C) enter into contracts or other arrangements and modifications thereof, and make advance, progress, and other necessary payments;

(D) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(E) issue, amend, and repeal such rules and regulations as may be necessary; and

(F) take such other appropriate action as may be necessary.

SEC. 503. There are authorized to be appropriated to the Department of Transportation such sums as may be necessary to carry out the provisions of this Act.

By Mr. WILLIAMS:

S. 977. A bill for the relief of Glen Donald Murphy. Referred to the Committee on the Judiciary.

By Mr. BENNETT (for himself and Mr. Moss):

S. 978. A bill authorizing the conveyance of certain lands to the University of Utah, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BENNETT. Mr. President. On behalf of my colleague from Utah (Mr. Moss) and myself, I introduce a bill which would allow the Department of the Interior to move its Bureau of Mines Building from within the heart of the University of Utah campus to a new University of Utah Research Park. In return for the transfer of the Bureau of Mines property to the Research Park, the University of Utah would receive the property where the Bureau of Mines facilities now stand. It should be pointed out that the University transferred the present property on which the Bureau building sits to the U.S. Government in 1938 at no cost.

I ask that the bill be properly referred and trust that it will receive early consideration by the Interior Committee.

By Mr. MAGNUSON (by request):

S. 979. A bill to extend the act of September 30, 1965, as amended by the acts of July 24, 1968, and October 13, 1970, relating to high-speed ground transportation, by removing the termination date thereof, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to extend the act of September 30, 1965, as amended by the acts of July 24, 1968, and October 13, 1970, relating to high-speed ground transportation, by removing the termination date thereof, and for other purposes, and ask unanimous consent that the Secretary's letter of transmittal and statement of need be printed in the RECORD with the text of the bill.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 12, 1971.

Honorable SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herein a proposed bill:

"To extend the Act of September 30, 1965, as amended by the Acts of July 24, 1968 and October 13, 1970, relating to high-speed ground transportation, by removing the termination date thereof, and for other purposes."

The draft bill would remove the annual authorization now contained in section 11 of the Act. It would also strike the termination provision contained in section 12 of the Act. Thus the Act would become permanent legislation with no annual appropriations authorization limitation.

Last year we requested a one year extension of the high-speed ground transportation program. This one year extension, rather than one for a longer period, was requested on an interim basis to enable us to effect the transition from research to the development phase of the program. That development phase is now being implemented. The Pueblo Test Site, for example, is being put into operation. Testing of components and sub-systems for the tracked air cushion vehicle system will take place there preparatory to the system's use as a passenger carrying vehicle for the Los Angeles airport area.

We are now requesting that the practice of granting periodic extensions of the program be ended, and that the program be made a permanent part of the Department's authority. Removal of the termination provisions will enable us to engage in comprehensive long-range planning. This planning must be developed with other long-range planning of the Department to enable us to integrate proven advanced systems into our Nation's transportation network. The removal of the termination provisions and the placing of the program on a permanent basis, will enable us to achieve these objectives more efficiently and more fully.

The Office of Management and Budget has advised that this proposed legislation is consistent with the Administration's objectives.

Sincerely,

JOHN A. VOLPE.

S. 979

A bill to extend the act of September 30, 1965, as amended by the acts of July 24, 1968, and October 13, 1970, relating to high-speed ground transportation, by removing the termination date thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 11 of the Act of September 30, 1965 as amended (49 U.S.C. 1641), is further amended by striking all after the word "Act" and inserting in lieu thereof a period.

(b) Section 12 of such Act (49 U.S.C. 1642) is repealed.

By Mr. MAGNUSON (by request):

S. 980. A bill to amend the Natural Gas Pipeline Safety Act of 1968. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce at the request of the Secretary of Transportation, a bill to amend the

Natural Gas Pipeline Safety Act of 1968. I ask unanimous consent that the bill and the Secretary's letter explaining the need for the bill be printed in the RECORD at this point.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., February 9, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill:

"To amend the Natural Gas Pipeline Safety Act of 1968".

At present, section 5(a) of the Natural Gas Pipeline Safety Act provides generally that the States may assume responsibility for the enforcement of the Act if the appropriate State agency certifies annually to the Secretary of Transportation that, among other things, State law provides injunctive and monetary sanctions substantially the same as those found in sections 9 and 10 of the Act. The Act further provides that State certifications may be filed without regard to the injunctive and monetary sanctions requirement" . . . for a period not to exceed two years after the date of the enactment of this Act", *i.e.*, August 11, 1970.

Under the proposed bill, the period in which certifications may be filed without regard to the sanctions requirement would be extended one year, to August 11, 1971. The two-year period provided in the Act simply failed to accommodate the inevitable delay between the enactment of a Federal law designed to encourage the enactment of certain State laws, and the actual opportunity of the State legislatures to pass the appropriate legislation. There was insufficient time, for example, between August 12, 1968, the effective date of the Act, and the 1969 general State legislative sessions to staff the program at the Federal level; to receive, review, and comment on the pertinent State laws; and to have the various State agencies inform their State legislatures of the need for amendatory legislation. Unfortunately, the majority of States whose statutes required amendments were unable to deal with these problems during 1970 since only 29 States had regular legislative sessions in 1970 and a number of these were restricted to budgetary and fiscal matters. Since 18 States still lack the appropriate moneary sanctions, failure to extend the two-year period has precluded their submitting a certification to cover all of calendar year 1971. This unavoidably places a major burden for safety enforcement on this Department's Office of Pipeline Safety, which has not been staffed to assume such a workload. The proposed one-year extension would allow the affected States to recertify and continue their enforcement activities while their legislatures pass the legislation necessary to comply with the Act.

The proposed bill also would supplant the present specific appropriations authorizations with general authority to appropriate such funds as are necessary to carry out the purposes of the Act. With this change, annual funding levels for the program can be determined through the normal budgetary process.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

JOHN A. VOLPE.

S. 980

A bill to amend the Natural Gas Pipeline Safety Act of 1968

Be it enacted by the Senate and the House of Representatives of the United States of America assembled, That section 5(a) of the Natural Gas Pipeline Safety Act of 1958 (49 U.S.C. 1674(a)) is amended by deleting therefrom the words "two years" and by substituting therefor the words "three years".

Sec. 2. Section 15 of such Act (49 U.S.C. 1684) is amended to read as follows:

"Authorization of Appropriations

"Sec. 15. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act."

By Mr. MAGNUSON (by request):

S. 981. A bill to authorize appropriations for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce at the request of the Secretary of Commerce, a bill to authorize appropriations for certain maritime programs of the Department. I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 981

A bill to authorize appropriations for certain maritime programs of the Department of Commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are hereby authorized to be appropriated without fiscal year limitation as the Appropriation Act may provide for the use of the Department of Commerce, for the fiscal year 1972, as follows:

(a) acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, $229,687,000;

(b) payment of obligations incurred for operating-differential subsidy, $239,145,000;

(c) expenses necessary for research and development activities (including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental ship operations), $25,000,000;

(d) reserve fleet expenses, $4,318,000;

(e) maritime training at the Merchant Marine Academy at Kings Point, New York, $7,300,000; and

(f) financial assistance to State marine schools, $2,200,000.

By Mr. MAGNUSON (by request):

S. 982. A bill to amend the first section of the Federal Power Act. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference, a bill to amend the first section of the Federal Power Act and I ask unanimous consent that the letter of transmittal and a statement of need be printed in the RECORD, and that the text of the bill also be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., February 10, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

Dear Mr. PRESIDENT: I am transmitting herewith a draft of a bill which would clarify the language of the Federal Power Act so as to remove any possible doubt that the Chairman of the Federal Power Commission serves at the pleasure of the President in his capacity as Chairman.

The bill would amend the first paragraph of the first section of the Federal Power Act (16 U.S.C. 792) to delete therefrom the sentence which authorizes each Chairman to act as such until the expiration of his term of office as Commissioner. It would make no change in the requirements of that Act with respect to the terms of office of the Commissioners.

This change would conform the Federal Power Act to similar provisions applicable to other major regulatory agencies.

Enactment of this legislation would be in accord with the program of the President.

Sincerely,

GEORGE P. SHULTZ, *Director.*

S. 982

A bill to amend the first section of the Federal Power Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the first paragraph of the first section of the Federal Power Act (16 U.S.C. 792) is amended by deleting therefrom the following sentence:

"Each chairman, when so designated, shall act as such until the expiration of his term of office."

By Mr. MAGNUSON (for himself and Mr. Moss):

S. 983. A bill to protect consumers against unreasonable risk of injury from hazardous products and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, on behalf of myself and the distinguished Senator from Utah, Senator FRANK E. Moss, I introduce for appropriate reference a bill to protect consumers from unreasonable risk of injury from hazardous products and for other purposes.

The bill, which Senator Moss and I introduce here today, is identical to the bill proposed by the National Commission on Product Safety in its final report. It calls for the creation of an Independent Consumer Product Safety Commission concerned exclusively with the safety of consumer products. The Consumer Product Safety Commission would secure voluntary cooperation of consumers and industry in advancing its programs and developing and setting mandatory consumer product safety standards; and it would be able to enforce compliance with consumer product safety standards. The creation of this Consumer Product Safety Agency would do much to secure for the consumer his right to safety in the products he buys.

In May 1967 the Senate Commerce Committee reported legislation, which Senator COTTON and I authored, requiring the study of consumer product safety. The National Commission on Product Safety spent 2 productive years investigating the problem of product safety and consumer products. Its final report attests to the utility of its endeavors. The Senate Commerce Committee is now prepared to move "full speed ahead" to consider the Commission's proposed omnibus product safety bill which would mandate the elimination of product hazards in the marketplace.

The committee's consideration of this proposed legislation will mark a departure from past consumer product safety approaches. For the first time the Commerce Committee will consider consumer product safety as it pertains to all con-

sumer products rather than limiting its inquiry to arbitrarily defined product categories.

The bill prepared by the National Commission on Product Safety will serve as a useful working paper in the committee's formulation of legislation creating an omnibus product safety agency. It is my hope that the Senate Commerce Committee can complete action on this legislation in the near future.

So that my colleagues may thoroughly understand the nature of the proposal which Senator Moss and I submit, I ask unanimous consent that the "Charter for Consumer Safety" appearing in the final report of the National Commission on Product Safety be reprinted in the RECORD following my remarks.

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

A CHARTER FOR CONSUMER SAFETY

In formulating its recommendations, the Commission has followed certain basic guidelines, namely:

Consumers have a right to safe products. When a manufacturer offers a product, the offer implies a warranty that the item is not unreasonably hazardous.

Protection against unreasonably hazardous consumer products should begin at the design stage, before they are on the market.

In assessing unreasonable hazards, the slight injury or the near-miss may be as important as a calamity. It is not necessary to wait for an epidemic of injuries as proof of a hazard: expert technical judgment can often predict the risk.

Product safety is a joint responsibility of private enterprise, public agencies, and the consumer; none, acting alone, can control unreasonable hazards.

The Government role in product safety is initially to motivate businessmen to reduce product hazards while assuring fair treatment of competing interests; secondarily, it is to promulgate and enforce safety regulations where voluntary efforts fail. At all times the Government should acquire, analyze, and release significant product safety information.

The forces of competition and the profit motive are neither inherently conducive to, nor inimical to consumer protection: with Government support, these forces can be channeled to assure compliance with safety standards to reduce unreasonable hazards.

The public is entitled to a predominant voice in decisions affecting its safety, specifically in the development of product safety standards.

Development of safety standards and regulation of product hazards serve all interests best if proceedings are open and on record, highly visible to everyone concerned.

Investment in product safety will yield a generous return on the capital required, possibly in an expanded market for consumer products and certainly in the preservation of health and life.

A FEDERAL PRESENCE

We recommend that, through the enactment of a Consumer Product Safety Act and establishment of an independent Consumer Product Safety Commission, the authority and resources of Government be committed to eliminate unreasonable hazards found in and around the American home.

The cost to society of injuries from consumer products—amounting to several billion dollars a year in time lost, disability, patient care, and physical or mental distress—is awesome. Industry efforts, the common law, and existing Federal programs are inadequate to protect the public. State, local, and voluntary agencies lack authority to issue uniform regulations and mandatory standards nationwide, and have few resources to gather and distribute basic information about product hazards.

Even the best-intentioned programs of industry advocates of safety fall afoul of the forces of competition. When safe design must compete with eye appeal, pushbutton convenience, and low production costs, safety may be compromised.

The responsible business community would be helped in improving safety by the active participation of the Federal Government. The mechanism industry has set up to develop voluntary safety standards has been at best erratic. At the same time, as an agent of Government, we have often received full cooperation from manufacturers in response to our mildest inquiries.

The Federal role is to encourage movement and active concern with respect to safety, to promulgate and oversee compliance with safety standards, and to regulate those who unreasonably violate their duty to produce safe products—all this without upsetting the creative and innovative forces of the free enterprise system.

The proposed Commission should have an independent status, concerned exclusively with the safety of consumer products. If it is subordinated to a larger agency administering other equally comprehensive programs the emphasis on consumer safety is certain to suffer. Protection of the public interest will be strengthened if the agency has authority to make its own final decision, free of restriction by a parent agency, and if its funds are sufficient and its activities highly visible.

STANDARDS OF SAFETY

We recommend that the Commisison be invested with authority to develop and set mandatory consumer product safety standards where industry's own efforts are not sufficient to protect consumers from unreasonable risks of death or injury.

Consumers are best protected when manufacturers build into their products safeguards against all predictable forms of abuse or misuse. Toward this end, safety standards, effectively enforced, are one of the important means for reducing unreasonable hazards in consumer products.

When industry markets products which are not unreasonably hazardous, there is no need for Federal intervention. On the other hand, when unreasonable hazardous products are marketed due to neglect of safety factors, to the inadequacy of voluntary standards, or to the failure of some few manufacturers to meet voluntary standards, then Federal action is required.

When there is sufficient motivation, our studies have shown that, in many instances, adequate safety standards can be developed promptly. Properly structured standards need not restrict the variety of product models available to the consumer nor limit the manufacturer's freedom to compete by technological innovation.

New or innovative products using untried materials or designs may expose consumers to unfamiliar hazards. While innovation is essential to our market system, manufacturers should test products for safety in advance of marketing. To strike a balance between minimizing risk and assuring freedom of invention, the proposed Consumer Product Safety Act authorizes promulgation of generic standards and procedures for new or innovative products.

PROCEDURAL FLEXIBILITY

We recommend that, in addition to authority to promulgate consumer product safety standards, the Commission be empowered to seek a court order to enjoin the marketing of specific products of individual manufacturers which create an unreasonable risk to the safety of the public.

When public safety is threatened, Government officials should have flexibility to deal with the delinquencies of individual manufacturers or entire industries. The need for regulatory action may concern a single region or the entire nation. Some injuries may be few but lethal, others minor but numerous. Some violations may be familiar and chronic, others novel and intermittent. Affording Government officials alternative approaches—either through standard setting for an industry or judicial proceedings directed at a particular company—is necessary in such circumstances.

By instituting a judicial proceeding for an injunction to prevent the marketing of a hazardous product, the Commission should be able to protect the public without disturbing the entire production of one manufacturer or of an entire industry. Such proceedings may be particularly useful in the case of new products presenting foreseeable risks or in the case of noncompliance by single manufacturers with an otherwise adequate voluntary standards program.

ENFORCEMENT & COMPLIANCE

We recommend that the Consumer Product Safety Commission be given the authority to employ a range of methods to secure compliance with its various safety measures, and that it be provided with authority to use such sanctions as are necessary and appropriate to the type of violation and degree of hazard.

Most manufacturers welcome safety measures that are fairly applied, uniformly enforced, and impose no undue burden. They wish to uphold a reputation for responsible manufacturing practice. The bare possibility of publicity may prompt them to remove an unreasonable hazard. Nevertheless, a few are indifferent to publicity and apathetic about product hazards. Most protect themselves by incorporation or insurance against personal liability or loss.

Even though lives may be endangered, no legislation effectively exposes a manufacturing firm, or its responsible officers personally, to civil or criminal penalties for international failure to correct an unreasonable hazard in the products studied. No Federal law of broad scope provides for recall of dangerous household products or for an injunction of sales when circumstances warrant. The mere existence of authority to impose such sanctions should make their use rare.

INVESTIGATIONS

We recommend that the Commission be empowered to conduct public hearings and otherwise obtain data or expert opinion about consumer products; to require witnesses to testify or provide pertinent documents; and to deputize its employees or State or local officials to conduct reasonable inspections and investigations related to the reduction of product hazards.

One of the most direct and economical techniques of developing information is to schedule hearings and call witnesses with expert knowledge or firsthand experience. The record of investigative hearings conducted by congressional committees and by the Commission itself is replete with disclosures providing public knowledge about issues which otherwise would remain obscure and neglected.

Inspection of premises is a reasonable method of securing compliance with responsible manufacturing practices that affect public safety.

CONSUMER SAFETY ADVOCATE

We recommend that the President appoint a Consumer Safety Advocate to the Commission staff with specific responsibility to represent consumer interests before the Commission. The Advocate would take up consumer complaints against the Commission, evaluate implications for consumers in present or proposed standards or rules, suggest the need for new standards or rules, issue

public statements, and take issue with actions of, or inaction by the Commission.

Consumers need a Federal official with sufficient powers and resources to act exclusively as spokesman and representative regarding unreasonably hazardous products. No private consumer organization has the technical and legal expertise, and funds, or the time to devote to this critical task.

Although it is widely assumed that a public agency invariably defends the public interest, most agency decisions represent a compromise among contending factions. When such a contest develops, the weakest voice is often that of the unorganized and unrepresented consumer.

Modern legal doctrine affirms that representatives of consumers have standing as interested parties in adversary proceedings. A Consumer Safety Advocate attached to the Commission is needed to make such representation effective and to assure that consumers enjoy access to public information and the resources for asserting and defending consumer interests.

Quite as private enterprise requires counsel to represent its interests in dealings with agencies of Government, the public requires an Advocate who will defend consumer safety against exploitation, excess, or neglect.

PRODUCT SAFETY INFORMATION

We recommend creation of an Injury Information Clearinghouse within the Consumer Product Safety Commission with responsibility to collect and analyze data on product injuries and to assure widespread distribution of information about defective products, the degree of hazard, and the nature of proposed remedies.

Information relative to consumer product safety can be useful to manufacturers, consumers, and Government alike. This information can tell which hazards warrant remedial actions, such as design change, consumer education, industry standards, or Government regulations. It can help to set priorities for action and to evaluate the relative efficacy of various methods of preventing injury.

With a long-range duty to develop and direct the evolution of a set of allied information systems capable of detecting risks, appraising them, and lending support of prevention of injuries associated with consumer products, an information center will provide baselines for data on product hazards as an initial duty.

Manufacturers will benefit from the technical advice to be furnished through the center by Government scientists and engineers. Injury information will help define areas where safety standards are needed and will furnish guidelines for product instructions and warnings.

The consumer will benefit from information about selecting, using, and maintaining consumer products with minimal risk. Rarely do consumers seek safety information; usually they are unaware of risks which are not well publicized. As the Clearinghouse may also provide access to records of standard-setting committees and negotiations between Government agencies and industry, it will encourage open records and fair consumer representation in such proceedings.

The Government will benefit internally because the Center will facilitate exchange of information among more than 30 Federal agencies which now conduct more than 200 programs bearing on product safety. In fact, the entire economy can be expected to gain from improvements in design and reduction of risks to the extent that useful information is relayed to manufacturers and consumers.

We stress, however, that correction of undue risks need not await the gathering and interpretation of the last fact: remediable hazards can be corrected as soon as the risks and the economic solutions are reasonably well identified. Information is properly a guide and supplement, not a substitute for regulatory action.

TESTING LABORATORIES

We recommend that the Consumer Product Safety Commission, in cooperation with the Secretary of Commerce acting through the National Bureau of Standards, be authorized to accredit private laboratories which are qualified to test and certify compliance with specific product safety standards. We further recommend that the Commission be empowered to require independent testing of consumer products which present an unreasonable risk.

Within the Federal Government, the National Bureau of Standards has the capability for appraising the personnel, equipment, experience, and professional quality of independent testing laboratories, many of which have resources to evaluate new products and to review the safety of those being marketed.

Both Government and industry can utilize competent, objective studies from qualified private laboratories. They represent an independent source to analyze product hazards and insure compliance with safety standards and regulations, while avoiding the inherent conflicts of interest within voluntary programs of self-certification.

CERTIFICATION AND ADVERTISING

We recommend that the authority of the Federal Trade Commission be rigorously applied and, if necessary, expanded to apply to any certification program which misleads or deceives the consumer as to the meaning of a certification. We further recommend that the powers of the Federal Trade Commission be applied, where appropriate, to the Small Business Administration be exassure disclosure of substantial hazards.

Independent testing laboratories which certify conformity with industry and Government safety standards for consumer products may desire to use a mark or seal to the effect. When certification is brought to the buyer's attention by a seal or other means, its limits should be made clear.

Manufacturers should not be permitted to gain an unfair competitive advantage by claiming or implying that such certifications or seals mean their products are endorsed by the Federal Government.

Although the Federal Trade Commission presently has broad authority to issue trade rules and regulations to insure truth in certification, these rules should specify in detail what testing programs are required to justify use of a certifying seal. Seals which deceive the consumer, whether the deception is deliberate or inadvertent, should be proscribed.

Additionally, exercise by the FTC of authority over commercial advertising of products to assure disclosure of substantial hazards can be expected to better inform consumers of the risks of use. When mandatory consumer product safety standards are in existence, advertising should, as a general policy, be reviewed by the FTC. There is clear precedent for an oversight Federal role in this context.

AID TO SMALL BUSINESS

We recommend that existing programs of the advertising of consumer products to panded to authorize granting long-term, low-interest loans to assist small businesses in meeting requirements of product safety standards.

The 80 percent of manufacturers who produce 20 percent of consumer products may not be as well equipped as their larger competitors to afford the technology and assure the quality control essential to reducing undue risks in consumer products. Small businesses may face the added handicap of substantial expense to meet safety requirements imposed by Federal law or to comply with voluntary industry safety standards.

The Small Business Act should be amended to expand the existing concept of "product disaster" loans, to make available such loans to small businesses faced with competitive disadvantage caused by engineering, testing, retooling, or related expenditures necessitated by safety improvements.

TECHNICAL AID BY GOVERNMENT

We recommend, upon enactment of a comprehensive Consumer Product Safety Act, that a method be developed whereby technical experts from any Federal agency, other than those with responsibility for evaluating the adequacy of industry standards and testing programs, would be authorized to participate in voluntary safety standards activities.

Often nongovernmental programs for the development of safety standards are deprived of counsel from consumers, who do not have the time, financial resources, or technical expertise to contribute. Many Government employees do have the necessary expert technical knowledge. But participation could impair their objectivity where their duties involve investigating or evaluating the adequacy of standards so developed. Loss of that objectivity would, in turn, deprive the Federal Government of its only means of independently determining appropriate public safety levels.

However, if the Congress chooses to enact a comprehensive Consumer Product Safety Act, centralizing independence and responsibility for consumer safety in an agency such as we recommend and if Federal employees with responsibility for investigating or evaluating private standards and programs do not participate in such advisory programs, continuing objectivity could be assured.

When the occasion warrants a contribution of the time and competence of Federal personnel, their participation might then give consumers a more effective voice in private safety programs. An Executive order authorizing such participation would resolve the doubts of agency heads who refrain from supporting private safety program to avoid possible conflicts of interests.

APPLIED RESEARCH

We recommend that the Consumer Product Safety Commission include a laboratory facility to conduct safety research, to cooperate with other Federal agencies in supporting safety research, and to develop technical information for use by manufacturers and standard-making groups.

A laboratory facility is essential if staff scientists and engineers are to keep current with developments in science and technology, through the process of conducting their own research in product safety. The laboratory will also serve as a resource for exchanging technical information.

Many manufacturers, lacking resources for wide-scale research and development, cannot incorporate in products what they do not have or know. Federal support of developmental research and distribution of technical safety information can be expected to upgrade the general level of safety in consumer products, to foster vigorous competition, and to give every possible assistance to small producers.

Information, including trade secrets, essential to alleviating undue risks should be ruled in the public domain for this purpose, subject to fair compensation. When manufacturers lack such information, safety standards may unduly burden them. When standards committees are without such data, the product of their efforts is necessarily incomplete.

FEDERAL PURCHASES

We recommend that the Federal Government, through its purchasing and insuring agents, utilize its market influence by looking to established safety standards and, wherever practicable, new safety designs in selecting products for use, and that Federal agencies provide both manufacturers and consumers with acquired information about hazards in consumer products.

Federal purchases of consumer products by the General Services Administration alone exceed one-half billion dollars annually. Federal purchasing and insuring agents may overlook established safety considerations for consumer products, to the consequent distress of Federal employees and expense of taxpayers. With the establishment of a Federal authority to develop safety standards for consumer products, it will be even more important that they be observed in Federal purchasing.

Furthermore, Federal purchasing power could appropriately be used to stimulate the design and production of products which exceed minimum safety standards. The Consumer Product Safety Commission can recommend products suitable for such purchase in its annual reports to Congress.

Contracts for Federal offices and hospitals, federally insured and dependents' housing, should similarly be revised to observe Federal safety standards applicable to materials and fixtures.

Purchasing agents acquire information or have access to data which guide specifications for bids from manufacturers. Agenices could alert consumers to products which they know fail to meet safety standards. Release of such information can be expected to stimulate manufacturers to eliminate publicized hazards.

PRIVATE ACTIONS BY CONSUMERS

We recommend that injured consumers be permitted to file claims for treble damages, as well as class actions, in the district courts of the United States against manufacturers who knowingly or willfully violate Federal consumer product safety standards.

Under the antitrust laws and related Federal procedures, claimants may file either individual or class suits in behalf of all parties injured by illegal restraints of trade. The principle applies with equal force and logic to persons injured through a manufacturer's intentional disregard of a Federal product safety standard. Inadvertent error would not give rise to treble damage relief.

At present, because of the high cost of marshaling technical evidence, it is not practical for consumers to press claims against a manufacturer unless the damages are substantial. The use of class actions can be expected to improve this situation, at least where intentional conduct caused the injury. Similarly, some manufacturers may find it less expensive to defend damage claims, even those with merit, than to arrange for the prospective elimination of the source of injury. Allowing injured consumers to sue for three times their damages should tend to ameliorate this condition.

Even the prospect of class suits and treble damages is likely to encourage manufacturers to market products that are not unreasonably dangerous to life and health. Such statutory redress will add powerful private support to public safety programs.

FAIR COMPENSATION FOR INJURY

We recommend that the doctrine of strict tort liability be applied uniformly in State and Federal courts to enable a consumer injured by a product in defective condition to obtain fair compensation, and that State legislatures modify obsolete statutory provisions which unduly impinge on the consumer's right of redress for injury.

Modern technology and mass marketing have superseded the economy that molded legal conventions a century ago. These conventions, which still bind many court decisions and legal codes, were formed when young industry needed protection against harassment. Today, however, the consumer is relatively defenseless against defective products while the manufacturer is better able to correct defects and defend against claims of injury.

Widespread adoption of the theory of strict tort liability, as set forth by the Restatement (Second) Torts and expanded by judicial interpretation, would avoid for the consumer some of the traditionally troublesome aspects of the law, such as contributory negligence, due care, and privity. His burden of proof is eased somewhat: he must show that his injuries resulted from a product which was defective when it left the seller's control. The defect may be in the design, the construction, or the inadequacy of accompanying warnings and instructions.

Other inequities affecting a consumer's right to redress are perpetuated by specific legislative enactments in the States regarding jurisdiction, ceilings on recovery, small claims actions, and certain other matters. The Uniform Commercial Code, adopted by 49 States, incorporates several outdated rules pertaining to privity, disclaimers, requirements of notice to the manufacturer and statutes of limitations.

Since recovery by the consumer of fair compensation should not be made to depend on formal differences in the theory under which a suit is brought, these legislative provisions should be made consistent with strict tort liability.

STATE AND LOCAL PARTICIPATION

We recommend that the Consumer Product Safety Commission have authority to support States and localities in product safety activities or projects in surveillance, injury reporting, hazard reduction, research, and training.

In the belief that responsibility is borne best when shared, that authority is most respected when decentralized, and that participation is most enthusiastic when broad-based, we hope to see States and localities develop qualified personnel and agencies to assist in reducing product risks. The quantity of consumer products and their diversity are beyond the ability of a single national authority to comprehend: it is far better to have supplementary authorities concerned with product safety, provided their standards of performance and safety are consistent with Federal efforts and requirements.

As States and municipalities traditionally have served to adapt national programs to unusual local conditions, they have also been a source of original and innovative techniques and ideas in legislation and public administration. They provide an indispensable channel and source for the feedback of information about product safety and the effect of safety regulations.

Given guidance and financial support, States, counties, and municipalities offer a Federal agency an ideal laboratory for testing methods and policies as well as a critical supplementary force to check for compliance with consumer product safety standards.

FEDERAL PREEMPTION

We recommend that a mandatory Federal safety standard for a consumer product preempt any State or local standard, with appropriate provision for exemption where clear and compelling conditions in the State make it necessary.

States seldom impose safoty standards for consumer products. Where requirements apply to product safety, these vary considerably. For this reason, many manufacturers cannot produce for a national market except by designing different models for individual States. Ultimately, consumers pay the wasteful cost of several models being produced where one would do.

With a provision for exemption of State regulations that do not unduly burden interstate commerce, national safety standards for unreasonably hazardous consumer products can be expected to enhance protection for the public and conserve time, money, effort, and resources. At the same time, the possibility of exemptions will leave States free to develop innovative safety methods and to satisfy unusual local needs.

IMPORTED PRODUCTS

We recommend that consumer products imported for sale into the United States be denied entry if they violate Federal consumer product safety standards or regulations or are deemed to be unreasonably hazardous. As a condition of entry for imported products, foreign manufacturers should designate a responsible agent in this country and should be amenable to inspection on the same basis as domestic manufacturers.

The voluntary safety standards of responsible American manufacturers may not be observed consistently by manufacturers of imported products. Control of imported products should be at port of entry, where inspections can be more effectively conducted than at retail establishments. To preclude injury to American buyers of foreign goods, imports should comply with appropriate Federal safety standards and be subject to approval by an accredited laboratory on the same terms as domestic goods, where ordered by the Consumer Product Safety Commission.

Consumers who suffer physical harm from imported goods frequently are without recourse against the manufacturers. Accordingly, importers must have a designated financial agent in the United States to respond in damages for injuries associated with defective products they bring into the country.

WORLD RESPONSIBILITY

We recommend that the Government of the United States close the gap in legislative authority which now exists between this Nation and other industrial countries of the world and resolve to eliminate the needless waste of life and other valued resources caused by unsafe consumer products. We further recommend that this Nation lend support to international safety standards development and that it prohibit the export of hazardous products to other countries.

Many industrial nations with which we compete—Japan, the United Kingdom, Canada, West Germany, and Sweden—are committed by legislation to national product safety programs more comprehensive than that of the United States.

Private international safety standards, long neglected, are important to American consumers. Such standards could improve the safety of imports, prevent unfair international competition, and influence domestic safety standards. Government support is warranted provided Federal authorities oversee the protection of consumer interests and observance of fair procedures.

Federal consumer product safety standards should apply to exports as well as to products for domestic sale. To indicate our concern for, and to promote the well-being of consumers in all nations with which we deal, the export of goods that do not meet such standards should be prohibited unless waiver is obtained from a responsible official of the country of destination. In good conscience, we must extend to all the protection we expect at home.

By Mr. MAGNUSON (for himself, Mr. MOSS, Mr. HART, Mr. BAYH, Mr. CRANSTON, Mr. EAGLETON, Mr. GRAVEL, Mr. HARRIS, Mr. HARTKE, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. KENNEDY, Mr. MCGOVERN, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. RIBICOFF and Mr. TUNNEY):

S. 984. A bill to authorize classes of persons injured by unfair consumer practices unlawful under the Federal Trade Commission Act to seek relief. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, for myself and Mr. Moss, Mr. HART, Mr.

BAYH, Mr. CRANSTON, Mr. EAGLETON, Mr. GRAVEL, Mr. HARRIS, Mr. HARTKE, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. KENNEDY, Mr. MCGOVERN, Mr. MONDALE, Mr. MUSKIE, Mr. NELSON, Mr. RIBICOFF, and Mr. TUNNEY, I introduce for appropriate reference the Consumer Class Action Act of 1971. The provisions of this bill substantially reproduce the class action provisions of the Consumer Protection Act, S. 3201, 91st Congress, as amended and reported last August by the Committee on Commerce. That measure represented months of hard work by the committee to fashion a practical, effective remedy for persons who are deceived or defrauded in their consumer transactions. I am pleased that a number of Senators, from the Commerce Committee as well as other committees, have expressed their support for this bill by joining with me as cosponsors.

The purpose of the Consumer Class Action Act is to provide a remedy for deceived and defrauded consumers where none now exists. The magnitude of consumers losses is immense; it has been estimated by Senator HART that about $200 billion of the $750 billion spent by consumers last year was dissipated through fraud, deception, and marketing inequities. As Mrs. Knauer, the Special Assistant to the President for Consumer Affairs, pointed out:

> In short, gentlemen, consumer fraud is an insidious economic cancer which eats at the very vitals of our society. The fact that it continues to the extent it does erodes the respect of the individual, especially the poor, for law enforcement. It rots their faith in the equal application of the law to the white-collar fraud robber and to the family who cannot pay for shoddy merchandise they were tricked into buying by the self-same operator. It withers our moral fiber. It misdirects our economic resources. It saps the strength of our free enterprise system.
>
> Crime is crime whether it be at the tip of a gun or at the tip of a pen and the tip of a tongue of a fraudulent sales operator. All reasonable forces for years have decried consumer fraud. It is long past time we turned orations into actions, lament into law, exhortation into fraud elimination.

The right of consumers to be free from unfair or deceptive acts or practices was written into law in 1938 as part of the Federal Trade Commission Act. But it remains a brutal fact that the consumer cheated out of $10, $50, $100—even $500—no matter how clear and incontestable the legal wrong which he has suffered has only a paper right. He is virtually without enforceable remedy because the cost of taking his case to court will be greater than his recovery. In many instances, fraudulent operators carefully avoid cheating the consumer out of sums large enough to make legal recovery a real threat.

The flaw in our consumer protection laws lies in their falure to provide a remedy so that those who are cheated can recover their losses from unscrupulous operators. Our Nation has proclaimed unfair or deceptive practices to be unlawful, but has failed to make them unprofitable.

Class action provides a remedy for the cheated consumer. It promises to make fraud unprofitable. Perhaps more importantly, it opens the way for the consumer to aid himself. It does not require additions to the Federal budget for investigators or administrators nor does it require the creation of a new bureaucracy. It does not require the cheated consumer to wait hat in hand upon the willingness of a Federal agency to get his money back. Class action simply opens the doors of the court housing to the consumer so that he has meaningful access to the traditional American opportunity of seeking his remedy in court.

Underlying the opposition of the business community to class action is the evident fear that business will not receive equitable treatment in the courts. It would be tragic if business has come to share with many poor and minority groups a distrust of our courts. If business, with its ample resources to obtain skilled counsel and to defend its interests, does not expect justice, who can?

Last year I requested the views of Judge Bazelon and Judge Solomon on consumer class action and their opinions of the arguments raised in opposition to it. Their replies confirmed my belief that the court will be able to handle class actions in an equitable and just manner. I ask unanimous consent to include their letters at this point in my remarks.

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

U.S. COURT OF APPEALS,
Washington, D.C., November 17, 1970.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: This is in response to your request for my views on S. 3201, the Consumer Class Action Bill.

As you noted in your letter, there is some thought that consumer class actions are unmanageable and would create a flood of litigation in the federal courts. I am not aware that there is any basis for this view. Experience demonstrates that class actions can be handled expeditiously, without unduly burdening the judicial system.

Several states permit consumer class actions, and none of these jurisdictions has reported difficulties with such suits. More important, the federal courts themselves permit class actions in anti-trust cases, stockholder derivative suits and civil rights cases. Although the rules relating to these class actions have been greatly liberalized over the past decade, the federal courts have not been overwhelmed by a flood of this kind of litigation.

Rule 23 of the Federal Rules of Civil Procedure protects against unnecessary and unmanageable class actions. Plaintiffs are required to satisfy the court that a class action is the most efficient manner of proceeding. The court is given broad power to control class actions to assure that they do not unduly burden the defendant or the judicial system.

The effectiveness of Rule 23 was made clear in the recent tetracyclene anti-trust case. This class action involved millions of claimants, but the district judge was able to ensure that the members of the class were protected and to decide the complex pretrial motions which preceded settlement without neglecting his normal caseload.

I do not think, therefore, that the proposed class action bill would place crippling new burdens on the federal courts. But even if the additional caseload would be much greater than I anticipate, rejection of consumer class actions would seem to be an unfortunate solution. Congress might more appropriately provide additional resources to the federal courts or remove some existing class of cases from the federal courts—diversity actions involving automobile tort claims, for example. In any event, there would seem to be no administrative justification for depriving consumers of a judicial remedy against fraudulent practices.

Sincerely,

DAVID L. BAZELON.

UNITED STATES DISTRICT COURT,
DISTRICT OF OREGON,
Portland, Oreg., November 24, 1970.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, United States Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to respond to your questions relating to the pending consumer class action bill, S. 3201.

Rule 23 of the Federal Rules of Civil Procedure gives ample authority to the trial judge to direct a flow of class actions efficiently and expeditiously and to police actual and incipient abuses of the class action mechanism. I have experienced no substantial difficulty in managing such cases. Moreover, the class action may be the only viable judicial device for the redress of substantial citizen injuries. This has been true in civil rights cases; it has been true in stockholders' derivative actions and true in the case of the economic victims of antitrust violations.

I share the concern of the Chief Justice with the overcrowding of court calendars. This problem must be dealt with, primarily by providing additional judicial resources. But I cannot subscribe to a philosophy of jurisprudence which seeks to relieve the pressure of caseloads on the courts by denying access to citizens with just and proper claims. In effect, this is the circumstance that prevails today. A citizen with a valid justiciable claim of under $500 is faced with the prospect of having his expenses exceed any recovery obtainable in court.

I believe that you and the Committee are to be commended for fashioning a means for redeeming the promise of justice to all citizens, which is the basis of our democracy. I strongly support the principle of consumer class actions.

Best regards.

Sincerely yours,

GUS J. SOLOMON.

Mr. MAGNUSON. Mr. President, I recognize, however, that there are substantial, divergent opinions on the best way to provide consumer remedies. Therefore, I would like to make clear that while we believe the Consumer Class Action Act serves the task very well, we are not inflexibly committed to its language. There may well be modifications of the bill that would improve its effect. We will welcome suggestions for such modifications. All we want is to see enacted a fair and effective class action measure. But we must take care that the present effective measure is not amended in such a way as to remove its force; as for example, by a "trigger" such as the administration proposed last year. A bill that falsely parades under the banner of consumer relief is worse than no bill at all. The businessman as well as the consumer will benefit from a measure that alleviates the bitterness resulting from unrelieved consumer fraud in the marketplace.

The recent report by four committees of the Association of the Bar of the City of New York is an example of a thoughtful analysis of S. 3201, 91st Congress, and the several suggestions contained in the

report are worthy of further consideration. I ask unanimous consent that the portions of the report dealing with class action be printed at the end of my remarks so that they may be readily available for examination. I also ask that the full text of the Consumer Class Action Act be printed at the end of the report.

In closing, I would like to emphasize that introduction of the Consumer Class Action Act should not be construed as an expression of legislative intent that a private right of action does not now presently arise under section 5 of the Federal Trade Commission Act. Several recent actions in Federal court are based on the theory that private actions may be maintained under existing law; I, of course, do not mean to take a position on one side or the other with regard to such theories.

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

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, PROPOSED FEDERAL LEGISLATION TO PROTECT CONSUMERS, INCLUDING CONSUMER CLASS ACTIONS

(By the Committee on Federal Legislation, the Committee on the Federal Courts, the Committee on Consumer Affairs, the Committee on Trade Regulation)

I. INTRODUCTION

Our growing national sensitivity to consumer problems, stimulated by such private groups as "Nader's Raiders" and by such public agencies as New York City's Department of Consumer Affairs, recently led the Second Session of the 91st Congress to consider methods which can assure consumers an effective day in court. The principal bill proposed for this purpose was S. 3201 (introduced by Senator Magnuson), which in its original form had the support of the Administration. By the close of the Session, the bill had been extensively revised by the Senate Commerce Committee and, as so revised, reported out favorably over Administration opposition. The amended bill was then referred to the Senate Judiciary Committee, which failed to issue a report prior to adjournment. The Senate however consequently failed to act on S. 3201 (or several alternative measures introduced by Senator Tydings, S. 1980 and S. 3092) before the end of the Session. Despite this inaction, S. 3201 represents an important Congressional attempt to deal with the issue of consumer remedies and will undoubtedly serve as a starting point for similar efforts in the 92nd Congress. Accordingly, this report will consider the provisions of S. 3201 in some detail in order to set forth what we believe are the basic principles to be followed in drafting fair and effective consumer legislation in the future.

Two devices have been proposed to assure effective representation of the consumer. The first looks to action by administrative agencies. Thus, S. 3201 looks principally to the Federal Trade Commission, which is to be strengthened so as to provide more effective administrative remedies, and to serve as a more effective consumer advocate in the Federal courts. Additional powers are also given to the Attorney General. The second, and probably the more important part of the bill, seeks to devise procedures so that the consumer interests may be vindicated in the Federal courts, primarily through class actions. The necessity for such legislation arises in part from the recent Supreme Court decision in *Snyder* v. *Harris*, 394 U.S. 332 (1969), holding that claims may not be aggregated in computing the $10,000 amount in controversy necessary to invoke the jurisdiction of Federal courts for diversity actions. Under such a holding, class action jurisdiction is lacking for most consumer grievances, which are normally too small to justify the expense of litigation outside of class actions. S. 3201 would make Federal class actions available for such smaller claimants, by using the commerce power and reducing the jurisdictional amount for such actions to $10, while maintaining the controls that Rule 23 of the Federal Rules of Civil Procedure prescribes for class actions.

FTC relief and consumer class actions in the Federal courts are not, of course, the only available methods to secure appropriate relief. In our discussions, we have also considered the possibility of individual actions through publicly supported neighborhood law offices, public interest law firms or local arbitration. Those with relevant experience in such organizations who have participated in our discussions, however, have advised us that aggrieved consumers appear not to seek out such assistance sufficiently to warrant substantial reliance on those institutions. The most that they are likely to provide is some supplement, but they are not a substitute for meaningful class actions or administrative relief.

On the other hand, the experience of some of us with class actions points to caution in approving the expansion of class action litigation. Stockholders' class action and derivative suits have proven their value in bringing corporate management to a greater awareness of their fiduciary responsibilities. Nevertheless, they have at times been abused. Some of us are concerned less class actions for large sums may on occasion be used to harass business firms. There is also reason for concern about Federal court congestion and the difficulties of administering relief for large numbers of consumers. In addition, there is a question as to the propriety of class actions for some types of consumer grievances.

Much of our debate has centered on the optimum method for reconciliation of two possibly conflicting objectives: providing a vehicle for effective Federal class actions which will attract the efforts of able counsel on behalf of consumers without creating unnecessarily increased possibilities for abuse. We are not satisfied that S. 3201 reconciled these objectives in some areas as well as it might have, and accordingly we urge that future bills be revised in the way described below. We also suggest different methods of dealing with the other problems which have been noted. On balance, however, we support the approach of S. 3201 and urge enactment of similar legislation by the 92nd Congress.

III. ACTIONS AND CLASS ACTION BY CONSUMERS UNDER S. 3201

S. 3201 provides for two types of direct actions which consumers may bring. Under Section 206(a), the "triggering" provision, any consumer may bring a civil action against a supplier, but only if the supplier has been enjoined from committing an unfair consumer practice, either by final judgment or consent decree, in action brought by the Attorney General or the FTC. This action does not necessarily have to be a class action—the consumer may sue individually. In such a suit, a final judgment or decree in the Governmental action is prima facie evidence against the supplier in the consumer action, but a consent decree is not (Section 207). No jurisdictional amount is necessary. Under Section 206(b), a consumer may bring a class action against a supplier without waiting for prior action by the Government, provided his claim is $10 or more and his claim meets the class action requirements of Rule 23 of the Federal Rules of Civil Procedure. However, before such a suit may be brought, the consumer must notify the Federal Trade Commission.[1] If within ninety days of such notification, either the Federal Trade Commission or the Attorney General publishes in the Federal Register notice of intent to proceed against the unfair practice specified in the motion and in fact does proceed within ninety days, the consumer's action is stayed and consolidated with the Government action.[2]

The Tydings Bills and most other class action proposals introduced in the 91st Congress do not contain any "triggering provision" requiring governmental action as a pre-condition for bringing the class actions. (E.g., S. 1980 and H.R. 11656.) Bar groups, in endorsing the class action concept, likewise made no reference to the possibility of "triggering provisions" during early discussion of the question.[3]

EVALUATION OF THE TRIGGERING DEVICE, AND OTHER LIMITATIONS OF S. 3201, WHICH RELY ON FTC ACTION

On balance, we disapprove these provisions of S. 3201 insofar as they rely upon the FTC as the principal watchdog of consumer interests. Criticism of the Federal Trade Commission for failure to deal with consumer abuses on a sufficient scale has been voiced by such differing sources as Ralph Nader and the American Bar Association Commission to study the Federal Trade Commission, appointed at the suggestion of President Nixon. Statistics compiled by the ABA study indicated that from 1961 to 1969 the number of complaints for deceptive practices issued by the Commission declined from an average of 132 in the 1961–63 period to an average of 73 in the 1967–69 period, and the number of cease and desist orders issued for deceptive practices issued by the Commission declined from 180 to 68.[4] Efforts to revitalize the Commission have been made, but the future effectiveness of the Commission remains to be seen. Until some substantial improvement has been shown in the FTC, we believe that no bill should be enacted which would hamper private access to the courts while leaving consumer grievances to gather dust in the files of this agency.

The "triggering" requirement of Section 206(a) clearly would hamper access to the courts if it stood alone, as the Administration had originally proposed. Section 206(b) seems to permit freer access. Some of us believe, however, that the prospect of possible Government intervention is likely to discourage able private counsel from exerting substantial efforts to bring such suits, since they would be unlikely to receive significant compensation if the suit were eventually directed by a Government agency. Others think that private counsel may not be deterred, and that Government intervention may be useful to consumers, but recognize that the FTC should not be authorized to intervene and thereafter to let such suits stagnate.

For some of us, an alternative might be to permit a class action if one or more public agencies certified that it involved practices of substantial importance to the public, justifying use of the class action device. If the authority to grant such certificates were conferred on more than one agency, a single agency would feel more able to refuse to grant the certificate in appropriate cases without being subject to criticism for shutting off the sole avenue of relief to a class of consumers. Likewise, there would be more protection against the possibility of any one agency being subjected to undue influence to refuse certificates permitting suits against influential defendants. Among the agencies which might be empowered to grant certificates are the FTC, the Department of Justice and local United States Attorneys.

An argument against this procedure is that it may diffuse responsibility, so that it may prove ineffective. In addition, the suggested procedure is rather cumbersome and could even become chaotic.

On balance, we believe that a more reasonable and effective prophylaxis would result from direct controls on potential areas of abuse, rather than from the creation of

Footnotes at end of article.

such preliminary hurdles. The type of controls which we support will be discussed below.

ALTERNATIVE METHODS BY WHICH CONSUMER CLASS ACTIONS MAY BE PERMITTED WHILE AFFORDING MINIMAL OPPORTUNITIES FOR ABUSE

A. The problems

The President's Consumer Message of 1969 proposed the triggering device as a method of protecting businessmen from harassing actions. Others have been concerned with the burdens on the Federal courts, which some think to be too congested to undertake additional jurisdiction. Still others have pointed to the difficulties of administering relief for a great many consumers whose damages might differ, depending on the facts relating to their purchases. Critics have also pointed to the problem of using class actions for certain types of suits, such as consumer personal injuries, for which the class action device may not be well suited because of an insufficiently common basis of law and fact.

B. Proposed solutions

Certain of the above mentioned problems may be disposed of quickly, for they may be manageable. Thus the question of whether, for example, consumers' personal injury class actions may be appropriate tends to disappear so long as the legislation does not limit Rule 23 of the Federal Rules of Civil Procedure, which would serve as a screening device for these as well as other class actions. If S. 3201 does not affect Rule 23, where a District Court finds an inadequate basis of common law and fact in a class action brought for personal injuries, it is likely to rule that the plaintiffs must proceed in individual actions only. Section 206(b), however, seems to grant jurisdiction only to consumer actions as class actions. It should be amended to make clear that a District Court is thus free to be guided by Rule 23 and need not be dismissed if it otherwise meets jurisdictional requisites.[5]

Many of us also think that although there is a problem of court congestion, it should not prevent extension of the class action device to consumer cases. It would appear to be basic that if a remedy is required new litigants should not be barred from the courts because too many others are already there.

To the extent that the Federal courts are crowded [6] and that the problem is not solvable by such administrative devices as judicial reassignment or increasing the number of judges, consideration might be given to Federal legislation which provides for concurrent relief in state courts, with Federal standards.[7] Since the purpose is to effectuate national policy and under S. 3201 the suits would be for violation of Federal law, it would seem logical to provide for concurrent Federal jurisdiction—as was done in Section 301 of the Labor Management Relations Act.[8] Under the Supremacy Clause of the Federal Constitution, state courts are required to enforce Federal law. The power of Congress to create substantive and procedural rights enforceable in state as well as Federal courts has been confirmed by recent cases.[9] Were this provided for, the number of cases reaching the Federal courts would be reduced.

On the other hand, many state courts, especially those in large urban centers where consumer actions are likely to be brought, are even more crowded than Federal courts. In addition, we have some doubts about the adequacy of state court settlement procedures, based on our experience with stockholder actions. Though considerations would not proscribe the granting of concurrent jurisdiction, the possible availability of state courts may not significantly reduce the needs to provide Federal relief and to make Federal actions manageable.[10]

Another possibility which would reduce the number of Federal court consumer class actions, reduce the problem of administering relief and also simplify the problems raised by Rule 23, would be to limit class action relief to the refunding of money paid by consumers and the termination of their executory obligations to make future payments. This would eliminate the necessity for each member of the class to prove his own individual damages in such suits, while leaving it open to him to seek other forms of individual relief after liability has been established. In this way, the class would be rather easily identifiable as persons who had purchased or contracted with the supplier and their measure of damages would be identical. Furthermore, the courts would not have to administer complicated and time-consuming orders for relief. In such cases, the issues would be reduced to whether or not a supplier had committed an unfair consumer practice. Once that decision was made, the supplier would be required to refund all moneys collected. Finally, such class actions would significantly reduce the possibility of nuisance suits. The cases would be simpler and the lure of prospective jackpot damages would be removed.

It should be noted, however, that some of the unfair consumer practices designated in Section 201(1) do not lend themselves to the restitution approach. For example, subsections (A), (B) and (M), and certain of the other subsections, may be violated although no sale of goods actually takes place. If the restitution approach were adopted, provision should be made so that the meaningful remedies were still available for violations under these subsections.

If class actions were so limited, the bill would also have to provide that consumers who had suffered consequential damages would be able to seek redress for damages individually, and the prior finding of an unfair consumer practice in the class action should be binding in the supplier. While some of us think that individual damages should be included in the class action, others think that in most cases the vast majority of consumers do not suffer consequential damages. Those who do would be free to seek redress armed with the prior adjudication on liability. In addition, persons suffering severe damages, such as personal injuries, would have no incentive to participate in class actions. Their individual remedies under the developing doctrine of strict liability are much more effective and they would have no trouble in obtaining lawyers on contingent fees.

This suggestion, as noted, would go far toward eliminating the problem of nuisance suits or exorbitant demands for relief by plaintiffs. Having said this, however, we must add that it is hard to see a justification for risking such abuses in stockholders' class actions, while denying relief to consumers because such risks exist in consumer class actions. In addition, we acknowledge that such risks inhere in any litigation and may be met in the unscrupulous defense of actions as well as in their prosecution. Thus, for example, corporate defendants have been known to take advantage of their economic strength by subjecting less economically powerful adversaries to extensive motion practice, which may be burdensome and costly to plaintiffs and their counsel, in the hope of discouraging meritorious actions. These issues pose an important problem for the legal profession, but their resolution should not be pursued at the expense of a particular class of litigants.

ELIMINATION OF THE REQUIREMENT OF "KNOWING" DECEPTION IN AFFORDING CERTAIN KINDS OF RELIEF

Eleven of the sixteen categories of deception listed in S. 3201 require proof of a "knowing" or intentional falsity before consumers can prevail. Many of us favor elimination of the "knowing" requirement as a prerequisite to the relief of refunds or termination of executory obligations. This should be done, whether or not other forms of relief are permitted in consumer class actions or the suggestion above is adopted that class actions should, under all circumstances, be limited to affording only the relief of refunds and terminating future obligations. We believe that if a supplier commits an unfair consumer practice through ignorance, or even because the state of the art was not sufficiently developed so that he could foresee the result of his action, nevertheless the burden of repayment should rest on the supplier.

The recent case in which the Food and Drug Administration barred the "Relaxacisor" from the market [11] illustrates the importance of this amendment. The respondent produced and sold an electrical device which purportedly reduced waistlines by administering a series of electrical shocks to the human body. In reliance on representations that the machine was "safe" for human use, 400,000 purchasers paid $300 each for the machine. But the court, which prohibited further sales, found that the device could cause, among other things, "abdominal pain and cramps, breathing difficulty, loss of hand control, loss of consciousness, nausea and vomiting, paralysis, red and blistered skin, vaginal hemorrhage, miscarriage" and the spread of dormant cancer cells. Because their individual claims are small, the 400,000 purchasers have no effective way of obtaining refunds or even declaratory relief from making further payments on the installment plan, without a class action. S. 3201 would not help them because they would be required to prove that the company was deliberately or negligently in error in advertising the product as "safe" and the company showed by voluminous proof at trial that it had relied upon its experts, who regarded the machine as safe. These experts turned out to be wrong, but their opinion would probably immunize the company from civil liability. Unless S. 3201 were amended, the traditional right of the consumer to obtain restitution in cases of this sort could not be vindicated. Section 201(1) of the bill should therefore be amended to provide that where restitution and rescission are sought, the terms "knowing," "knowingly" and "intending" do not apply.

This amendment, moreover, would simplify the issues in class actions, where such relief was sought. The issues would then be whether or not the transaction was unfair or deceptive. The good faith or lack of it on the part of the supplier would be irrelevant. Once the practice was declared unfair or deceptive, the relief would also be simple—consumers could get their money back.[12]

In some of the specific provisions defining consumer offenses for which knowledge of the seller may appear to be a part of the definition of the offense, appropriate drafting modifications would be necessary to redefine the violations while leaving intact the remedial policy suggested above.

MISCELLANEOUS COMMENTS AND SUGGESTED AMENDMENTS TO S. 3201

We have noted above that private actions should not be made to depend on FTC actions. This conclusion is not changed by the prospect that private intervention may be permitted. The report of the Commerce Committee did indicate that intervention is to be desired, but felt it unnecessary to write specific provisions, since the Federal Rules of Civil Procedure are adequate to allow consumer intervention. Private intervention, nevertheless, would seem to be a largely illusory right, since few consumers could afford to retain counsel to pursue individual small claims, and few able attorneys are likely to undertake intervention in a suit controlled by the Government, where a court is unlikely to award sufficient attorneys' fees to justify the neecssary expenditure of time to vindicate a small intervenor's rights.

Footnotes at end of article.

Should Congress enact some form of triggering legislation finally, consideration should be given to permitting a class action to be triggered by other kinds of successful governmental action than those included in the narrowly defined provisions of S. 3201. For example, a number of successful prosecutions for consumer abuses have recently been brought under the mail fraud statute.[13]

IV. OTHER CONSUMER RELIEF IS ALSO NEEDED

The average consumer may not be greatly affected by this legislation, either by the expanded Government powers or by the class action provisions. Other remedies are also indicated, and it would be unfortunate if Congress passed a revised version of S. 3201 and then assumed that no further action was needed to provide consumers with direct relief. Thus Congress may do well to consider legislation giving consumers the same defenses against banks and factoring companies which buy installment contracts and other types of consumer papers as they would have against the seller. As noted in the testimony of Mrs. Virginia Knauer, quoted in the Commerce Committee Report, many consumers are required to maintain payments on shoddy merchandise or face attachments and garnishments of their wages. Allowing the consumer to assert defenses against holders in due course on consumer paper would probably have salutary effect in limiting consumer frauds, since it would require banks and factors to police their customers if they desired to purchase consumer paper of any value.

In addition, the creation of consumer arbitration boards or consumer small claims courts, with a concomitant strengthening of legal services to the poor, would have a direct effect on the lives of consumers. Such boards or courts with limited jurisdictional amounts could grant swift and effective relief to consumers. However, consumers would have to be educated concerning the availability of such bodies and how to use them.

V. CONCLUSION

In summary, we urge the adoption of legislation which will give Federal and state class action relief to consumers. We disapprove those provisions of S. 3201 which make consumer relief dependent on action by the Federal Trade Commission. At the same time, we welcome those provisions of the bill which strengthen the FTC and give added enforcement powers to the Attorney General to protect consumers.

In treating the problems posed by consumer class actions, we advocate solutions directed to those problems rather than such preliminary barriers as requiring "triggering" by a successful FTC action. Thus, one way to reduce the problem of Federal court congestion might be to grant concurrent jurisdiction to state courts. Consideration should also be given to limiting consumer class actions to suits for refunds or the termination of executory obligations, leaving individual consumers to pursue such other remedies as those for consequential damages in separate actions, after liability has been established for them in the class action.

In any event, most of us think that suits for refunds or termination of executory obligations should be allowed without requiring proof that the deception of consumers was done "knowingly." This requirement may have some validity in suits where consequential damages are sought, but should not be required where consumers have been deceived and seek to have their money back.

Thus, on balance we approve S. 3201, with the two important caveats that it requires substantial revision and that its enactment should not be permitted to obscure the need for other forms of consumer protection.

January 8, 1971.

Respectfully submitted,

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FOOTNOTES

[1] A majority of the Committee on Trade Regulation believes that the bill should also require notification to the supplier and that a supplier should be able to tender a settlement, with the added proviso that there should be power in the court to refuse to award counsel fees for plaintiffs who have declined such settlement offers and have recovered a lesser amount in the action.

[2] The bill is unclear whether the Attorney General or the FTC must commence an action within the ninety-day period following notice from a consumer or within ninety days after publication of the notice of intention to bring an action in the Federal Register. We recommend that the bill clearly provide that the Government must bring suit within ninety days from notice to the FTC, since it is unfair to require a consumer to wait longer than three months.

[3] Committee on Legal Assistance, "Consumer Protection," 24 THE RECORD of The Association of the Bar of the City of New York 296, 301 (May 1969); Committee on Federal Legislation, New York State Bar Association, Report on the Consumer Protection Class Action Jurisdiction Act, 42 NYSBJ (Jan. 1970).

[4] Report of ABA Commission to Study the Federal Trade Commission 20 (1969).

[5] The problem is also to be found in S. 1980, the "Class Action Jurisdiction Act," proposed by Senator Tydings.

[6] The number of civil cases filed in the Federal courts in fiscal years 1961 and 1969 rose from 58,000 to 77,000 while the backlog of pending cases over the same period rose from 64,000 to 86,000. In 1969, the median time from joinder of issue to trial in pending civil cases reflected delays of 41 months in Philadelphia, 33 months in New York, 28 months in Brooklyn and 27 months in Detroit. Director of the Administrative Office of the United States Courts, 1969 Annual Report, II-18 and Table C 9. It is in these areas of population concentration, particularly New York, where the largest number of consumer class actions can reasonably be anticipated.

[7] An example of the latter is realistic provision for attorneys' fees. State law provisions do not, as a rule, provide for attorneys' fees in such actions; therefore, the theoretical right of action flounders upon the practical shoal of legal costs. By providing for attorneys' fees, the proposed Federal legislation makes class actions an effective remedy.

[8] 29 U.S.C. § 185 (1964).

[9] See *Testa* v. *Katt,* 330 U.S. 386 (1947); *Hill* v. *Aro Corp.,* 275 F. Supp. 482 (D. Ohio 1967); *Minkoff* v. *Scranton Frocks,* 172 F. Supp. 870, 877 (S.D.N.Y. 1959); *Ingraham* v. *Local 260,* 171 F. Supp. 103, 106 (D. Conn. 1959); *cf. Republic Steel Corp.* v. *Maddox,* 379 U.S. 650 (1965).

[10] The Special Committee on Consumer Legislation of the Antitrust Section of the American Bar Association, in a Report (455 BNA Antitrust & Trade Reg. Rep. X-1 (Mar. 31, 1970)), proposed that, once the FTC has determined that a supplier has committed an "unfair consumer practice," the Commission itself conduct administrative proceedings before hearing examiners where the violation occurred to accord expeditious relief to consumers adversely affected thereby. While we disapprove of the ABA proposal insofar as it would preclude private actions in the courts, we believe that this procedure, like local arbitration, would be a useful adjunct to private actions if not designed to supplant them.

[11] No. 66–1141–WPG–civil, U.S.D.C., C.D. Calif. (April 14, 1970).

[12] If relief in consumer class actions is not to be limited to restitution, then a latent ambiguity between Sections 206(b) and 206(d) should be removed. Section 206(b) provides that consumer class actions should "redress" consumer injury, which includes all proper relief. Section 206(d), however, provides that a successful consumer may recover, in addition to "damages," his attorney fees. The use of the word "damages" in Section 206(d) should not limit "redress," and this should be made clear.

[13] 18 U.S.C. § 1341 (1964). E.g., *United States* v. *Armantrout,* 411 F.2d 60 (2d Cir. 1969); *United States* v. *Zovluck,* 274 F. Supp. 385 (S.D.N.Y. 1967), *aff'd w/o opinion* (2d Cir. Apr. 7, 1969).

The Study Draft of a new Federal Criminal Code, prepared by the National Commission on Reform of Federal Criminal Laws, provides for the court to direct the prosecution to initiate a proceeding to determine individual rights to restitution in cases of offenses by corporations and partnerships (proposed Code Section 405(1)(b). However, this would not apply to the individual proprietors, as in the *Zovluck* case, and also is combined with a proposal in the Study Draft to abolish the mail fraud statute completely and replace it by a theft provision (Section 1732) and to impose new restrictive definitions. These changes would severely limit the availability of Federal criminal prosecutions showing consumer fraud and we disapprove them.

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

S. 984

A bill to authorize classes of persons injured by unfair consumer practices unlawful under the Federal Trade Commission Act to seek relief

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill may be cited as the "Consumer Class Action Act of 1971".

DEFINITIONS

SEC. 101. As used in this Act—

(1) "unfair consumer practice" means any of the following acts or practices—

(A) offering goods or services intending not to sell them as offered;

(B) advertising goods or services intending not to supply reasonably expectable public demand, unless the advertisement discloses a limitation;

(C) knowingly making false or misleading statements concerning the need for, or necessity of, any goods, services, replacements, or repairs;

(D) representing that the consumer will obtain any rights, privileges, or remedies knowing that the consumer will not;

(E) representing that goods are new knowing that they are not;

(F) representing that goods are of a particular standard, grade, quality, style, or model knowing they are not;

(G) knowingly making false or misleading statements concerning (i) the reason for, existence of, or amounts of price reductions, or (ii) savings in comparison to prices of competitors or one's own price;

(H) representing that goods or services are those of another, knowing they are not;

(I) failing to return or refund deposits or advance payments for goods not delivered or services not rendered when no default or further obligation of persons making such deposits or advance payments exists;

(J) knowingly representing that goods or services have sponsorship approval, origin, characteristics of safety or performance, ingredients, uses, benefits, or quantities that they do not have, or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have, except that the conduct described in this paragraph (J) shall not be an unfair consumer practice if the supplier shows that an affirmation merely of the value of the goods or services, or a statement of his opinion of the goods or services, or similar statements, did not take unfair advantage of the level of knowledge, ability, experience, or capacity of the consumer;

(K) taking consideration for goods or services intending not to deliver such goods or perform such services, or intending to deliver goods or provide services materially different from those ordered or sold;

(L) knowingly making false or misleading statements concerning the profitability, risk, or any other material aspect of any home-operated business opportunity or venture;

(M) offering gifts, prizes, free items, or other gratuities, intending not to provide them as offered in connection with a sale of goods or services to a consumer;

(N) knowingly making false or misleading statements concerning the existence, terms, or discount offered as an inducement for the sale of goods or services to a consumer in return for giving the supplier the names of prospective consumers or otherwise helping the offeror to enter into any other consumer transaction;

(O) using physical force, threat of physical force, undue harassment, or coercion in dealing with consumers; and

(P) any other act or practice which is unfair or deceptive to a consumer and is prohibited by section 5(a)(1) of the Federal Trade Commission Act (15 USC 45 (a)(1)).

(2) "knowing" "knowingly" and "knowledge" mean actual knowledge, knowledge presumed where objective circumstances indicate that the supplier acted with knowledge, or knowledge presumed where circumstances indicate that the supplier acted in disregard of reasonable safeguards or care in ascertaining the truth of representations made;

(3) "consumer" means any natural person who is offered or supplied goods or services for personal, family, or household purposes;

(4) "supplier" means any person who makes goods or services available to consumers, either directly or indirectly;

(5) "goods" includes real property, but does not include securities, or interests in securities or aircraft to the extent regulated in design or construction;

(6) "services" includes insurance services and similar provisions of intangibles, but not the providing of credit to the extent that credit is regulated under the Truth in Lending Act (15 U.S.C. 1601, *et seq.*), or the adequacy of service of common carriers to the extent regulated; and

(7) "statement" means any representation in advertising, any oral or visual presentation, or any other conduct intended to communicate to consumers.

SUITS BY CONSUMERS ADVERSELY AFFECTED

SEC. 102. (a) When a supplier in any proceeding brought by the Federal Trade Commission under section 5 of the Federal Trade Commission Act with respect to acts or practices alleged to be unfair consumer practices within the meaning of section 101 of this Act, has been ordered to cease and desist from that act or practice, and the order shall have become final within the meaning of section 5, either after adjudication or by consent decree, any consumer claiming to have been adversely affected by the act or practice giving rise to such order may bring a civil action against such supplier.

(b)(1) Notwithstanding subsection (a), a consumer who has been injured by an unfair consumer practice may sue as a representative party on behalf of all for redress of such injury ninety days after the date on which the Federal Trade Commission has been notified of such practice if such action may be maintained as a class action under the Federal Rules of Civil Procedure, except that no consumer shall be a member of such class unless he shall have paid or become obligated to pay an amount greater than $10 in any transaction as a result of such practice.

(2) Any action under this subsection may be brought in the district courts of the United States and shall be governed by the Federal Rules of Civil Procedure.

(c) Actions pursuant to this section for redress of consumer injury shall be administered, so far as practicable, to facilitate voluntary settlements. The court shall have authority in a representative action, upon the tender of a reasonable settlement offer by the supplier to the entire class, to supervise the submission of such settlement offer to the class. The court may take reasonable steps to insure that the consumers in the class are afforded the opportunity to exercise an individual choice with respect to accepting or rejecting any settlement offer. The court shall insure that equal space for the presentation of views as to the merits of the offer shall be tendered to members of the class and suppliers in the notice of the offer to the members of the class. The cost of communicating the offer, or subsequent offers, tendered under the provisions of this section, to the members of the class shall be borne by the defendants. Such settlement offer shall be completed as expeditiously as possible.

(d) Whenever a consumer shall prevail in an action brought pursuant to this section, he shall be allowed to recover in addition to damages the costs of suit, including attorneys' fees. Such costs may be awarded from money damages which the defendant owes to members of the class who cannot be located with due diligence. Upon termination of a class action under this section, whether by judgment, settlement or compromise, the court shall inquire into the reasonableness of attorneys' fees charged and revise such fees where necessary to assure a reasonable relationship, taking into consideration the contingency of compensation, between such fees and the actual time spent by attorneys in preparation and prosecution of the action. If the court determines that any class action brought pursuant to this section has been brought frivolously, with knowledge that the claim lacks probable cause and with intent to harass or intimidate the defendant, the court may in its discretion award the defendant the cost of defending the suit, including a reasonable attorney's fee.

(e) An action to enforce any claim under this section shall be forever barred unless commenced within three years after the claim arose.

FEDERAL TRADE COMMISSION ORDER AS EVIDENCE

SEC. 103. Any order entered by the Federal Trade Commission in any proceeding brought by the Commission under section 5 of the Federal Trade Commission Act enjoining any supplier from engaging in acts or practices declared to be an unfair consumer practice having become final within the meaning of section 5, shall be prima facie evidence against that supplier in any action or proceeding brought by any other person against the supplier under section 206 of this title, as to all matters with respect to which such order would be an estoppel between the supplier and the Federal Trade Commission. This subsection shall apply only to orders based upon a preponderance of the evidence entered after an evidentiary hearing, and not to consent orders.

VENUE

SEC. 104. An action under this title may be brought in any district in which the claim arose or in which the defendant resides, is found, has an agent, is licensed to do business, or is doing business.

OTHER LAWS NOT AFFECTED

SEC. 105. This title shall not annul, alter, or affect in any manner the meaning, scope, or applicability of any Federal or State law, including but not limited to laws concerning the provision of goods and services to consumers, or limit in any way the availability of rights or remedies under Federal or State law.

Mr. HART. Mr. President, the Consumer Class Action Act of 1971 introduced today by Senator MAGNUSON represents one of the two essential elements of a comprehensive, effective program to protect the American consumer: First, the right of private citizens to sue directly for redress when they are defrauded; and second, a strong and independent consumer protection agency. Both are urgently needed; each would complement the other. At their national convention last month, the Consumer Federation of America placed both at the top of the legislative agenda for the 92d Congress.

Mr. President, everyone is for consumer protection. It will be as surprising to hear anyone in this body oppose the concept of protecting consumers from improper practices as it will be to hear opposition expressed against safety, health, or law enforcement. But fervent declarations are no longer enough. The consumer groups of America are aroused, organized, and educated. They are aware that seemingly small differences between alternative consumer legislation can make all the difference in the world between a truly effective consumer protec-

tion measure and one which promises much, but is in fact itself a fraud upon those consumers who look to Congress for help. That is why consumer representatives spoke out so strongly last year in favor of the class action proposal in this bill and opposed the so-called trigger requirement in the administration's consumer legislation. By barring private class actions until successful Government litigation, such a trigger would limit consumers' ability to defend themselves to a small fraction of their legitimate complaints.

We need no further studies, appointed commissions or institutes to examine the need for consumer class action legislation. This measure underwent almost 3 weeks of hearing and over 2 months of executive session consideration last year. This consumer class action provision was approved by the Commerce Committee by a vote of 17 to 2. Then, because opponents expressed concern that it would "open the floodgates" and clog the courts or permit harrassment of honest business, further hearings were held by the full Judiciary Committee.

At those hearings, all the basic objections to this bill—which I am sure we will hear again—were thoroughly explored and dispatched. On October 6 of last year, several of us in the Judiciary Committee circulated a memorandum to our colleagues which analyzed the need for a strong class action measure and the major objections raised against it. We also explained why other suggested alternatives such as small claims courts and State court class suits were inadequate. I ask unanimous consent that the covering letter from the junior Senator from Indiana (Mr. BAYH) the senior Senator from Massachusetts (Mr. KENNEDY), the former Senator from Maryland, Mr. Tydings, and myself along with the portions of that memorandum still pertinent to the Consumer Class Action Act of 1971 be printed in the RECORD at the conclusion of my remarks. I also request consent to have printed at that point the resolution recently passed by the Consumer Federation of America.

As my colleagues and I concluded in our memorandum:

> There is an urgent need to restore the consumers' faith in our legal system. This bill would do so, without overburdening the courts or harrassing businessmen.

Mr. President, let those who are worried about our overburdened Federal courts support measures to remove huge caseloads which no longer belong there—such as auto accident litigation—but let us not shut the door in the face of individual consumers who have no other adequate means of redress. Let us not tell the American taxpayer that the Federal courts they support are unavailable to him even though he has suffered injustice. We have heard no opponents of this measure suggest that private commercial litigation between wealthy corporations be removed from our "overloaded" courts. Only the little man who pays the overhead is told "no vacancy."

Let those concerned with restoring private initiative and individual responsibility—those concerned about overreliance on big government—support this measure which allows the consumer to resort to the American tradition of self-help through private action.

And above all, Mr. President, let those who urge critics of our Government procedures to work within the system and go into the courts, instead of the streets, make sure that the system works and that the courts are available.

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

U.S. SENATE,
Washington, D.C., October 6, 1970.

DEAR COLLEAGUE: This week floor action is scheduled on S. 3201, the Consumer Protection Act of 1970.

We support S. 3201, as amended and reported by the Commerce Committee, 17–2, after several months of hearings and executive deliberations.

Following the report of S. 3201 by the Commerce Committee, the bill was referred to the Judiciary Committee for consideration of the class action provisions and their impact on the federal court system.

No formal action was taken by the Committee on the Judiciary and, therefore, the bill has been reported back to the Senate without any recommendation from that Committee. No formal report of the Judiciary Committee will be issued.

Nonetheless, as members of the Judiciary mony heard before our committee may be a matter of discussion and interest during floor consideration of S. 3201 by your colleagues.

Accordingly, we have prepared the attached memorandum of our views in support of the bill. Most important, however, is the balanced nature of this legislation. In addition to providing new remedies for consumers, it also provides greater safeguards against harassment of honest businessmen than exist in any other type of class action litigation.

Sincerely,

BIRCH BAYH,
PHILIP A. HART,
EDWARD M. KENNEDY,
JOSEPH D. TYDINGS.

ANALYSIS OF JUDICIARY COMMITTEE CONSIDERATION OF THE CONSUMER PROTECTION ACT OF 1970

We support S. 3201 as amended by the Commerce Committee because it is a true consumer protection measure. Under this bill most consumers who are defrauded will have a remedy—they will be able to receive compensation for their damages. This is the essential difference between this bill and all the alternatives which have been suggested, regardless of the rationales which may have been offered for those alternatives. Only under this bill will fraudulent businessmen be forced to repay *all* their ill-gotten gains, not merely a few minor payments in a small number of cases.

The Commerce Committee bill allows consumers to band together to bring class actions in federal court, thereby eliminating procedural barriers that presently prevent defrauded consumers from obtaining a remedy unless their individual damages are quite large.

Basically, the bill allows the consumer to help himself in the traditional American manner—with a private lawsuit in court. But the bill does more than provide this remedy. It also provides defendants in any private action brought under this bill greater protection against harassing strike suits than those enjoyed by defendants in any other type of class action. We believe that any fair-minded analysis of this bill will reveal that this is balanced legislation—fair both to consumers and to businessmen.

There is an urgent need to restore the consumer's faith in our legal system. This bill would do so, without overburdening the courts or harassing businessmen. Nonetheless, additional amendments will be recommended which would significantly weaken the bill and would deny most consumers a remedy.

I. HISTORY OF THE COMMERCE COMMITTEE AMENDMENT TO S. 3201

This bill is certainly not a hastily drafted piece of legislation. It was reported favorably by an overwhelming majority of the Commerce Committee after eight days of hearings and over two and one half months of executive sessions. Prior to that time, the Judiciary Committee's Subcommittee on Improvements in Judicial Machinery had conducted two days of hearings on consumer class actions. During the Judiciary Committee hearings, Senator Ervin commented that he was impressed by the Commerce Committee's efforts in drafting this bill.

Two other aspects of the history of this bill are worth noting. First, the Administration switched its position relating to the private class action sections of the bill. Initially, Virginia Knauer, the President's adviser for consumer affairs, testified in favor of the original class action bill, S. 1980, and strongly endorsed the concept of private lawsuits as the best solution to consumer fraud:

> We believe that the private Bar is the sleeping giant of the consumer protection field; that *no governmental agency could do the job of aiding consumers as well as an aroused bar properly motivated.* Given proper motivation, we are convinced that thousands of private attorneys will answer the call in their new role of representing consumers.

That is why we wholeheartedly support the principle of consumer class actions set out in this proposed bill. (Emphasis added)

Now the Administration opposes private class actions unless the Federal Trade Commission or Justice Department has already successfully sued the defendant—the so-called "trigger" requirement.

The plain fact is that such a "trigger" requirement would deny protection to millions of defrauded consumers, for the small staffs and limited resources of the Federal agencies will not permit them to pursue more than a tiny fraction of the legitimate consumer complaints. During the Judiciary Committee hearings, Richard W. McLaren, an Assistant Attorney General and the Administration's spokesman on this issue, admitted that many consumers, those not protected by the federal agencies, would be left totally remediless because of the inadequacy of present State class action procedures. That is the heart of the issue and that is why we regret the Administration's retreat on this point.

Second, a great furor has been raised concerning the burden which this bill allegedly would place on the federal courts. As discussed below, we feel that the bill would not have such an effect. Nonetheless, it is worth noting a compromise offered by supporters of the bill during Commerce Committee consideration, a compromise which would have met any serious objection on this ground. The supporters of the bill offered to limit the number of class action cases coming to federal courts by including a minimum *aggregate* federal jurisdictional amount, to assure that only class actions of very substantial scope would be in federal court. However, to assure that all consumers would have a remedy, the supporters insisted upon a corollary provision providing adequate procedures for consumers to bring smaller class actions in State courts. The compromise was rejected by opponents of the bill.

II. NEED FOR THE COMMERCE COMMITTEE AMENDMENT TO S. 3201

The extensive hearings before the Commerce and Judiciary Committees clearly established the threefold bases for this legislation: millions of defrauded consumers; the present inadequacy of either State or Federal law to afford them a meaningful legal rem-

edy; and the inability of Federal agencies to take effective action on their behalf.

The need for a class action remedy can be briefly illustrated by examining an instance of the type of fraud to which this bill is directed.

Our hypothetical case involves a product (the Device), made by many manufacturers and sold under a variety of names. Taking advantage of our nation's weight consciousness, the companies producing the Device claim that it removes unneeded pounds, reduces the waistline, and returns one's muscle tone to that of his youth. Battery powered or plug-in, it operates by sending shocks through the body, causing muscles to contract. In the twenty years the Device has been on the market, over 400,000 units have been sold at between $100 and $400 apiece.

Not only does the Device not perform the weight-reducing miracles claimed, it also proves to be dangerous. The Device might activate dormant cancer cells or aggravate existing medical conditions, as epilepsy, hernia, ulcers, or varicose veins.

Only limited governmental action is possible under existing law. The Food and Drug Administration might be able to obtain an injunction prohibiting future sales, and the Federal Trade Commission could issue a cease and desist order preventing further fraudulent advertising of the Device's weight-reducing capabilities. But what about the 400,000 persons who were bilked out of $100–$400 apiece? And what about the profits these companies have obtained as a result of fraud—profits which will encourage them and others to exploit the public in new ventures? As we will show below, the defrauded consumers are out of luck and company executives laugh at our legal system all the way to the bank.

This, of course, is just one hypothetical example of the massive amount of fraud perpetrated upon American consumers every year. Of $750 billion dollars spent by American consumers last year, it has been responsibly estimated that about $200 billion was paid for little or no value. Most of the unjust enrichment resulting from this deception and fraud has occurred in small chunks—taking consumers for $10, $50, $100, or $400 at a time. By and large our judicial system has effectively condoned this type of theft and unjust enrichment by its failure to provide an effective remedy.

Why is there no remedy for this type of clear consumer fraud at the present time? State law prohibits deceptive practices in most jurisdictions, but the consumer cannot hire an attorney for less than $500 or $600 for a law suit to regain the $100 or $400 he has lost. Therefore, practically speaking, he cannot afford to sue as an individual unless he wishes to sue strictly as a matter of principle. If he is poor enough to be eligible for Legal Aid, the consumer might be able to find a lawyer to take his case without fee. But Legal Aid is available only to the very poor, and Legal Aid offices do not have enough resources or manpower to represent more than a few of even the very poor defrauded consumers. In any event, most families, though hardly wealthy, do not qualify for such assistance. They are left totally without a remedy. The substantive right to sue a fraudulent businessman, without the provision of practical access to the courts, is a hollow remedy indeed.

The only adequate answer to the problem created by the expense of attorney's fees and other costs of litigation relative to the amount of damages suffered by any one individual consumer, is to allow consumers to band together and sue as a class, spreading the cost among many, so that these costs do not totally eliminate recovery by the individual.

The other vital reason for class actions is their deterrent value. Two hundred billion dollars of fraud per year cannot be allowed to continue. The best deterrent to fraudulent practices is to make the businessman repay *all* his illegally obtained gains in a class action brought on behalf of all consumers cheated by a particular deceptive practice. If only individual remedies are available, the fraudulent businessman has little incentive to stop his theft, for even if he loses a few cases, he will end up well ahead financially. But if he faces the prospect of losing all his profits from the fraud, he will think twice before continuing it. Equally important, if he takes a chance and is successfully sued, the point will not be lost upon others utilizing the same or similar practices.

A. Inadequacy of State class action procedures

But only 19 states allow modern class action procedures, and the adequacy of even these procedural devices varies widely in consumer fraud cases. *Thus consumers in the vast majority of states have no class action procedural remedy, and, therefore, no effective remedy at all.*

The National Conference of Commissioners on Uniform State Laws has recently proposed the Uniform Consumer Sales Practices Act for adoption in all the States. That Act parallels the Commerce Committee amendment to S. 3201 in most significant aspects and does provide a class action procedure for consumers. However, it will undoubtedly require a long time for this Uniform Act to be passed in all the States. Approximately fifteen years were required to secure passage of the Uniform Commercial Code in forty-nine states, and if the business opposition to class actions generated by this bill is any indication of what will be brought to bear on state legislatures considering the Uniform Act, a repeat of that fifteen year delay is a conservative estimate.

More importantly, even if every state eventually provides a class action remedy, there still will be no adequate or efficient remedy for dealing with national fraud. A federal remedy is obviously necessary in such cases, for one national class action is more efficient than fifty state class actions. Consolidation into one case is possible only in the Federal court system. Also, one national class action assures uniformity in the Rule of Law, rather than conflicting decisions by state courts in different jurisdictions.

B. Inadequacy of present Federal remedies

Thus a Federal consumer class action remedy is necessary, but none now exists. Rule 23 of the Federal Rules of Civil Procedure allows class action procedures to be used in federal courts, but does not confer subject matter jurisdiction. One must get into Federal court on some other basis before invoking Rule 23. Since Federal statutes do authorize antitrust, civil rights, and stockholder derivative actions without regard to the amount in controversey, plaintiffs in such suits can utilize the provisions of Rule 23. But at present there is no federal fraud law clearly creating a private cause of action in the federal courts.[1] And if the plaintiffs rely upon diversity jurisdiction and look to state fraud law, they face the severe obstacle of the recent Supreme Court decision in *Snyder v. Harris*, 394 U.S. 332 (1969). *Snyder* held that the $10,000 jurisdictional requirement in diversity cases must be met by one plaintiff's claim, not the aggregate of the claims of the class. Thus there is no Federal court remedy available to the defrauded consumers in the typical case, even though individually they may have lost hundreds of dollars, and as a class, millions of dollars.

Nor are Federal agencies of particular assistance to this defrauded consumer. In the type of situation outlined in our hypothetical example above, the Justice Department has no power at the present time, and the Federal Trade Commission has power only to obtain a cease and desist order preventing future sales of the Device under the deceptive advertising. It cannot provide a remedy to someone who has already been defrauded. The power to issue cease and desist orders is hardly an effective deterrent, for why should businessmen stop defrauding consumers if the only result of being caught is that they are ordered to stop? Moreover, as discussed above, increasing the enforcement powers of these understaffed agencies without also permitting consumers to bring class actions on their own will leave the overwhelming majority of consumer fraud uncontrolled.

The result of the failure of the American legal system to provide an effective remedy to our hypothetical consumers and millions of others like them, either at the State or Federal level, is that fraudulent businessmen become richer and richer, *as a result of their fraud.*

During the Judiciary Committee hearings, several witnesses noted another cost to society from our failure to provide a remedy in this situation—the loss of respect for our courts and legal system as a whole. As Ralph Nader emphasized, at a time when we in Washington are telling the young to "work within the system" to solve their grievances, it would be irresponsible to deny consumers the procedural remedy they need to do just that. As Nader also noted, when *substantive* rights are denied, that is bad enough; but when special interests are allowed to block *procedural* rights of people (access to the courts), the situation is much worse.

III. THE COMMERCE COMMITTEE AMENDMENT TO S. 3201 PROVIDES AN EFFICIENT REMEDY TO CONSUMERS AND AN EFFECTIVE DETERRENT TO FRAUD

This bill creates a federal fraud cause of action and allows consumers to bring class actions in Federal court. All defrauded consumers have a remedy. The creation of a private cause of action follows the American tradition of self help as the preferable way to solve such problems, not reliance upon a centralized Federal bureaucracy. Ironically, many of the special interests who oppose this bill because of this class action provision are the same ones who also perennially oppose centralized government regulation of business. What is their real concern?

The bill also *deters* fraud in the traditional American way—make it unprofitable.

The single class action in federal court is also the most efficient manner of dealing with massive fraud—one set of pleadings, one round of discovery, one motion to dismiss. It also avoids inconsistent decisions in several states and equalizes the power between plaintiff and defendant. If there are 50 different State actions, the defendant need hire only one expert witness, for instance, and the expert's findings can be used in all 50 lawsuits. The plaintiffs in various states would each be forced to hire their own expert. But in a single Federal class action, the plaintiffs would also have to hire only one expert.

IV. OPPOSITION: OVERBURDENING THE FEDERAL COURTS

The primary objection to this bill, which provides the only effective remedy for defrauded consumers, is that it will overburden the Federal courts. In the first place, the deterrent effect of such legislation cannot be ignored. A few successful class actions

[1] There are several cases now pending in which the plaintiffs assert that there presently exists a private cause of action without regard to the amount in controversy under Section 5 of the Federal Trade Commission Act. We express no opinion on the validity of this assertion. However, it should be noted that if these lawsuits succeed, class actions by consumers to obtain damages from fraudulent businessmen will be wide open. On the other hand, under this bill class actions will be limited to situations in which the consumer has damages which exceed $10.

on behalf of all consumers injured by a particular deceptive practice, forcing the defendant to disgorge his ill-gotten gains, will soon reduce the number of adjudications under this bill, because fraud will no longer pay.

Secondly, while no one knows how many actions will be brought if this bill becomes law, prior experience with class actions. That rule was significantly liberalized in the 1960's, and yet there has been no flooding of the Federal courts as a result.

Class actions are routinely used in shareholder derivative suits, in antitrust actions, and in civil rights cases. There has been no resulting burden on the courts. The courts in Arizona, Massachusetts, Minnesota, Montana, Washington, and the District of Columbia, the only other jurisdictions where class actions as contemplated in this bill are possible, have suffered no ill effects.

This prior experience, which is certainly a better indicator than dire predictions, suggests that there will not be a flood of litigation. This is true because class actions can be brought only in limited circumstances and with the close supervision of the courts.

At the present time the Federal Rules of Civil Procedure and federal case law provide a district court judge with wide latitude in controlling class suits. These precedents and procedures exist, and are presently being used, to prevent the waste of court time or of defendant's money in specious actions, or ongoing suits.

Getting Into Court. In order to bring an action as a class suit, a stringent set of conditions must be fulfilled. Rule 23(a) requires that:

1. Permissive joinder must be impractical;
2. A common question of law or fact must exist;
3. The defense must be reasonably similar to all the members of the class; and
4. The plaintiff must be a member of the class and must adequately represent all members of the class.

Rule 23(b)(3), under which consumer class actions would be brought, further requires that:

1. The common question of law or fact must *predominate* over the other issues; and
2. The class action approach must be *superior*—in terms of judicial efficiency—to all other types of proceedings.

The plaintiff has the burden of proof in all these requirements, and mere allegations of these prerequisites in the pleadings is insufficient to establish a class suit. We repeat, in every case *the plaintiff must satisfy the court that a true class action does exist and that it is the most efficient manner of proceeding.* Rule 23 thus establishes a judicial "trigger," as opposed to the executive, bureaucratic "trigger" favored by the Administration.

Judicial Control. Rule 23 not only filters out improper class suits. It also grants a Federal judge broad powers to control a class action, insuring that it does not delay the suit, cause unnecessary cost, or otherwise harm the interests of the court or defendant. The court can consolidate or stay other suits, impose appropriate conditions upon the plaintiff before accepting a class suit, and appoint a general counsel to represent the class [Rule 23(d)(3)].

The court is granted the specific power to change the conditions of the class suit if that is required. And the court is supposed to make an early determination to see if the suit will be manageable—if it appears unmanageable, the class suit must be rejected [Rule 23(c)(1)].

And the courts are already using this provision to protect themselves. During the Judiciary Committee hearings, an antitrust case based upon price-fixing by bread manufacturers in the Philadelphia area was discussed. There a class action was brought by one person on behalf of over one million consumers who had purchased bread. When no other consumers expressed an interest in the lawsuit, the judge dismissed it as unmanageable. On the other hand, in the antibiotics antitrust class action, many consumers expressed an interest in the suit and were represented to a great extent by State Attorneys General and city Corporation Counsel. There the court determined that the suit was manageable, and a settlement was arranged on behalf of all consumers in the United States who had purchased antibiotics within a certain period. There were vast numbers of plaintiffs in both cases, but the courts were able to determine that one was manageable and one not.

The effectiveness of Rule 23 in controlling the number of class actions which may be brought was cited by Mr. Milton Handler, who testified against the bill. In his Commerce Committee testimony Handler stated:

[O]ne may well question the wisdom of encouraging class actions as is done by S. 3092 [an earlier version of the class action section of this bill] in contrast to *Rule 23, which by its stringent controls discourages their institution save in those special situations where they would be appropriate* (Emphasis added.)

Use of Masters. When particular aspects of a trial, because of their complexity or magnitude, become burdensome on the court, the judge has the power to appoint a master. The master then collects the necessary data for the court. This technique of saving the court's time, as provided for by Rule 53, is used in copyright, antitrust, bankruptcy, and shareholder derivative suits.

The judge, upon motion of the parties or by himself, appoints a master. The court defines the master's task and limits his authority. The master can be used for questions concerning the merits or procedure. A master can require the production of evidence and rule on the admissability of evidence.

The costs of a master are set and assessed by the court. The judge can assess the losing party, divide costs, or require a party who unnecessarily demanded a master to pay.

Masters have been employed in fraud cases to take evidence, measure profits, or ascertain damages. Masters are used to relieve courts of the burdens of class actions if certain issues involve detailed investigation—such as finding the size of the class or assessing individual damages.

A. Complexity of class action litigation

Of course complex class actions under this bill will take some time to complete. That is natural—any complex litigation is protracted. But the time spent by one court in one national class action will be less than the total time required for hundreds or thousands of individual actions to be processed.

Moreover, even if this is complex litigation, why should we discriminate against these cases, which are complex because of numbers of plaintiffs rather than because of the subject matter? If it takes three or four years to process a $100 million antitrust suit, why are some so upset at the thought that a court might spend three or four years on a $100 million consumer class action?

Class actions under this bill would not be so large or complex as to be unmanageable. Judge Alfred P. Murrah, Chairman of the Judicial Panel on Multidistrict Litigation, clearly stated before the Judiciary Committee that our Federal district judges have the expertise to manage these cases, and the attorneys who handle this type of litigation agreed.

We should also note that this litigation would be no different from any other class action suit under Rule 23, and that the courts have been able to manage these without any substantial difficulty. Much of the criticism of this bill is directed at the general procedure authorized by Rule 23. Rule 23 was drafted by the Advisory Committee on Civil Rules, which is chaired by Dean Acheson. The reporter of the committee is Benjamin Kaplan, Professor of Law at Harvard and author of a leading casebook on civil procedure. The Rule was then submitted to the 50 State Committees on Civil Procedure for their comments and criticisms and some changes were made. The proposed Rule 23 then went to the Standing Committee on Rules of Practice and Procedure, chaired by Judge Albert Marris, the senior Circuit Judge of the Third Circuit. After passage it was approved by the Judicial Conference of the United States, by the United States Supreme Court, and by Congress.

This process involved three years of detailed consideration by judges and distinguished attorneys. The Rule was designed to meet a need for efficient judicial handling of grievances affecting vast numbers of people. Before the United States Senate gives much credence to criticism of this bill which is in essence a criticism of Rule 23, we believe that this history of the promulgation of that Rule should be carefully considered.

Moreover, lest the impression be given that the complexity of these cases ties up even one judge's time for a few years, we should note that the district judge handling the antibiotics antitrust case, probably the largest class action ever processed by a Federal court, carried his normal judicial caseload during the entire pendency of that action.

Attorneys who practice regularly in the field of class actions explained to the Judiciary Committee how these lawsuits really proceed. They pointed out that the specter of a defendant demanding individual trials or individual jury trials on proof of damages for every individual plaintiff is an unreal "straw man", for 95% of these actions will be settled. Moreover, often consumers will be represented by States or cities suing in their behalf, as occurred in the antibiotics antitrust case. But most importantly, once the issue of liability has been decided—i.e. that the defendant has engaged in an unfair or deceptive practice—no defendant is going to insist on individual damage determinations because he would bear the expense, including attorney's fees, of those trials which he lost. Once liability is determined, it is obviously cheaper for all concerned to estimate damages, using one of several devices that courts have successfully employed in antitrust damage actions by consumers, as the use of a master to ascertain damages, depositions, affidavits, etc.

But beyond the controls afforded by Rule 23, there is a far more fundamental solution to any increased court caseload which does occur—Congress should increase the manpower and resources of the Federal court system. We certainly can afford any expansion necessary to assure justice to the American consumer. As Chief Justice Warren E. Burger noted in his recent speech to the American Bar Association, the present cost of the Federal Judicial System is $128 million, while one C–5A airplane costs $200 million. The alternative to expansion of the courts is the denial of a remedy to millions of consumers, and resulting disrespect for the courts and our legal system. We are not prepared to tell the American people that we must save the Federal courts, which their taxes support, for suits brought by larger corporations.

V. OBJECTION—HARASSMENT OF HONEST BUSINESSMEN

The second objection to the Commerce Committee amendment to S. 3201 is that it is unfair to businessmen—that it subjects them to harassment, strike suits and frivolous claims. The history of the promulgation of Rule 23 indicates the contrary. The distinguished judges and attorneys who participated in that process certainly did not write a Rule to allow the harassment of businessmen. Cases under this bill would be no different from class action antitrust cases or

stockholder derivative suits, for instance, in terms of the protections provided by Rule 23 against harassment. In fact, this bill gives the defendant additional protections which he does not enjoy in other types of actions.

Rule 23 was designed to give the court power to filter out the burden and expense of frivolous or strike suits. The judge can limit the scope of the class action and impose conditions for its use. He can demand evidence of the existence of a class early in proceedings. A class action under fraud requires that there be no material variations in the misrepresentations involved. Thus diverse complaints cannot be amalgamated to create a class.

Frivolous actions brought without a chance of success can be weeded out before expensive proceedings occur. Before accepting a class suit, because of its importance to any defendant, a judge can require that the plaintiff show "a substantial possibility that he will prevail on the merits." *Dolgow v. Anderson*, 43 FRD 474 (E.D.N.Y. 1968). Any defendant can thus immediately smoke out strike suits at a pre-trial hearing.

Finally strike suits and ambulance chasing are unlikely because the court considers the reasonableness of the plaintiff's attorney's fees under this bill—both in regard to the work he does and the likelihood of recovery at the initiation of the suit. Secondly, the court has control over any settlement agreement, to protect the members of the class (Rule 23(c)).

SUMMARY

In summary, we support S. 3201, as amended, because it is a balanced piece of legislation. For the consumer, it provides added enforcement powers to Federal agencies charged with protection of consumers, and it gives consumers the only effective self-help remedy, the private class action in Federal court, for the many cases which Federal agencies will be unable to litigate. For the businessman, it provides protections in addition to those inherent in Rule 23:

1. Consumers who lose less than $10 are excluded from the class action provisions;
2. The Federal Trade Commission or Justice Department is allowed the first chance to sue the defendant under the provision requiring 90 days notice to the FTC prior to the filing of a private class action;
3. Voluntary settlements are provided for under supervision of the courts;
4. Plaintiff's attorney's fees are reviewed by the court and must be reasonable and relate to the actual work performed; and
5. If an action is brought frivolously and with the intent to harass, the court can force the plaintiffs to pay the defendant's legal fees.

There is an urgent need to provide the consumer an effective remedy against fraudulent or deceptive practices. The Commerce Committee amendment to S. 3201 does so, without overburdening the federal courts or encouraging the harassment of honest businessmen.

UNANIMOUSLY ADOPTED BY DELEGATES AT THE ANNUAL MEETING OF CONSUMER FEDERATION OF AMERICA, JANUARY 27, 1971

REPORT OF THE PLATFORM AND RESOLUTIONS COMMITTEE, JANUARY 27, 1971

We reaffirm the detailed platform and policy resolutions adopted at the Third Annual meeting in Madison, Wisconsin in August, 1970. We rely on the judgment of the Board and Executive Committee acting through the executive director to focus effort where we can best achieve results. Recognizing this need for flexibility, we recommend these general priorities for CFA and its affiliates in 1971:

A. Federal level

1. Supporting better remedies for protecting consumer rights, the independent consumer counsel, class actions, and automobile insurance.

2. Working to lower consumer prices by encouraging lower interest rates, comprehensive and more economical delivery of health services, opposition to high tariffs, improving the quality of the environment, and concern for the consumer interest of the elderly in planning for the White House Conference on Aging.

B. State level

Supporting laws against consumer fraud modelled on the uniform act proposed by the Federal Trade Commission and the Boston Law Center; abolishing the doctrine of the holder in due course in consumer credit transactions; imposing fair interest rate ceilings, reforming automobile and homeowners insurance, establishing equities in utility rates, and opposing the Uniform Consumer Credit Code.

C. Local level

Implementing program to involve low income consumers in helping to protect their own rights, such as consumer education, consumer cooperatives, publicity of grievances, and speedy legal redress.

Respectfully submitted,

MILDRED JEFEREY,
HELEN NELSON,
ESTHER PETERSON,
LEE RICHARDSON,
CURRIN SHIELDS,
DON L. WILLNER,
Chairman.

By Mr. MAGNUSON (by request):

S. 985. A bill to amend Public Law 91–514. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference, a bill to amend Public Law 91–514, and ask unanimous consent that the letter of transmittal and the statement of need be printed in the RECORD together with the text of the bill.

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

THE SECRETARY OF COMMERCE,
Washington, D.C., February 16, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
United States Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are four copies of a draft bill:

"To amend P.L. 91–514," together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce.

STATEMENT OF PURPOSE AND NEED

Reorganization Plan No. 4 of 1970 transferred from the Secretary of the Interior to the Secretary of Commerce "All functions vested by law in the Bureau of Commercial Fisheries of the Department of the Interior or in its head, together with all functions vested by law in the Secretary of the Interior or the Department of the Interior which are administered through that Bureau or are primarily related to the Bureau, exclusive of functions with respect to (1) Great Lakes fishery research and activities related to the Great Lakes Fisheries Commission, (2) Missouri River Reservoir research, (3) the Gulf Breeze Biological Laboratory of the said Bureau at Gulf Breeze, Florida, and (4) Trans-Alaska pipeline investigations." Among these functions which were transferred effective October 3, 1970, were the functions of the Secretary of the Interior under P.L. 88–308, approved May 28, 1964, under which foreign flag vessels are prohibited from engaging in fishing in certain coastal waters.

P.L. 91–514, which had been introduced before Reorganization Plan No. 4 was announced, passed the Congress on October 14, 1970 and was approved by the President on October 27, 1970. P.L. 91–514 in amending the first sentence of Section 3(a) of P.L. 88–308, to add a new clause at the end thereof, restated the existing language of the sentence, including a reference to the Secretary of the Interior as one of the officers empowered to enforce the Act. Since P.L. 91–514 became law after the effective date of Reorganization Plan No. 4, the mention of the Secretary of the Interior in it might be construed as having the unintended effect of retransferring this single isolated function back to him.

The attached bill simply amends the particular sentence to resolve any legal ambiguities by changing the reference to the "Secretary of the Interior" to refer to the "Secretary of Commerce".

S. 985

A bill to amend Public Law 91–514

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled: That section 2 of Public Law 91–514 is amended by striking the words "of the Interior" and inserting in lieu thereof the words "of Commerce".

By Mr. MAGNUSON (for himself and Mr. MOSS, Mr. HART, Mr. INOUYE, Mr. KENNEDY, Mr. MCINTYRE, Mr. PASTORE, and Mr. PEARSON):

S. 986. A bill to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, on behalf of myself and Senator Moss and Senators HART, INOUYE, KENNEDY, MCINTYRE, PASTORE, and PEARSON, I introduce for appropriate reference a bill to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

The purpose of this bill is twofold: First, to bring fairness, rationality, and minimum standards to warranty practices; and, second, to sharpen the tools of the Federal Trade Commission so that it can better referee warranty and other business practices which have profound effects upon consumers in the United States.

Title I of the bill sets forth minimum disclosure standards for warranties on consumer products, defines minimum content standards for warranties, and provides meaningful consumer remedies for the breach of any warranty or service contract obligation.

Title II of the legislation improves the Federal Trade Commission's ability to

deal with unfair consumer acts and practices "affecting" interstate commerce by providing the Commission with the power to seek preliminary injunctions, to order specific consumer redress, and to secure civil penalties for initial knowing violations of the Trade Commission Act or violations of Commission orders.

For many years, warranties have confused, mislead, and frequently angered consumers. A warranty is a complicated legal document whose full essence lies buried in centuries of legal decisions and complicated State codes of commercial law. Consumer understanding of what a warranty on a particular product means to him may not always coincide with the legal meaning. His warranty may cover a 25-cent part but not the hundred dollar labor charge. Or he might have full coverage on his piano so long as he is willing to pay for shipment to the factory.

For the past several years the Senate Commerce Committee, which I chair, has been exploring the consumer headaches related to warranty practices. The committee has received a never-ending flood of complaints from consumers throughout the United States—complaints on automobiles, televisions, washers, dryers, and other basic consumer products. In the 91st Congress the committee held extensive hearings and formulated a comprehensive Consumer Products Warranty Act designed to meet certain fundamental needs. Title I of the bill that Senator Moss and I introduce here today is substantially the same as the warranty bill which the Senate Commerce Committee reported and the Senate passed in 1970.

Let me review for you the four basic needs which the warranty provisions of this bill are designed to meet. In the first place, the bill is designed to promote consumer understanding. Far too frequently, suppliers of consumer products fail to communicate to the consumer what, in fact they are offering him in that small piece of paper proudly labeled "warranty." The consumer really does not comprehend what to expect from the warranty offered. Whom should he notify if his product stops working during the warranty period? What are his responsibilities after notification? How soon can he expect a fair replacement? Will repair or replacement cost him anything? There is a great need to generate consumer understanding by clearly and conspicuously disclosing the terms and conditions of the warranty and by telling the consumer what to do if his guaranteed product becomes defective or malfunctions.

There is also a need to insure consumers certain basic protection when they purchase consumer products which have written warranties. Normally when goods are sold, the law provides that certain warranties by implication accompany the sale of these goods. For example, the law implies a warranty of fitness for ordinary use or, where the seller knows that the goods are to be used by the buyer for a particular purpose, the law implies a warranty of fitness for a particular purpose. The law allows the seller to disclaim his implied warranties only by using such words as "as is" or "without fault" or by disclaiming the implied warranties when issuing an express warranty. These rules do no injustice to commercial buyers who are sophisticated in the ways of the marketplace and can judge the import of the express warranty and the implication of the disclaimer of the implied warranty. Unfortunately, the ordinary purchaser of consumer products does not know the meaning of words in an express warranty which state, for example, "this warranty is in lieu of any other express warranties or the implied warranties of merchantability or fitness." In this situation a consumer's rights may, without his knowledge, well be limited rather than expanded when a supplier of consumer products gives him a piece of paper with a bold claim of warranty written across the top. Therefore, there is a need to prohibit the disclaimer of implied warranties when a supplier of consumer products guaranties his products in writing.

In the marketplace today many warranties which promote consumer understanding and honor the implied warranties are, nevertheless, unsatisfactory because the warrantor does not live up to the promises he has made. There is no practical way to enforce these warranties except through the courts—a process which is prohibitively expensive. But economic sanction can be a very effective enforcement tool. If warrantors who did not perform as promised suffered direct economic detriment, they would have strong incentives to perform as promised. Therefore, there is a need to insure warrantor performance by monitarily penalizing the warrantor for nonperformance—and awarding that penalty to the consumer as compensation for his loss. One way to effectively meet this need is to provide reasonable attorney fees and court costs to successful consumer litigants, thus making consumer resort to the courts feasible.

In final analysis, many warranty problems could be cured if products were made sufficiently reliable to last the length of the warranty period if not beyond. Thus, there is a basic need to stimulate the production of more reliable products.

Title I of the bill introduced today contains specific provisions designed to meet each of the needs delineated above. Disclosure and labeling requirements are carefully spelled out. There is a prohibition against the disclaimer of implied warranties. There is a simplified system to enable the consumer to determine which products have full warranties, and, therefore, by economic necessity have been reliably designed. And there are provisions providing realistic remedies for consumers when suppliers fail to live up to their warranty or service contract obligations.

Title II of this bill enhances the Federal Trade Commission's ability to serve as a viable consumer protection agency. At the present time the commission is shedding its image as the "sleeping lady of Pennsylvania Avenue." It is awakening to its consumer protection responsibilities. But at the very time it is attempting to fulfill a vital regulatory function, it finds itself without the proper tools to police the marketplace. This bill would give the Commission the tools it needs.

In the first place, the bill would provide the Commission with the power to blow the whistle at the moment a violation of the Federal Trade Commission Act was detected. By giving the Commission the power to seek a preliminary injunction, the alleged unfair act or practice could immediately be stopped—the referee could whistle the play dead.

The bill would also enable the Commission to levy realistic penalties against those suppliers of consumer goods who commit unfair or deceptive practices. The Commission's own attorney's could seek civil penalties against those who knowingly violated the Federal Trade Commission Act, and these penalties would be meaningful, up to $10,000 per violation.

The legislation would also expressly confirm the existing authority of the Federal Trade Commission to promulgate trade regulation rules, defining specific unfair or deceptive practices, thus enabling businessmen to better understand what was expected of them. Finally, the bill would grant the Commission authority to provide specific remedial relief to consumers injured by suppliers who committed unfair deceptive acts or practices.

Through the provisions of this bill, the Commission would be able to order specific redress for injured consumers; no longer would it have to rely merely upon a slap of the violators wrist to maintain fair play in the marketplace.

It is my hope that the Senate Commerce Committee will give immediate consideration to this legislation and will report it to the floor for expeditious action by the Senate. I am greatly pleased to note that Congressmen DINGELL, MOSS, ECKHARDT, ADAMS, and CONTE are sponsoring a similar bill in the House and that action on this legislative package is anticipated in the very near future. This is very encouraging to me; I think American consumers deserve the kinds of protection afforded in the proposed "Consumer Product Warranties and Federal Trade Commission Improvements Act of 1971."

Mr. President, I ask unanimous consent that the text of the bill as introduced be printed in the RECORD following my remarks.

S. 986

A bill to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congerss assembled, that this Act may be cited as the "Consumer Product Warranties and Federal Trade Commission Improvements Act of 1971."

TITLE I—CONSUMER PRODUCT WARRANTIES DEFINITIONS

SEC. 101. For the purposes of this Act—

(1) The term "consumer product" means any tangible personal property, normally used for personal, family, or household purposes, including any such property intended to be attached to or installed in any real property without regard to whether it is so

attached or installed. However, the provisions affecting consumer products in sections 102, 103 and 104(d)(2) of this Act apply only to consumer products actually costing more than five dollars ($5).

(2) An "express warranty" is created as follows:

(a) Any affirmation of fact or promise made by a supplier to the purchaser which relates to a consumer product or service and becomes part of the basis of the bargain creates an express warranty that the consumer product or service shall conform to the affirmation or promise.

(b) Any description of a consumer product which is made part of the bargain creates an express warranty that the consumer product shall conform to the description.

(c) Any sample or model which is made part of the basis of the bargain creates an express warranty that the consumer product shall conform to the sample or model.

It is not necessary to the creation of an express warranty that the supplier use formal words such as "warranty" or "guaranty" or that he have a specific intention to make a warranty, but an affirmation merely of the value of the consumer product or service or a statement purporting to be merely the supplier's opinion or commendation of the consumer product or service does not create a warranty.

(3) "Purchaser" means the first buyer at retail of any consumer product or service to whom a warranty is offered or given, and any other person who is entitled by the terms of such warranty to enforce against the warrantor the obligations of the warranty.

(4) "Reasonable and necessary maintenance" consists of those operations which the person guaranteed reasonably can be expected to perform or have performed which are necessary to keep any consumer product operating in a predetermined manner and performing its intended function.

(5) The term "repair" may at the option of the warrantor include replacement with a new, identical, or equivalent consumer product.

(6) The term "replacement" shall include the refunding of the actual purchase price of the consumer product less reasonable depreciation based upon actual use if the warrantor is unable to effect replacement and repair is not possible or cannot be timely made, or if the person guaranteed is willing to accept such refund in lieu of repair or replacement.

(7) "Supplier" means any person (including any partnership, corporation, or association) engaged in the business of making a consumer product available to consumers, either directly or indirectly.

(8) "Warrantor" means any supplier or other third party who gives or offers to give an express warranty (guaranty).

(9) The term "warranty" includes guaranty, and to warrant is to guarantee.

(10) The term "without charge" means that the warrantor(s) cannot assess the person guaranteed for any costs the warrantor or his representatives incur in connection with the required repair or replacement of a warranted consumer product. The term does not mean that the warrantor must necessarily compensate the person guaranteed for incidental expenses. However, if any incidental expenses are incurred because the repair or replacement is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the person guaranteed as a condition of securing repair or replacement, then the person guaranteed shall be entitled to recover such reasonable incidental expenses in any action against the warrantor.

DISCLOSURE REQUIREMENTS

SEC. 102. (a) In order to improve the adequacy of information available to consumers, prevent deception, and improve competition in the marketing of consumer products, any supplier warranting a consumer product in writing against defect or malfunction shall fully and conspicuously disclose in simple and readily understood language the terms and conditions of said warranty pursuant to any regulations issued by the Federal Trade Commission under procedures specified in subsection (b) of this section. Such regulations may require inclusion in the written warranty of any of the following items among others:

(1) The clear identification of the names and addresses of the warrantors.

(2) Identity of the party or parties to whom the warranty is extended.

(3) The products or parts covered.

(4) A statement of what the warrantor will do in the event of defect or malfunction—at whose expense— and for what period of time.

(5) A statement of what the person guaranteed must do and expenses he must bear.

(6) Exceptions and exclusions from the terms of the warranty.

(7) The step-by-step procedure which the person guaranteed should take in order to obtain performance of any obligation under the warranty, including the identification of any class of persons authorized to perform the obligations set forth in the warranty.

(8) The availability of any informal dispute settlement procedure for any warranty dispute.

(9) A recital that legal remedies are available to any person guaranteed if the warrantor has not complied with the provisions of the warranty.

(10) A recital that any person guaranteed who successfully pursues his legal remedies may recover the reasonable costs incurred, including reasonable attorneys' fees.

(11) The time at which the warrantor will perform his obligations.

(12) The period of time within which, after notice of malfunction or defect, the warrantor will repair, replace, or otherwise perform any obligations under the warranty.

(13) The characteristics or properties of the products, or parts thereof, that are not covered by the warranty.

(14) The elements of the warranty in words or phrases which would not mislead reasonable men as to the nature or scope of the warranty.

(b) The Federal Trade Commission is authorized to determine in accordance with section 553, title 5, United States Code, upon a public record after opportunity for an agency hearing structured so as to proceed as expeditiously as practicable, the manner and form in which information with respect to any written warranty against defect or malfunction of a consumer product or service shall be clearly and conspicuously presented or displayed so as not to mislead the reasonable, average purchaser, when such information is contained in advertising, labeling, point-of-sale material, or other representations in writing. Nothing in this Act shall be deemed to authorize the Commission to prescribe the duration of warranties given or to require that a product or any of its components be warranted.

DESIGNATION OF WARRANTIES

SEC. 103. (a) Any supplier warranting or guaranteeing a consumer product in writing against defect or malfunction shall clearly and conspicuously designate such warranty in the following manner unless exempted from doing so by the Federal Trade Commission pursuant to section 109 of this Act:

(1) If the written warranty incorporates the Federal minimum standards for warranty set forth in section 104 of this Act, then it shall be conspicuously designated a "full (statement of duration)" warranty, guaranty, or word of similar meaning.

(2) If the written warranty does not incorporate the Federal minimum standards for warranty set forth in section 104 of this Act, then it shall be conspicuously designated a "partial" warranty, guaranty, or word of similar meaning.

(b) Statements or representations such as expressions of general policy concerning customer satisfaction which are not subject to any limitations are excluded from sections 102, 103, and 104 of this Act but shall remain subject to the provisions of the Federal Trade Commission Act and requirements in subsection (c) of section 110 of this Act.

FEDERAL MINIMUM STANDARDS FOR WARRANTY

SEC. 104. (a) Any supplier warranting consumer products in writing against defect or malfunction must undertake at a minimum the following duties in order to be deemed to have incorporated the Federal minimum standards for warranty:

The duties—

(1) to repair, or replace if repair is not possible or cannot be timely made, any malfunctioning or defective warranted product;

(2) within a reasonable time; and

(3) without charge.

In fulfilling the above duties the warrantor shall not impose any duty other than notification upon any person guaranteed as a condition of securing repair or replacement of any malfunctioning or defective consumer product unless the warrantor can demonstrate that such a duty is reasonable. In a determination of whether or not any such additional duty or duties are reasonable, the magnitude of the economic burden necessarily imposed upon the warrantor (including costs passed on to the purchaser) shall be weighed against the magnitude of the burdens of inconvenience and expense necessarily imposed upon the person guaranteed.

(b) The above duties extend from the warrantor to the purchaser.

(c) The performance of the duties enumerated in subsection (a) of this section shall not be required of the warrantor if he can show that damage while in the possession of the person guaranteed or unreasonable use (including failure to provide reasonable and necessary maintenance) caused any warranted product to malfunction or become defective.

(d) Disclosure requirements—

(1) When making a warranty in writing against defect or malfunction which incorporates Federal minimum standards, the warrantor shall cause it to be labeled a "full (statement of duration)" warranty, guaranty, or word of similar meaning.

(2) The disclosure requirements and Commission authorization in section 102 of this Act shall apply to any warranty in writing against defect or malfunction of a consumer product which incorporates Federal minimum standards: *Provided, however,* That it shall be mandatory for the warrantor issuing a written warranty in compliance with Federal minimum standards to cause the disclosure of the duration of the warranty period measured either by time or by some relevant measure of usage such as mileage to the purchaser prior to the time of purchase.

FULL AND PARTIAL WARRANTING OF A CONSUMER PRODUCT

SEC. 105. Nothing in this Act shall prohibit the selling of a consumer product which has both full and partial warranties if such warranties are clearly and conspicuously differentiated.

SERVICE CONTRACTS

SEC. 106. Nothing in this Act shall be construed to prevent a supplier from selling a service contract to the purchaser in addition to or in lieu of a warranty if such contract fully and conspicuously discloses in simple and readily understood language the terms and conditions.

DESIGNATION OF REPRESENTATIVES

SEC. 107. Nothing in this Act shall be construed to prevent any warrantor from designating representatives to perform duties

under the warranty: *Provided*, That such warrantor equitably compensates such designated representatives, but no such designation shall relieve the warrantor of his direct responsibilities to the person guaranteed or make the representative a cowarrantor.

LIMITATION ON DISCLAIMER OF IMPLIED WARRANTIES

SEC. 108. (a) There shall be no express disclaimer of implied warranties to a purchaser if any express warranty of a consumer product against defect or malfunction is made by a supplier to a purchaser in writing.

(b) For purposes of this Act, implied warranties may be limited in duration to the duration of an express warranty of reasonable duration, if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty.

FEDERAL TRADE COMMISSION

SEC. 109. In addition to the authority given in sections 102 and 104 of this Act pertaining to disclosure, the Federal Trade Commission is authorized to establish rules pursuant to section 553, title 5, United States Code upon a public record after an opportunity for an agency hearing structured so as to proceed as expeditiously as practicable, to define in detail the duties set forth in subsection (a) of section 104 of this Act and their applicability to warrantors of different categories of consumer products with "full" warranties, and to determine when a warranty in writing against defect or malfunction does not have to be designated either "full (statement of duration)" or "partial" in accordance with section 103 of this Act.

REMEDIES

SEC. 110. (a) Congress hereby declares it to be its policy to encourage warrantors to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms. Such informal dispute settlement procedures should be created by suppliers in cooperation with independent and governmental entities and should be supervised by some governmental or other impartial body.

(b) It shall be a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any person (including any partnership, corporation, or association) subject to the provisions of this Act to fail to comply with any requirement imposed on such person by or pursuant to this Act or to violate any prohibition contained in this Act.

(c)(1) The district courts of the United States shall have jurisdiction to restrain any supplier from making a deceptive warranty with respect to a consumer product or service in an action by the Attorney General or by the Commission by any of its attorneys designated by it for such purpose. The court may, pursuant to the general standards governing the issuance of injunctions in civil actions, at any time grant such injunctive relief as it deems appropriate. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

(2) For the purposes of this subsection, a "deceptive warranty" means: (i) a guaranty or warranty that contains an affirmation, promise, description, or representation that is either false or fraudulent, or that, in the light of all of the circumstances, would mislead a reasonable man exercising due care; or fails to contain information that is necessary, in light of all of the circumstances, to make the guaranty or warranty not misleading to a reasonable man exercising due care; and (ii) a guaranty or warranty created by the use of such terms as "guaranty" or "warranty," if the terms and conditions of such guaranty or warranty so limit its scope and application as to deceive a reasonable man.

(d) If any person guaranteed or protected by a service contract shall finally prevail in any suit or proceeding for breach of an express or implied warranty or service contract obligation on a consumer product, he shall be allowed by the court of competent jurisdiction to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by such person guaranteed or protected by a service contract for or in connection with the institution and prosecution of such suit or proceeding unless the court in its discretion shall determine that such an award of attorneys' fees would be inappropriate: *Provided*, That any person guaranteed, in a suit for breach of warranty, must have afforded the maker(s) of that warranty a reasonable opportunity to cure the breach to be eligible for such cost and expenses.

(e) Any person damaged by the failure of a supplier to comply with any obligations assumed under an express or implied warranty or service contract subject to this Act may bring suit in an appropriate district court of the United States subject to the jurisdictional requirements of section 1331, title 28, United Staates Code, or in any State or District of Columbia court of competent jurisdiction.

SAVING PROVISION

SEC. 111. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any statute defined therein as an antitrust Act.

SCOPE

SEC. 112. (a) The provisions of this Act and the powers granted hereunder to the Federal Trade Commission and Attorney General shall extend to all sales of consumer products and services affecting interstate commerce.

(b) Labeling, disclosure, or other requirements of a State with respect to written warranties against defect or malfunction of a consumer product inconsistent with those set forth in sections 102, 103, or 104 of this Act shall not be applicable to warranties complying with any of those provisions.

SEPARABILITY

SEC. 113. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 114. (a) Except for the limitations in subsection (b) of this section, this Act shall take effect six months after the date of its enactment but shall not apply to consumer products in the stream of commerce prior to such date.

(b) Those requirements in this Act which cannot be reasonably met without the promulgation of rules by the Federal Trade Commission shall take effect six months after the final publication of such rules: *Provided*, That the Federal Trade Commission, for good cause shown, may provide designated classes of suppliers up to an additional six months to bring their written warranties into compliance with rules promulgated pursuant to this Act.

(c) The Federal Trade Commission shall promulgate rules implementing this Act as soon as possible after enactment but in no event later than six months after the date of enactment.

TITLE II—FEDERAL TRADE COMMISSION IMPROVEMENTS

SEC. 201. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "affecting commerce."

SEC. 202. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (6) thereof the following new paragraphs:

"(7) The Commission is further empowered and directed to order such persons, partnerships, or corporations engaged in any act or practice which is unfair or deceptive to a consumer and is prohibited by subsection (a)(1) of this section, to take any other action necessary to redress the injury caused by such acts or practices to consumers.

"(8) The Commission shall initiate civil actions in the district courts of the United States against persons, partnerships, or corporations engaged with actual knowledge or knowledge fairly implied on the basis of objective circumstances in any act or practice which is unfair or deceptive to a consumer and is prohibited by subsection (a)(1) of this section, including any rule or regulation promulgated by the Commission under Section 6(g) of this act, in addition to any other action ordered under this section, to obtain a civil penalty of not more than $10,000 for each such violation. In seeking such penalty, the Commission shall give considerations to the appropriateness of the penalty, to the size of the business of the person charged, to the gravity of the violation, and to the history of previous violations. The Commission may compromise, mitigate or settle any civil penalty if that action is accompanied by a public statement of its reasons following a public hearing at which interested parties may be heard."

SEC. 203. Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended by deleting the period after the second and fifth sentences of subsection (b) and adding the following:

", or requiring such person, partnership, or corporation to take such other action as may be authorized by this Act and determined by the Commission to be necessary in order to remedy the violation or violations of law found by it."

SEC. 204. Section 5(c) of the Federal Trade Commission Act (15 U.S.C. 45(c)) is amended by inserting after the word "practice" in the first sentence of subsection (c) the following:

"or to take any other such action as may be authorized by this Act"

SEC. 205. Section 5(g) of the Federal Trade Commission Act (15 U.S.C. 45(g)) is amended by deleting the words "to cease and desist" after the word "Commission."

SEC. 206. Section 5(l) of the Federal Trade Commission Act (15 U.S.C. 45(l)) is amended by striking subsection (l) and inserting in lieu thereof the following new paragraph:

"(l) Any person, partnership, or corporation who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States or the Commission in its own name by any of its attorneys designated by it for such purpose. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of such final orders of the Commission."

SEC. 207. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or whose business affects commerce."

SEC. 208. Section 6(g) of the Federal Trade Commission Act (15 U.S.C. 46(g)) is amended by striking subsection (6) and inserting in lieu thereof the following:

"(g) From time to time to classify corporations and to make substantive and procedural rules and regulations for the purpose of carrying out the provisions of this Act. Whenever it appears to the Commission to be in the public interest, the Commission shall promulgate rules and regulations defining unfair or deceptive acts or practices in a manner sufficiently specific to reasonably inform affected persons of the acts or practices prohibited. Such rules and regulations shall be promulgated in accordance with section 553 of title 5, United States Code, after reasonable notice, an opportunity for interested persons to participate in the rulemaking through submission of written data, views, or arguments, and, if requested, the Commission shall hold a hearing in which interested persons shall have reasonable opportunity to present the same orally in an appropriate manner. The testimony in any such hearing shall be reduced to writing, shall be filed in the office of the Commission, and together with written submissions, shall constitute the record. Such record shall be open to public inspection. After consideration of all relevant matter presented upon such record, the Commission shall incorporate in any rule adopted a concise general statement of its basis and purpose. When any such trade regulation rule is promulgated and becomes final, a subsequent violation thereof shall constitute an unfair or deceptive act or practice in violation of section 5(a)(1) of this Act. Such rules and regulations shall be reviewable in the Court of Appeals for the District of Columbia in accordance with chapter 7 of title 5, United States Code. In addition the reviewing court shall hold unlawful and set aside agency action, findings, and conclusions found to be unsupported by substantial evidence upon the record as herein defined."

SEC. 209. Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by—

(a) deleting the word "corporation" in the first sentence of the first unnumbered paragraph and inserting in lieu thereof the word "party."

(b) deleting "; and the Commission shall have power to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to any matter under investigation" following the word "against" in the first sentence of the first unnumbered paragraph and inserting in lieu thereof, "The Commission shall also have the power to require by subpena the attendance and testimony of witnesses and the production of all documentary evidence relating to any matter under investigation";

(c) inserting after the word "Commission" in the second sentence of the second unnumbered paragraph the phrase "acting through any of its attorneys designated by it for such purpose";

(d) deleting the fourth unnumbered paragraph and inserting in lieu thereof the following:

"Upon application of the Attorney General of the United States or the Commission, acting through any of its attorneys designated by it for such purpose, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this act or any rule, regulation, or order of the Commission made in pursuance thereof."

SEC. 210. Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by deleting the third unnumbered paragraph and inserting in lieu thereof the following:

"If any corporation required by this Act to file any annual or special report shall fail to do so within the time fixed by the Commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure which forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit brought by the United States or by the Commission, acting through any of its attorneys designated by it for such purpose, in the district where the corporation has its principal office or in any district in which it shall do business."

SEC. 211. Section 12 of the Federal Trade Commission Act (15 U.S.C. 52) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or having an affect upon commerce."

SEC. 212. Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating "(b)" as "(c)" and inserting the following new subsection:

"(b) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation is engaged in, or is about to engage in, any act or practice which is unfair or deceptive to a consumer, and is prohibited by section 5, and

"(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission made thereon has become final within the meaning of section 5, would be to the interest of the public—

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon proper showing a preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage is granted by courts of equity. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."

By Mr. HANSEN (for himself, Mr. BEALL, Mr. DOLE, Mr. EASTLAND, Mr. FANNIN, Mr. GOLDWATER, Mr. GURNEY, Mr. HRUSKA, Mr. TOWER, and Mr. THURMOND):

S. 987. To amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower and facilities. Referred to the Committee on Finance.

Mr. HANSEN. Mr. President, I introduced today legislation to provide for a national health insurance program.

Along with a number of cosponsors, I am pleased to submit this national health insurance bill, called medicredit. It is designed to help people pay for their health and medical care and it is a measure that can mean a great deal to the people in this country.

The bill's cosponsors include Senators BEALL of Maryland; DOLE of Kansas; EASTLAND of Mississippi; FANNIN and GOLDWATER of Arizona; GURNEY of Florida; HRUSKA of Nebraska; TOWER of Texas; and THURMOND of South Carolina.

Mr. President, the bill will accomplish three important things:

First, it would pay the full cost of health insurance for those too poor to buy their own. Second, it would help those who can afford to pay a part—if not all of their health insurance premium. The less they can afford to pay, the more the Government would help out.

And third, this measure would see to it that no American would have to bankrupt himself because of a long-lasting, catastrophic illness.

In other words, the poor would pay nothing for their health insurance cerficate; the well-to-do would pay just about all of it; and those in between would pay what they could afford, according to a sliding scale. Everyone—rich and poor—would be protected against the cost of a catastrophic illness.

We think this bill would help those who need help—and do it at a cost the taxpayers can live with.

I am seriously concerned about the devastating effect which a catastrophic illness can have on families unfortunate enough to be stricken by such illness.

Great progress has been made in this century through scientific achievement in the ability to sustain and prolong life. It is now possible for patients to survive catastrophic illnesses and injuries which previously were fatal, and oftentimes rapidly fatal.

With the advent of these near miracle cures which often require long hospitalization and expensive initial surgery and sometimes continuing surgery and high-cost treatment—new problems have arisen in American life.

The net cost of a catastrophic illness or injury usually is staggering. Almost any family in America can be bankrupted in just a few months or even weeks by the cost. Many can never recover financially—even in more than a generation.

I believe the Government can be instrumental in helping to provide a safeguard against these destructive costs—through a catastrophic health insurance program. This would protect all Americans and their families from the tragedy of being wiped out financially through catastrophic illness cost.

Medicredit gives every American family the opportunity to protect itself against the cost of a catastrophic illness.

No family need face the prospect of losing its savings and even its home, because of medical bills.

The point at which a medical bill represents a catastrophe for a family certainly will vary.

It generally will relate to the family income. Thus, medicredit provides that insurance policies covered under this program must protect against catastrophic illness and defines what constitutes a catastrophic illness for famliies in different economic situations.

The sponsors of medicredit agree that a medical bill of virtually any size would

represent a catastrophe for a family whose income is under $3,000. On the other hand, a family with income of $8,000 could be expected to have resources which would enable it to afford a medical bill of $500, either from savings or through additional insurance protection. Similarly, a family with an income of $20,000 would be expected to afford medical bills of $2,750. Again, this amount could be paid from savings or the family could protect itself against this expenditure or a portion of it through health insurance.

The Senate Finance Committee last year voted 13 to 2—and I voted with the majority—in favor of a similar provision to protect all Americans against the cost of a catastrophic illness.

I am confident that the Congress will enact such legislation during this 92d Congress.

Mr. President, I ask unanimous consent to place in the RECORD at this point a brief summary of the Health Care Insurance Assistance Act of 1971—called medicredit—a proposal for Federal financing of health insurance.

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

SUMMARY

Medicredit would: (1) pay the full cost of health insurance for those *too poor* to buy their own, (2) help those who can afford to *pay a part*—if not all—of their health insurance premium. The less they can afford to pay, the more the government would help out, (3) see to it that no American would have to bankrupt himself because of a long-lasting, catastrophic illness.

(This bill addresses itself only to *financing* health care; other legislation and programs involve medical manpower supply and distribution, the method of delivering care, and other problems such as environment, health education, and peer review.)

ANALYSIS

Federal contribution

The Government would pay 100% of the premium for low-income beneficiaries (an individual and his dependents whose combined income for a taxable year would not give rise to any income tax liability). For others, the Government would provide scaled participation ranging between 97.5% and 10%, favoring lower-income persons, in the payment of premiums for basic coverage, and would pay in full the premium for catastrophic expense coverage. A table of allowable percentages for related income tax liabilities is included in the bill.

The extent of participation would be determined with reference to federal income tax liability of an individual in a particular year (base year). A health care insurance policy, qualified under this program, would run for a 12-month period beginning in the year following (benefit year).

Health insurance certificates; income tax credits

A beneficiary eligible for full payment of premium by the Federal Government would be entitled to a certificate acceptable by carriers for health care insurance for himself and his dependents. Eligible beneficiaries with whom the Government would be sharing the cost of premium could elect between a credit against income tax or a certificate. The carrier, as defined in the bill, would present certificates received in payment of premium to the Federal Government for redemption.

Qualification of participating carriers

To participate in the plan, a carrier would have to qualify under state law, provide certain basic coverage, make coverage available without pre-existing health conditions, and guarantee annual renewal. An assigned risk insurance pool among carriers would be utilized as appropriate.

Health insurance coverage

A qualified policy would offer comprehensive insurance against the ordinary and catastrophic expenses of illness. Basic benefits in a 12-month policy period would include 60 days of inpatient care in a hospital or extended care facility (but any two days in an extended care facility would count as one of the 60 days). Other basic benefits would provide emergency and outpatient services and all medical services provided by doctors of medicine or osteopathy. The catastrophic expense protection would pay incurred expenses for benefits in excess of the basic coverage, including hospital, extended care facility, inpatient drugs, blood, prosthetic appliances, etc.

Deductibles

A policy purchased under this program will contain:

(a) Under the basic coverage—a deductible of $50 per hospital stay, and 20% coinsurance of the first $500 of medical expense and on the first $500 of emergency or outpatient expenses; and

(b) Under the catastrophic illness provisions—a corridor, between the basic coverage and the catastrophic illness coverage, of expenses to be incurred by the beneficiaries before payments under the catastrophic illness provisions would begin. The amount of the corridor would be based on taxable income (that is, net income after all tax deductions and personal exemptions): 10% of the first $4,000, 15% on the next $3,000, and 20% thereafter.

A family of four, having an adjusted gross income of $6,100, would have a taxable income (after all tax deductions) of $2,900. Its corridor would be 10% of $2,900, or $290.

Health insurance advisory board

A health insurance advisory board of eleven members, a majority of whom shall be practicing physicians, and including the Secretary of HEW and the Commissioner of Internal Revenue and other persons qualified by virtue of education, training, or experience, would be appointed by the President with Senate consent. The Board would establish minimum qualifications for carriers, and in consultation with carriers, providers and consumers, would develop programs designed to maintain the quality of health care and the effective utilization of available financial resources, health manpower, and facilities. It would report annually to the President and Congress.

PARTICIPATION IN CATASTROPHIC COVERAGE

The point at which a medical bill represents a catastrophe for a family certainly will vary. It generally will relate to the family income. Thus Medicredit provides that insurance policies covered under this program must protect against catastrophic illnesses and defines what constitutes a catastrophic illness for families in different economic situations.

As an example of how the program would be applied, a medical bill of virtually any size would represent a catastrophe for a family whose income is under $3,000. Therefore, catastrophic coverage would begin without any payments by the individual. On the other hand, a family with income of $8,000 could be expected to have resources which would enable them to handle a medical bill of $500, either from savings or through additional insurance protection. Similarly a family with an income of $20,000 would be expected to afford medical bills of $2,750. Again this amount could be paid from savings or the family could protect itself against this expenditure or a portion of it through health insurance.

The following table illustrates the scale of payments to be made by a family of four in each of several economic situations:

Corridor table

(10% on 1st $4,000; 15% next $3,000; 20% thereafter)

Adjusted gross income:	*Corridor for family of 4*
$1,000	$0
$2,000	0
$3,000	0
$4,000	70
$5,000	190
$6,000	290
$7,000	380
$8,000	505
$9,000	640
$10,000	775
$20,000	2,750
$30,000	4,750

Mr. HANSEN. Mr. President, in an effort to provide as much factual information on the various alternatives now pending on national health insurance programs, I ask unanimous consent that the following analysis be made a part of the RECORD.

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

HEALTH CARE INSURANCE ASSISTANCE ACT OF 1971

The American Medical Association's proposal (Medicredit) would: (1) pay the full cost of health insurance for those too poor to buy their own, (2) help those who can afford to pay a part—if not all—of their health insurance premium, the less an individual can afford to pay, the more the government would help out, and (3) see to it that no American would have to bankrupt himself because of a long-lasting, catastrophic illness. The bill would apply to all individuals residing in the U.S.

Under the bill, the Government would pay 100% of the premium for low-income beneficiaries (an individual and his dependents whose combined income for a taxable year would not give rise to any income tax liability). For others, the Government would provide scaled participation ranging between 97.5% and 10%, favoring lower-income persons, in the payment of premiums for basic coverage, and would pay in full the premium for catastrophic expense coverage. A table of allowable percentages for related income tax liabilities is included in the bill.

The extent of participation would be determined with reference to the federal income tax liability of an individual in a particular year (base year). A health care insurance policy, qualified under this program, would run for a 12-month period beginning in the year following (benefit year).

A beneficiary eligible for full payment of his premium by the Federal Government would be entitled to a certificate acceptable by carriers for health care insurance for himself and his dependents. Eligible beneficiaries with whom the Government would be sharing the cost of the premium could elect between a credit against income tax or a certificate for the allowed amount. The carrier, as defined in the bill, would present certificates received in payment of premium to the Federal Government for redemption.

To participate in the plan, a carrier would have to qualify under state law, provide certain basic coverage, make coverage available without pre-existing health conditions, and

guarantee annual renewal. An assigned risk insurance pool among carriers would be utilized as appropriate.

A qualified policy would offer comprehensive insurance against the ordinary and catastrophic expenses of illness. Basic benefits in a 12-month policy period would include 60 days of inpatient care in a hospital or extended care facility (any two days in an extended care facility would count as one of the 60 days). Other basic benefits would provide emergency and outpatient services and all medical services provided by doctors of medicine or osteopathy. The catastrophic expense protection would pay incurred expenses for benefits in excess of the basic coverage, including hospital, extended care facility, inpatient drugs, blood, prosthetic appliances, etc.

A policy purchased under this program would contain:

(a) Under the basic coverage—a deductible of $50 per hospital stay, and 20% coinsurance of the first $500 of medical expense and on the first $500 of emergency or outpatient expenses; and

(b) Under the catastrophic illness provisions—a corridor, between the basic coverage and the catastrophic illness coverage, of expenses to be incurred by the beneficiaries before payments under the catastrophic illness provisions would begin. The amount of the corridor would be based on taxable income (that is, net income after all tax deductions and personal exemptions): 10% on the first $4,000, 15% on the next $3,000, and 20% thereafter.

A health insurance advisory board of eleven members, a majority of whom would be practicing physicians, and including the Secretary of HEW and the Commissioner of Internal Revenue and other persons qualified by virtue of education, training, or experience, would be appointed by the President with Senate consent. The Board would establish minimum qualifications for carriers, and in consultation with carriers, providers and consumers, would develop programs designed to maintain the quality of health care and the effective utilization of available financial resources, health manpower, and facilities. It would report annually to the President and Congress. The AMA estimates that the program would cost about $12.1 billion in new money.

HEALTH INSURANCE ASSOCIATION OF AMERICA—NATIONAL HEALTH CARE ACT OF 1970—H.R. 4349

This bill has provisions relating to five areas of health care delivery. These five areas are: (1) methods to increase and redistribute the supply of health manpower, (2) the promotion of ambulatory care, (3) methods to strengthen health planning, (4) methods to improve cost and quality control and (5) a program for financing health insurance.

In its program for providing a system of health insurance for all, the bill first would establish a minimum standard health care benefits program to be expanded to provide full coverage by 1979, which must be included in any qualified health insurance policy. Different levels of minimum benefits would be required for private group and individual plans and for state pool plans for the poor, near poor and the previously uninsurable. The state pool plan coverage would be more comprehensive initially. The private group and individual plans would come into effect January 1, 1973 and would include 30 days of hospital care, 60 days of skilled nursing home care, 90 days of home health care, all diagnostic x-ray and laboratory examinations on an ambulatory basis, all surgery and radiation therapy in ambulatory health care centers, 3 visits a year for each family member to a physician in his office or an ambulatory health care center, well baby care including immunization up to 6 visits during the first 6 months after birth, and charges for physician services while institutionalized

Initial benefits under the state pool plans would begin July 1, 1972 and would be identical to those above except that 6 visits per year for each family member to a physician would be allowed, well baby care would include up to 12 visits during the first two years, hospitalization would be covered for the first 120 days, skilled nursing home care for the first 120 days, and home health care for the first 180 days. Additionally, dental care for children under 19, prescription drugs for all persons, rehabilitation services, maternity care and family planning services and supplies would be covered.

By January 1, 1976, private group coverage would be expanded to cover the initial state pool plan level of coverage. At the same time the state plan benefits would be increased to cover virtually all ambulatory care as well as 300 days of hospital care, 180 days of skilled nursing home care and 270 days in an approved home health care program. On January 1, 1979, the minimum benefits for the private group and individual plans would be increased to meet the above 1976 state plan level. Provisions are made in the bill for the President to defer the phase-in of benefits if he finds that there are not sufficient health care facilities and services to supply the level of benefits authorized.

The bill would amend the Internal Revenue Code to prohibit employer deductions for expenditure for employee health care unless the employer has in force a qualified employee health care plan. For individuals, the bill would allow an unlimited tax deduction equal to all expenses paid for insurance for the taxpayer, his spouses and dependents under a qualified individual health care plan or a qualified employee health care plan, or for a qualified state health care plan.

The bill authorizes the sums necessary to provide comprehensive health care insurance to needy individuals and families. A qualified state health care plan would be by agreement between a state and an administering carrier and would pay for the minimum standard health care benefits as they are provided. An individual or family eligible for a qualified state health care plan could request coverage under an arrangement between the administering carrier and an approved health maintenance organization. The charges to the state for this alternative coverage could not exceed those which would be made under the qualified state health care plan. The bill would limit the amount of copayments required from a needy individual or family.

The bill would establish eligibility for coverage under the state health care plan according to income, $3,000 or less for an individual, $4,500 or less for a family of two, $6,000 or less for others. Those determined to be uninsurable also would qualify.

The bill would allow payment, under the state health care plans, for reasonable charges only, i.e. 75th percentile for professional services and rates approved by a State Health Care Institutions Cost Committee for institutions.

Cost estimates are not available for this program.

CONGRESSMAN DURWOOD HALL—EXTRA CARE PROPOSAL—H.R. 177

Congressman Hall's proposal, which he introduced on January 22, 1971, would establish two programs: to provide basic health care protection for the medically indigent and catastrophic illness insurance for all.

Part A of this proposal would replace the present Medicaid program. Each state would be authorized to determine the level of medical indigence in that state and to purchase, from private carriers, basic health insurance coverage for the medically indigent. The states would receive federal reimbursement for 85% of the costs incurred in providing no federal reimbursement for this state this basic coverage.

The states would also purchase coverage for the costs of catastrophic illness expenses for the medically indigent. There would be coverage.

Part B of this proposal would have the Secretary of HEW establish a program of insurance against the costs of catastrophic illness. Any U.S. resident whose income is above the level of medical indigence would be entitled to reimbursement for expenses incurred as a result of catastrophic illness. Federal reimbursement would be 90% of total eligible expenses.

Eligible expenses would be those health care costs above whichever of the following is the larger: (a) $1,000 for those over 65 or $5,000 in any other case, or (b) 25% of the gross income of the individual or his family.

Funds for this two-part program would be managed by a Federal Health Care Trust Fund. Money for this Trust Fund would be raised through a 0.4% tax on wages and self-employment income, and on other income in excess of $2000 up to the maximum income in use for purposes of the Social Security Tax.

Congressman Hall estimates that his Part A would cost the Federal Government about 3.7 billion a year. The cost to the states for Part A would be about $600,000. Medicaid presently costs the states about $2.5 billion.

There is no estimate as to the cost of Part B.

The program would become effective on January 1, 1972.

CONGRESSMAN HOGAN—NATIONAL CATASTROPHIC ILLNESS PROTECTION ACT OF 1971 H.R. 817

This bill would provide for a national program of catastrophic illness insurance. The program would be implemented through state plans administered by the state insurance authorities. The state plan would provide for the allocation of risk among two or more insurers acting through an all-industry placement facility.

Premium rates would be prescribed by the Secretary of HEW based on the risks involved in the coverage. A lower premium would be established to encourage the purchase of extended health insurance. Losses incurred by the insurer due to use of the lower premium would be compensated for by premium equalization payments made by the Secretary.

There would be a deductible under the extended health insurance policy with respect to medical costs in any year equal to 50% of the amount by which the adjusted income of an individual or family exceeds $1000 but does not exceed $2000, plus 100% of the amount by which the adjusted income exceeds $2000. This deductible would generally be paid through the family's basic health insurance.

The Secretary would be authorized to offer, to any insurer or pool of insurers, reinsurance against losses incurred from extended health insurance policies. This reinsurance would only extend to policies provided through approved state plans.

In cases where a state cannot carry out the catastrophic illness insurance program, the Secretary would be authorized to carry out the program in that state through the facilities of the Federal Government, utilizing insurers or HEW officers and employees as fiscal agents of the U.S.

There are no cost estimates available on the plan.

Administration proposals

In his Health Message to the Congress on February 18, President Nixon outlined his proposals for National Health Insurance. No bills have been introduced to provide final details to these proposals.

The Administration program includes a National Health Insurance Standards Act which would require employers to provide basic health insurance coverage for their employees. The minimum benefits would in-

clude hospital and physician care, (limits not defined) full maternity care, well-baby care, laboratory expenses and certain other expenses. There would be certain deductibles and coinsurance.

The minimum program would also provide at least $50,000 in coverage for each family against the costs of catastrophic illness.

Under this program employees could elect to be enrolled in a Health Maintenance Organization rather than receive the basic coverage through private carriers.

The program would be paid for by the employer, 65% for the first two and one half years, 75% thereafter, and the employee, 35% and 25%, so there would be no cost to the Federal Government.

The program would go into effect on July 1, 1973.

A second Administration proposal would provide a Family Health Insurance Plan to replace Medicaid for poor families. The program would be 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, $5,000 for a family of four.

The program would pay all medical costs for families with income below a certain level, $3,000 for a family of four. As income increases, the family would begin to pay part of the costs through a graduated schedule of premiums, deductibles, and coinsurance.

In order to encourage states to use Medicaid funds made available by this bill to supplement the basic program, the Federal Government would bear the costs of administering a consolidated Federal-State benefit package.

The program would become effective July 1, 1973 and would cost $1.2 billion in new Federal funds.

SENATOR PELL—THE MINIMUM HEALTH BENEFITS AND SERVICES DISTRIBUTION AND EDUCATION ACT OF 1971—S. 703

Under this bill, business associations and other entities engaged in commerce would have to provide to their employees and their families a minimum level of health benefits. The minimum benefits would be, on a yearly basis, one complete diagnostic examination; those visits to a physician, or out-patient clinic, or any other ambulatory health facility, which are necessary for the treatment of an illness or injury or the prevention of illness or injury; up to 12 days of inpatient hospital care beyond the first two days of hospital care; up to 10 days of care in an extended care unit when necessary for recovery from a serious illness, accident, or surgery; services provided in hospital emergency rooms for serious injuries or illnesses requiring immediate attention; physician, hospital, and diagnostic services associated with child delivery and for pre-natal care; professional services of physicians furnished in their offices or elsewhere consisting of preventive, primary or surgical or special care; paramedical and other support services such as provided by pathology and radiology laboratories; the professional services of optometrists in the refractive measurement of the eye, and prescribing eyeglasses; the professional services of podiatrists and chiropractors and the provision of therapeutic devices, appliances, and equipment if these services or equipment are important to the maintenance of employability of an employee; drugs which are provided in conjunction with the other basic benefits of this program and which are approved by the Secretary and coverage of the costs associated with catastrophic illness within the limitations prescribed by the Secretary.

The requirement that minimum health benefits be provided by an employer would take effect two years after the enactment of this bill, except in special cases where the effective date would be five years after the date of enactment.

The bill would authorize for profit community health and education corporations. These corporations would provide comprehensive health services to an identified population on a convenient and accessible basis in or near a specified service area. It would provide, through contractual or other arrangements, which embody prepaid group practice or its benefits, minimum health benefits to which persons would be entitled from a contractee. It would provide for the education and development of qualified physicians, nurses, paramedical, and other health personnel necessary to provide comprehensive health benefits and it would provide for the construction, rehabilitation, maintenance, and operation of facilities required to provide comprehensive health services, minimum health benefits, and the education and development of health personnel.

A corporation would be established in an area determined by the Secretary to be in need of its services and the bill outlines procedures for establishing a corporation.

A corporation would have to provide comprehensive services in its area, maintain community hospitals of outstanding quality, conduct educational programs, including residency, intern, and clinical instruction for medical doctoral candidates, clinical experience for allied health students and continuing education programs for health manpower in the area. Physicians would have to meet national standards established by the Secretary, and would have to meet continuing education requirements. In order to perform surgery or specialized services the physician would have to hold a certificate from the appropriate national speciality board or possess the qualifications requisite to certification. The bill sets out requirements for hospitals, skilled nursing homes, and home health agencies eligible as qualified providers for a corporation. Individuals receiving their medical education through an arrangement with the corporation would have to remain an employee of the corporation for a period not less than 3 years and not more than 10 years.

Federal funds would be available for the purpose of assisting the initial organization and operation of a corporation, financing health care services to low income individuals on a per capita basis by the corporation, and other education, facility and related expenses.

SENATOR JAVITS—NATIONAL HEALTH INSURANCE AND HEALTH SERVICES IMPROVEMENT ACT OF 1971—S. 836

This bill would provide a system of national health insurance to be implemented by expanding the present Medicare program to include all individuals. The bill is designed to be fully operative by July 1, 1974. It would provide coverage for the disabled, the unemployed, and the poor before that date.

The bill would also add the coverage of maintenance drugs to those benefits provided under Medicare. A fee of $1 per prescription would be imposed. The provider of a maintenance drug would be reimbursed for the reasonable drug charge, which would be the acquisition allowance plus a dispensing allowance.

The bill would also cover physical examinations for all and dental care for children under 8 years of age. These additions would become effective on July 1, 1975.

The bill would authorize the Secretary of HEW to prescribe: standards of continuing education, national minimum standards of licensure, or standards of qualification for the performance of major surgery or other designated specialty services.

The program would be administered by the Federal Government. However, the Secretary of HEW could enter into agreements with any state to allow state administration.

The bill would encourage improvement in the organization of health care by requiring carriers who participate in the program to (a) make a continuing study of the organization and methods of delivery of health services in the area, (b) review patterns of utilization and the effectiveness of procedures to control costs, and (c) take appropriate action to encourage the rational organization of health care services and to provide greater continuity and comprehensiveness of care.

The Secretary would be authorized to contract with comprehensive health service systems for the provision of health care. Payment to the systems would be for the reasonable cost of the services or on a predetermined capitation basis. There would be a bonus provided to the system if its costs are below the average costs for the services when provided to a comparable population group.

The Secretary would be authorized to contract with any carrier to provide health benefits equivalent to those provided under the program to individuals who elect to be covered by the carrier.

The Secretary could also enter into agreements with employers for the provisions of health care benefits to their employees. Such a plan would have to cover the employee and his dependents, would have to have at least 75% paid by the employer, and would have to provide benefits superior to those provided under Medicare.

The bill would authorize a study of procedures for payment to providers and would authorize the Secretary of HEW to appropriately modify the methods for determining the amount of payment to be made to providers. These modifications would be effective July 1, 1973.

A special account would be created in the Federal Health Insurance Trust Fund which would provide for the payment of benefits for those under 65.

Funds to the special account would be attained through a tax on payroll with the wage base being increased to $15,000. The tax rate for employers and employees would increase from .7% in 1972 to 3.3% in 1976. The Federal Government would contribute an amount equal to one-half of the total amount contributed by employers and employees.

The bill would authorize the Secretary of HEW to make loans and grants and to provide technical assistance to enable comprehensive health service systems to plan and develop comprehensive health care programs.

SENATOR KENNEDY—CONGRESSWOMAN MARTHA GRIFFITHS—HEALTH SECURITY ACT—S. 3, H.R. 22

Congresswoman MARTHA GRIFFITHS has joined with Senator KENNEDY as a principal sponsor of the Health Security Act, the program developed by the Committee for National Health Insurance (Committee of 100). This bill is S. 3 in the Senate and H.R. 22 in the House.

The Health Security Program would provide comprehensive health coverage, including: payment of all necessary physician services, with surgery covered only if done by an appropriately qualified specialist and on proper referral; all necessary hospital services; skilled nursing home services (120 days per spell of illness); dental services for children under 15, with eligibility intended to be expanded in time to cover all persons; medicines from an established list (for inpatients and persons enrolled in group practice plans; for others only drugs for long-term or chronic illness would be covered); other supporting services.

There would be no maximum amount of benefits to be paid or days of care to be provided (except for skilled nursing homes, dental care at first, psychiatric hospitalization, and drugs).

The program would be financed from three sources: 50% from general revenues, 36% from employer payroll tax, 12% from individual's payroll tax, and 2% from self-employment payroll tax. These monies would be paid to a Health Security Trust Fund.

Pre-spending budgeting would determine the amounts which could be spent in the various regions for specific services, i.e., institutional services, physician services, dental services and the furnishing of drugs, devices, and supporting services.

Hospitals, skilled nursing homes, and other institutional providers would operate on an approved budget procedure.

Allotments would be made to local regions for physician payment. Payment would be by salary, special stipend, capitation, fee for service, or other methods. Priority would be given to the payment of salaries, stipends and the professional services components of institutional budgets. The remainder would be allocated among the providers proportionately according to the comprehensiveness of services provided. Thus a comprehensive health service organization would receive a larger payment for each patient enrolled than would an individual physician. For those who elect to be paid on a fee for service basis, allowable fees would be established under a system of relative value scales. All physician payments would be from the Health Security Fund.

A Resources Development Fund would be established to initiate studies and projects aimed at reorganizing the delivery of health care.

The program would establish national standards for participation by providers, (both individual providers and institutions), including continuing education requirements.

The program would call for the active involvement of consumer groups in the development of health care programs and organizations. Consumer-sponsored health care organizations would be recognized under the Health Security Program.

The program would be administered by a National Health Security Board. There would also be a regional office within each of the present HEW regions. Finally, local administrators would coordinate local planning with the expenditure of Health Security funds.

According to figures prepared by the Committee for National Health Insurance, the program would have cost $41 billion if it had been in effect in 1970. Social Security Administration estimates indicate the program would cost about $77 billion.

Mr. HANSEN. Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 987

A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through (S. 987) allowance of tax credits; and to provide effective utilization of available financial resources, health manpower and facilities

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

SECTION 1. This Act may be cited as the "Health Care Insurance Act of 1971".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds:

(1) that the resources of many individuals are inadequate to meet the expenses of major illness;

(2) that private health insurance coverage is an appropriate mechanism for insuring against such expenses in that through competition incentives are provided for the lowering of health care costs, the introduction of innovations in the delivery of health care, and the maintenance of quality health care;

(3) that such coverage for all persons is a desirable national objective;

(4) that health insurance should be made available to all residents regardless of previous medical history; and

(5) that it is in the public interest to provide Government assistance and encouragement to individuals who seek the protection of insuring against the expenses of illness.

(b) The purpose of this Act is to make it possible for every individual to obtain comprehensive medical and hospitalization insurance of his choice designed to protect against ordinary and catastrophic expenses of illness regardless of prior medical history and on a guaranteed renewable basis.

VOLUNTARY HEALTH CARE INSURANCE FINANCED IN WHOLE OR IN PART BY INCOME TAX CREDITS OR INSURANCE CERTIFICATE REDEMPTIONS

SEC. 3. The Social Security Act is amended by adding after title XIX the following new title:

"TITLE XX—FEDERAL FINANCING OF VOLUNTARY HEALTH INSURANCE

"PART A.—HEALTH CARE INSURANCE

"Sec. 2001. Establishment of the Benefit Program
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"PART A—HEALTH CARE INSURANCE

"ESTABLISHMENT OF THE BENEFIT PROGRAM

"SEC. 2001(a). FOR THE LOW-INCOME GROUP.—For the purpose of providing assistance on behalf of individuals and their dependents whose income and resources are insufficient to meet the expenses of necessary medical and hospital services, there is hereby established a program of comprehensive hospital and medical benefits (including protection against catastrophic expenses of illness) for any eligible beneficiary and his dependents meeting the requirements of sections 2002 and 2003 through the issuance of health insurance certificates of entitlement (section 2007), in full payment of allowable premium (section 2005) on a qualified health care insurance policy or plan of his choice (section 2008).

"(b) FOR ALL OTHER PERSONS.—Further for the purpose of making it possible for every individual to obtain comprehensive medical and hospital insurance of his choice (including protection against catastrophic expenses of illness), there is hereby established for any eligible beneficiary and his dependents, who on the basis of individual or family income do not qualify under subsection (a) for full payment under this title of the cost of allowable premium, a program of federal income tax credits and issuance of health insurance certificates of entitlement which operate to reduce the cost to such individuals for protection under a qualified health care insurance policy or plan of his choice (section 2008). Alternatively, an eligible beneficiary who qualifies under subsection (a) can elect to qualify under this subsection.

"(c) Health insurance certificates of entitlement shall be redeemable by the carrier through payment from the Federal Health Insurance Redemption Fund (section 2024).

"(d) Benefits claimed under this title shall not be duplicated under any other programs financed in whole or in part by the federal government.

"BENEFICIARIES

"SEC. 2002. (a) Benefits under this title shall be provided for all persons who are residents of the United States and who qualify as 'eligible beneficiaries' or 'dependent beneficiaries'.

"(b) Eligible beneficiaries for this purpose shall include:

"(1) A husband and wife, both under age 65, living together; and

"(2) Any person, under age 65, other than a married person living with his or her spouse where both are under age 65, who is not a dependent beneficiary (as defined in subsection (c)).

"(c) Dependent beneficiaries shall be any child or stepchild of an eligible beneficiary who, during the base year of such eligible beneficiary, receives more than 50 percent of his support from such eligible beneficiary, and at the close of such taxable year has not attained the age of twenty-one, or, if he is a full-time student, has not attained the age of twenty-three.

"CERTIFICATES FOR HEALTH CARE INSURANCE FOR THE LOW-INCOME GROUP

"SEC. 2003. Every individual who is an eligible beneficiary under Sec. 2002, whose income results in no individual income tax liability under the Internal Revenue Code during his base year, whose dependent beneficiaries have no such liability for their taxable years which end during his base year, and who is not eligible to receive military medical care, shall be eligible to receive a health insurance certificate of entitlement (as defined in Sec. 2007) which certificate shall be applicable in full payment of allowable premiums for a qualified health care insurance policy or plan described in Sec. 2008. Such policy or plan shall provide protection for such eligible beneficiary and his dependent beneficiaries, if any, for a 12-month period beginning during his benefit year (but not necessarily including any period after such eligible beneficiary attains age 65) against the expenses of health care, including catastrophic expenses of illness, as set forth in section 2009. The base year of an eligible beneficiary and his benefit year are defined in subsection (e) of section 2004. Benefits claimed under this provision shall not be duplicated under any other program financed in whole or in part by the Federal Government.

"TAX CREDITS FOR HEALTH CARE INSURANCE

"SEC. 2004. (a) Every individual who is an eligible beneficiary under section 2002, who has not elected, where eligible, to receive benefits under the provisions for fully-paid health care insurance for the low-income group in section 2003, and who is not eligible to receive military medical care, shall, within the provisions in subsection (b), be allowed at his election:

"(1) a credit against his income tax liability under the Internal Revenue Code for his taxable year which ends during his base year; or

"(2) a health insurance certificate of entitlement (as defined in section 2007) acceptable by a qualified carrier (as defined in section 2022) in payment toward a premium

under a qualified health care insurance policy or plan (as defined in section 2008).

Benefits claimed under this provision shall not be duplicated under any other program financed in whole or in part by the Federal Government.

"(b) The amount of credit against tax or the value to be assigned to the health insurance certificate of entitlement shall be the sum of the following:

(1) The allowable premiums for qualified health care insurance, as defined in section 2005, paid for basic coverage for his benefit year, multiplied by the applicable percentage factor, as determined under subsection (f) of this section, and

(2) 100 percent of the allowable premiums paid for the catastrophic expense coverage for his benefit year.

The credit or assigned value under paragraph (1) shall be determined annually, based on the individual Federal income tax liabilities of the eligible beneficiary and his dependent beneficiaries, if any (as defined in section 2002), in a base year (or, in the case of a dependent beneficiary, his taxable year which ends in such base year).

"(c) If an eligible beneficiary's payment to a carrier (by certificate of entitlement and other form of payment) for coverage for his benefit year should result in an overpayment of premium by the eligible beneficiary, such overpayment shall be recoverable by the eligible beneficiary from the carrier.

"(d) If an individual's credit against tax under this section exceeds his income tax liability for his taxable year in which such credit is applicable, he may claim such excess as though he had made an overpayment of income tax, but only if the allowable premium has been fully paid.

"(e) For purposes of this title, the base year of an eligible beneficiary shall be his taxable year in respect to which his entitlement to an insurance certificate is determined, and his benefit year shall be the 12-month period beginning six months after the close of his base year.

"(f) The applicable percentage factor referred to in subsection (b)(1), based on Federal income tax liability of the eligible beneficiary and his dependent beneficiaries in a base year and made applicable in the computation of credit against his Federal income tax liability in his benefit year, shall be determined from the following table:

PERCENTAGE OF ALLOWABLE BASIC COVERAGE PREMIUM CREDITED AGAINST INCOME TAX OR USED FOR A CERTIFICATE OF ENTITLEMENT

"Income tax liability in base year	Percentage factor
$0	100
$1 to $10	99
$11 to $20	98
$21 to $30	97
$31 to $40	96
$41 to $50	95
$51 to $60	94
$61 to $70	93
$71 to $80	92
$81 to $90	91
$91 to $100	90
$101 to $110	89
$111 to $120	88
$121 to $130	87
$131 to $140	86
$141 to $150	85
$151 to $160	84
$161 to $170	83
$171 to $180	82
$181 to $190	81
$191 to $200	80
$201 to $210	79
$211 to $220	78
$221 to $230	77
$231 to $240	76
$241 to $250	75
$251 to $260	74
$261 to $270	73
$271 to $280	72
$281 to $290	71
$291 to $300	70
$301 to $310	69
$311 to $320	68
$321 to $330	67
$331 to $340	66
$341 to $350	65
$351 to $360	64
$361 to $370	63
$371 to $380	62
$381 to $390	61
$391 to $400	60
$401 to $410	59
$411 to $420	58
$421 to $430	57
$431 to $440	56
$441 to $450	55
$451 to $460	54
$461 to $470	53
$471 to $480	52
$481 to $490	51
$491 to $500	50
$501 to $510	49
$511 to $520	48
$521 to $530	47
$531 to $540	46
$541 to $550	45
$551 to $560	44
$561 to $570	43
$571 to $580	42
$581 to $590	41
$591 to $600	40
$601 to $610	39
$611 to $620	38
$621 to $630	37
$631 to $640	36
$641 to $650	35
$651 to $660	34
$661 to $670	33
$671 to $680	32
$681 to $690	31
$691 to $700	30
$701 to $710	29
$711 to $720	28
$721 to $730	27
$731 to $740	26
$741 to $750	25
$751 to $760	24
$761 to $770	23
$771 to $780	22
$781 to $790	21
$791 to $800	20
$801 to $810	19
$811 to $820	18
$821 to $830	17
$831 to $840	16
$841 to $850	15
$851 to $860	14
$861 to $870	13
$871 to $880	12
$881 to $890	11
$891 or over	10

"ALLOWABLE PREMIUM

"SEC. 2005. (a) The allowable premium which under section 2004 shall be taken into account in the determination of credit against tax or in the assignment of value to a health insurance certificate of entitlement (section 2007) shall be that portion of the aggregate amount of premiums paid or payable by an eligible beneficiary (section 2002) for one or more qualified health care insurance policies or plans (section 2008) providing coverage for such eligible beneficiary and his dependent beneficiaries (section 2002) for a 12-month period commencing at any time during the benefit year (as defined in section 2004 (e)) that represents the cost of the protection required in a qualified health care insurance policy or plan, as prescribed in the following subsections.

"(b) Aggregate amounts of premium on more than one qualified health care insurance policy shall be allowable only to the extent that such combination of policies does not provide duplicate coverage of health care costs for an eligible or dependent beneficiary.

"(c) If a qualified health care insurance policy or plan provides coverage for an individual not entitled to benefits under this title, then in determining the aggregate amount of premiums there shall be included only that portion of the premium for such policy which bears the same ratio to the amount of the premium as the number of eligible and dependent beneficiaries of such policy bears to the total number of beneficiaries of such policy.

"(d) Hospital insurance taxes payable under sections 1401(b), 3101(b), 3111(b), 3201, 3211, and 3221 of the Internal Revenue Code of 1954 shall not be deemed to be allowable premiums.

"(e) Any eligible beneficiary may include as allowable premium 80 percentum of the amounts contributed by his employer for coverage of such eligible beneficiary and his dependent beneficiaries under that portion of a health care insurance policy or plan which meets the requirements of a qualified health care insurance policy or plan (as defined in section 2008).

"REGISTRATION NUMBER REQUIRED

"SEC. 2006. An individual who elects to take the credit under section 2004 for a taxable year with respect to premiums paid for a qualified health care insurance policy or plan shall, under regulations prescribed by the Secretary or his delegate, affix to his income tax return the registration number of the carrier which has provided the qualified health care insurance policy or plan.

"HEALTH CARE INSURANCE CERTIFICATE OF ENTITLEMENT

"SEC. 2007. (a) A health insurance certificate of entitlement means a certificate issued by the Secretary to an eligible beneficiary to apply toward payment of premium on a qualified health care insurance policy or plan, which may be redeemed only as provided in subsection (c).

"(b) Any individual eligible for a health insurance certificate of entitlement in full payment of allowable premium (section 2005), or in part payment of such premium by election of such certificate in lieu of an income tax credit (as provided in section 2004), shall make application therefor to the Secretary. Such application shall be filed in such place and on such form and contain such information as the Secretary may by regulations prescribe, including:

"(1) The name, address, date of birth, social security number, and marital status of the applicant and the spouse of the applicant, if any.

"(2) The name, address, date of birth, social security number, marital status, and relationship to the applicant of each of the dependents of the applicant for whom coverage is claimed.

"(3) The gross income and Federal income tax liability of the applicant, his spouse, and the dependents named in the application for the base year and the place where each filed his last income tax return.

"(c) The Secretary shall issue regulations which shall provide for the redemption of health insurance certificates of entitlement which have been certified to have been accepted by an insurance carrier in full or part payment for a qualified health care insurance policy or plan.

"QUALIFIED HEALTH CARE INSURANCE POLICY

"SEC. 2008. (a) A qualified health care insurance policy or plan shall be a contractual agreement specifying benefits under a program offered by a carrier qualified under section 2022, which carrier and program have been registered by the State insurance department or by such other agency as may be authorized by the State, and which provides basic institutional and medical coverage as described in subsection (a) of section 2009 and catastrophic expense coverage as described in subsection (b) of that section.

"(b) Each such qualified health care insurance policy or plan shall be noncancellable and guaranteed renewable so long as the carrier continues to offer to the public one or more qualified health care insurance policies or plans, shall provide protection against the expense of health care without regard to any pre-existing conditions, and shall provide for payment under this title of usual and customary charges for services covered under the policy or plan.

"HOSPITAL AND MEDICAL CARE

"SEC. 2009. A qualified health care insurance policy or plan shall provide, subject to the deductibles, coinsurance, and expense corridor (as provided in section 2010):

"(a) Basic coverage providing for payment of all expenses incurred for:

(1) Institutional care consisting of inpatient hospital services (as defined hereafter), and extended care services (as defined hereafter), for a total of 60 days during any 12-month policy period in semi-private accommodations (except that each day of care in an extended care facility shall be counted as one-half day for the purpose of the 60-day limit). Inpatient hospital services shall mean all inpatient services customarily furnished and charged for by a hospital (except for convenience items such as telephone and television), including (but not limited to):

(A) Bed and board and nursing services,

(B) Drugs, oxygen, blood and plasma (except for the first three pints furnished in the 12-month policy period), biologicals, supplies, appliances, and equipment furnished by and used in the hospital,

(C) Use of hospital facilities ordinarily furnished for the care and treatment of inpatients, including the surgery or delivery room, recovery room, intensive care units, coronary care units, rehabilitation care units, and supplies,

(D) Care for pregnancy or any of its complications, and

(E) Psychiatric care.

Extended care services shall mean all inpatient services customarily furnished and charged for by an extended care facility, including (but not limited to):

(A) Bed and board and nursing services,

(B) Physical, occupational, or speech therapy, and

(C) Such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the extended care facility, as are ordinarily furnished by such facility for the care and treatment of inpatients.

(2) Emergency or outpatient services customarily provided by a hospital on an outpatient basis and billed for by the hospital, including (but not limited to):

(A) Outpatient diagnostic services, such as x-rays, electrocardiograms, laboratory tests, and other medically recognized diagnostic tests,

(B) Use of operating, cystoscopic, and cast rooms and their supplies, and

(C) Use of emergency room and supplies when needed for medical and surgical emergencies.

(3) Medical care consisting of all medical services (including diagnostic, therapeutic, and preventive) provided by or under the direction of a doctor of medicine or a doctor of osteopathy, regardless of where such services are provided, including (but not limited to):

(A) Diagnosis or treatment of illness or injury,

(B) Psychiatric care,

(C) Well-baby care,

(D) Inoculations and immunizations of infants and adults against communicable diseases,

(E) Physical examinations,

(F) Diagnostic x-ray and laboratory services,

(G) Radiation therapy,

(H) Consultation,

(I) Services for pregnancy and complications of pregnancy, including prenatal, obstetrical, and post-partum care, and

(J) Anesthesiology services, excluding cosmetic surgery, except when related to defects and to burns and scars due to injuries and illness.

(4) Dental or oral surgery performed by a doctor of dentistry or of dental or oral surgery when related to the jaw or any structure contiguous to the jaw, or the reduction of any fracture of the jaw or any facial bone.

(5) Ambulance services.

(b) Catastrophic expense coverage, subject to an expense corridor, as provided in section 2010(b), and providing for the payment of all expenses incurred for:

(1) Services in a hospital or extended care facility in excess of the 60-day limit provided in basic coverage (except that the number of such excess days in an extended care facility under the catastrophic expense coverage shall be limited to 30 days).

(2) Blood and plasma furnished in connection with outpatient medical services (except for the first three pints furnished in the 12-month policy period), and

(3) Prosthetic aids based on medical need, as ordered by a physician.

"DEDUCTIBLES AND COINSURANCE; CATASTROPHIC ILLNESS EXPENSE CORRIDOR

"SEC. 2010. (a) Hospital and medical benefits under the basic coverage in section 2009 (a) shall be subject to payment by the beneficiary of (1) $50 for costs incurred during each stay in the hospital or extended care facility as an inpatient (a stay for this purpose being any continuous period in a hospital and/or extended care facility, not counting as a discontinuance of a stay any period of 14 days or less when not in such an institution); (2) 20% coinsurance on the first $500 of expenses incurred during the 12-month policy period for the eligible beneficiary and his dependent beneficiaries combined for emergency room or outpatient services in the hospital; and (3) 20% coinsurance on the first $500 of medical expenses and the expenses of dental or oral surgery and ambulance services, incurred during such policy period for the eligible beneficiary and his dependent beneficiaries combined.

"(b) Benefits payable under the catastrophic expense coverage in a qualified health care insurance policy or plan shall be subject to reduction by an expense corridor for the 12-month policy period. Such corridor shall be in an amount representing the following percentage of the combined taxable income of the eligible and dependent beneficiaries:

(1) 10% of taxable income not in excess of $4,000, plus

(2) 15% of taxable income between $4,000 and $7,000, plus

(3) 20% of taxable income in excess of $7,000. Taxable income for this purpose shall be taxable income as defined in section 63 of the Internal Revenue Code of 1954, as amended, and the combined taxable income to be taken into account shall be the aggregate of the taxable incomes of the eligible and dependent beneficiaries, if any, in the base year (or in the case of dependent beneficiaries, their taxable year which ends in such base year).

(c) Deductibles and coinsurance incurred under subsection (a) shall be applicable as credits toward satisfaction of the amount of the corridor prescribed in subsection (b).

"PART B—MISCELLANEOUS PROVISIONS

"ESTABLISHMENT OF HEALTH INSURANCE ADVISORY BOARD

"SEC. 2020. There is hereby created a Health Insurance Advisory Board (hereinafter referred to as the Board) which shall consist of eleven persons including the Secretary of Health, Education, and Welfare and the Commissioner of Internal Revenue. The remaining members, not otherwise in the employ of the United States, shall be appointed by the President, with the advice and consent of the Senate, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service. The Secretary of Health, Education, and Welfare shall serve as Chairman. The appointed public members, a majority of whom shall be practicing physicians, shall be selected from persons who are specifically qualified to serve on such Board by virtue of their education, training, or experience. Each of the public members shall be appointed for a term of four years except that, when appointments are first made, three shall be appointed for terms of two years, three for terms of three years, and three for terms of four years, and except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. The Secretary of Health, Education, and Welfare may appoint such special advisory professional or technical personnel or committees as may be needed to carry out the purposes of this title. Members of the Board and other personnel or members of any advisory or technical committee, while attending meetings or conferences thereof or otherwise serving on business of the Board or of a committee, shall be entitled to receive compensation at rates fixed by the Secretary of Health, Education, and Welfare, but not exceeding $100 per day, including travel-time, and while so serving away from their 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 Board shall meet as frequently as the Chairman deems necessary but not less than once annually. Upon request of four or more members, it shall be the duty of the Chairman to call a meeting of the Board.

"DUTIES OF ADVISORY BOARD

"SEC. 2021. The Health Insurance Advisory Board shall:

"(a) Prescribe such regulations as may be necessary to carry out the purposes and provisions of this title,

"(b) Establish minimum Federal standards for the use of State insurance departments in determining whether an insurance company and plan are qualified under this title,

"(c) In consultation with carriers, providers of services, and consumers, plan and develop programs whose purposes are to provide for maintaining the quality of medical care, and the effective utilization of available financial resources, health manpower and facilities, through utilization review, peer review, and other means which provide for the participation of the insurance carriers and the providers of services,

"(d) Review the effectiveness of the tax credit program and file, by December 31, of each year, with the President and the Congress an annual report:

"(1) on the operation and status of the program during the past fiscal year and on its expected operation during the current and next two fiscal years; and

"(2) with recommendations for such changes in the law designed to improve the effectiveness of the program.

The Board is authorized to request from any department, agency, or independent instrumentality of the Government any information it determines is necessary to carry out its functions under this title, and each such department, agency, or independent instrumentality is authorized to cooperate with the Board, and to the extent permitted by law, to furnish such information to the Board upon request made by the Chairman.

"QUALIFICATION OF CARRIERS

"SEC. 2022. (a) The State insurance department or other agency designated by the State shall determine the qualification of each carrier which plans to offer a qualified health care insurance policy or plan to residents of that State, and, when a carrier is determined to be qualified to offer such a policy or plan, shall issue to said carrier a registration number.

"(b) A qualified carrier may be a voluntary association, corporation, partnership, or other nongovernmental organization which is

lawfully engaged in providing, paying for, or reimbursing the cost of, health services under individual or group insurance policies, plans, or contracts, medical or hospital service agreements, membership or subscription contracts, or similar arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization.

"(c) A carrier offering a qualified health care insurance policy in any State shall participate in an assigned-risk pool which may be established in such State by the State insurance department or by such agency as may be authorized by the State. The carrier shall accept from the pool such risks under this program as may be assigned to it.

"(d) Each qualified carrier offering basic coverage, as defined in section 2009(a), shall also offer catastrophic expense coverage as provided in section 2009(b), and shall determine the premium for each separately.

"PROHIBITION AGAINST ANY FEDERAL INTERFERENCE

"SEC. 2023. Nothing in this title shall be construed to authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or the manner in which medical services are provided, or over the selection, tenure, or compensation of any officer or employee or any institution, agency, or person providing health services; or to exercise any supervision or control over the administration or operation of any such institution, agency, or person.

"FEDERAL HEALTH INSURANCE REDEMPTION FUND

"SEC. 2024. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Health Insurance Redemption Fund' (hereinafter referred to as the 'Fund'). The Fund shall consist of such amounts as may by deposited in, or appropriated to it, as provided in this part.

"(b) There is authorized to be appropriated, from time to time out of moneys in the Treasury not otherwise appropriated, to the Fund an amount equal to the aggregate amount of premiums paid under this title through the redemption of health insurance certificates issued pursuant to sections 2003 and 2004. Sums authorized to be appropriated pursuant to this section shall be considered premiums payable under this part and deposited in such Fund. Such certificates upon presentation to the Secretary of Health, Education, and Welfare shall be redeemed through payments from the Fund.

"PARTICIPATION BY STATES

"SEC. 2025. The Secretary of Health, Education, and Welfare shall, at the request of a State, enter into an agreement with such State pursuant to which all beneficiaries eligible under this title and who are eligible for participation under the program established under title XIX of this Act in effect in that State may subscribe to a qualified health care insurance policy or plan.

"INCOME TAX AMENDMENTS

"SEC. 4. Part IV of subchapter A of chapter I of subtitle A of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 40 as section 41, and by inserting after section 39 the following section:

"COST OF HEALTH CARE INSURANCE PREMIUMS

"SEC. 40. There shall be allowed as a credit against tax imposed by this subtitle allowable premium paid for the cost of a qualified health care insurance policy or plan to the extent provided in section 2004 of the Social Security Act."

SEC. 5. Part VII of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1954 is hereby amended by adding a new subsection (g) to section 213, as follows:

"(g) If an individual elects to take the credit against tax provided in section 40 for any taxable year with respect to premiums paid in such year for a qualified health care insurance policy or plan, such premiums paid shall not be a basis for deduction under this section."

SEC. 6. Part IX of subchapter B of chapter 1 of subtitle A of the Internal Revenue Code of 1954 (relating to items not deductible) is hereby amended by adding after section 279 the following new section:

"LIMITATIONS ON DEDUCTIONS FOR EXPENDITURES FOR EMPLOYEE HEALTH CARE

"SEC. 280. (a) Except as provided in subsection (b) no deductions shall be allowed for one-half of any amount otherwise allowable as a deduction for the taxable year under sections 162, 212, or 404 for any amount paid or incurred by the taxpayer for health care of any employee of the taxpayer or of any dependent or relative of such employee.

"(b) The limitations of subsections (a) shall not apply for any portion of any taxable year during which the taxpayer has in force a qualified employee health care insurance policy or plan covering all his employees except for those engaged in purely casual or temporary employment which satisfies all the requirements of section 2008 of the Social Security Act."

SEC. 7. The amendments made by sections 2 through 6 shall become effective for benefits years beginning after June 30, 1971.

By Mr. PROXMIRE (for himself, Mr. MCGOVERN, Mr. YOUNG, and Mr. MILLER):

S. 988. A bill to amend the Federal Food, Drug, and Cosmetic Act to require appropriate identification of imitation dairy products, to modify the identification requirements for oleomargarine or margarine served in public eating places, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. PROXMIRE. Mr. President, today I am introducing for myself, Senator MCGOVERN, Senator YOUNG and Senator MILLER a bill to simplify the requirements with regard to the serving of oleomargarine in restaurants and to extend to artificial dairy products the same general legal provisions now applying to oleomargarine.

As artificial dairy products come into increasing use, it becomes increasingly more important to let consumers know whether or not they are buying, or being served, the real article or a chemical substitute. For example, does that pitcher on the restaurant table contain real cream or an artificial nondairy creamer? Is the topping on that elaborate dessert whipped cream or simply an ersatz imitation? Is that new dairy product on the supermarket shelves really a dairy product?

Under existing law it is difficult, if not impossible, for the consumer to answer these questions. There is no requirement that restaurant owners tell customers that they are being served artificial dairy products, yet oleomargarine notice requirements have been in effect for over 20 years. There is no effective prohibition in the law against the use of misleading labeling and advertising in promoting the sale of artificial dairy products, yet concern over chemical additives to our food supply is growing by leaps and bounds and, again, effective labeling requirements have been in effect with respect to oleomargarine for over 20 years.

Now some Americans may prefer the corn syrup solids, vegetable fat, sodium caseinate solids, phosphates, mono and diglycerides, sodium silico aluminate, artificial flavor, and artificial color that make up imitation dairy products. They may worry about the cholesterol content of some dairy products, although this question is still in dispute, and not concern themselves with the impact of an impressive array of chemicals on their system. These consumers, too, would benefit from greater disclosure for they would be better able to make sure that they were served the imitation product in restaurants and sold the imitation product in supermarkets.

In other words, the measure I am introducing today does not have anything to do with increasing the sale of dairy products and decreasing the imitation dairy product share of the market. It is nothing more nor less than a "Truth in Dairy Products" bill which will enable the consumer to make the best choice based on all relevant information.

Exactly what does the bill do? First, it simplifies the notice requirements placed on the serving of oleomargarine in restaurants. There is no reason to require a multiple form of notification when either a posted notice that oleomargarine is being served, or a similar notice printed on the menu, or labeling on each separate serving is sufficient.

Second, it applies this same notice requirement to imitation dairy products.

Third, it provides that food cannot be designated as buttered in a restaurant unless it has been buttered with butter. This is simply a logical extension of the present oleomargarine notice requirements.

Fourth, it extends to imitation dairy products the same supermarket labeling requirements that now apply to oleomargarine. Any imitation dairy product offered for sale must have the words "not a dairy product" on the label in lettering at least as prominent as any other lettering on a label. Such labeling must also include a full and accurate statement of all the ingredients contained in the product.

Fifth, it regulates the advertising of imitation dairy products by prohibiting any representations that such an imitation product is the genuine article.

Sixth, it makes a technical change in existing oleomargine law with regard to a waiving of the packaging requirements in the case of oleomargarine served in restaurants. I have been told informally by the Food and Drug Administration that this change will conform existing law to existing practice.

By Mr. MILLER:

S. 989. A bill for the relief of Sidney X. Shore and Souvenir Pen and Pencil Co., Cedar Rapids, Iowa. Referred to the Committee on the Judiciary.

By Mr. BYRD of West Virginia (for Mr. JACKSON, for himself and Mr. ALLOTT) (by request):

S. 990. A bill to amend the Land and Water Conservation Fund Act of 1965, as

amended. Referred to the Committee on Interior and Insular Affairs.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be permitted to offer for Mr. Jackson a bill introduced by Mr. JACKSON for himself and Mr. ALLOTT to amend the Land and Water Conservation Fund Act of 1965, as amended.

By Mr. BYRD of West Virginia (for Mr. JACKSON), (for himself, Mr. ALLOTT, and Mr. ANDERSON):

S. 991. A bill to authorize the Secretary of the Interior to continue a program of research, development, and demonstration of processes for the conversion of saline and other chemically contaminated water for beneficial use and for the treatment of saline and other chemically contaminated waste water to maintain or improve the quality of natural waters, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be permitted to submit for inclusion in the RECORD a statement by the Senator from Washington (Mr. JACKSON) with respect to the introduction of a bill to provide for continuation of the Federal saline water conversion program, together with a bill which he is introducing for himself and Mr. ALLOTT and Mr. ANDERSON to authorize the Secretary of the Interior to continue a program of research, development, and demonstration of processes for the conversion of saline and other chemically contaminated water for beneficial use and for the treatment of saline and other chemically contaminated waste water, to maintain or improve the quality of natural waters, and for other purposes.

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

STATEMENT OF SENATOR JACKSON

Mr. President, I introduce for myself and the Senior Senators from Colorado and New Mexico, a bill to provide direction for the future of the saline water conversion program which is administered by the Secretary of the Interior.

The last major legislative redirection of the saline water conversion program was made in 1961. Since that time only some minor amendments to the enabling measures have been made. The existing law authorizes a full program through Fiscal Year 1972 and a subsequent three-year period to phase out contract commitments and collect data. All of this is subject to annual authorizations of appropriations. Last session both the Senate and the House Interior Committees stated in reports (on the annual authorizing act) that they would consider the future of the program this year.

It is appropriate in a research and development effort such as the saline water program to consider at intervals the accomplishments and status of the work and to redirect the efforts.

There are new opportunities at such review intervals to benefit from experience and form a better understanding of future needs. On February 10, I introduced, by request, the Administration's bill to authorize the Fiscal Year 1972 appropriations for this program. I noted at that time that consideration of the Fiscal Year 1972 budget is closely related to the consideration of enabling legislation for future years.

The Administration has not yet made its recommendations regarding the future of the program. To facilitate action on the appropriations, therefore, I am introducing legislation which would extend the active research and development program for five more fiscal years. It would further provide for the orderly termination of research activities at the end of that time and the integration of other desalting functions with the water resource development programs of the Department of the Interior.

This bill reflects points brought out in the Committee's hearing held last year and the regular reports which the Committee has received. I will be requesting the Administration's comments on the bill, and I am hopeful that a sound program both for Fiscal Year 1972 and future years will be achieved.

S. 991

A bill to authorize the Secretary of the Interior to continue a program of research, development, and demonstration of processes for the conversion of saline and other chemically contaminated water for beneficial use and for the treatment of saline and other chemically contaminated waste water to maintain or improve the quality of natural waters, 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 Act of July 3, 1952 (66 Stat. 328), as amended, is hereby further amended to read as follows:

The Congress in consideration of the Federal responsibility for water resource conservation by means of comprehensive planning, planning and construction of water resource development projects, administration of the navigable waterways, and maintenance of water quality standards finds that the technology for the conversion of saline and other chemically contaminated waters is vital to all these areas of responsibility. It is the policy of the Congress, therefore, to provide for the development and demonstration of practicable means to convert saline and other chemically contaminated water to a quality suitable for municipal, industrial, agricultural and other beneficial uses and to improve the quality of saline and other chemically contaminated waste waters to protect the quality of natural waters.

SEC. 2. The Secretary of the Interior is authorized and directed to:

(a) conduct, encourage, and promote basic scientific research and fundamental studies to develop effective and economical processes and equipment for the purpose of converting saline and other chemically contaminated water into water suitable for beneficial consumptive uses or for the purpose of treating waste waters to achieve qualities suitable for disposal into surface streams, groundwater bodies, or the ocean;

(b) pursue opportunities arising during the course of research and studies authorized by subsection (a) of this section which have potential practical applications unrelated to water treatment in order to advance the work to the stage where such studies and research can be published in an effective form for utilization by others;

(c) conduct engineering and technical work including the design, construction and testing of pilot plants, test beds, and modules to develop desalting processes and plant design concepts to the point of demonstration on a practical scale;

(d) study methods for the recovery and marketing of byproducts resulting from the desalination of water to offset the costs of treatment and to reduce impact on the environment from the discharge of brines into lakes, streams, and other waters; and

(e) undertake economic studies and surveys to determine present and prospective costs of producing water for beneficial consumptive purposes in various parts of the United States by the saline water processes as compared with other standard methods, and by means of mathematical models or other methodologies prepare and maintain information concerning the relation of desalting to other aspects of State, regional, and national comprehensive water resource planning: *Provided,* That in carrying out this function, the Secretary shall coordinate these studies with planning being performed under the provisions of the Water Resources Planning Act (79 Stat. 244), as amended.

SEC. 3. (a) The Secretary is authorized and directed to conduct preliminary investigations and to explore potential cooperative agreements with non-Federal governmental entities and utilities in order to develop recommendations for Federal participation in the construction, operation, and maintenance of prototype plants utilizing desalting technologies for the production of water for consumptive use.

(b) The Secretary is authorized and directed to report to the President and to the Congress, not later than one year after the date of this Act, his recommendation as to the best opportunity for the early construction of a large-scale prototype desalting plant. In making his selection the Secretary shall consider the following:

(i) plant size and process type best suited, within the presently available technology, to demonstrate the practicability of construction and operation of a large-scale plant for water supply on a reliable basis and best suited to provide information on the management problems and economics of such operations;

(ii) availability of cooperating entity or entities willing and capable of entering into agreements and contracts providing a market for water and an operating agency for the plants;

(iii) the availability of a site and the environmental considerations of an energy source and brine disposal; and

(iv) the need for the development of new water sources in the location.

(c) In carrying out the provisions of this section, the Secretary shall utilize the expertise of the water and power marketing agencies of the Department of the Interior and of other Federal agencies as may be applicable to insure that the economic, financial, and engineering analyses of any potential plant and the agreements among participants which may later result will give full consideration to the integration and compatibility of the water production, energy use, and possible energy production of the prototype plant with the water and power systems of the region.

(d) The Secretary is authorized to accept financial and other assistance from any State or public agency in connection with studies or surveys relating to saline water conversion problems and facilities and to enter into contracts with respect to such assistance, which contracts shall detail the purposes for which the assistance is contributed.

SEC. 4. In carrying out his functions under this Act, the Secretary may:

(a) make grants to educational institutions and scientific organizations and enter into contracts with such institutions and organizations and with industrial or engineering firms;

(b) acquire the services of chemists, physicists, engineers, and other personnel by contract or otherwise;

(c) utilize the facilities of Federal scientific laboratories;

(d) establish and operate necessary facilities and test sites at which to carry on the continuous research, testing, development, and programming necessary to effectuate the purposes of this Act;

(e) acquire secret processes, technical data, inventions, patent applications, patents, licenses, land and interests in land

(including water rights), plants and facilities, and other property or rights by purchase, license, lease, or donation;

(f) assemble and maintain pertinent and current scientific literature, both domestic and foreign, and issue bibliographical data with respect thereto;

(g) cause on-site inspections to be made of promising projects, domestic and foreign, and, in the case of projects located in the United States, cooperate and participate in their development in instances in which the purposes of this Act will be served thereby;

(h) foster and participate in regional, national, and international conferences relating to saline water conversion;

(i) coordinate, correlate, and publish information with a view to advancing the development of low-cost saline water conversion projects; and

(j) cooperate with other Federal departments and agencies, with State and local departments, agencies and instrumentalities, and with interested persons, firms, institutions, and organizations.

SEC. 5. (a) Research and development activities undertaken by the Secretary shall be coordinated or conducted jointly with the Department of Defense to the end that developments under this Act which are primarily of a civil nature will contribute to the defense of the Nation and that developments which are primarily of a military nature will, to the greatest practicable extent compatible with military and security requirements, be available to advance the purposes of this Act and to strengthen the civil economy of the Nation.

(b) The Secretary will cooperate with the Environmental Protection Agency to insure that research and development work performed under this Act makes the fullest possible contribution to the improvement of processes and techniques for the treatment of saline and other chemically contaminated waste waters and to insure that the experience, expertise, and data regarding desalting technologies which have been acquired in the performance of the Saline Water Conversion Act and which will be acquired in performance of this Act will not be needlessly duplicated by other programs.

(c) The fullest cooperation by and with the Atomic Energy Commission, the Department of Health, Education, and Welfare, the Department of State, and other concerned agencies shall also be carried out in the interest of achieving the objectives of this Act.

(d) All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of this Act, shall be provided for in such manner that all information, uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public. This subsection shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder. Within six months of the date of this Act, the Secretary shall publish rules in the Federal Register to give effect to the provisions of this subsection and shall subsequently publish all revisions in the same manner.

(e) The Secretary may dispose of water and byproducts resulting from his operations under this Act. All moneys received from dispositions under this section shall be paid into the Treasury as miscellaneous receipts except where such operations may be undertaken as a part of a Federal reclamation project in which case the financial provisions of Reclamation Law (32 Stat. 388 and Acts amendatory thereof and supplementary thereto) will govern.

(f) Nothing in this Act shall be construed to alter existing law with respect to the ownership and control of water.

SEC. 6. The Secretary of the Interior may issue rules and regulations to effectuate the purposes of this Act.

SEC. 7. (a) There are authorized to be appropriated such sums, to remain available until expended, as may be specified in annual appropriation authorization acts to carry out the provisions of this Act during the fiscal years 1973 to 1977 inclusive, and to finance, for not more than three years beyond the end of said period, such grants, contracts, cooperative agreements, and studies as may theretofore have been undertaken pursuant to this Act and such activities as are required to correlate, coordinate, and round out the results of studies and research undertaken pursuant to this Act.

(b) The Secretary shall submit to the President and to the Congress not later than December 31, 1975, a report on:

(i) the status of research and development work in progress under the provisions of section 2, subsections (a), (b), (c), and (d), along with a program for the orderly termination of these activities in accordance with subsection (a) of this section; and

(ii) the status of work in progress under the provisions of subsection 2(e) and section 3 along with recommendations for the integration of these remaining functions within the ongoing water resource programs of the Department of the Interior.

(c) No new commitments shall be made under authority of this Act for cooperation with public or private agencies in foreign countries which require the expenditure of funds appropriated pursuant to this Act.

SEC. 8. As used in this Act—

(a) the term "Secretary" means the Secretary of the Interior;

(b) the term "saline water" includes sea water, brackish water, mineralized ground or surface water, and irrigation return flows;

(c) the term "other chemically contaminated water" includes agricultural runoff, municipal and industrial effluent, mine drainage, and naturally contaminated waters which contain chemicals not susceptible to removal by conventional sewage treatment methods but susceptible to removal by desalting processes;

(d) the term "United States" extends to and includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories of Guam and the Virgin Islands;

(e) the term "pilot plant" means an experimental unit of small size, usually less than 100,000 g.p.d. capacity, used for early evaluation and development of new or improved processes and to obtain technical and engineering data;

(f) the term "test bed" means an intermediate-sized, experimental desalting plant of up to two million gallons per day capacity used for further evaluation and refinement of processes in the field and designed to facilitate the incorporation of experimental features for performance testing and to permit process changes and improvements as required;

(g) the term "module" means a section or integral portion of a desalting plant which is used initially to study large-scale technology and critical design features in preparation for subsequent prototype construction;

(h) the term "prototype" means a full-size, first-of-a-kind production plant used for the development, study, and demonstration of full-sized technology, plant operation, and process economics.

SEC. 9. This Act may be cited as the Saline Water Conversion Act of 1971.

By Mr. BYRD of West Virginia (for Mr. JACKSON, for himself, Mr. ALLOTT, Mr. JORDAN of Idaho, Mr. HATFIELD, Mr. BELLMON, Mr. STEVENS, and Mr. FANNIN) (by request):

S. 992. A bill to establish a national land use policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be permitted to introduce, for Mr. JACKSON, a bill, for himself, Mr. ALLOTT, Mr. JORDAN of Idaho, Mr. HATFIELD, Mr. BELLMON, Mr. STEVENS, and Mr. FANNIN, to establish a national land use policy; to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes.

I ask unanimous consent that I may be permitted to submit a statement for Mr. JACKSON by Mr. JACKSON in connection with the bill, and have a letter of transmittal, together with an analysis relating to the bill, printed in the RECORD.

There being no objection, the statement, letter, and analysis were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JACKSON

Mr. President, on behalf of several of my colleagues and myself, I send to the desk for appropriate reference a bill to establish a national land use policy, to authorize the Secretary of the Interior to make grants to encourage and assist the States to prepare and implement land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes.

This legislation was submitted and recommended by the Department of the Interior and was referred to in President Nixon's message on the environment, which was submitted to the Congress on February 8, 1971. Mr. President, I ask unanimous consent that the letter from the Secretary of the Interior accompanying this draft proposal together with a section-by-section analysis be printed in the RECORD at this point in my remarks.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., February 11, 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" establish a national land use policy to authorize the Secretary of the Interior to make grants to encourage and assist the States in the preparation and implementation of land use programs for the protection of areas of critical environmental concern and the control and direction of growth and development of more than local significance; and for other purposes."

We recommend that the bill be referred to the appropriate committee for consideration and we recommend that it be enacted.

This legislative proposal was referred to in President Nixon's message on the environment, which was submitted to the Congress on February 8, 1971. In it President Nixon stated:

"The use of our land not only affects the natural environment but shapes the pattern of our daily lives. Unfortunately, the sensible use of our land is often thwarted by the inability of the many competing and overlapping local units of government to control land use decisions which have regional significance.

"While most land use decisions will continue to be made at the local level, we must draw upon the basic authority of State government to deal with land use issues which spill over local jurisdictional boundaries. The States are uniquely qualified to effect the institutional reform that is so badly needed, for they are closer to the local problems than is the Federal Government and yet removed enough from local tax and other pressures to represent the broader regional interests of the public. Federal programs which influence major land use decisions can thereby fit into a coherent pattern."

The proposed bill encourages the States to exercise their responsibility more fully to deal with certain critical land use problems of more than local impact. Under the proposal Federal grants would be made to assist States in developing and managing land use programs. Grants for up to 50% of cost would be made to develop State land use programs, including plans covering selected areas, and laws or regulations necessary to implement the programs.

Grants would also be made for up to 50% of the cost of managing State land use programs which meet certain requirements set forth in the draft bill. For example, the programs should include methods for inventorying, designating and exercising control over the use of land within areas of critical environmental concern or areas impacted by key facilities, as well as methods for controlling large-scale development and methods for assuring that local laws and regulations do not restrict development of regional benefit, and for controlling land use around new communities.

The proposed bill authorizes the President to designate an agency to issue guidelines to assist Federal agencies in carrying out the requirements of this Act. I understand that the President intends to give this responsibility to the Council on Environmental Quality.

While the Department of the Interior is assigned the primary responsibility for the administration of this program, the Department of Housing and Urban Development will share this responsibility with regard to those aspects of the State land use program dealing with large-scale development, key facilities, development and land use of regional benefit and new communities.

A section-by-section analysis of the 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.

SECTION-BY-SECTION ANALYSIS

The proposed bill would establish a National Land Use Policy to encourage the States to plan and regulate land use in certain critical areas.

Section 101—declares Congressional findings that present State and local institutional arrangements for planning and regulating land use are inadequate and have resulted in haphazard land development and the loss of important environmental values. It is in the national interest to encourage and assist the States in strengthening the institutional framework for planning and controlling the use of non-Federal lands.

Section 102—contains definitions. "Areas of critical environmental concern" are areas where uncontrolled development could result in irreversible damage to important values. Such areas include coastal zones and estuaries and other similar areas. "Key facilities" are public facilities which tend to induce development of more than local impact, such as airports and highway interchanges. "Development and land use of regional benefit" means private development, the regional need for which outweighs a local conflicting interest.

Section 103—authorizes the Secretary of the Interior to make two successive annual grants of up to 50% of the cost to States of developing a land use program. Prior to receiving the second grant, the State must submit a report of its progress in developing a program.

Section 104—authorizes the Secretary to make grants of up to 50% of the cost to States of managing their land use program. Such grants will be made only if the State program, in the Secretary's judgment, meets certain specified criteria. It must include methods for inventorying, designating and exercising State control over areas of critical environmental concern and areas impacted by key facilities, a method for assuring that local regulations do not restrict land use and private development of regional benefit, a policy for influencing the location of new communities, a method for controlling proposed large-scale development of more than local impact on the environment and a detailed schedule for implementing all aspects of the program. The program must not exclude areas of critical environmental concern to the Nation and must take into account the unique values and fragile nature of coastal zones and estuaries, particularly coastal wetlands. The program must also meet certain other organizational and procedural requirements.

Section 105—requires the Secretary to consult with Federal agencies with activities or programs affecting land use before making a program management grant. The Secretary shall not approve such a grant unless the Secretary of Housing and Urban Development is satisfied that those aspects of the State land use program dealing with large-scale development and key facilities, development and land use of regional benefit, and new communities meet the requirements of section 104. The Secretary shall act on a program management grant application within 6 months after receipt of the State's land use program.

Section 106—establishes a requirement for consistency of Federal projects and activities with State land use programs. It also requires that Federal agencies submitting environmental statements pursuant to the National Environmental Policy Act include a detailed statement of the relationship of the proposed Federal action to any applicable State land use program which has been found eligible for a management grant.

Section 107—requires that where a State has not been found eligible for a management grant, any major Federal action significantly affecting the use of non-Federal lands proposed after December 31, 1974, must be preceded by a public hearing at least 180 days before the proposed action, followed by detailed findings upon which the Secretaries of the Interior or Housing and Urban Development will be allowed to comment, unless the President determines that the interests of the United States are to the contrary.

Section 108—authorizes the Secretary to provide advice upon request to States about areas of critical environmental concern to the Nation and directs Federal agencies to share pertinent expertise with the States.

Section 109—authorizes the President to designate an agency to issue guidelines to assist Federal agencies carrying out their responsibilities under the Act.

Section 110—authorizes the Secretary to allocate grant funds to the States on the basis of State population and growth, extent of coastal areas and areas of critical environmental concern and other relevant factors. No grant funds shall be used by the State to acquire real property.

Section 111—authorizes the Secretary to develop, in consultation with other interested parties, rules and regulations covering the submission and review of grant applications and to require reports concerning the status and operation of the program. It requires that certain records be kept and authorizes the Secretary and the Comptroller General to audit and examine such records. It further provides that nothing in this Act shall extend State territorial jurisdictions or be construed to conflict with other Federal statutes or regulations.

Section 112—authorizes the appropriation of $20 million in each fiscal year 1972 through 1976 for grants to States. It further authorizes the appropriation of such sums as necessary for the Departments of Interior and Housing and Urban Development to administer the program.

By Mr. BYRD of West Virginia (for Mr. JACKSON, for himself, Mr. ALLOTT, and Mr. COOPER) (by request):

S. 993. 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. Referred to the Committee on Interior and Insular Affairs.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be permitted to introduced a bill authored by the Senator from Washington (Mr. JACKSON), and offered by Mr. JACKSON, for himself and Senators ALLOTT and COOPER, to provide for cooperation between the Federal Government and the States with respect to environmental regulations for mining operations and for other purposes.

By Mr. HARRIS:

S. 994. A bill to authorize the Secretary of Agriculture to establish a national water control engineering research laboratory at Lake Carl Blackwell, Stillwater, Okla. Referred to the Committee on Agriculture and Forestry.

Mr. HARRIS. Mr. President, I introduce, for appropriate reference, a bill which would authorize the Secretary of Agriculture to establish a national water control engineering research laboratory at Lake Carl Blackwell located close to Stillwater, Okla.

If established, this laboratory would assist in our efforts to solve the immense environmental problems we are experiencing. Intensive water control engineering research is essential for continued progress in land treatment and watershed protection, and the laboratory to be established by this bill could carry out this type of research.

Lake Carl Blackwell is an ideal location for the laboratory. In fact it was concluded by the Senate Appropriations Committee in 1959 that this location was

ideal. In Senate Document No. 59, 86th Congress, it is stated:

The unique facilities available at this location should be expanded to serve as a center for evaluating engineering design of conservation structures including vegetation that are an important part of the rapidly expanding watershed programs authorized under Public Law 83–566, as amended.

Even though recommended in 1959, unfortunately action has not been taken on this project.

Because of the pressing need for this Nation and the entire world to control our environmental problems, I hope that Congress will act promptly on this legislation.

I ask unanimous consent that the printed portions of a proposal in support of this laboratory be printed at this point in the RECORD.

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

A PROPOSAL FOR A NATIONAL WATER CONTROL ENGINEERING RESEARCH LABORATORY TO BE LOCATED AT LAKE CARL BLACKWELL, STILLWATER, OKLA.

ENVIRONMENT AND MAN

Man occupies the earth and uses its resources for his survival. As his numbers increase, man taxes the capacity of the earth and atmosphere to assimilate his waste products. In this respect, man is like certain simple organisms, which, given an unlimited food supply, proliferate exponentially until further growth is stopped by the toxicity of their own wastes. What is this threshold limit for man? Can it be pushed upward by technology?

Man's occupancy and use of the earth alter the interaction between climate and land, particularly the distribution and movement of the waters on and beneath the surface of the earth. For example, as he cultivates fields, runoff may be increased, and certainly as he paves urban areas for roads, parking areas and building tops, he greatly increases runoff. At the same time that he increases runoff he encroaches on the river channels and floodplains and thereby doubly increases the possibility of flood.

If man is going to continue to increase his numbers and to extend a high standard of living to all, some drastic physical changes will be needed in the arrangement of his living areas, his production areas, both farm and industrial, or his recreation areas and the water drainage and storage system. He will need to establish an equilibrium between his activities and the forces of nature so a healthful and enjoyable environment will be maintained. This environment will not be a forest primeval, nor can it ever be again. But it will be one that man can enjoy and one in which a new ecological balance will be struck. This will take all the skills of man and new knowledge yet to be gained to achieve. All engineering and sciences will be involved. Water control engineering will be but one of these, but nevertheless a very important one. Therefore, a laboratory for Water Control Engineering Research is proposed. This laboratory will be dedicated to the solution of the water control aspect of environmental problems. Its outlook and impact will be nationwide.

WHAT IS WATER CONTROL ENGINEERING?

It is Flood Control: If man is to use and occupy the floodplain he must prevent high water from covering it by building upstream floodwater retarding dams, by increasing the water carrying capacity of the stream channel, or by building levees.

It is Erosion and Sediment Control: Flowing or falling water is the principal agent for eroding land, moving sediment, degrading or aggrading stream channels, scouring streambanks, or undermining hydraulic structures. Therefore, erosion and sediment control depend upon water control.

It is Water Supply: Much of man's need for water is met by surface water supplies. These supplies are directly dependent upon rain and snow and thus their availability will vary as the climate varies. Reservoirs may be needed to store water during the rainy season to use during the dry season. Also, canals may be needed to bring the water from the reservoir to the point of use.

It is Water Measurement: Planning water control works, whether for flood control or water supply, requires estimates of the rates and quantities of water flow which can be expected to occur. These estimates are based on measurements of runoff from research watersheds. Weirs and flumes especially designed for this purpose measure the runoff.

It is Water Level Control: In coastal and tidelands areas agricultural productivity can be greatly increased by careful control of ground water level, by keeping out salt water which comes in with the rising tide, and by supplemental irrigation from abundant fresh water in the drainage ditches. Special water control structures can make these operations possible.

ECONOMIC IMPORTANCE

The total installation cost of structural measures for watershed work plans approved as of June 30, 1967, was a little over one billion dollars. Yet this large sum is for work on less than 5% of the land needing watershed treatment. Thus it can be expected that the ultimate investment in structural measures for watershed treatment alone will exceed 20 billion dollars. Research to assure that the structural works will be adequate, safe and economic is urgently needed.

THE PROBLEMS

1. Flood control

How deep will water flow in channels and over floodplains?

Depth of flow depends upon the hydraulic roughness of the channel or land surface. This roughness is unknown for many surfaces.

How can a floodwater retarding dam be protected against damage by a super flood?

The emergency spillway provides this protection, but much still needs to be known about the effectiveness and efficiency of earth and grass-lined spillways commonly used for this purpose on upstream reservoirs.

Under what condition is riprap needed to protect the face of an earth dam? What size should it be and where should it be placed?

Riprap can nearly double the cost of a dam. It is not always needed, yet when it is, it is needed badly. Criteria are not available for making this determination of need.

How can cavitation be prevented at the juncture of the drop inlet and conduit of a principal spillway?

Cavitation is an extremely destructive hydraulic phenomenon that can occur where high velocity flow separates from an adjacent surface. This separation can be prevented by proper shaping of the transition at the juncture. However, the curved surfaces required are costly to construct in concrete. A single transition, free of cavitation potential, is still needed.

What is the best form of trash rack for a principal spillway?

The ideal trash rack is one which will intercept anything in the water which could plug the spillway and at the same time not become plugged itself. The ideal rack is still being sought.

How can floodwater be conveyed through an urban area?

Open channels are the usual means of carrying a flood. In urban area they are usually paved for permanence. The smooth paving and steep grades result in high speed flows that are easily disturbed by the curves or narrow bridge openings in confined, urban channels with destructive waves a consequence.

2. Erosion control

How should terrace systems be designed?

The increased spacings and increased lengths of terraces have required more careful design to achieve the utmost economy in their construction. Also, the use of parallel terraces has resulted in irregular grades for terraces. The principles of spatially varied, nonuniform flow should be followed in their design. Research is needed to determine the appropriate design procedures under these conditions and to evaluate the physical constants in the flow formulas.

How can shifting streams be controlled?

Accelerated meander and cross section changes of natural or constructed channels can result from changes in the flow or sediment carried by the stream or from improper design of a constructed channel. Proper grades and cross sections must be determined for these streams. Bank protection methods need to be devised and evaluated. Grade control structures need study. The possible use of sediment traps needs to be explored.

What is the best way to dissipate the energy of the outflow from a pipe spillway?

The least expensive method for dissipating excess energy is to allow the jet of water to form a scour pool at the outlet of the spillway. However, under some conditions, not yet defined, the scour pool will grow so large as to undercut the toe of the dam or to threaten the safety of nearby structures. A riprapped pool or a concrete stilling basin is then required. Criteria are needed for determining the need for protection at pipe outlets.

3. Water supply

How can water be conveyed from a reservoir to the point of use?

Conveyance canals require entrance and exit structures and crossings or siphons along the way. These must be properly sized to match the capacity of the canal, and protected from self-destruction by water erosion.

4. Water measurement

How can water flow be measured?

The measurement of streamflow is made difficult by the presence of sediment in the flow, by extremely flat stream gradients as in coastal areas, and by steep stream gradients as in mountain areas. The design of special measuring devices requires laboratory testing.

HOW CAN THESE PROBLEMS BE SOLVED?

Water problems are solved by a combination of experience, research, and analysis. Of these, research contributes most to a rapid solution of a problem. It is a vital component in the formula for progress in any endeavor, and particularly so for water resources development.

The research on the problems presented in the foregoing is best conducted in a hydraulic laboratory. There, field problems can be simulated and experimental control structures built full scale or model size for investigation.

NEEDED FACILITIES

The Center should include an indoor hydraulic laboratory, an outdoor hydraulic laboratory, offices, and shops.

The indoor laboratory should have model basins, test flumes, and calibration equipment. The water supply should be self-contained and recirculated. Volumetric or weighing tanks are needed.

The outdoor hydraulic laboratory should have a large, sloping area upon which experimental structures can be built. A large supply of water, up to 500 cubic feet per second will be required. This can be obtained by gravity flow from a large reservoir and con-

veyed to the experiments by open channels. A low level reservoir may be needed to receive the waste water for subsequent return to the main reservoir by pumping.

The shops should be completely equipped for woodworking, metal working, plastic working, pipe and sheet metal fabricating, and servicing electronic and other instruments.

The research staff should include hydraulic engineers from the fields of civil and agricultural engineering with experience in both structures and channels. An agronomist would be needed to work on grass linings for conservation channels and spillways and on other vegetation for structures protection. Expertise would also be needed in sediment movement and channel stability, soils mechanics, electronic instrumentation, and computer technology.

It is recommended in Senate Document No. 59 that as of March 1, 1970, that $900,000 be made available for construction of facilities and that $660,000 be allotted annually for operating funds. However, to perform the research on the scale envisioned would require a facility costing at least $2,000,000.

LOCATION OF THE LABORATORY

U.S. Senate Document No. 59, 86th Congress, recommended that a Center for the engineering design of conservation structures be located in either Oklahoma or Tennessee. The document then singles out Oklahoma by saying, "Special mention should be made of the excellent water supply provided by Lake Carl Blackwell near the Oklahoma Agricultural Experiment Station campus where the Agricultural Research Service and the Oklahoma Agricultural Experiment Station are conducting research on design of engineering structures for use in conservation operations," and by saying further, "Stillwater, Okla.—The unique facilities available at this location should be expanded to serve as a center for evaluating engineering design of conservation structures including vegetation that are an important part of the rapidly expanding watershed programs authorized under Public Law 83-566, as amended."

The document stipulates that "A necessary requirement for such a center on this subject is an adequate supply of water with ample head for testing models or essential parts of all structures required in watershed programs administered by the U.S. Department of Agriculture. It is also essential for the requirements of departmental action programs that research on design problems have first priority. Ample and suitable land should be available for outdoor testing of conservation structures and necessary appurtenances thereto. It would also be desirable to locate such a laboratory where testing would not be seriously hampered by cold weather.

"The center should be located at or adjacent to a land-grant college or a university with strong programs in areas related to the work of the center."

The site at Lake Carl Blackwell near Stillwater, Oklahoma, meets the requirements set forth. Furthermore, there is a research station there now which could provide a nucleus for the new laboratory.

The land-grant institution at Stillwater, Oklahoma State University, is a strong school in soil and water conservation research and teaching. The University is also the location for the Oklahoma Water Resource Research Institute. Association with these institutions would strengthen the new laboratory. Stillwater, Oklahoma is the place to locate the Center for Water Control Engineering Research.

Mr. HARRIS. Therefore, Mr. President, we are asking that except for any project held up or delayed for environmental reasons, these projects presently being delayed by the President may be turned loose and the funds now being held up may be permitted to be expended for these purposes previously approved by Congress.

Mr. President, I yield the floor.

By Mr. HARRIS:

S. 995. A bill for the relief of Ronald K. Downie. Referred to the Committee on the Judiciary.

S. 996. A bill for the relief of certain air taxi mail transportation operators. Referred to the Committee on Post Office and Civil Service.

By Mr. ROTH:

S.J. Res. 57. Joint resolution proposing an amendment to the Constitution of the United States to establish maximum age limits for certain officers of the Government. Referred to the Committee on the Judiciary.

Mr. ROTH. Mr. President, on December 17, 1970, during the closing hours of the 91st Congress, the senior Senator from Delaware, the Honorable John J. Williams, introduced a joint resolution proposing an amendment to our Constitution for the purpose of establishing a mandatory retirement age for Federal judges and for the Members of the Congress. On the following day, I introduced a similar proposal in the House. Today, I am reintroducing his proposal.

The name John Williams is synonymous with personal integrity. Perhaps he was most aptly described by the Senator from Nebraska (Mr. CURTIS) on the day Senator Williams announced his intention to retire. Senator CURTIS said:

Senator John Williams stands high above the crowd in moral integrity and courage. On numerous times he has led the fight and stood without many followers for righteousness in government. Many departments and agencies operate more efficiently because of what John Williams has done and the fear of what he might do. The mere presence of John Williams in the Senate is a force for good.

Although that force in the person of John Williams is no longer in the Senate, we have all learned much from his example.

In deciding not to pursue a fifth term in this body, it cannot be doubted that Senator Williams was again trying by his example to foster a change for good. He was cognizant that the work of the Congress was ever expanding; that the days of concluding the business of the Congress by midsummer or early fall were far behind us. To serve the needs of a nation whose wrongs cry out for immediate attention, the business of the legislature must be a year-round activity. The obligations of the Members of Congress to their constituency and to the Nation demands much. There is only so much time, and that time is precious.

The same situation we have in Congress exists in the courts. Today, we all are concerned about ways to reduce court backlog to provide every accused individual a trial within 60 days following his arrest and to provide all people a reasonable access to the courts for the redress of grievances. This pressure is felt by no one more than by our Federal judges on whose shoulders much of this great burden falls.

Senator Williams was also concerned with the problems that some Federal judges presently serve on the Federal judiciary long past the age where they can follow the arguments of a long tedious trial. The result of this situation is that we are getting court decisions and opinions rendered by young law clerks who have no responsibility to the people.

A similar situation also exists in the Congress. We all recognize that in some cases where men have served too long in the Congress decisions are frequently made by staff members. Not only is this bad practice judicially but it is also bad legislatively.

This constitutional amendment which I am proposing today will accomplish the following: First, it will not allow the appointment to the Federal bench of anyone 70 years of age, and will require those already on the Federal bench to retire 30 days after reaching such age; second, it will not allow anyone 65 years of age to run for election to the Senate of the United States—this will have the desired effect that no Senator be 70 years of age or over; and, third, it will not permit a person to run for election to the House of Representatives who is 68 years of age, which will result in the similar situation that no Member of the House of Representatives be 70 years of age or over.

This is the principal content of the legislation introduced by Senator Williams last December. I have modified this legislation somewhat to grant immunity from its impact to certain persons already serving in the Federal judiciary and to those Members of the Congress who are 60 years of age or older when this legislation is submitted to the States for ratification.

It is my belief that we must make special consideration for both of these groups in view of the vast sacrifices they have made to enter public life, and without benefit of the knowledge that this be adopted. Accordingly, Federal judges who have not served the minimum number of years required by law to become eligible for their pension benefits, which is their salary for life, will be allowed to remain on the bench until that minimum time has been served.

Members of Congress equally have sacrificed much to enter public life. I believe that it would be unfair to require those now close to the ages at which retirement from the Congress would be required to be bound by its provisions. Thus, I have included in the language of this amendment a provision that will allow those 60 years of age when this legislation is submitted to the States for ratification to be exempt from the impact of this amendment. These individuals will be allowed to continue to hold office and to seek reelection to that office with no restrictions as to age. Of course, those Members so affected are free to elect to choose not to utilize this special provision.

I have chosen the age of 60 years because I believe it presents a viable cutoff. I do not believe that this special exemption should be available to all the Members of Congress since sometime in the future it would allow to exist a special

exempt class of legislators, something which I would not approve. And in drawing any line such as this, there will always be inequities. There is no rational justification for 60 years of age, just as there would not be one for drawing the line at 59 or 61. The fact of the matter is that I believe that a line must be drawn.

Mr. President, a mandatory retirement age is not unknown in America. In 1966, we in the Congress determined that civil service employees must retire at age 70. American business has long considered 65 as an appropriate age for its executive employees to step aside for younger men. There is even a movement toward a younger retirement age. While these practices have created some problems especially for those retiring, the movement has been for the pursuit of excellence and fairness, and not to give special consideration for the younger generation.

In this vein, Senator Williams concluded that it was time for this country to recognize that its political leaders too are mere mortals and that the passage of time does impair us all. This country and the electorate deserve the best qualified men available, mentally as well as physically. I do not believe that this proposal will infringe on that quest, but will act to improve our federal system of government.

Further, the talents of these great leaders who will retire according to this proposed constitutional imperative will not be wasted. Just as the expertise of past Presidents is utilized by those who now hold that high office, so too would the expertise of these retired Members become available as resources to those who would follow in their stead. Those retired judges, Senators, and Representatives will serve the Nation still as valued citizens of the Republic.

Finally, in introducing this legislation, Senator Williams hoped that this Congress would actively consider the enactment of this legislation. It is my hope, too, that the committee to which this proposal is referred will soon call hearings to deliberate on its value.

Mr. President, I ask unanimous consent that the text of the proposed constitutional amendment be printed in the RECORD at this point.

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

S.J. RES. 57

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within 7 years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. No person who has attained the age of seventy years shall be appointed to be a judge of the United States. Within thirty days after attaining seventy years of age, any judge of the United States shall retire from regular active service. Any such judge who holds a judgeship on the date in which this article is ratified may continue in regular active service until the later of that date on which he attains such age or thirty days after the date on which he has served the minimum number of years required by law, in effect on such ratification date, as a condition of continuing to receive, during his lifetime, the salary of the office upon resignation or retirement from regular active service.

"SEC. 2. No person who has attained the age of sixty-five years shall be a Senator, except that any Senator who attains such age while in such office may serve for the remainder of the term for which he was elected or appointed. This section shall not apply to any person who is a Senator on the date that this article is submitted to the States for ratification and who is sixty years of age or older as of such date.

"SEC. 3. No person who has attained the age of sixty-eight years shall be a Representative, except that any Representative who attains such age while in such office may serve for the remainder of the term for which he was elected. This section shall not apply to any person who is a Representative on the date that this article is submitted to the States for ratification and who is sixty years of age or older as of such date."

By Mr. BELLMON:

S.J. Res. 58. Joint resolution to establish a Joint Commission on Energy, and for other purposes. To the Committee on Commerce.

Mr. BELLMON. Mr. President, in order to provide a forum for disclosing the facts of our current energy supply situation, as well as a mechanism for both Houses of Congress to deal effectively with the problem, I am today introducing legislation to establish a Joint Congressional Committee on Energy. I ask unanimous consent that a copy of the bill be printed at the conclusion of my remarks.

The Nation's energy crisis grows worse every day. Evidences of the problem are to be found at every hand.

The Federal Power Commission recently issued a report showing that some areas of the country may expect to experience power supply shortages this coming summer; that pipeline companies operating storage facilities will be faced with a problem of replenishing their full storage capacity during the summer season; and that the natural gas supply remains tight.

Earlier this year, Mr. Hollis M. Dole, Assistant Secretary of the Interior for Mineral Resources, reported that the demand for energy supplies is growing greater at a time when gas supplies are short, nuclear power development is behind schedule and coal is being forced out of big city markets because it cannot meet air quality standards.

According to Mr. Dole:

By 1985 the United States is going to require—at the very least—almost double the amount of energy it used last year to heat its homes, power its factories, mines and transportation systems, and in general to accomplish the work that must go on in a large industrialized high-consumption society. This says nothing at all about the sources from which this energy must come, or the form in which it will be used.

But, in Mr. Dole's words:

It is upon these critically important matters of form and source of our energy supplies that the strength, growth and security of our nation depends.

The Interior Department official said the domestic oil supply is failing while we are reaching a point where foreign oil is not only unreliable, but costly as well. As he points out:

Despite the announced purpose of the oil import control program to prevent critical dependence upon foreign sources of oil, the East Coast is now critically dependent upon foreign sources for the oil which supplies nearly half its industrial energy.

Mr. Dole stresses the fact that not since the early 1920's has the United States been without a cushion of "spare capacity" in its domestic production to call upon in the event of a sudden failure of our normal petroleum supply sources. It would be a totally new experience to be dependent upon foreign oil sources not only for a substantial and growing part of our normal oil supply, but for all our emergency supply. Ironically, it has been the failure of foreign oil supply that has been the cause of all our emergency needs for oil since the end of World War II.

So we look to our domestic oil and gas industry to meet the crisis by finding new sources of energy supplies. But that industry is facing a financial bind created by unfavorable world conditions and discouraging government policies.

The Independent Petroleum Association of America reports the number of new natural gas drilling ventures is declining for lack of incentives under present price levels, set by the Federal Power Commission. Despite inflationary trends in production costs, wellhead prices on natural gas are near 1960 levels.

Environmental restrictions on the quality of fuel used by industry are forcing oil and gas producers to spend large sums of money to research means of cleaning up the fuel we do have. In Alaska, exploitation of huge oil reserves is being slowed down by lengthy debate on what effects a proposed pipeline across the State will have on the environment.

The continuing Middle East crisis has resulted in a shortage of tankers, causing a jump in the cost of transporting crude oil to American refineries.

Recent tax laws reduced the oil industry's depletion allowance, curtailing industry funds for new ventures by about $700 million per year.

Despite the obvious threat to our security and economy, our Government has on occasion threatened to import more foreign oil to prevent oil industry price adjustments.

Mr. President, it is apparent that present regulations of the oil and gas industry are incompatible with solving the energy crisis.

We must recognize that we have a serious problem and it is one that cannot be solved by sticking our heads in the sand.

Government officials and private citizens alike must be informed about our country's energy needs, how they can be met, and how much we must pay to uncover new supply sources before we will be able to make the necessary decisions for which directions to take.

Mr. President, I realize that efforts are already being put forth to review thoroughly the entire spectrum of the Nation's energy needs. I am a cosponsor of Senate Resolution 45, providing for a study of a national fuels and energy

policy by the Senate Interior and Insular Affairs Committee. This is indeed a worthy piece of legislation and is a much needed step, but because of the magnitude of the problem, I believe we should go further and create a special committee with a single purpose.

The legislation I am introducing is tailored after the statute which established the joint congressional committee that regularly reviews the operation of the Atomic Energy Commission.

It is my feeling that such a review is largely responsible for the great strides this country has made in atomic energy research and development.

Mr. President, as a representative of a State which produces oil, gas, coal, and other minerals, and as a former Chairman of the Interstate Oil Compact Commission, I am convinced that the energy industry can meet its responsibility to supply the Nation with a reliable supply of low-cost energy. To my knowledge, there is no other major industry that can equal its record for holding down costs to consumers.

The slowdown in new drilling ventures, the blackouts and brownouts of recent winters, and warnings of rapidly diminishing energy supplies make it essential that sound governmental decisions based upon full and accurate information can be made in the future. I am hopeful the joint committee I have proposed will help accomplish this objective.

A primary reason for the present critical situation is that no procedure for regular and continuing public review exists. Public debate and disclosure of facts relating to our energy situation would produce a much greater understanding on the part of American consumers as well as Government officials who are charged with decisions relating to the welfare of our country.

I am hopeful that the joint committee I have proposed will initially help to clear away much of the misunderstanding and confusion which surrounds current policies toward the energy industry, and will ultimately provide the farsightedness necessary to prevent future crisis points from building in this all-important and vital segment of our economy.

ADDITIONAL COSPONSORS OF BILLS

S. 32

At the request of the Senator from Massachusetts (Mr. KENNEDY) the names of the Senator from Indiana (Mr. BAYH) and the Senator from Connecticut (Mr. RIBICOFF) were added as cosponsors of S. 32, the Conversion Research Education and Assistance Act of 1971.

S. 34

Mr. KENNEDY. Mr. President, I ask unanimous consent that at its next printing, the names of Mr. ANDERSON, Mr. BAYH, Mr. BIBLE, Mr. BROOKE, Mr. BURDICK, Mr. BYRD of West Virginia, Mr. CHILES, Mr. CHURCH, Mr. CRANSTON, Mr. EAGLETON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HANSEN, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HOLLINGS, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. MANSFIELD, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MCGEE, Mr. METCALF, Mr. MILLER, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. SCOTT, Mr. SPARKMAN, Mr. STEVENSON, Mr. SYMINGTON, Mr. TUNNEY, and Mr. WILLIAMS may be added as cosponsors of S. 34, the Conquest of Cancer Act. I am pleased to say that we now have a total of 43 sponsors for this legislation, and that the bill has strong bipartisan support. Because of the widespread interest in the measure, I intend to begin hearings on it within the next few weeks.

S. 41

At the request of the Senator from Kansas (Mr. DOLE), the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 41, to establish a National Information and Resource Center for the Handicapped.

S. 70

At the request of the Senator from Kansas (Mr. DOLE), the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of S. 70, to amend the Rural Electrification Act of 1936, as amended, to provide an additional source of financing for the rural telephone program, and for other purposes.

S. 376

At the request of the Senator from West Virginia (Mr. BYRD), on behalf of the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 376, the Vietnam Disengagement Act of 1971.

S. 382

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Rhode Island (Mr. PELL), I ask unanimous consent that, at the next printing, his name be added as a cosponsor of S. 382, to promote fair practices in the conduct of election campaigns for Federal political offices, and for other purposes.

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

S. 537

At the request of the Senator from New Mexico (Mr. ANDERSON), the Senator from Minnesota (Mr. HUMPHREY) and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 537, to include chiropractor's services among the benefits provided by the insurance program established by part B of title XVIII of the Social Security Act.

S. 555

At the request of the Senator from Massachusetts (Mr. KENNEDY) the Senator from Illinois (Mr. STEVESON) was added as a cosponsor of S. 555, the Older American Community Service Employment Act.

S. 598

At the request of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 598, relating to judicial review of administrative actions.

S. 718

At the request of the Senator from Delaware (Mr. ROTH), the Senator from Illinois (Mr. STEVENSON), and the Senator from Michigan (Mr. GRIFFIN) were added as cosponsors of S. 718, to create a catalog of Federal assistance programs.

S. 870

At the request of the Senator from New Jersey (Mr. WILLIAMS), the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 870, a bill relating to the Emergency Commuter Relief Act of 1971.

S. 882

At the request of the Senator from New Jersey (Mr. WILLIAMS), the Senator from Maine (Mr. MUSKIE), the Senator from Iowa (Mr. HUGHES), the Senator from Florida (Mr. GURNEY), and the Senator from Delaware (Mr. BOGGS) were added as cosponsors of S. 882, authorizing payment under medicare for services performed by a household aide.

S. 883

At the request of the Senator from New Jersey (Mr. WILLIAMS), the Senator from Nevada (Mr. BIBLE), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from Iowa (Mr. HUGHES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Maine (Mr. MUSKIE), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. PROUTY), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 883, to establish an Institute on Retirement Income.

S. 896 AND S. 905

At the request of the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 896 and S. 905, to prohibit the use of food-for-peace funds for military purposes.

ADDITIONAL COSPONSORS OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 15

On behalf of the Senator from Wisconsin (Mr. NELSON), the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from West Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Florida (Mr. GURNEY), the Senator from Indiana (Mr. HARTKE), the Senator from Washington, (Mr. JACKSON), the Senator from Oregon (Mr. HATFIELD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Iowa (Mr. MILLER), the Senator from Maine (Mr. MUSKIE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Rhode Island (Mr. PASTORE), the Senator from Delaware (Mr. ROTH), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. SPONG), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from California (Mr. TUNNEY), were added as cosponsors of Senate Joint Resolution 15, to designate the third week of April as Earth Week.

SENATE RESOLUTION 58—SUBMISSION OF RESOLUTION TO EXPRESS THE SENSE OF THE SENATE ON RELATIONSHIP BETWEEN LEGISLATIVE AND EXECUTIVE BRANCHES OF THE GOVERNMENT

Mr. HARRIS. Mr. President, I am submitting today a resolution which would express the sense of the Senate on a matter of great importance insofar as it touches upon the relationship between the legislative and executive branches of the Government. I am joined in sponsoring this resolution by Senators BIBLE, CRANSTON, EAGLETON, GRAVEL, HOLLINGS, HUMPHREY, INOUYE, JACKSON, JORDAN of North Carolina, MAGNUSON, MCGEE, MCGOVERN, MONDALE, MOSS, RANDOLPH, STEVENSON, SYMINGTON, TALMADGE and TUNNEY.

In proper exercise of its legislative function, the Congress has authorized the construction of public works projects in the various States. Appropriations have been passed by the Congress after full consideration by the Appropriations Committees of both the House of Representatives and the Senate, and the appropriation bill has been signed by the President. The President was critical of the Congress for adding new starts and increases over the amounts which he had requested in his budget for fiscal year 1971. Prior to formulation of the 1972 budget, the President placed in budgetary reserve funds affecting public works projects in nearly all the States. He included construction projects previously funded but not initiated, projects recommended in the budget as new starts, and all congressional add-ons for planning and construction. This decision was stated to be without prejudice, pending completion of the 1972 budget.

An analysis of the 1972 budget reflects a history of public works appropriations being subjected to freezes and thaws as a part of the President's overall economic policy.

The following statements appear in the special analyses accompanying the 1972 budget:

The construction moratorium imposed by the President in September 1969 to relieve inflationary pressures was terminated in June 1970. The 75% deferral of new construction contracts during 1970 resulted in shifting some $300 million of budget outlays from 1970 to later years. Under the President's policy, the projects deferred in 1970 will not be accelerated, but will now proceed under normal program schedules.

Some new projects funded in the 1970 and 1971 budgets have been delayed to avoid aggravating inflationary conditions in local construction market areas and to comply with outlay ceilings imposed by the Congress. Almost all of these new projects are now programmed for starting in 1971 and 1972.

Construction costs are continuing to rise rapidly, adding to budget outlays. The Department of Commerce's composite index of construction costs increased nearly 8% in the year ending September 1970, about the same as in the prior year.

The fact that many of the projects will be scheduled for starts in fiscal year 1971 and 1972 does not satisfy, to my mind, the unwarranted interference by the President into the legislative function of the Congress purely as a part of his overall economic game plan.

Over the past 2 years, we have been suffering from inflationary pressures, accompanied by major unemployment. This unemployment has been especially high in the construction sector. When budgetary freezes are imposed by the Executive in the face of legislative action by the Congress to implement what is, in my opinion, a misguided economic policy, the Senate has the responsibility to speak out.

By signing the public works appropriation bills, and then placing items in budgetary reserve, the President is exercising a peculiar power—a "partial temporary veto." I find no constitutional basis for such action.

There are several public works projects in my own State of Oklahoma which have been delayed by the President's fund freezing. The Corps of Engineers has informed me that the withholding of funds on the Waurika Dam project has caused that project to be a full year behind its original schedule. Some funds will be available for the Waurika Dam during fiscal year 1971 but the project will not proceed on the schedule originally contemplated by the Congress. Other Oklahoma projects are still in reserve and funds will not be available until fiscal year 1972. I append hereto a list of Corps of Engineer projects and the funds in reserve as of February 17, 1971.

Mr. President the ultimate loser in this game of budgetary impounding is the taxpayer. Once a project has been approved by the Congress and signed into law by the Executive, it is nearly certain that the work will eventually be completed. Delays such as those imposed by the President only add to the final cost to the taxpayer, since each year, construction costs increase.

The projects which we are discussing, Mr. President, are necessary for the welfare of the communities affected thereby. Some provide flood control measures, which can save life and property of citizens in the project region. Other projects are necesary to provide an adequate water supply to meet the municipal and industrial needs of the communities. It is not enough to relax the budgetary reserve or to let funds out at a reduced pace. The funds should be spent and the projects completed insofar as possible, in accordance with the schedules prescribed by the Congress.

I would like to make clear that this resolution is directed to those projects which are being held up for budgetary and fiscal reasons. I am not urging that the Cross-Florida Barge Canal, which is in question due to its effect on the environment, be reinstated. My concern is directed to those projects which are environmentally sound but subject to delay as a part of the administration's economic policy.

I note with interest that the Subcommittee on Separation of Powers of the Committee on the Judiciary, under the able leadership of the distinguished Senator from North Carolina (Mr. ERVIN), is planning a study of the practice of impounding of appropriated funds insofar as it relates to the constitutional powers of the Congress and the Executive. I congratulate the distinguished Senator from North Carolina and hope that his work can elucidate the problems existing in this area and point the way to legal solutions.

Pending full resolution of all of the constitutional issues involved, I feel that it is the responsibility of the Senate to stand in support of its legislative power and not let that power be eroded by unwarranted Executive action.

I think it is bad economy to hold up those projects when we know they are going to be built anyway. History shows that inflation will result in added costs. As a matter of fact, it seems to me they should be constructed now in the interest of the economy, at a time when we ought to be stimulating the economy and creating additional jobs, rather than the opposite, as the President's policy seems to entail.

I ask unanimous consent that a list of Corps of Engineers civil works, funds in the budgetary reserve for fiscal year 1971, be printed in the RECORD.

The PRESIDING OFFICER. The resolution will be received and appropriately referred; and, without objection, the statement will be printed in the RECORD.

The resolution (S. Res. 58) was referred to the Committee on Appropriations, as follows:

S. RES. 58

Resolved, That it is the sense of the Senate that (1) the President of the United States should provide for the immediate release of funds which were appropriated by Congress for public works under the Public Works for Water, Pollution Control, and Power Development and Atomic Energy Commission Appropriation Act, 1971, and which were placed in budgetary reserve for fiscal, economic and related budgetary reasons at his direction, and (2) construction of such public works, excepting those being reconsidered or delayed for environmental reasons, should proceed according to the schedules set and funds appropriated by the Congress in the exercise of its proper legislative function.

The statement ordered to be printed in the RECORD, is as follows:

CORPS OF ENGINEERS—CIVIL WORKS, FUNDS IN BUDGETARY RESERVE, FISCAL YEAR 1971

	State and project	Amount in reserve
Alabama:		
(FC)	Montgomery	[1] $50,000
Alaska:		
(N)	Kake Harbor	[1] 50,000
(N)	King Cove Harbor	[2] 100,000
Arizona:		
(FC)	Gila River and tributaries downstream from Painted Rock Dam	[2] 500,000
Arkansas:		
(FC)	Little Rock levee	[2] 260,000
(FC)	Red River levees and bank stabilization below Denison Dam, Ark., La., and Tex	[2] 200,000
California:		
(FC)	Buchanan Lake	[2] 700,000
(FC)	Chester Feather River	[1] 50,000
(FC)	Cucamonga Creek	[1] 190,000
(FC)	Hidden Lake	[2] 1,050,000
(FC)	Lower San Joaquin River	[2] 720,000
(FC)	Lytle and Warm Creeks	[2] 1,000,000
(N)	Monterey Harbor	[2] 150,000
(N)	Oakland Harbor	[2] 2,820,000
(N)	San Diego Harbor	[1] 30,000
(N)	Santa Paula Creek	[2] 150,000
(FC)	Tahquitz Creek	[2] 150,000
Colorado:		
(FC)	Bear Creek (Mount Carbon) Dam and Lake	[2] 390,000
(FC)	Boulder	[1] 50,000

Footnotes at end of table.

CORPS OF ENGINEERS—CIVIL WORKS, FUNDS IN BUDGETARY RESERVE, FISCAL YEAR 1971—Continued

State and project	Amount in reserve
Connecticut:	
(FC) Park River	[1] $100,000
Florida:	
(FC) Central and Southern Florida	[2] 200,000
(N) Cross-Florida Barge Canal	[2] 350,000
(N) Gulf Intracoastal Waterway, St. Marks to Tampa Bay (ecological study)	[1] 180,000
(N) Miami Harbor	[1] 60,000
Georgia:	
(MP) Spewrell Bluff Dam	[2] 500,000
(MP) Trotters Shoals Lake, Ga. and S.C	[2] 300,000
Hawaii:	
(N) Heeia-Kea Harbor	[1] 49,000
(N) Kawaihae Harbor	[2] 1,102,000
(BE) Waikiki Beach	[2] 200,000
Idaho:	
(FC) Stuart Gulch Dam	[1] 75,000
Illinois:	
(FC) Levee District 23 (Dively), Kaskaskia River	[2] 60,000
(FC) Lincoln Lake	[2] 100,000
(N) Lock and Dam 26, Alton, Ill. and Mo	[1] 351,000
(N) Mississippi River between Ohio and Mississippi Rivers, Ill. and Mo.: Regulating works	[2] 1,000,000
(N) Mound City Lock and Dam, Ill. and Ky.	[2] 100,000
Indiana:	
(FC) Big Pine Dam and Lake	[2] 50,000
(FC) Clifty Creek Dam and Lake	[2] 50,000
(FC) Greenfield Bayou Levee	[2] 50,000
(FC) Lafayette Lake	[2] 100,000
Iowa:	
(FC) Ames Lake	[2] 100,000
(FC) Big Sioux River at Sioux City, Iowa and S. Dak	[1] 70,000
(N) Missouri River, Sioux City to mouth, Iowa, Kans., Mo., and Nebr	[2] 400,000
(FC) Waterloo	[2] 100,000
Kansas:	
(FC) Cedar Point Lake	[1] 25,000
(FC) Dodge City	[2] 350,000
(FC) El Dorado Lake	[2] 300,000
(FC) Grove Lake	[1] 150,000
Kentucky:	
(FC) Martin	[2] 150,000
(FC) Martins Fork Lake	[2] 100,000
(FC) Painsville Lake	[2] 330,000
(FC) Taylorsville Lake	[2] 150,000
Louisiana:	
(FC) Bayou Bodcau and tributaries	[2] 50,000
(FC) Lake Pontchartrain and vicinity	[2] 3,000,000
(N) Mermentau River (Lake Arthur bridge)	[2] 835,000
(N) Michoud Canal	[2] 50,000
(FC) Monroe floodwall	[2] 30,000
(FC) New Orleans to Venice hurricane protection	[2] 574,000
(FC) Ouachita River Levees	[2] 80,000
(N) Red River Waterway, La., Ark., Okla., and Tex. (Mississippi River to Shreveport only)	[1] 600,000
Massachusetts:	
(N) Fall River Harbor, Mass., and R.I	[2] 25,000
(FC) Saxonville	[1] 39,000
Michigan:	
(N) Lexington Harbor	[1] 15,000
Minnesota:	
(FC) Roseau River	[2] 100,000
(FC) Zumbro River	[2] 50,000
Mississippi:	
(FC) Tallahala Creek Dam and Lake	[1] 60,000
Missouri:	
(FC) Brookfield Lake	[1] 59,000
(FC) Chariton-Little Chariton Basins	[2] 350,000
(FC) Dry Fork and East Fork Lakes (fishing river) (restudy)	[1] 50,000
(MP) Harry S Truman Reservoir (formerly Kaysinger Bluff Reservoir)	[2] 100,000
(FC) Little Blue River Lakes	[2] 1,220,000
(FC) Mercer Lake	[1] 140,000
(FC) Mississippi River Agricultural Area No. 8 (Elsberry drainage district)	[1] 120,000
(FC) Pattonsburg Lake (town relocation only)	[1] 50,000
(FC) Union Lake (advance participation, highway bridge)	[2] 300,000
Montana:	
(MP) Libby Dam and Lake	[2] 650,000
Nebraska:	
(FC) Papillion Creek and Tributaries	[3] 1,310,000
New Mexico:	
(FC) Albuquerque diversion channels	[2] 250,000
New York:	
(N) Cattaraugus Harbor	[1] 30,000
(BE) Fire Island Inlet to Jones Inlet	[2] 50,000
(N) Irondequoit Bay	[2] 170,000
(N) Oak Orchard Harbor	[2] 150,000
(FC) Yonkers	[1] 55,000
North Carolina:	
(FC) Howards Mill Dam and Lake	[1] 90,000
(FC) Randleman Dam and Lake	[1] 78,000
North Dakota:	
(FC) Minot	[2] 100,000
(FC) Pipestream Lake	[2] 450,000
Ohio:	
(FC) Alum Creek Lake	[2] 620,000
(FC) Chillicothe	[1] 75,000
(FC) East Lake Chagrin River	[1] 60,000
(FC) Salt Creek Lake	300,000
Oklahoma:	
(FC) Birch Lake	[2] $400,000
(FC) Copan Lake	[2] 500,000
(FC) Lukfata Lake	[2] 450,000
Pennsylvania:	
(FC) DuBois	[2] 100,000
(MP) Tocks Island Lake, Pa., N.J., and N.Y	[2] 3,600,000
Tennessee:	
(MP) J. Percy Priest Dam and Reservoir (Nashville Davidson County bridge)	[2] 839,000
Texas:	
(FC) Aquilla Dam and Lake	[1] 90,000
(FC) Arkansas-Red River chloride control (supplemental studies), Tex., Okla., and Kans	[1] 410,000
(FC) Aubrey Lake	[1] 115,000
(FC) Big Pine Lake	[1] 35,000
(FC) Cooper Lake and Channels	[2] 300,000
(N) Corpus Christi ship Channel	[2] 250,000
(N) Gulf Intracoastal Waterway, New Orleans to Houston, 16 foot Channel, La., and Tex., (Corpus Christi cutoff only)	[2] 200,000
(N) Mouth of Colorado River	[1] 95,000
(FC) San Gabriel River tributary to Brazos River	[2] 800,000
Utah:	
(FC) Little Dell Dam and Lake	[1] 91,000
Virginia:	
(FC) Four Mile Run	[1] 170,000
Washington:	
(MP) Little Goose Lock and Dam (additional units)	[1] 130,000
(FC) Vancouver Lake	[1] 85,000
(FC) Wynoochee River Dam and Lake	[2] 1,900,000
West Virginia:	
(FC) Burnsville Lake	[2] 120,000
(FC) Leading Creek Lake	[1] 150,000
(FC) Rowlesburg Lake	[2] 150,000
(FC) Stonewall Jackson Lake	[2] 150,000
Subtotal	39,277,000
Miscellaneous:	
(N) Small navigation projects not requiring specific legislation costing up to $1,000,000 (sec. 107)	90,000
(FC) Small projects for flood control and related purposes not requiring specific legislation (sec. 205)	750,000
(FC) Recreation facilities, completed projects	1,000,000
Total construction, general	41,117,000
Flood control, Mississippi River and tributaries:	
Atchafalaya Basin	1,750,000
Cache River	100,000
Channel improvement	732,000
St. Francis Basin	1,150,000
West Kentucky tributaries	100,000
Yazoo Basin:	
Greenwood	200,000
Upper auxiliary channel	200,000
Yazoo backwater (Muddy Bayou)	100,000
Total Mississippi River and tributaries	4,332,000
General investigations:	
Gavins Point Dam and Lewis and Clark Lake, Nebr. and S. Dak. (relocation of Niobrara, Nebr.)	200,000
Grand total	45,649,000

Footnotes at end of table.

[1] Planning.
[2] Construction.
[3] Land Acquisition.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 45

At the request of the Senator from West Virinia (Mr. RANDOLPH), the Senator from Colorado (Mr. ALLOTT), the Senator from Indiana (Mr. BAYH), the Senator from Maryland (Mr. BEALL), the Senator from Texas (Mr. BENTSEN), the Senator from Colorado (Mr. DOMINICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Florida (Mr. GURNEY), the Senator from Wyoming (Mr. HANSEN), the Senator from Indiana (Mr. HARTKE), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Rhode Island (Mr. PELL), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. SPONG), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), and the Senator from North Dakota (Mr. YOUNG) 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.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 6

At the request of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Nevada (Mr. BIBLE), the Senator from West Virginia (Mr. BYRD), the Senator from New Jersey (Mr. CASE), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Indiana (Mr. HARTKE) were added as cosponsors of Senate Concurrent Resolution 6, to continue funding for the Public Health Service hospitals and outpatient clinics, pending a study by Congress and the administration.

GENERAL REVENUE SHARING ACT OF 1971—AMENDMENTS

AMENDMENT NO. 5

Mr. JAVITS. Mr. President, I send an amendment to the desk to the administration's revenue sharing bill (S. 680) which seeks to double the amount of new Federal funds for States and localities from $5 billion to $10 billion by doubling the percentage of the income tax base earmarked for revenue sharing from 1.3 percent to 2.6 percent. It also advances the starting date of the program from October 1, 1971, to July 1, 1971.

The States and localities face a serious crisis. That crisis is financial. They are now under the compulsion that, unless they get some kind of revenue-sharing program that makes sense to them, they will have to cut back on basic services so as to raise grave problems of frustration, despair, and perhaps even violence in local communities. We are not talking now about tightening up on welfare and generally making it more efficient and seeing that people who are malingerers do not take advantage of it, but we are talking about the basic maintenance of government services by States, cities, and counties.

Mr. President, if we were to give them the $10 billion, they would still have to raise another $10 billion over and above the amount that they now have in order to be able to meet their responsibilities.

New York, for example, has the highest taxes in the Nation and expends more effort to provide services than any other State. Yet Governor Rockefeller has had to ask for $1.1 billion in new taxes. That is just to keep up to the current demands and not to move further ahead. Many of the services are highly inadequate.

Mr. President, these problems of deteriorating quality of life, environmental

pollution, overcrowded schools, deteriorating mass transit systems, unsafe streets, high unemployment, lack of manpower training, and so forth, will get infinitely worse unless we make use of the Federal revenues to assist these areas of the country. Because of our tax system, which favors the Federal Government over State and local governments, that is the only place from which assistance can come.

The proposal to make revenue sharing effective on July 1 of this year instead of October 1 reflects the same concern for solving the crisis in services. Most states run their budgets on a July 1 fiscal year basis and a revenue-sharing program beginning in October would simply come too late to make any dent in the local picture at all. Using the guideline that a $10 billion program would satisfy less than one-half the additional needs in our States and localities this year, a $5 billion program starting in October would satisfy substantially less than one-fourth of these needs during the current year. Clearly the situation demands a more substantial commitment than that.

I would like to comment about the criticism that a "no strings" revenue-sharing program would be an abuse of the tax dollar and a capitulation by Congress of its constitutional authority to appropriate Federal revenues. I note with considerable interest that bills have been introduced which would tie revenue sharing to certain criteria and performance standards on the part of the recipients; and I shall introduce amendments to this effect myself.

However, I believe it is important first to agree on what our commitment should be, and my amendment today is offered in this spirit. Any sober appraisal of the crisis in services at the State and local level leads us inevitably to conclude that a $5 billion revenue-sharing program is not enough, and that it must also start at the earliest possible time.

I hope that Senators and Representatives from States which contain big cities will not forget what I say, because they will hear about it very strongly from back home.

Mr. President, this measure will be introduced today in the other body of Representatives REID, HALPERN, and HORTON.

I ask unanimous consent that the text of the amendment be printed in the RECORD.

The PRESIDENT pro tempore. The amendment will be received and appropriately referred; and, without objection, it will be printed in the RECORD as requested by the Senator from New York.

The amendment (No. 5), submitted by Mr. JAVITS, intended to be proposed by him, to the bill (S. 680) to restore balance in the Federal system of government in the United States; to provide both the flexibility and resources for State and local government officials to exercise leadership in solving their own problems; to achieve a better allocation of total public resources; and to provide for the sharing with State and local governments of a portion of the tax revenue received by the United States; was referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 5

On page 5, line 2 and 3, strike out "the percentages provided in subseciton (b) of this section multiplied by" and insert "2.6 percent of".

On page 5, strike out lines 8 through 11 and, in line 12, strike out "(c)" and insert "(b)".

On page 17, line 20, strike out "October 1, 1971" and insert "July 1, 1971".

AMENDMENT OF HIGHER EDUCATION ACT OF 1965, THE VOCATIONAL EDUCATIONAL ACT OF 1963, AND RELATED ACTS—AMENDMENT

AMENDMENT NO. 6

Mr. KENNEDY. Mr. President, on behalf of myself and Senators MONDALE, BYRD of West Virginia, CANNON, CRANSTON, DOMINICK, EAGLETON, HARRIS, HART, HUGHES, HUMPHREY, INOUYE, JAVITS, MCGOVERN, PASTORE, and TUNNEY, I am submitting today an amendment to the Higher Education Act of 1971—S. 659. This amendment is intended to deal comprehensively with the problems and challenges of Indian education.

These problems and challenges are not new. Since 1794 provisions have been inserted in treaties with Indian tribes occupying this country obligating the Federal Government to educate Indian children. From the beginning, Federal policy toward the Indian was based on the desire to dispossess him of his land, and thus our Indian education policy was, in essence, a function of our land policy. Expression of this earlier attitude can be found in the following congressional language:

> In the present state of our country, one of two things seems necessary. Either that those sons of the forest should be mortalized or exterminated. . . . Put into the hands of their children the primer and the hoe, and they will naturally, in time, take hold of the plow.

Although this education policy has not worked, neither has it been abandoned. Year after year, in study after study, the failures of Federal policy toward the Indian has been documented:

> President after President has appointed Commission after Commission to inquire into and report upon Indian affairs, and to make suggestions as to the best methods of managing them. The reports are filled with eloquent statements of wrongs done to the Indians . . . These reports are bound up with the Government's annual reports, and that is the end of them.

This statement could have been written about the commissions, reports, and studies of the 1960's. It might refer to the 1961 report by the Commission on the Rights, Liberties, and Responsibilities of the American Indian, which observed that the Indian's pride of origin and faith in himself had been "undermined by years of political and economic dependence on the Federal Government" and which astutely recommended:

> The Indian himself should be the focus of all government policy affecting him.

Or it could have had in mind the 1961 Udall task force report, which concluded that the results of varying governmental policies toward Indian affairs have inevitably "disappointed both the Indian and those who were sincerely and deeply concerned about their welfare," and which outlined three-pronged objectives for Federal Indian policy as "maximum Indian economic self-sufficiency, full participation of Indians in American life, and equal citizenship privileges and responsiblities for Indians."

Or the statement could have been made about the report of the President's Task Force on American Indians of 1966, entitled "A Free Choice Program for American Indians." Then again, its author might have had in mind the "suggestions" and "eloquent statements" contained in the Carnegie report—"Who Should Control Indian Education?"—or the Josephy report—"The American Indian and the Bureau of Indian Affairs"—both submitted in 1969.

In fact, however, the quote is taken from Helen Hunt Jackson's classic, "A Century of Dishonor," written almost 90 years ago. I hope that it will not still be relevant after the 92d Congress.

One issue discussed by all of these studies is education. Their conclusions are unanimous that Indian education has not been successful. But, as recognized in the Indian-authored "Declaration of Indian Purpose" in 1961:

> Of all the studies, surveys, and research made of Indians, the inevitable conclusions and recommendations are that education is the key to salvation of whatever ills may be, wherever Indians reside.

How much longer are we to hear that major changes must be made in the structure and administration of Indian education programs before we respond? We heard it in the 1928 Meriam Report, recommending the end of taking children from their parents and placing them in off-reservation boarding schools, the development of curriculum materials relevant to the needs and heritage of the students, the development of bilingual materials, and the participation by Indians in school policymaking. These same recommendations were made in numerous reports in 1969 and 1970.

How much longer are we to hear that Indian education is inferior education? At the first hearing of the Special Subcommittee on Indian Education 3 years ago, the subcommittee chairman, Senator Robert Kennedy, outlined a few statistics on Indian education that have been repeated countless times since then:

Dropout rates are twice the national average;

The level of formal education is half the national average;

Achievement levels are far below those of their white counterparts;

The Indian child falls progressively further behind the longer he stays in school;

One-fourth of elementary and secondary school teachers—by their own admission—would prefer not to teach Indian children;

Indian children, more than any other group, believe themselves to be "below average" intelligence.

These statistics have been repeated countless times in the past 3 years. I hope that we have not become so used to hearing them that we fail to see them as foundation blocks for poverty, unemployment, malnutrition, alcoholism, and even suicide. Little wonder that the edu-

cational failure of Indian children has become a self-fulfilling prophecy.

Just last year a study published by the Far West Laboratory for Educational Research and Development began by observing:

> We may define Indian education as the imposition of white American educational institutions upon American Indian communities.

Yet, rather than reacting by rejecting education, Indians have traditionally held it in high esteem and continue to recognize its importance. Mr. Rupert Costro, president of the American Indian Historical Society, told the Senate Subcommittee on Indian Education:

> In our contact with the whites, we have always and without fail asked for one thing. We wanted education. You can examine any treaty, any negotiations with the American whites. The first condition specifically asked for by the Indian tribes, was education. What we got was third-rate, lefthanded, meager, miserly unqualified training, with the greatest expenditure of federal funds and the least amount of actual education for the Indian himself.

Judged by any reasonable set of criteria, the Government has failed in its commitments and obligations to provide education to Indian children. Indian education has not provided Indian children with a minimum competence necessary to prepare them for a productive role in society at large; neither has it been responsible for perpetuation of the values and culture unique to the Indian people.

Three successive Presidents have recognized the failure of our programs and policies. Yet no new general major changes in educational structure or programing has occurred for decades. The Johnson-O'Malley Act of 1934, as amended in 1936, is the most recent, in fact the only Federal education program which is intended uniquely to benefit Indians. Yet the purposes of this law, reported the NAACP Legal Defense and Education Fund last month, have been totally frustrated by underfunding, mistaken bureaucratic interpretation of the law, lack of enforcement of regulations, and flagrant misuse of funds on the local level.

Congress has occasionally recognized the need for major legislative reform of Indian education, but so far this recognition has resulted primarily in piecemeal amendments of general education laws.

Three years ago the Senate established a Special Subcommittee on Indian Education. The subcommittee, originally under the chairmanship of Senator Robert Kennedy, was given the mandate to "examine, investigate, and make a complete study of any and all matters pertaining to the education of Indian children."

The full details of the failure of Federal programs and policies were documented throughout seven volumes of subcommittee hearings and five volumes of committee prints. The subcommittee traveled to all parts of the country, visited schools, examined studies and reports, and heard testimony from Indians, Government officials, and others with relevant expertise. I assumed the chairmanship of the subcommittee early in 1969, and in November 1969 the subcommittee issued its final report entitled "Indian Education: A National Tragedy—A National Challenge."

From the start I believed it necessary that both Congress and the executive branch take substantial steps to provide Indian children with a quality education. At the first Indian Education Subcommittee hearing that I chaired, I observed in my opening remarks:

> The hearings should point up to the need for new policies, and new administrative and organizational approaches for implementing these new policies. Most importantly, the hearings should point up the need for amending old legislation and enacting bold new legislation so that in a matter of a few years hence, we can proudly say that educational programs for American Indians are not only successful but exemplary, and a matter of national pride, not shame.

The final report of the Subcommittee recommended a number of legislative measures needed to raise Indian education to an exemplary level and to transfer control of Indian education to the Indian people. One of the more general recommendations—No. 6—urged:

> That there be presented to the Congress a comprehensive Indian education act to meet the special education needs of Indians both in the Federal schools and in the public schools.

The amendments I am introducing today, constituting the Indian Education Act, responds to this recommendation. The revelations and recommendations of the subcommittee, I am convinced, should not and will not be filed and forgotten.

The Indian Education Act would establish three new programs: the first would assist local educational agencies in meeting the special needs of Indian students; the second would provide funds for special programs and projects to improve Indian educational opportunities; and the third would support the improvement of adult Indian Education. The act establishes an independent National Board of Indian Education, and also sets up a Bureau of Indian Education in the Office of Education. Other provisions authorize inclusion of Indian schools and students in the Education Professional Development Act, and provide for support of community colleges serving Indian students.

OVERVIEW

Let me initially outline some general points and principles which may help explain the approaches used in the drafting of the Indian Education Act. I view the bill as a first step in the legislative process, to be expanded and improved upon throughout that process.

First. The bill is intended to be responsive to the recommendations of the Special Subcommittee on Indian Education, so that even if no specific legislative hearings were held on this bill, an adequate basis would exist in the subcommittee record to support each title. And there was extensive input by the Indian community in that record. I believe that during hearings on this bill some additions would be appropriate.

For example, because of the absence of specific subcommittee recommendations on these points, the bill does not include provisions dealing with preschool programs, school construction, or higher education scholarship assistance. These are vital to any comprehensive approach to Indian education, and I am sure that a record can be built during the course of hearings on this bill to support such inclusions. Specific titles relating to these issues will probably be appropriate in final legislation.

Second. The Indian Education Act addresses itself to all Indians. It recognizes that as to urban Indians, terminated tribes, and other non-Federal Indians, there exists a responsibility on the part of the Federal Government—at minimum, remedial in nature—to provide educational assistance. As we all must recognize, the impoverishment and educational deprivation of many of the so-called non-Federal Indians are due in major part to the affirmative activities and programs of the Federal Government in the past. The disastrous termination policies of the 1950's leading to a premature withdrawal of Federal assistance for some tribes left those tribes often with no program base whatsoever. The vigorous relocation program of the Bureau of Indian Affairs has transported many Indians from their reservation setting to urban areas, where they soon found themselves without work, without housing, and within different or even hostile school administrators making it impossible for their children to achieve a quality, much less a relevant, education. Thus the grant and entitlement provisions of this bill, by applying to all Indians, attempt to remedy in part the consequences of past Federal policies and programs.

Third. This bill does not amend in any way the Johnson-O'Malley Act of 1934. As pointed out in a recent study of the administration of that act, the major problems and shortcomings associated with it stem from regulations promulgated by and procedures employed by the Bureau of Indian Affairs. Since the resolution of the basic failings of that act do not require legislation, the Indian Education Act approaches reform of Indian education without dealing directly with the Johnson-O'Malley program.

Fourth. The bill I am introducing does not attempt to carve out set-asides in present programs in order to insure a place for Indians in those programs. This is certainly one possible legislative approach—one used in the past in Indian education amendments and one that I hope will be adopted in other areas, including manpower and employment—but it is one which should be rejected here. The Indian Education Subcommittee stated, in its final report:

> A proliferation of set-asides for BIA schools in Federal education statutes, such as ESEA, is an unsatisfactory means of bringing to Indian youngsters the advantages of the wide variety of programs set forth in Federal law.

Thus in titles dealing with public and with Federal schools, the act establishes new programs rather than merely setting aside finds in various presently existing programs for Indian needs.

Fifth. The bill, while transferring administration and control of Federal Indian schools to the National Board of

Indian Education, does not effectuate a transfer of Indian education programs and activities from the Bureau of Indian Affairs over to the Department of Health, Education, and Welfare. It simply transfers these to the National Board of Indian Education. The Board, consisting of 15 presidential appointees, is intended to be basically independent of the line of authority of both executive departments. Where it is to be located—for office, personnel, and budgetary purposes—is a question which I believe requires substantially greater discussion in both Government and Indian circles and which I thus am deferring until hearings on the bill have been completed.

Finally, I have attempted to tailor the Indian Education Act to the specific needs of the Indian community, so that it will not constitute merely more of the same, only in different packaging. Special emphasis and attention are given to the need for accountability in programing at the local level. Lipservice, token appointments, and advisory roles are no substitutes for Indian control of Indian education. This, and nothing short of it, is what self-determination is all about.

PART A—REVISION OF IMPACTED AREAS PROGRAM AS RELATES TO INDIAN CHILDREN

The Special Subcommittee on Indian Education found:

While Indian education is receiving some financial assistance through Public Law 81-874, it is hardly enough to provide students with an equal education opportunity.

Public Law 874 was passed by Congress in the 1950's, primarily as a result of the military activities of the Federal Government, to provide financial assistance where Federal activities—especially military installations—resulted in loss of part of the tax base for local school systems. Indians were not included in Public Law 874 when enacted into law, and its original purpose is unrelated to Indian education. Yet this law has become the major source of Federal funds for public school districts with substantial Indian enrollments.

In addition to the problem of insufficiency of funding under Public Law 874, as recognized by the subcommittee, the NAACP Legal Defense and Education Fund, in its January 1971 report entitled "An Even Chance," found that discriminatory allocation of educational services in local districts meant that 874 funds "do little to improve the educational opportunities of Indian children." As the report points out:

The fact that a school district receives Impact Aid (P.L. 874) funds based on a count of Indian children does not mean that Indians necessarily get their fair share of that money or of the district's total revenues. Federal payments go directly into the general operating fund of the district together with all other revenues. The money is used as general aid and no reporting or accounting of funds is required.

There is, for example, no Federal requirement that districts demonstrate that Indian children have received a fair share of the Impact Aid funds equal to that of all other children. Nor is there any requirement that districts demonstrate that they have not discriminated against Indian students in the allocation of state and local resources.

In large districts where Indian enrollment is concentrated in certain schools close to the reservation, there is typically a vast difference in the quality of education, the condition of the school, and the provision of books and supplies offered in these schools from those offered in the predominantely non-Indian schools. The differences are so obvious as to lead to the inescapable conclusion that Indian children are not receiving an equal share of anything.

In fact, Indian schools are often in greater need of assistance than other eligible schools because of the special remedial education requirements of Indian children. Yet Public Law 874 makes no distinction in their favor. Furthermore, while Public Law 874 has served as an inducement to public schools to accept Indian children, insufficient funding has left many districts with Indian children but no funds to educate them. Title I of the Indian Education Act is designed to correct these problems.

Title I amends Public Law 874 by adding a new title to be known as the Indian Elementary and Secondary School Assistance Act. Under this title, the Commissioner of Education is authorized to make grants to local educational agencies based on the number of Indian children in average daily attendance. The amount of the grant is determined by multiplying the agency's average per pupil expenditure by the number of Indian students enrolled in the school, not the number of children on or near the reservation. Grants may be used for both planning and pilot projects, and for the establishment and operation of programs. They are authorized during a 5-year period, from fiscal 1972 through 1977.

Grant applications must set forth a program for meeting the special educational needs of Indian children, provide for effective annual evaluation procedures, and insure that Federal funds will supplement and not supplant other available funds. It is especially important for Indian children that the funds provided by title I be used for Indian education and not be absorbed into regular school budgets. Thus section 304 requires that funds be used for programs "specially designed to meet the special educational needs of Indian children." As a recent ABT associates report for the Bureau of Indian Affairs stated:

If "equality of educational opportunity" is defined in input terms, both inputs of students with their pre-school educations, and the in-school factors of teachers, curricula, facilities, and equipment must be considered. Since most Indian children begin school with the environmental handicaps of rural poverty, cultural isolation, low level of "parent" education, and in many cases (particularly Navajo and Eskimo) a non-English native language, equality of educational inputs requires greatly *superior* in-school resources of teachers, curricula, facilities, and equipment to balance the inadequate pre-school preparation of most Indian children.

In addition, parents of the children to be served, tribal organizations, and the State educational agencies must have an opportunity to review and comment on the application. Even where the number of Indian children in the public school is small, it is important that the Indian people involved be afforded the opportunity to participate in the educational process affecting their children. Therefore, the first title contains especially detailed provisions requiring open consultation with parents and students and approval of a committee composed of parents participating in the program.

PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

The investigations of the Special Subcommittee on Indian Education revealed that Indian students in Federal schools score more than 2 years below national norms on achievement tests. Forty percent of the students drop out before graduation. Public schools enrolling Indians rarely include coursework which recognizes Indian history, culture, or language, and in fact often use materials and approaches which are derogatory toward Indians. Clearly the educational opportunities for Indian children are in desperate need of improvement.

Title II of the Indian Education Act adds a new section to title VIII of the Elementary and Secondary Education Act which will authorize the Commissioner of Education to make grants to—

State and local educational agencies and other public and private organizations—including federally supported Indian schools—for planning, pilot, and demonstration projects to improve educational opportunities for Indian children;

State and local educational agencies and the National Board of Indian Education for program to provide educational services not available in sufficient quantity or quality for Indian children, and to establish exemplary programs and centers to enrich Indian education;

Institutions of higher education, and to State and local educational agencies in combination with such institutions, for the training or retraining of educational personnel serving Indian children; and

Public and private nonprofit organizations for the dissemination of information of Indian education and the evaluation of federally assisted programs.

Grant applications must provide for the coordination of all available resources to insure a comprehensive program, the training of participating personnel, evaluation, and parent and tribal community participation in all facets of the program. For these grants, $25,000,000 is authorized in fiscal 1972 and $35,000,000 for each of the four succeeding fiscal years.

This title is basically an expanded version of S. 4059 which I introduced in the last Congress. It is intended to provide the first steps toward fulfilling the recommendations of the Indian Education Subcommittee that Indian education be exemplary, with outstanding innovative programs taking into consideration the emotional, social and identity problems—as well as the educational problems—of Indian youth.

After June 1972, funds for library resources, supplementary educational centers and services, and education of the handicapped—titles II, III, and IV of the

Elementary and Secondary Education Act—which were formerly allotted to the Department of Interior, will be discontinued. Funds for these purposes will be available under this new section of title VIII. Schools serving Indian children will remain eligible to participate in bilingual programs under title VII.

PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR AMERICAN INDIANS

The Commission on the Rights, Liberties, and Responsibilities of the American Indian observed in 1961:

Indian parents, without a tradition of formal education behind them, find it hard to understand its needs or benefits. Poor families must sacrifice to keep their young ones in school. They have a hard time earning enough money for clothes and shoes and are loath to surrender the potential wage the children might earn. Such parents rarely give youngsters the incentive to attend school regularly or to continue to higher levels. In such cases, adult education, which benefits not only the parent but indirectly the child, is called for.

About 75,000 Indian adults have not completed a fifth grade education. Less than one-fifth of the adult Indian population has completed high school. Functional illiteracy is one of the major causes of Indian poverty and unemployment, and almost nothing is being done about it. The Indian Education Subcommittee observed:

A major commitment should be made to the adult education programs for American Indians. The national need for such a commitment is all too evident in the low economic status, rise in alcoholism, lack of employment capabilities, the inability of too many Indian adults to read and write, and the general lack of fulfillment of Indian adults on reservations.

Title III of the Indian Education Act would add a new section to the Adult Education Act. It would authorize the Commissioner of Education to make grants to support planning, pilot, and demonstration projects, the dissemination of information, and the evaluation of adult Indian education programs. In addition, the Commissioner is authorized to assist in the establishment and operation of Indian adult basic education programs, to support a major research and demonstration effort in this field, and to determine accurately the extent of illiteracy and lack of high school completion of Indian adults.

Applications must provide for evaluation and the participation by tribal communities and the persons to be served in all aspects of the program. In fact, approvable Indian applicants are, under the provisions of this title and title I of the Indian Education Act, to be given preference in funding. Five million dollars is authorized for fiscal 1972 and eight million dollars for each of the four succeeding fiscal years.

PART D—NATIONAL BOARD OF EDUCATION; BUREAU OF INDIAN EDUCATION; MISCELLANEOUS

It is my strong belief that before really effective, exemplary programs to improve Federal Indian schools and Indian education generally are possible, a reorganization of existing efforts is mandatory. The present lack of quality, quantity, and coordination in the provision of Indian educational opportunity is so severe that only a fresh and concerted approach, one which actively encourages Indian participation and control, at both the national and local levels, can turn the tide.

The establishment of a National Board of Indian Education is consistent with the conclusions of every study of Federal Indian schools, and was a key recommendation in the final report of the Special Indian Education Subcommittee. Mr. DOMINICK, who is a consponsor of this bill, was in large part responsible for the adoption of this recommendation by the subcommittee. The subcommittee suggested that the National Board "have oversight over the operations of the schools and have authority to set standards and criteria and determine policy within the framework of the law." The National Board could then be instrumental in the establishment of local school boards, giving substance to the objective of self-determination of Indian education.

The minority members of the subcommittee, who contributed significantly to its efforts, stated as the most important recommendation the provision of a vehicle to achieve "guidance by Indians themselves of the education of their own children through national and local Indian boards of education." Just this past July the President recognized that Indian control of Indian education should be a primary objective of our national policy.

Title IV of the Indian Education Act would establish a 15-member National Board of Indian Education, appointed by the President from nominees furnished by Indian tribes and organizations. Members will serve staggered terms of 3 years. The staff of the National Board will include an Executive Director and a Superintendent of Indian Education.

Dr. Glen Nimnicht and Dr. Francis McKinley, of the Far West Laboratory for Educational Research and Development, told the Indian Education Subcommittee early in 1969:

The BIA is established within the Department of Interior whose interests lie mainly with resources, and deals primarily with special interests such as the oil and mineral industries, grazing lands, outdoor recreation, reclamation, etc . . . One has only to examine the yearly BIA budget requests and what it eventually gets in appropriations to see that activities aimed at getting Indians away from the reservations, such as the relocation programs, receive ample funding while those which would promote Indian development on his home grounds receive inadequate or no funding.

In light of these facts, Drs. Nimnicht and McKinley recommended that responsibility for educating American Indians from the BIA to a Federal Commission. The National Board would be comparable to such a commission.

The Nimnicht-McKinley suggestion included a mandate to the Commission to turn over control of Indian education to the Indian people within a period of 5 years. This aspect of their recommendation has not been adopted in title IV of the bill, since Indians will control the National Board, the National Board is directed to immediately take steps to vest control over individual schools at the local level, and because any legislated time frame is too unyielding and implies imposition upon communities of unnecessary outside limitations.

One thing is clear, as Nimnicht and McKinley forcefully recognized—the Bureau of Indian Affairs does not appear capable of self-renewal or internal reform. Two of the three top education positions in the BIA have remained empty for almost 2 years. Leon Osview observed to the Indian Education subcommittee:

The BIA structure is designed more than most for stability. It is doubtful that very much could be done with or to the people in the organization, given the present structure, to encourage innovative practice.

The General Accounting Office scored the Bureau for a "total absence of any research and demonstration funds" in its budget, and Edgar Cahn, in his recent book, found:

Judged by four basic standards of governmental performance—efficiency, technical competence, innovation or effective advocacy—the Bureau of Indian Affairs is a failure.

And Alvin Josephy, in a report to the White House in 1969, put it bluntly:

On the reservation level, where Indians are trying to participate constructively to help frame design and execute programs to meet their problems, they are hamstrung and frustrated daily by an endless round of delays and negativism occasioned by the internal workings of the higher echelons of the Bureau. The effect is that the Indians cannot participate in making decisions for themselves, for in meaningful things, the decisions cannot be made at their level. Government protestations in support of the principle of self-determination notwithstanding, the important decisions must be, and are, made—under the present arrangement—in the echelons above the Indians.

Thus I believe it is necessary, as well as desirable, to transfer the administration of education programs from the Bureau to the new National Board of Indian Education.

The National Board will be responsible for all functions relating to Indian education which were formerly carried out by the Bureau of Indian Affairs. This will include administration of the Johnson-O'Malley program. The Board may establish local school districts and authorize school boards, selected at the local level, for Federal Indian schools. The Board is thus given complete flexibility to provide the mechanisms—and the funding—for local takeover of education programs and functions under its authority. If the local community in which a Federal school is located does not wish to assume immediate control of the school, it does not have to; in that case, the National Board will continue to administer that school. But if the community wishes to assume control of its school, it may do so under such regulations and guidelines as are issued by the Board. The National Board will have legislative authority to provide funds directly to the local Indian school boards, without the need for complex and time-consuming contracting.

If the local boards wish to affiliate their schools with the State systems and become local educational agencies recognized under title I of the act, then at that time the National Board will relin-

quish its authority and terminate its administrative oversight. To take up the possible gap in funding in these situations and to get these new "public" Indian schools off the ground, the Commissioner of Education is provided with discretionary funds in title I of the act.

The National Board will also serve an advisory role to the Commissioner of Education on the administration of various programs relating to Indian education under his jurisdiction, including parts A, B, and C of this amendment.

The National Board, finally, is directed to investigate off-reservation boarding schools to determine which should be converted to therapeutic treatment centers, to examine the boarding schools with a view to implementing necessary reforms, and to report its findings to the Congress by January 1, 1973. Approximately 11,320 Indian children attend the 19 Federal off-reservation boarding schools, and the Indian Education Subcommittee observed in its report that these schools fail both to educate and to meet the psychological and social needs of the students as individuals. In fact, the report states:

A strong case can be made . . . that the boarding schools contribute to the students' mental health problems.

Reports last year came into my office substantiating this statement and outlining problem after problem with boarding schools. The National Indian Youth Council charged the Intermountain School, for example, with discrimination against Indian employees, discrimination against native religious practices, language, and culture, and brutality against Indian students. The Intermountain School Chapter of Amerind, Inc., called Intermountain "a bed for illicit practices." It alleged harassment of Indian employees, discrimination against Indian students and employees, mismanagement, and mistreatment of students. The BIA has been asked to investigate these charges but has apparently shown resistance to instituting any substantial reforms. Clearly institutional reforms, not cosmetic treatment, are called for. The National Board of Indian Education should initiate the proper reforms.

The amendment I am introducing leaves unresolved the relationship of the National Board of Indian Education to the Bureau of Indian Affairs insofar as the Bureau provides support services related to, but not considered, educational services. This area must be more fully explored in hearings. But what is assumed from the start, and what is etched in its history, is the incapacity of the BIA to provide satisfactory and relevant education for Indian children. Thus, the National Board will take over this function from the Bureau.

To administer Indian education programs under the jurisdiction of HEW, a Bureau of Indian Education would be established in the Office of Education, headed by a Deputy Commissioner of Education to be appointed by the President from nominees submitted by the National Board.

PART E—MISCELLANEOUS PROVISIONS

Various provisions of the Education Professions Development Act—title V of the Higher Education Act—would be amended to reflect the educational personnel needs of Indian children and schools. Title III of the Higher Education Act, designed to strengthen developing institutions of higher education, would be amended so as to include recently created institutions on or near Indian reservations, in order to increase the availability of higher education for Indians.

The amendments to titles III and V of the Higher Education Act were recommended by the Indian Education Subcommittee and were proposed in the last Congress in two bills introduced by Senator DOMINICK. I have incorporated those bills into this title for convenience, but I would like to acknowledge the interest, involvement, and initiative of the Senator from Colorado in this area, as reflected in his contributions to the work of the subcommittee and his introduction of these bills.

The National Board of Indian Education is directed, in the final provisions of the title, to raise the Institute of American Indian Arts at Santa Fe, N. Mex., to the level of a 4-year college, to provide support for community colleges on or near Indian reservations, to study the feasibility of Indian community colleges and work toward their establishment, and to report to Congress on these matters by July 1, 1972.

CONCLUSION

The Indian Education Act may go farther than some at this time deem advisable. I do not think so. Most of the provisions of the bill respond to problems that have been around for a long time. Many reflect recommendations made for decades. This is not to say that there is only one way to approach Indian education reform. The Indian Education Act represents an attempt at maximum flexibility in balancing the needs of Indian children with the realities of program limitations. Of course, funding will be crucial. We should not go through the motions of setting up new far-reaching programs if we do not intend adequately to fund them. At least this bill will make quite clear the challenge to Congress to provide sufficient funds where and when they are most needed.

This bill may not, on the other hand, meet the expectations of some. It does not authorize Federal funding to supplant every dollar spent by local public school districts in the education of Indian children. It does not provide vouchers or stamps to be used by parents or tribal councils in negotiating for the education of Indian children. These proposals are not rejected as necessarily undesirable, but only as being at this time impractical. I am not prepared to tell American Indians and Alaskan Natives that they must wait decades longer before the Government can work out some ideal legislative approach to providing exemplary educational opportunities for their children. The Indian Education Act represents a commitment on the part of its sponsors to improving and reforming Indian education in 1971, on the basis of immediate needs and wishes of the Indian people.

One of the witnesses before the Indian Education Subcommittee, Mr. William Pensoneau, observed:

The problem is not with the Indians. They merely react.

The problem is with the institutions that service Indians . . .

The institutions that serve Indians were created by man.

The Indians were created by God. Surely the institutions are more amenable to change than the people.

The subcommittee concluded on the basis of this and similar testimony, that—

Our national policies for educating American Indians are a failure of major proportions . . . Past generation of lawmakers and administrators have failed the American Indian. Our own generation thus faces a challenge—we can continue the unacceptable policies and programs of the past or we can recognize our failures, renew our commitments, and reinvest our efforts with new energy.

The amendment I have introduced today would provide us with the means to respond to that challenge. It would constitute a new and vital commitment to quality educational opportunity for the American Indian—a commitment which is essential to the restoration of this Nation's legal and moral integrity.

Mr. President, I ask unanimous consent that the Indian Education Act amendment in its entirety and a section by section analysis of that amendment be printed in the RECORD at the end of my statement.

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

AMENDMENT NO. 6

On page 120, after line 21, insert the following:

TITLE V—INDIAN EDUCATION

PART A—REVISION OF IMPACTED AREAS PROGRAM AS IT RELATES TO INDIAN CHILDREN

SEC. 500. (a) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by redesignating title III as title IV, by redesignating sections 301 through 303 and references thereto as sections 401 through 403, respectively, and by adding after title II the following new title:

"TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Indian Elementary and Secondary School Assistance Act'.

"DECLARATION OF POLICY

"SEC. 302. (a) In recognition of the special educational needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational needs.

"(b) During the period beginning June 1, 1972, and ending June 30, 1977, the Commissioner shall, in order to effectuate the policy set forth in subsection (a) carry out a program of making grants to local educational

agencies which are entitled to payments under this title and which have submitted, and had approved, applications therefor, in accordance with the provisions of this title.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 303. (a) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year in the period during which grants are to be made, as specified in section 303(b), the Commissioner shall determine the number of Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

"(b)(1) The amount of the grant to which a local educational agency is entitled under this title for any fiscal year shall be an amount equal to (A) the average per pupil expenditure for such agency (as determined under paragraph (3)) multiplied by (B) the sum of the number of children determined under subsection (a).

"(2) A local educational agency shall not be entitled to receive a grant under this title for any fiscal year unless the number of children under subsection (a), with respect to such agency, is at least ten.

"(3) For the purposes of this subsection, the average per pupil expenditure for a local educational agency shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), divided by the aggregate number of children who were in average daily enrollment for whom such agencies provided free public education during such preceding fiscal year.

"(c) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 1 per centum of the amount appropriated for payments on the basis of entitlements under this section for that fiscal year, for the purpose of enabling the Commissioner to provide financial assistance to schools on or near reservations which are not local educational agencies or have not been local educational agencies for more than three years, in accordance with the appropriate provisions of this title.

"USES OF FEDERAL FUNDS

"SEC. 304. Grants under this title may be used, in accordance with applications approved under section 305, for—

"(a) planning for and taking other steps leading to the development of programs specially designed to meet the special educational needs of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

"(b) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational needs of Indian children.

"APPLICATION FOR GRANTS; CONDITIONS FOR APPROVAL

"SEC. 305. (a) A grant under this title, except as provided in section 303(b)(3), may be made only to a local educational agency or agencies, but only upon application to the Commissioner at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary. Such application shall—

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

"(2) set forth a program for carrying out the purposes of section 304, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

"(3) in the case of an application for payments for planning, provide that (A) the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this title, and (B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

"(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

"(5) set forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

"(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(7) provide for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this title and to determine the extent to which funds provided under this title have been effective in improving the educational opportunities of Indian students in the area served, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

"(1) meets the requirements set forth in subsection (a);

"(2) provides that the program or project for which application is made—

"(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian students in the area to be served by the applicant; and

"(B) has been developed—

"(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

"(ii) with the participation and approval of a committee composed of parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, of which at least half the members shall be such parents;

"(C) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii).

"(3) has been submitted to the appropriate State educational agency for comment and recommendations.

"(c) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulations, be subject to approval in the same manner as original applications.

"PAYMENTS

"SEC. 306. (a) The Commissioner shall, subject to the provisions of section 307, from time to time pay to each local educational agency which has had an application approved under section 305, an amount equal to the amount expended by such agency in carrying out activities under such application.

"(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

"(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 307. (a) If the sums appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which all local educational agencies are eligible to receive under this title for that fiscal year, the maximum amounts which all such agencies are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the first sentence of this subsection is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(b) In the case of any fiscal year in which the maximum amounts for which local educational agencies are eligible have been reduced under the first sentence of subsection (a), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the second sentence of such subsection, the Commissioner shall fix dates prior to which each local educational agency shall report to him on the amount of funds available to it, under the terms of section 306(a) and subsection (a) of this section, which it estimates, in accordance with regulations of the Commissioner, that it will expend under approved applications. The amounts so available to any local educational agency, or any amount which would be available to any other local education agency if it were to submit an approvable application therefor, which the Commissioner determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in the second sentence of subsection (a), which the Commissioner determines will need additional funds to carry out approved applications, except that no local educational agency shall receive an amount under this sentence which, when added to the amount available to it under subsection (a), exceeds its entitlement under section 303.

"DEFINITION

"SEC. 308. As used in this title, the term 'Indian' means any individual who is an enrolled member of a tribe, band, or other organized group of Indians, or who is a descendant of any such enrolled member, or who is considered by the Secretary of Interior to be an Indian.".

(b)(1) Paragraph (1) of section 103(a) of title I of the Elementary and Secondary Education Act of 1965 is amended—

(A) by striking out subparagraph (B), and by striking out "(A)" where it appears after "SEC. 103. (a)(1)";

(B) in the fourth sentence thereof, by striking out "and the terms upon which payment shall be made to the Department of Interior"; and

(C) by striking out the third sentence thereof.

(2) Paragraph (1) of section 303 of the Act of September 30, 1950, is amended—

(A) in the second sentence, by striking out "(A) except for the purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States," and by redesignating clauses (B), (C), and (D) therein, and all references thereto, as clauses (A), (B), and (C), respectively; and

(B) in the fourth sentence, (i) by inserting before the period at the end thereof the following: ", or (C) Indian reservations, or other property held (i) in trust by the United States for individual Indians or Indian tribes or (ii) held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States", and (ii) by striking out "and (B)" and inserting in lieu thereof ", or (B)".

PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

AMENDMENT TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 521. (a) Title III of the Elementary and Secondary Education Act of 1965 is amended by adding to the end thereof the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR AMERICAN INDIAN CHILDREN

"SEC. 810. (a) The Commissioner shall carry out a program of making grants for the improvement of educational opportunities for American Indian children—

"(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for American Indian children;

"(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate (A) the provision of educational services not available to American Indian children in sufficient quantity or quality, and (B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which American Indian children are educated;

"(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

"(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to American Indian children. In the case of activities of the type described in clause (3), preference shall be given to the training of Indians.

"(b) The Commissioner is authorized to make grants to State and local educational agencies and other appropriate public and private educational and research agencies, organizations, and institutions (including federally supported elementary and secondary schools for Indian children) to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for American Indian children, including—

"(1) innovative programs related to the educational needs of educationally deprived children;

"(2) bilingual and bicultural education programs and projects;

"(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

"(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

"(c) The Commissioner is also authorized to make grants to State and local educational agencies and to the National Board of Indian Education to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for American Indian children. Grants may be used—

"(1) to provide educational services not available to such children in sufficient quantity or quality, including—

"(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

"(B) comprehensive academic and vocational instruction;

"(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

"(D) comprehensive guidance, counseling, and testing services;

"(E) special education programs for handicapped and preschool children;

"(F) bilingual and bicultural education programs; and

"(G) other services which meet the purposes of this subsection; and

"(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

"(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

"(1) to prepare persons to serve Indian children as teachers, teacher aides, social workers, and ancillary educational personnel; and

"(2) to improve the qualifications of such persons who are serving Indian children in such capacities. Grants for the purpose of this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

"(e) The Commissioner is also authorized to make grants to, and contracts with, public and private agencies, organizations, and institutions (except that no grant may be made to an agency, organization, or institution other than one which is nonprofit) for—

"(1) the dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

"(f) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) in the case of an application for the purposes of subsection (c), subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

"(3) in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

"(4) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that there has been participation by tribal communities and parents of the children to be served in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a) or (b), the Commissioner shall not approve an application from non-Indian educational agencies, organizations, and institutions until all approvable applications from Indian educational agencies, organizations, and institutions have been approved.

"(g) For the purpose of making grants under this section there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1972, and $35,000,000 for each of the four succeeding fiscal years.".

(b)(1) Effective after June 30, 1972, the Elementary and Secondary Education Act of 1965 is amended—

(A) in section 202(a)(1), by striking out "(A) the Secretary of the Interior the amount necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B)" and by striking out "Secretary of the Interior and the".

(B) in section 302(a)(1), by striking out "(A) the Secretary of the Interior the amount necessary to provide programs and projects for the purpose of this title for individuals on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, and (B)" and by striking out "Secretary of the Interior and the".

(2) Effective after June 30, 1972, the second sentence of paragraph (1) of section 612(a) of the Education of the Handicapped Act is amended to read as follows: "The Commissioner shall allot the amount appropriated pursuant to this paragraph among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, according to their respective needs.".

PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR AMERICAN INDIANS

AMENDMENT TO TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 541. Title III of the Elementary and Secondary Education Amendments of 1966 (the Adult Education Act) is amended by redesignating sections 314 and 315, and all

references thereto, as sections 315 and 316, respectively, and by adding after section 313 the following new section:

"IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT AMERICAN INDIANS

"SEC. 314. (a) The Commissioner shall carry out a program of making grants to State and local educational agencies and other appropriate public and private educational and research agencies, organizations, and institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of programs for providing adult education for American Indians—

"(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult American Indians;

"(2) to assist in the establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

"(4) to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion on Indian reservations;

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

"(b) The Commissioner is also authorized to make grants to, and contracts with, public and private agencies, organizations, or institutions (except that no grant may be made to an agency, organization, or institution other than one which is nonprofit) for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

"(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

"(1) set forth a statement describing the activities for which assistance is sought;

"(2) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (a) unless he is satisfied that there has been participation by tribal communities and individuals to be served in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. In approving applications under subsection (a), the Commissioner shall not approve an application from non-Indian educational agencies, organizations, and institutions until all approvable application from Indian educational agencies, organizations, and institutions have been approved.

"(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1972, and $8,000,000 for each of the four succeeding fiscal years.".

PART D—NATIONAL BOARD OF INDIAN EDUCATION; BUREAU OF INDIAN EDUCATION; MISCELLANEOUS

NATIONAL BOARD OF INDIAN EDUCATION

SEC. 561. (a) There is hereby established the National Board of Indian Education (referred to in this title as the "National Board"), which shall consist of fifteen members appointed by the President of the United States, with the advice and consent of the Senate. Such appointments shall be made by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country.

(b) Members of the National Board shall be appointed for terms of three years; except that the terms of office of the members first taking office shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, and five at the end of three years. No member shall serve for more than two consecutive terms. Any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term. The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman. The Vice Chairman, during the absence or disability of the Chairman, shall act for, and exercise the powers of, the Chairman. The Vice Chairman shall perform such duties as the Chairman may prescribe from time to time.

(c) Members of the National Board shall be compensated at the rate prescribed for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code.

STAFF OF NATIONAL BOARD

SEC. 562. Subject to such rules and regulations as it may adopt, the National Board shall be authorized to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as the Chairman deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, but at rates not in excess of the maximum rate for grade GS–18 of the General Schedule under section 5332 of such title;

(2) appoint and affix the compensation of a Superintendent of Indian Education, without regard to the provisions of title 5, United States Code, governing appointments in competitive service, who shall be compensated at the rate prescribed for grade GS–18 of the General Schedule under section 5332 of such title, and who have such duties as the National Board shall prescribe; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

POWERS AND DUTIES OF NATIONAL BOARD

SEC. 563. The National Board is authorized and directed—

(1) to carry out the functions transferred to the National Board pursuant to section 404 of this title;

(2) to establish and support local school districts comprising Federal Indian schools over which it has jurisdiction and control;

(3) to establish and support local school boards, who shall be selected at the local level in accordance with regulations promulgated by the National Board, having administrative control and direction over Federal Indian schools located within districts established pursuant to clause (2) of this section;

(4) to advise the Commissioner of Education with respect to the administration of any program in which Indian children participate, including title III of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, and section 810, title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act; and

(5) to submit to the Congress not later than March 31 each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of federal programs in which Indian children participate.

FUNCTIONS OF NATIONAL BOARD

SEC. 564. (a)(1) There are hereby vested in the National Board all functions which were carried out immediately before the effective date of this Act by the head of any agency in the executive branch of the Government, except the Department of Health, Education, and Welfare and the Office of Economic Opportunity, relating to the education of Indians in any elementary, secondary, or vocational school, or any institution of higher education, including all such functions being administered through any agency, service, bureau, office, or other entity of any such agency.

(2) All functions of any agency of the United States, except the Office of Education and the Office of Economic Opportunity, relating to the education of Indians in any elementary, secondary, or vocational school, or any institution of higher learning, are hereby transferred to, and vested in, the National Board.

(3) All orders, determinations, rules, regulations, permits, contracts, grants, certificates, licenses, and privileges—

(A) which have been issued, made, granted or allowed to become effective in the exercise of functions transferred by this section; and

(B) which are in effect at the time this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the National Board, by any court of competent jurisdiction, or by operation of law.

(4) All personnel, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions transferred under this section are transferred to the National Board. Personnel engaged in functions transferred under this section shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(5) As used in this section, the term "functions" includes powers and duties.

(b) The National Board is directed—

(1) to conduct, in concert with a team of professional consultants competent in areas of personality development and mental health, a detailed investigation of the off-reservation boarding schools to determine which ones should be converted into therapeutic treatment centers, and to cooperate with the Public Health Service to the extent necessary to bring about such conversion;

(2) to examine the present distribution and location of Federal boarding schools and the pattern of student placement with the view to developing and implementing a new rationale and plan with regard to such schools; and

(3) to submit to the Congress on or before January 1, 1973, a report on its activities under this subsection.

BUREAU OF INDIAN EDUCATION

SEC. 565. (a) There is hereby established, in the Office of Education, a bureau to be known as the "Bureau of Indian Education" which under the direction of the Commissioner, shall have the responsibility for administering the provisions of title III of the

Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as added by this Act, section 810 of title VIII of the Elementary and Secondary Education Act of 1965, as added by this Act, and section 314 of title III of the Elementary and Secondary Education Amendments of 1966, as added by this Act. The Bureau shall be headed by a Deputy Commissioner of Indian Education, who shall be appointed by the President of the United States from a list of nominees submitted to him by the National Board of Indian Education.

(b) The Deputy Commissioner of Indian Education shall be compensated at the rate prescribed for grade 17 of the General Schedule of the Classification Act of 1949 and shall perform such duties as are delegated or assigned to him by the Commissioner.

PART E—MISCELLANEOUS PROVISIONS

AMENDMENT TO TITLE V OF HIGHER EDUCATION ACT OF 1965

SEC. 581. (a) Section 503(a) of the Higher Education Act of 1965 is amended (1) by inserting after "and higher education," the following: "including the need to provide such programs and education to Indians," and (2) by inserting after "the Department of Labor," the following: "the National Board of Indian Education,".

(b) Section 504(a)(1) of such Act is amended by inserting after "secondary schools" the following: "(including such schools operated by the National Board of Indian Education or by an agency of an Indian tribe.)".

(c) Section 505 of such Act is amended by inserting after "shall consult with" the following: "the Chairman of the National Board of Indian Education,".

(d) Subsections (a) and (d) of section 552 of such Act of 1965 are each amended by inserting after "in all the States" a comma and the following: "including such needs in schools operated by the National Board of Indian Education, or by an agency of an Indian tribe.".

(e) Section 553(a) of such Act is amended by inserting at the end thereof the following: "The Commissioner may also enter into arrangements with the National Board of Indian Education, or with an agency of an Indian tribe, and use funds appropriated for the purpose of this section, for carrying out the purpose of this section with respect to schools operated by the National Board of Indian Education, or by an agency of an Indian tribe or tribes.".

AMENDMENT TO TITLE III OF HIGHER EDUCATION ACT OF 1965

SEC. 582. Section 302(d) of the Higher Education Act of 1965 is amended by inserting before the semicolon at the end thereof a comma and the following: "except that the Commissioner may waive the five-year requirement of this clause with respect to an institution located on or near an Indian reservation in any case in which he determines that such action will increase the availability of higher education to Indians".

INSTITUTE OF AMERICAN INDIAN ARTS

SEC. 583. The National Board of Indian Education is directed and authorized to raise the Institute of American Indian Arts at Santa Fe, New Mexico, to the level of a 4-year college.

COMMUNITY COLLEGES

SEC. 584. (a) The National Board of Indian Education is directed and authorized to provide continuing support for the community colleges in which a substantial number of Indian students are enrolled.

(b) The National Board is directed to conduct a study exploring the feasibility of Indian community colleges, to work toward the establishment of such Indian-controlled institutions, and to submit a report respecting such study to the Congress on or before July 1, 1972.

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 585. Section 706(a) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(a) For the purpose of carrying out programs pursuant to this title for individuals on or from reservations serviced by elementary and secondary schools operated on or near such reservations for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purpose of this section, may be considered to be a local educational agency, as such term is used in this title.".

On page 3, above line 1, add the following at the end of the table of contents:

"TITLE V—INDIAN EDUCATION

"PART A—REVISION OF IMPACTED AREAS PROGRAM AS IT RELATES TO INDIAN CHILDREN

"Sec. 501. Revision amendment of Public Law 874 provisions relating to Indians.

"PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

"Sec. 521. Addition of Indian education program part to title III, ESEA.

"PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR AMERICAN INDIANS

"Sec. 541. Addition of Indian program part to Adult Education Act.

"PART D—NATIONAL BOARD OF INDIAN EDUCATION; BUREAU OF INDIAN EDUCATION; MISCELLANEOUS

"Sec. 561. National Board of Indian Education.
"Sec. 562. Staff of National Board.
"Sec. 563. Powers and duties of National Board.
"Sec. 564. Functions of National Board.
"Sec. 565. Bureau of Indian Education.

"PART E—MISCELLANEOUS PROVISIONS

"Sec. 581. Inclusion of Indians in Higher Education Act.
"Sec. 582. Waiver of 5-year requirement of Higher Education Act of Indian schools.
"Sec. 583. Elevation of Institute of American Indian Arts.
"Sec. 584. Support and study of Indian community colleges.
"Sec. 585. Expansion of Indian eligibility under section 706(a), Elementary and Secondary Education Act."

SECTION-BY-SECTION ANALYSIS OF THE INDIAN EDUCATION AMENDMENT TO S. 659

PART A—REVISION OF IMPACTED AREAS PROGRAM AS IT RELATES TO INDIAN CHILDREN

Section 501—Amends P.L. 874 by redesignating Title III as Title IV and adding the following new Title III:

TITLE III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF INDIAN CHILDREN

Section 301—This title may be cited as the "Indian Elementary and Secondary School Assistance Act."

Section 302—Declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs to meet the special educational needs of Indian students in the United States.

Directs the Commissioner of Education to carry out this policy through a program of grants to eligible, local educational agency applicants beginning July 1, 1972 and ending June 30, 1977.

Grants to local educational agencies

Section 303—To compute a local educational agency's yearly entitlement, the Commissioner is to determine the number of Indian children enrolled for whom free public education is provided in the agency's schools in that fiscal year. An agency is not entitled to a grant unless there are at least ten such children.

The amount of the entitlement shall be equal to the agency's average per pupil expenditure multiplied by the number of Indian children enrolled.

The agency's average per pupil expenditure for any fiscal year is computed as follows: the total current expenditures of all agencies in the State two fiscal years ago, plus any direct current State expenditures for agency operation, divided by the total number of children in average daily enrollment who received free public education from such agencies two fiscal years ago.

In addition to sums appropriated for local educational agencies, an amount not in excess of one percent of the amount so appropriated is authorized for assistance to schools on or near reservations which are not or have not been local educational agencies for more than three years.

Uses of Federal funds

Section 304—Grants may be used for: planning, including pilot projects to test the effectiveness of plans developed; and the establishment, maintenance and operation of specially designed programs, including minor remodeling and acquisition of specially designed equipment, to meet the special educational needs of Indian children.

Applications for grants; conditions for approval

Section 305—Grants may be made only to applying local educational agencies. Applications shall:

Provide that the activities for which assistance is sought will be administered or supervised by the applicant;

Set forth a program for meeting the special educational needs of Indian children, including proper and efficient methods of program administration;

In the case of planning applications, provide that planning is directly related to projects to be carried out under this title, and that such funds are needed either because of the innovative nature of the program or because the agency lacks the necessary resources for adequate program planning;

Provide that effective annual evaluation procedures, including objective measurement of educational achievement will be adopted;

Assure that Federal funds will supplement, and in no case supplant, the funds that the applicant would make available for the education of Indian children in the absence of Federal funds;

Provide for the necessary fiscal control and accounting procedures; for making an annual report and other reports required by the Commissioner to determine the effectiveness of these funds in improving Indian educational opportunities; and for keeping accessible records verifying these reports.

Applications which meet the above requirements must also:

Provide for the utilization of the best available talent and resources (including persons from the Indian community) and substantially increase Indian educational opportunity;

Have been developed (1) in open, informative consultation, including public hearings, with parents, teachers, and, if applicable, secondary school students, who shall have an opportunity to offer recommendations, and (2) with the participation and approval of a committee (half of which shall be parents and half persons of minority groups) composed of parents of children served, teachers, and, if applicable, secondary school students;

Set forth policies and procedures to insure the continuing participation of parents and representatives of the area, and the committee approving the program, in the program's operation; and

Be submitted to the appropriate State educational agency for its comments and recommendations.

Amendments of application shall also be subject to these provisions, except as otherwise provided by the Commissioner.

Payments

Section 306—Directs the Commissioner to pay to each approved applicant an amount equal to its expenditures for activities under this title, but no payments shall be made if the State has taken these payments into consideration in determining the agency's eligibility for State aid. Nor shall payments be made if the combined State and local educational agencies' fiscal effort is less than that of two fiscal years ago.

Adjustments where necessitated by appropriations

Section 307—If insufficient funds are appropriated to pay the local educational agencies' full entitlement, the entitlements of all such agencies shall be ratably reduced. If additional amounts become available, entitlements shall be increased in the same manner.

If entitlements have been reduced and additional funds are not available, local educational agencies shall report their estimated expenditures to the Commissioner by certain dates. Any unused funds shall then be available for reallocation to agencies which need additional funds, but no agency shall receive an amount which exceeds its entitlement.

Section 308—In this title 'Indian' means any enrolled member of a tribe, band or other organized group of Indians, or his descendant, or anyone considered by the Secretary of Interior to be an Indian.

Sec. 103(a)(1) of the Elementary and Secondary Education Act is amended by deleting references to Indian children and allotments to the Department of the Interior in subparagraph (A) and striking out subparagraph (B), referring to Department of Interior payments to local educational agencies with out-of-State Indian children.

Sec. 303(1) of P.L. 874 is amended by removing Indian property from the definition of Federal property.

PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

Section 521—Amends Title VIII of the Elementary and Secondary Education Act of 1965 by adding the following new section:

Improvement of educational opportunities for American Indian children

Section 810—Directs the Commissioner to carry out a program to improve Indian education by:

Making grants to State and local educational agencies and other public and private organizations (including federally supported elementary and secondary Indian schools) for planning pilot, and demonstration projects including (1) innovative programs for the educationally deprived, (2) bilingual and bicultural education, (3) activities to meet the special health, nutrition, social and psychological problems of Indian children, and (4) coordination with other related Federal programs;

Making grants to State and local educational agencies and the National Board of Indian Education to assist and stimulate programs to provide educational services not available in sufficient quality or quantity for Indian children (including compensatory instruction and other services to encourage them to enter, remain in, or reenter school; comprehensive academic and vocational instruction; instructional materials and equipment; guidance, counseling and testing; programs for handicapped and preschool children; bilingual and bicultural education and other services), and to establish and operate exemplary and innovative programs and centers to enrich Indian education;

Making grants to institutions of higher education, and to State and local educational agencies in combination with such institutions, to prepare or improve the qualifications of educational personnel and social workers serving Indian children. Preference shall be given to the training of Indians. Grants may be used for fellowships, institutes, and for other purposes which are part of a continuing program;

Making grants to and contracts with other public and private nonprofit organizations for disseminating information on Indian education and evaluating the effectiveness of federally assisted programs.

Grant applications shall describe the activities planned. Program grant applications will provide for: the use of available funds and the coordination of other resources to insure a comprehensive program; the training of participating personnel; and evaluation.

Parent and tribal community participation in project planning, development, and evaluation is required for approval.

For grants under this section, $25,000,000 is authorized for fiscal 1972 and $35,000,000 for each of the four succeeding fiscal years.

Effective June 30, 1972, amends Titles II and III of the Elementary and Secondary Education Act (relating to school library resources and supplementary educational centers and services) and the Education of the Handicapped Act to eliminate allotments to the Department of the Interior for Indian children in the Department's schools.

PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR AMERICAN INDIANS

Section 541—Amends Title III (the Adult Education Act) of the Elementary and Secondary Education Amendments of 1966 by redesignating sections 314 and 315 as sections 315 and 316 and adding the following new section:

IMPROVEMENT OF EDUCATION OPPORTUNITIES FOR ADULT AMERICAN INDIANS

Section 314—Authorizes the Commissioner of Education to—

Make grants to State and local educational agencies and other public and private organizations to support planning, pilot, and demonstration projects to test the effectiveness of programs to improve employment and educational opportunities for American Indian adults, including bilingual and bicultural programs, and programs to coordinate the operation of related federally assisted programs;

Assist in the establishment and operation of programs to stimulate opportunities for adult Indians to acquire basic literacy skills and qualify for a high school equivalency certificate; support a major research and development effort to find better ways of meeting these goals; and determine the extent of illiteracy and lack of high school completion on Indian reservations;

Make grants to and contracts with public and nonprofit private organizations to disseminate information on Indian adult educational programs and to evaluate the effectiveness of such federally assisted programs.

Grant applications shall describe the activities to be funded, provide for program evaluation, and shall not be approved unless the Commissioner is satisfied that there has been and will be participation by tribal communities and the individuals to be served in the planning, operation and evaluation of the project. Applications from non-Indian educational groups shall not be approved until all approvable applications from Indian groups have been approved. $5,000,000 is authorized for fiscal 1972 and $8,000,000 for each of the four succeeding fiscal years.

PART D—NATIONAL BOARD OF INDIAN EDUCATION: BUREAU OF INDIAN EDUCATION: MISCELLANEOUS

National Board of Indian Education

Section 561—Establishes a fifteen-member National Board of Indian education, appointed by the President, with the advice and consent of the Senate, from nominees furnished by Indian tribes and organizations, representing diverse geographic areas.

Members shall be appointed for three years, but the terms of the first appointees shall expire as follows: five at the end of one year, five at the end of two years, and five at the end of three years. No member shall serve more than two consecutive terms. Vacancies filled prior to the expiration of a term shall be filled for the term's remainder. The President shall designate one member as Chairman and another as Vice Chairman. Members shall be compensated at the rate prescribed for grade GS–18.

Staff of national board

Section 562—Authorizes the National Board to appoint and fix the compensation of an Executive Director, a Superintendent of Indian Education, and additional staff without regard to provisions of the United States Code governing appointments in the competitive service, classifications and General Schedule pay rates, but rates must not exceed the maximum rate for a GS–18. The Chairman may also procure temporary and intermittent services at rates not to exceed $100 a day per person.

Powers and duties of national board

Section 563—Vests the National Board with these powers and duties: carrying out the former functions of all other executive agencies (except the Office of Education and the Office of Economic Opportunity) relating to Indian education; establishing local school districts of Federal Indian schools; establishing, at its discretion, and supporting local school boards selected at the local level in accord with National Board regulations having administrative control over Federal Indian schools in such districts; advising the Commissioner on the administration of any program in which Indian children participate, including Title III of P.L. 874 and Title VII of the Elementary and Secondary Education Act, as added by this Act; and submitting to the Congress annually a report on its activities which includes recommendations on Federal programming involving Indian children.

Functions of National Board

Section 564—Vests in the National Board all functions which were formerly carried out by other executive agencies (except the Department of Health, Education and Welfare and the Office of Economic Opportunity) relating to Indian education at all levels.

Transfers all these functions, except for those of the Office of Education, and the Office of Economic Opportunity, to the National Board.

All outstanding orders, rules, contracts and the like shall continue until changed by the National Board, the courts, or the operation of the law.

All personnel, property, records and the like which are primarily concerned with the functions transferred shall also be transferred to the National Board.

Directs the National Board to: investigate off-reservation boarding schools to determine which should be converted to therapeutic treatment centers and to cooperate with the Public Health Service in their conversion; examine distribution, location, and student placement in Federal boarding schools with a view to change; and report to the Congress on these studies by January 1, 1973.

Bureau of Indian Education

Section 405—Establishes a Bureau of Indian Education in the Office of Education,

with responsibility for administering the provisions added by this Act to P.L. 874 and the Elementary and Secondary Education Act. The Bureau shall be headed by a Deputy Commissioner of Education to be appointed by the President from nominees submitted by the National Board. The Deputy Commissioner of Education shall be compensated at the rate of a GS–17 and shall perform such duties as are assigned to him by the Commissioner.

PART E—MISCELLANEOUS PROVISIONS

Section 581—Amends the following sections of Title V (the Education Professions Development Act) of the Higher Education Act of 1965:

Section 503, relating to the appraisal of education personnel needs, is amended to include a consideration of the educational needs of Indians;

Section 504, designed to attract qualified persons to the field of education, is amended to include Indian children in Department of Interior and other Indian schools in efforts to identify and encourage capable youth in secondary schools who may wish to pursue a career in education;

Section 505, which provides for consultation by the Commissioner of Education with other agencies to promote coordinated planning of educational personnel training programs, is amended to include the Secretary of the Interior.

Section 552, relating to leadership development awards for vocational educational personnel, is amended to include a consideration of the needs of Indian children in Department of Interior and other Indian schools, for qualified vocational education personnel.

Section 553 is amended to authorize the participation of Department of Interior and other Indian schools in exchange programs, institutes and in-service education for vocational education personnel.

Section 582—Amends Title III of the Higher Education Act—Strengthening Developing Institutions—to authorize the Commissioner of Education to waive certain requirements (relating to admissions policy, educational programs, and accreditation during the five years preceding the year for which assistance is sought) in institutions on or near Indian reservations if this action will increase the availability of higher education for Indians.

National Board of Indian Education

Section 583—Directs the National Board to raise the Institute of American Indian Arts at Santa Fe, New Mexico, to the level of a 4-year college.

Section 584—Directs the National Board to provide support for community colleges in which a substantial number of Indians are enrolled, to conduct a feasibility study of Indian community colleges and work toward their establishment, and to report to the Congress on these matters on or before July 1, 1972.

Section 585—Amends section 706(a) of the Elementary and Secondary Education Act of 1965 to include individuals and organizations from and near, as well as on, reservations.

Mr. KENNEDY. Mr. President, the distinguished Senator from Minnesota (Mr. MONDALE) joins me in introducing this proposal. He was a member of the Subcommittee on Indian Education, which previously had as its chairman Senator Robert Kennedy and which later I chaired. I believe he has contributed more to the work in the field of Indian education than any other member of this body.

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

Mr. KENNEDY. I yield.

Mr. MONDALE. Mr. President, I wish to congratulate the distinguished Senator from Massachusetts for his remarkable contribution to this effort to reform Indian education in America.

Under the leadership of his brother, Robert Kennedy, and then under his leadership, the Senate Special Subcommittee on Indian Education addressed itself more carefully, more fully, and more broadly to Indian education problems in this country than I think either branch of Congress had done before.

The result of the work of the Subcommittee on Indian Education consumes thousands and thousands of pages of testimony. We heard from almost every Indian leader in the country. We traveled thousands and thousands of miles throughout the country from the Navajo reservation to the Aleuts and Eskimos of Alaska. No study has gone as far as this one, and no committee has tried to hear from so many of the Indians themselves as this one did. The leadership of the distinguished Senator from Massachusetts has been instrumental in focusing public sentiment, to the point that today we are able to introduce this broad and sweeping measure, to do something about a national disgrace.

I am sure the Senator from Massachusetts recalls our tour through Alaska; we visited a BIA school in the frozen tundra and found a white teacher, who could not speak Eskimo, teaching Eskimos who could not speak English, from a "Dick and Jane" textbook which showed green grass and white houses containing nothing with which the children could identify, let alone understand.

I am sure the Senator from Massachusetts recalls seeing children who had been shipped thousands and thousands of miles to boarding schools, to be away from their parents for 8 or 9 months a year, because the BIA had a policy that would not add desks in one area if there were empty desks somewhere else in the Nation.

We recall the testimony about eliminating the boarding schools. The renowned Dr. Mennninger said it was worse than anything he had seen.

As the Senator pointed out, the dropout level, the failure to perform at grade level, the truancy level, the unemployment level, the problems in mental illness, alcoholism, and suicide have all resulted, as the Senator's late brother said, in making America's first Americans the last Americans.

There are other elements, but we must begin with an education that entails, first of all, respect for different languages and cultures, and accepts them for the value they still have for Indian children.

I do not think there is any chapter in our history that is more sordid than our treatment of the American Indian. This legislation is an important and meaningful step to do something about that situation. I am pleased to join the Senator from Massachusetts in introducing the Indian Education Act today.

America's Indian children—the heirs of a unique and majestic tradition—have inherited an aching legacy of neglect and discrimination.

Fifty percent dropout rates.

Twelve thousand children not in school, most of them physically or mentally handicapped.

Indian children being disciplined with handcuffs.

Psychiatric reports that Indian children have the lowest levels of self-respect and the highest anxiety of any group in our country.

Perhaps the worst indictment of all is that much of this has been the failure of the Federal Government. By a blatant cultural colonialism, we presumed we knew best. Of the many examples, one is especially stark.

The Choctaw and the Cherokee nations ran their own school systems from about 1800 until after the Civil War—when the Government took their authority away and put them on the reservations. In the days when they were running their own schools, the Choctaws and the Cherokees were more literate in their own language than the average American citizen was in English, and they were more literate in English than the average citizen in frontier States.

Today, 40 percent of adult Cherokees are functionally illiterate in English; only 39 percent have completed the eighth grade.

The average educational level is 5 school years for all Indians under Federal supervision.

But this system not only stifled young lives; it also twisted historical truth as surely as any totalitarian censor.

Indian children learned that their ancestors were savages, and that the white men who killed them were heroes. When Indians attacked a settlement, in what they saw as defense of their land, it was a "massacre." When the U.S. Cavalry rode down a village of women and children, it was a "victory."

We have come a long way since Lewis and Clark and other explorers marveled at the unique culture and bold self-reliance of America's Indians.

And it has nearly all been down.

The subcommittee report told the story in its title—"Indian Education: National tragedy, A National Challenge."

All of us have a share in the 400 years of tragedy borne by the Indian people. All of us have a responsibility to put a stop to the mutilation of the minds and spirits of Indian children.

There can be no reason for any more delay.

As early as 1928 we had a comprehensive report which described the disgrace in Indian education. The Congress and the President had a blueprint for reform then, over 40 years ago. Now the subcommittee has compiled over 4,000 pages of testimony, most of it from the Indian people themselves, in exhaustive hearings and field investigations throughout the country.

The present bill, first introduced 5 months ago, is based on the recommendations developed by the subcommittee from that testimony. Though there was not time for full consideration of the bill in the hectic closing months of the last Congress, Senators have had opportunity to consider its implications in

the context of other measures affecting Indians.

Now we must act.

The subcommittee's final report listed 60 recommendations which would radically improve Indian education. A number of these recommendations have been implemented.

For example, bilingual education efforts have been expanded considerably. The National Council on Indian Opportunity was funded. The Department of Health, Education, and Welfare and the Department of the Interior have begun devising a plan to better coordinate their Indian education activities. Public Law 81–815 was amended so that public schools educating Indians will have higher priority in funding than they have in the past.

And bills have been introduced to legislate a number of other proposals, including recommendations to hold a White House Conference on Indian Affairs, and to raise the BIA Commissioner to Assistant Secretary of the Interior status.

The actions of the Senate in the last months of the 91st Congress show that we are starting to recognize the need to act on behalf of Indians, that the tide of political opinion is moving toward a proper redress of 400 years of exploitation. In the last Congress the Senate passed total Federal support for Indian welfare assistance, recognition of Taos Pueblo legal claim to sacred lands, and new support for Indian manpower programs.

The President has indicated his support for action now on behalf of Indians. He strongly supported the right of the Taos Pueblo to their sacred lands. His message to the Congress last session placed high priority on a number of the reforms we introduced in this bill, including administration by Indians and expanded urban programs. I look forward to his further assistance on behalf of Indians.

Yet all our progress will be fragile without a true commitment to excellence in the education of Indian children, without a recognition of the basic right of the Indian not only to equal educational opportunity, but to dignity and respect for his culture and heritage.

The bill we reintroduce today is unique in two respects. First, it is an expression of the wishes of many Indian people. I want to stress that during its 2½ years, the Indian Education Subcommittee traveled to all parts of the country to listen to the Indian people.

We held public hearings in Washington, D.C., California, Oklahoma, Arizona, South Dakota, Oregon, and Alaska, and conducted field investigations in Minnesota, Idaho, Maine, New York, and several other locations. We heard from Indians throughout the country. We have taken their suggestions and put them together into this bill we are introducing today.

This bill is also unique among Federal education legislation. It is not an attempt, for example, simply to provide some funds and set up some new administrative machinery to do more of what has been done in the past. It is an attempt rather to change the very nature of the cruelty and fraud that has historically passed for Indian education.

The Indian does not want that kind of Indian education. He wants an education that will tell him the truth about his tribe, his heritage, his traditions, his place in the world—an education over which he will have some control. That is what this bill is going to enable him to do.

This Indian Education Act amends Senate bill 659, the Education Amendments of 1971, as title V of that bill.

There is no need to go into a lengthy explanation of the different sections of this legislation. Basically, part A provides for payments to schools educating Indian children. It includes funds for urban as well as reservation Indians, and the money is to be used for programs designed to meet the special educational needs of Indian children.

Part B is a grant program for planning pilot and demonstration programs in a number of areas: bilingual, bicultural, health nutrition services, instructional materials, guidance and counseling services, and other such programs. Of special significance is the fact that grants can also be made for developing programs to prepare persons to teach Indian children, and to improve the qualifications of persons currently working with Indians in schools.

One of the major findings of the Indian Education Subcommittee was that teachers of Indians were not attuned to the traditions and culture of the Indian child. They were not, in effect, culturally sensitive. This title approaches this problem through specialized preservice and inservice programs for teachers of Indian children. The bill authorizes $25 million for grants under this title in fiscal 1972, and $35 million for each of the succeeding years.

Part C provides special programs for educating American Indian adults. This title also provides programs for planning, pilot, and demonstration projects designed to improve employment and educational opportunities for Indian adults. The bill authorizes $5 million for this effort for fiscal 1972, and $8 million for each of the 4 succeeding years.

Part D establishes a National Board of Indian Education and a Bureau of Indian Education within the Office of Education. It will be the function of the OE Bureau of Indian Education to administer the provisions of this legislation. That Bureau will be headed by a Deputy Commissioner of Education appointed by the President from nominees submitted by the National Board. I will discuss this National Board in more detail later.

Finally, part E makes funds available for the expansion and development of community colleges educating American Indians, and amends the Higher Education Act so as to encourage the development of Indian teachers.

There are two elements of this bill which I believe are of special significance and, for that reason, deserve elaboration. One is that funds in both the formula entitlement and grant programs will go toward the education of Indians in urban as well as Federal reservation schools. The other is that all programs and projects must be planned, operated, and evaluated by tribal communities and parents of the Indian children affected.

For years, the Bureau of Indian Affairs has refused to recognize the growing population of Indians in urban areas. It has maintained that it must concern itself almost exclusively with Indians living on or near reservations. As a result, Indian children living in urban areas have attended public schools which received no assistance from the BIA in providing for the special needs of educating Indian children.

Today there are almost as many Indians in the cities as on the reservations. In Minneapolis alone there are about 15,000 Indians. Many of the urban Indian students need special materials and special help if the 50-percent-plus Indian dropout rates so common in these cities is to be improved. We would provide per student payments to these school districts for programs aimed at meeting these special needs—as they are defined by the parents of the Indian children. The bill would also make available to these districts grants for funding special projects and programs to better meet the unique needs of Indians in our cities.

The second major feature of this comprehensive bill is that it puts Indian education into the hands of not Indian experts, but expert Indians. Local control has been the foundation of public education in this country from its inception, yet we continue to permit a Washington-based bureaucracy to control the education of thousands of Indian children. Every project authorized by this legislation is conditioned upon the approval of the parents of the Indian children affected. In the language of the bill:

> The Commissioner shall not approve an application for a grant . . . unless he is satisfied that there has been participation by tribal communities and parents of the children to be served in the planning and development of the project, and that there will be such participation in the operation and evaluation of the project.

Besides giving Indians basic control over special programs and projects, the bill creates a National Board of Indian Education which is authorized to establish local school districts and locally selected school boards for Federal Indian schools. Since 1968 when President Johnson told the Bureau of Indian Affairs to establish Indian school boards, we have been waiting for the BIA to respond to the President's order. Since that date, only three Federal schools have been turned over to the local communities. At that rate, it will be the year 2044 before the Bureau's 223 schools are locally controlled.

In the meantime, Indian people must be content with advisory boards, which have to sit idly by and watch their children being taught by civil service appointees, many of whom are totally ignorant of Indian language, customs of traditions.

The National Board established by this bill is a 15-man board selected by the President from a list of nominees furnished him by Indian tribes and organizations. This Board would take over the education functions presently handled

by the Bureau of Indian Affairs. It would appoint a superintendent for the Federal Indian schools. Among its responsibilities would be to investigate reservation boarding schools and determine which should be converted to therapeutic treatment centers and how the placement of students in boarding schools can be improved. This was a subcommittee recommendation. But most importantly, the Board would be charged with the responsibility of establishing local school boards—a responsibility which the BIA has failed to meet but which a board of Indian parents is sure to accept more seriously.

The Congress now holds in its hands the hopes of thousands of Indians—and the future of thousands of their children.

We cannot have an America where Indian students are punished for speaking their native languages.

We cannot have an America where Indian teenagers commit suicide to escape a life they dread.

And in a very real sense, Mr. President, this bill is more than a responsibility for the American Indian. It is a living tribute—and a debt we owe—to the late Robert Kennedy, whose compassion and courage and foresight ignited the conscience of the Nation on this issue. Robert Kennedy summoned us to national action on behalf of Indian children. The passage of this bill will be a fitting honor to his memory.

Mr. KENNEDY. I thank the Senator from Minnesota for his comments. He has indicated what we have attempted to do in the introduction of this legislation in which he played such an important and vital role—and that is to reflect the sentiments of the Indians themselves and to propose an educational program which is really their program.

As the Senator pointed out, time and time again throughout the history of the relationship of the white man to the Indian, and since the founding of our country, the white man always has done what he thought was in the best interests of the Indian rather than letting the Indians develop their own programs.

I feel that as a result of the work of our subcommittee, this legislation reflects the approach to Indian education desired by the Indian people themselves, whose children will be attending public schools and federally supported schools. The chairman of the Senate Education Subcommittee is present in the Chamber, and knowing of his interest in this very important problem and realizing his overall commitment in the field of education, I am hopeful that he will assure us that we will be able to have early hearings on this legislation. I know we will be able to bring to those hearings a thorough documentation of the problems involved in Indian education that had been accumulated over 2 years of extensive hearings held by the Special Indian Education Subcommittee.

I doubt that there has been any piece of legislation introduced in recent times where the underlying problems have been so thoroughly studied as this measure that we are introducing today. It has broad support in terms of membership on both sides of the aisle. It has broad support in terms of geographical representation from different parts of our country. I think it is a reasonable reflection of the desire of Congress to provide a solution to a pressing problem. So I welcome the fact that the chairman of the education subcommittee is on his feet. I would welcome any remarks he might have at this time.

Mr. PELL. I thank the Senator. As one with an especial interest in the Indians, as well as a general interest in education, I would congratulate the Senator from Massachusetts and the Senator from Minnesota for their work in this field.

I know the Senator from Massachusetts has a deep sense of commitment in this regard. I realize he does this in a very altruistic sense because the number of Indians in his Commonwealth is in the same proportion that we have in our State of Rhode Island, but his interest in the lot of the oppressed is real, no matter where they are.

I think those of us who live in the country today tend to accept the fact that we are God's chosen people, who have come to this country and brought Christianity and education to it; and we forget there were some of God's chosen people who were here originally, whose interests we have always run roughshod over.

When we talk about the sanctity of international agreements, sometimes critically of other nations in this regard, I think our own record with regard to God's chosen people who were here prior to us bears examination. I shall look forward to our soon holding hearings on this legislation.

Mr. KENNEDY. As the Senator knows, this would be an amendment to his higher education proposal, so I would hope that we might be able to have some hearings and get the appropriate responses from the administration as well as from Indian tribes, groups, and interested educators. I know the Senator has planned an extensive set of education hearings, but I would hope that we might be able to find some time during the course of those hearings to devote some attention to this proposal, so that we might be able to move ahead on it.

Mr. PELL. As the Senator knows, I would like to be of help in this matter in any way that I can, and look forward to working closely with him in scheduling hearings. I shall do everything I can to help.

Mr. KENNEDY. As we continue on our health hearings and the consideration of the Pell health insurance bill.

Mr. PELL. We will exchange hearings at the earliest opportunity.

Mr. MONDALE. Mr. President, I think the distinguished chairman of the Education Subcommittee is encouraging. Perhaps he could attach it to the desegregation bill.

While at this time this measure is not the product of an endorsement by the National Congress of American Indians or the newly created National Indian Education Association, currently under the leadership of Dr. Will Antell of Minnesota, and of distinguished Indian educators such as Dillon Platero, it is the product of deep consultation with those Indian leaders.

I think the Senator should know that, as far as Indian organizations are concerned, it is very close to what I believe most of them want. I think it would be most unfortunate to pass a bill they did not want at this point. I think one of the most important things we accomplished on the now expired Indian Education Subcommittee was to get a broad consensus from the Indian community. I do not think it was even tried before. I think we are close to it. That ought to pave the way for prompt adoption.

I see the Senator from South Carolina (Mr. HOLLINGS) here. He has been one of the leaders in the Senate and the country in dealing with the tremendous problem of hunger, because we learned it is a real national problem. But, in a real sense, the cultural insult and injury to the spirit of the average American Indian inflicted by the American educational system visits damage just as much as hunger does. It is hard to define, but it destroys and shrivels a child just as much as denying him decent nutrition.

I think we want to work in these areas just as quickly as we can, because the Indian community has just about given up on the establishment. We have studied them so much that we have worn out the grass on the reservations looking at them. Last year, at Pine Point Reservation, there were 64 federally funded studies; I think there were two studies for every Indian on the reseravtion. We have studied them and studied them until they are sick of it, and I do not blame them. They would like to see something happen. It is very important that we move promptly and efficiently, this year, if possible.

Mr. KENNEDY. Mr. President, let me reemphasize, finally the strong and special Federal responsibility in this particular field. We can talk about action on the other problems we face in our Nation, and we have many problems. We obviously must consider the allocation of our resources relating to the needs of the National, States, and local governments. But the responsibility in terms of Indian education lies most fundamentally with the Federal Government—by agreement, by treaty, by Executive orders, by statute. Yet it has been an area in which this great country, as the distinglished Senator from Minnesota has pointed out, has failed miserably. This legislation is an attempt to reconcile our responsibility in this area, as well as, perhaps what is even more important, an attempt to provide fairly and justly to people who are greatly disadvantaged.

It is because of the action or inaction by the Federal Government that this legislation which we have introduced is of such significant importance and urgency.

I am heartened by the response given by the chairman of the Education Subcommittee, and, as I have mentioned, by the broad scope of support for the legislation we are introducing today.

I am hopeful that this year will be the year of progress and reform in Indian education.

Mr. HOLLINGS. Mr. President, I commend my distinguished colleague from Massachusetts and also the Senator from Minnesota on their move now to solve the Indian education problem. As we have alluded to other problems in this land, including health problems, they are not Government-created. Hunger problems are not Government-created. Housing problems are not Government-created. But without question, the Indian problem, including the Indian education problem, is a creation of this Government, and it is nothing less than a national disgrace that we have not removed this blot upon the conscience of our land.

I think that the Senator from Massachusetts is providing leadership, and I hope, in turn, that we in the Senate can follow that leadership and solve this problem.

THE CHALLENGE OF INDIAN EDUCATION

Mr. CRANSTON. Mr. President, I am extremely pleased to be a cosponsor of the Indian Education Act of 1971, a bill recently introduced by my distinguished colleague from Massachusetts, Senator KENNEDY. This legislation is long overdue and critically necessary if we are to correct the miserable state of Indian education in America.

It is not a record to be proud of. Indeed, perusing the statistics which measure the extent of the failure of our Federal Indian educational policy is an invitation to despair. For a nation which prides itself on such virtues as equality of opportunity, democracy, and justice, it is difficult to explain the suffering perpetrated on Indian students in the name of education. After a thorough and objective investigation of American Indian education, the Subcommittee on Indian Education termed it a national tragedy.

By almost any statistical measurement, Indian students are clustered at the bottom of our educational ladder. The average grade level for all Indians under Federal supervision is 5 school years. Dropout rates for Indians are twice the national average. Only 18 percent of the students in Federal Indian schools go on to college; the national average is 50 percent. Only 3 percent of the Indian students who enroll in college graduate; the national average is 32 percent. Only one of every 100 Indian college graduates will receive a master's degree.

The suffering, unfortunately, does not end here. It has been well established that the level of educational achievement is directly and intimately related to other social indices. As a result of his poor education, the Indian goes on to suffer from problems in unemployment, poor health, low annual income, miserable housing conditions, short average life expectancy and high rates of infant mortality. Our national tragedy is simply that the First Americans have become the Forgotten Americans.

What are the reasons behind this tragedy? Why do Indians suffer disproportionately from the social and physical ills which beset the poor in America? The answer, of course, lies buried in 400 years of Indian-white relations. It lies in the fact that the policy of the U.S. Government toward its Indian wards has fluctuated between two unfortunate extremes: between a sort of benevolent paternalism and a conscious and deliberate intent to destroy the Indian languages, cultures, life-styles, and sometimes, even the Indians themselves. An examination of our educational policies is particularly revealing of these attitudes and has been summed up by the Subcommittee on Indian Education as a policy of "coercive assimilation." The subcommittee concluded that this unfortunate policy has had the following disastrous effects on the education of Indian children:

The classroom has become a kind of battleground where the Indian child attempts to protect his integrity and identity as an individual by defeating the purposes of the school.

Schools have failed to understand or adapt to, and in fact have often denigrated, cultural differences.

Schools have failed to recognize the importance and validity of the Indian community, and the community and child have reacted by treating the school as an alien institution.

It has resulted in a dismal record of absenteeism, dropouts, negative self-images, low achievement, and, ultimately, academic failure for many Indian children.

Finally, and most pernicious, is the fact that this policy has served to perpetuate the cycle of poverty which undermines the effectiveness of all other Federal programs.

The Indians native to California have perhaps been the most abused of any in the Nation. Denied an adequate land base in 1852 when the Senate refused to ratify 18 separate treaties, and nearly exterminated between 1850 and 1880 by white settlers seeking their fortunes in gold, California's Indians have remained for the most part in rural and social isolation. Less than 15 percent of California's native Indian population lives on Federal trust lands. This lack of an adequate land base is not only an economic disaster, but has affected the eligibility of most California Indians for participation in Federal educational programs. It has also served as justification for the termination of other Federal services.

California has one of the largest Indian populations in the Nation. Estimates vary, and the high mobility and lack of tribal identity which characterizes many California Indians makes estimation difficult. The 1970 census should yield a significant Indian population in California. The composition and character of this Indian population differs from that of other States, however, because of the unusually large proportion of out-of-State reservation Indians who have relocated in four major urban centers of California: Los Angeles, San Francisco, San Jose, and Oakland. Over 100 different tribal groups are represented in Californias urban Indian population. It has been estimated that there are now over 50,000 Indians living in Los Angeles alone.

The Federal Government owes the Indian a special responsibility. It is a responsibility established in scores of treaties, agreements, and statutes. It has been underscored by years of broken promises. As conscientious members of the U.S. Senate, we can no longer ignore this responsibility to the American Indian. We must develop and implement an enlightened policy for the education of the American Indian.

The Indian Education Act of 1971, which I am proud to cosponsor, declares it to be the policy of the United States that, recognizing the special Indian education needs, the Government shall "provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs especially designed to meet these special educational needs." To implement this policy, the bill provides for the following major provisions:

First. It amends Public Law 874 (impact aid) and title I of the Elementary and Secondary Education Act of 1965 to provide additional Federal funds to local school districts to meet the special educational needs of Indian students. It provides for Indian involvement in the funding process at the local level.

Second. It provides funds for pilot and demonstration projects for the improvement of Indian educational opportunity.

Third. It amends the Adult Education Act to provide special educational programs for Indian adult education.

Fouth. It establishes a Bureau of Indian Education in the Office of Education and a Deputy Commissioner of Indian Education.

Fifth. Finally, it establishes a National Board of Indian Education as an independent agency which will have policy and program control over Federal Indian schools.

Mr. President, I submit that we can no longer ignore the educational needs of the American Indian. We have the facts. We have the proposal. All we need to do is act. We need to write a new legislative chapter in the annals of Federal Indian policy—an enlightened and compassionate chapter. I am very proud to be a cosponsor of the Indian Education Act of 1971 and hope that it can mark a new beginning for a better life for the first Americans.

IMPROVING INDIAN EDUCATIONAL OPPORTUNITIES

Mr. TUNNEY. Mr. President, today I am sponsoring the Indian Education Act, an amendment designed to improve the quality of Indian education, to upgrade its priority within the Federal Government, and to attempt to insure that the special educational needs of Indian students are met.

First, the Indian Education Act would amend Public Law 874 and combine and expand assistance to public schools under that law, and also amend Title I of the Elementary and Secondary Education Act to assist local educational agencies in meeting the educational needs of Indian students.

However, the proposal should perhaps go even one step further by allowing a school on an Indian Reservation to utilize funds under this proposal even though it is not considered a local education agency. These funds would be used to supplement the minimal Federal appro-

priations now funneled through the Bureau of Indian Affairs.

Also, the enactment of the proposed Indian Education Act should not preclude continued and expanded educational aid under other programs. The Johnson-O'Malley program, for example, provides supplemental aid directly for the education of Indian children in those school districts. Funds are available under this program to help facilitate the education of Indian children within the school district.

The Secretary of the Interior is authorized to also permit local school authorities to use Federal buildings and equipment.

Unfortunately, the Johnson-O'Malley program was ended in California under the false hope that the State would care for Indian educational needs. This has not been done, and the program has been reinstated in California. However, California has not yet received sufficient funds to do much good. I intend to renew my efforts to provide sufficient Johnson-O'Malley funds in California.

It is also my hope that more Indians can be benefited by Indian assistance programs by the use of a more expansive definition of the term Indian. Too often Indians are disqualified by restrictive definitions. A more expansive definition of an Indian would be considered.

This would help to insure greater and more equitable Indian participation in Federal programs.

Second, the proposed Indian Education Act provides funds for public and private agencies and organizations for pilot and demonstration project designed to improve Indian educational opportunity and requires active participation by Indians in the preparation and development of a project application. This program would also include innovative educational programs, bilingual and bicultural educational programs, special health and nutrition services and Indian teacher improvement programs.

Third, the legislation would amend the Adult Education Act in order to provide opportunities under this program for adult Indians. Grants would be made available to public and private agencies and organizations as long as there was Indian participation in the planning and development of the applications.

Fourth, the bill would establish the office of Deputy Commissioner of Indian Education within the office of Education to coordinate and administer Indian education programs. This provision is designed to give Indian education programs much higher priority than they are presently receiving.

Fifth, the bill would create a National Board of Indian Education. This Board would be empowered to establish and support local school districts and school boards comprising Federal Indian schools.

However, although the National Board would establish general guidelines for Indian education, local Indians and Indian communities would decide when local boards of education are to be created to take over Federal Indian schools.

A National Board of Indian Education would be created for the purpose of recommending and developing new Indian education programs and to serve Indian education in much the same manner as State board's of education serve State public education programs.

In keeping with the spirit of the act, I feel that, to the greatest extent possible, the National Board of Indian Education should be made up of and staffed by Indians.

The goal of improving the quality of Indian education is one which I strongly support. I believe that the Indian Education Act is an important first step toward the achievement of this goal. It is certainly clear that present programs have failed to make significant progress in improving Indian education or in fact in improving the lot of the Indians in any other area.

Indians continue to live in poverty and in dilapidated housing. Last year in California, for example, only $300,000 was available for Indian housing. However, it will require $30 million to provide adequate housing for California Indians. It is my hope that Congress will significantly increase funds for Indian housing.

The average Indian income is $1,500 while the unemployment rate among Indians is nearly 40 percent. The dropout rates among Indians are twice the national average and only 1 percent of Indian children have Indian teachers or principals.

These statistics are a depressing and tragic testimonial to present efforts by the Federal Government to fulfill its responsibility to the Indian. It is time for a drastic change in Federal policy toward the Indian. It is time for the revamping and full funding of current Federal Indian assistance programs. It is also time for the enactment of new Indian assistance program that will keep pace with Indian needs and effectively deal with the plight of the Indian.

The enactment of the proposed Indian Education Act can be a dramatic first step in this effort.

In addition, we must always keep in mind that structural changes are never enough and should never be a replacement for functional and substantive change in the fabric of our society, particularly in the attitude of society toward the needs of a minority.

ANNOUNCEMENT OF HEARINGS ON PESTICIDE REGULATION

Mr. ALLEN. Mr. President, I wish to announce the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture and Forestry has scheduled hearings March 23, 24, and 25 on S. 232, S. 272, S. 660 and S. 745, relating to pesticide regulation. The hearings will be held in room 324, Old Senate Office Building, beginning at 9:00 a.m. each day. Anyone wishing to testify should contact the committee clerk as soon as possible.

BETTER BREAK FOR FARMER SHOULD NOT MEAN HIGHER PRICES FOR HOUSEWIFE

Mr. PROXMIRE. Mr. President, in the recent hearings of the Joint Economic Committee at which the Secretary of Agriculture, Mr. Hardin, appeared, a number of interesting and critical developments with respect to the economy took place.

One of the most remarkable was the fact that the Secretary of Agriculture at Dallas, Tex., a few days ago told a meeting of the National Electrification Cooperative Association the following, and I quote from the Associated Press wire reporting on the speech:

> U.S. Secretary Clifford Hardin has expressed a hope for higher consumer food prices during 1971.

Now, Mr. President, this was not a prediction by the Secretary of Agriculture; this was expressed as a desire or hope.

Mr. President, anybody who knows anything about farm prices knows that the American farmer is not getting a fair shake, that he deserves and should have higher prices. But it does not follow at all that this means that the housewife must pay higher prices for her food.

The fact is that later in that appearance by the Secretary of Agriculture before the Joint Economic Committee he had disclosed to us that the Department of Agriculture had just recently completed a study showing the reason why food prices went up in 1970 while farm prices were going down. He said that the finding was that margins had widened sharply.

I asked Secretary Hardin what he had done with this finding, and he said it had been released to the press.

Mr. President, I doubt very much if one American out of a hundred is aware of this finding by the Department of Agriculture.

Here is a development that goes right to the heart of our serious inflationary problem. There is no element in the cost of living which is more vital than the cost of food. Since the Department of Agriculture has discovered the reason that food prices rose last year is because of widening margins, I feel very strongly that the President of the United States should call this to the attention of the people as dramatically as he can—and by dramatically I mean on television on a program devoted to this particular purpose. That kind of action by the President alone would focus national attention on the injustice that has befallen both the American farmer and the American housewife.

The President has chosen not to do this. I think it is unfortunate. I hope that in the future the President will find a time and a way to bring this to the attention of the American people.

Furthermore, I would hope that the Department of Justice would examine these widening margins in the food industry very carefully and critically and would act promptly to prosecute any violation of the antitrust laws which may have developed, any kind of conspiracy, collusion, combination, or other action by distributors to widen the margin between what they paid the farmer and what they received from the housewife.

Mr. President, I have asked the Department of Agriculture to provide me with a copy of their study of food mar-

gins and what happened to them during 1970, and I will put the copy of that study into the RECORD when I receive it.

Here is a situation which is likely to be chronic in the American economy, where, on the one hand, farmers, who are innumerous, might constitute no more than 4½ million Americans. They are unorganized. They have no control over the price at which they sell their product. They are entirely dependent on the forces of the market.

At the other end of the line, American housewives, of course, number in the tens of millions. They also have no control whatsoever over the prices they pay to buy their food.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, if the Chair will recognize me, I shall be glad to yield the Senator from Wisconsin my 3 minutes.

The PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator for yielding me his time. I shall take only 1 additional minute.

In between are food distributors who have power in some cases to affect the price they pay the farmer and power in other cases to determine the price that they will charge the housewife.

We should have a constant, steady, relentless system of reporting; a free, competitive system of margins in the food processing and distributing industry.

I would hope that between the Department of Agriculture and the Department of Justice this can be done, and I will do everything I can to provoke, annoy, and criticize these Departments until it is.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. FULBRIGHT. The Senator has raised the question of inflation. I received a letter this morning advising me to have a thorough study made of the background of inflation. It so happens that the same correspondent is, however, very much in favor of the war. What always amuses me—not amuses, astonishes me, is that so many people refuse to make any connection between inflation, which is eating out the heart of our capitalistic system, undermining our social security system and our pensions, and the war.

Does the Senator believe there is any reasonable possibility of controlling inflation unless we cut down our exorbitant expenditures for military purposes?

Mr. PROXMIRE. I agree that it is a big factor. It was the major factor in developing the inflation we have been going through——

Mr. FULBRIGHT. It still is.

Mr. PROXMIRE. Just yesterday we heard from Professor Eisner, of the University of Wisconsin, who shares the view that this is the major factor; that until the Vietnam war is over, for psychological as well as economic reasons, we are going to have serious inflation.

Mr. FULBRIGHT. Unless we deal with the war, aren't we treating only the periphery of the problem? Unless we do something about that——

Mr. PROXMIRE. Well, I am inclined to be a little less emphatic in feeling that the Vietnam war is the only cause. There are some other causes, but the war is a vital and important cause. If we could end it, it would have a major effect on the problem of inflation.

Mr. FULBRIGHT. Just for my information, will the Senator name two other causes of inflation besides the war?

Mr. PROXMIRE. The fact that wages have exceeded productivity increases, and the fact that——

Mr. FULBRIGHT. Why is the Senator insisting upon wages as a cause? That is a result of inflation because of the war.

Mr. PROXMIRE. In part.

Mr. FULBRIGHT. Primarily. The Senator is talking about one of the primary reasons for inflation.

Mr. PROXMIRE. I think the wage element goes beyond the Vietnam war. The war is an important element; no question about that. I think the Senator is doing a great service to the country by emphasizing it, but its cost is now about 1½ percent of the GNP and I do not believe it is as all-encompassing as the Senator makes it.

Mr. FULBRIGHT. Consider the situation before the war. For a long period there was almost stability, only an increase of 1 or 1½ percent a year prior to 1963, say. Is that not a fact?

Mr. PROXMIRE. That is a fact, but the war is half as big as it was and the inflation is twice as bad.

Mr. FULBRIGHT. I do not think we had as high inflation then as we have now.

Mr. PROXMIRE. We had higher. At its height it was 7 percent.

Mr. FULBRIGHT. I thank the Senator.

The PRESIDENT pro tempore. Is there further morning business?

THE PRESIDENTIAL REPORT ON FOREIGN AFFAIRS

Mr. DOLE. Mr. President, the President's state of the world radio summary, and the full Presidential report on foreign affairs have served two important purposes.

In the first place, they clearly and succinctly set forth American foreign policy in a way that the rest of the world can understand and take into account. Too often in the past, American Presidents have dealt with foreign affairs on a crisis-to-crisis basis. That kind of rudderless policy has been replaced by a carefully planned blueprint that locks beyond immediate hang ups to a series of sensible, attainable long-range goals.

Second, the summary and the report do something no past President has ever accomplished. They give the American people a clear view of the reasons and the goals behind our foreign policy; they honor the President's pledge to make his an open administration.

In the area of policy, the key to this report is the Nixon doctrine. The Nixon doctrine is designed to update and clarify American policy in a period of global transition. While the President made it clear that America will honor all of its international treaty obligations, and continue in a leadership role in the world community, he has also declared an end to the era when America played the role of lone policeman for the free world. From a position of paternalism, he is guiding us to a position of partnership with our allies. The nations of the free world, which have long relied on American might and American wealth as a global mainstay, are now being called on to do their full share, for the first time since the end of World War II.

The divisions and jealousies within the once monolithic Communist world are also recognized, and America's interest in dealing with individual Communist powers, instead of a worldwide monolith, are clearly set forth.

The President also summarized the progress made over the past year in implementing the policy lines proclaimed in the Nixon doctrine:

The Vietnamese war has been wound down, with American troop withdrawals up to 260,000 by May 1 of this year, and casualties in 1970 down by 70 percent from 1968.

American military presence in South Korea is being lessened, with an announced reduction of 20,000 in the authorized American troop ceiling there.

Elsewhere around the world, the same trimming of American manpower and financial drain is being realized, while our allies are being assisted into a more self-reliant posture.

These actions are the acid test of the Nixon doctrine, and they prove that genuine progress has been made over the past year.

What a contrast all this is to the floundering and indecision of recent past administrations, and the opportunistic attacks of Democratic politicians who have sniped at President Nixon's statesmanlike progress toward a generation of peace. This impressive report ought to quiet some of the negative sniping engaged in by a handful of my colleagues. It is a document that all men of vision and goodwill, whatever their party, can honorably support in the national interest—an interest that should transcend narrow political motives.

The President has given us a ringing statement of purpose and goals, and he has demonstrated his ability to implement them. Foreign policy in an age of change is never a simple matter, but it is clear that we have a man at the helm we can count on at a turbulent time in our Nation's history.

After a decade of drifting and confusion in the sixties, President Nixon has given the American people a revitalized foreign policy and a new sense of unity and purpose.

The PRESIDENT pro tempore. Is there further morning business?

ORDER LIMITING ADMISSION TO THE CHAMBER DURING THE CONSIDERATION OF CERTAIN RESOLUTIONS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, in order to avoid confusion during the consideration and debate on the "money" resolutions on Monday next, I ask unanimous consent that the Sergeant at Arms be directed to arrange for admittance of committee personnel

only at such time as resolutions pertaining to their committees are before the Senate, and that upon completion of action on their resolutions, these persons leave the Chamber.

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

OPERATION OF THE RULE OF GERMANENESS ON MONDAY NEXT—NOTICE OF ROLLCALL VOTES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday, the operation of the Pastore rule—paragraph 3 of rule VIII of the Standing Rules of the Senate—not be triggered until the callup of the initial funding resolution on the calendar, and that the rule continue to operate on Monday for a period of 5 hours, or until the conclusion of the call of the calendar, whichever is the earlier.

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

Mr. BYRD of West Virginia. Finally, Mr. President, with respect to Monday, I think that the Senate should be on notice that one or more rollcall votes may be expected on the money resolutions.

The PRESIDENT pro tempore. Is there further morning business?

QUORUM

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

ADDITIONAL STATEMENTS

THE MARXIST GOVERNMENT OF CHILE

Mr. SCOTT. Mr. President, one of the most significant events in our hemisphere in recent years has been the free election of a Marxist government in Chile. The world is watching the evolution of this government, with particular regard to the essential freedoms and democratic institutions that have long been established in Chile.

On February 1, the Senator from New York (Mr. JAVITS) made a speech before the American Management Association which discussed the Chilean situation and some of the outstanding economic problems between the United States and Chile. He made particular reference to the legislation now pending before the Chilean Congress which would amend the Chilean Constitution.

Since Senator JAVITS made this speech the Chilean Senate has modified the congressional amendment and has phrased it in less onerous terms. The legislation now provides substantial leeway to Chilean President Allende in terms of the compensation to be paid to a joint venture of American-Chilean copper investments, in the eventuality of expropriation.

I ask unanimous consent that the New York Times article of February 11, 1971, that outlines the changes in the proposed amendment to the Chilean Constitution, and Senator JAVITS' speech of February 1 be printed in the RECORD.

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

CHILEAN SENATE GIVES ALLENDE POWER TO NATIONALIZE U.S. COPPER INTERESTS

(By Juan de Onis)

SANTIAGO, Chile, Feb. 10—The Chilean Senate approved a constitutional amendment today giving President Salvador Allende Gossens wide powers to nationalize United States interests in copper, Chile's main industry.

The Senate majority, led by the opposition Christian Democratic party, adopted a text that is both ambiguous and flexible on key points governing how much compensation could be paid the United States companies involved—Anaconda Kennecott and the Cerro Corporation.

"The text deliberately leaves responsibility for reaching a settlement with the companies to President Allende," said a Christian Democratic Senator who was active in the committee work that modified the Government's initial proposal.

U.S. INSURANCE PLAN

The copper nationalization, a major aspect of Dr. Allende's socialist program, contains the potential for serious conflict with United States financial interests and the United States Government if the take-over is considered confiscatory by the companies.

The copper investments amount to nearly $700-million, and include large sums spent on the expansion of Chile's mines under the previous government of President Eduardo Frei Montalva, a Christian Democrat.

Mr. Frei promoted these investments through mixed United States-Chilean companies in which the Chilean Government held a majority interest in most cases. The United States Government guaranteed the investments against expropriation through an insurance plan that provides a potential of about $350-million in coverage.

The nationalization that Dr. Allende wants will eliminate the 49 per cent increase of Kennecott and Anaconda in the big mines of El Teniente, Chuquicamata and El Salvador as well as Anaconda's 75 per cent interest in the Exotica mine and Cerro's 70 per cent ownership of the Andina mine. These mines produce 90 per cent of Chile's copper exports, which earned more than $1-billion last year.

Kennecott has been operating in copper here since 1908 and Anaconda since 1922. Cerro, a newcomer, has just invested $130-million in the Andina mine and made its first copper shipment this week.

The situation of each company is therefore quite different, and the Chilean Government's handling of each is a separate case.

The constitutional reform and the legislation that carries it out provide that the value of compensation is the book value, or net worth after deducting liabilities from assets on Dec. 31, 1970, minus a series of reductions.

TEXT IS MORE FLEXIBLE

These include a provision for claiming excess profits, possibly going back to 1955. But the tax approved by the Senate leaves it up to Dr. Allende to instruct the Government's Auditor General, who will determine the value of each company, how much excess profit exists, and whether to deduct "all or part."

This is more flexible than the early text that called for full deduction under a law that attempts to define excess profits as those exceeding the "profits in worldwide operations" of the United States companies. Some legislators say now that the Government would accept 14 per cent of investment as a fair annual profit.

The new text also leaves it up to Dr. Allende to determine by executive decree, the period over which compensation would be paid up to a maximum of 30 years with an interest rate of no less than 33 per cent a year.

This eliminates the rigid provision in the early text of a fixed 30-year payment period at a maximum 3 per cent annual interest, which the companies regarded as unfair and confiscatory because currency devaluation over such a long period would seriously erode the principal.

NO CHANGES FORESEEN

The constitutional reform must still go through the Chamber of Deputies for final approval, but no significant change in the text was foreseen since the parties have their legislative mining experts in the Senate. Any change in the Lower House would require sending the measure back to the Senate.

The new text does not guarantee compensation to the United States companies that will come up to their standards of fair treatment, but the opinion of legal experts here is that text offers an improved framework for negotiation with Dr. Allende's Government.

OPIC: NEW HOPE FOR U.S. PARTICIPATION IN THE SECOND DEVELOPMENT DECADE

If Clausewitz's war was too important to leave to the generals, today's international search for economic and social progress is too important to leave to governments alone. A much broader and more clearly defined involvement for the private sector is needed, particularly in efforts to bring a 20th Century standard of hope and opportunity for a decent life to the three-quarters of the world's people in the developing countries.

Perhaps the single-most important thing we have learned about international development in the 20 years since Marshall Plan days is that it—like democracy—must be participatory to succeed. It must enlist not only the talents, energies and savings of a self-help citizenry in the have-not countries, but also an investment of know-how and initiative as well as money by the people of the industrialized countries who own two-thirds of the world's wealth and technology but have only a quarter of its population.

There are encouraging signs that we in this most advantaged of all nations are beginning, albeit belatedly, to forge a new joint public-private partnership to manage the business of development and diplomacy.

A worthy experiment in point is the first of President Nixon's "new directions in foreign aid." This is the Overseas Private Investment Corporation (OPIC), which the Congress established in the Foreign Assistance Act of 1969 and the President signed into law, appropriately, on the literal eve of the second development decade declared by the U.N. General Assembly—the 1970's. And just last month the Executive officers of the OPIC were sworn into office. The OPIC Executives who are now in place—Bradford Mills, President; Herbert Salzman, Executive Vice President; and Directors Dan Parker, Clifford Yee, Gustave Hauser, James Suffridge, Allie Felder and Robert Buck—are of the highest caliber and in my view not only enjoy the confidence of the White House but also the Congress. This is fortunate since the OPIC faces some exceedingly difficult problems—as well as unique opportunities—in the days ahead. I congratulate these outstanding men on their appointment and confirmation by the United States Senate.

OPIC's assignment is to reorganize and operate on a businesslike basis U.S. Gov-

ernment incentives to broaden the participation of American private capital and skills in productive projects which are welcome in the developing countries, and which contribute to the social and economic progress of their people. As a specialized government corporation, OPIC will operate under policy guidance of the Secretary of State and chairmanship of the Administrator of the Agency for International Development (A.I.D.), but with a joint public-private board of directors including representatives of small as well as large business, organized labor and the cooperative movement. Further, it is my expectation that the OPIC's voice will be heard in the recently established Council on International Economic Policy and my hope that OPIC, the Export-Import Bank and other major organizations which may be authorized by the 92nd Congress to administer our AID programs will be granted a full seat on this Council in the future. The importance of these organizations in the 1970's will increasingly dictate that their voices be directly heard in the Council.

The establishment of the OPIC at this time also ties in nicely with the effort now going forward in the World Bank family to establish an International Investment Insurance Agency. I am encouraged that many countries—both developed and developing—are willing to join this agency. I urge that existing differences be quickly resolved so that this important new initiative could be launched in 1971.

In addition to the insurance-pool function of the new International Investment Insurance Agency which would have the effect of multilateralizing risks, this new Agency could also play a key role in developing investment standards. Decisions to insure an investment or not to insure an investment over time, establish standards not only in regard to the types of foreign investment that are desirable but also pass a defacto judgment on the investment climates in individual countries in the developing world.

I look to the close collaboration between the OPIC and this new International Agency as well as between the OPIC and organizations similar to the OPIC existing in other developed countries. The OPIC legislation is flexible enough to allow for such cooperation in terms of insuring that U.S. investment can be a component in a joint venture or a multi-country consortium with a minimum of paperwork and a maximum of flexibility.

Other members will follow me in this meeting and I am sure will discuss how the OPIC will expand and improve upon its past preinvestment asssitance programs, the investment insurance programs, and technical assistance programs. The revolving direct investment fund also represents a new initiative which will be subsequently discussed.

I would like to take this opportunity to discuss a matter that is related to the OPIC but is yet much broader in policy, too.

1970 saw an unprecedented questioning of the role of foreign investment in the United States, in Western Europe and Japan, and in the developing world. Investment problems today are looming as large as trade problems. In fact, investment problems have aggravated trade operations of the multinational corporations have caused the "export" of American jobs, contributed substantially to the historical shift of the AFL–CIO to support a protectionist U.S. trade policy—as shown by its support of the Mills bill. During the debate on the Mills bill, European spokesmen threatened retaliation against U.S. investment in Europe if the bill passed. Restrictive Japanese policies towards foreign investment have contributed to the mood that Japanese foreign economic policies have not been as forthcoming as the policies of the second most powerful economy in the world are expected to be. In certain areas of the developing world, investment problems may serve to exacerbate political relations between nations and may affect adversely such matters as the generalized preferences scheme for the developing countries.

It would seem to me that the time has come for the establishment of a "GATT for Investment." This would be a consultative organization analogous to the international organization in Geneva of approximately 80 nations. The GATT has established a working code of good behavior governing international trading relations. It is also the major international forum in which trade disputes are discussed and resolved and where international negotiations for the liberalization of trade are held.

If a comparable organization to deal with investment problems were established, these problems could be analyzed with particular reference to the activities of the multinational corporation. It could examine such proposals as that of George Ball for a world corporation law, and could determine what merit, if any, there is in the growing contention that the sheer size of international production and of multinational enterprise call for international regulation. In turn, the calm deliberation of the problems and opportunities of private foreign investment by such an international body could mitigate trends towards destructive economic irrationalism that plague all countries at certain periods in their history. I recommend urgent consideration of this proposal which has been advanced with some force before the Joint Economic Committee of the Congress by the Presidential Commission on Trade and Investment.

It would not be relevant for me to speak before a gathering interested in the Overseas Private Investment Corporation without mentioning the Chilean situation. It is no secret that the OPIC has a very heavy investment guarantee commitment in Chile and that expropriation without provision of prompt, adequate and effective payment—and this is a possibility under laws not pending before the Chilean Congress—would have adverse effects on OPIC's reserve position.

Before discussing the amendment before the Chilean Congress which would fundamentally alter private property rights, some generalities are in order. The Chileans clearly have a right to their own experiment in government without outside interference. It is my hope that the Chilean experiment will not be at the expense of the personal freedoms that have long existed in Chile. It is further my hope that the Chilean experiment will prove the doubters wrong who are predicting that 1970 was the last free Chilean Presidential election. If the freedom of a people to elect their representatives is abrogated in the upcoming years, Marxist Socialist doctrine (as contrasted with the doctrines and rigidities of international Communism) will have been discredited thoroughly, since the Allende Government is a radical socialist government in which the communists and the social democrats of the Radical Party hold minority partnerships. It is further my hope that the moderates in the Allende Government and the loyal opposition of the Christian Democratic Party headed by one of the truly great men of South America, Eduardo Frei, will make themselves felt. It is the responsibility of the "loyal opposition" in a democratic system to make itself felt without being cowed by the emotions generated by those on the far left and the far right. If the center parties abrogate this responsibility, extremism can run rampant as the sad history of Weimer Republic so graphically demonstrated.

And finally I would enjoin those who would judge the Chilean experiment prematurely to consider that repression has long been the order of the day in some countries of Latin and Central America and that in some of these countries essential freedoms have long been abrogated. This has not yet happened in Chile and political terrorism, kidnapping and assassination—with some unfortunate exceptions—have not been prevalent.

Having said this, I also must say that the proposed amendment to the Chilean constitution now pending, if passed in its present form, may serve to isolate Chile from the inter-American system and weaken decisively Chile's close links with the economic system of the Western Hemisphere. In my view this would be neither desirable for the people of other developing countries of the Western Hemisphere which have long looked to Chile for democratic and intellectual leadership, nor for the Inter-American system itself.

The Chilean constitutional amendment as presently drafted would appear to result in the immediate expropriation of the principal American copper interests in Chile—namely the Anaconda, Kennecott and Cerro copper mines and properties. Such an expropriation would nullify existing agreements that had been carefully negotiated between these copper companies and the Chilean Government less than four years ago and which resulted in a sizable new commitment of foreign capital to develop further new and existing copper deposits. Those agreements insured that Chilean copper deposits would be exploited by joint venture co-operative efforts in which the Chilean Government held either a majority or an important share. In turn these agreements insured that the necessary foreign capital and technology would be forthcoming to exploit Chilean copper now rather than 20 years from now. It is worth pointing out that the Cerro mine, which has only recently begun production, is a particularly high-risk, high-technology investment because it was necessary to build a completely underground mine in the heart of the avalanche country of the Chilean Andes.

The pending constitutional amendment would expropriate only American interests. The amendment, as drafted, apparently is a case of outright discrimination. In addition, it states that payment would be over 30 years with an interest rate of 3 percent per annum. These highly inadequate payment terms hardly constitute prompt, adequate and effective payment. The payment terms, in turn, relate to a formula which would define the value of existing investment as the depreciated book value of assets taken over. Also "excess profits" that have accrued to the companies since 1955 would be deductible from the value of the expropriated property. The question arises of whether a Government has the right under international law or under the Calvo doctrine to pass legislation which would retroactively penalize American companies only for the remittance of profits made according to previously existing national law. The amendment also holds that the Chilean Supreme Court wouldn't have jurisdiction over the compensation awards made in these expropriation cases. The by-passing of the judiciary is clearly in violation of the Calvo doctrine which has been accepted by most Latin American states. Finally, the constitutional amendment allows the Government to repudiate all contracts when it considers them economically important.

Clearly, this amendment is bad legislation with serious international repercussions as well as with far-reaching repercussions for future capital flows into Chile and for continued Chilean economic development.

Turning to another—but a related subject—press reports indicate that Chile and the other nations of the Andean bloc—Peru, Ecuador, Bolivia, and Colombia—have tentatively approved, but not yet ratified, an investment code. The code, as it is presently drawn, could prove detrimental to the economic interests of these nations by making more difficult the securing of sources of outside capital financing—particularly for major

new projects requiring major capital financing. The code could also aggravate balance of payments problems by limiting capital inflows at the same time repatriation of capital is encouraged through forced divestiture of foreign holdings.

It is my understanding that under this code, new foreign investment could be ruled off limits—even in joint venture form—from certain basic industries. More seriously, new investment in other less basic sectors could be subject to a divestiture requirement over a set time period until the foreign ownership component is 49 percent or less. Existing firms not complying with these divestiture clauses could face discrimination within the Andean market. It is my concern that this regulation could scare off the new foreign capital involvement most desirable to these countries while encouraging "hit and run investors" who will seek to maximize the greatest profit over the shortest period of time before the disinvestment deadline.

In addition to possibly drying up sources of new, responsible foreign capital—and this has already occurred in some major Peruvian projects—there is an additional problem. The other side of the coin of divestiture is that local capital will have to buy out existing as well as new foreign interests. The Andean countries in question only have limited capital markets. These capital markets as they presently exist are totally incapable of generating the local capital that will be necessary to buy out these foreign interests that the code requires be turned over to local interests within a 15–20 year period.

Since these local capital markets are inadequate for this divestiture financing, only governments would be capable of mobilizing the required financial resources. Also, governments would have a first refusal option to buy out the shares of the private foreign interests. It would be my judgment that the limited resources of these governments would be better spent on housing, health, education and badly needed infra-structure projects rather than by buying out existing enterprise. The use of scarce government resources to buy out healthy, on-going enterprises only because they are foreign-owned or foreign-controlled without regard to any other criteria would not promote accelerated economic growth. Thus, the vital task of increased capital formation would be stunted by the application of the Andean code as it is now drawn both by hindering new foreign capital inflows and by promoting the nonproductive re-allocation of government expenditures.

I am aware that there is some discussion that the Inter-American Development Bank or possibly other international institutions develop a program whereby bank funds would be used to further the disinvestment programs. It is my view that such programs would have politically explosive implications in the U.S. Congress that could be detrimental to any international institution proposing such a program.

Though I have expressed various concerns I still remain somewhat optimistic. In the case of the Chilean constitutional amendment, Congressional passage is still in the future; and discretionary options have been built into the Andean Code even if the Code were to be ratified by the governments of the five member nations.

In making decisions relating to private foreign investment, it seems increasingly critical that a clear definition of capital and technological needs required to reach a stated desirable level of development is necessary. I am well aware that this cataloguing has been underway for some time in some of the more developed countries of Latin America such as Mexico. But unless it is done in other nations of Latin America and unless consistent policies are adopted towards the end of achieving a certain development target, the universally desired goal of accelerated economic development and betterment of the human condition may be aborted.

Turning to the developed world, foreign investors must be more willing to go the route of joint venture and increasingly multilateral venture. Foreign investment partnerships with Government corporations, and with local investors and minority participation by the public international institutions and by multinational private financial institutionas like the ADELA and the PICA, is the wave of the future. Also, the times increasingly demand that foreign investors accept that existing investment—particularly highly visible, politically sensitive existing investment—be treated differently from new investment. Treated differently is not the same as being treated unfairly and provisions of some of the new laws I have discussed clearly constitute unfair treatment.

In the area of private foreign investment, the Charter of the Second Development Decade states:

"Developing countries will adopt appropriate measures for inviting, stimulating and making effective use of foreign private capital, taking into account the areas in which such capital should be sought and bearing in mind the importance for its attraction of conditions conducive to sustain investment. Developed countries, on their part, will consider adopting further measures to encourage the flow of private capital to developing countries. Foreign private investment in developing countries should be undertaken in a manner consistent with the development objectives and priorities established in their national plans. Foreign private investors in developing countries should endeavor to provide for an increase in the local share in management and administration, employment and training of local labor, including personnel at the managerial and technical levels, participation of local capital and reinvestment of profits. Efforts will be made to foster better understanding of the rights and obligations of both host and capital-exporting countries as well as of individual investors."

It would be my hope, that during the decade of the 1970s, both developed and developing countries would endeavor to take the steps required to move towards the implementation of goals of the Second Development Decade.

FEDERAL ASSUMPTION OF STATE PUBLIC WELFARE PROGRAMS

Mr. ANDERSON. Mr. President, the 30th legislature, first session, of the State of New Mexico, has passed Senate Joint Memorial No. 2 memorializing Congress to urge Federal assumption of State public welfare programs.

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

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

SENATE JOINT MEMORIAL 2 OF THE LEGISLATURE OF THE STATE OF NEW MEXICO

A joint memorial to Congress urging Federal assumption of State public welfare programs

Whereas, the total per capita expenditure for social insurance programs in the United States has risen from three dollars ($3.00) in 1935 to two hundred thirty-six dollars ($236) in 1969 and the per capita expenditure for health and medical programs has risen from three dollars ($3.00) in 1935 to forty-three dollars ($43.00) in 1969; and

Whereas, the total federal grants to state and local governments for public assistance amounted to six billion two hundred eighty million dollars ($6.280 billion) in 1969, and for the state of New Mexico was approximately forty million dollars ($40 million) or forty dollars and seventy-one cents ($40.71) per capita in that year; and

Whereas, in the United States, federal funds for public assistance constitute 52.6 percent of all such governmental expenditures, and in New Mexico, constitute 72.6 percent of the governmental expenditures; and

Whereas, congressional action and federal court decisions continue to expand such programs in their scope, expenditure and administrative complexity placing an increasing financial and administrative burden upon states with low per capita incomes, such as New Mexico, making it extremely difficult to find the financial resources even to match the state's smaller share of the expenditure burden; and

Whereas, practical considerations and public need make withdrawal, even from those programs where withdrawal is possible, a difficult and unlikely course of state action;

Now, Therefore, be it resolved by the Legislature of the State of New Mexico that the United States congress is requested to enact appropriate legislation to completely federalize and fund existing state public assistance and other welfare programs to the effect that:

(1) fiscal and administrative relief would be granted to the several states in the Union, particularly those states having low per capita incomes and high per capita welfare participation; and

(2) public assistance and welfare programs would be uniform throughout this nation without regard to state participation levels; and

Be it further resolved that copies of this memorial be sent to the honorable secretary of the health, education and welfare department, and to each member of the New Mexico congressional delegation.

CHALLENGE TO THE DOLLAR

Mr. SYMINGTON. Mr. President, as Senators know, for many years I have worried about the steady outflow of U.S. dollars. Figures just released on the balance of payments for 1970 show that this outflow of dollars is continuing at a disturbing rate.

Last year the balance-of-payments deficit on an official settlements basis was approximately $10 billion, which, according to an article in the Wall Street Journal of February 17, "reflects a $7.6 billion bulge in the dollar holdings of foreign authorities—at least sevenfold more than they generally deem a tolerable increase."

Such a development worries many foreigners, particularly as they see inflation in the United States continuing to erode the value of the dollar. They are also worried that the U.S. payments deficit will stall world monetary reform through the use of special drawing rights.

In this connection, an editorial in the Wall Street Journal of the same date sounds the following warning:

There will have to be a revision of the idea that the American economy is so strong it can carry any burden, be it a distant war or what have you.

To a large degree, the value of a nation's money reflects the soundness of its public policies. And if those policies are unsound, there is no wall high enough to conceal the weakness.

I ask unanimous consent that the two items be printed in the RECORD.

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

FOREIGNERS FRET AS U.S. DOLLAR DRAIN GAINS, WORRIES MAY STALL WORLD MONETARY REFORM

(By Richard F. Janssen)

WASHINGTON.—In international monetary circles, officials have their own definition of an optimist: "One who thinks the situation is deteriorating less rapidly."

But even by this definition, the optimists are getting hard to find again.

For after a period of unusual calm, tension is mounting among foreign authorities because of the unexpectedly massive pileup of American dollars in their central banks. The government reported yesterday that the "official settlements" version of the balance-of-payments deficit deepened to roughly $10 billion in 1970; mainly, this reflects a $7.6 billion bulge in the dollar holdings of foreign authorities—at least sevenfold more than they generally deem a tolerable increase—along with a shrinkage of some $2.5 billion in the gold and other reserve assets with which the U.S. defends the dollar's value internationally.

And so the foreigners, worried that persistent U.S. inflation will erode the value of their dollars, may want to resume turning them in for American's gold—renewing the drain on the Treasury's shrunken hoard.

Adding to the uneasiness among international officials is their fear that the Nixon Administration will do little if anything to avoid a repetition of the dollar outflow in 1971. "We are not reassured" by the President's economic report, states one insider at the headquarters here of the 117-country International Monetary Fund; he reads the report as signaling a rapid, inflationary revival of the U.S. economy and a brushoff of the balance-of-payments problem.

At the least, some U.S. officials agree, the deteriorating payments trend jeopardizes further progress on reforms, sought mainly by the U.S., to strengthen the international monetary system. "We've been arguing that the time to repair the roof is while the sun is shining" and before a crisis develops, one administration aide says, "but I'm afraid its already beginning to drizzle."

This official concedes it is suddenly becoming doubtful that the IMF will create any more Special Drawing Rights, or "paper gold"; this new kind of reserve asset, designed to bolster member nations' gold and dollar reserves, can be turned in to the IMF for national currencies. The same official says that Continental resistance is stiffening to the U.S. crusade for more flexibility in foreign-currency rates.

A DEEP BLOW TO COOPERATION?

At worst, the more pessimistic authorities caution, continuation of the dollar deluge at anything near its recent volume could deal a deep blow to the confidence and cooperation that hold the whole intricate monetary system together.

Failure of the U.S. to check the dollar drain risks a "calamity," warns Italian central banker Rinaldo Ossola. As he sees it, the U.S. might either devalue the dollar (by raising the $35-an-ounce gold price) or else cut its link to gold and usher in a "long period of monetary disorder" similar to that of the Depression. Such disorder would threaten to choke international trade.

Such alarms irritate administration men already worried about the dollar buildup abroad. They are particularly disappointed that it was the "official" basis of measuring the payments results that worsened so radically from a surplus of $2.7 billion in 1969; this is the version that excludes dollars held by private foreigners and thus more clearly shows the extent to which foreign governments are acquiring dollars. "But I doubt very much that we would want to do anything differently" just because of the big payments deficit, a White House strategist declares.

If only for diplomatic reasons, however, administration men can't appear to ignore the foreign complaints entirely. While the President's Council of Economic Advisers remains relatively calm about the payments perils, there is continuing worry at the Treasury and the Federal Reserve Board, which have more day-to-day dealings with their foreign counterparts.

Thus, Washington isn't planning any perceptible progress this year toward the President's goal of eliminating U.S. payments controls. The slight loosening of the Commerce Department's controls over business investment outflows, already announced for 1971, isn't apt to be followed by any further relief this year, officials say. And the Reserve Board may yet take additional regulatory steps to induce U.S. commercial banks to hold onto dollars that otherwise might end up in foreign central banks.

ARE OTHER NATIONS BLUFFING?

In part, the administration's unwillingness to take stronger action reflects its belief that other countries are basically bluffing when they talk of dire consequences. Foreign governments currently hold $19 billion of dollars they could theoretically turn in for Treasury gold. But, American officials reason, "they all know" that they couldn't do so because the Treasury's gold stock is down to $11.1 billion. With too little gold to go around, the reasoning goes, no country would risk triggering a run and thus smash the international monetary system.

"Even if Gen. de Gaulle came back to life, I don't think you'd find France or any other country taking more than token amounts of your gold," one of the friendlier European officials says.

With such reassurances, administration men feel all the more secure in pursuing what President Nixon clearly ranks as the much more pressing objective of stimulating the domestic economy. The upturn the administration hopes to engineer "would tend in itself to reduce" the slim surplus the U.S. has been getting on the key element of merchandise trade, says Hendrik S. Houthakker of the Council of Economic Advisers. Faster economic growth at home tends to pull in more imports and leave U.S. companies with less need to seek out customers for exports.

To the consternation of Europeans, moreover, the rather relaxed Nixon administration attitude about the payments deficit is getting intellectual support from private experts on both sides of the U.S. political spectrum. Recently Lawrence Krause of the liberal Brookings Institution urged a "passive" approach by which the U.S. ignores the payments balance to concentrate on better performance of the domestic economy. Shortly afterward, the conservative American Enterprise Institute issued an almost identical call by Harvard Prof. Gottfried Haberler for "benign neglect of the balance of payments"; he favors scrapping all efforts to reduce the payments deficit.

FOREIGNERS' "INCONSISTENT" DEMANDS

The administration hasn't gone that far. One indication is the Treasury's request last week that Congress extend the interest-equalization tax to deter American purchases of foreign securities. But the Council of Economic Advisers does declare in its annual report that it isn't about to shape domestic policy to the "fundamentally inconsistent" demands of foreign countries. If they really want the U.S. to have a smaller payments deficit, the council contends, they should make this easier by revaluing their currencies upward more often and thus making their goods less competitive with American wares.

Mainly to encourage such upward revaluations of other currencies, the U.S. has been lobbying for the IMF to alter its relatively rigid rules. These regulations generally require a member nation to keep the foreign exchange value of its money from moving up or down more than 1% either way from the official value.

But after much speechmaking at last September's IMF meeting in Copenhagen, one American advocate concedes that "some of the spark has gone out" of the flexibility drive. European support for almost any change favored by the U.S. has been damped by the dollar outpouring. IMF planners have had to shelve their original goal of issuing flexibility proposals this spring. They say they may not even have a new report ready for next fall's annual meeting here.

HOLDING UP SDR EXPANSION

More worrisome to many international officials is that Europe shows signs of wanting to hold up "paper-gold" expansion in order to get more determined administration action to curb the payments deficit. While he doesn't share the view himself, Italy's Mr. Ossola warned in a recent speech that "the conviction is spreading" among European authorities there should be no more Special Drawing Rights created after next Jan. 1; that's when the last $3 billion chunk of the initial three-year total of $9.5 billion is to be doled out.

The SDRs are designed to serve as a kind of rationally managed money that governments can add to their reserves and use among themselves when necessary to settle payments deficits. The SDRs were sold on the basis that the U.S. would diligently curb its payments deficit so that American dollars would be adding no more than $500 million to $1 billion yearly to foreign nations' reserves. European governments complain that the dollars unloaded on their central banks by private citizens cause inflation, because in buying them each bank creates more of that nation's currency.

CHALLENGE TO THE DOLLAR

Something there is that doesn't love a wall, said Robert Frost; one such something is money.

Europeans have learned in recent years that it is not easy to build fences to protect national currencies and that international cooperation is a better insurance against unsound money.

It is this new spirit of cooperation that is marching the six Common Market nations toward monetary unity. They took a key step last week when they agreed to the first stages of a 10-year plan aimed at an eventual common currency.

The first stages involve coordination among the six central banks with regard to open-market trading designed to keep national currencies stable.

There no doubt will be many pitfalls on the path to a single European currency but even the initial steps, if successful, could have important benefits for Europeans. If they reduce traditional European fears of currency instability, one result could be a greater flow of savings into stocks and bonds and other forms of capital rather than into less useful investments such as land or gold. Europe could thus generate more of its own capital needs rather than relying so heavily upon American dollars.

A greater movement of European currencies into the European and international capital markets has already occurred as a result of the stability that has been achieved so far. And the Common Market Commission last fall introduced a new kind of borrowing called the European Monetary Unit, which is a package of European currencies and could be a forerunner to unified general-purpose currency.

Improved stability, if achieved, also can be expected to save businesses a lot of money

through reduced needs for hedging against possible currency revaluations and through reduced exchange costs.

While Europeans are enjoying these hoped-for advantages, what about the United States? Be assured that it will not be unaffected by such a profound change in Europe.

The U.S. dollar currently is used heavily both in international commerce, and through the medium of the Eurodollar market, as a source of international capital. It is likely to continue in this role for a long time.

But as Europeans develop a European capital market that makes increasing use of currency units other than the dollar, there will be less need for the dollar in Europe. Europeans and American business abroad wouldn't be so interested in holding dollars. And the United States would become less prone to export U.S. inflation when it occurs, since an outflow of dollars under the new circumstances would soon have the dollar in a lot of trouble.

That would mean that U.S. inflation would become even more intolerable than now because there would be even more uncertainty that it would be offset by a corresponding rate of inflation abroad. A high rate of inflation could quickly put the United States under heavy pressure to devalue the dollar relative to European currencies.

Such an environment, if properly recognized and understood by American policy planners, could serve as a valuable check on American propensities for overspending.

But it could prove painful if not recognized and understood. Americans could, for example, find themselves with far worse problems competing in international trade than they have faced over the last year or so.

The way to avoid such pain is to match the Common Market 10-year plan with an American "plan" aimed at coping with the new realities. That plan will have to include a great deal more self-discipline than has been practiced, notably in the mid-1960's. There will have to be a revision of the idea that the American economy is so strong it can carry any burden, be it a distant war or what have you.

To a large degree, the value of a nation's money reflects the soundness of its public policies. And if those policies are unsound, there is no wall high enough to conceal the weakness.

INTERNATIONAL INSTITUTE FOR THE MANAGEMENT OF TECHNOLOGY

Mr. JAVITS. Mr. President, last year saw the successful launching of the International Institute for the Management of Technology, born from an idea developed in the mid-1960's at meetings of the Scientific and Economic Committees of the North Atlantic Assembly, of which I was Chairman of the Political Committee. The meetings, then held in conjunction with the University of Pennsylvania Foreign Policy Institute, produced the idea—fulfilled this year—that an institute should be established to foster international cooperation to provide training in modern management techniques and the application of advanced technology to industry for people who already have some experience in business management.

Although the United States has no official representation in the working party which developed the institute, two Americans—Dr. Isidor Rabi and Mr. Peter Cusick, both of whom are well known to me and extraordinarily well qualified representatives—have, in fact, played an important role in this work.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the statement of Ambassador Greenwald, U.S. Representative to OECD, and an article from the Financial Times of January 15, 1971, both concerning this outstanding development.

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

STATEMENT OF AMBASSADOR GREENWALD, U.S. REPRESENTATIVE TO THE OECD, ON THE ESTABLISHMENT OF THE INTERNATIONAL INSTITUTE FOR THE MANAGEMENT OF TECHNOLOGY, JULY 7, 1970

Mr. Chairman: The United States Delegation would also like to extend its congratulations to Sir John Chadwick and his Working Party colleagues on the successful outcome of their long and arduous labors.

Since the inception of the idea of a European Technology Institute at the 1969 Deauville Conference, sponsored in part by the North Atlantic Assembly, the United States has followed the work with great interest and sympathy. Although there has been no official U.S. Government representation on the Working Party, Dr. Isidor Rabi and Mr. Peter Cusick have played an important role on the related study commission which met with the Working Party. There is considerable technology management expertise in the U.S. and I'm sure that Dr. Rabi, Mr. Cusick and others will continue to be interested in this outstanding example of international cooperation.

In view of the frequent references to technological and managerial gaps, we particularly applaud this European initiative in establishing an International Institute for the Management of Technology. It will not be just another management school but a unique institution looking ahead to a major problem of the 70's—the management of technology. The growing support among European governments and industry is most encouraging. Everyone will benefit from this major step forward. We wish the Institute a highly successful future.

NORTH ATLANTIC ASSEMBLY—RECOMMENDATION V, ON THE INTERNATIONAL INSTITUTE FOR THE MANAGEMET OF TECHNOLOGY

THE ASSEMBLY:

Recalling the desire expressed by the Scientific and Technical Committee of the former Conference of NATO Parliamentarians to organise international co-operation on technological teaching and research, which determine economic progress;

Noting the report prepared by a working party under the aegis of OECD and suggesting the creation of an International Institute for the Management of Technology;

Approving the establishment of this Institute at Milan, and the principles underlying the draft Agreement and Charter;

Recommends governments of the countries represented in the North Atlantic Assembly:

to ratify the proposed international agreement as soon as possible so that the Institute can start its teaching and research programmes in 1971.

BRITISH SUPPORT FORMALLY STARTS INSTITUTE

(By Paul Lewis)

PARIS, Jan. 14.—The British Government will bring the proposed new International Institute for the Management of Technology into formal existence here next Monday when it declares its official support for the project.

That will raise the number of associated Governments to four, the minimum required under the draft Statutes. Holland, West Germany and Italy already have agreed to back the Institute.

The OECD council will become the official governing body. A major drive is expected by the associated Governments to raise funds from private industry for this Milan-based school of modern management.

The initial cost of the Institute is put at $1.5m a year though it will rise to $3m. At first the supporting Governments will put up most of the money; but eventually it is hoped to split the bill equally between official contributions, industrial grants and student fees.

The Institute is intended primarily to provide training in modern management techniques and the application of advanced technology to industry for people who already have some experience in business management.

TRIBUTE TO SENATOR ANDERSON BY ADMIRAL RICKOVER

Mr. MONTOYA. Mr. President, we are all aware of the outstanding career of Senator CLINTON P. ANDERSON, of New Mexico, who has served in the Senate, and has been one of its most respected Members, for more than 20 years. The distinguished Vice Adm. H. G. Rickover of the U.S. Navy, recently saw fit to pay tribute to Senator ANDERSON.

Admiral Rickover, known as an insightful critic of education, as well as one of the Nation's foremost leaders in scientific and military affairs, offered this praiseworthy preface while addressing the New Mexico Academy of Science in Albuquerque, N. Mex. Admiral Rickover considers Senator ANDERSON "one of the great men of our country," an assessment with which I am sure we can all agree. In tribute to Senator ANDERSON, I ask unanimous consent to have printed in the RECORD the preliminary remarks made by Admiral Rickover.

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

REMARKS BY VICE ADM. H. G. RICKOVER

Before starting my speech I would be remiss if I did not acknowledge the contributions of a dintinguished New Mexican and one of the great men of our country, my dear friend, Senator Clinton P. Anderson.

I have been privileged to know Senator Anderson officially and personally for more than 20 years. During the numerous contacts I have had with him in connection with my work on our atomic Navy I have found him kindly, perceptive, hardworking; a man who is always thinking and acting in the public interest.

One of the warmest and highest measures of praise is still to say of a man that he is "a man for all seasons." By this is meant a person of widely rounded ability, an expert in many things, whose view of the world is never limited to a cramped and narrow corner.

Not only is Senator Anderson "a man for all seasons" he is also a generalist who has an overall view, especially for relationships and balancing of alternatives.

I speak from personal experience when I say that without the support he has unfailingly given, conversion of our fleet to atomic energy would have been delayed and might have come too late to be of use to the United States.

I consider him as fine a politician as there is in Congress. In using the word politician, I do so in the sense that politics is the highest calling a human being can engage in. This is so because it is through politics that we

get things done; that the world is kept moving. To be a good politician one must possess far more than intelligence; he must also have the human touch, the innate ability to know how people think and how they feel. He must have their confidence and he must know what is necessary to do for their basic needs and for their welfare.

Senator Anderson is that kind of politician. In our form of government the basic function of a Senator is to represent the people of his state or of his district; he also has a duty to the United States as a whole. Balancing these two interests can present a difficult task for a legislator, but Senator Anderson has handled this task with wisdom and integrity. He has looked out for his State *and* for the United States.

One of the things that has made the deepest impression on me in my half century of service in the Navy is that things in this world get done by people and not by an organization or a system. Yet the present tendency in the United States is to seek improvement by concentrating on organization changes and on management systems. These efforts are doomed to failure because human beings, having free will, cannot be organized into systems and treated as inert atoms. Senator Anderson's work in Congress is proof that he understands this fundamental fact.

In his four decades of public service in New Mexico, in the Federal Cabinet and in Congress, his foresight, wisdom, judgment, and common sense have allowed him to make major contributions to our national welfare and security.

A man can conduct himself in one of two ways. He can be a doer or a critic. I know of no statue that has ever been erected to a critic. Nor do people throw stones at trees that bear no fruit.

We are fortunate that at this critical point in our history there is a man in his position who fights for what is needed, regardless of consequences. No minor issues that fault-seeking individuals can find are relevant in the context of the tremendous contribution he is making to our national security.

He is one of the great men of the United States Senate. He is dedicated to peace but aware of the awesome responsibility our Nation bears in defense of our freedom.

In the business of government any movement from hideous to bad is progress; from hideous to fair is spectacular. And Senator Anderson has done more than his share to achieve the spectacular for us and for our posterity.

I am grateful that the United States Senate has a man like Senator Anderson, who by his patriotism, intelligence, and hard work has done so much for the United States.

I am proud to have him as a friend. I am honored that he asks for my advice. I am grateful to receive his counsel. I am glad that at this critical point in our history, he holds a position of authority and leadership in our defense.

Future generations will, I am sure, remember him above all for what he has done to preserve our heritage than for anything else.

TRIBUTE TO COL. THOMAS BOLES BY NEW MEXICO LEGISLATURE

Mr. ANDERSON. Mr. President, the 30th legislature, first session, of the State of New Mexico, has passed Senate Joint Memorial No. 4, extending best wishes to Col. Thomas Boles who was 90 years old January 31, 1971.

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

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

SENATE JOINT MEMORIAL 4 OF THE LEGISLATURE OF THE STATE OF NEW MEXICO

A joint memorial extending the best wishes of the legislature for a very happy 90th birthday to Col. Thomas Boles

Whereas, Colonel Thomas Boles, sometimes called "Mr. Carlsbad Caverns", will be ninety years of age on January 31, 1971; and

Whereas, he was educated in civil engineering and after distinguishing himself as an engineer accepted the superintendency of the Hawaii National Park with the United States National Park Service in 1921 where he served for five years; and

Whereas, after working for the Pacific Electric Railway at Los Angeles, he went to work at the Carlsbad Caverns in 1927, first as the custodian, then as superintendent when the caverns gained national park status; and

Whereas, Colonel Boles was the guiding force in the installation of the caverns' brilliantly conceived lighting system and in the development of its elevator system; and

Whereas, he became affectionately known as "Mr. Carlsbad Caverns"; and

Whereas, he was transferred to Hot Springs National Park in Arkansas in 1946 and retired from government service on January 31, 1955, returning to Carlsbad to work for the United States Potash Company; and

Whereas, in all that he did, such as making five thousand five hundred fifty-six visits into the caverns, Colonel Boles has set an excellent example of vigorous hard work, brilliance, honesty and integrity in the performance of his work, and New Mexico citizens are justifiably proud of him;

Now, therefore, be it resolved by the Legislature of the State of New Mexico that it extends its best wishes for a very happy ninetieth birthday to Colonel Thomas Boles; and

Be it further resolved that copies of this memorial be sent to Colonel Boles, to the New Mexico congressional delegation and to the Director of the National Park Service, United States Department of the Interior.

Signed and sealed at the Capitol, in the city of Santa Fe.

ROBERT A. MONDRAGON,
President, New Mexico Senate.
JUANITA PINO,
Chief Clerk, Senate.

ADDRESS BY DR. E. LAURENCE CHALMERS, CHANCELLOR, UNIVERSITY OF KANSAS

Mr. PEARSON. Mr. President, few positions in this country require the determination and tenacity, strength, and understanding that is demanded of one who occupies the presidency of a large university. This is particularly true of the man who is the chancellor of the University of Kansas.

Mr. President, I ask that a copy of a recent speech made by Dr. E. Laurence Chalmers, chancellor of the University of Kansas, to the Kansas City Press Club be printed in the RECORD. I make this request not for the normal reasons of courtesy or interest but because I believe this statement to be one of the most sensible and penetrating analyses I have seen of the conflicting values which underlie many of our societal problems.

I draw particular reference to his statement that—

We cannot hide our heads in the sand, nor wish the problems and conflicts away. We cannot accept the proposal that violence breeds anything more than further violence. We have the right, indeed we have the obligation, to defend our institutions against all extremes. We have the responsibility to resolve our internal conflict of values in the way that has always distinguished this State—with an innovative, pioneering spirit that will enlist the enthusiasm of young and old alike.

Because this statement is so pertinent and because this fine man knows whereof he speaks, I invite the attention of the Senate to his thoughts.

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

[From the Kansas City Star, Feb. 21, 1971]

RECONCILING THE VALUE CONFLICT IN THE UNITED STATES

(By E. Laurence Chalmers, Jr.)

(The college campus has been the focal point of the conflict in fundamental values in American society. In a recent speech to the Kansas City Press Club, Dr. E. Laurence Chalmers, Jr., chancellor of the University of Kansas, characterized the two opposing forces in that conflict and made suggestions on how they can be brought together. Following is the text of his speech.)

Several years ago the talented cartoonist who creates Pogo illustrated an episode that went something like this. Pogo and his animal friends spotted suspicious looking footprints meandering through the Okefinokee swamp. Immediately they assumed there were intruders in their midst and began to track the strangers. The tracks circled back to their homes where they discovered that the prints they were following were identical to the ones they made while tracking the presumed intruders. Pogo concludes this delightful episode with the declaration, "We have met the enemy and they is us." I doubt that any sage from any age has stated so succinctly the dilemma of today's society. "We have met the enemy and they is us."

Some will say this is absurd and that our major problem is an economic recession which according to public opinion polls has become the nation's No. 1 concern (I'm relieved that *something* has displaced K.U. as the nation's No. 1 concern).

But the dilemma of our society extends far beyond economic's recession and far beyond Vietnam. It extends to every institution and person in the modern world.

Although perhaps not for the same reasons, several of democracy's most unique institutions—the free press, public higher education, the courts, free enterprise, the church and even democratic government itself—are challenged by a greater number of our citizens.

Whenever a society lashes out at its own institutions there is bound to be conflict in the fundamental values of the people themselves. Charismatic leaders may temporarily forestall such conflicts, and generalizations such as the generation gap may appear to provide a temporary explanation, but until the value conflicts themselves are identified and reconciled the stress within our society is bound to continue.

I used to believe that conflicting points of view concerning the unhappy circumstances in Southeast Asia were a prime cause. I'm now convinced that they are only a highly visible symptom. By the same token, I have begun to regard poverty, prejudice and pollution to be symptomatic of the basic conflict of values as well as problems in their own right. I don't want to minimize any of these problems, but to emphasize that we will not find lasting solutions to the problems themselves unless we also solve the underlying value conflicts.

If our democracy is to survive and not be

replaced by anarchy on the one hand or one of several forms of tyranny on the other, we must make a genuine effort to deal with these underlying value conflicts as well as with the resulting symptoms.

If university administration is difficult today, it is not because the job is inherently more difficult than any other profession. Rather, it is because conflicting values are more likely to clash in the administration building of a college or university campus than they are in business and industry or even in government.

ROOTS OF CONFLICT

If I have properly whetted your appetites, you should be waiting anxiously for a brief analysis of these conflicting values. O.K., let's take a look. Basically, they relate to how we perceive our role in life and how we perceive our relationship to others as we pursue that role. For one set of values—let us call it the Alpha System—the acquisition of property and wealth is a primary goal. For the other set of values, the Beta System, property and wealth are only necessary for the fullest realization of one's potential.

In the Alpha System, independent achievement is more highly valued—Alphas prefer competition. On the other hand, Betas prefer co-operation and they prefer to focus upon the achievements of the total society. Alphas tend to be more reflective; Betas more prospective. An Alpha will prefer to discuss past problems in our society and how they were solved. A Beta will prefer to discuss future problems in our society and how they might be solved.

In the Alpha System, the young business executive who uses his energies and abilities to build an idea, and hard work, into a multimillion-dollar industry is most likely to be admired. In the Beta System, the physician who devotes his life to treating diseases in an underdeveloped country or in the inner city is most likely to be admired. The Alpha System leads to corporate law—the Beta System to public defenders.

Properly you may ask "Where is the conflict? Doesn't our society need bright, energetic business executives as much as it needs dedicated physicians? Haven't corporate lawyers and public defenders always been honorable legal careers?"

Certainly they have. There is no inherent conflict, only the potential for conflict. We merely need to drop any social problem into the mix in order to produce conflict. For example, let's try to clear a piece of slum housing in the inner city to make room for an office building, or let's pollute the air with a new and highly profitable industrial process. Immediately the differences between the two value systems rise to the surface. Alphas say a bright new office building represents progress. Betas say it's not progress if you don't provide an acceptable alternative for the people living there. Alphas say the establishment of a new, profit-making industrial process is a right in a system of free enterprise. Betas say it's not a right if it adds to our air pollution, and so it goes from problem to problem.

One could provide endless examples of the conflicts between these two value systems, in the course of which it would become apparent that there aren't really two clearcut value systems, only a tendency for values to cluster into two or more major groups. And easy generalizations such as the generation gap represent only the endenncy to cluster (i.e., probably there are more people over 40 in the Alpha System and more people under 30 in the Beta System).

There's a great need for analysis and clarification of these value systems and the social problems that bring them into conflict. Unfortunately, both your time and my abilities are too limited to pursue this, and I do want to talk about higher education as it is buffeted about between these potentially conflicting value systems.

Concerning higher education Alphas may be heard to express the following opinions:

"College is a privilege. Anyone who doesn't like it can leave it. Anyone who disrupts the educational process should be kicked out."

Or . . .

"I worked my way through college. I see no reason why we shouldn't raise fees. Those that are really motivated will find a way to get to college. I don't see why there should be a bigger state tax bite for public or private education or why the federal government should be using my hard-earned dollars to subsidize the education of disinterested low ability kids from the inner city."

On the other hand the Betas claim that the opportunity to attend college is no longer a privilege, it's a right because so many areas of our society require a college education in order to gain entry. Betas also say that a democratic society depends upon a well-educated public, and we must try to educate everyone to the maximum extent possible—even the disinterested, poorly equipped, low-ability inner city kids.

Alphas believe in using grades to distinguish between individual students (remember Alphas prefer competition and individual achievement). Betas believe you should keep trying to teach each student until he (or she) learns everything that's expected of him (or her) and then merely indicate that the course or program or degree has been completed.

With these few brief examples, I've tried to illustrate the conflict between systems of values in our society and more specifically on our campuses. True, most, but certainly not all, undergraduates, tend to be more Beta than Alpha. I suspect that faculty members are quite divided. While the majority of older citizens tend to be more Alpha than Beta.

NEED UNDERSTANDING

Obviously, the first step toward a resolution, toward depolarization of the real and potential conflict between Alphas and Betas, is mutual understanding of the size and scope of the values in conflict, and mutual respect for conflicting points of view. I won't begin to presume how society as a whole can resolve these internal conflicts, but perhaps there are lessons to be learned from our efforts to resolve the conflicts within our educational institutions.

The first and foremost effort is to insure participation in the decision-making processes. Power in a large complex public university is no longer lodged in the hands of the few. I recognize that many people are critical of me because I represent "authority" at the University of Kansas. While it is true that I am responsible for everything that occurs on the campus, my authority is widely delegated, and highly decentralized. Holding the title of chancellor offers the opportunity to develop consensus among faculty members, among staff members, and among students but it does not grant the right to issue unilateral directives. To attempt to lead a great university without consensus is as foolish as it is futile.

A trend that developed in the mid-'60s, and is now almost complete on many campuses, involves students in all of the decisions that affect the nonacademic parts of their lives. Today, on campuses like mine, students participate in decisions on extracurricular rules and regulations, the allocation of student activity fees, the assessment of additional fees (other than tuition), policies concerning student publications, the sanctions for violations of student rules and regulations and the like. Moreover, they have proven themselves to be immensely conscientious and capable in these endeavors.

The extension of this to academic decisions is already under way. Our University Senate (composed of all faculty members plus 100 students) now requires every policymaking committee of every department, school or college and every university-wide committee to include a minimum of 20 per cent students. Students are evaluating every course with more than 10 students enrolled. Students are actively engaged in the teaching of other students in a variety of credit and noncredit courses.

For the most part these activities represent the active efforts of students who are eager to participate in decisions concerning the academic side of their colleges and universities. It's not likely they will be denied this opportunity. Moreover, it seems more than probable that their participation will be as conscientious and capable as it has been in the extracurricular arena. Most importantly, it provides the impetus to complete the innovative efforts of the '60s, and the opportunity for faculty members and administrators to facilitate change.

In the future we may expect to see even greater involvement of students in the decision-making process. For example, one might ask why a student shouldn't be able to tailor his own degree program? For many students, there is every reason to believe that this alternative is appropriate—provided that he or she has competent faculty assistance in tailoring such a program and understands whatever risks may be involved by not following a "traditional" or conventional degree program.

Within individual courses why shouldn't students participate in the establishment of course objectives and in the procedures whereby these objectives may be reached? Please note that I do not mean that students will have the final determination of course contents, course material, etc. But I do mean that faculty members ought to know what the student's expectations are and ought to be able to persuade students that the faculty member's choice of materials is an optimum one. It means that faculty members must be able to articulate course objectives, and explain why they are better than student-suggested alternatives.

Some opponents to this approach believe that students will tend to seek the easy way out. This is demonstrably false. In fact, most of the faculty members will have to hold course objectives down closer to reality away from the ambitious and idealistic goals of most students.

How can students participate knowledgeably and meaningfully in the development of courses, or in entire degree programs without greater exposure to the areas of knowledge involved? One possible answer would be to develop a system of course previews; occasions where faculty members publicly summarize the contents and objectives of each course they plan to teach. Some of our more energetic students preview courses today by auditing the first few classes or lectures of several courses they may wish to take at a later date. Yet we do not facilitate this effort to preview courses, we inhibit it; by requiring them to register as auditors, etc.

Clearly to permit student participation in these matters does not fit the traditional pattern of advanced preparations of 50-minute lectures or an inflexible outline of reading. Nor does it fit the frequent faculty-student relationship in which the faculty member is an active teacher and the student is a relatively or totally passive learner.

Does all of this mean that there should not be degree requirements? In a sense it does suggest the end of highly specific course requirements. On the other hand, it calls for the development of degree objectives, goals and purposes that mean considerably more than 40 semiautonomous, 3-credit-hour courses taught in eight 16-week blocks of five courses per block.

MORE LAB WORK

There is another effort under way in higher education that makes good educational sense, and provides another opportunity to reduce

the conflict between Alphas and Betas. This is the effort to eliminate the barriers between the academic arena and the larger society, especially in the social sciences and the professional schools.

For years the natural sciences, agriculture, engineering and medicine have "practiced what they've preached." So have art, theater and music. But most undergraduate and graduate courses in the social sciences and in the related professional schools have ignored their laboratory, the larger society around us. We must learn to use that social laboratory as a lasting basis for learning the theories, the methods and the contents that our graduates may use to solve the critical social problems of their generation.

This effort brings conflicting value systems into focus in the very arena where they are most pertinent and therefore most likely to be resolved.

Both the effort to involve greater student participation in decisions that effect learning, and the effort to eradicate the boundaries between the campus and the larger society will require dramatic alterations in the time-honored procedures of higher education. example, we will have to minimize the use of arbitrary blocks of time and arbitrary methods of evaluation.

The most revered nonsense in higher education are the notions of class periods and credit hours. Then we compound the folly by a "rule of thumb," namely, equating each to the other. What does a credit hour mean? Well, it means meeting with students for one 50-minute hour each week. What does three 50-minute class periods per week mean? Well, it means we give three credit hours of the 120 credit hours needed for a college degree. We legitimatize—almost sanctify—two arbitrary highly suspect notions by equating them to each other. Both must go, and in their place we must develop careful measures of learning that will enable us to make a reasonable statement about whether a given student has met those objectives or whether further endeavor is warranted.

NUMEROUS OBSTACLES

It goes without saying that there are innumerable obstacles in the path of such sweeping changes in higher education. The problems of internal inertia are mild compared to the distractions of those who try to destroy our campuses or create an atmosphere of fear that inhibits learning. We are in the incredibly difficult position of wanting to do a better job of education but finding neither the necessary time nor the necessary support.

The time is taken first by the insane few who burn or bomb, and subsequently taken by an outraged public that mistakenly contemplates forms of retaliation that only hurts students and faculty alike without touching those who are responsible for the scattered acts of terrorism. Only arrest, conviction and imprisonment will lessen their impact. Increased fees, reduced legislative appropriations, repressive laws will hurt only the legitimate students and faculty and play into the hands of the terrorists.

If we're going to bring the Alphas and Betas together we must all recognize that an Alpha is not a Minuteman and a Beta is not a Weatherman. Minutemen and Weathermen are lawless, self-seeking individuals who flaunt your values and mine, who fight our system of law and our insistence upon justice. Each preys upon the antics of the other and the resulting interplay obscures the real problems on our campuses and in our society—the problem of resolving our conflicting values. Yet the resolution of this conflict is essential.

We cannot hide our heads in the sand, nor wish the problems and conflicts away. We cannot accept the proposal that violence breeds anything more than further violence. We have the right, indeed we have the obligation, to defend our institutions against all extremes. We have the responsibility to resolve our internal conflict of values in the way that has always distinguished this state—with an innovative, pioneering spirit that will enlist the enthusiasm of young and old alike. Alphas and Betas are both good folk. They *can* reach one another. They *can* help one another. Together they—we—can build a newer, better future for higher education for our state and nation, for all mankind.

RULES OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the Committee on the District of Columbia, in its organizational meeting held Thursday, February 18, adopted rules governing the committee's procedures.

I ask unanimous consent that the text of the committee rules, as adopted, be printed in the RECORD, as required.

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

RULES AND PROCEDURES OF THE SENATE COMMITTEE ON THE DISTRICT OF COLUMBIA

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, and notice given, the Committee shall meet regularly at 10:30 a.m. on the second Friday of each month. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary, or at such times as a quorum of the Committee may request in writing, with adequate advance notice provided to all members of the Committee. Subcommittee meetings shall not be held when the full Committee is meeting.

Rule 2. The rules of the Senate and the provisions of the Legislative Reorganization Act of 1970, insofar as they are applicable, shall govern the Committee and its Subcommittees. The rules of the Committee shall be the rules of any Subcommittee of the Committee.

Rule 3. The Chairman of the Committee, or if the Chairman is not present, the ranking majority member present, shall preside at all meetings. A majority of the members of the Committee shall constitute a quorum of the Committee. However, the Committee may authorize a quorum of one Senator for the purpose of taking testimony.

Rule 4. Unless otherwise determined by a majority of the Committee, written proxies may be used for all Committee business, except that proxies shall not be permitted for the purpose of obtaining a quorum to do business. Committee business may be conducted by a written poll of the Committee, unless a member requests that a meeting of the Committee be held on the matter.

Rule 5. There shall be kept a complete record of all Committee action. Such records shall contain the vote cast by each member of the Committee on any question on which a yea and nay vote is demanded. The record of each yea and nay vote shall be released by the Committee either at the end of the executive session on a bill or upon the filing of the report on that bill as a majority of the Committee shall determine. The clerk of the Committee, or his assistant, shall act as recording secretary on all proceedings before the Committee.

Rule 6. All hearings conducted by the Committee or its Subcommitte shall be open to the public, except where the Committee or the Subcommittee, as the case may be, by a majority vote, orders an executive session.

Rule 7. The Committee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 72 hours before a hearing and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee.

Rule 8. Should a Subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such Subcommittee and report that fact to the full Committee for further disposition.

Rule 9. Attendance at executive sessions of the Committe shall be limited to members of the Committee and of the Committee staff. Other persons whose presence is requested or consented to by the Committee may be admitted to such sessions.

Rule 10. The Chairman of the Committee shall be empowered to adjourn any meeting of the Committee if a quorum is not present within 15 minutes of the time scheduled for such meeting.

Rule 11. Subpoenas for attendance of witnesses and for the production of memoranda, documents, and records may be issued by the Chairman or by any other member designated by him. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced. All witnesses subpoenaed before the Committee who are to testify as to matters of fact shall be sworn by the Chairman or another member.

Rule 12. Accurate stenographic records shall be kept of the testimony of all witnesses in executive and public hearings. The record of a witness' own testimony, whether in public or executive session, shall be made available for inspection by witnesses or by their counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by a witness in executive session and subsequently quoted or made part of the record of a public session shall be made available to any witness at his expense, if he so requests. Witnesses not testifying under oath may be given a transcript of their testimony for the purpose of making minor grammatical corrections and editing, but not for the purpose of changing the substance of the testimony. Any question arising with respect to such editing shall be decided by the Chairman.

Rule 13. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a quorum of the Committee so determines in a regular meeting with due notice, or at a meeting specifically called for that purpose.

TRIBUTE TO FRED PONDER

Mr. THURMOND. Mr. President, a faithful public servant recently passed away in my State of South Carolina.

William Fred Ponder was a personal and close friend, a man in whom I had the utmost confidence and an administrator who could be depended upon to perform his job in an efficient manner.

Fred Ponder served South Carolina as Commissioner of the Department of Labor. It was my privilege to appoint him to this position when I was Governor of South Carolina, and he served with distinction for nearly a quarter of a century.

Mr. Ponder recognized that the problems of labor applied to the whole community—not just labor unions. He, therefore, refused to be drawn into partisan politics, and he did not allow himself to become a political hack for any interest group.

His capabilities were confirmed by

each Governor who succeeded me, because Fred Ponder was reappointed each 4 years to a post that had previously passed from one individual to another in rapid fashion.

Mr. President, Fred Ponder has been praised and eulogized by many newspapers, including the Columbia, S.C., Record; the State, Columbia, S.C., and the Greenville, S.C., News. I ask unanimous consent that the articles and editorials be printed in the RECORD.

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

[From the Columbia (S.C.) Record, Jan. 23, 1971]

SOUTH CAROLINA LABOR COMMISSIONER HAS SURVIVED SIX GOVERNORS

(By Del Booth)

Whether or not William Fred Ponder is reappointed Commissioner of Labor for South Carolina, he will have survived longer in the post than any of his predecessors.

The highly political appointment is even geared to the terms of governors—of whom Ponder has survived six—so that each new chief excuetive could select his own commissioner.

It is the only major state office to be so arranged.

The appointment was a political football until Ponder got the call Feb. 1, 1948, from then governor, Strom Thurmond. Somehow, the country boy and textile worker from the Buck Creek community in Spartanburg County clung to the job as others succeeded Thurmond.

Not only has Ponder, now 60 and five years away from retirement, survived changes of governors, he has outlasted a frontal attack by the forces of organized labor.

"It's past time to replace him," says Sinway Young, president of the South Carolina Labor Council. "We're about 10 years late in replacing him."

Young's observation to a news reporter was in response to a Friday report from the office of new Gov. John C. West that West has made no plans on whether to keep or replace Ponder. An aide said West will start making appointments next week.

The post now pays $18,360 a year. Young says labor feels that Ponder just doesn't represent their interests.

The 1936 act creating the office delegated to the Commissioner the job of keeping an eye on labor troubles and mediating where possible; keeping records of employment and wage-levels; and seeing that laws on safe working conditions are met. The Commissioner is charged with submitting an annual report of these activities to the General Assembly.

The first Commissioner was John W. Nates, named by Gov. Olin D. Johnston, who had rammed the act creating the job through the legislature.

Nates was succeeded by W. Rhett Harley, appointed by Gov. Burnett Maybank, Lt. Gov. Emile Harley and Senate President Richard Jefferies, who finished out Maybank's term when the governor went to the U.S. Senate, honored Rhett Harley's four-year appointment.

Johnston won election as governor again, and promptly appointed R. L. Buck Gambrell to the job in 1947. When Johnston, too, went on to the U.S. Senate and Lt. Gov. Hansome Williams succeeded to the governorship, he left Gambrell alone.

Gambrell fought out the accession of Thurmond to the governor's office, lasting through 1947—the post calls for Senate confirmation—but finally gave way to Ponder.

Once in office, Ponder stuck. He was retained by Govs. James E. Byrnes in 1951, George Bell Timmerman Jr., in 1955, Ernest F. Hollings in 1959, Donald Russell in 1963, and Robert E. McNair in 1967.

The Commissioner emphatically denies that he is anti-labor and says his office has done much toward improving the safety of working conditions not only for industrial employes, but for workers in all types of businesses.

Labor, according to Young, feels that Ponder hasn't lifted a finger to protect organized labor. However, as Ponder points out, the act doesn't direct that this be done. The mediation directives in the act don't go that far.

He takes the position, and the wording of the act bears him out, that he is to keep tabs on things and report annually to the lawmakers, rather than take sides.

One of the activities of the Labor Department of which Ponder and his predecessors have been proudest is the quarterly food cost report it makes.

This was begun in 1941 under Harley. The prices of 66 representative food items are surveyed in 10 South Carolina towns and cities every three months, and publicly reported.

The first survey showed the food basket cost a little more than $11. The most recent survey found the cost in the $40 range.

The office of Governor West says one factor that may influence any decision about reappointment or naming a new man is Ponder' health. He has had a bout or two with ill health recently.

It would take reappointment by West and West's successor to carry Ponder to—and through—his 65th birthday, when a state employe may start getting full retirement, it would take reappointment by one more governor after that to keep him in the job to the age of 72, at which retirement becomes mandatory.

He's survived six governors—is three more inconceivable, if his health holds out?

West will provide the first third of the answer soon.

[From The Columbia (S.C.) Record, Jan. 26, 1971]

COMMISSIONER OF LABOR DIES

S. C. Labor Commissioner for 23 years, William Fred Ponder, 61, died today in the Baptist Hospital.

Funeral plans will be announced by Dunbar Funeral Home.

Ponder was appointed commissioner Feb. 1, 1948, by Gov. Strom Thurmond, and has served continuously since then. He was reappointed by Govs. James F. Byrnes, George Bell Timmerman Jr., Ernest F. Hollings, and Robert McNair.

Gov. John C. West last week announced his intention to reappoint Ponder.

His original term was for two years. However, legislation changed it to four years during the Timmerman administration.

On his last reappointment, Ponder issued the following statement:

"I am complimented and highly honored to have been reappointed Commissioner of Labor by our distinguished governor, the Honorable Robert E. McNair.

"To have been permitted to serve in this important post for 18 consecutive years by appointment at the hands of such distinguished governors . . . and now Governor McNair is the highest honor that could come to any person, and to justify these repeated expressions of confidence, I shall be unremitting in my efforts."

He said at that time, the most difficult problems he had encountered since taking office in 1948 had been labor disputes, "but we've been able to handle them. They have consumed most of my time."

Ponder served in the House of Representatives during 1935-36 from Spartanburg county. He also served as president of the International Association of Governmental Labor Officials.

He was the son of a Baptist minister and farmer and was the youngest child in a family of 13.

He finished Wofford, completed a law course at Southeastern Law School, was elected to the State House of Representatives, then got into government work as publicity man with the Rural Electrification Administration.

Upon hearing of Ponder's death, Gov. West made the following statement:

"We are all saddened at the passing of Mr. Ponder. He has a record of service to his state and nation which includes some 23 years as South Carolina labor commissioner, as well as serving as a member of the House from Spartanburg county. * * *

"Under his leadership in mediation and conciliation, South Carolina compiled an excellent record in minimizing time lost due to strikes and in decreasing the accident frequency rate in our state. On this grevious occasion, we wish to acknowledge the contribution of this great South Carolinian and express our sympathies on behalf of the state to his family and friends."

The Ponder residence is at 1134 Honeysuckle St. in Cayce.

[From the Columbia (S.C.) State, Jan. 27, 1971]

LABOR COMMISSIONER PONDER DIES AT 61

(By Kent Krell)

South Carolina Labor Commissioner William Fred Ponder, one of the least known but most controversial department heads in state government, died in Columbia's Baptist Hospital Tuesday.

Ponder, 61, had been in declining health for some time, but he entered the hospital on Jan. 17 following a heart attack. He suffered a massive stroke Monday night.

Funeral services will be held at noon, Wednesday, in the Gervain Streeet Chapel of the Dunbar Funeral Home. Burial will be in Southland Cemetery in West Columbia. Pallbearers will be his nephews.

Ponder had headed the S.C. Department of Labor since 1948 when he was appointed by then Gov. Strom Thurmond. He was reappointed to the $18,360 a year position by the next six governors.

Whether Gov. John C. West, sworn into office Jan. 19, would have reappointed Ponder was in doubt. In fact, it is understood several names were under consideration before Ponder's death.

With frequency in recent years, Ponder had been under attack from organized labor. Only last week, Sinway Young, president of the South Carolina Labor Council, said it was "past time to replace him."

In learning of Ponder's death, Gov. West said:

"We are all saddened at the passing of Mr. Ponder . . . Under his leadership in mediation and conciliation, South Carolina compiled an excellent record in minimizing time loss due to strikes and in decreasing the accident frequency rate in our state."

Sen. Strom Thurmond, R-S.C., said, "I deeply regret to learn of the death of my friend W. Fred Ponder. Mr. Ponder was a * * * the duties of his office in an efficient and objective manner."

Ponder was a native of the Buck Creek Community in Spartanburg County. He worked in a textile mill before graduating from Wofford College and completing a law course at Southeastern Law School.

Ponder served in the South Carolina House of Representatives during 1935–1936 from Spartanburg County. At one time he also served as president of the International Association of Governmental Labor Officials.

He is survived by his widow, the former Lucetta Roberts.

[From the Columbia (S.C.) State, Jan. 28, 1971]

ASSEMBLY EXPRESSES SYMPATHY

A resolution expressing sympathy to the family of the late William Fred Ponder was unanimously adopted Wednesday by members of the General Assembly.

Ponder, who died in a Columbia hospital on Tuesday, had served continuously since 1948 as the head of the S.C. Department of Labor.

The resolution noted Ponder's service in the General Assembly as a House member from Spartanburg County and stressed "his dedicated public service."

Another resolution expressed the sympathy of the state legislature to the family of the late Mrs. Mertie Y. Yonce of Johnston. Mrs. Yonce, who died Tuesday, was the mother of State Rep. Henry G. Yonce, D-Richland.

Legislators also adopted a resolution by Sen. James M. Waddell, D-Beaufort, expressing sympathy to the family of the late Calhoun Thomas of Beaufort.

Thomas, a graduate of the University of South Carolina Law School, served in the House between 1933 and 1947 and was chairman of the powerful House Judiciary Committee.

Also adopted in the House was a resolution by Rep. Herbert U. Fielding, D-Charleston, recognizing the week of Feb. 7–15 as National Negro History Week.

[From the Greenville (S.C.) News, Jan. 28, 1971]

FRED PONDER'S FAITHFUL SERVICE

The South Carolina Department of Labor was created by the General Assembly in 1936 and promptly became a political football.

By law the labor commissioner, who runs the department, is appointed for four years by the governor with the advice and consent of the State Senate.

More often than not the early labor commissioners were politicians, picked for partisan services and personal loyalty to the incumbent governor rather than for administrative ability and knowledge of labor law and labor-management relations.

There were feuds between governors and the Senate. Factions of organized labor fought over the office and whatever benefits might accrue from control of the commissioner's severely-limited powers.

The result was confusion and on occasion frustration of the department's purposes: enforcement of state labor laws; keeping records of industrial production, employment and wages; and investigation and conciliation of labor-management disputes and potential disputes.

The confusion ended in February 1948 when Governor Strom Thurmond appointed a Spartanburg native, William Fred Ponder. Active in the labor movement, Mr. Ponder had the respect of union leaders, political leaders and many businessmen. He knew something about the realities of labor-management relations. In no sense was he a political hack or partisan politician.

Fred Ponder brought new vitality to the Labor Department. He made the mediation and conciliation service work. He inspected establishments and followed up on violations of state law. And he stayed clear of partisan politics and factional bickering.

The result is a more effective Labor Department, carrying out the duties assigned to it by law. The wisdom of the original appointment has been confirmed by every governor since then. Every four years Fred Ponder has been reappointed and reconfirmed because he stuck strictly to his job and did it well.

He had been opposed by organized labor on several occasions. Although an active union member, he refused to go beyond the law in the performance of his duty and to become organized labor's advocate in state politics. He recognized that his obligation was to the entire state and to all workers, unorganized as well as organized.

Organized labor was after him again this year, seeking to block his reappointment by Governor West. It never will be known whether the latest campaign would have succeeded or fallen flat like previous efforts. Fred Ponder's death after several weeks of illness came only a few days before the expiration of his term.

Chances are Governor West would have reappointed him, had his health permitted. The governor was quick to call attention to Commissioner Ponder's excellent record in conciliation to minimize losses due to strikes and in promoting industrial safety.

Governor West now faces a difficult decision in picking a successor to Commissioner Ponder. He will be under heavy pressure to appoint somebody who will promote this or that special interest. The appointment could have a bearing on the direction and success of the new state administration.

Governor West would do well to look for somebody who can and will carry on in the Ponder tradition.

FEWER HIGHWAY DEATHS IN 1970

Mr. SYMINGTON. Mr. President, it is indeed heartening to note that for 1970 the Nation's traffic death toll declined for the first time in 12 years—55,300 highway fatalities as compared with 56,400 in 1969. This reduction is even more encouraging when it is realized that American motorists drove 5 percent more miles in 1970 than in 1969.

This reversal has been attributed to many factors including better highways such as our Interstate Highway System, better cars, better drivers, better enforcement, and a major effort by Federal, State, and local authorities to upgrade safety devices such as breakaway signposts and better guardrails.

Of course, 55,300 traffic deaths in one year is still an appalling figure, but we can all hope that drop is indicative of a further downward trend in traffic fatalities.

Mr. President, I ask unanimous consent that an editorial published in the Kansas City Star of December 25, 1970, calling attention to this achievement, be printed in the RECORD.

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

A TRAFFIC YEAR WHEN FEWER DIED REWARDS THE SAFETY EFFORT

A wonderfully heartening omen for all Americans at year-end is the news that the nation's traffic death toll is going to show a major downward trend for the first time in 12 years. The final figure is projected at 55,300 compared to 56,400 in 1969. The true gain, however, is much greater because U. S. motorists this year will drive 5 per cent more mileage.

The mileage-death rate, then, will fall to 5 per 100 million miles, the fourth consecutive year of decline and the lowest mark ever in this category.

Is the continuous, many-faceted traffic safety effort finally yielding tangible results? A few, of course, are afraid to believe it. They are apprehensive that this year's results are only a brief statistical aberration in a relentless upward curve. But the cumulative evidence that the massive campaign to save lives is accomplishing just that is too compelling not to believe.

Better highways are one factor. With 31,600 miles of the 42,500 in the interstate highway system completed since 1956, the lower mileage-death rates on these divided roadway, limited-access superhighways is impressive.

Better cars are another. Those seat belts and lap belts that will eventually be in every vehicle, even to the unhappily limited extent to which they are used, are helping. So are the energy-absorbing steering columns which are sparing drivers who once died of crushed chests, the padded interiors that cover sharp objects that were once weapons, the car doors reinforced against side impact and the penetration-resistant windshields, to name but a few features.

Yes, and better drivers, too. Licensing is tougher. Programs aimed at the alcoholic driver, and driver improvement or retraining courses of various kinds are raising the caliber of performance behind the wheel.

Some of the lifesaving results are spectacular. Last year 6,500 persons died in collisions with such fixed objects as roadside signs and barriers. "Breakaway" signposts and improved guard rails now are sparing many such victims. The full results can't even be measured. Minnesota, with 5,000 breakaway sign posts, reports 117 cars striking them and only one death. But 99 other signs had to be repaired after being hit by drivers who suffered so little damage that the incident went unreported.

Since the federal government projected itself full-scale into the traffic safety field in 1966, the entire effort has been considerably accelerated. The states have enacted scores of tougher safety laws to meet federal standards. Working against the adverse factors of more cars being driven farther and faster by more drivers, it has taken time to effect a net statistical decrease in deaths. But 1970 will be that year, and safety officials are aiming for an even bigger improvement next year. Of course, 55,300 traffic deaths still is a national tragedy. But the reflected happiness of all the lives that are saved is measureless.

WORLD PEACE AND HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, respect for fundamental human rights is today so generally accepted by States that it should be regarded as having the force of international law.

It has long been recognized that gross violations of human rights are a potential threat to world peace. For instance, the Philadelphia declaration of the International Labor Conference stated 25 years ago that lasting peace could be established only if it is based on social justice and that the attainment of this condition should be made the central aim of national and international policy.

Furthermore, the declaration affirmed the delegates' belief that—

All national and international policy measures should be judged only insofar as they may be held to promote and not hinder the achievement of this fundamental objective.

In a similar manner, the 1968 International Conference on Human Rights in Tehran, proclaimed that—

Gross denials of human rights arising from discrimination on grounds of race, religion, belief or expressions of opinion outrage the conscience of mankind and endanger the foundations of freedom, justice and peace in the world.

The question is one of whether the United Nations has the authority to intervene in "matters which would be essentially within the domestic jurisdiction of the states themselves." The crime

of genocide has been recognized by over 75 nations of the world to be a matter of international concern. Such matters as discrimination based on sex, language, race, or nationality also are of a scope to be considered matters of international concern.

Article 2, paragraph 7 of the charter states:

> Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

The whole idea behind this article was to safeguard the sovereignty of the members of the United Nations. Yet, the role of the United Nations was not strictly limited to international affairs. Debate has been held on serious domestic matters.

Important matters of peace and injustice can hardly be considered outside of the orbit of the organization. Gross violations of human rights could be potential threats to the peace of the world.

Although there is certainly no evidence at all that article 2, paragraph 7 has fundamentally changed—it is forbidden for the United Nations to interfere in questions within the domestic domain of member states, but the content of what is within this domain has changed and does change continually.

As I have pointed out, the Berlin Treaty of 1878 imposed obligations upon Turkey and the Balkan countries with regard to religious discrimination. The League of Nations, and later the United Nations, further changed the meaning and domain of international law.

The Permanent Court of International Justice stated in its advisory opinion on the Tunisian and Moroccan nationality decrees in 1923 that—

> The question whether a certain matter is or is not within the jurisdiction of the State is an essentially relative question: it depends upon the development of International relations.

This fundamental rule is still valid in international affairs today.

Gross violations of fundamental human rights are no longer solely within the domestic jurisdiction of states. Two days ago we paid tribute to the Lithuanian people. This tribute was evidence that we cannot regard the Soviet domination of that country as merely a Russian concern. It surely is a matter of international concern.

In a like manner, civil wars could be considered as concerns of the international community, since they can easily turn into international wars. Similarly, gross violations of human rights must be considered a matter of international concern.

If world order and world organization are to have any meaning for the present world, we must realize that suffering and humiliation of human beings on a large scale must not be tolerated anywhere. This involves a recognition of the change in the nature of international law.

The Genocide Convention, as well as the other human rights conventions, increase our chances of building a body of international law. They provide the legal machinery for dealing with violations of fundamental human rights of an international nature. These conventions will also preserve and protect human rights as a moral force in international law. The way of the future must be toward an even greater emphasis on human rights, on humanity and charity. The solidarity of all mankind and the mutual independence of all states are immeasureably intertwined with the prospects of peace and justice in the life of mankind. The need to ratify the Genocide Convention, and the other United Nations human rights conventions, is urgent. We must act, now.

WELFARE—THE COUNTRY'S NO. 1 SOCIAL AND ECONOMIC PROBLEM

Mr. TALMADGE. Mr. President, in the current issue of U.S. News & World Report magazine, welfare is described as the country's No. 1 social and economic problem. This point of view was taken by Gov. Ronald Reagan of California, in a magazine interview, and I could not agree more fully.

By almost any standard, the Nation's welfare system—as it has evolved over the years—must be judged a dismal failure. If the purpose of the welfare program has been to remove people from dependency and assist them in becoming productive citizens, then it has been a failure. If the purpose of welfare has been to help people help themselves, and to ultimately get them off the welfare rolls, then it has failed. If the purpose of welfare has been to train able-bodied but needy people for gainful employment, and thereby secure some kind of return on the taxpayers' investment in the program, then it has failed miserably.

I do not think it is overstating the situation to say that welfare now looms on the American scene like a gross, greedy, Frankenstein monster. It has gobbled up tax dollars by untold billions and dissipated national resources, both human and material, at every level of government. It is driving cities and States to the point of bankruptcy. Pressure increases on the Federal Government to help feed the growing appetite of the welfare monster.

The cost of welfare continues to soar and to set new records. And I do not believe anyone knows how much of this is lost in waste, inefficiency, or plain dishonesty. In Nevada, for example, a recent survey showed that 22 percent of the people in the program were receiving welfare benefits illegally. It would probably be physically and actuarially impossible to make such a survey in New York, where one out of every seven people receives welfare payments.

We now have some 13 million Americans receiving welfare. Welfare rolls increased 20 percent in the last year alone. In many States, welfare has become a way of life for generation after generation of the same family, and this is true of many thousands of families all across America.

Worse yet, welfare has become a matter of public attitude. Newsweek magazine recently reported the case of a 35-year-old man, educated at Harvard and Columbia in science, who turned to welfare, so far as I am able to gather, simply because he did not want to work and because going on welfare seemed to him to be the thing to do in the United States these days.

In the face of the current welfare deluge, seemingly in total ignorance of the mess we are already in, now comes the administration with a bill that would open the welfare gates even wider and would add 12 to 15 million more people to welfare rolls—not to provide a program for training, educating, and create jobs for needy people, but just to add them to the rolls.

I admit we need welfare reform. Every taxpayer in America will agree to that. But the reform we need must be directed toward training people and getting them off welfare, rather than just compounding mistakes of the past, with the net result of having about twice as many people on welfare as we do today.

I have pushed for building more work incentives in the welfare program, and I will continue to exert every possible effort, in the Finance Committee and on the floor of the Senate, to achieve this goal. This is the way to real welfare reform.

Mr. President, I ask unanimous consent that the U.S. News & World Report interview with Governor Reagan and the Newsweek article be printed in the RECORD.

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

[From U.S. News & World Report, Mar. 1, 1971]

WELFARE: AMERICA'S NO. 1 PROBLEM

Q. Governor, what do you regard now as the most important domestic problem in the country?

A. I suppose I should say inflation, yet I believe we are embarked on a program to do something about that.

So, let me switch to another one—one that I really feel we are not realistically dealing with and one that can literally bankrupt every level of government in this country. I'm talking about welfare.

The welfare program in this country or is adrift without rudder or compass. It basically has no goal. To simply say we're going to keep on feeding and providing a livelihood for an ever-increasing number of people is not a goal.

My own idea of a goal for welfare—and I know this is contrary to the whole philosophy and ideology of the so-called professional welfare worker—would be to eliminate the need for it.

Q. What do you mean by that?

A. Well, first of all, you separate the real pensioners—the permanently dependent, the aged, the disabled, the blind—separate them from the bureaucracy of the social services, make them pensioners, automate their payments. Certainly make their payments enough to provide a living with a certain amount of dignity—a living that affords some of the luxuries that make life worthwhile.

This could be done just with the savings in the administrative overhead right now.

You know, we have caseworkers who drop in regularly on old people just to see if they're still growing old. This is an evident fact of life that doesn't require checking. Through Social Security, which has a very low over-

head, for example, these people could receive fair incomes as Social Security recipients do, and that would be that. There is no need to look in on them.

Now, you turn to the rest of welfare—those able-bodied people who, for one reason or another, are not now subsisting without aid.

The entire approach to that body of people should be: Our job is to remove them from welfare, and to make them independent and self-sufficient as quickly as possible. That's our goal, and, therefore, we should measure our success each year in how much we've reduced the number of those remaining on public welfare.

Q. How do you account for the big increase on welfare rolls?

A. We're still thinking of welfare and those who are dependent as we thought of them in the '30s. But the fact is we have a totally different problem today.

In the '30s, in the depression era, you had men and women with job skills who were desperate for work, and you didn't have jobs for them. So welfare, in everyone's mind, was a temporary situation. Simply bridging an economic problem until these people could be employed.

And this is why, up until the beginning of World War II, WPA [Works Progress Administration] grew more in size than direct relief grew. It was the big thing, because it was directed at people with skills who wanted to work.

I know all the jokes about leaf raking and boondoggling in WPA. There was some of this. One weakness of that program was that it depended on local entities' finding projects in order to get the federal money. And sometimes those projects weren't really up to standard.

But over all, if you look back, we're now enjoying a lot of benefits that came out of the WPA program.

In other words, for the money spent, society got quite a return.

Look at the beautiful waterfront in Chicago. Look at the bridges that were built, the farm-to-market roads that were constructed by a branch of the CCC [Civilian Conservation Corps]. Look at the men today who were salvaged—men who will tell you that they were on the way to becoming bums until the CCC straightened them out.

Q. Do you feel that today's situation is different?

A. World War II was the only thing that ended unemployment in this country and ended WPA. When World War II ended, there began to be a new kind of welfare. These weren't the skilled workers with no job. These were the rural poor who had been drawn to the cities by wartime work and who didn't have a skill to take into the marketplace.

Most of these are people who either through lack of basic education or lack of any kind of motivation, lack of any job skill, or maybe just because they don't want to work—these are the welfare recipients. Every one of them is an individual problem. And someplace along the line, instead of welfare caseworkers' simply seeing how much more money they can get for them from government to make them that much more comfortable in their dependence on the rest of us, the welfare worker's task really should be: What is this individual's reason for not being able to work? What can I do and what can we do to put him out there, able now to get out and have a job? It's an entirely different kind of welfare person.

And the worst part of it is, some of these people are the second and third generations of their families who have been raised on public subsistence in an unbroken cycle. They don't even have an idea that there is any other way of life.

THE PROGRAM THAT COSTS THE MOST

Q. Isn't the program that is causing the great increase in the case load and welfare costs the one called Aid to Families With Dependent Children?

A. That's right. And this is one no other country in the world has.

Q. What is happening in your State in this category?

A. Well, let me give you just two or three of the things that are making this the worst program in the world:

1. In California alone, we estimate that there are 250,000 fathers of families of this kind who simply run out on them. We're trying to find a way with the counties to make these fathers accept their responsibility as you would anyone else who deserted a family and neglected his children. These men—who knows where they are?

We have some regulations in the MARS program—man assuming role of spouse. Is a male wage earner responsible for the family with which he's living? Under current federal regulations, the answer is: "No, he isn't. He can live there, and the woman still gets the grant." He doesn't have to contribute anything, even though he may be either the husband or the common-law husband of this woman.

2. Back in WPA days, there were women who could work and had job skills, and many had small children. What do you do about their children while they're working?

You found with these women who were given jobs in WPA there were other women who didn't have job skills—so they were given jobs taking care of the children of other women.

There's no reason in the world why this couldn't be done again. You could set up child-care centers, but, again, what has happened? The regulations call for people with master's degrees and professional as the only ones who can take care of these welfare children. This is ridiculous.

You can have a supervisor, someone in charge of a child-care center. Then you can use some of these welfare women in schools, as teacher's aides. They don't need a formal education to serve as wardens on the playground. There are any number of things that these women could be doing that would be helpful.

Q. Do the present programs provide any incentive to work?

A. We're caught up with a legal kind of cheating on this. It isn't cheating in the technical sense, because it's all legal and aboveboard under the existing federal regulations.

In an effort to stimulate women to get jobs, provisions were made on the theory that if a woman has to trade dollar for dollar—if she gets a dollar for doing nothing—what incentive is there for her to work for the same dollar and lose the welfare dollar? So the whole idea was: Well, let her work and be able to keep some of the welfare grant. But Washington never put on a ceiling. There is no ceiling on the earnings that a person can get from working and still technically remain eligible for at least a part of the welfare grant.

Here is a specific example: A woman in California is earning $582 a month. Her welfare grant for herself and her four children was $339. Now, in computing how much of the $582 is income—legitimate income that determines how much of her $339 welfare she gets to keep—the welfare agency takes off the first $30. That's incentive. Then they take off a third of the balance. This is what keeps it openended. It is a third of the gross.

Then they take off all withholding for taxes; all union dues, if any; any retirement programs for which money is subtracted from her paycheck. None of this has to be counted.

They make a child-care allowance, they make a clothing allowance, they make a transportation allowance—which is interpreted to include payments on a new automobile.

Finally, when they get down to the end, just to make sure they haven't missed anything, there is another $25 that is taken off—kind of a miscellaneous incentive.

Now this $582-a-month welfare woman—they reduce her income to $42 so that they consider she's really only earning $42—and on a sliding scale, they pay her $310 in public assistance.

Q. How many children does she have?

A. Four. Now, here is a woman who has a gross income of $892, counting both her earnings and her welfare grant. But there is another woman across the street with four children, and she's only getting $339—all from welfare. This second woman doesn't have a job skill and can't get a job.

Here is where we think a correction should be made, but we've got a court order preventing it right now, brought by an Office of Economic Opportunity neighborhood legal assistance program against us in behalf of the Welfare Rights Organization.

We wanted to reduce the amount of the grant to the woman with earnings, and take that money and increase the grant to the poor woman who is trying to raise her kids and doesn't really have enough to send them to school properly clothed and fed.

Q. Is this by law or by regulation?

A. Well, the Health, Education and Welfare Department will tell you that it's all law—that their regulations reflect the intent of Congress. We don't believe it.

I talked to a Senator the other day who told me that the men in Congress had no idea that this is the way things are being applied at the local level.

For example, the regulations are interpreted to mean that no caseworker can challenge or question a welfare applicant's statements. You have to take his word for it that he's telling you the truth.

The other day a woman died in Sacramento—she had been on welfare for 15 years—and we discovered after she died that she had $88,000, owned a couple of pieces of property and had a military pension from her deceased husband.

We have thousands of aliens in California who have entered this country illegally, and we're not even allowed to ask about their legal status for welfare.

Q. You mean the State cannot even investigate their claims?

A. Not under the interpretation of the regulations. It is considered that to question the people on welfare "demeans and humiliates" them. How many times have you been demeaned and humiliated along about income tax time?

Now, there are some other things about this. There are regulations that, to spare recipients embarrassment, all their records must be kept confidential.

Just to show you how ridiculous this can become, there was a county welfare director in California whose own employes in the county welfare department refused to give him the information he asked for. He went to court and got a court order to make his employes tell him.

What turned up was that some of the employes—welfare employes—were also on welfare. They had put themselves on welfare.

WHEN A FATHER RUNS OUT

Q. Governor, do you know what percentage of your aid-to-dependent-children case load represents children in fatherless homes?

A. We've had a task force working for a long time on this whole subject—on finding out all the information so that we could get at some realistic reforms. I know there are 250,000 homes where the father has run out. Around 80 per cent of all the AFDC chil-

dren are in homes where one parent is missing.

Q. Do you know how many might be fathers who are just absenting themselves for the purpose of helping their families get more welfare?

A. No, because some time ago, in one of our counties, officials started doing some spot checks after dark on houses to see if the absent father was coming in the back door at sundown. But this was stopped as being a horrifying invasion of privacy—the check wasn't allowed.

Now, the other day, Nevada suddenly conducted a door-to-door canvass of welfare recipients and found that 22 per cent of the people in this program were receiving the benefits illegally.

Maybe the fathers wanted to run out anyway; they just didn't like the burden.

Once upon a time, if there was no welfare program, there would be a mother and children and a lot of interested people tracking this guy down for abandoning his family. But now, automatically, the next morning when she knows he's gone, the mother can come in and get on this welfare program, and many times get as much as he was earning, so no effort is made to find him.

This is what's happening to break up families. The father says: "I can leave and someone else can take care of the family."

Q. Do you try to track down missing fathers?

A. Well, this is supposed to be at the county district attorney level. We are working now with the county supervisors' association to see what the State can do to be helpful in this, and to assist the counties in tracking these men down and make them responsible.

But you've got a right in your own mind to say, "Well, what have you been doing for the last four years?" And I want to tell you that sometimes I feel ashamed.

And yet, whether it's rationalization or not, I can only tell you that for these past four years our major effort has been devoted to welfare, and we have finally come to the conclusion that we just aren't getting the information we need from our own professional welfare types. Many times we have had the promise of reforms and programs that were going to work. I went out making speeches saying, "Oh boy, here we are on the right track." But the promises just frittered out.

So we set up a task force that did not involve the professional welfare types—an outside task force, independent lawyers that aren't even employed by government, to go in and look at the regulations and conditions. We're finding some amazing things. Finally, we're trying to plug the loopholes.

UNIONS "FED UP WITH WELFARE ABUSES"

Q. What is the attitude of the labor unions toward the welfare program?

A. At the moment, I could tell you that the rank and file of organized labor is probably the strongest force in this country against it. Maybe the union hierarchy still wants these social-reform programs. The rank and file are the ones who see the abuses next door and across the street. They're fed up to the teeth with what's going on. You go out to a blue-collar audience and talk about this problem and you get standing ovations.

Q. How about the academic community?

A. One element of the academic community, particularly the professional social worker—they've lobbied through all sorts of programs about the kind of education that you've got to have to be a welfare caseworker. We found in California—and if you think this didn't cause some screams of rage—we found that we were paying caseworkers to return to the university and get master's degrees in social welfare. We canceled that.

But these people in the whole social-reform, social-welfare area—they're the ones who keep thinking of these things that sound great, like an incentive to get a job. And it even sounds good to protect the dignity of the individual. No one in this country, if you've got any charity at all in your heart, wants to make the person feel embarrassed who's receiving it. And so we listen with a pretty sympathetic ear to any proposal that protects an individual's dignity.

But now we've got to recognize the kind of thing that happens when they begin with these regulations, and how they lead to abuses. Say here's a woman with a couple of children who is widowed or divorced. She meets a nice man and she gets married to this man—second husband. And he's got a good job, nice home. He becomes the head of the household. They have no financial problems. But the very fact that he is not the legal father of her children keeps her and her children on medicaid. She is eligible for all of the benefits of medicaid. And when she has a child by her new husband, the taxpayers pay the hospital costs and the doctor's cost.

Q. Well, under divorce law, if she got remarried, her previous spouse would be relieved of alimony and the new husband would assume all responsibilities, wouldn't be?

A. Yes. The only way that she can lose her technical eligibility is if her new husband legally adopts the children. And in the instance of divorce, with a living father, most new husbands don't do that. They respect the right of the previous husband.

Q. Do you think that welfare mothers with children should work, the same as nonwelfare mothers?

A. Well, let's take a canvass of all these women you see working now and find out how many of them don't have a husband and do have children and are not on welfare.

There was a significant study in a California paper recently. Here was a young mother who's a fire watcher—up there alone on that lonely mountaintop for a number of days and nights, watching for the fire. And the reason her story got in the paper was because she happened to be on one of the towers where they finally had to swoop in with a helicopter and get her out of there just in the nick of time ahead of the fire.

And in telling her story, it develops that this young lady is a widow and she has three or four small children, but she has this job. Her mother is also a fire watcher, and they are both widowed. And their schedules have meshed so that the one baby-sits for the other's children—they mesh their schedules, their time off and time on as fire watchers, and they're working, and they're raising their kids. I doubt if their salary will pay for sending those kids to college, but, like a lot of other families, the kids will scramble for scholarships and work their way.

When you look at that—well, by what right does a welfare worker say that just because a woman has children no one should expect her ever again to be self-supporting?

There are millions of women who are out working and supporting their kids.

MOTHERS WHO WOULD LIKE TO WORK

Q. Do many of the welfare mothers work, too?

A. The terrible thing is that millions of these women on welfare would like to work.

The other night in California there was a TV interview with a Negro woman with 11 children. She had a job from late afternoon until about 11 o'clock at night. And she liked it. She liked working. She'd go to work and leave the oldest child in charge of the others.

Then she came home one night, and there was her welfare worker sitting in her living room with her oldest child waiting for her. And the welfare worker said: "Welfare is going to take these children away from you." The woman said: "Why?"

And the caseworker said: "Because we don't think that this child that you're leaving in charge is capable and old enough to supervise the other children. Therefore, we're going to take them away from you."

Well, the mother said, "What can I do?" And the welfare worker said: "Well, you can quit your job and go on welfare, and then you can stay home and take care of the children, and that'll take care of everything and we won't take the children away from you."

So, the woman said: "Here I am on welfare. I've never been on welfare before. I don't want to be on welfare. But I have been ordered on welfare if I want to keep my family."

Q. Should the Government provide childcare centers for welfare mothers?

A. We thought in California that, if they would waive the regulations on an experimental basis, we would try this. In the average community, there are so many people who want to do something for others. There are 65 million people, by a recent survey, in this country who give anywhere up to 8 hours, 10 hours a week or more in work of some kind, whether it's teaching Sunday school or taking care of Cub Scouts or Boy Scouts or whatever.

There are churches scattered all over every neighborhood. There are physical facilities. Suppose that government—instead of declaring that everything has got to be so grandiose, and has got to be so official, and has got to have a person with a teacher's certificate in charge of these kids—suppose instead that you were able to enlist the churches. All churches are in need of money. Pay some token rent for this facility. Then see how many volunteers you get.

We've got State mental hospitals that have some of the most fantastic volunteer programs going on with people who every day of their lives give up hours to come out there. If we had to replace what they're doing with paid employes, I don't know how we'd do it. Well, the things that they're doing just wouldn't be done. But the things they're doing are a tremendous aid in the helping of these mentally ill people.

Q. Could a majority of these people who are on welfare be trained for gainful employment—are jobs available for them?

A. Well, remember we're talking in the midst of a temporary situation now of unemployment at certain skilled levels. Yet, you go out and check in any community on the jobs that are going begging, and you'll find that for some time past they have been not the jobs for highly skilled people. They are such jobs as waitresses, domestic help, department-store clerks and those in service trades

I remember a statement in one hearing where one of these women from the Welfare Rights Organization got fired up and screamed out: "And don't talk to us about any of those menial jobs."

Now, I don't think jobs are menial. You know, here's a woman who is demanding her right to be supported by the working people, and she's saying to millions of other people who are chambermaids in a hotel or maids in homes—she is insulting them and saying that somehow they're beneath her and that she will only work if you can guarantee that the job will be at an executive level.

Q. What kinds of jobs are suitable to these people?

A. I happen to believe the answer might be a kind of public work force. I'm not talking boondoggles and I'm not talking that you put them to work on the regular public payroll. But if you had a public work force doing useful work that is not now being done for government, you'd have an incentive.

We need some incentives that are also the carrot-and-the-stick philosophy. You'd have persons drawing the same money they're drawing now, but performing some service for it for the public good.

Compared with the pay and the type of work for which she might be available, even without training, this might be an incentive. Now she wouldn't have the comparison of x number of dollars for doing nothing or x number of dollars for becoming a chambermaid or something else. Now she'd look at a job and pretty soon she'd say: "Gee, I can get a raise, and maybe the hours are even better, and I'm more independent if I leave this public work force and take that job."

Q. Governor, has thought been given to bringing in people from the business community to operate these government programs?

A. Well, this is what we've done in California. I'm proud of the people that we have in our government, our administration in California. We have taken young men with promising careers in corporations. We twisted the boss's arm. We got them to give up a couple of years of their lives. They're not the people who ordinarily come into government.

We took 250 of the top professional, business and industrial people in California—the really top—and they formed themselves at our request into task forces. And they gave up as much as six months full time from their businesses and their careers. They went into every agency and department of our State government and came back to us with the recommendations as to how modern business practices could make government more efficient and more economical.

We have saved hundreds of millions of dollars in the cost of government from their recommendations.

Now, this was the thing we finally did with welfare—this task force I mentioned. And right now, we're in the process of putting together their ideas and their recommendations for a complete reform of the welfare program.

Q. How much of your problem is a racial or a minority-group problem in welfare?

A. Well, the funny thing is, not as much, particularly in the aid-to-dependent-children program, as everyone says. And I'm happy to answer that, because many of the minority communities are self-conscious about this, and the minute you talk as I've been talking about this, they think "Uhhuh. He's aiming at us at the minorities." This is not true. This is not confined to any racial or minority group. And as a matter of fact, we have found that the majority of the people who are working and also drawing welfare are white.

Q. You came to office four years ago, Governor, pledged to try to cut taxes, economize in government, bring in efficient business-management methods. How has it worked out?

A. We know that government can be made businesslike and efficient. Where we're frustrated is mainly in this area of welfare.

Now, education—we've also had a task force working on that in the public-school system for the use of the State monies. But the biggest thing is welfare.

TAX SHARING: A WAY TO CUT OVERHEAD

Q. Governor, what do you think of the President's revenue-sharing proposal?

A. Well, I'm all in favor. I told him once on the phone when he talked to me about it that I hope that in his proposal he envisioned not only turning the money back to the States but in returning with it some of the responsibilities that are now being carried by the Federal Government—in other words, a free hand in the using of this.

Because I believe that, without the mandating on us of all the red tape and restrictions and federal regulations, we can in return for that money take dollar for dollar that much of a burden off the Federal Government's back and probably do it much more economically because we won't have this great administrative overhead.

You know, the tax dollars, they go to Washington and then they come back to us minus a certain amount for overhead. There's a great duplication of the Health, Education and Welfare bureaucracy, then the State bureaucracy, then the county bureaucracy, for example.

Q. Will this result in lower taxes for the middle-income man and the homeowner and the wage earner, or is this just going to be another add-on where the Governors and the mayors can continue to increase government spending?

A. In California, I am confident that we can do things that will eliminate part of the bureaucracy of Washington, and that we can do it in such a way that, yes, we will be able to reduce the tax burden on our people.

[From Newsweek magazine, Jan. 25, 1971]

SON OF CONSCIOUSNESS III

What will you do, when the phone
rings, and they say to you:
What will you do?
What will you say and where
will you turn?
What will you do? What will you
do? What will you do?

—Kenneth Fearing, "Poems" (1935)

Bruce Fearing, son of the late poet Kenneth Fearing, is a chip off the old block. At the age of 35, he has found an answer to his father's question—as a very small farmer living off government welfare checks high in the redwood country of northern California. Educated at Harvard, where he majored in physics, and at Columbia, where he had a Sloane-Rockefeller grant in advanced science writing, Bruce worked for ten years as a technical writer in New York City. In 1967, he dropped out and drifted west. "As a science writer," he recalled last week, "I worked at supposedly productive jobs and never did a damn thing. You don't know what living is until you have your own land."

In his contempt for the work offered by a technological society, Fearing is typical of thousands of young Americans who are now fleeing the cities to live what he calls "real rural agrarianism, real Thomas Jefferson Americana." Their disdain for competitive careers is a quite essential example of the new life-style which Charles Reich, in his bestselling "The Greening of America," calls Consciousness III. This attitude, writes Reich, is "based on the belief that most work in our society is meaningless, degrading and inconsistent with self-realization. The new generation is not 'lazy,' and it is glad enough to put great effort into any work that is worthwhile."

Fearing and his common-law wife, Carol Haacke, 28, have indeed put great effort into their farm. With his own hands, Bruce built the wooden cabin in which they live with their 2-year-old son, Jebal, and the A-frame barn that shelters their two goats and eighteen chickens. Carol, who graduated from the University of Virginia with a major in French and art history, bakes bread and is "learning carpentry—I make the cabinets for the cabin." As on the old frontier, venison hangs from the cabin's ceiling, and Bruce and Carol have no phone, no plumbing, not even any running water. Supplies must be dragged up a steep, twisting, 4-mile track. Nevertheless, Fearing told NEWSWEEK's Elisabeth Coleman, "For the first time I'm really doing what I want. I just want to live simply out in the country with my family."

Stamps: The irony of Bruce and Carol's simple life is that, for all their willingness to work hard and suffer privations, they rely basically on welfare provided by the taxpayers. As they have no income, they qualify for $172 a month in aid for their dependent children (Carol is eight months pregnant, and the sum includes support for the unborn child). Each month, $48 of their welfare check buys $84 worth of food stamps and $50 is put aside for payment on the 80 acres of farm land that they and two other families are buying in the heavily wooded hill country about 225 miles north of San Francisco.

California regulations require ablebodied fathers on welfare to be "available for and seeking full-time employment." Last year, in a state hearing—which has become known as the "Fearing Hearing"—Humboldt County contested the right of college-educated fathers "to willfully remove themselves from the labor market by moving to almost inaccessible areas in southern Humboldt County." In rebuttal, Fearing testified that he had applied at all three employers in the area (two small markets and a lumber store), but was offered no work. He won the case and state officials subsequently restored his payments. But county welfare director David Kelly still insists that the full-bearded Fearing had made himself unavailable "by removing himself from the logical labor market, and by his appearance."

Escape: In fact, about 15 per cent of Humboldt County is on some form of relief—either medical, welfare or food stamps. What upsets the taxpayers, says Kelly, is the "growing number of hippies." Mrs. Lee Lesher, head of the county food-stamp program, notes that the number of people using the stamps jumped from 3,500 in November 1969 to 10,000 in November 1970. "I can see both sides pretty well," says Mrs. Lesher. "The kids make it on nothing. It just makes me sick to see that our country has reached the point where they want to escape from it."

For Fearing, the answer he has found is not an escape from America but a way for America to escape. "Welfare is a very positive thing to do. It's the only thing that keeps me from becoming a violent, disruptive revolutionary," he says. "My class at Harvard is now taking over the world. If they perpetuate the system, we'll all blow up. It's really a matter of slowing down and living."

CONSUMER CLASS ACTION

Mr. HUMPHREY. Mr. President, I am proud to be joining some 20 Senators in cosponsoring legislation to permit consumers to join together in court action against companies they feel are cheating them.

Under this bill, groups of consumers could bring class action lawsuits in Federal court, thereby eliminating procedural barriers that presently prevent defrauded individuals from obtaining a remedy unless their individual damages are quite large.

Individual suits by one consumer are too expensive, and he cannot afford the legal and technical expertise needed to take on some corporate giant in any but the clearest cases of fraud.

Only under such a bill as this will fraudulent businessmen be forced to repay all their ill-gotten gains, not merely a few minor payments in a small number of cases.

Honest businessmen have nothing to fear from this legislation, which includes protection against harassing suits.

The administration has proposed adding a bureaucratic trigger, barring class actions without prior successful actions by the Justice Department. But they would rather see nothing at all.

The President said yesterday that instead of a consumer class action bill, he wants a study of the topic.

This is just another attempt to weaken the bill and strengthen the hand of those who would defraud consumers. We do not need any more studies to tell us what we already know—that this bill is something we have needed for a long while. It is time we put the consumer on an even plane with the businessman and end his second-class citizenship in the marketplace.

OUR RELATIONS WITH ISRAEL AND THE ARABS

Mr. HATFIELD. Mr. President, since the early 1960's there has been growing public concern regarding informal, non-congressionally approved commitments between our country and various foreign governments. The initial concern grew out of our involvement in Southeast Asia and has, since 1967, begun to focus on our commitments to the countries in the Middle East. Of particular note has been our special relationship with Israel. During the summer of 1970 two speeches were delivered on the Senate floor which in part dealt with this relationship and its implications. On February 12, 1971, David G. Nes, recently retired from the Career Foreign Service with the personal rank of Minister after 26 years of military and diplomatic service, delivered a speech at the Commonwealth Club of California, San Francisco. In his address Mr. Nes examines U.S. policy in the Middle East, comparing our behavior with Israel and the Arab countries. Although one may possibly disagree with his suggested solution to the dilemma we face his analysis I find most perceptive and relevant to the decisions we will be making in this area. Therefore, Mr. President, I ask unanimous consent that the address by Mr. David Nes be printed in the RECORD.

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

OUR RELATIONS WITH ISRAEL AND THE ARABS—ADDRESS BY DAVID G. NES, THE COMMONWEALTH CLUB OF CALIFORNIA, SAN FRANCISCO, FEBRUARY 12, 1971

It is, indeed, a unique experience for me to talk to an audience already so extensively informed on the Middle East. In November, the Israeli Foreign Minister, Abba Eban, set forth most eloquently the views and position of his country. Last Friday, I understand that you heard from Dr. Fayez Sayegh how many Arabs and, in particular, the Palestinians, view their conflict with Israel and the policies of our country.

The responsibility would seem to fall to me, therefore, to speak as a concerned American, with no commitment—emotional or otherwise—to any country other than our own, nor to any cause other than finding some way to avoid our military involvement in the Middle East hostilities, an eventuality of far more consequence than Vietnam.

As a prelude to the policy recommendations I have in mind, I think that all of us should be fully aware of our relations with Israel and the Arabs in recent history—that is, since World War I.

For the past fifty years, U.S. relations with the Middle East have reflected a national commitment to the proposition that the Jewish people constitute by race and religion, a unique national group entitled to an identity and a sovereign political state of their own.

In 1918, President Wilson first lent concrete U.S. adherence to this thesis by approving the Balfour Declaration through which the British Government pledged its support to the creation of a Jewish homeland in Palestine. A joint Congressional Resolution confirmed this decision in 1922.

Following the transfer of the seat of World Zionist activities from London to New York in the wake of the Biltmore Conference of 1942, the U.S. assumed leadership in promoting the creation of a Jewish State in Palestine. Concrete diplomatic action at the newly-formed United Nations resulted in the November 1947 Palestine Partition Resolution. And, as we know, the U.S. was the first country to recognize Israel's independence in May of the following year.

In addition to our interest in the new Jewish State, the immediate post-World War II period created new U.S. preoccupations with the area stemming from our involvement in the economic recovery and defense of Western Europe. To assure the former, European access to Middle East oil on favorable terms and to free transit of the area by air and through the Suez Canal, were deemed essential. In turn, NATO Defense concepts required a strong shield in the Northern Tier countries of Greece, Turkey, and Iran backed up by a favorable Western political and military position in the Eastern, Mediterranean and North African littoral. Good relations with the Arab countries in this area were thought necessary to achieve these European economic and defense objectives.

Thus, for the period, roughly 1948-1967, we were faced with the dilemma of fulfilling our commitment to the security and economic welfare of Israel on the one hand, and yet of seeking constructive relations with the Arabs on the other. As the Arab-Israel conflict persisted through the years, intensified as a result of the 1956 Suez War, and reached a new climax in June 1967, our efforts to maintain any sort of position in the Arab World bore less and less fruit. For, to deal constructively with the Arabs, we would have had to deal sympathetically with their primary interests: unity, defense against Israel, justice for the Palestinians, social and economic progress—all objectives whose achievement would threaten Israel. Our attempts to compromise by concentrating on the more traditional monarchies—Iraq, Saudi Arabia and Libya—only further weakened our position with the more progressive regimes. Today, normal relations in the area are limited to Saudi Arabia, Lebanon and Kuwait; while with six countries representing 80% of the total Arab population, we have no official relations at all.

Meanwhile, during the past 22 years, our very "special relationship" with Israel has prospered.

When President Truman in October 1948 said, "We are pledged to a State of Israel large enough, free enough and strong enough to make its people self-supporting and secure," the stage was set for the gradual establishment of an association between the U.S. and another country unique in our history. Today, that association is far closer in all areas—economic assistance, defense, intelligence exchange, common citizenship, and mutual diplomatic support than enjoyed, for example, between the U.S. and Great Britain. Unique also is Israel's almost total immunity from criticism in this country—a situation hardly paralleled by any of our European or Asian allies, many of whose faults and frailties are daily aired in our communications media and by our legislative representatives. Perhaps as James Reston of the New York *Times* suggested a short while ago, ". . . you can put it down as a general rule that any criticism of Israel's policies, will be attacked as anti-Semitism." On the other hand, we have Israel's image presented to use as a small, democratic courageous little country struggling to survive in a sea of uncivilized, blood-thirsty, pro-Communist Arabs, representing—rightly or wrongly—the view of most Americans! A new, very impressive color documentary film on "Israel and the Bible," sponsored by Billy Graham and to be shown in 1200 Christian churches throughout the U.S. each month, will support this image.

In dollars and cents, our assistance to Israel through the years, both governmental and private, has been prodigious. During the twenty-year period between 1948-1968, U.S. Government economic aid totalled $1.1 billion, while dollar transfers from private sources amounted to $2.5 billion, a total of $3.6 billion, or $1400 per capita on a current population of 2.5 million. This greatly exceeds on a per capita basis, our assistance to *any* ally and compares to $35 per capita to the peoples of thirteen neighboring countries. Since 1968, our assistance to Israel has greatly increased. Dollar transfers in 1970 reached $800 million and in 1971, will approximate $1.5 billion including Government assistance more than double per capita that granted our own 50 states under current "Revenue Sharing" proposals.

Until 1967, we assured Israel a continuing supply of modern military equipment indirectly through West Germany and France and thus were able to avoid Arab hostility on this score. However, with the conclusion of German "reparations" and DeGaulle's change in Middle East policy, we have—since 1967—become the exclusive purveyor of arms to Israel. Of greater significance is the fact that qualitatively, we have provided aircraft, missiles, and electronic systems of greater sophistication and greater strike capability than those furnished our NATO and SEATO allies. For example, Greece, Turkey, and Iran—which form the Northern Tier defense line against the Soviet Union—have not yet received our Phantom aircraft. A few months ago, the House of Representatives passed an amendment to the Defense Procurement Bill giving the President "open-ended" authority to transfer military equipment to Israel without total cost limitation. As former House Speaker McCormack remarked, ". . . I have never seen in my 42 years as a member of this body, language of this kind . . ." The Senate on December 15, by a 60 to 20 vote, killed the Williams' Amendment to the Defense Appropriations Bill which would have restricted the President from sending U.S. troops into Israel without Congressional permission. Many who supported similar limitations with regard to Cambodia in the Cooper-Church Amendment, opposed the Israel restriction.

Significant also has been Washington's reaction to the Soviet establishment of an anti-aircraft missile defense system in Egypt begun before and apparently completed after the "cease-fire" arrangements undertaken at Secretary of State Rogers' initiative last summer. Concern has greatly exceeded that generated by reports of offensive ground-to-ground Soviet missiles and a nuclear submarine base in Cuba in defiance of the 1961 Kennedy-Khrushchev understanding.

In the area of nuclear weaponry, the U.S. has also pursued an exceptional position vis-a-vis Israel. During the years when we were pressing over one hundred nations in the world community with whatever diplomatic, economic, and military leverage we might have to sign the Nuclear Non-Proliferation Treaty, Israel alone was exempted from strong representations. (In fact, it appeared that we may even have encouraged Israel to refrain from assuming the obligations set forth in this international undertaking.) The nuclear reactors at Dimona and Nahal Sorek are reported for several years to have been producing plutonium sufficient for ten 25-kiloton bombs a year. The widely-read "Nuclear War and Nuclear Peace" recently published by the former head of Israeli Army Intelligence, General Y. Harakabi, is the current authority on the use of nuclear weapons in the Middle East conflict. In contrast to our intense opposition to France's

nuclear development, we have condoned virtually an identical policy now being undertaken by Israel.

In the exchange of intelligence, our cooperation with Israel is unprecedented and goes far beyond the special nuclear arrangements with Great Britain based on the McMahon Act. During the months prior to the June 1967 hostilities, the military intelligence requirements levied by Washington upon our Embassy, CIA and military intelligence staffs in Cairo, were very largely based on Israel's needs. The effectiveness of the Israeli air srtikes on June 5, 1967, was assured in part, at least, by information on Egyptian air fields and aircraft disposition provided through U.S. sources. With respect to political and economic information, it was State Department practice to provide the Israeli Embassy in Washington with summaries of our Middle East Embassy cables considered of interest. An accurate report by Ray Vickers regarding this area of cooperation, appeared in the *Wall Street Journal*, February 12, 1970. When the U.S. Naval Intelligence ship, "Liberty", was attacked by Israeli air and sea units in June 1967 with the loss of 34 dead and 71 injured, the incident resulted in minimum official reaction. It boggles the imagination to speculate as to the reaction were the attackers to have been British or French, much less Egyptian, as initially assumed.

On the question of dual citizenship, Israel also enjoys an exceptional position. Under long-standing citizenship laws, an American voting in the elections or serving in the armed forces or government of any foreign country, has lost his citizenship. By recent Court interpretation, Americans may now serve in Israel in this manner without citizenship loss. Under the Israel Law of Return, an American Jew entering Israel is automatically extended Israeli nationality, and so we have many carrying the passports of both countries.

Since the June 1967 War—and particularly during the past year—U.S. commitments to Israel have been greatly expanded. Prior to 1967, we were committed to Israel's territorial integrity within the 1948 Armistice Lines and to her economic viability. Tangentially, we favored a military balance in the Middle East. In sponsoring the United Nations November 1967 resolution and in subsequent official statements, we, in effect, opposed Israel's retention of the territories conquered by force the previous June. This fundamental position now seems to have changed radically.

Last summer, in a series of statements emanating from the San Clemente "White House", we would appear to have extended our territorial integrity commitment to include, until a final peace settlement, the occupied territories; to have moved from assuring a military balance, to guaranteeing Israel—as Henry Kissinger put it—". . . military superiority capable of launching a rapid knock-out blow . . ." and, finally, to have supported Israel's continued "racial exclusiveness"—thereby negating our eighteen-year support of the U.N. Palestine Refugee formula of "repatriation or compensation." When asked, during his December 10 Press Conference, whether we still adhered to our position on Israeli withdrawal from the "occupied territories," the President—for the first time—evaded the issue, saying that it was a matter for negotiation.

Finally, the assignment of senior personnel in the State Department to the top positions relating to our Middle East policy, have apparently become subject to prior approval by the American Zionist leadership. As an example in reverse, the firing of our U.N. Ambassador, long-time career diplomat, Charles W. Yost, was demanded by "the pro-Israel lobby" as recently reported by columnists Evans and Novak. Similarly, in the recent past, a career diplomat and thrice Middle East ambassador, was replaced as Middle East Assistant Secretary of State, by a man without service abroad, but sponsored by this leadership.

While only history can provide a total, accurate and balanced explanation of American attachment to Israel, this relationship would appear to have full support of the information media and a two-thirds majority in the Congress. While public opionion polls are inconclusive, recent Gallup and private Congressional soundings indicate far less than majority support for the military implications of our present "open-ended commitment."

Nevertheless, our relationship with Israel has now reached a point where Israel's security and welfare is not only considered vital to our own, but where Congressional reaction to its possible compromise is more intense than would be evident with any of our NATO or SEATO allies. As one State Department wag put it, "Were Israel's survival to be seriously threatened, we would be in World War III in two minutes—with Berlin, it might take several days!"

In retrospect, it is interesting to note that the possible dangers for the Jewish people and for the U.S. in the establishment of Israel, were foreseen not only by several senior U.S. officials and career diplomats, but by a President, as well. In the months before his death, President Franklin Roosevelt in an inter-staff Memo, expressed these doubts: "A Zionist State in Palestine, can only be installed and maintained by force." He questioned whether the U.S. should be involved. Our first Secretary of Defense, James Forrestal, saw our decision to identify ourselves with Israel as "fraught with great danger for the future security of our country," and subsequently resigned from the Truman Cabinet on this issue. Likewise, Dean Acheson in his early public career wrote: "To transform Palestine into a Jewish State will gravely imperil U.S. and Western interests in the Near East." Needless to say, our ambassadors in the area from George Wadsworth and Loy Henderson in the 1940s, to Raymond Hare and Parker Hart in the 1960s, opposed the course being pursued by each successive Administration in our relations with Israel on the one hand, and her Arab neighbors on the other. These voices, however, constituted a small, non-influential minority and had no effect on the U.S. policy.

Thus, as we enter the 1970s, it can be said that Israel has become virtually an integral part of our nation with ties to Washington closer in many respects than those of Alaska and Hawaii. The problem in this relationship is two-fold:—Israel's security and well-being, have been under continual and ever-increasing threat since the 1947–48 hostilities incident to her establishment as an independent state, and we exercise no control over her handling of this threat.

Stripped to its bare essentials, we find today that the displaced Palestinian Arabs have coalesced into ever more intense hostility to Israel and that Israel's Arab neighbors—Egypt, Jordan, Syria and, to a lesser extent, Lebanon—have found a new grievance in the consequences of their military defeat of June 1967. Far from becoming reconciled to the facts of the situation, i.e., the Palestinian Arabs to their exile to make way for a Jewish Palestine and Egypt, Jordan and Syria to the permanent loss of considerable territory—these two forces, now aided and abetted by the Soviet Union, have become more intransigent and could, in time, pose a genuine threat to Israel's future. The danger to Israel and to the U.S. in this situation lies in the unexpected and the unpredictable. Does Russia believe that her penetration of the area would be furthered by an indefinite no-war-no-peace situation, rather than in an end to conflict either through a settlement, or through Israel's disappearance? Is Ben Gurion right when he said recently, "I do not think they (Russians) are interested in destroying Israel because if they do, the Arabs will no longer need them . . ."; or are many American foreign affairs commentators led by Joe Alsop, correct in maintaining that Russia does wish to destroy Israel; and that should this be permitted to occur, it would then gain total military, political, and economic control over the entire Middle East with disastrous consequences to our position world-wide? This assessment tends to support the view of a majority in the Senate, led by Senator Jackson of the State of Washington, that ". . . Israel is serving as the front-line of Western defense in the Middle East . . ." and that accordingly, we should all feel "a sense of personal involvement in the destiny of Israel."

My own personal view is that were the Arab-Israel conflict to end in a negotiated political settlement, a combination of Arab nationalism and long historical, cultural and technological affinity for the West would make pretty short shrift of the Russians in the area. I feel very strongly, therefore, that in order to preserve Israel and at the same time to counter the Soviet position in the Middle East, we should use more effectively and perhaps even extend our "special relationship" with Israel to achieve a settlement.

In my estimation, the only outside security guarantees under which Israel would be willing to entrust her future would have to include a formal bi-lateral treaty with the U.S., ratified by the Senate and providing, as evidence of credibility, an appropriate deterrent U.S. military force in Israel such as we now maintain in West Germany, Berlin, and South Korea. *Such a treaty would become effective upon Israel's renunciation of expansion, withdrawal to her pre-June 1967 frontiers, and agreement to implement outstanding U.N. Resolutions on the Palestine Refugees and the status of Jerusalem*—I believe that Egypt, Jordan, Lebanon and eventually Syria would make their peace with Israel on this basis. The Palestinians could then choose between returning home, or establishing by plebiscite a new state of their own in pre-1967 Jordan plus, perhaps Gaza.

A proposal along these lines was, in fact, suggested in the Senate last August, but was never seriously debated, nor discussed nationally thereafter. It provides, however, the only realistic means of breaking the current impasse in our efforts to promote peace in the Middle East. After all, it is generally agreed that Israel's future depends in the long run, upon her acceptance—like an organ transplant—by the peoples and countries of the area, regardless of our degree of identification and support. To enable her to take the initiatives essential for such acceptance, it seems to me that we should be willing to formalize and to give teeth to our long and close attachment. In its present elusive and open-ended form, we have not only permitted a fog of ambiguity to rule over our commitment, but cannot logically claim any control whatsoever over Israel's action, political or military.

The *National Observer* in a recent lead-editorial, correctly described this situation—that is, exclusive U.S. responsibility for Israel's security without corresponding control of developments—as ". . . the likely setting for the great world crisis of 1971." Continuing, the *Observer* suggests: ". . . It would be tragedy-within-tragedy if America after 25 years of acutely difficult dealings with the Soviet Union, should finally plunge into a nuclear war over actions it is powerless to restrain and issues it is powerless to resolve . . ." We do, after all, now have a totally polarized situation with the U.S. as virtually Israel's only reliable supporter and Israel our only friend in the area—a goal

long-sought by the "hard-line" Zionists, both in Israel and here in America.

To summarize—through 50 years of progressive steps uncontested by any significant element in our country, Israel has become, in essence, our 51st State. The danger, as I see it, lies in our Government not having achieved any comparable control over Israel's relations with her neighbors, or—in fact—with the rest of the world. Unless this is rectified very shortly in some way, I greatly fear that we will be drawn militarily and without any Allied support, into assisting Israel to maintain by force a "status Quo" unacceptable to her neighbors or to our NATO allies and the world community at large.

I think that in this situation, the offer of a formal defense guarantee with a small token U.S. force now, if this could break the current impasse and lead to a settlement along the lines supported by the United Nations and currently the subject of the Jarring talks, would be a small price for us to pay to fulfill our obligation to Israel and to prevent a new, more far-reaching and devastating war in the Middle East.

THE UNIVERSITY OF SOUTH CAROLINA BASKETBALL TEAM

Mr. HOLLINGS. Mr. President, the University of South Carolina basketball team and its outstanding coach, Frank McGuire, have just completed the final home game of the 1970–71 basketball season. There are two out-of-State games remaining before the Atlantic Coast Conference tournament in Greensboro, N.C.

I mention this today, Mr. President, because I would like to join with hundreds of thousands of other South Carolinians in paying tribute to this fine group of young men.

The South Carolina basketball team has been ranked in the top 10 nationally all this season. Its members, no doubt, have high hopes of going on to win the ACC championship and eventually the national NCAA tournament. Be that as it may, and regardless of the outcome of the tournaments, this fine basketball team deserves the honors it has and will receive in the future.

I want to pay special tribute at this time to the four seniors who have played their final games at the South Carolina home court. They are the team captain, John Roche, Tom Owens, John Ribock and Dennis Powell.

It is worth noting that John Roche has played 78 games in 3 years at South Carolina, averaging 22.8 points per game, for a total of 1,777 points. He was named All-America his sophomore and junior years—and is a leading candidate again this season. He was Atlantic Coast Conference player of the year 2 straight years and is a potential winner again this year. He was the only such player ever named to receive this honor as a sophomore. The university is extending him the special honor of retiring the number eleven on his jersey. Only one other South Carolina player ever has received this award.

I also want to single out the achievements of Tom Owens. He has played in 77 games and pulled down 1,019 rebounds. He was all-ACC last year and led the conference in rebounding during his sophomore and junior years. He has scored 1,221 points.

Both John Roche and Tom Owens were selected to the conference first team All-ACC Academics last year, and Owens has the best scholastic record of any athlete at the university.

I am very proud of this team, its coach, and its record, as are all South Carolinians. We wish them well and, of course, hope they win the national championship. Just yesterday, the South Carolina House of Representatives adopted a concurrent resolution lauding the team. I ask unanimous consent that it be printed in the RECORD.

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

A concurrent resolution recognizing the University of South Carolina basketball team for its successful 1970–1971 season and to especially recognize the senior members and coach Frank McGuire and to further recognize captain John Roche for having his number "11" retired and to welcome the relatives of members of the team who are visiting in our capital city.

Whereas, the regular basketball season is fast drawing to a close; and

Whereas, the University of South Carolina basketball team is again enjoying a very successful season; and

Whereas, the performance of the players has brought great recognition to both the University and to the State not only during the current season but for the last several years; and

Whereas, this group of young men has enriched the lives of so many people and created an unprecedented interest in basketball throughout the State; and

Whereas, the brilliant offense and tenacious defense of these "Fighting Gamecocks" have developed into a rallying force for people of all ages; and

Whereas, this scholarly group of young men has given a new sense of pride to an already proud State; and

Whereas, the members of the General Assembly wish to pause and pay homage to a fine group of young Americans and especially the four seniors, Captain John Roche, Tom Owens, John Ribock and Dennis Powell; and

Whereas, the members wish to also extend congratulations to Captain John Roche for the singular honor of having his number, "11", retired from use at the end of the current season; and

Whereas, it is only fitting to observe that these talented youths were recruited and molded into an efficient and highly competitive team by one of the nation's outstanding coaches. Frank McGuire, and his dedicated staff; and

Whereas, at the time this resolution is being offered some relatives of members of the team are visiting in our capital city and the members of the General Assembly wish to extend a most cordial welcome to these distinguished visitors and trust that their stay will be a memorable one. Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring, That the members of the General Assembly do hereby acknowledge with deep gratitude and pride the performance this season of the University of South Carolina Basketball Team, especially the seniors, Captain John Roche, Tom Owens, John Ribock and Dennis Powell and the efforts of Coach Frank McGuire and his staff.

Be it further resolved that congratulations are extended to Captain John Roche for the richly deserved honor of having his number, "11", retired at the conclusion of this season.

Be it further resolved that the relatives of members of the team who are visiting us are hereby welcomed to our capital city.

Be it further resolved that a copy of this resolution be forwarded to Captain Tom Roche, Tom Owens, John Ribock and Dennis Powell and to Coach Frank McGuire.

BAN ON MILITARY USES OF FOOD FOR PEACE FUNDS CALLED FOR

Mr. HUMPHREY. Mr. President, we must end the morally corrupt practice of using Food for Peace funds for military purposes. About $108 million was misused in this manner last year alone.

It must stop. Immediately.

Therefore, I am joining my distinguished colleagues, Mr. PROXMIRE, Mr. MANSFIELD, and Mr. MCGOVERN in cosponsoring S. 905 to halt this practice.

Food for Peace funds, which are generated by foreign sales of surplus American agricultural commodities, are to be used for humanitarian purposes—feeding the hungry, improving living conditions, training people to help themselves provide a better life.

The Pentagon apparently has found a loophole in this great idealistic law to sneak through the tools of death and destruction instead of life and hope, as the Congress and the American people have ordered.

And we wonder why America's prestige suffers abroad and our youth at home distrust the Government.

We cannot permit this practice to continue. This was not the intent of Congress when it established Food for Peace. It is not the will of the American people. And the American farmer surely does not produce food so that it may be used to buy guns.

SOUTH CAROLINA REPRESENTATIVE MISS SHERRY SHEALY

Mr. THURMOND. Mr. President, the State legislature in South Carolina is now graced by the youngest and one of the most attractive members in its long and proud history.

Miss Sherry Shealy was elected to the State house of representatives just 8 days after her 21st birthday. She has not yet completed her college education; yet she demonstrated enough initiative, ambition, and personality to convince the voters of Lexington County that she should be their representative in the legislature.

Mr. President, this young lady is an example of what young people can mean to their community and to their country. They do not need to circumvent the Establishment because the Establishment is open to them. Our system is such that persons with merit have an opportunity to advance regardless of their race, sex, or age.

Since her election, Miss Shealy has not allowed other worthwhile pursuits to go wanting. She teaches music to all eight grades in Columbia's St. Joseph School. She continues her own education, carrying 6 hours of courses this semester at the University of South Carolina.

Despite her young age, Miss Shealy is no stranger to the processes of government. Her father, former Representative Ryan Shealy, was also a member of the same legislature.

Mr. President, I am particularly proud of my friend, Miss Sherry Shealy.

I have been pleased to read an excellent feature article about her which was published in the State, Columbia, S.C., on February 7. The article was written by Mrs. Janelle Scott, staff writer for the State. I ask unanimous consent that it be printed in the RECORD.

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

SHERRY SHEALY OUT TO ERASE "LITTLE GIRL" IMAGE

(By Janelle Scott)

Like any other 21-year-old college student, Sherry Shealy likes to have a good time, and in her case, that includes serving as a Republican in the South Carolina Legislature.

Some people have said, "There's that little girl who thinks she's going to have fun in the legislature," says Sherry. "I wouldn't say the legislature is fun, but I am enjoying myself."

At the same time, the youngest member of the legislature is confident she will erase the "little girl" image as she gets into the serious business of lawmaking.

"If I show them I'm serious they'll take me seriously," she says.

Since being elected the first woman representative from Lexington County, eight days after her 21st birthday, Sherry has obviously enjoyed herself. Her new schedule has included an appearance on the "What's My Line?" show in New York, and a date to the Inaugural Ball (escorted by the only bachelor member of the House).

She attends to her new duties and social engagements in between holding down two part time jobs and working on 15 hours of credit at the University of South Carolina.

"I keep saying, 'Next year I'm not going to do as much,' but it never works out that way," says Sherry. "I'm asked to do something and my mind says no, but I end up saying yes."

And that's why one week finds her speaking to a rotary club in Lexington, working on a term paper for a class, attending a session at the Statehouse, speaking to a teachers' group in Columbia, and participating in the March Of Dimes telerama.

Another week, she'll be judging the Miss Newberry pageant, and flying to Washington to participate in a panel discussion.

"I enjoy it all," she says, "I really do."

And all the while she's the "little girl" of the legislature she's "Miss Shealy" to 324 elementary school students in music classes every Monday and Friday.

"I can tell they're sort of excited," Sherry says of her young students. "They tell me when they've seen me on television the night before."

Many of the eight-graders at the private school in Columbia helped their music teacher campaign for office.

Sherry becomes an entertainer on Friday and Saturday nights playing organ for customers at a Columbia's restaurant.

The attention focused on the attractive blonde since her election doesn't seem to bother her. As a former beauty queen, and student leader, she's not unused to the limelight.

"The publicity doesn't phase me one way or another," says Sherry, who has already been photographed many times at the legislature.

She and Rep. Carolyn Frederick of Greenville are the only two women in the House of Representatives, and someone pointed out to Sherry, "If there were 122 lemons and two squash, you'd notice the squash, wouldn't you?"

"I was told I'd be the brunt of jokes and I'm beginning to believe it," Sherry says. "I don't mind the kidding.

"I'm sure it (serving in the legislature) will be exciting. To me, anything that's unpredictable is exciting, and in the legislature, you never know what's going to happen next."

She found that out early in the new session after she introduced a bill to grant voting privileges to 18-year-olds in state elections. The next week, Rep. Troy Hyatt, a Democrat, introduced an identical bill.

"I said, 'Mr. Hyatt, I introduced the exact same bill last week,' " Sherry relates.

"He said, 'I know, but there's one big difference. My bill will be reported out of committee and yours wont.' "

Sherry managed to introduce a third bill, with over 40 other sponsors which she now believes will be the one to come out of committee. But she said the incident taught her, "to watch what you're doing or they take advantage of you if you don't."

Sherry admits she's nervous about speaking on the House floor.

"I made up my mind the first two weeks to sit there and listen and not say anything," she says. "But the first day, Dr. (Carlos) Gibbons of the Education Association asked me to introduce the presidents of the county education associations who were there.

"I was petrified. I practically had to be pushed out of my chair. I had about five words to say and I probably messed up ten times," she recalls.

Sherry says she will be serving on the House Education and Public Works Committee, an assignment she requested because, "As a teacher and a student I feel I have an inside track on education."

The issue of education she refers to as the "most pressing" issue of our time, her main concern being what she believes is the breakdown of discipline in the schools.

"I wish I knew what can be done," she says. "Everytime a teacher shows some backbone, it seems a parent takes him to court."

As for her own education, Sherry majors in journalism at USC. This semester, she will be taking only six hours of courses, one at night, so not to conflict with legislative sessions.

She also will be writing a regular column in The Gamecock, the USC student newspaper, which she describes as "a student's view of the legislature."

Sherry had a first-hand view of state government when her father (former Rep. Ryan Shealy) was in the House. She says now she "seriously doubts" if she would have run for office if her family had not had a political background.

"Someone asked me if I had been disillusioned after seeing the legislature at work, but I wasn't because I had been there enough to know what goes on."

Sherry is confident she will accomplish much in her two years in the House, although she is in a distinct minority, both by her party and her sex.

"If the legislators are going to do something for the people of South Carolina, we need to forget Republican or Democrat, black or white, male or female," she declares.

Will she be going to social affairs during the legislative session given by or for legislators?

"You know, I don't drink," she says, "If it's strictly a cocktail party, there's not much to do. Unless I can talk about a bill. I've heard many bills are passed at those parties."

If a cocktail party is not her scene, Sherry seems to have no trouble finding a good time—whether it's teaching a class of second-graders to sing the Pledge of Allegiance for a school program or recruiting sponsors for her bill on the House floor.

PERU, IND., CIRCUS CITY FESTIVAL

Mr. BAYH. Mr. President, the Hoosier community of Peru, Ind., each year is the scene of one of America's most heartwarming festivals, the Circus City Festival. For several days every summer, the "Circus Capital of the World," as it is known, recreates the days when it was the winter home of major American circuses. The whole community takes part, as more than 15,000 residents help bring to life one of the most interesting heritages of any American city.

The headliners of Peru's annual circus festival are not circus stars known around the world. Rather, they are boys and girls from the community who have been trained by the former greats of the circus world, and who—with help from their parents and other citizens of Peru—put on a show that would make the real circus world proud of them.

This week, at 11 a.m. e.s.t. on Saturday, February 27, NBC television will telecast an hour-long program devoted to Peru's Circus City Festival. Senators, their families, or their constituents who are able to view this program will see an extraordinary story of a unique effort undertaken annually by a small American city in a true community spirit.

In many American communities, the smell of sawdust, the trumpeting of an elephant, the hair-raising excitement of a young lady on a flying trapeze have simply faded into memory. In Peru, Ind., that memory of a colorful, exotic world is kept alive in a way we can all appreciate.

PRESIDENT NIXON AND THE INVASION OF LAOS—STATEMENT BY JOHN GARDNER, CHAIRMAN OF COMMON CAUSE

Mr. HATFIELD. Mr. President, many of us in the Senate have been much impressed with the work of Mr. John W. Gardner and Common Cause. Up to now, Common Cause has restricted its activities mainly to domestic issues, but it now sees that before America can solve its problems here at home, it must first and its involvement in Indochina.

Mr. Gardner recently made a very important statement regarding U.S. activities in Indochina. In order that Senators can have the opportunity to read this fine statement, I ask unanimous consent that Mr. Gardner's statement be printed in the RECORD.

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

STATEMENT BY JOHN GARDNER

The invasion of Laos poses a serious issue between the American people and their President.

In the Gallup Poll released January 31, 1971 seventy three percent of the people favored the proposition that the United States government should "bring all U.S. troops home before the end of this year."

In contrast the President has consistently refused to name *any* terminal date for our disastrous military involvement in Southeast Asia—and he continues to initiate military actions that carry totally unacceptable risks of deeper involvement.

The time has come for the American people to speak again, and for Congress to exercise its responsibilities to conduct hearings, to debate and then legislate.

The invasion of Laos was carried out by South Vietnamese ground troops, but it is in every important respect an American operation. The action required President Nixon's approval. American generals planned and directed the operation. American helicopters flown by American pilots are carrying the South Vietnamese troops into battle. American planes flown by American pilots provides most of the firepower of the invading forces; American manned artillery at the border is poised to fire into Laos.

We can take little comfort from the fact that the President chose to stay within the letter of resolutions passed by Congress keeping American ground combat forces out of Laos. While observing the Congressional restrictions, he has exposed us fully to the dangers that inspired that restriction. The war has now spread to Laos just as surely as it was spread last year to Cambodia.

Of course the Administration says its purpose is to get us out sooner. Every escalation in the past six years has been defended on those grounds. And every escalation has gotten us in deeper and deeper. And the war goes on. And on. And on. Our sons are still being drafted to fight and die in a war which we have said we no longer want to win or even to fight.

Many Americans who are opposed to our involvement in Vietnam and disturbed about the Laotian move do not attack the President publicly because, as they put it, "He *may* succeed. He *might* pull it off."

It is true, he might. But also, he might fail—with all the disastrous risks of deeper involvement. The President is playing Russian roulette. Each military action he takes in Indochina runs the totally unacceptable risk of a wider war. We must tell him to stop this deadly game.

Even if he "succeeds" in his desperate gamble, it seems certain that he will have achieved a short-term military gain at the price of a gravely deteriorating political situation in Southeast Asia. The Cambodian adventure of May 1970 sought just such a short-term military gain, but it also spread the war throughout Cambodia and deepened our political involvement in Southeast Asia. We risk becoming as deeply enmeshed in the security of Laos and Cambodia as we are presently enmeshed in Vietnam.

North Vietnamese—or even Soviet or Red Chinese—countermoves to the Laotian invasion could easily lead to massive further escalation by the United States. The President has said that he wishes to avoid this, but the continuing drive for military advantage has in the past consistently led to more and more escalation. The time bought by the invasion of Cambodia has, even by the Pentagon's admission, run out. The invasion of Laos, even if successful, will buy perhaps another six months. What then? A year from now these troops will be out but a substantial number of American troops will still be in Vietnam. What if Hanoi is then massing in Cambodian sanctuaries, pouring troops down the Ho Chi Minh trail, or threatening to overrun Laos or Cambodia? The President has said explicitly that he places no limits on his use of conventional air power in Indo-China. He has warned Hanoi that he will react and he has told the American people that he means his threats and that his escalation will be decisive. Neither he nor any of us can know what that might lead to in the way of igniting a larger conflagration, or what it might mean in terms of confrontation with the Soviet Union and Red China.

The President has not only *not* set a date for complete termination of our involvement, he has never said flatly and explicitly that he *ever* intends that all American military forces be withdrawn from Vietnam. If he were to continue withdrawal at the present rate, there would still be American troops in Vietnam as late as 1973. But he has never promised complete withdrawal. Rather he has promised *reductions* only as fast as the South Vietnamese can take up the slack. He has said that American forces will remain as long as North Vietnamese forces are in South Vietnam, Laos or Cambodia. That could be forever.

Secretary Laird has said that a residual force will remain in Vietnam indefinitely. Will this force (perhaps 50,000, perhaps 200,000—we haven't been told) provide combat support of the kind now being provided in Laos? Will our men serve as advisers to accompany South Vietnamese troops into battle? Will our pilots be dropping bombs over Indochina? If so, the war will go on, Americans and Asians will continue to die, and Americans will remain in Hanoi's prisons.

So the issue is drawn. Seventy three percent of the American people want *all* U.S. troops out by the end of this year. The American people want this endless war to *end*. They want all the soldiers home. They want the prisoners released.

But the President does not seem to be listening. There is every indication that he has consistently underestimated the depth and intensity of anti-war sentiment in this country. He is dealing with what he believes to be the hard realities of Southeast Asia, but he remains out of touch with the hard and dangerous realities of America. We are a divided nation. The President must weigh in deadly seriousness any and every move that deepens that division, heightens mistrust, and creates bitterness among large segments of our people.

In 1965, the State Department asserted that the legal basis for the Administration's continued involvement in Southeast Asia was the Tonkin Gulf resolution passed by Congress. On December 31, 1970 Congress voted overwhelmingly to *repeal* the Tonkin Gulf resolution. Yet the War goes on.

The United States Constitution asserts that the power to determine when and where we go to war rests with Congress, not the President. Recent Presidents have viewed that assertion lightly. We should guide ourselves again by the wisdom of the Constitution.

Congress must reassert its role. It must legislate an end to the war. It must enact into legislation the desire of the American people for a complete withdrawal from Indochina and it must fix a date by which that process must be completed. Only this step can end American involvement in the war, free our prisoners, and permit the Vietnamese to determine their own future.

In a meeting on February 22, the Democratic Policy Committee of the Senate resolved to work "to end the involvement in Indochina and to bring about the withdrawal of all United States forces and the release of all prisoners in a time certain." The most unambiguous phrase in that statement is "all U.S. forces." That would mean, presumably, *no* American military personnel in Vietnam, Laos or Cambodia—not on the ground and not hovering above the ground, not in uniform and not in civilian clothes, not as combat troops, not as advisers, not as "military equipment delivery teams"; and no American airplanes flying over Indochina dropping bombs.

There is a proposed bill before the Congress that reflects the wish of the American people to end the war this year. It is the Vietnam Disengagement Act of 1971. It calls for disengagement by December 31, 1971. Other ways of legislating an end to the war may develop in the course of Congressional consideration.

It is time for the American people to make clear to their leaders that they want the Congress to act. Starting now.

IS THE MEDITERRANEAN DYING?

Mr. HUMPHREY. Mr. President, that is the question the New York Times asked on January 21, 1971. I have read the Times article and have been shocked by the degree of pollution in this relatively small and tideless body of water.

The effluent of highly populated and industrialized nations on the shores of the Mediterranean is gradually but surely killing the ability of this beautiful body of water to support life.

Beaches are befouled, trees and greenery are suffocated and seared, rivers are completely polluted, marine life is being killed off, and the delicate food chain in the sea is being seriously threatened.

When one couples this pollution by city and industry to the damages to the eastern Mediterranean from changes in Nile flow caused by the Aswan Dam, there is cause for considerable alarm.

All this pollution of one of the world's true beauty spots is bad enough. However, what really shocks is the complete lack of any widespread recognition of how serious the problem really is. Some area experts have said it is already "too late" to do anything about it—that the Mediterranean will soon resemble our own Lake Erie.

Mr. President, I think every Senator should read this article. The United States has a responsibility to help to preserve this international body of water. We also have a responsibility to learn from what is happening and to plan and build with regard not only for our immediate economic expansion and a higher standard of living—we must plan and build to protect our environment as well as to make it more comfortable for us to live in. It will be far cheaper to build in environmental protections as we grow, than to face the monumentally expensive task of cleaning up our environment before it literally wipes us out.

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

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

[From the New York Times Magazine, Jan. 21, 1971]

IS THE MEDITERRANEAN DYING?

(By John Cornwell)

ROME.—If some of Italy's most prominent scientists are correct, the death of the Mediterranean is imminent. While the United States and Britain are getting used to the idea that pollution can be overcome, Italy—the country with what may be the worst problem in the world—has not begun to think in terms of solution at all; it has barely recognized that a problem exists.

After a summer of pollution scares and the worst tourist season in a decade, a group of Italian and American scientists met in Turin in September to discuss Italy's crisis. Among them were two of the country's leading experts on water—Dr. Carlo Mortarino, a professor of hydraulics at Turin University, and Dr. Robert Passino, the director of the National Research Center in Rome. Their findings, which will be published early this year, were gloomy indeed.

One conference official, talking later in the Academy of Sciences in Turin, shrugged and smiled congenially, the way many Italians do when they bring bad news. "The

Mediterranean," he almost apologized, "flows out into the Atlantic. Apart from an insignificant and very superficial warm-water current, the flow at the Strait of Gibraltar is one way—outward. The Mediterranean is fed by the great rivers of the Continent, and all these rivers—particularly the Italian ones—are polluted. This is the significant fact to grasp. We shouldn't be surprised if some great ecological change were to take place within the next two years."

I went first to talk with Professor Mortarino at the Politecnico, built out of the vast Fiat fortunes. A quiet man in his middle 60's, Mortarino was an unlikely alarmist or "doomsday" fanatic.

"Our coastal waters are already dead as a source of food and as an amenity," he said. "Nobody with any sense would eat shellfish in Italy, and 70 per cent of our beaches are a health hazard. It is not a question of when the sea will be dead; for the Italian it has already happened. In other countries bordering the Mediterranean it is only a matter of time."

Why was it that more had not been published about this—or *done* about it?

"People are silenced," he said. "The young Mayor of Genoa ordered people off the beaches this summer, but he was sacked by vested interests. They charged him with incompetence. Within seven days everybody was bathing again. The Italian Riviera is one of the worst spots; there are 67 open sewers flowing across the beaches between Genoa and Nervi alone, and the rivers all carry highly toxic industrial waste.

"But it's the same all over Italy. We have never invested in purifying plants, and we are beyond the point where we can afford it. To bring our water-cleansing systems in line with even the British standards—and they're not perfect—would cost us an estimated $20-billion, and we don't have the money."

Couldn't industry be required to foot the bill?

Professor Mortarino sighed. "Italy," he said, "has always had special problems in its relations between Government and industry. After the war we opened up the country to the rest of the world and gave them carte blanche to get the money flowing again. Many of the industries here, particularly those with petrochemical interests, are foreign-owned; it makes us particularly vulnerable.

"Italy refines almost twice as much oil as it consumers, and it does so dirtily, although admittedly cheaply, in or near the sea. We have been refining for other countries—Britain, France, Germany, Holland, the United States—and storing up a great pollution disaster for ourselves. We've allowed ourselves to be treated like the worst kind of exploited colony.

"Water is obviously the most serious factor, but there are others. We have no effective clean-air laws or smokeless zones. Our domestic central-heating plants are outdated and dirty; in the North, where it gets very cold in the winter, we burn an excess of fuel because our houses are badly constructed. Add to this the fact that the average Italian worker makes two journeys to and from work each day in his car, and you can understand why the smogs in Turin and Milan are as bad as those in Tokyo. In spite of the fact that we have huge hydroelectric resources, which run our railways and most of our public transport systems, we consume as much oil per capita as they do in Britain.

"But what is worrying us most of all is the threat to the life of the ocean. The deep-sea life depends a great deal on the health of coastal waters, especially in a relatively small, tideless ocean like the Mediterranean. The condition of the algae, for example, is essential to the food chains in the ocean. The balance is very delicate, and we have good reason to believe that it is being disturbed.

"Throughout the rest of the world they are concerned about the Pacific and the Atlantic—Thor Heyerdahl reported on his expedition that the Atlantic was polluted even in the remotest parts. Nobody seems to realize that the Mediterranean is a microcosm of the other oceans—that its clean waters are constantly flowing out and being replaced by poison. Things will happen much faster and more irreversibly here.

"As for the condition of our domestic water supply, already typhus is endemic in Italy; we simply hide it with massive antidotes. Italy consumes more medicines for these kinds of diseases than any other country in the world. But antidotes are not an intelligent long-term solution. Furthermore, we can expect a huge sea life mortality in the near future, which will almost certainly be a source of plagues and diseases that could affect the whole of Europe."

I set off on a tour of Italy to see the worst pollution spots for myself and to visit the experts. My first stop was on the River Polcevera above Genoa, the scene of a great flood disaster in October. As far as the eye could see there were oil tanks and the complicated apparatus of oil refineries. The waters of the river were brilliant with the tell-tale rainbows of oil, and every hundred yards or so an open sewer added other effluents. At this point in the industrial suburbs, the Polcevera was totally polluted; it had yet to pass through the city, where more waste would be added, before spilling into the Gulf of Genoa and spreading along the Riviera.

A man drowned in the October disaster was washed up at Nice the day after the flood—which, I was told, perfectly illustrated the way in which the coastal waters hug the shore for great distances and move at high speeds. What goes into the sea at Genoa is spread out along the Riviera di Ponente and the Riviera di Levante.

A week before my visit, Dr. Remo Terrannova, a professor of geology at the University of Genoa, had said that one of the major reasons for the flood in the fall had been the silting up of the river beds and culverts with industrial waste. As yet there were no facilities or plans to dredge the Polcevera or the other great rivers of the area, the Bisagno and the Varenna.

I moved on to Viareggio, where there had been reports of a strange catastrophe. To one who enters this seaside resort at its northern end, the disaster is immediately apparent. Thousands of pine trees and evergreens lining the roadside, most of them set back 200 or 300 yards from the sea-front lidos, were dead, their branches naked, their bark stripped and gray. In places where the disaster was still in progress the sides of the trees facing the sea were dead while those toward shore were still luxuriant. The picture was the same for about 15 miles. At Versilia, which once boasted the tallest and most splendid trees in Italy, the dead trees were falling against each other in their thousands.

Stopping the car and getting out to examine the dead trees, I was conscious of an overpowering stench coming in on the sea breeze; one might have been in the center of an industrial zone rather than one of Italy's most famous resorts. I spoke to the keeper of a beach-front lido who sat disconsolately at one of her own coffee tables. "It started in a small way a few years ago," she said. "Everybody said that it was due to irrigation problems. But as you can see—and smell—it comes from the sea. This whole resort is ruined."

In Rome I went to the National Research Center to question experts on the Viareggio phenomenon. I spoke to a scientist who works under Professor Passino, the director. The story was an eerie one: "The pine trees are dying because they are suffocating from a coating of hydrocarbons and chemical detergents which are carried into the sea by the rivers bringing waste from inland chemical plants. The humid westerly wind blows in the surface chemicals from the ocean like an aerosol. The pine needles are suffocated, coated in a greasy layer, almost totally disturbing the function of photosynthesis, slowly but inevitably killing off the trees through asphyxiation."

Professor Passino, who has spent five years studying the problem of water pollution in Italy, had some harsh warnings: "Typhus is endemic here, and hepatitis will become so. I would say that it would be very easy to catch these diseases in Italy from a whole variety of causes arising from the poor hygiene situation in our country at present, and you don't have to bathe in a polluted stretch of water to contract them. The problem of urban sewage and industrial waste needs a radical and urgent solution.

"My other concern is the point at which the Mediterranean will become polluted beyond the limits of safety. The situation is grave because of the chemicals thrown in the sea—chemicals which contain a high percentage of substances which cannot be broken down biologically and which collect in a thin layer on the surface of the sea. Absorbed in the body, these substances accumulate in the fats; they cannot be eliminated, and they are definitely the cause of damage which is difficult to describe. The same goes for insecticides.

"Twenty years ago, when we were at the outset of our great industrial expansion, it might have been relatively simple to avoid this disaster in our environment. If each new industry had been obliged to install purifying plants this would have raised their costs by only 2 per cent, perhaps; the products would have been only fractionally more expensive. A modern purifying plant, even in a great city, would not have cost more than $2 a head in one year. We should have had the sort of foresight they had in Britain. Now, of course, it is all too difficult and too late."

When I asked about the process by which Rome disposed of its waste, I was directed to a wide expanse of derelict land about nine miles down the Via del Mare, the road from Rome to Ostia that borders on the Tiber.

Traveling past hundreds of acres of car cemeteries, I reached an extraordinary wilderness. Holes had been dug 80 feet in the earth; here was Rome's disposal plant. "It's a national scandal," said a sanitary engineer on the site. "We have an incinerator—it was paid for by the Americans—but they don't used it." He shrugged his shoulders and gave a facetious grin. "Incinerators, you see, are Fascist! So all our waste, including meat carcasses and every kind of toxic garbage, is dumped in the holes. Naturally, whenever the Tiber overflows it gets into everything. I suppose we're one shade better than Sicily—they take all their stuff out in boats every day and tip it overboard, and it gets washed up on the shore the next day."

I went on to the Gulf of Gaeta, the holiday playground for Rome and Naples, about one and a half hours from both cities on the fast Autostrada. The Gulf, I had been told, might be a pollution test case in the near future. Apart from the hundreds of open sewers crossing the beaches, there is the fast-flowing River Garigliano, which plays an important part in the disposal of waste from a state-owned nuclear power station three miles inland.

I had been told by the National Research Center that the radioactivity level of the waters along the coast was negligible and carefully monitored. But nobody was sure about the long-term effects of heating the sea water in a gulf in which it changes slowly. There had been rumors of immediate and sinister effects from the Garigliano last summer. Local doctors in Baia Domizia, Scauri, Minturno and Formia said hundreds

of vacationers had come to them with strange rashes after bathing along the coast.

"These were not simple allergies," said a doctor in Scauri. "As far as we were concerned the rashes were radioactive. All sorts of things have been going on here which the public is not told about. There was a leak at the power station earlier this year, and there was chaos there during a walkout. But we're told to keep quiet so as not to cause a panic. The Mayor of Minturno and Scauri issued a statement that he would not be responsible for people bathing in the sea—that was a polite way of saying that people had better watch out. You can't take strong action over these things; local officials are extremely sensitive about being labeled Fascist, and the Mayor at Genoa had already been sacked for sticking his neck out and telling the truth about the state of the water up there. Anyway, the Mayor here was laughed to scorn by everybody—quite naturally, I suppose. They rely on the summer months to earn their living from the tourist industry. There's nothing else here."

North of the Garigliano, near the final promontory of the gulf, is the site of the much-disputed Campo Boe, the oil refinery J. Paul Getty started building in the sea. The towns of Formia and Gaeta have been fighting the project for two years. Local residents have successfully impeded the work by a series of general strikes, and last year even mothers and children sat on the tracks to prevent the delivery of materials by rail. The demonstration was broken up by a police baton charge. Getty has been forced to sell his plant to an Italian group, but its future is still uncertain.

A local official explained why the people were so determined over this case. "Campo Boe will destroy the whole of this gulf. Even without the oil refinery, the pollution is bad enough along the coast, but once it gets started the beaches will go completely black. Furthermore, everybody knows that the plant should be built up near Civitavecchia, where the industry is. As you can see, there's no industry here. But the refinery has been sanctioned by the Government because most of their damned officials have summer residences just south of Rome, where the plant should by all rights be situated. Instead of that they build it here in the gulf, even though the transportation of the oil north will be an additional expenditure. Getty said he would bring work to the gulf, but once the plant gets started, there will only be 200 technicians working out there, and they're bound to be outsiders."

Formia and Gaeta are typical of the many areas in Italy in which the conflict between polluting industries and tourism has brought the crisis to a head. The fact that many of the plants are foreign-owned and bring their technicians in from outside, lending little or nothing (except pollution) to the local communities, is a central issue.

Driving north along the Adriatic coast through Pescara, Ancona, Pesaro, one saw the same gloomy picture in city after city: petrochemical industries, both Italian and foreign-owned, in or close to the sea. Rimini alone seemed untouched, and unlike the majority of Italian cities it boasts its own water-purifying plant. But I was told that there were fears that polluters in the Ravenna area would affect the whole coast. Ravenna, about 32 miles north of Rimini, has a combination of industries on the coast and further inland on its rivers that has transformed it into a vast nightmare landscape and seascape. Sea gas stations stand close to an oil-refining complex in the sea, and the industrial port area sprawls over about 50 square miles, with the waste products of petrochemical plants spilling into waters which once provided the finest fishing in Italy. Hotels and pensiones built for holiday makers now house migrant workers. Here, too, the pine trees are dying; the blame is put on the poisonous pall of smoke which covers the area day and night.

But the special cause for concern in this part of Italy is said to be the long-term effects on the Adriatic, a narrow, trapped sea. Italian scientists are closely watching the northern stretch of the Adriatic, which is relatively shallow and contains no deep basins. Here many of the great polluted rivers of Italy, including the Po (which has traveled all the way from Turin), spill into the sea, and further north is Venice, one of the blackest spots on the Italian pollution map. The problems of Venice have been much publicized for some years, but the knowledge that the whole city is sinking has often eclipsed the news of other problems which directly stem from pollution. Not only do the polluted waters of the canals aid the sinking process by silting up the canal beds and destroying the foundations of the buildings, but the air of Venice is so contaminated from industries on the mainland that facades and statues are decaying into a brittle, chalk-like substance, and men are employed to climb daily across buildings and break off the dangerous stonemasonry.

The return trip to Turin through Milan and the Lombardy area offered an opportunity to see the condition of Italy's inland waters. As far as 20 miles south of Milan the irrigation ditches were thick with sewage, oil and detergents. Water from the Alpine areas is plentiful, but once it has passed through the heavily industrialized and populated conurbation of Milan it poisons every river, stream and ditch in the plains to the south. Farmers I spoke to said they were in a state of despair about the water flowing through their land; all they could hope to do was dredge out the rubbish which threatened to stem the flow of black slime. Practically every river south of Milan carried the foam of detergents, which in places rose five and six feet above the water.

Prof. Gianfranco Ricci, the acknowledged expert on Lombardy's water supply, had severe warnings: "You can now find drinking water polluted by detergents at a depth of more than 200 feet. We are finding that these detergents are seeping through the soil and poisoning the deep layers where the principal springs for our drinking water are found. In other countries there have been special laws protecting drinking water, laws which go back for years and years. We are the last to get round to even thinking about it."

Even some of the most famous springs in Italy, the professor added, springs that provided the much-vaunted bottled mineral water for children and invalids, were now a health hazard. "We are just beginning to learn the full scope of the disaster."

Finally, in Milan Roberto Javicolo, one of Italy's most prominent medical and scientific correspondents, summed up the situation: "There is nothing new in saying that we are the most polluted country in Europe. What is new is the realization of the full extent of the problem. We are reaching the saturation point. Today in many coastal areas the saturation point has been reached and exceeded. The amount of waste that is dumped daily in the sea is such that natural defenses—the self-cleansing properties of the ocean—are within months of being in serious danger. The state of our coasts at present is that 70.2 per cent are dangerously polluted, and 15.2 per cent are *totally* poisoned. The only places which seem to be as yet unaffected are Southern Sicily, Sardinia (excluding Cagliari and Iglesias) and Rimini."

Having completed just a short tour, I was convinced that Italy's pollution problem was unparalleled in Europe. Many areas were unlike anything I had ever seen before except in the industrial regions around the Great Lakes in North America. However, with almost all pollution stories nowadays one must allow for the element of overstatement which results from a laudable motive to get things done, not to mention the less laudable motive of sensationalism. In the absence of exact figures and accurate data, the views I had heard left me with a sense of circumspection about the pessimistic forecasts for the entire ocean. (Nonetheless, it would be interesting to see who in Italy would be prepared to pay for the sort of extensive research that would be necessary to make an accurate forecast.) But when I checked Professor Mortarino's claim about the extent of Italy's refining activities with a London petroleum consultant, I found his figures considerably enhanced. In 1969 Italy refined its own consumption of oil, and only a third of the equivalent of its own consumption for other countries. I was also conscious that the experts tended to stress detergents or oil with a partiality that would give rise to suspicions; while the National Research Center men talked of detergents affecting the pines at Viareggio, for example, Mortarino insisted that the culprit was petroleum. Clearly the scientists' utterances were part of an ill-coordinated, if justified, campaign, consonant with the witch hunts being conducted all over the world to name the polluters.

Yet nothing could have been more instrumental in winning me over to the side of the frightened scientists than the optimistic disclaimer issued by Italy's Ministry of Tourism. After the torrent of pleas from universities, departments of health and the mass media last summer and autumn, the Ministry was moved to make the following statement:

"The dangers of pollution do not affect the beaches, and we need only be concerned in isolated cases. Last year [1969] everything went off all right, there were no surprises; the medical picture showed no cause for alarm. We can't believe the situation has changed in one year. It does not mean that there is no pollution. Pollution exists all over the world, even in the middle of the Atlantic, where Thor Heyerdahl's expedition in a boat of papyrus discovered immense lumps of oil on the surface. It means only that its widespread; to sow the seeds of panic is useless. The Minister makes clear the position in this way to bring back the problem to its proper perspective."

With Italian scientists proclaiming, "We are heading for biological suicide," and industrialists and Government officials mildly asking what all the fuss is about, it is going to prove difficult for the Italians to get their pollution problem into perspective. And there will be strong pressure from abroad for them to do so.

As I completed my tour, a group of 415 scientists ended a 10-day international conference on marine pollution. The meeting, in Rome, was sponsored by the United Nations Food and Agriculture Organization. Its participants called on governments to unite to save the seas, recommending a world monitoring system which would reveal where pollutants were entering the seas and the amounts of the increase.

"The proper perspective," said Professor Mortarino when I returned to Turin, "will never be gained until the industrialists do some soul-searching. Why should the universities be expected to provide the burden of proof to the industries who create the problem? We're tired of them coming to us and asking, 'When will we reach the danger point? Give us exact figures.' The question shouldn't be, 'How far can we pollute the environment?' but rather 'Should we pollute the environment in the first place?' But in the present climate of materialism in Italy, this perspective has no meaning. Peo-

ple in Italy have not been educated during this century to reverence their natural inheritance. But that is where perspective and the solution begin; and I'm afraid it's too late to repair that damage. People were shocked at the death of the Great Lakes in America; they never thought it would be possible. What interests me now is whether the rest of the world will learn from what is likely to happen right here."

A CENTRAL PROBLEM OF GOVERNMENT TODAY

Mr. HART. Mr. President, it was with admiration and a sense of frustration that I read James Reston's column in the New York Times of February 14. His message I found to be a quite preceptive commentary on some of today's problems, and I would therefore like to bring it to the Senate's attention at this time.

In the column, Mr. Reston ably argues that a central problem of government today is to bring the "fundamental issues" of control of population, control of technology, and control of arms into the forefront of its concerns. He goes on to say:

It is hard to find a serious, thoughtful man in any major capital of the world who will challenge this thesis, or find one who knows how to resolve the dilemma. They are all caught in their local, regional or national political problems, and most of them admit that even if they solved all the problems at home they would still be baffled by the world-wide problems of controlling population, military arms and machines. Still, there must be some way, if not to solve at least to keep the great questions of the world before the people—the world of the future rather than the world of the past or the present. . . .

I share Mr. Reston's concern that we have not always kept these fundamental issues where they belonged, and I hope that as this Congress proceeds with its business, we will try harder to consider the impact of proposals on these three issues. So far, I am afraid, discussion of them has been largely obscured by what Mr. Reston calls "the immediate questions and personalities." While these latter questions are certainly demanding of our utmost attention, it would seem that we may ultimately deal with them more effectively if we are able consistently to keep in mind the more fundamental issues as well.

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

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

PRIMARY AND SECONDARY QUESTIONS

(By James Reston)

The three great problems in the world today are how to bring population, military arms and machines under control. How to keep the fundamental issues in the front of our minds, this is what we'd like to know.

They are not there now. They are the most practical and elemental questions, fundamental to the future of the United States, facing economic and racial dilemmas of almost revolutionary magnitude; fundamental to the Soviet Union, facing China with nuclear weapons and almost a billion people; fundamental to Latin America and the Indian subcontinent, where the fertility of the human body is outrunning the fertility of the land; fundamental to the old nations of Europe, caught between the nuclear giants.

But these problems of population, weapons and machines, while common to most nations, remain abstractions. Everybody writes about them but governments don't act on them. All governments know in a vague way that they cannot find the jobs, houses, schools, teachers, etc., to deal with the spectacular increase in population and pollution. They know that the growth of science and technology makes possible a decent level of economic and educational life, but not if the national states go on spending over $200 billion a year on arms, and not if they allow their machines and industries to pollute the earth, the waters and the air.

Still, all the nations are trapped in their own narrow problems, divided by their conflicts with one another, preoccupied with local issues and personalities and conflicts. The things that unite them—the menace of uncontrolled population, weapons and machines—are overwhelmed by the immediate things that divide them: cutting the Ho Chi Minh trail, arguing about what comes first in the Middle East, principle or territory; fussing over what Britain should pay to get into the unification of Europe; how Nixon is doing, and Heath, and who's ahead in Moscow before next month's Communist Party Congress.

Looked at in the larger perspective of the well-being of the people and some kind of sensible order in the world over the next generation, most of today's front-page news about Nixon's strategy in Indochina or Ed Muskie's Presidential ambitions, or revenue sharing or cutting down the departments in Washington, or reorganizing welfare in the United States or getting a new wage-and-price policy in Britain seems almost trivial.

Without control of population, no amount of fiddling with the budget or the interest rates, or revenue sharing, or departmental reorganization in Washington is going to solve the problem of too many people and too little money.

Without control of military arms, neither Washington nor Moscow is going to have enough cash, even if they have enough imagination and goodwill, to deal with the social and economic problems of their societies.

Without control of their machines and their factories, the industrial societies are not going to produce a decent environment for their people, or deal with the human misery of the poor nations, which still make up more than half the human race.

It is hard to find a serious, thoughtful man in any major capital of the world who will challenge this thesis, or find one who knows how to resolve the dilemma. They are all caught in their local, regional or national political problems, and most of them admit that even if they solved all the problems at home they would still be baffled by the world-wide problems of controlling population, military arms and machines.

Still, there must be some way, if not to solve, at least to keep the great questions of the world before the people—the world of the future rather than the world of the past or the present. The immediate questions and personalities—Indochina, the Middle East, Nixon, Muskie, Thieu, Ky, President Sadat, Prime Minister Golda Meir, Heath, Pompidou, Brandt, Mao Tse-tung and all the rest—are important but not decisive in the larger issues of how to control population, arms and machines.

At least on the side, these issues have to take a larger part in the debate about the future. They are too serious to be left to national politics and national journalism. They have to be defined and dramatized on the scale of the world, and this was what the United Nations here in New York was supposed to do.

It cannot resolve the political conflicts of the nuclear powers in Southeast Asia or Berlin or the Middle East, but it still has the power to keep the decisive questions in the forefront of the world debate, and this it has failed to do.

Not because the people are not willing to listen. In every country today there is a thoughtful and influential remnant of the people who understand and sympathize with the problems of their political leaders but who feel that the major problems are beyond their control and want to get down to the larger realities.

Here the United Nations, now going into a new phase, may be able to help. It has failed as a mediator because it never really had a chance in the face of the big-power veto but it can still be an educator on the great questions of the future, and this is what is badly needed in the United States and all over the world.

MISSOURI A LEADER IN COMMUNITY BETTERMENT

Mr. SYMINGTON. Mr. President, in 1912 a renowned civic leader in St. Louis made the comment that if one member of a community would apply soap and water, paint and brush, and hammer and nails to any one piece of property, his neighbors would be inspired to do the same.

It was with this spirit that the late Allen B. Clark founded the National Clean Up Campaign Bureau, and it was not long before Missouri citizens and the Nation took Mr. Clark's philosophy to heart.

This week, the seventh National Clean-Up Conference is being held in Washington at which many hundreds of citizens are being honored for their efforts to better the towns and cities, large and small, in which they live. Seventy-two Missouri communities received recognition—the second largest number of entries in the Nation this year, and the highest number of entries last year.

A major contributor to Missouri's success in the national campaign is the Missouri community betterment program, under the direction of Everett Lee, Missouri Division of Commerce and Industrial Development.

Legislation for this program was passed in 1964 and since that time has had a dynamic effect throughout our State.

Aimed largely at property improvement, the program offers guidelines to coordinate efforts by all segments of community society for needed improvements in education, transportation, utilities, community services, and community planning.

The city of Fulton, Mo., is a typical example of participation in the community betterment program.

Tom Morton, a young student at Westminster College in Fulton, is chairman of the Fulton steering committee which submitted to the national conference reports on four community achievement projects.

Among them was a survey conducted to determine the number of occupational skills that were potentially available in Callaway County to further new or expanding industry in the surrounding area.

In the interest of beautification, various cleanup campaigns were held

throughout the year, including trash pickups and a "weed-up" campaign, in which many college students are active participants.

In addition, a sidewalk art bazaar was sponsored by the local art league, and an old-fashion ice cream social was organized in an effort to encourage wide community participation in all local activities.

The Missouri Community Betterment Program has demonstrated that broad involvement and dedicated leadership are key factors in determining the success of rural or urban development projects. Henry Maddox, director of the Missouri division of commerce and industrial development, estimates that at least 18 representatives of other States have come to study our program.

Such a fine contribution to the State—as well as to the Nation—indeed deserves individual recognition and praise. To that end I ask unanimous consent that the list of Missouri communities honored in Washington this week, the awards they are receiving, and their representatives be printed in the RECORD:

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

THE 72 MISSOURI WINNERS—1971 NATIONAL CLEAN UP CONTEST

CITY, AWARD, AND CHAIRMAN

District 1

St. Louis; trophy; Mr. Bernard Beauchamp, 115 N. Union, St. Louis, Missouri 63105.

District 3

St. Louis; trophy; Mr. Bernard Beauchamp, 115 N. Union, St. Louis, Missouri 63105.

District 4

Alma; distinguished achievement; Mr. Albert Schuette, Alma, Missouri 64001.

Blackburn; honorable mention; Mrs. Shirley Pemberton, Blackburn, Mo. 65321.

Bronaugh; distinguished achievement; Mrs. Earl Lee Shearburn, Bronaugh 64728.

Butler; distinguished achievement; Mr. Wayne Conaway, 2 West Mill Street, Butler, Missouri 64730.

Concordia; honorable mention; The Reverend Woodrow W. Kurth, Box 159, Concordia, Missouri 64020.

Corder; honorable mention; Mrs. Ruth Tracy, Box 187, Corder 64021.

Golden City; distinguished achievement; Mr. Lowell Pugh, Box 145, Golden City, Missouri 64748.

Harrisonville; honorable mention; Mr. John M. Foster, 702 Thunderbird, Harrisonville, Missouri 64701.

Lee's Summit; honorable mention; Mrs. Dougan Jones, 321 Ridgeview, Lee's Summit, Missouri 64063.

Lincoln; distinguished achievement; The Reverend R. Nothwehr, Box 274, Lincoln, Missouri 65338.

Lowry City; trophy; Mrs. Lucille Zahner, Lowry City 64763.

Montrose; honorable mention; Mr. Charles Tenholder, Montrose 64770.

Nevada; honorable mention; Mrs. Roy L. Hill, 503 West Cherry, Nevada, Missouri 64772.

Raymore; distinguished achievement; Mrs. Charlene Hubach, Box 83, Raymore, Missouri 64083.

Raytown; honorable mention; Mr. Wayne Brower, 7300 Raytown Road, Raytown, Missouri 64133.

Rich Hill; distinguished achievement; Mr. Cecil Heckadon, 520 Cedar, Rich Hill, Missouri 64779.

Slater; honorable mention; Mrs. Ruth Giger, Slater, Mo. 65349.

Sweet Springs; honorable mention; Mr. Carl Halter, Sweet Springs, Mo. 65351.

Urich; honorable mention; Mr. John Robinson, Urich, Mo. 64788.

Windsor; distinguished achievement; Mr. David Warner, Windsor, Mo. 65360.

District 5

Kansas City; honorable mention; Mr. E. Bertram Berkley, 920 Main Street, Kansas City, Missouri 64105

District 6

Albany; distinguished achievement; Mrs. Richard Barrett, 205 W. Clay, Albany, Missouri 64402.

Barnard; honorable mention; Mrs. Glen Baker, 205 McKenzie, Barnard, Missouri 64423.

Bethany; distinguished achievement; Mr. Terry R. Collins, 101 North 5th, Bethany, Missouri 64424.

Brunswick; distinguished achievement; Mr. Victor Dankert, 109 E. Broadway, Brunswick, Missouri 65236.

Dearborn; honorable mention; Mrs. Rebecca Jane Jackson, Dearborn 64439.

Fairfax; distinguish achievement; Mr. James Harbin, Fairfax, Mo. 64446.

Graham; honorable mention; Mr. Joe Vogel, Graham, Mo. 64455.

King City; honorable mention; Mrs. Laverne Thompson, King City 64463.

Maitland; distinguished achievement; Mr. Max Summers, Maple Avenue, Maitland, Mo. 64466.

Maryville; distinguished achievement; Mr. Bryan Alexander, 331 North Avenue, Maryville, Missouri 64468.

Mound City; distinguished achievement; Mrs. Esther R. Field, Box 140, Mound City, Missouri 64470.

Richmond; distinguished achievement; Mrs. Charles Armour, Richmond, Mo. 64085.

Salisbury; honorable mention; The Reverend Richard Clifford, Salisbury, Missouri 65281.

Stanberry; honorable mention; Mr. Wayman Roberts, Stanberry, Mo. 64489.

Sumner; distinguished achievement; Mrs. Roland Epperson, Sumner, Mo. 64681.

Tarkio; distinguished achievement; Mrs. Barnard Gorman, 1025 3rd St., Tarkio, Missouri 64491.

Trenton; honorable mention; Dr. Ted Lymer, O.D., 801 2nd St., Trenton, Missouri 64683.

Unionville; honorable mention; Mr. Paul Wickless, Unionville, Mo. 63565.

District 7

Carthage; distinguished achievement; Miss Rachael Thornton, 616 South Main, Carthage, Missouri 64836.

Jasper; honorable mention; Dr. Fred Krusekopf, Box 12, Jasper 64755.

District 8

Cabool; distinguished achievement; Mrs. Catherine Tindel, 1015 Durnell, Cabool, Missouri 65689.

Caledonia; honorable mention; Mrs. Muriel Akers, Caledonia, Mo. 63631.

Centralia; honorable mention; Mr. John W. Rolfe, Centralia, Mo. 65240.

Cuba; honorable mention; Mr. Carl Hunt, 1025 Smith, Cuba, Mo. 65452.

Dixon; honorable mention; Mr. Luther Riddle, Gasconade Electric Coop., Dixon, Missouri 65459.

Glasgow; distinguished achievement; Mr. Conrad Laune, Glasgow, Mo. 65254.

Summersville; honorable mention; Mrs. Bonnie Baskette, Summersville 65571.

District 9

Edina; distinguished achievement; Mr. Richard Cook, Edina, Mo. 63537.

Florissant; distinguished achievement; Mrs. Fred Gladbach, 12255 Rollingsford, Florissant, Missouri 63033.

Fulton; honorable mention; Mr. Tom Morton, % Westminster College, Fulton, Missouri 65265.

Hannibal; distinguished achievement; Mr. George Pace, Chamber of Commerce, Hannibal, Missouri 63401.

Huntsville; honorable mention; Mrs. Ruth Broaddus, Huntsville, Mo. 65259.

Mexico; distinguished achievement; Mr. Robert Ollis, 222 S. Jefferson, Mexico, Missouri 65265.

Monroe City; honorable mention; Mrs. Judy Plunkett, Hwy. 36 & 24 Monroe City, Missouri 63456.

O'Fallon; honorable mention; Mr. James A. Gierke, 719 Montbrook, O'Fallon, Missouri 63366.

Perry; distinguished achievement; Mr. Roy Fishback, Perry, Mo. 63462.

Vandalia; honorable mention; Reverend Paul Powell, 505 W. Missouri, Vandalia, Missouri 63382.

Warrenton; honorable mention; Mr. Larry Kingery, 1016 Frick Avenue, Warrenton, Missouri 63385.

Wellsville; distinguished achievement; Mrs. William S. McDowell, 519 E. Hudson, Wellsville, Missouri 63884.

District 10

Birch Tree; distinguished achievement; Mrs. Keith Bowden, Birch Tree, Mo. 65438.

Caruthersville; distinguished achievement; Mr. Charles Hemenway, 1908 W. Parkview, Caruthersville, Mo. 63830.

Charleston; distinguished achievement; Mr. Marion Waggener, 604 E. Marshall, Charleston, Mo. 63834.

East Prairie; distinguished achievement; Mrs. Carey Johnson, 307 S. Center, East Prairie, Mo. 63845.

Elvins; honorable mention; Mr. James Lange, Elvins, Mo. 63639.

Flat River; distinguished achievement; Mr. Frank Richardson, 900 W. Main, Flat River, Mo. 63601.

Fredericktown; honorable mention; The Reverend Stanley Hopper, Fredericktown, Mo. 63645.

Mountain View; trophy; Mr. Glenn Smith, Mountain View, Mo. 65548.

Perryville; distinguished achievement; Mrs. Viola Blechle, 423 Magnolia, Perryville, Mo. 63775.

Steele; honorable mention; Mrs. Robert Tennyson, 106 Gifford, Steele, Mo. 63877.

Viburnum; honorable mention; Mr. Charles A. Anderson, Box 64, Viburnum, Mo. 65566.

TRIBUTE TO ROGER M. KYES

Mr. GRIFFIN. Mr. President, recently Michigan lost one of its outstanding and most public spirited citizens in the death of Roger M. Kyes, who retired last September as a director and executive vice president of General Motors Corp.

I ask unanimous consent that an editorial tribute to Mr. Kyes published in the Pontiac Press of Feb. 17, 1971, be printed in the RECORD.

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

[From the Pontiac Press, Feb. 17, 1971]

ROGER M. KYES

With the death of Roger M. Kyes we have lost a man whose efforts and leadership had much to do with the economic upsurge, and therein the well-being of thousands of average citizens, in the Pontiac area. But service to his fellow man didn't stop there. It extended to the nation and the world.

The fact that his career ranged from farm editing to government, church and business leadership is symbolic of the many areas to which this man devoted his talents.

A Bloomfield Hills resident, Kyes retired last September from his positions as a director and executive vice president of General Motors Corporation. He had been with GM for 22 years, except for 15 months when he served as deputy secretary of defense under President Dwight D. Eisenhower.

It is no secret that General Motors Truck and Coach Division had been a weak sister in the GM complex before Kyes took over as general manager of the division in 1950. He immediately devoted his full energies to simplifying production and model line problems, thus streamlining the division's operating procedures. This set the stage for GMCTC to grow, under the guidance of his successors, to the economic powerhouse it is today.

He devoted the same energy to the Presbyterian Church, of which he became a ruling elder in 1954. Kyes was instrumental in the growth of Kirk in the Hills Church in Bloomfield Hills, where the congregation elected him honorary chairman of the board of trustees for life in recognition of his dedicated leadership. He was also a leader in the founding of Oakland University.

Kyes received many governmental honors, including the government's highest civilian award, the Medal of Freedom, presented him by President Eisenhower for "outstanding service in furthering the security of the United States."

His death will not only be mourned by his many business and industrial associates, but by the many young people whom he counseled and assisted in gaining a higher education.

Roger M. Kyes retired from one of industry's top jobs not to relax and enjoy the leisure of his favorite hobbies—hunting and raising dogs. He looked to new and more challenging careers. Recently he was named a general partner in Lazard-Freres and Company, one of the world's largest investment banking firms.

Unfortunately, death has cut short the boundless energy and devotion to which this area owes a giant debt of gratitude.

EARTH WEEK

Mr. NELSON. Mr. President, recently I invited all Senators to cosponsor Senate Joint Resolution 15 which would designate the third week of April as Earth Week. The response has been one of enthusiastic support—already, 55 Senators, Democrats, and Republicans alike, have joined as cosponsors, and I am hopeful that more will follow suit in the coming days.

Support from other quarters for Earth Week also continues to build very rapidly. Today, I met with members of the Committee on Natural Resources and Environmental Management of the National Governors Conference. This bipartisan committee of eight Governors has assured me of its strong support for the designation of Earth Week in every State and we are hopeful that within the near future, a majority of the Governors across the Nation will issue such Earth Week proclamations.

The national conservation organizations have also endorsed the Earth Week proposal and are now contacting their State and local affiliates for additional efforts at that level.

Our objective in working to establish Earth Week is a continuing education effort, an occasion each year for the country to focus special attention for a week on the environmental accomplishments of the past year and to plan for the future.

Today, I ask unanimous consent that at the next printing of the Earth Week resolution, Senate Joint Resolution 15, the following 27 Senators be added as cosponsors:

The Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from West Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Florida (Mr. GURNEY), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Oregon (Mr. HATFIELD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Iowa (Mr. MILLER), the Senator from Maine (Mr. MUSKIE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Rhode Island (Mr. PASTORE), the Senator from Delaware (Mr. ROTH), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. SPONG), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from California (Mr. TUNNEY).

The 28 Senators which were added as cosponsors of Senate Joint Resolution 15 last week are: the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from New Jersey (Mr. CASE), the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from New York (Mr. JAVITS), the Senator from North Carolina (Mr. JORDAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. PERCY), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alaska (Mr. STEVENS), the Senator from Illinois (Mr. STEVENSON), the Senator from Texas (Mr. TOWER), and the Senator from New Jersey (Mr. WILLIAMS).

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

Mr. NELSON. Two articles I have written recently further explain the purpose of Earth Week and I ask unanimous consent that they be printed in the RECORD at the end of these remarks. The articles were published in the Weekly Reader and in Highlights, a monthly youth magazine.

Also, I ask unanimous consent that Senate Joint Resolution 15, the Earth Week resolution in the Senate, and the text of the National Governors Conference Earth Week resolution be printed in the RECORD.

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

S.J. RES. 15

Joint resolution designating the third week of April of each year as "Earth Week"

Whereas three thousand colleges and universities, ten thousand high schools and grade schools, and two thousand communities participated in programs last April which culminated in Earth Day, and

Whereas this nonpartisan, constructive, educational effort involved and demonstrated the shared environmental concerns of a wide spectrum of Americans of all ages, interests, and political persuasions, and

Whereas the activities which culminated in the weeklong programs of Earth Day represented and promoted a much greater American awareness and understanding of the serious environmental problems facing the Nation, and

Whereas there is a need for continuing environmental education and for a continuing nationwide review and assessment of environmental progress and of further steps which must be taken, and

Whereas there is a need to encourage a continuing commitment by all interests, including education, agriculture, business, labor, government, civic and private organizations, and individuals, to join together in a cooperative effort to preserve the integrity and livability of our environment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third week of April of each year is designated as "Earth Week", a week to review and assess environmental progress and to determine what further steps must be taken, to continue the nationwide effort of education on environmental problems, and to renew the commitment of each American to restoring and protecting the quality of the environment.

KEEP UP THE FIGHT

(By Senator GAYLORD NELSON)

Several million elementary, high school, and college students across the nation have now expressed their concern about the rapidly deteriorating condition of the world in which they live. They did this when they became involved in the first annual Earth Day last spring. This was, perhaps, the most important environmental education event in history. In an unprecedented display of concern, some 3,500 colleges and universities, 10,000 high schools and elementary schools, and an additional 2,000 communities were involved. Symposia and debates with leading scientists and politicians were held to discuss how to restore and preserve the environment.

The impressive success of last April's Earth Day can be largely attributed to the efforts of students who worked to focus national attention on the issue.

The news media—TV, radio, magazines, and newspapers—also took up the cry. They began making the environment part of their major coverage.

At the White House and in Congress and at state and local levels, elected officials began taking note of the nation's environmental problems. New plans were drawn up to fight air and water pollution, deal with waste disposal, carefully plan future communities, and educate the public about pollution. The momentum of the new environmental movement and the national educational process that has been taking place must not be allowed to die. Teachers and students might well be the key to keeping the environmental issue alive and before the public. Earth Week must be established as an annual event so there will be a continuing educational process for the nation.

Last summer the nation's governors unanimously passed a resolution at the Governors Conference. The resolution recommended that each governor issue a proclamation naming the third week in April as "Earth Week."

Students and teachers should take this resolution and write to their governors asking that the proclamation be issued. Through such continuous involvement students can help to keep the environmental issue alive. Elected officials should be reminded that young people are still concerned about the environment they will someday inherit.

EARTH DAY—FIRST STEP TOWARD SAVING OUR ENVIRONMENT

(By GAYLORD NELSON)

America is finally awakening to an environmental crisis that has already spread around the world. Only now are we beginning to realize that nowhere in this country is there a breath of unpolluted air, and that nowhere is there a lake or a river unaffected by the waste products of our society.

The first Earth Day, held on April 22, 1970, was a dramatic recognition on the part of the American people that the crisis exists and that it is everybody's problem and everybody's business to do something about it.

The participation was overwhelming, with some 10,000 high schools and grade schools, some 3,000 colleges and universities, and several thousand communities involved in programs and clean-up efforts.

One of the most heartening experiences of Earth Day was the quick and enthusiastic response of the nation's young people. Across the country, students from elementary school to college level joined hands to express their concern about the future of the world's physical environment.

In classrooms from Maine to California, schoolchildren focused their attention on environmental pollution by setting up room displays, presenting skits and puppet shows, and even composing songs warning of environmental danger. Some walked to school to note their concern about pollution from motor vehicles, while others took a hard look at their littered world and set out to beautify some part of it.

For example, third-grade pupils from San Francisco's Francis Scott Key School turned beachcomber to pick up beer cans, bottles, and other debris from a stretch of ocean beach.

In Ripon, Wisconsin, local merchants offered to pay schoolchildren a penny apiece for each discarded can they could collect from the countryside. The merchants expected to pay $100, but the children brought in so many cans that the total outlay was $250.54.

In Topeka, Kansas, and San Diego, California, young people avoided using automobiles and buses (major pollution sources) to get to school. Instead, they showed up on bicycles, on horseback, on roller skates and skateboards.

The widespread involvement and initiative of young people in Earth Day was a very heartening sign. As the new generation, they will inherit the pollution of the present. They have every right to start being concerned and involved now.

The next question is how can young people, as well as adults, establish Earth Day on a year-round basis?

The answer is for everyone to become a better citizen of the environment in two ways—by working with other people to accomplish anti-pollution goals, and by doing what he can to make the world a more decent place.

Young people can continue Earth Day activities in their schools and communities by establishing programs with definite goals and by working to solve the problems of their local environment.

The first step in such a program is to make an environmental inventory of the community, asking the questions: What are the sources of pollution in the lakes and rivers? What is the nature of the pollutants? What is the source of pollution in the air? What is the status of the local parks? Find out what can be done about each problem.

On those projects you can do something about, prepare a plan of action. Organize local groups—such as Boy Scout and Girl Scout troops, school classes or religious organizations—to work together.

For example, once you have found a dirty hillside, river bank, beach or roadside, inform the landowner that your group would like to clean it up. Be sure to tell the local newspapers, radio and television stations what you are doing.

Ask the city refuse collection department how to recycle the types of waste you expect to collect. Ask if any of the materials—such as aluminum cans, steel containers, paper, scrap iron—can be recycled and separate it into piles.

Sponsor assemblies at your school on pollution problems, and present programs at churches and synagogues and for community organizations such as the Chamber of Commerce, the Kiwanis Club, and the Lions Club.

Finally, help your community by finding projects your group can carry out. Plant flowers or trees in park areas and make sure there are trash containers in public places.

Earth Day, which soon became Earth Week, was an important first step in bringing Americans of all ages together in the fight to save the environment. But Earth Week should be celebrated every year, and a resolution calling for Earth Week to be proclaimed in the third week of every April was introduced at the National Governor's Conference last August.

You can help by writing to your Governor and asking him to proclaim the week in your home state. Write your Congressman too, and tell him you support a nationwide Earth Week.

Remembering Earth Week every year would help us measure our progress. In looking back at last year's projects, it would tell us if we are making headway in dealing with environmental problems. In looking forward, it would help us plan new projects to meet the most critical challenge facing mankind.

RESOLUTION: THE ESTABLISHMENT OF AN ANNUAL "EARTH WEEK," ADOPTED BY THE NATIONAL GOVERNORS' CONFERENCE MEETING IN OSAGE BEACH, MISSOURI IN 1970

Whereas, there is an urgent need to promote a broader awareness and understanding of the environmental crisis facing each and every state in the United States; and

Whereas, there is a compelling need to encourage a continuing commitment by all interests including education, agriculture, business, labor, and civic and private organizations, to work to solve these fundamental environmental problems;

Now, therefore, be it resolved that we as Governors assist in focusing the nation's attention on environmental problems and their solutions by declaring the third week in April "Earth Week" in our respective states and seek the broadest participation in its activities.

FOOD (ADDITIVES) FOR THOUGHT

Mr. HUMPHREY. Mr. President, recent statements by some food industry officials that it is none of the Government's business what chemicals they inject in their products is an example of the worst possible public-be-damned attitude.

This is more evidence, as if we needed it, of the need for tighter restrictions on the use of chemicals and other additives in the food supply.

I look forward to hearings by the Subcommittee on Executive Reorganization and Government Research, of which I am a member, on the question of Chemicals and the Future of Man. I share the concern of the chairman, the Senator from Connecticut (Mr. RIBICOFF), for "the adequacy of food additive regulations and health safeguards for the American people."

The Food and Drug Administration, which is responsible for overseeing the safety, quality and economic value of the American food supply, is all too often slow, lax, and reluctant in protection of the consumer.

Time and again the FDA has shown that it is more concerned with the welfare of the food industry than the American public which consumes the industry "chemical feast."

The Food and Drug Law Institute was quoted in a United Press International dispatch by William B. Mead as calling a myth the public impression that the FDA's list of safe food substances includes all the chemicals added to the American food supply.

Mr. Mead further reports that Fritzsche Dodge & Olcott, a New York manufacturer of food chemicals and flavorings, told the FDA:

> It should be clear that industry has the right to make its own decisions on the status of any substance whether or not the FDA has listed it, and that it is under no obligation to request the FDA to express an opinion on unlisted materials.

Similar comments, he added, were made by the National Canners Association, the Grocery Manufacturers of America, the Manufacturing Chemists Association, the Flavor & Extract Manufacturers Association, Procter & Gamble Co., R. T. French, and other leading food firms and associations.

In the face of these statements, an FDA spokesman had the audacity to apologize for the industry and tell the American public the situation is not as bad as the companies admit.

Alan T. Spiher, Jr., manager of FDA's additives review project, told UPI that the food companies in practice do advise the FDA of new additives, and he added:

> I don't have any reason to think there might be very many, if any, additives they've put in without telling us.

Mr. President, if we think the FDA is protecting the food supply and is keeping the food we eat pure and wholesome, then we should listen to what former FDA Commissioner Dr. Herbert Ley, Jr., has to say:

What the FDA is doing and what the public thinks it's doing are as different as night and day.

For a deeper look at this agency, I commend to the attention of Senators a series of articles entitled "FDA—An Agency Under Fire,"—written by Douglas Bloomfield, consumer reporter for the Cleveland Plain Dealer.

I ask unanimous consent that Mr. Bloomfield's articles be printed in the RECORD.

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

CRITICS, PROBLEMS STALK FDA

(By Douglas Bloomfield)

The U.S. Food and Drug Administration is an agency under fire—from inside as well as outside.

It is the part of our federal government charged with protecting the safety, quality and economic value of our food supply.

A growing chorus of critics is questioning whether the agency is doing its job properly. Even President Nixon has voiced concern, calling for "a thorough re-examination of the FDA and especially the safety of food additives.

Other critics include members of Congress, individuals and groups involved in the consumer movement, scientists, technical journals, the news media and past and present officials of the agency itself.

Perhaps the most vocal of all critics are consumer advocate Ralph Nader and a group of his so-called raiders who made a two-year study of the FDA.

These are some of the problems and failings of FDA that critics point to and that will be explored in this and subsequent articles:

Like so many regulatory agencies, the FDA has been accused of being a captive of the industries it is supposed to regulate.

It has set tolerances for filth in food when the law says there shall be no filth.

If it's nutritional information you want on food labels, you are better off buying pet food.

Dangers of the artificial sweetener cyclamate were suppressed for 20 years. When the additive was finally banned, the government bowed to industry pressure and opened loopholes.

FDA inspectors check only 3% of the food industry for cleanliness.

Shipments of foods by manufacturers have multiplied 15 times in the past decade, but FDA funds for plant inspections and testing have gone up only 1%. In fact, the money FDA plans to spend on food protection all of this year would barely pay for half a day's fighting in the Vietnam war.

An FDA official who accused the agency of betraying the American consumer in the interest of serving the politically potent food industry was ostracized by his colleagues and demoted by his superiors.

The Food and Drug Administration, which is under the Public Health Service in the Department of Health, Education and Welfare, has asked Congress for $89.5 million for the current fiscal year.

All the money Congress has appropriated for the past 10 years to operate this consumer agency would not be enough to buy one new aircraft carrier for the Navy.

Funds for the traditional food activities—plant inspection, sample testing and analyses—have increased less than 1% in the last decade.

Compared to this, manufacturers' shipments of food have multiplied 15 times and consumer spending has grown 43 times in the same period, according to Commissioner Edwards.

"It is abundantly clear that FDA resources have not kept pace with FDA responsibilities," he stated.

FDA's "single over-all objective," according to its budget justification to Congress, is "consumer protection."

FDA does not have the power to subpoena witnesses or compel firms to disclose records. Every year, hundreds of firms refuse to allow FDA to conduct inspections, refuse to furnish quality or quantity formulas or to permit the review of health and safety records. Yet FDA is supposed to be policing these firms.

"In place of a sustained action to advance health by helping to improve the American diet, the FDA substitutes a naive faith that the way our food is produced, preserved and distributed is exceptionally fine," the Turner report says.

"It maintains this faith in the face of increasing scientific evidence that chemical additives can be extremely dangerous, that the vitamin content of the American diet is deteriorating, that saturated fat in food is probably a contributing factor in more than 70% of all American deaths and that American food is getting filthier."

The law requiring that food additives be safe was ignored and their use allowed on the basis of often insubstantial industry evidence while the agency either ignored or muzzled its own scientists who challenged the safety of the additives, according to the report.

The muzzling charge also was made by a top FDA scientist and confirmed by an in-house agency investigation.

The Nader investigators found at FDA a "shocking disarray and apalling failure of responsibility" and "altered documents, misrepresented facts and suppressed studies." Their probe "ended in the conviction that most agency efforts were a failure."

They reported that the FDA fails to block harmful additives and pesticide residues from getting into foods, permits processors to avoid listing possibly harmful ingredients, does not devote enough time to policing sanitation and is trapped into doing the food industry's bidding.

"While the food industry has amassed its power and ignored its critics, the Food and Drug Administration has made no attempt to restrict it," the report said.

Investigators said FDA has abused its authority for establishment of food standards, which permit food processors to avoid listing an ingredient on the label as long as it is deemed "standard."

Caffeine, which doctors often advise heart patients to avoid, has crept undisclosed into cola soft drinks, and monosodium glutamate, which has caused brain damage to rats in experiments, is put undisclosed into some salad dressings under the standards.

These are two of the more than 250 ingredients added to several hundred different foods as standard components.

The 64-year-old agency, the investigators concluded, is in "the final stages of bureaucratic paralysis" and as treatment, recommended consumer involvement in FDA's decision-making process and strengthening the laws it enforces.

Additional powers advocated by the Nader group include more potent authority to inspect all food-production processes, to subpoena the records it needs, to require quality grading of food products and the right to remove from the market all additives that have been linked to birth defects or genetic damage and not only to cancer.

Dr. Howard L. Richardson, former pathologist in the agency's Bureau of Science, has accused FDA officials of manipulating laboratory results for years to avoid weakening or contradicting established government policies of food additives and pesticide safety.

Another scientist hired by FDA to investigate the charges said his findings support Dr. Richardson, who is still with FDA. The charges were contained in a memorandum that became public.

Middle-level bureaucrats with limited scientific training, according to Dr. Richardson, have rewritten or dropped conclusions and recommendations from reports on animal experiments because they cast doubt on FDA policies.

The findings might have caused FDA policymakers to reconsider "safe" labels for certain food additives and coloring agents and to re-estimate permissible pesticide levels for food, he said.

Findings on the dangers of cyclamates, the artifical sweetener, were suppressed nearly 20 years, he added.

The government did not restrict the use of cyclamates until late last year, when outside experiments linked the chemicals to cancer, birth defects and genetic damage in lab animals.

Dr. Richardson said other chemicals for which negative findings were suppressed include monosodium glutamate, a widely used food coloring called Red 4 and the insecticide heptachlor.

Although he dismissed Richardson's allegations as "a difference in interpretation of data," Commissioner Edwards was prompted by findings in support of those charges to initiate a new reporting procedure at FDA this spring. It enables agency lab scientists to take "extremely important information" directly to policymakers outside the disputed bureaucratic channels.

Dr. Richardson's disclosures prompted U.S. Rep. James J. Delaney, D–N.Y., author of the 1958 law that forbids use of food additives that cause cancer in test animals or humans, to call for "an immediate crash program to re-evaluate the safety of all chemical additives in the nation's food supply" and "a complete overhaul" of the FDA by its parent department, HEW.

Dr. Richardson's charges have caused widespread recriminations and intrigues within the agency, according to insiders.

"People have been dashing around here like lousy espionage agents in a second-rate movie since the Richardson thing hit the papers," said one FDA official.

As for Dr. Richardson himself, Commissioner Edwards quietly demoted him from chief pathologist (a position he held since 1968) to acting No. 2 man in a reorganized pathology division. The new acting head of that division is a physician but not a pathologist.

The consumer is the victim, not the beneficiary, of FDA's heavy reliance on industry self-regulation.

The FDA spends twice as much money to regulate the $15 billion drug and cosmetic industries as it devotes to keeping track of the food industry, which is more than eight times larger.

When a group of consumer activists issued a report critical of the agency after an intensive two-year study, the commissioner dismissed it as little more than a nuisance.

The agency has a record of devoting a disproportionate amount of its energies to the smaller, minor offenders while virtually ignoring the powerful big ones.

FDA suffers from "bureaucratic paralysis" at the top, with the commissioner becoming a captive of entrenched underlings who rigidly resist change.

Those in charge admit much of the criticism may be valid and say they are working hard to reform the FDA. As evidence they produce a proliferation of speeches and organizational charts with changing lines and boxes. But the critics reply that this is only lip service and they see little or no evidence of improvement.

FDA Commissioner Charles C. Edwards at times seems to resent criticism, labeling it harassment.

"Our major problem at the moment is to get the Ralph Naders, our congressional critics and even some of the internal 'experts' within the government structure to leave us alone so that we can settle down to the task of implementing some of the reforms which are essential," he said in a recent speech.

FDA's role as protector of the nation's food supply was emphasized with this spring's warning that some 80,000 frozen pizzas contained mushrooms believed contaminated with deadly botulism.

How FDA handles this responsibility was demonstrated in the incident: the public was warned of the danger but only because the usual quiet intra-industry recall method could not do the job quickly enough.

Critics point to this incident as proof the FDA is more concerned with the welfare of the food industry than of the consumer.

It was the only public warning all year, although dozens of other food products have been recalled, including some containing dangerous bacteria.

Foods, drugs and cosmetics are constantly being recalled by their producers and distributors, but consumers—the American public—rarely hear about it although they are the ones most directly affected.

The industry notifies its jobbers and retail outlets to withdraw the bad merchandise, but the consumer who has purchased the product and is using it is not warned.

The industry argues that would be too difficult, and, besides, that is the government's job.

The FDA quietly publishes a weekly list of recalls, including about a half-dozen food items, and that's about the only alert consumers are given.

The FDA has boasted that "Today's scientific knowledge, working through good laws to protect consumers, assures the safety and wholesomeness of every component of the American food supply."

This is partially true—most of foods, health supplies and cosmetics sold to the public are safe and wholesome.

But the agency itself acknowledges that about 10 million Americans get some form of food poisoning every year.

And FDA is cutting its program of inspection and sample analyses for control of bacterial contamination and general sanitation problems this year and next year to one-third of the 1969 level, according to its budget request to Congress.

"This schedule permits surveillance of santation problems in only about 3% of the industry," admits the FDA in the request.

This small fraction represents about 7,300 firms "known to be highly susceptible to microbiological contamination," it adds. The other 97%, under the agency's self-regulation policy, are not bothered.

FDA inspections virtually halted between April and July of this year when the $17.4-million food surveillance budget was used up three months before the end of the fiscal year, according to a confidential agency report.

Serious contamination problems in the food industry were cited in the document, including finding of a mouse in a loaf of bread, a cockroach in a cake and a frozen rodent in a 30-pound can of strawberries.

Two of FDA's 17 districts reported that a third of all food firms inspected in the first three months of this year violated federal sanitation requirements.

The agency estimates one out of every five food plants in the country is in violation of federal standards.

The report concedes that the agency's inspections are limited and "consumer complaints continue to provide the basis for many district actions."

Commissioner Edwards says federal food inspection lags 10 years behind comparable policing of drug manufacturers.

An investigation of the FDA sponsored by Nader concluded the federal agency has drastically failed to protect the American public from dangerous foods.

Behind this failure is the fact the FDA has become a servant of the $125-billion-a-year food industry, says the report by Nader's Raiders entitled "The Chemical Feast." The author is James S. Turner, a 1969 graduate of Ohio State University law school.

The agency was accused of compromising its responsibility to the public through misguided reliance on industry self-regulation.

"There is still a widespread impression that the government is watching out for the consumer ever since the pure food law was passed early in the century," says Nader. "The fact is that FDA neither has the resources, the regulatory dedication nor adequate authority to keep up with the proliferating abuses in the food industry."

The FDA says it "encourages voluntary compliance" with its rules and regulations and checks up only with "periodic inspections and sample examinations" because the agency's resources are so limited and the food industry so big as to "make it impossible to maintain direct surveillance."

FDA Puts Its Stamp of Approval on "A Little" Filth in Foodstuffs

(By Douglas Bloomfield)

A little bit of rat dung, a few insect parts or some animal hairs in your food won't hurt you. At least that's what the U.S. Food and Drug Administration says.

Neither will other excreta, mold, rodent hairs, insects, worms, stones, dirt, wire, string and several more items the agency refers to as "extraneous matter."

These things may be esthetically unpleasant but they are "generally" harmless to eat, says a top official of the agency which is charged by law with protecting the purity and safety of the nation's food supply.

"We would not allow any tolerance that would be harmful to health," assured Thomas W. Brown, director of the office of compliance in FDA's bureau of foods.

The law, however, does allow setting of tolerances for "poisonous or deleterious" ingredients in food where required in production or unavoidable "by good manufacturing practice." Sec. 406 specifically mentions pesticides, additives and new animal drugs as examples of such ingredients.

But the Federal Food Drug and Cosmetic Act clearly prohibits "adulterated" or "filthy" food.

Sec. 402 says: "A food shall be deemed to be adulterated . . . if it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for food."

There is a loophole in the law that the agency uses to duck strict enforcement—Sec. 306.

It says "minor violations" do not have to be prosecuted whenever the secretary of health, education and welfare "believes that the public interest will be adequately served by a suitable written notice or warning."

Brown compared Sec. 306 to the kind of discretion a traffic policeman uses when he decides not to arrest a motorist going 36 miles an hour in a 35 m.p.h. zone.

Although neither this provision nor any other section of the FDA law specifically permits establishment of tolerances for filth in food, Brown cited the section as authority for doing just that.

"The law does not allow any filth," Brown acknowledged. "But if we took action against everything with filth in it we wouldn't have (anything) on the market."

According to the latest annual report of FDA's parent department, Health, Education, and Welfare:

"The (FDA) inspector is concerned more with disease-producing bacterial contaminant in food than with large particles of filth, such as insect fragments, which do not necessarily produce disease."

Legal prohibitions aside, the FDA has established secret administrative guidelines setting tolerance levels for filth in the food supply.

These guidelines are supposedly concealed from the industry as well as the public. But in at least one case—spices—the guidelines were drawn up with industry assistance, distributed throughout the industry and self-enforced by the industry.

FDA sources admit many other supposedly secret tolerances are well known by industry.

"We tell industry to make the product as clean as they possibly can, and then we sometimes go in and tell them they can do better," Brown said.

"We cannot eradicate all field insects. They get inside a product and you can't get them out. You can spray the hell out of them, but that can be worse than a few insect fragments. They're not going to hurt you, but the pesticide might.

"We're talking about the esthetic value. Generally, people don't want to consume food with insect parts. Those types of insects will not hurt you—weevils, ants—at least not to my knowledge," Brown said.

It is possible to eliminate many more of the insects and rodents in the fields, shipping modes and warehouses—but at the cost of increased use of pesticides and rodenticides, said another FDA source.

And if everything were thoroughly checked and all extraneous matter ordered removed, the process, according to Brown, would be so time consuming, costly and hard, that there would be vast shortages if not total absence of many spices and other food items.

"You run into the question of a risk-benefit ratio," said an agency official. "In other words—and this is the big thing in drugs—do the benefits this product offers sufficiently outweigh the possible dangers to make the risk worth taking?"

FDA's tolerances are not always based on health requirements so much as on the reliability of testing methods.

The agency recently declared that a presence of 0.5 parts per million of mercury in fish was "safe."

That limit was set because "that's the best we can do at this time," said food compliance chief Brown. That is the lowest possible level of mercury contamination FDA lab people can identify and prove in court.

But it is not the lowest limit it feels should be set for safety. Brown said that as testing improves, the agency wants to lower the tolerance.

Rodent feces in wheat are a common problem, said Brown, because they are so hard to distinguish from the kernels of the grain itself.

So the FDA sets a tolerance of "one rodent excretum pellet per pint," he said.

Although guidelines have been set up most if not all elements of the food supply, Brown emphatically states there is "zero tolerance" for disease causing bacteria.

Because guidelines tend to be informal and unpublished, there is nothing to prohibit FDA from taking action against a product that may actually be within the area of tolerance, sources said.

Some tolerances, such as mercury content in fish, are published legal levels. FDA will not act against products within the "safe" area.

Contamination is a common problem in products grown abroad and those stored for long periods of time before, during and after shipment.

In 1969, FDA analyzed 7,672 food import samples, according to a report to Congress. It plans only 6,400 this year and 7,000 in 1971.

About 90% of the natural spices used in this country are imported. Health standards in many of the spice-growing nations are much lower than U.S. standards.

FDA still has jurisdiction over imported products after they are admitted to this country, and inspects the domestic manufacturing plants using imported ingredients and finished products, Brown pointed out.

But there is almost no conceivable method of testing a final product for insect or rodent contamination, he admitted, because the extraneous material is so thoroughly blended during processing.

High temperatures often used in the manufacturing process of many foods effectively stop any possible harmful effect of the extraneous matter, he added.

But rodent feces, insect fragments and the like may carry diseases.

No one has ever studied the problem enough to know the effect of rodent feces in foods, according to Dr. Sidney Wolfe, a former Cleveland physician active in the consumer movement.

Feces will contain anything the rat may have been carrying, which could include microbes harmful to humans. High temperatures used in processing and cooking the foods may eliminate much of the possible danger, he added.

But even if all these extraneous items are not hazards to health, most consumers expect their food to be free of all such foreign matter.

The word "filthy" in FDA law has been held by courts to include insect, worm and rodent parts and excreta. The law does not require that adulterated food be injurious to health to be filthy.

Courts also have held that the presence of a minimal amount of filth is not always sufficient grounds to condemn a product.

"It may or may not be possible even under the best conditions, to rid certain spices of all extraneous matter," says Consumers Union, the non-profit testing organization whose labs frequently detect filth in food randomly purchased from grocery store shelves.

"A filth tolerance for spices or any other food, however, should be established only after consultation with consumer representatives and public disclosure of the proposed tolerance," says CU.

"If consumers must eat filth, they should at least have a say in determining how much."

NADER BARES FDA BUREAUCRATIC ATROCITIES

(By Douglas Bloomfield)

The investigation of the U.S. Food and Drug Administration by followers of consumer advocate Ralph Nader uncovered "prostitution of science, the destruction of law and political intervention" resulting from a "shocking . . . series of bureaucratic atrocities," according to the report they filed.

Results of the two-year study by science, engineering, medical and law students and recent graduates was made public this spring and will be published later this month under the title "The Chemical Feast."

Second of a Series

The author is James C. Turner, a 1969 Ohio State University law school graduate.

Some of the "atrocities" in the report include:

Scientific tests indicating potential dangers of certain food additives and pesticides that were "routinely distored or dismissed."

Reports that were "distorted, altered, misrepresented and ignored, allowing serious potential health hazards to go unreported or uncorrected for undefensible periods of time."

A great many chemical additives that have been approved by the FDA for the food supply although they have not been proven safe.

The food standard provision of the pure food law that "has been turned into a tool for the suppression of consumer information, allowing dozens of ingredients unknown to consumers to be used in food."

Political intervention from the Health, Education and Welfare Department secertary's office has distorted the law.

FDA is the government regulatory agency most directly responsible for maintaining the safety, quality and economic value of the American food supply.

The agency uses about one third of its $72-million budget for regulating the $125-billion food industry, while the other two-thirds is used to regulate the less-than-$15-billion industry of drugs, cosmetics and hazardous substances which fall under its authority.

"The imbalance of resources between the food industry on the one hand and the FDA on the other has made the agency nearly dependent on the scientific competence and regulatory cooperation of the food industry," says the Nader-Turner report.

It warns "such dependence should not be confused with regulation. The food industry has been allowed to escape or undermine the effectiveness of the food protection laws."

The industry blocks FDA inspections by using the argument that so many agents leave the FDA to go into the food business that they should not be allowed to see potential competitors' files—even if seeing them would improve public health," states the Nader report.

"The erosion of authority and meagerness of money in the food regulation field make public reliance on the FDA a delusion and a sham."

Former FDA Commissioner Herbert Ley Jr. has said, "People think the FDA is protecting them—it isn't. What the FDA is doing and what the public thinks it is doing are as different as night and day."

The present commissioner, Dr. Charles E. Edwards, like his predecessor, Dr. Ley, came to the job "with an admirable determination to whip the agency into shape" but soon relented to internal pressures, says the Nader-Turner report. They quickly became defensive and protective, and considered all criticism of the agency a personal affront, according to the report.

"Each man had lost the ability to distinguish his own personality from that of the agency," it adds. "The same mistakes, made by the same people, appear to be the future of this crippled regulatory agency."

Loss of authority and lack of funds are problems, says the report, but "the real heart of the failure is the agency's misdirected leadership."

There has been "a marked deterioration in the quality of food consumed by Americans, particularly since 1960." During that period, the life expectancy in the United States has stayed the same, while men in 36 other nations' and women in 21 countries now can expect to outlive Americans of the same age.

Recommendations made in the Nader-Turner report include:

Scientific independence from industry in lab testing.

Regulatory independence from HEW and strengthening of the law which bans cancer-causing chemicals in foods to include those causing other diseases, birth defects and genetic damage in test animals.

Strong demonstration of concern for the consumer through appointment of a special assistant to the commissioner for consumer affairs and by naming a consumer council.

Regain confidence of its own scientists through stronger ties with the scientific community and allowing agency scientists a more direct part in decision-making.

Enforce the law strongly rather than rely on voluntary compliance by industry.

The FDA, the report states, is a "mediocre plodding agency" and will stay that way "until it admits that the food supply faces very serious problems."

"The FDA relies on industry science, believes in industry honesty and does not consult consumers in making its decisions . . . The FDA has become a defender of industry power rather than a counterbalance to it."

It calls on the FDA to "seek a vigorous and responsible expansion of its authority." This includes:

Labeling of all chemical additives in food.

A dictionary of food additives so consumers can be meaningfully informed of what they are eating.

Labeling of all foods by grade so consumers know when they are paying for quality and when they are paying for advertising.

Listing on the label the percentage of the most valuable constituent in the food.

Authority to conduct much more thorough and vigorous inspections of food-producing facilities.

"Thousands of decisions are made quietly, confidentially and without any direct supervised reference to consumer interests," says the report. The FDA has made the public interest "a token to be bargained in negotiations rather than a standard to be protected against all violators."

The FDA, declares the report, "is charged with the enforcement of the most potent set of laws designed to control the input of chemical pollutants into the environment. It regulates drugs, cosmetics, pesticides and food additives. Any effort to clean the dangerous chemicals out of the environment must focus in great part on cleaning up the FDA . . .

"If the nation is going to be provided with the safest, highest quality, least expensive food supply possible, all the public interest activities necessary in every other area of consumer protection will have to be developed in the food area."

EDWARDS SAYS FDA HAS BEEN UPGRADED

(By Douglas Bloomfield)

Dr. Charles C. Edwards, commissioner of the U.S. Food and Drug Administration, says he was "well aware" of many of his agency's problems revealed in "The Chemical Feast" and began making corrections before the report came out.

"The Chemical Feast" is the report on findings of a two-year investigation of the FDA by science, engineering, medical and law students and recent graduates. It was sponsored by Ralph Nader and written by James C. Turner, a 1969 law school graduate of Ohio State University.

"We are well aware of certain problems Mr. Nader points out," said Dr. Edwards. "However, I believe the changes that have taken place within FDA over the past few months have been responsive to the need for improving and upgrading the ability of the FDA to function in the best interests of all consumers."

He, his predecessor and other FDA officials knew of the Nader investigation and many aided it. In fact, Turner acknowledges the report "would have been much more difficult to write without the cooperation of many officials, both past and present, of the FDA."

Some of the changes Edwards talks about, in the opinion of people in and out of the agency, were in anticipation of the Nader report.

"I would emphasize," Edwards said in response to the report, "that we welcome constructive criticism and assistance from interested segments both private and public who share with us the goals of safety and health."

But a few weeks later he said the agency's major problem is to "get the Ralph Naders" and other critics "to leave us alone."

One FDA official who did not want to be identified told The Plain Dealer, "It's a good report. There's a lot of good that can come

out of it. Vast portions of it are well taken. I hope we have people going through it word by word to get everything out of it."

But, he added, "Ralph Nader didn't discover the—wheel. He's got no corner on conscience. A lot of people around here have been saying the same thing for a hell of a long time. Nader has isolated and made public problems that have been isolated before but not made public, at least not so effectively. He gave it the attention it needed."

Turner said FDA officials and scientists welcomed the report and "feel the pressure from us is helping them, but they won't officially admit it."

He continues to visit the agency regularly. "People stop me in the halls and say, 'Keep it up,'" Turner added.

Dr. Edwards said that when he took office last December he "found the agency with strong scientific competence, but this competence was poorly marshalled. There existed a clear imbalance between scientific and regulatory responsibilities.

"The decision-making environment was disorderly. Professional talent was stifled, poorly directed and unmotivated. Planning was shockingly myopic."

To correct the problems he found, the new commissioner put new people in key positions and ordered another of the agency's continuing series of reorganizations.

"Political and economic influences" have hindered FDA operations in the past, according to Dr. Edwards.

But, he added, "the agency cannot function as a policy arm within any administration."

FDA's mission, he added, is to carry out the laws "on behalf of the American consumer.

"We must continually bear in mind that we are a consumer protection agency, and our primary relationship is with the consumer.

"All of our decisions must be made in his interest after having considered all of the available scientific evidence," Dr. Edwards continued. "A decision which is influenced by special interests at the expense of the public interest is indefensible by ourselves, by the public and even by the special interest."

In testimony before Congress, Dr. Edwards set seven goals for his agency in the area of food:

Review by next June at least half of the chemical food additives now generally recognized as safe.

Strengthen efforts to evaluate the cancer—and mutation causing properties of food additives.

Establish a more comprehensive food surveillance and inspection program.

Improve scientific concern for and capacity to evaluate food safety.

Introduce the concept of nutritional quality in a specific manner in the food supply.

Take concrete steps to assure truth in marketing food to the consumer.

Increase FDA's resources "to assure our programs provide effective and efficient consumer protection."

The job cannot be done at the federal level alone, said Dr. Edwards, adding that state and local governments must significantly increase their activities in the area and enact better consumer protection laws. He promised them FDA assistance.

Turner said Nader and his Center for the Study of Responsive Law intend to keep attention focused on FDA and are not stopping with publication of their report.

"They're going to need a lot more pressure," said Turner. He said the center is contemplating bringing law suits to accomplish some of the reforms called for in "The Chemical Feast" and the objectives set by Dr. Edwards.

Industry Helped Write "Secret" Rules on Filth

(By Douglas Bloomfield)

Government tolerances of filth in the food supply are a secret from the American public and supposedly from the food industry as well, but at least one segment of the business—the spice trade—helped write the book.

Although federal law strictly forbids any filth in food, the U.S. Food and Drug Administration contends it is impossible to keep it all out. As a result the agency has established guidelines for amounts of extraneous material it will tolerate before taking any action.

These are guidelines for most, if not all, elements of the food supply.

In the case of spices, seeds and herbs, FDA and the American Spice Trade Association, (ASTA) collaborated to compile filth tolerances. As part of the FDA's controversial reliance on industry self regulation, copies of the guidelines were distributed to ASTA members and individual importers.

Although these guidelines are supposed to be kept secret from the American public, The Plain Dealer has obtained a copy.

They went into effect a year ago and ostensibly cover spices, seeds and herbs imported through FDA's busy New York District—which means about two-thirds of all spices brought into this country. Some 90% of all natural spices used in the United States are imported.

The public was not informed of this arrangement setting filth tolerances to be self-enforced by the industry.

FDA's reliance on self-regulation was harshly criticized as ineffective by its critics in the consumer movement, including a team of investigators working under Ralph Nader.

Although the guidelines officially apply only to the New York District, they are believed widely circulated throughout the country and the industry and used unofficially in FDA's other districts. Thus the importers know what they can get away with before the FDA inspectors will order their products cleaned up or barred from the country.

When an agency spokesman was asked why the guidelines were not made public, he said that by doing that "we'd automatically reveal them to industry, and we don't want industry to know the exact levels we tolerate."

Another FDA source said, "If the industry finds out what the administrative guideline is—that is, our maximum allowable level—it will become industry's minimum level."

It is not known to what extent the administrative guidelines for all other items are familiar to those particular segments of the industry to which they apply.

Weens L. Clevenger, director of FDA's New York District, told an ASTA convention, "Contaminants must be kept to an absolute, irreducible minimum." He did not say they must be totally absent.

FDA, he added, asked ASTA to prepare a "statement of the levels of the most prevalent contaminants of the spices arriving here in the largest volumes which would meet the intent of Congress."

The intent of Congress, as expressed in the Food, Drug and Cosmetic Act, is to prevent "the introduction or delivery for introduction into interstate commerce of any food, drug, device or cosmetic that is adulterated or misbranded."

Nothing in the law says adulterated or filth-containing food is acceptable.

Clevenger praised the industry's "Herculean effort" in drafting the filth-tolerance guidelines.

The guidelines set by FDA and the spice trade are for excreta, mold, rodent hairs, insects, insect fragments and bored seeds. They are dated June 23, 1969, and still in effect, according to FDA compliance director Thomas W. Brown. Paprika is not included because the two parties could not agree on it.

"Initial examinations at entry are to be made by the unaided eye," say the guidelines. "A microscope or hand lens may be used for confirmation when necessary."

The number of samples to be checked by ASTA inspectors in a shipment "must be equal to the square root of the number of packages, bags or containers in the lot, with a maximum of 15 samples drawn."

FDA makes spot checks of spice imports because "we don't just leave it up to them (ASTA)," said Thomas W. Brown compliance director in the agency's bureau of foods.

These checks are visual, and only rarely are samples actually tested.

Brown said the arrangement with the spice trade is "working out very well, according to reports we get."

These are the tolerances set for filth in spices:

Excreta—Two rodent pellets in two samples is tolerable. Up to 50 milligrams of other excreta (or an average of 10 mg. per pound) in two of the total number of samples also is acceptable.

Insects—They must be dead. That can include the whole adult insect, a pupa, a larva or a major portion of an insect. A maximum of four insects in all the samples is permissible.

Mite and psocids (a winged insect)—Nothing is said about whether they must be dead or alive. Fewer than 50 of these insects seen by the unaided eye means the lot does not have to be fumigated, sifted or blown.

Bored seeds and roots—Up to 5% of the total weight of seeds and roots may be insect bored or otherwise insect defiled and the lot will be accepted.

Mold—Up to 5% of the total weight may be moldy.

"While commencement of the program was not officially announced, the industry was aware that a great portion of spice imports in April and early May 1968 were being permitted to enter domestic trade without inspection," according to the private FDA memo on the agreement with the spice trade.

"The importers of record did have a responsibility in seeing, when necessary, that the merchandise was properly cleaned or reconditioned," it added.

In May 1968, 51 FDA inspections covered 30 lots of adulterated spices which were not reconditioned and had been passed under the self-regulation program. These were seized. Another 67 lots entering the country that month also were found to be adulterated and ordered reconditioned.

DA inspectors check food imports at all U.S. border points, including Cleveland. Hundreds of items of all kinds are detained every month.

On the average, only about 5% of the imports to the United States are inspected by the FDA, according to John Blue, supervisory inspector of the Cleveland resident post. Inspections are made on the scene or samples are sent to labs for study.

FDA detention may be challenged by the manufacturer or shipper, in which case the agency will hold a hearing on the matter.

If the order is not contested, the product may be refused entry to this country. The manufacturer or shipper then has the option of taking it back or having the shipment destroyed. A third alternative allows him to post a bond and take the product out of detention to have it reconditioned to meet import standards.

Blue said Cleveland office inspectors are checking all cheese imports here for pesticide residue. Other food imports, such as olives and oranges, may be checked at random or possibly not at all.

Samples taken here are sent to the agency's office in Cincinnati for analysis.

Imported products are processed for domestic sale and may be inspected in the agency's regular domestic program of checking manufacturing plants and random sampling of products. No foreign plants are inspected by U.S. authorities, according to FDA.

BITTERNESS LINGERS ON CYCLAMATE RETREAT

(By Douglas Bloomfield)

Repercussions continue to be felt in the wake of the government's ban on the artificial sweetener cyclamate, which proved embarrassing to the U.S. Food and Drug Administration when it was forced to retreat under pressure from the food industry.

Critics accused the government of putting economic interests ahead of public responsibility when Robert Finch, then secretary of health, education and welfare, modified earlier restrictions on use of cyclamates in foods and beverages.

The ban, announced by Finch in October, is required by law (the Delaney amendment) when a food additive is found to cause cancer in test animals or man.

The Plain Dealer has learned consumer advocate Ralph Nader plans to file suit to force a total cyclamate ban. He will contend the way FDA is administering the matter violates the law.

FDA itself is reportedly reconsidering its decision to permit continued use of cyclamates. It is under pressure from its own scientific staff to totally ban foods containing it.

Another artificial sweetener, saccharin, was labeled safe in late July by a special panel of the National Academy of Science-National Research Council, but the group recommended further laboratory studies on a possible link to cancer and other diseases.

FDA requested the academy study in March after a University of Wisconsin researcher reported that a combination of saccharin and cholesterol injected into the bladders of mice caused cancer in some.

Dr. Charles C. Edwards, FDA commissioner, said he considered the Wisconsin experiments "inappropriate" because the chemicals were not administered orally to the mice.

The dangers of cyclamates were known 20 years ago by FDA, according to agency scientists and others, but the artificial sweetener was approved for public use. It was not until outside labs spotlighted the problem that FDA finally acted late last year.

And at that, Secretary Finch reportedly reprimanded FDA scientists who brought the matter to a head, and he subsequently opened loopholes to help industry get around the government ban.

Food producers were given an additional seven months—from Feb. 1 to Sept. 1, 1970—to sell already packaged canned fruits and vegetables and juices containing cyclamates.

They can put new labels on their products and sell them in grocery stores as "over-the-counter drugs." No prescription will be required.

In March of this year Finch overruled FDA advice and allowed continued use of soft drink bottles that were labeled sugar-free or containing less than 1 or 2 calories although the bottles actually contained sugar-sweetened soft drinks.

He extended the deadline on removing the mislabeled bottles from the end of this year until Oct. 1, 1972.

Dr. Edwards explained: "In a meeting with (Finch and) representatives of the bottling industry, it was agreed that plans would be formulated to allow the use of the massive inventory of soft drink bottles labeled for cyclamate-containing products."

A study of FDA sponsored by Nader declared Finch's retreat on the cyclamate ban in light of "dramatic evidence of hazard" was "at best cynically irresponsible."

The Nader Report said, "The delay allowed owners of foods already canned to cut their losses which could have been close to $100 million."

A bill has been introduced in the U.S. Senate to reimburse the industry for losses suffered as a result of the cyclamate ban. An associate of Nader has labeled the measure "another example of corporate socialism, where we pay for the risk companies take."

In the case of soft drinks, federal health officials acknowledged receiving reports from Ohio and five other states linking diabetic aggravation to the mislabeled bottles.

Cartons and bottle caps were ordered changed, but the government decided to allow use of the mislabeled bottles until October 1972.

Diabetics complain they are more likely to read the bottle label than the cap or carton. Moreover, they add, the labeling on the bottle is in clear conflict with the cap and carton.

Cyclamates were the principal artificial sweeteners in low-calorie beverages until banned from general purpose drinks effective January 1 this year. The chemical has been linked to cancer, birth defects and genetic damage in laboratory animals.

Finch has said, "There is absolutely no evidence to demonstrate in any way that the use of cyclamates has caused cancer in man."

But he said he was forced to impose the ban by the 1958 "Delaney amendment," which he feels should be liberalized to give the secretary more discretion.

Commissioner Edwards wants it "modified to permit some scientific rationality in making these decisions. If we were to apply the criteria of the Delaney amendment across-the-board, eventually we would be reduced to a nation of vegetarians and even some of the vegetables would have to be banned."

The Nixon administration reportedly plans to ask Congress soon to repeal the measure altogether.

The Nader study of FDA concluded the amendment should not be weakened but strengthened to similarly ban additives which may cause genetic damage and birth defects as well.

Finch's criticism, says the report, is proof politicians cannot be trusted to protect consumers unless the law leaves them no alternative.

After the cyclamate ban, the soft drink industry quickly shifted to new formulations that usually contained sugar. But the beverage was put in the old returnable bottles indelibly marked to indicate NO sugar.

FDA recommended the old bottles be junked within one year and until then stickers or neck bands be placed on them to indicate presence of sugar. After the industry protested personally to Finch that this would create economic and technical problems, the secretary ordered the plan dropped.

At the urging of the food industry, Finch reclassified cyclamates from food additives to over-the-counter drugs. This allows cyclamate food products to remain in grocery stores with a new warning label.

"How in the world can you call apricots a drug?" asked a disgruntled FDA official.

Commissioner Edwards signed the reclassification order grudgingly and against some of the best scientific advice in his agency, sources said. The order reportedly was prepared by Finch's political staff, not by FDA regulators or scientists.

The episode may have been in Dr. Edwards' mind when he told a Temple University audience in May, "A decision which is influenced by special interests at the expense of the public interests indefensible by ourselves, by the public and by the special interest."

ADDITIVES FORTIFY FOOD, BUT SOME ARE A PERIL

(By Douglas Bloomfield)

There are more than 3,000 different chemical additives in our food supply.

Many are useful. Others contribute only a cosmetic effect. Some are dangerous.

Additives help retard spoilage, improve flavor and add vitamins. They make beer foam, oranges orange and maraschino cherries red. But a few have been linked to heart disease, cancer and brain damage.

Dr. Jean Mayer, President Nixon's adviser on nutrition, has said: "We can live perfectly well without additives."

The U.S. Food and Drug Administration is supposed to keep a careful eye on additives, barring all not proven safe. But there appears to be a wide gap between theory and practice.

Even President Nixon is bothered. In his consumer message last fall, he asked FDA to review and revise its list of food additives classified Generally Recognized as Safe (GRAS).

There is concern within FDA as well. Leo Friedman, acting director of the agency's toxicology division, said: "It is becoming increasingly clear that untoward effects in people, stemming from food additives, are exceedingly difficult to recognize or even establish with any degree of certainty once suspicion has been aroused."

He feels that "every effort should be made to re-examine and update the safety evaluation of all such compounds at regular intervals."

A two-year investigation of FDA sponsored by consumer advocate Ralph Nader concluded that the agency "should face up publicly to what is knows privately about food additive regulation—that the program is a mess. The consumer might be more wary, and therefore better off, if there was no program of food standards designed to protect him."

Chemicals may get into foods in several ways:

Deliberately added as flavorings, preservatives, enhancers and so on.

Inadvertently introduced into food in manufacturing (from packages or machines, for example) or through natural processes such as formation of toxin-producing subsances in mold.

From animals treated with veterinary drugs before being slaughtered.

The use of chemicals as food additives has increased by more than 50% in the past 10 years, according to FDA, which cautions that "many of these chemicals are known to be toxic in large quantities."

Last year FDA received 476 new applications for food additives. 62 were approved and 148 rejected.

Part of the consumer's problem in identifying what has been deliberately added to his food is FDA's requirement that technical, not common names be used. Thus water is hydrogen oxide and table salt is sodium chloride on some labels.

Using common names and issuing a dictionary of additives are two of the remedies proposed by consumer interests.

Many additives are not even listed on food labels. Neither, for that matter, are the ingredients of many products. These all are items that FDA accepts as standardized, such as mayonnaise, margarine, vinegar, ice cream, cocoa and macaroni. Even some nonstandardized foods are exempted from identifying spices, coloring, additives and other ingredients.

This can be dangerous for persons with allergies, diabetes and other problems who want to avoid certain ingredients such as eggs, sugar and milk. About 20 million Americans are in this category.

Nearly all standards were set at the request of the producers. When a standard of identity is agreed on, all products of that type must comply with the standard on ingredients. Use of some optional items is often allowed, but basic ingredients tend to be strictly controlled.

Nonstandardized foods must list ingredients in descending order of weight in the

product, but there is no requirement that relative amounts be noted.

Pet foods tend to be more informatively labeled than human foods. This can be seen in a comparison of two cans of stew. The one for human consumption lists the ingredients, but not by percentage. The pet food label includes ingredients plus a percentage analysis by nutrient so the dog owner can get the best protein buy for his pet.

The human consumer, by reading food labels, has no idea how much beef is in his beef stroganoff, peanuts in peanut butter, orange juice in orange drink, strawberries in strawberry jam, meat in hot dogs or chicken in chicken soup.

Copies of standards for specific products are available to consumers who send a request to the FDA, Washington, D.C. Alert shoppers have learned that the difference between two or more brands or a standardized product is primarily price, and thus they are able to save money.

Industry strenuously fights efforts for full disclosure of ingredients, contending that this would require them to give secret recipes to competitors. Consumerists, however, contend that they would not be disclosing recipes or production methods, but would merely be telling cutomers what they are eating and how much of it.

"The various FDA food standards and exemptions now in force read like a catalogue of favors to special industrial interests," said the Nader study.

It called the GRAS list "a tool for suppression of consumer information, allowing dozens of ingredients unknown to consumers to be used in food."

The GRAS concept should be abolished, it added, and in the meantime the number of items should be drastically reduced, removing each chemical about which there is even a single doubt.

FDA Commissioner Charles C. Edwards said the review of the GRAS list requested by President Nixon is being done "within the context of an over-all look at the safety of our food supply." He expects to be halfway through the list by next summer.

The study, Edwards said, will apply "1970 scientific knowledge to safety judgments which in fact were last made 15 to 20 years ago."

The FDA is responsible for evaluating all chemicals proposed as food additives and to establish a tolerance level for each. But it was allowed to exempt more than 600 chemicals from clearance requirements "because they were considered safe by experts" and put on the GRAS list, according to the agency.

Cyclamates were one of those "safe" chemicals. The artificial sweetner was banned last year as a possible cause of cancer. Another, still on the list, is monosodium glutamate (MSG), the flavor enhancer.

Recent studies indicate that MSG "is potentially hazardous," FDA reports, but "available information is insufficient to justify action." Research is continuing.

Cyclamates were banned last fall under the Delaney amendment to the FDA law, which requires removal of any additive causing cancer in test animals.

Critics have assailed the law from both sides.

Some, like Edwards, feel it is too rigid and leaves no room for administrative or scientific discretion. They argue that even salt and sugar could be harmful in excessive amounts. This has not been proven, however.

The Nixon administration reportedly is planning to ask Congress to repeal the Delaney amendment.

Others, like Nader, say the law is not strong enough. They oppose giving political appointees such discretionary powers. They also want the measure to cover additives which may cause genetic damage and birth defects.

"In view of the possibility that other additives may be as dangerous as the cyclamates," says the agency, "it now appears essential that FDA and the food-additive industry jointly reevaluate over the next three years all of the known GRAS additives, other additives that have been unilaterally classified by industry as GRAS, and some approved additives for which tolerances now in existence may have to be changed."

The Plain Dealer has learned that Nader may not be willing to wait three years and is considering filing suit in federal court to have the GRAS list abolished.

In the use of many additives, Nader says, the agency "has permitted a sell-now, test-later posture by the companies. FDA has admitted that it has heavily relied on summary assurances by food companies about additives and has not checked in detail the raw test data."

Consumer interest want the government not to rely on industry labs but to do as much of the testing as possible and to supervise more closely testing it cannot do itself.

The additive problem can be seen well in five examples:

MSG, salt and sugar were added to baby food, with FDA permission, for no other purpose than to make the food palatable to mothers. Despite scientific evidence showing that MSG caused brain damage in mice and the urging of its removal by Dr. Mayer, FDA resisted taking action.

The baby food producers themselves finally removed the ingredient voluntarily in the wake of unfavorable publicity. But the FDA still has taken no further action of MSG or on any other unnecessary ingredients in baby food.

The presence of MSG must be listed on all products except mayonnaise, French dressing and salad dressing. Its function is to enhance flavor.

Red 4 is an artificial food coloring described by the World Health Organization as dangerous to humans. When the FDA considered declaring it unsafe, the producers of maraschino cherries argued that nobody eats enough of their product to do any harm. The FDA bowed to pressure and excluded Red 4 from all foods except maraschino cherries. No health warning is required on the label.

Cyclamates, the artificial sweeteners, were first linked to cancer in FDA's own labs about 20 years before the agency slapped a ban on them.

Caffeine is added to cola and Dr. Pepper soft drinks, but the makers of those beverages won FDA permission to keep that information off their labels by having them declared standard ingredients. All other soft drinks containing caffeine, however, must reveal that fact on their labels. FDA scientists and officials opposed the exemption but bowed under pressure from the White House, a U.S. Senator and the industry.

The Senator was Richard Russell, D.-Ga., who called FDA to express "interest" in the matter, according to former Associate Commissioner Kenneth Kirk in an interview with Life magazine. The world's largest cola producer is one of Russell's constituents, Atlanta-based Coca-Cola.

Some approved food colorings in baked goods have been found to decompose during baking or to react with vitamins in food to form compounds whose effects are unknown.

The FDA reports that about 10 million Americans get some form of food poisoning every year.

Although development of new foods and new technology have ended some forms of contamination, these same "improvements" bring an increased threat to health.

"Technology has also contributed to the proliferation of products about which relatively little is known and has actually increased the potential for widespread foodborne epidemics to occur," FDA reports.

"At the same time," it continues, "changes in food processing methods have tended to disguise some common indicators of contamination, such as decomposition, noxious gases and discoloration, that used to alert consumers that food fight be unsafe."

But safety is not the only consideration, according to Edwards. Effectiveness and quality of food also must be considered.

"If I am reading consumer complaints correctly, among other things, they are saying that at least for some foods, there must be a positive gain or benefit in the food or, in the case of food additives, there must be a positive reason for its use," he said.

Toward this end, he added, FDA plans to establish nutritional guidelines for selected classes of foods.

These would not be formal standards of nutritional quality, he explained, but informal guidelines for industry to follow voluntarily.

This would involve agency-industry collaboration on deciding how nutritional quality should be explained on food labels.

"We would then expect that commercial pressures would cause processors to use the guidelines in formulating and designing their products," Edwards said. "If they do so extensively, there will be no reason to consider a mandatory mechanism."

FOOD MAKERS QUIETLY RECALL ITEMS

(By Douglas Bloomfield)

Food manufacturers often quietly remove products from the market for reasons running from labeling mixups to bacterial contamination.

The U.S. Food and Drug Administration, which has jurisdiction over these actions, publishes a weekly list of recalls reported by the industry.

The FDA reported 138 food recalls last year, 268 seizures, 174 citations, 17 prosecutions and 7 injunctions.

In the first three months of 1970, FDA seized 33 food products because of adulteration with filth, detained 220 imported food shipments for the same reason and instituted criminal prosecution proceedings against 8 firms.

In addition, the industry instituted about 100 recalls by the middle of the year, including one by a midwestern supermarket chain involving 72 different products adulterated by rodents in its warehouse.

Recall is a voluntary action by the manufacturer or distributor to remove a product from the market. It can be initiated by an FDA request if the agency feels there is a serious health hazard. But the FDA request has no legal basis and there is no penalty for refusal, although the agency does have some alternatives.

It can seize an adulterated product and, through the U.S. Justice Department, go to court to keep it off the market.

Although the agency's authority is product-oriented, it can take criminal action against persons or firms it considers responsible for a bad product. A citation is issued and an informal hearing held by the FDA—usually following civil action against the product—before deciding to ask the Justice Department to prosecute.

The FDA has no power of injunction or authority to issue cease and desist orders. These must come from the federal courts.

The Justice Department is the FDA's lawyer, and if the attorney general does not want to take a case, for whatever reason, the agency can't look for another lawyer. The case is dropped.

Beyond the obvious need to build a good legal case before going to court, the FDA also must be aware of the political implications of its action for the administration

in power, say its critics. Political considerations long have influenced operation of the small agency, insiders admit.

Voluntary withdrawals of products from the market appear on the FDA Weekly Recall Report, a little-known government publication printed in small type and given limited distribution.

It is sent to about 350 newspapers, radio and television stations, periodicals, trade publications, government agencies and "some industry people," according to FDA's information office.

This means it is received by only a small percentage of the nation's 21,000 regularly published newspapers, magazines and trade journals.

An FDA press officer said the list is sent only to those who have requested it at one time or another, and that most recipients ignore it.

This is because they do not realize the importance of the document, he speculated. FDA makes no effort to draw attention to important items on the list or offer additional explanation, as many government agencies do when they issue statistical and technical information.

The FDA press man said that if more effort were made to publicize the information on the list, it would take longer to get out because of red tape and probably would be suppressed by the politically sensitive Health, Education, and Welfare Department, of which FDA is a part.

With this philosophy, rarely is any effort made to draw attention to dangers revealed on the recall list.

In fact, on only one occasion this year did the agency make an extra effort to warn the public. That was when a shipment of frozen pizzas were found to contain mushrooms contaminated with deadly botulism organisms.

Distribution of the pizzas had been so extensive, the agency admitted, they could not be collected quickly enough without public notice.

Ralph Nader, the consumer gadfly, has urged announcement in news media of all major recalls by the HEW secretary for the quickest, widest possible exposure.

Manufacturers and distributors of the products ordered off the market are under no obligation to warn consumers, and they don't.

Many in the consumer movement feel those in the food industry responsible for the bad products should be required by law to warn the public through prominent advertisements in the media and prominent notices in stores.

Recall is sometimes turned into a public relations gimmick, charged one consumerist.

"When heat is on, the company says, Oh yes. We're recalling it." But the recall is only one way—to the distributors," he said.

"They don't consider the consumers. The question is how strenuous and conscientious is their effort: Do they warn consumers? Do they call the news media? The answer is almost always no."

One of the largest recent recalls was an order to remove about 14 million servings of five types of packaged soups because they contained noodles contaminated with salmonella, a bacteria that causes food poisoning.

The soup company began recalling the soups March 25 by notifying its distributors and the government of the bacterial contamination. The public was not warned until the middle of April, when the matter was item 29 on the FDA's weekly recall list.

A company spokesman told The Plain Dealer his company felt it had no obligation to warn the public of the danger, although an estimated 65,000 servings of the recalled soup were being consumed daily.

The soup episode was not unusual. Most, if not all, companies feel the same way. They say it is the government's responsibility to alert the public. Fear of adverse publicity is behind industry reluctance.

Lack of adequate public warning is one reason FDA recalls are never totally successful. Another reason, according to an agency spokesman, is the fact an unknown number of products are purchased and consumed.

Critics of the FDA and its recall process say the consumer will not be properly protected until the agency becomes master rather than servant of the industry it is supposed to regulate, ends its reliance on industry self-regulation and gets stronger enforcement powers.

Food recall for the first half of 1970 show a wide variety of health-related problems:

Several hundred thousand pounds of popcorn containing "rodent contamination."

Candy bars short weighted—25% below the amount marked on the label.

Nonfat dry milk contaminated with salmonella.

Frozen strawberry pies containing rodent contaminated fruit.

More than 20,000 boxes of thyme seasoning with salmonella.

Over 64,000 cases of baby foods discolored by suspected breakdown of enamel on the underside of the lid.

Seasoned bread crumbs adulterated with pieces of paper and cellophane.

Egg noodles with salmonella.

Two thousand cases of candy with insect and rodent contamination.

About 460,000 cases of sliced pimentos with glass particles found in some jars.

And a wide variety of foods containing bacteria, oil thinner, broken glass, insect parts and pesticides.

Harmful Food or Drugs? Tell FDA Office About It

Most of the action taken by the U.S. Food and Drug Administration against food producers who cheat on composition, weight, packaging and other aspects of their products has been in response to consumer complaints, the agency admits.

Consumers who come across a food, drug, cosmetic or health device they think is mislabeled, unsanitary or otherwise harmful are urged by the FDA to report it.

"Of course," says the agency, "the FDA will not take action solely on your complaint, but it will investigate your report promptly and act if necessary."

Complaints can be mailed or called into the FDA Cleveland office or directly to Washington.

The report to the FDA should clearly describe the problem, product, package, and place purchased. Remains of the suspected product or the container should be retained, along with any unopened packages of the product bought at the same time.

If injury or illness is involved, it should be reported to a doctor.

The matter also should be reported to the manufacturer, packer or distributor of the product as well as the store where it was purchased.

Other complaints on foods, drugs and cosmetics should be referred to proper authorities: suspected false advertising to the Federal Trade Commission; meat and poultry products to state or federal agriculture departments; restaurant sanitation to local health authorities and products made and sold exclusively within Ohio should be reported to local or state health and legal officials.

FDA Listed 20 Foods as Recalled Last Month

Twenty voluntary food recalls by manufacturers and distributors were reported in the first three weeks of last month by the U.S. Food and Drug Administration. All but two were aimed at removing adulterated and contaminated products from the market.

The others involved a misbranded beverage and a food additive with a banned ingredient, cyclamate.

The actions were listed in the FDA weekly recall reports for weeks ending July 8, 15 and 22.

Only three of the products were distributed on the retail level in Ohio, according to the FDA. They are:

Treasure Isle frozen cooked shrimp in plastic bags, packed by Ocean Products Inc. of Dover, Fla. Samples checked by the FDA contained salmonella, bacteria that cause food poisoning. About 40,000 pounds of the product are on the market. Packages involved are those coded 01590—the first 0 is 1970 and the 159 is the numbered day of the year, June 8—and earlier.

Hickory Farms of Ohio ginger marmalade in 12-ounce glass jars, manufactured by Charlotte-Charles Inc. of Evanston, Ill., and distributed by Hickory Farms of Ohio, Toledo. Insect fragments were found in a sample of one raw ingredient, diced ginger. About 408 jars remain on the market. Cases are marked B 3 9 70.

Bravo Enriched Macaroni, in six-ounce boxes marked "an ideal first solid food for babies," manufactured by Bravo Macaroni Co. of Rochester, N.Y. Twelve of 142 cases are estimated to remain on the market. They are marked 031870 on the shipping cartons. FDA analysis found salmonella contamination.

FDA Failing To Protect Public

For a variety of reasons, the U.S. Food and Drug Administration is failing its mission to protect the quality and safety of the nation's food supply.

Some of the reasons lie in limitations on ite legal authority and budget.

It does not have the power to subpoena witnesses or to compel food firms to disclose records. Its funds for plant inspections, sample testing and analysis have increased only 1% in the last decade, while shipments of foods by manufacturers have increased 15 times.

Congress should give these deficiencies immediate attention.

Other reasons for FDA's failure lie in attitudes within the department that put interests of the food industry above those of the public that the FDA is supposed to be serving; in a fossilized bureaucracy that resists reforms that top administrators concede are necessary, and in poor use of the limited powers at FDA's command.

These are problems that FDA Commissioner Charles C. Edwards must solve.

He had said that the major problem is to get the critics off his back so that the FDA could settle down and initiate essential reforms.

We think the major problem is to make concern for the public the paramount issue in determining FDA policies.

Many present policies show that the FDA has become the captive of the industry it regulates.

Recalls of spoiled or contaminated food, for example, are done quietly on an intra-industry basis. Only rarely does the public learn from the FDA that there is a danger some particular batch of a food product may be contaminated and should not be consumed.

This policy spares the industry embarrassment, but does not protect the consumer who may have purchased—and eaten—a package of food from the spoiled batch before it could be removed from store shelves.

The FDA relies too heavily on voluntary compliance with sanitation regulations.

It has cut back its program of inspection and product sampling for control of bacterial contamination. Inspections were virtually halted for three months this year when the food surveillance budget ran out.

The FDA should strengthen, not weaken,

its enforcement program. It should plead for more funds if they are needed.

It should publicize food recalls. It should make public the names of the firms which do not allow FDA to conduct inspections or refuse to yield information on product quality. It should crack down on the big offenders, and devote less time and energy to minor offenders.

There is much to be done to make the FDA an effective agency. Commissioner Edwards should not wait until the criticism dies down before getting on with the needed reforms.

PROTECT THE FOOD SHOPPER

It is wrong to sell food containing additives not proved to be safe.

It is wrong to sell food with ingredients unspecified which could endanger consumers' health.

There are too many gaps in food laws. There is too much lag between application and final test results, at the U.S. Food and Drug Administration. Enforcement by the FDA is soft instead of tough.

Consumers meanwhile are baffled by fine print and technical terminology on packaged foods. And the food laws let some foods be sold without listing actual ingredients for the shopper.

FDA agents ought to be like "the Untouchables," a corps of airtight enforcers like Internal Revenue or G-men. Instead, many FDA men are doubtful about FDA standards and practices.

On the FDA's list of substances "generally regarded as safe"—the so-called GRAS list—are some widely used additives which FDA men themselves do not regard as safe.

Cyclamates were on that "safe" list 20 years after they had been linked to cancer in FDA's own laboratory experiments. They were only banned last fall, as an additive in food production.

Even then, there was no ban on sales of foods containing cyclamate sweeteners. Even now, behind the labels of catsup, mayonnaise and ice cream may be hidden sweeteners and colorings and other ingredients a consumer may not want or may be forbidden to eat.

The food code allows those and other "standardized" products to be sold without listing their ingredients.

When ingredients are listed, their names are technical and almost no consumer can tell if they are good or bad. What consumer knows if he ought to eat or stay away from hydrolized vegetable protein or hydrogenated corn oil or a cola drink which—most likely—contains caffeine?

Ingredients are listed by weight, heaviest first. But the first ingredient may be 90% of the weight in the package, and the second could be 1%, for all the package tells.

Americans use more packaged and prepared foods every year. Use of chemical food additives has increased more than 50% in 10 years. Grocery buyers cannot test for hidden chemical dangers.

The FDA must be those citizens' agents. The FDA should have power to block use of any additive until it is proved safe. It should have power to require that food packages inform purchasers fully, in understandable language.

The customer has to pay good, genuine money to the seller. The seller should be equally honest, offering good, genuine products in which the customer can put his trust.

MISS WENDY WINGFIELD, MISS SOUTH CAROLINA TEENAGER 1971

Mr. THURMOND. Mr. President, it is always a sincere pleasure to learn of honors which come to South Carolinians. It is especially pleasing when such honors are attributed to young people who display a strong sense of patriotism.

I have never subscribed to the theory that this generation of young people is worse than other generations—that they are more rebellious, less respectful to their parents, or more inclined to be violent.

On the contrary, the young people of the present probably contain more talent, more ambition, and more maturity than most in the past. They have, to a large extent, been maligned by excessive publicity given to isolated groups and individuals who do not wish our country well.

Mr. President, there is, in my State of South Carolina, a young lady who has demonstrated attributes which should bring high esteem to her generation.

She is Miss Wendy Wingfield of Columbia, who holds the title of Miss South Carolina Teenager 1971. This 17-year-old high-school junior was asked to write a theme on "What's Right With America," as part of the competition.

In talking to reporters about this paper, Miss Wingfield said that:

Having the freedom to sit and write about America, or brag about America is what is right with America.

This simple sentence explains in such an eloquent way the freedoms that Americans enjoy. It is reassuring to know that these values are prized and cherished by those who will come after us.

Mr. President, a feature article about Miss Wingfield appeared in the January 31 issue of the State, Columbia, S.C. This feature, written so well by Mrs. Linda Caughman, paints an excellent portrait of the young lady who represents our State as Miss Teenager 1971.

I ask unanimous consent that the article and the text of Miss Wingfield's theme be printed in the RECORD.

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

"MISS TEENAGER" AN INDIVIDUAL IN FASHION AND LIFE STYLE

(By Linda Caughman)

"I used to be a terrible tomboy, playing football and really getting into it. About two years ago when I started dating, I reformed and now I'm very glad I'm a girl," Wendy Wingfield said.

Wendy has certainly outgrown all her tomboyishness. In September she won the title of Miss South Carolina Teenager 1971 and represented South Carolina in the Miss American Teenager competition in Palisades Park, N.Y.

The blond, blue-eyed, 17-year-old Spring Valley junior could be best described as a well-rounded All-American girl.

An important part of the Miss South Carolina Teenager contest was writing and reading a theme on "What's Right with America." Wendy said, "I wrote that having the freedom to sit and write about America or brag about America was what was right with America. In Russia they can't do that."

Wendy has lived in Columbia with her 13-year-old sister, Darcy, her white poodle named Bebe, her goldfish, who doesn't have a name, and her mother and step-father, Mr. and Mrs. Randall E. Thornton, for the past three years.

"I lived in Seattle, Washington, most of my life and in California when I was real little," Wendy said. "People seem to be the same everywhere except for the way they talk. I like the South because you feel like you're somebody here."

Wendy lives in a brand new, very modern house in the North Trenholm area. "Our house on this same lot burned down last March while we were at the beach It was terrible. Nothing was saved, except the brick which were still intact. We rebuilt using almost the same house plan," she said.

"It was great fun decorating the new house. My favorite thing about the house is the slanted ceiling. It gives me the feeling of being free.

"I decorated my own room," said Wendy, who has inherited her mother's talent for painting abstracts and love of modern designs. "It is real modern and my favorite piece is my chair which is round and striped.

"I picked out the wallpaper in the bathroom. It has big yellow flowers. When you get to choose things, they mean a lot more to you," Wendy continued.

Contagiously spreading her pride in her family's home, Wendy pointed out the red, black and white color scheme in the den and the kitchen. The modern, basic furniture and the cathedral ceiling fit her personality perfectly.

Attired in a purple, clingy blouse with a draw string neckline and jeans sporting a patch on the hip pocket (saying "Randy") and tennis shoes, Wendy said, "My boyfriend sewed his name on them and gave me the jeans for a Christmas present. That's what makes them special.

"I wear what I like and what looks good on me. I'm kind of moody. Sometimes I like to wear something feminine and sometimes I like to wear a suit. I could just live in pants, though. I love jeans and tennis shoes." Wendy gave her views of fashion.

"I have one midi because I fell in love with it. I didn't care what length it was. It could have been down to my toes and I wouldn't have cared. I just liked the dress itself." Wendy is one girl who is not going to let fashion designers dictate to her, she said.

Wendy completed the professional modeling course at a local studio, and has done some department store television advertisements. "I really modeled more before the pageant than I have after the pageant, she said. "I'm on a junior fashion board."

Having never seriously considered a career in modeling, Wendy said that modeling is just something she enjoys doing now. She won a $900 scholarship to Bauder Fashion Institute in Atlanta and plans to take the fashion course as soon as she graduates from high school.

"I would never have gone out and entered the Miss South Carolina Teenager 1971 Pageant, but since it was placed before me I decided to try," Wendy admitted.

She was entered in the contest by her modeling instructor, who, Wendy said, "instilled confidence in me."

Relating how her family reacted to her winning the title, Wendy said, "My mother was the most thrilled person there ever was. I think my sister was pretty happy, but she doesn't say much."

Along with most other teenagers, Wendy thinks about what she will do after high school graduation. Although she wants to squeeze in the course at Bauder, she is definitely interested in college. Still undecided as to where she wants to go, she has considered the University of South Carolina because it is so close to home.

"I would hope to live in a dorm so I could be independent. I think that is every teenager's dream. But I'd probably come running home to Mama," Wendy said.

"I told the judges in the contest that I wanted to be a corporation lawyer, but I don't anymore. A close friend of our family is one and I still think it is a cool thing to do. I've thought about being a stewardess," she said.

Wendy displays the typical whimsicalness of women. "I would say that my favorite color is yellow, but my friends know that I wear purple all the time, so I had better say that my favorite color is purple. But my room is yellow," she explained.

Although quite unsure of what she plans to do in the future, the 5-feet-4, 105 pound Miss South Carolina Teenager knows what she likes to do with her free time. "I would rather spend time reading than watching television. Or go for walks. There is so much going on that is real that I'd rather not watch something that's not even material," Wendy said very seriously.

Other varied interests are watching football games and reading and writing poetry. "But the main activity I love is painting. My favorite picture is a Japanese lady wearing a kimono in a Japanese garden," she added.

The active 17-year-old, whose favorite subjects in school are sociology, U.S. history and English, belongs to the Drama Club, the Spanish Club and the Junior Civinettes.

Pulling back her medium length blonde hair, parted down the middle, flipped up on the ends, Wendy said enthusiastically, "To earn money to pay for pictures, the Junior Civinettes are all going to wear T-shirts saying "slave" and work for the other students to make money one day soon."

Praising the new Spring Valley School, Wendy said, "We have a great faculty and great coaches. I hope we can really make a name for ourself like Dentsville did." She attended Dentsville last year.

The vivacious young teenager announced that she is a Scorpion. "I really haven't met that many Scorpions," she said with some amazement, "I like to read my horoscope and then if it comes true, I say, 'Ah, ha, maybe there is something to it.' "

The conversation kept shifting to the many things which interest Wendy Wingfield. "Did you see 'Love Story?' I think that was just the best movie. I'm usually very emotional, but I'm proud to say I just had one tear. Two girls sitting next to us were sobbing so hard, Randy and I just had to laugh at them," Wendy said.

"Randy," is Randy Jacobs, a Carolina freshman. "We've been going steady for six months exactly. He played football for A.C. Flora and in the Shrine Bowl and the North-South All-Star game last year. I think he's really special and I like him a lot," she said with a grin.

Suddenly remembering that she had not taken the trip to Florida which she won when she was chosen Miss South Carolina Teenager 1971, Wendy contemplated whether she should take it over Easter vacation or during the summer.

"I haven't been anywhere by myself to really see what it's like. But I like to travel with my family," she admitted.

In line with her love of novelty and excitement Wendy said, "I just love to be on a jet because it goes so fast."

It seems that Wendy does not hesitate to try anything once. "You know," she said, "two things I just tasted that I really like are squirrel stew and rutabagas. But my favorite foods still are spaghetti and hamburgers.

"My mother said that the way your personality was projected to the judges was the main thing in the Miss South Carolina Teenager contest," Wendy explained as the reason she thinks she won. It is certainly no mystery how Wendy Wingfield stole the show if personality had anything to do with it.

WHAT'S RIGHT ABOUT AMERICA?

(By Wendy Wingfield)

Many things! . . . For instance; pistachio ice-cream, Bozo the Clown, sweatpea incense, half-price Beattle albums, and the late, late, late show!

But even more, what's infinitely right about America is that an American can have a dream become a reality; because America's middle name is opportunity. Now, more than ever, there is the chance to achieve your special dream—effort is the key word.

I believe, with all my heart, that "my" generation will put forth such effort needed to help respect our Flag, support our Constitution, obey our laws, and defend our great country against all enemies.

The mere fact that one seventeen-year-old girl can have this sincere faith binding her to her country is what is truly right about America.

THE INVASION OF LAOS

Mr. BAYH. Mr. President, by President Nixon's conscious decision to support the South Vietnamese invasion the southern panhandle of Laos has now become the testing ground of Vietnamization. And the evidence to date seems to be proving that Vietnamization will not end the war.

Vietnamization was supposed to buy enough time to make the South Vietnamese Army competent to cope with the military situation in South Vietnam on its own. We were led to hope that Vietnamization would, thereby, permit the withdrawal of American fighting men so that in the foreseeable future none of our forces would be left in Vietnam. Vietnamization was going to end the war, principally by demonstrating to the enemy that they could never win and ought therefore to compromise in Paris.

The reports already in from the Laos operation contradict each of these assumptions.

In fairness, it does appear that the ARVN are fighting more competently than they did several years ago. But that is not the real question. The real question is whether, after nearly 2 years of Vietnamization, the ARVN show signs of improving enough to handle the military situation by themselves. The Laotian invasion raises serious questions about this. So far it appears that the North Vietnamese still have the ability to pick the ground on which to fight, and when they do, to inflict serious defeats even on the ARVN's crack units—despite the most massive application of American air power Indochina has yet seen.

The Laotian operation, like the Cambodian one before it, was supposed to buy time to make the ARVN capable of defending South Vietnam. The Cambodian operation expanded the area which they must defend to include yet another country. The current operation is not only expanding the area of the conflict, but also apparently exposing the South Vietnamese to a decisive military reverse. The result could be a South Vietnamese Army which must fight three wars instead of one—after some of its best fighting units have been destroyed.

And what of hopes for American disengagement in the foreseeable future?

The President's statement on unlimited use of American airpower and the military's estimates of when the South Vietnamese will be able to take over the air war pose the real possibility of a U.S. air umbrella over operations across Indochina for the next 4 or 5 years. The scope of that kind of involvement is suggested by the fact that during the current invasion of Laos our airmen are flying up to 1,000 sorties a day.

And beyond that, what will a serious reverse for the ARVN—now or later—do to the pace of withdrawal of U.S. ground troops? American boys may well be bogged down longer in Vietnam because the South Vietnamese Army is spread too thin and too badly weakened to defend its own country.

The administration's explanations of the objectives and progress of this operation have been marked by dramatic inconsistencies.

The President either deluded himself or sought to delude others when he indicated that the "lifeline" from North Vietnam south could be choked off by such a mission, thus convincing the Communists to give up the fight. First, the capacity of the ARVN to achieve that objective, even temporarily, is at this point in serious doubt. Despite their incursion and intense air raids, reports persist that heavy traffic along the Ho Chi Minh Trail has continued during the last 2 weeks. Even if the South Vietnamese were able to block all the supply lines in the eastern half of the Laos panhandle the North Vietnamese could reroute their supplies further to the west, suffering only a temporary delay and loss of supplies. But in pushing the Communist supply lines westward we run the risk of spreading the major action of the war to areas heretofore unaffected—the heartland of Laos and even parts of Thailand. On how many more innocent bystanders do we have to visit the horrors of modern warfare before we realize that expanding the war is not the way to end it?

Now we are being told that an operation that has stalled and is in danger of becoming a disastrous setback is on schedule, that its objective is being achieved and that its progress is satisfactory.

Last week we were told that the ARVN were 22 miles into Laos. Two days ago it was 17½ miles. Yesterday it was 16 miles.

Both United States and South Vietnamese military authorities are giving the impression that a battle in which a crack ARVN Ranger battalion fled the field after losing three-fourths of its men was at least a standoff if not a triumph.

The town of Tchepone which was described as the hub of the trail network and a key objective when the operation began has now become a nonobjective.

Furthermore, eyewitness reports contradict the statistical evidence Saigon and the Pentagon are citing. There is apparently some considerable divergence between the official figures and the reality of South Vietnamese losses, of North Vietnamese losses and American helicopters shot down.

Again a fundamental question is arising—the right of the American people to know what has really happened.

Finally and most importantly, there is the question of the effect of this Laos adventure on the chances of peace. Contrary to the President's claims, I see no reasonable hope that the Laotian operation will convince Hanoi that its chances of winning are really diminished and that

it ought to sue for peace. In fact, if the South Vietnamese reverses continue, Hanoi may well end up believing they are much closer to a military victory than they themselves had thought. In any case, nothing about this operation would seem to serve the cause of a negotiated settlement and final peace.

Plainly we should now be on a very different course. We should not be expanding the war, but trying to find ways to deescalate it. We should not be taking actions in Indochina which seem to assure our further and deeper entanglement. We should, instead, be deciding on a date on which to end our involvement. We should not be seeking a military solution in southern Laos; we should be seeking a political solution in Paris to end the war in Vietnam.

ADOPTION OF RULES BY COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. WILLIAMS. Mr. President, at its organizational meeting on February 18, 1971, the Committee on Labor and Public Welfare readopted its existing rules governing the committee's procedures.

I send a copy of the committee's rules to the desk and ask unanimous consent that they be printed in the RECORD as required by section 133B of the Legislative Reorganization Act of 1946, as amended.

The committee will meet again shortly to consider amendments to these rules and any amendments then adopted will also be submitted for publication in the RECORD.

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

RULES AND PROCEDURES OF THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, and notice given, the Committee shall meet regularly at 10:30 a.m. on the second and fourth Thursday of each month. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2. The Chairman of the Committee (subcommittee), or if the Chairman is not present, the ranking Majority member present shall preside at all meetings.

Rule 3. All hearings conducted by the Committee (subcommittee) shall be open to the public except:

1. Executive sessions for the consideration of bills or resolutions, or
2. For voting, or
3. Where the Committee (subcommittee) by majority vote of those present orders an Executive session.

Rule 4. For the purpose of conducting an Executive session, a majority of the Committee (subcommittee) actually present shall constitute a quorum. No measure or recommendation shall be reported from the Committee (subcommittee) unless a quorum of the Committee (subcommittee) is actually present at the time such action is taken. Votes by proxy shall be permitted.

Rule 5. For the purpose of conducting public hearings (including the taking of sworn testimony) a quorum shall be determined as follows:

(a) For the full Committee—five members actually present.

(b) For seven-member subcommittee—three members actually present.

(c) For five-member subcommittee—two members actually present.

Rule 6. There shall be kept a complete record of all Committee (subcommittee) action. Such records shall contain the vote cast by each member of the Committee (subcommittee) on any question which a "yea and nay" vote is demanded.

The Clerk of the Committee, or his assistant, shall act as recording secretary of all proceedings before the Committee (subcommittee).

Rule 7. The Committee (subcommittee) shall so far as practicable, require all witnesses heard before it, to file written statements of their proposed testimony at least seventy-two hours before a hearing and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee (subcommittee).

The Committee (subcommittee) shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 8. Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition.

Rule 9. No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee.

Rule 10. It shall be the duty of the Chairman to report or cause to be reported to the Senate, any measure or recommendation approved by the Committee and to take or cause to be taken, necessary steps to bring the matter to a vote.

Rule 11. No person other than members of the Committee (subcommittee) and members of the staff of the Committee, shall be permitted to attend the Executive sessions of the Committee (subcommittee), except by special dispensation of the Committee (subcommittee), or the Chairman thereof.

Rule 12. The Chairman of the Committee (subcommittee) shall be empowered to adjourn any meeting of the Committee (subcommittee) if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

Rule 13. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee (subcommittee) for final consideration, the Clerk shall place before each member of the Committee (subcommittee) a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added.

Rule 14. Investigation Procedures

a. An investigating committee (subcommittee) may be authorized only by the action of a majority of the committee.

b. No investigating committee (subcommittee) is authorized to hold a hearing to hear subpoenaed witnesses or take sworn testimony unless a majority of the Members of the committee or subcommittee are present: Provided, however, that the committee may authorize the presence of a Majority and a Minority Member to constitute a quorum.

c. An investigating committee (subcommittee) may not delegate its authority to issue subpoenas except by a vote of the committee (subcommittee).

d. No hearing shall be initiated unless the investigating committee (subcommittee) has specifically authorized such hearing.

e. No hearing of an investigating committee (subcommittee) shall be scheduled outside of the District of Columbia except by the majority vote of the committee (subcommittee).

f. No confidential testimony taken or confidential material presented in an executive hearing of an investigating committee (subcommittee) or any report of the proceedings of such an executive hearing shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the committee (subcommittee).

g. Any witness summoned to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted while the witness is testifying to advise him of his legal rights.

Rule 15. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended or suspended at any time, provided, however, that not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

PRESS REACTION TO SENATOR CASE'S RADIO FREE EUROPE INITIATIVE

Mr. JAVITS. Mr. President, recently my close colleague, the senior Senator from New Jersey (Mr. CASE), took an important initiative in bringing before the Senate and the Nation certain facts concerning the funding and operation of Radio Free Europe. Senator CASE's initiative has attracted considerable attention in the press. I ask unanimous consent that a selection of press articles on this subject be printed in the RECORD.

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

[From the Philadelphia Bulletin, Jan. 24, 1971]

RADIO FREE EUROPE GETS SECRET AID FROM CIA, CASE SAYS; ASKS CONTROL

(By Linda J. Heffner)

WASHINGTON.—Sen. Clifford P. Case (R-NJ), charging that millions of dollars in Central Intelligence Agency funds is used to operate Radio Free Europe and Radio Liberty, is urging Congress to control the funding of the two stations.

Case said he plans to introduce legislation tomorrow calling for the two propaganda stations to be operated "under the authorization and appropriation process of Congress."

"During the last 20 years," Case said in a statement yesterday, "several hundred million dollars in U.S. Government funds have been expended from secret CIA budgets to pay almost totally for the costs of these two radio stations broadcasting to Eastern Europe.

"In the last fiscal year alone, over $30 million was provided by the CIA as a direct government subsidy, yet at no time was Congress asked or permitted to carry out its traditional constitutional role of approving the expenditure."

MOST COSTS LINKED TO CIA

Case said that although Radio Free Europe and Radio Liberty both claim to be nongovernmental organizations sponsored by private contributions, high sources indicate that direct CIA subsidies pay nearly all their costs.

According to Internal Revenue Service returns, he said, the combined operating cost of the two stations for fiscal 1969 was almost $34 million—21.1 million for Radio Free Europe and $12.8 million for Radio Liberty.

Although Radio Free Europe conducts a fund-raising campaign each year, Case said, he has been informed that only about $12 to $20 million in free advertising space is donated, less than $100,000 is contributed by

the public and gifts from corporations and foundations are small.

The rest, or more than $30 million each year, Case said, comes from the CIA.

Asked about Case's charges, a CIA spokesman said:

"The Central Intelligence Agency never responds to statements."

Other Washington sources report that despite insistence by the two stations that they are private organizations U.S. officials assigned to the American consulate general in Munich, Germany, maintain extremely close contact with them.

At least one of these officials, according to the sources, maintains a full-time liaison role to the two stations with a mission of assuring that their program content does not differ from U.S. policy.

To keep the stations informed, the sources said, the liaison man passes on a steady stream of classified and unclassified U.S. Government documents reporting on events in Eastern Europe.

In addition, the sources said, U.S. Government security officers regularly inspect the headquarters of the two stations to make sure the facilities for keeping the classified material are secure.

The sources added that the Government's official connection with the stations is further heightened by a State Department program which regularly brings American embassy officials throughout Eastern Europe to Munich for extensive briefing sessions.

Case's allegations bring to mind the 1967 disclosure that the CIA was funding the National Student Association.

At that time, a presidential commission, composed of John Gardner, then secretary of Health, Education and Welfare; CIA Director Richard Helms, and Nicholas Katzenbach, then under secretary of state, recommended that "no federal agency shall provide covert financial assistance or support, direct or indirect, to any of the nation's educational or voluntary organizations."

SECURITY INSPECTION

President Lyndon B. Johnson ordered the recommendation implemented by all federal agencies.

Case said the bill he will introduce tomorrow would amend the U.S. Information and Educational Exchange Act of 1948 to authorize funds to the two radio stations in fiscal 1972.

It also will provide, he said, that no other federal funds could be made available to either Radio-Free Europe or Radio Liberty, except under the provisions of this Act.

[From the Newark Sunday News, Jan. 24, 1971]

CASE TIES CIA TO RADIO FREE EUROPE

(By John J. Farmer)

WASHINGTON.—Radio Free Europe and Radio Liberty are supported almost entirely by Central Intelligence Agency funds and should be brought under direct congressional financial control, Sen. Clifford P. Case, R-N.J., charged last night.

He will sponsor legislation this week, Case said to bring both broadcast agencies under the congressional appropriation process.

During the last 20 years, he said, several hundred million dollars have been spent from secret CIA budgets to pay almost the total cost of these stations, which broadcast to eastern Europe.

"In the last fiscal year alone, over $30 million was provided by CIA as a direct government subsidy; yet at no time was Congress asked or permitted to carry out its traditional constitutional role of approving the expenditure," Case charged.

The figures on reputed CIA spending for the stations—which claim to be non-government agencies supported by private contributions—have been published before, but never officially acknowledged. Case said his own inquiry satisfies him that the charges are true.

Between $12 million and $20 million in free advertising space is donated annually to raise private contributions for the stations, Case said, but the return from the public is "apparently less than $100,000."

Case's proposal would amend the U.S. Information and Educational Exchange Act to authorize funds for both stations in the coming fiscal year and provide that no other federal money could be diverted to either station.

A spokesman for Case said the New Jersey Republican hopes the legislation, if successful, will begin to lift the curtain on various federal secret spending, much of which, he feels, is no longer warranted.

Emergency funding of Radio Free Europe and Radio Liberty from secret accounts might be understandable in an emergency or for a year or two, Case said. But the justification has lessened as international tensions have eased, he said.

[From the Trenton Sunday Times, Jan. 24, 1971]

CASE WOULD HALT CIA RADIO FUNDING

WASHINGTON.—If you thought that Radio Free Europe depended on private contributions solicited through its extensive television ad campaigns, you may be surprised to know that it is funded largely by the federal government's Central Intelligence Agency (CIA).

So said Sen. Clifford P. Case (R–N.J.), in announcing plans to introduce Monday legislation that would for the first time put federal funding of RFE and Radio Liberty under the control of Congress.

The New Jersey senator said that the two radio stations, which claim to be non-governmental organizations sponsored by private contributions, receive about $30 million per year from secret CIA budgets over which Congress has no control.

FREE SPACE DONATED

CIA funding allegedly accounts for nearly all of the $34 million operating costs of the two stations, with the remainder coming from corporate contributions and citizen donations.

Under the auspices of the Advertising Council, Case said, about $12–20 million in free ad space is donated to RFE and RL by television and radio stations, newspapers and magazines, and billboard companies.

The reported $100,000 in citizen donations that result from this campaign, however, are a negligible portion of the RFE and RL budgets, Case said.

Radio Free Europe and Radio Liberty were begun in 1950 and 1951, respectively. RFE broadcasts to Czechoslovakia, Poland, Hungary, Bulgaria and Rumania, while RL broadcasts to the Soviet Union.

RFE and RL programming and editorial policies often parallel those of the Voice of America, the U.S. federally funded official international radio station.

[From the Washington (D.C.) Sunday Star, Jan. 24, 1971]

CASE TO LIFT COVER ON CIA RADIO AID

(By George Sherman)

Sen. Clifford P. Case, R-N.J., will present legislation tomorrow to end what he claims are secret multimillion dollar subsidies given by the Central Intelligence Agency to private American radio stations broadcasting to Communist Europe.

According to a statement issued yesterday, Case charges that last fiscal year alone the CIA gave "over $30 million" to Radio Free Europe and Radio Liberty "as direct government subsidy." Both supposedly are non-governmental anti-Communist stations. Both are based in Munich, Germany.

"During the last 20 years several hundred million dollars in United States Government funds have been expended from secret CIA budgets to pay almost totally for the costs of these two radio stations broadcasting to Eastern Europe," Case charged.

SUBSTITUTE FUNDING SOUGHT

Case, a member of both the Senate Foreign Relations and Appropriations committees, said he will present legislation to bring the two stations under the authorization and appropriation process of Congress. He will call tenatively for a $30 million authorization, he said, under the amended U.S. Information and Educational Exchange Act of 1948.

Rep. Ogden R. Reid, R-N.Y., will introduce similar legislation in the House, Case said.

In developing his case, Case said that income tax returns showed that the combined operating costs of the two stations in fiscal 1969 were nearly $34 million ($21,109,935 for Radio Free Europe and $12,887,401 for Radio Liberty).

Of that amount, he charged, $30 million came from the CIA. Less than $100,000 came from the public, through a free advertising campaign by the Advertising Council of the media in this country, and a "small part" more came from private corporations and foundations, Case said.

EASING OF TENSION NOTED

Case charged that any possible justification for this "covert funding" has lessened over the years with the easing of international tensions.

The New Jersey Republican said he would ask that administration officials be called to testify before Congress on the needs of Radio Free Europe and Radio Liberty.

He noted that in 1967, after disclosures that the CIA was providing funds for the National Student Association, President Johnson accepted a recommendation that "no federal agency shall provide covert financial assistance or support, direct or indirect, to any of the nation's educational or voluntary organizations."

That recommendation, which added that "no programs currently would justify any exception to this policy," was made by John Gardner, then secretary of Health, Education and Welfare, Richard Helms, director of CIA, and Nicholas Katzenbach, then undersecretary of State.

"The extraordinary circumstances that might have been thought to justify circumvention of constitutional processes" in an "emergency situation" years ago, said Case, "no longer exist."

EVIDENCE CITED

Sources close to Case say evidence exists to prove that the two stations are really adjuncts of the U.S. government. They say that Radio Free Europe and Radio Liberty receive classified documents from the American consulate general in Munich for use in their broadcasts.

Furthermore, the sources say, Radio Free Europe sends messages to Washington—presumably to the CIA—using the secret coding system of the consulate general.

Observers here said Case merely is bringing out into the open a situation known in official circles for years.

[From the Baltimore News-American, Jan. 24, 1971]

SENATOR CASE ASKS OVERSEAS RADIO CIA FUND CUTOFF

(By John P. Wallach)

WASHINGTON.—Sen. Clifford P. Case, R.-N.J., announced Saturday he would introduce legislation Monday to stop the Central Intelligence Agency (CIA) from continuing to bankroll Radio Free Europe (RFE) and Radio Liberty (RL).

Case charged that the outlay from "secret" CIA funds has already cost the U.S. taxpayer "several hundred million dollars." The Re-

publican senator called on the two organizations to quit the pretense of acting as private organizations claiming to rely solely on voluntary contributions.

As a replacement for covert government funding, Case proposed that Congress appropriate the $30 million that is now needed to meet the station's average annual budget. Both RFE and RL beam, in several languages, news to the nations of Eastern Europe and the Soviet Union.

Both organizations are heavily staffed by refugees from behind the Iron Curtain, but are distinct from the Voice of America, which is an official arm of the U.S. government and receives all its funding from Congress.

Case's allegation that the CIA continues to finance the two stations amounts to a direct attack against CIA Director Richard Helms, who was one of three members of a presidential investigatory body formed after the disclosure in 1967 of CIA funding of the National Student Association.

The commission, which also included John Gardner, the secretary of the Department of Health, Education and Welfare (HEW) and Nicholas Katzenbach, then secretary of state, recommended "no federal assistance or support, direct or indirect, to any of the nation's educational or voluntary organizations."

On March 29, 1967, President Johnson accepted the commission's recommendations and ordered that they be implemented by all federal agencies.

Case announced that he would call leading administration officials to testify on his bill, charging that "during the last twenty years, several hundred million dollars in United States government funds have been expended from secret CIA budgets to pay almost totally for the cost of these two radio stations.

'In the last fiscal year alone, over $30 million was provided by CIA as a direct government subsidy; yet at no time was Congress asked or permitted to carry out its traditional constitutional role of approving the expenditure," Case said.

Congressional sources disclosed additional evidence of the links between the stations and the U.S. government—ties that Case believes violate at least the spirit of the organization's charters with enable them to maintain tax privileges and other benefits as private, non-governmental operations.

The evidence cited was:

At least one foreign service officer assigned to the American consulate general in Munich is permanently assigned to helping RFE and RL staffers in Munich prepare broadcasts. The U.S. official's chief task is to assure that the program content does not differ from U.S. foreign policy.

In order to keep RFE and RL personnel informed on current U.S. policy, the broadcasters are given access to classified and unclassified U.S. government, including CIA, documents reporting on events in Eastern Europe.

U.S. government security personnel regularly inspect RFE and RL's headquarters in Munich to make sure facilities for keeping classified material are secure.

The State Department runs a special program which regularly beings American embassy officials from Eastern Europe to Munich to brief RFE and RL staffers. The station's executives also have the use of U.S. diplomatic pouches to communicate with their offices in Washington and New York.

The Voice of America maintains separate studios in Munich but its staffers freely exchange research, background information and other documents with RFE and RL personnel.

Case also charged that Radio Free Europe benefits from millions of dollars of free advertising under the auspices of the Advertising Council, but realizes only a fraction of this is private contributions.

"I have been advised that between $12 million and $20 million in free media space is donated annually to this campaign while the return from the public is apparently less than $100,000,' Case said.

"Additionally," the New Jersey senator said, "both Radio Free Europe and Radio Liberty attempt to raise money from corporations and foundations, but contributions from these sources reportedly pay only a small part of their total budgets."

[From the San Francisco Examiner, Jan. 24, 1971]

RADIO FREE EUROPE "FINANCED BY CIA"

WASHINGTON.—Sen. Clifford P. Case said yesterday secret Central Intelligence Agency subsidies have financed most operating costs of Radio Free Europe and Radio Liberty which beam broadcasts to Eastern Europe.

He called for an end to covert government financing and said he will introduce legislation tomorrow to bring the two stations under the congressional authorization and appropriation process.

Case, a member of both the Senate Foreign Relations and Appropriations Committees, said tax returns of the two stations show combined operating costs of nearly $34 million for fiscal 1969.

DIRECT SUBSIDIES

Although both claim to be nongovernmental organizations sponsored by private contributions, Case (R-N.J.) said, "the bulk of Radio Free Europe's and Radio Liberty's budgets, or more than $30 million annually, comes from direct CIA subsidies."

His legislation calls for an initial authorization of $30 million for the two stations, but Case said the figure could be revised as further information becomes available.

He noted that, after disclosure in 1967 of CIA funding of the National Student Association, former President Johnson directed that no covert financial assistance should be provided by federal agencies to education or voluntary organizations.

EVIDENCE OF LINKS

Congressional source disclosed additional evidence of the links between the stations and the U.S. government—ties that Case believes violate at least the spirit of the organization's charters which enable them to maintain tax privileges and other benefits as private, nongovernmental operations.

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In order to keep RFE and RL personnel informed on current U.S. policy, the broadcasters are given access to classified and unclassified U.S. government (including CIA) documents reporting on events in East Europe. In addition, U.S. government security personnel regularly inspect RFE and RL's headquarters in Munich to make sure facilities for keeping classified material are secure.

The State Department runs a special program which regularly brings American Embassy officials from Eastern Europe to Munich to brief RFE and RL staffers. The station's executives also have the use of U.S. diplomatic pouches to communicate with their offices in Washington and New York.

The Voice of America maintains separate studios in Munich, but its staffers freely exchange research, background information and other documents with RFE and RL personnel.

CIA FUNDS

Case said from $12 million to $20 million in free media space is donated annually to the campaign to raise funds for the two stations, but that "the return from the public is apparently less than $100,000" while contributions from corporations and foundations likewise account for only a small portion of their budgets.

The 1969 tax returns for the two stations show that Radio Free Europe received $21.8 million in contributions, gifts and grants, while Radio Liberty received $13 million, Case said.

Breakdowns of the sources are not required, but aides said Case had learned virtually all of the contributions were in fact from CIA funds.

THE NEEDS OF THE PEOPLE

Mr. WILLIAMS. Mr. President, as the new chairman of the Committee on Labor and Public Welfare, I want to set forth for Senators and for the public my views regarding the role which the committee should undertake to fulfill during the coming years.

One hundred and two years ago, the Committee on Labor and Public Welfare was established. Through the years it has been known by different names. But regardless of its name, it is the committee's mandate which will always be of first and foremost importance.

I am proud to say that our mandate today is the American people, their needs, their hopes, and their aspirations. The committee sits charged with jurisdiction over the legislative areas of education, labor, public health, and, indeed, "the public welfare generally." This is a heavy but welcome responsibility, and I know that no committee member regards it lightly. I am honored to be their chairman.

It is my intention as chairman to insure that this committee shall respond in the fullest possible measure to the needs, hopes, and aspirations of the American people in the 1970's.

To do this, the committee must play a vital and major role in evaluating our national needs and our strategies for meeting those needs. It is uniquely constituted to perform that role. It can do so through the enactment of forward-looking legislation. It can also fulfill that function through a major legislative review effort to guarantee that the promise of programs already enacted by Congress is realized by effective performance from those charged with their execution.

The constituency of this committee is as broad as the Nation itself. It includes America's 80 million working men and women as well as its 20 million senior citizens. It comprises every American in need of health care and every American who wants a decent education for his child. It includes America's 26 million poverty stricken and its 5.4 million unemployed. Included, too, are the millions of Americans who have suffered disadvantages as members of minority groups.

AMERICA'S YOUTH

Although the subcommittees of our committee have been organized so as to represent and act upon the needs and concerns of the various elements of our constituency, we have learned during the past 2 or 3 years that one major portion of our society has not been adequately represented in the councils of government: Our country's youth. I

have on a number of occasions called for the creation of a Senate unit to deal with the problems of youth, and I am now announcing the formation within the Committee on Labor and Public Welfare of a subcommittee specifically devoted to the needs and concerns of our young people—the Subcommittee on Children and Youth.

The jurisdiction of our full committee lends itself to many of the important concerns about our youth; education, health, manpower, poverty, and drug abuse directly affect the course of all young people. Yet we must also find a way to talk directly with those most intimately involved—young Americans themselves.

I intend that this new subcommittee will be much more than a forum for youthful criticism. We need intelligent, thoughtful contributions from our young people. We need answers to the disturbing questions which plague us today. We need a place where the best of our youth can present the best of their ideas. We need to talk together and to learn from one another.

The young come from every segment of society. And the vital issues within the concern of the committee are different in urban centers from what they are in small towns and rural America. Therefore, we must hear from young people from every walk of life, from all parts of America. This new subcommittee can play an important role in meeting the challenges and opportunities our young people provide.

AMERICA'S WORKING PEOPLE

During the 92d Congress this committee's concerns in the labor area will include exploration of methods for coping more satisfactorily with nationwide labored disputes consistent with our tradition of free collective bargaining. We will begin an evaluation of this country's workmen's compensation system and we will seek to make needed improvements in the Longshoremen's and Harbor Workers' Compensation Act. I also intend a continuation of the United Mine Workers election investigation undertaken during the 91st Congress.

There are a number of additional issues before the committee which directly bear upon the opportunities and well-being of our working men and women.

Millions of working people in this country live in poverty because they are working outside the protection of the Federal minimum wage law. Even those who fall within the provisions of the minimum wage laws are assured an income of only $64 a week. One of the more effective tools to eradicate poverty and to reform the welfare system, in my judgment, is the enactment of responsible minimum wage legislation which guarantees to every working American an income sufficient to raise his family in pride and dignity. We will strive to achieve that goal in the 92d Congress.

Moreover, with unemployment now at its highest level in 9 years, and with no visible prospect of significant or substantial early improvement, one of the earliest subjects of committee action must be public service employment legislation, on which we have already begun hearings. Such legislation would authorize the Secretary of Labor to contract with mayors, Governors, and other public agencies to hire the unemployed and underemployed on jobs certified to be vital and necessary—jobs in education, health programs, recreation, law enforcement, environmental protection, sanitation, and other areas of urgent public need.

A Public Service Employment Act will not only create jobs which will enhance both the immediate and long-term employment prospects of up to 200,000 Americans, but will enable our State and local governments to provide needed services which they are presently unable to support. Unfortunately, legislation authorizing such a program was vetoed by the President last year; but perhaps the specter of continually rising unemployment will persuade the President not to reject such a program this year.

A new attempt to achieve comprehensive reform of our manpower program must also be undertaken during this Congress, despite the President's veto of such legislation last year.

In addition, an important priority will be to seek approval by the Congress of the Equal Employment Opportunities Enforcement Act. This passed the Senate last year but died in the House Rules Committee. Action to provide the Equal Employment Opportunity Commission with enforcement authority is essential if we are to honor the commitment to equal opportunity which was expressed by the Congress in the Civil Rights Act of 1964.

This committee must also continue and expand its legislative concern for the needs of the Nation's migrant workers and provide new direction for national action on behalf of those who live in rural poverty. That in the America of the 1970's Americans can be subjected to the indignities still found in migrant camps and in pockets of rural poverty is a national disgrace. It must be corrected.

OLDER AMERICANS

We must also give the most serious attention to our older Americans. For the past 4 years as chairman of the Senate Special Committee on Aging, I have witnessed first hand the often amazing ability of the Nation's older and retired workers to perform invaluable public service.

I have therefore strongly advocated more effective enforcement of the Age Discrimination in Employment Act and intend the committee to perform its legislative review role in order to help achieve that goal.

There is no question that older Americans, retired or not, have many years of able service to render to society and to themselves. They can be effective in many of our new environmental programs. They can be effective in schools, in libraries, hospitals, nursing homes, and elsewhere.

I hope to make enactment of the older Americans community service program one of the achievements of this Congress. Such a program, to enable low-income elderly individuals to provide vitally needed public services, has been tried out on a pilot basis. And it works. We must now broaden that program to attract thousands of senior citizens to public service. They are needed in virtually every urban and rural area in the country.

Another issue related to the well-being of aged and aging Americans is the role and effectiveness of the U.S. Administration on Aging. That agency was established in 1965 after hearings held before the Special Subcommittee on Aging of this committee. The Congress has since approved legislation which has considerably broadened the responsibilities of AOA. And yet, within recent months, leaders in the field of aging have become concerned about the transfer of several important programs from the direct jurisdiction of AOA. In addition, the administration is urging sizable cutbacks in the AOA budget. When the Congress established the AOA, it intended that agency to be a high-level unit with direct lines of communication to the Secretary of Health, Education, and Welfare. The time has come for a thorough evaluation of the downgrading of the AOA and the Older Americans Act.

PENSION AND WELFARE FUNDS

We shall also carry forward our investigation begun last year into the general area of pension and welfare funds with particular concern for the protections needed by American workers to insure financial security when they retire or are disabled. This will be a major undertaking, but the need is great and the time is now. All too many Americans reach retirement age expecting to receive retirement benefits but the expectation too often is merely a cruel illusion. These expectations must be made a reality.

WORKERS' HEALTH AND SAFETY

During the 91st Congress one of the committee's, indeed the Congress', proudest moments was the President's signing of the occupational health and safety bill on December 29, 1970. The signing of this legislation—preceded by enactment of the Construction Safety Act and the coal mine health and safety law—culminated decades of effort to fill the wide gaps existing in Federal safety legislation. However, it is not enough to have enacted such legislation. We have learned from bitter experience that legislation, unless strongly and effectively implemented, is meaningless. We know, for example, that the Construction Safety Act has been on the books for 17 months, yet not one safety standard has been issued under it. We know all too well that the public's outrage over the Bureau of Mines' inadequate enforcement of the Coal Mine Health and Safety Act is only surpassed by its outrage at the fact that there were more deaths in coal mining this year—after the enactment of the law—than in the previous year.

This experience reinforces the conclusion that the vital role of Congress in conducting continuing review of the administration of existing Federal laws by the executive branch is no less important than its role in enacting new laws. The Legislative Reorganization Act of 1970 recognizes this and gives particular emphasis to this obligation of Congress. We

will fulfill that obligation, both with respect to the enforcement of the various job safety laws, as well as other subject areas in which this committee has responsibilities.

HEALTH SERVICES

The grave crisis our Nation is experiencing in the availability and delivery of vital health servces must be of prime concern to the Labor and Public Welfare Committee in this Congress. While costs of medical care are skyrocketing, doubts about its quality and availability are growing. Progress in improving our sickness, disability, and mortality rates lags behind what has been accomplished in other western industrialized nations. There is increasing concern that our present systems of organizing and financing health care may soon break down entirely. If major revisions are not made soon, millions of Americans may be unable to secure even minimal levels of health care.

It is clear that we must develop a system to make adequate health services available to all Americans, as well as bring about major improvements in the manner of delivering personal health care services. We must insure their availability, safeguard their quality, and control their ever-increasing costs.

Some of the proposals which have been advanced for dealing with this problem are within the legislative jurisdiction of the Committee on Labor and Public Welfare. We have an opportunity and responsibility to provide a forum for public consideration of all approaches to this most pressing national need.

Any program eventually adopted will be little more than a hoax unless we take steps to overcome both the existing grave shortage of medical and health personnel, and the present lack of medical facilities. Solutions to these problems should be considered simultaneously with consideration of proposals for health service or health insurance programs.

This Nation's failure to concentrate on the prevention of illness, as distinguished from its treatment, has been especially critical. Far more must be done to help Americans avoid diseases that will ultimately require costly treatment. My Adult Health Protection Act would establish a pilot program for preventive screening in centers using automated devices wherever feasible. Such a program would be of assistance to any attempt to reorganize health delivery patterns. It could be one of the steps needed to make our medical resources better able to provide genuine service under any form of national health insurance.

ALCOHOLISM AND DRUGS

Among the specific problems in the health area with which this committee has been concerned are alcoholism and drug abuse, the truly critical proportions of which this Nation has only recently begun to recognize. During the past 2 years this committee has made great strides in focusing congressional attention on eradicating these twin evils.

During the final months of the past session we were successful in enacting a Drug Abuse Education Act and an alcoholism prevention and rehabilitation program which we all hope will help overcome some of the problem. But the task has just begun.

Our national resources to rehabilitate drug abusers are shamefully inadequate. Attempts to treat addiction or abuse have been marked by confusion, fragmentation, and lack of adequate funds. Too many Americans still view alcoholism and drug abuse as problems solely for the police. All of this must change. Unless the committee provides meaningful solutions from the point of view of education and rehabilitation, the law-enforcement agencies will never be able to manage their responsibilities.

Our first priority must be to deal with these problems with a heightened sense of urgency, but without panic and pandemonium. Certainly we must provide financial assistance for the development of new treatment and prevention techniques. Yet we cannot expect that enactment of innovative Federal programs will serve as an instant solution. This committee will continue to examine what has been done and what others propose. Drug abuse and alcoholism may well be manifestations of much deeper social problems, which can only be solved through the exercise of many of the other responsibilities of this committee and Congress as a whole. And it may take years.

One thing is certain. It is my intention to continue to make the solutions to alcoholism and drug abuse a matter of prime emphasis in the business of the Committee on Labor and Public Welfare.

EDUCATION

During the past decade the committee has initiated historic legislative programs in the field of education. We have been able to provide substantial Federal assistance for the entire system of American education, from elementary and secondary schools to our colleges and universities.

Despite these efforts our education system is undergoing severe financial hardships at the expense of students, parents, and the whole fabric of our society.

It is the responsibility of this committee to face up to this crisis in American education. Our first opportunity will come within the next 5 months when the bulk of our higher education legislation is due to expire. But though time is short, we cannot permit ourselves to be pressured into enacting legislation which fails to improve upon current programs. We must take an honest, albeit painful, look at where we have fallen short in the development of a truly responsive post-high school educational system readily available to all young Americans.

In the field of higher education I believe that the program embodied in my Comprehensive Community College Act, which I have just reintroduced, will go far toward expanding educational opportunities all across the Nation. This legislation will provide realistic options for youngsters who have not made career choices; it will offer those students who have dropped out of 4-year colleges the chance to return to higher education; and it will afford the opportunity for continuing education to adults of all ages.

Of course, higher education cannot and will not be the sole focus of this aspect of the committee's responsibilities. We must also provide adequate means for financing our elementary and secondary schools. The newly-enacted elementary and secondary education amendments established a Commission on School Finances, and it is my hope that this committee will turn its attention to this difficult problem.

In dealing with the problems of school financing we must not lose sight of the fact that in the final analysis the focus of concern must be the individual student. New ways of treating children as individuals should be examined, so that both the deprived and the gifted child are given appropriate attention in the teaching process.

We will also have an opportunity to demonstrate greater concern for the education and care of our children when we consider extension of the Economic Opportunity Act. I believe that such programs as Headstart should be substantially broadened to include a far greater range of children, and that considerably expanded resources for child day-care centers should be provided.

TRANSITION TO PEACE

A further area of vital interest to the Labor and Public Welfare Committee, concerned as it is with emloyment opportunities of our citizens, as well as the allocation of the Nation's resources to such programs as those in the areas of health, education, and poverty, is the conversion of wartime spending and wartime production to peacetime purposes. We must be concerned with how the productive capacities and attendant employment which have supported the Vietnam war effort can be rechanneled so as to ease the transition of our economy, manpower, and resources to peacetime activities, and to meet the urgent needs of our people.

I believe the Congress has a responsibility to inform itself about the problems and opportunities that such a transition will present, and to enact such legislation as may facilitate that transition. The Labor and Public Welfare Committee initiated hearings on this subject during the last Congress, and I intend that the committee pursue its responsibility in this area to the extent of its jurisdiction.

REVENUE SHARING

Finally, it is my understanding that the President will shortly present the specifics of his special revenue-sharing proposal in broadly defined areas within the subject jurisdicition of this committee. Advance reports are that manpower and education will be among the functions to be affected in this proposal. I have some concern about the proposed technique of taking funds from existing categorical programs and redesignating these for more loosely defined grants to the States and cities. However, the committee will provide the administration and others with a full and complete opportunity to be heard; and, once all the details are before us, will act in what we view as the best interests of the Nation as a whole.

So, we face this congressional session with a full agenda. It is an agenda for progress, and I believe we will not fail to write a productive new chapter in the history of the Committee on Labor and Public Welfare—the people committee.

WORLD ENVIRONMENT

Mr. NELSON. Mr. President, hopefully the United Nations Conference on the Human Environment scheduled in June 1972, will mark the beginning of a worldwide cooperative effort to preserve the integrity and livability of the environment. No one nation acting alone will be able to deal effectively with the ever-widening range of pollutants—from radioactivity and pesticides to the exotic new industrial wastes of the technological age—whose consequences heed no national boundaries.

The urgent necessity of a world environmental compact is dramatically portrayed in a recent article by Mr. A. G. Mezerik, editor of the International Review Service, which covers the activities of the United Nations. I ask unanimous consent that Mr. Mezerik's thought-provoking article be printed in the RECORD.

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

A WORLD IRREVERSIBLY COMMITTED TO SUICIDE

(By A. G. Mezerik)

In earlier days, there were prophets of doom—men who were certain that the world and all its people would perish on a certain day. But the prophesies were false and all went on as before. Now I come, and I also prophesy doomsday. May I prove to be as false a prophet as those before me!

Here is my evidence, predicated on my premise that we, the human species, are committed to suicide, and the decision is irreversible—unless—the chain of life which embraces all living things and emphatically also the human species, has already been grievously assaulted by mercury, DDT and radioactivity, all injected into the biosphere by Man.

The disaster is not the result of an overnight act of pollution. It came about over a long period and had time to spread like a blot of ink over the entire globe. The catastrophe may have, in large part, been engendered by industrialized countries, but today all countries—industrialized or underdeveloped—are enveloped in the same lethal cloud—and while much perhaps can be done to stop today's and tomorrow's pollution by automobiles, oil spills, and other environmental offenses, nothing known up to now can remove the mercury already present on land and in the water, or wash out the DDT residues which persist after thirty years of spraying fields and waters, or clear the strontium-90—here, there and everywhere—first released in Nevada and since spread around the globe wherever the winds reach.

Mercury is the latest of the trio to be tagged as a killer. But it is no newcomer. Wherever paper and pulp mills went—and that was to the verdant forests of Sweden, Norway, the Soviet Union, the Canadian virgin woods and the green summer wonderlands of the Great Lakes, Minnesota, Wisconsin and Maine, there mercury—as a fungicide—was used and dumped into the crystal waters by the mills.

So it happened that the clean waters were poisoned and only generic names such as "Kennebec River Salmon" remained, but not a salmon was to be found in the once pristine, once pure blue waters.

Fifty years ago, the dumping of mercury began; how are we to assay the process of slow poisoning, innocently begun, but fatal in the end? It takes a long time to find out the meaning even of an act which all label beneficial. I should know. That is the way it was with DDT.

I remember when it happened. I was one of a team of writers invited to come to the Tennessee Valley Authority area to see how DDT worked. With our own eyes we could see the blessings brought by DDT: better crops of alfalfa and grains, protection from malaria, comfort from insects and bugs for man and beast. We saw an old farm woman use a DDT spray gun on her pet, a fly-ridden dairy cow. In a boat, we rowed along the river bank using flame throwers and spraying DDT on the malarial mosquitoes' breeding-places. We walked along on the bank with the men who were spraying the interiors of the cabins of the farmers. We were excited and elated. We could see ahead the great day—a world without itch, or malaria, and with food aplenty. I wrote a book acclaiming the new era. But that was in the 1940's and this is 1970.

THE AGE OF ATOMIC POLLUTION

My introduction to the atom came about at the same time and in the same area. We were in Chattanooga, Tennessee. It was during the war, no one told us explicity that what we saw from our perch as we looked across the valley, was the great Oak Ridge Atomic Plant where was being fabricated the first atomic bomb. But we knew it, and each of us hoped that the new mysterious weapon would end the war and end Hitler's threat.

It did not work so. Hitler was beaten without the bomb, and the atomic fury was vented on Japan. From Japan we learned that the bomb was not just the horror of burning death and incinerated destruction—of a bomb stronger than earlier TNT bombs—but that the A-bomb left a legacy of radioactivity, bequeathed to the United States bomber and the Japanese bombed alike, a dark legacy which covered guilty and innocent—the world around.

That was in 1945 and twenty-five years later the whole world reaps the atomic whirlwind of strontium-90 and atomic waste.

THE PENGUINS TELL US

A decade ago, an outpost of scientists in the Antarctic studying the physiology of penguins made a discovery that amazed them. Residues of DDT insecticide were found in the fatty tissues of the birds, even though they lived thousands of miles from the nearest farm.

The scientific world devoted little attention to the curious discovery, though it should have, for that finding should have heralded the startling recognition of the catastrophe which has overtaken the environment. Endless discoveries of man-made insults to ecology now follow one another. One of the most recent of these is mercury which is now found to be the most pervasive of the killers.

FATAL MERCURY

Large amounts of mercury at levels considered toxic to animals and to humans as well, have been found in the livers of Alaskan fur seals that live in the open Pacific Ocean, scores of miles from land.

The primary cause in this latest mercury tragedy is thought to be the result of the concentration of industrial pollution—which has gone through the aquatic food chain—that is, mercury dumped in coastal waters is absorbed by plankton and other small living things that are eaten by fish who go out to sea and who are there in turn are eaten by the seals.

A federal marine biologist in Seattle, Dr. George Y. Harry, whose laboratory first discovered the mercury in the course of searching for DDT residues in the seals, called the finding "astounding". He pointed out that this species of seal lived in the open water no closer than 50 to 100 miles from coastal areas, going ashore only in July to mate on the Pribilof Islands in the Bering Sea.

Downing B. Randal, the owner of a health food business in Santa Rose, California, used the livers from the seals to make a "blood booster". He said he had chosen the seal liver because of the remoteness of the seal's habitat. It was his belief that his preparation was pure, coming as it did "from an animal most free of contaminants." Mr. Randal has now been told by the United States Federal Food and Drug Administration how wrong he was. The agency ordered Mr. Randal's company to withdraw from the market 10,000 iron supplement pills made from the livers. Mr. Randal today says, "You can figure from this that there isn't any place in the whole world that isn't contaminated."

Contaminated seal meat poses a dire threat to the humans close by. For the native Aleuts in the Pribilofs, seal meat is an important source of food. Mercury contaminated seal meat does not look or taste different from uncontaminated seal meat. The Aleuts cannot sense the danger—and there is real danger. Toxic amounts of mercury can cause brain damage, mental retardation and spontaneous abortions.

The United States Public Health Service, made aware of the dangers, flew a team of doctors to the Pribilofs to examine the islanders. Preliminary studies showed a high level of mercury in the hair of some of the islanders. More recently, studies carried on by physicians at the Federal Center for Disease Control in Atlanta, Georgia, indicated that the hair of the seal-eating Aleuts contain about ten times as much mercury as the amount that is considered safe by the Federal Food and Drug Administration.

MERCURY POISONS PERVADE EVER-WIDER AREAS

Toxic levels of mercury have been detected, on this continent, in fish and wild birds in at least thirty-three states and Canada. In the last year, mercury pollution, almost unnoticed until recently, has been discovered in massive amounts in Lake Erie, San Francisco Bay, the Delaware River, an important lake in Louisiana, Georgia's Brunswick Bay, New England's Lake Champlain, the Tennessee River and many other places. United States Government agencies have ordered the suspension of commercial fishing in some parts of California, Louisiana, Michigan and Ontario because of mercury pollution. We can now recognize the mercury poisoning as having spread widely, in the open ocean, coastal water, rivers and inland lakes in the western hemisphere as well as in the eastern hemisphere, where it was originally detected.

The mercury problem has got so out of hand that public health officers in some states have warned sport fishermen not to eat their catches of trout, bass, catfish and crab. Toxic mercury levels have also been found in game birds, including pheasants in North Dakota and California.

Dr. Ephraim Kahn, a California Public Health official who heads a Federal-State mercury investigating team, has warned that some striped bass and catfish in San Francisco Bay are so heavily contaminated with mercury that they should be eaten only once a week, and not by pregnant women at all. "Mercury has an affinity for the fetus and is much more toxic in unborn children than adults," he said.

WORLD-WIDE CONTAMINATION

The dangers of mercury were found, and exist today, in waters far from North America. Studies which alerted the world to mercury poisoning were made in Minamata Bay, Japan, long before contamination in this hemisphere was recognized. The Minamata Bay studies showed mercury intoxication in pregnant women had caused their children to be afflicted with mental retardation and cerebral palsy. There, between 1953 and 1960, 110 persons were killed or severely disabled.

Mothers, although showing few symptoms, gave birth to babies with congenital defects.

What poisoned the waters of Japan—or of Sweden—another area where mercury was discovered and studied before it was known in the United States?

The mercury poison seems to come from industrial wastes dumped by plastic factories, pulp mills, paper-processing plants and other chemical facilities, but it can also come from natural mercury mines and indeed from mercury coated seeds.

SEEDS OF DEATH

Seeds are coated with mercury to make them insect repellent. Birds feed on these seeds, carrying them to other areas. Sometimes seeds are used as animal feed. On 18 February, 1970, Secretary of Agriculture, Clifford M. Hardin warned of an "imminent hazard" in the continued use of mercury fungicides. The occasion was the poisoning of three children in New Mexico. Their father, Ernest Lee Huckleby, had fed mercury-treated planting grain to his hogs in August. In mid-September, one of the hogs was slaughtered, and the pork was eaten for three and a half months. In December and January, the children were stricken; Amos was blinded, Ernestine has been in a coma and Dorothy Jean has been unable to speak. Their mother, who also ate some of the meat, gave birth to a son on 22 March "who has probably contracted congenital mercury poisoning", according to a suit for nearly $4 million filed against the supplier of the seed.

Is there any way to counteract the mercury plague? How long will it take to get large-scale research and will it come in time? Mercury is killer No. 1, a public enemy, newly found out, although around a long time.

THE KILLER DDT

The more familiar killer is DDT. Not long ago, the California Fish and Game Department reported that they had found that the inability of pelicans to reproduce on an island north of Los Angeles is closely correlated to DDT contamination "of major consequences".

Reproductive failures threaten the extinction of some species of sea birds, the Department said in a report in August. The report said that a survey of Anacapa Island showed that only one young bird had been produced in 552 nest attempts by brown pelicans. The eggs were so thin-shelled they could not be incubated. The pelican hens sat on the eggs and the eggs broke. It does not take a crystal ball to read the future of those birds—one generation and they are extinct.

"The reproductive failure has been closely correlated with the high level of pesticide residues—DDT and its metabolites—in the tissues and eggs of the brown pelican," the report said and added, "Scientists are deeply concerned because such reproductive failure in sea birds indicates a contamination of the marine ecosystem of major consequence, which could mean the extinction of some species."

Brown pelicans and other birds are, of course, not the only living things threatened by DDT. DDT is in the food humans eat. Mothers' milk carries DDT—lots of it. How much? Perhaps the answer is, that were cows' milk with that much DDT content offered in super-markets, it would be confiscated by the Food and Drug Administration.

We do know that DDT kills birds and fish, interferes with their reproduction, decimates their populations. It causes cancer in laboratory test animals, and people killed by cancer carry more than twice as much DDT as the rest of us. Nobody knows for sure what DDT is doing to humans, but who wants to wait around to find out? The answer seems inevitable—unless. . . .!

THE DDT SPECIAL INTERESTS

When we talk of DDT we get into some large-size special interest areas: farmers who want to grow bigger crops and are not yet worried about DDT's effects, chemical companies who have huge stakes in the manufacture of DDT and even humanitarian groups, more intent on creating a needed "green revolution", with more food for hungry people, than in disasters which may come later. Involved here also are guardians of health who find in DDT the only present answer to malaria control, and malaria has been, and still could be, a mighty decimator.

USE DDT NOW, PAY LATER?

The World Health Organization (WHO), greatly zealous in holding down malaria, says it will not curtail the use of DDT, arguing that to establish a 40-year life span in the malarial tropical lands is most important now, and there is yet time to do something about the prospect that the species may be in danger 50 years from now.

For its part the Food and Agricultural Organization (FAO), in its zeal to bring the products of the "green revolution" to hungry lands, is carpeting the fields with the deadly DDT. FAO leaders say "we need food now" and that's true.

CRASH RESEARCH PROGRAMS ESSENTIAL

What WHO and FAO are saying sounds reasonable, but it isn't. Reason dictates that there be crash programs operating side by side with present day expediency to find *that* something which could provide antidotes for birds and fishes and indeed for mothers—already DDT infected.

THE LETHAL ATOMIC RISKS

"Take the benefits now—pay later," is the song not only of DDT users; it is also the soothing melody of the atomic power industry. But that industry—almost entirely government-owned until recently—has already given us more than a little for later payment.

Atomic power has from its inception been known to contain contradictory elements: for ultimate devastation if used in war, and for making life easier if used in peace. But it is not that simple. The peaceful uses of atomic energy are now known to contain perils, which if not so immediately lethal as are atomic weapons, can be just as fatal. And more often than not, peace and war uses merge.

Nuclear waste which is a product of all nuclear use is a unique material in that, (1) its toxicity is not immediately apparent to human senses; (2) it cannot be disposed of in any conventional sense of the term; (3) it has great longevity.

Nuclear waste is a violently lethal mixture of short- and long-lived isotopes, whose toxicity cannot be artificially reduced and can last for hundreds of years. For example, the amount of strontium-90 in the waste produced by one ton of processed atomic fuel would be too hot to handle 1,000 years hence. Such waste must, therefore, be stored more or less permanently, but there are serious doubts about man's ability to do this.

The radioactive material is so potent that a few gallons released in a city's watershed can cause death and chaos on a scale comparable only to the havoc of modern warfare.

Although some waste has been dumped in the Atlantic and in the Pacific in "much less than perpetual metal casks", most nuclear waste is put into large, underground steel tanks shielded by earth and concrete. There are now some 200 tanks in the United States containing 75 million gallons of waste atomic material so hot that it boils by itself.

In most atomic countries, including the United States, it is not private enterprise, but Government which is mainly responsible for atomic pollution. Government is the only processor of uranium. Government is the sole tester of nuclear devices.

THE BOILING WASTES IN THE FRAIL TANKS

Most of the waste now buried in Washington State, South Carolina, and Idaho comes from the nuclear weapons program, but if peaceful nuclear power grows as expected, 6,000 million curies of strontium-90 alone will have been accumulated in the United States. Scientists say that amount is enough to kill over 6,000 million people and is thirty times as much strontium-90 as would be released in a nuclear war such as was envisaged in congressional hearings in Washington.

Some of the storage tanks have failed in only 20 years, and the tanks are vulnerable to earthquakes, sabotage, or just plain human error. Meanwhile, millions and millions of deadly gallons boil inside their frail tanks.

The atomic industry—war and peace—continues to produce the products which, even if war never comes, can kill us all—not with one rain of bombs from afar, but as a result of releases of lethal wastes from broken containers.

NUCLEAR TESTS MARCH ON

The United Nations established the Committee on the Effects of Atomic Radiation in 1955, because of a universal fear engendered by such words as "atomic energy," "fission," "nuclear chain reactions." This fear in regard to the terrible potential of nuclear weapons led to the signing of the nuclear test ban treaty in 1963, which outlaws the testing of atomic devices in the atmosphere, under the water, and in outer space—but not underground.

The test ban treaty did not stop the three biggest nuclear powers from—ironically, even if by coincidence—celebrating the 25th Anniversary of the United Nations by setting off nuclear test explosions in Nevada, China, and USSR on 14 October. It sounds like a black mass—celebrating not a quarter century of man's attempt to build an organization for peace, but a dance of death. France, which along with China, conducts its tests above ground, spewed out its poisons in tests earlier far from Paris and in the remote Pacific. But its strontium-90 will reach Parisians too, and it will not be washed out of the air, the waters or the earth in this or the next century.

THE SPIRALING EXPLOSIONS

The International Peace Research Institute of Stockholm, Sweden, reported on 2 November 1970, that, between 1969 and June 1970, a total of seventy-three nuclear devices were tested. Fifty-one were underground tests, of which nine or ten released radioactive material into the atmosphere and some carried out in the United States also caused minor earthquakes nearby. Sixteen were carried out in the Soviet Union.

The report pointed out that between 1968 and 1969, the world was devoting about 7 per cent of its product to military expenditure and that this was expected to drop to about 6½ per cent in 1970. 6½ per cent is still equivalent to the total income of the poorer half of the world's population, said the report. Armaments for all countries cost the people of the world 200 billion dollars.

REVERSE THE ACTION

The other day, I was talking to an M.I.T. professor, a man just returned from Tokyo, where in the midst of smog, clogging of harbors with filth and pollution, and almost intolerable gassing by automobile, he attended a seminar on environment. His conclusion—after listening, tasting, smelling and thinking, "We have two years to go; either we—the people of the world—undertake crash programs to find remedies for these otherwise irreversible trends, or we—the human race—die."

Die when? How many years, 40, 50, 60? What does it matter—the date on which the last man in the most remote place dies? What matters is how we use our two or three or four years of grace.

On 3 November, we had an election, and Americans in every part of the country were elected to office. They may or may not know anything about the clear and present danger

in which we find ourselves. Isn't ours the task of awakening them?

I am based at the United Nations. There the diplomats are preparing for a Conference on the Human Environment which will meet in 1972—but does the world have two long years in which to prepare leisurely for the discussion of a problem which by then might indeed be insoluble?

The Secretary-General of the United Nations had a feeling of the urgency when, as he closed the great meeting of world leaders who came together at the United Nations to celebrate the 25th year of life for the world organization, he said, "As we watch the sun go down, evening after evening, through the smog across the poisoned waters of our native earth, we must ask ourselves seriously whether we really wish some future universal historian on another planet to say about us: 'With all their genius and with all their skill, they ran out of foresight and air and food and water and ideas'; or, 'They went on playing politics until their world collapsed around them'."

Were there to be an invasion from Mars, we would all—in every land and on every island—unite at once to fight the common enemy come from afar. Will we now unite against this greater common enemy, greater because no one can escape the pollutants' invasion? Clearly we must mobilize the research institutions of the world to find antidotes for the poisons already dumped on us—mercury, DDT and strontium-90. That's where the people of our world can spend the $200 billion which goes into armaments each year. We all have a common enemy now, and we must unite to beat that enemy or die!

A COMPREHENSIVE APPROACH TO SOCIAL SECURITY REFORM

Mr. CHURCH. Mr. President, in 1935, with the passage of the landmark Social Security Act, the Nation made a commitment to enable the elderly to live a life of self respect in retirement.

Today, social security protects workers and their families from loss of earnings because of death, disability, or retirement. Without these benefits, 19 out of 20 beneficiaries would not achieve even a moderate standard of living.

But there are still gaps in coverage, and social security benefits still remain inadequate for millions of older Americans. For todays retired single worker, benefits now average only about $116 a month. And for the typical retired couple, benefits average approximately $196 per month.

Even more disturbing, nearly 5 million elderly persons fall below the poverty line—about one out of every four older Americans. Millions more are considered "near-poor." Today persons 65 and over constitute about 10 percent of our total population. Yet, they comprise 20 percent of all persons living in poverty.

Quite clearly, the wealthiest Nation in the world—with a gross national product said to surpass $1 trillion—can do better in fulfilling its commitment to the aged and those nearing retirement. And we must do better because one of the tests of a great Nation is the compassion and respect it shows for its senior citizens.

It is for these reasons that I am sponsoring with Senator HARRISON WILLIAMS, the former chairman of the Senate Special Committee on Aging, legislation to make comprehensive improvements in our social security and medicare programs.

Undoubtedly the number one priority for the elderly is to raise benefits to a more realistic level. To help achieve this goal, the bill provides a two-step across-the-board increase in benefits—15 percent retroactive to January 1, 1971, and another 15 percent raise effective in January 1972.

For the average retired single worker, this measure would provide an additional $197 yearly in badly needed income for 1971. In 1972 the second benefit raise would increase his yearly income by nearly $238. And elderly couples would be helped substantially, since their annual benefits would be increased by $353 in 1971 and by $405 in 1972.

Too often, it is the elderly who are hardest hit by rising prices. As prices go up, their purchasing power goes down, usually quite sharply. But under the Williams-Church proposal, the aged would have added protection against inflation. Beginning in 1973, this measure would authorize automatic adjustments in benefits based on increases in the cost of living. However, it is important to emphasize that under this approach, Congress would still have primary authority for setting benefit levels. This automatic adjustment mechanism would come into effect only if Congress failed to act on social security measures. This would help protect the elderly when there is a delay in adjusting benefits during times of rapidly rising prices.

A number of measures in this proposal will also be especially helpful for the rural elderly—such as in my own State of Idaho. Today large numbers of rural aged persons receive very low benefits because they have been covered under social security for a relatively short period of time or because they worked in lower paying jobs during their preretirement years. Large numbers now receive the minimum social security benefit, which is $64 a month for a single person. The bill that I sponsor would raise this amount to a much more realistic—$100 for this year and then to $120 in 1972.

In addition, the proposal raises the retirement test from $1,680 to $2,000. This will be especially helpful for many aged persons who want to work part-time after reaching traditional retirement age or need to work to supplement their social security benefits. For example, many farmers or self-employed individuals continue to exercise a certain amount of managerial functions in their business after they retire. For these people, my proposed increase in the earnings limitation will also be welcome.

Moreover, the bill will also provide more equitable treatment for women. For instance, benefits for widows will be raised from 82½ percent to the full amount received by their deceased spouses. This measure alone can lift large numbers out of the impoverished ranks.

Equally important, this proposal treats men and women equally for purposes of computing their benefits. Under present law, earnings up to age 65 must be taken into account for computing benefits for men. However, only years up to age 62 are considered for computing women's benefits. My bill would help to remedy this situation by providing for an age 62 computation for men, the same as now exists for women.

Additionally, this bill would make valuable improvements in the medicare program. The monthly premium charge for part B doctor's insurance—which is scheduled to increase from $5.30 to $5.60 this July—would be eliminated. This in itself would be equivalent to about a 5-percent benefit raise for the average retired worker. Coverage under medicare would be extended to include out-of-hospital prescription drugs, which continue to be a major expenditure for the elderly. And medicare would be broadened to include disabled social security beneficiaries under age 65.

Passage of these measures can help provide a cornerstone for assuring a life of dignity for our senior citizens, who have contributed unselfishly during their working years for the economic prosperity our Nation now enjoys. I am happy to report that the measure has the support of the National Council of Senior Citizens and the AFL–CIO.

ESTONIAN INDEPENDENCE DAY

Mr. WILLIAMS. Mr. President, February 24 marks another reminder of the hardship and adversity faced by millions of oppressed people across the world. On this day, Americans join with Estonian descendents in honoring the 53d anniversary of Estonian Independence Day.

During the years prior to World War I, the people of Estonia were forced to accept the presence of the powerful army from Moscow. The will and character of the Estonian people were suppressed, as the Russian leaders maintained a complete and terrifying control over this small nation.

It was not until the German soldiers forced the Red Army from Estonia's boundaries in 1918, that the people began to enjoy a feeling of relief. But the feeling was cautiously reserved. The Estonian leaders were not pleased with the new occupation of their lands. The loyalists were determined to resist the demands of the Germans, and, although done secretly, began immediately to prove their determination and persistence. On February 24, 1918, only 24 hours after Germany's occupation, the people of Estonia announced their independence.

Although courageous in their attempt, a successful Estonian movement was not possible for some time. When the German army finally withdrew from this country in November 1918, the Soviet forces once again, were determined to gain control of Estonia and her people.

But the Soviets did not prevail. Estonian patriots, aided by Finnish volunteers and a British navy squadron, withstood the invading army and prevented Soviet re-occupation. The Estonian defense was so successful, that on the first anniversary of her declared independence, Estonia announced that all Russian soldiers were driven from the country.

Although the moment of freedom was short-lived, the people of Estonia proved to the world their capability for self-government and self-determination. The

social and economic improvements were immense, and the contribution to the world community of nations was significant. It was not until the Soviet Union again invaded and gained control of Estonia in 1940, that the advancements of this free society were abruptly terminated.

Mr. President, in honoring the 53d anniversary of Estonian Independence Day, we in the United States pay tribute to these courageous people in their continuing effort to be free.

JUDITH RANDAL ON PRESIDENT'S HEALTH PLAN

Mr. KENNEDY. Mr. President, today's Washington Star contains a perceptive analysis by Miss Judith Randal of the shortcomings of the health plan proposed last week by the President.

As Miss Randal points out, the administration's plan seems less a rational rethinking of the system as a whole, and more a piecemeal approach of the sort we have tried for so long without success.

Mr. President, I believe that Miss Randal's analysis will be of interest to all of us in the Senate. I ask unanimous consent that the article, entitled "Health Plan Falls Short of Needs," be printed in the RECORD.

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

[From the Washington (D.C.) Evening Star, Feb. 25, 1971]

WASHINGTON CLOSE-UP: HEALTH PLAN FALLS SHORT OF NEEDS

(By Judith Randal)

A free-lance writer once was given a singular assignment by a manufacturer of clothing patterns for home-sewing. The instructions were to write a school play with a cast that would require all the children's costumes in the company's catalog. Since the dramatis personae included everyone from Peter Rabbit to George Washington, the plot was, to say the least, a bit contrived.

Some of this same flavor is evident in the enormously complex health message President Nixon sent to Congress last week. Although clearly the product of dedicated effort by a knowledgeable staff, it is flawed by the underlying assumption that remedies selectively applied to specific defects in American medical care on an inter-related but nonetheless piecemeal basis can somehow substitute for a rational rethinking of the system as a whole.

The reliance on private health insurance companies—albeit under federal rather than state regulation—strengthens this impression. No one would lay the entire blame for what ails the American way of providing health care on this industry or any other. But it certainly has played a role in the escalation of costs, the emphasis on treatment in hospitals rather than in less expensive facilities, and the other ills of medicine the administration would like to correct.

Perhaps the companies can indeed make a fresh start. Still, they are an odd choice as the vehicle of reform.

A close look at the President's message reveals, furthermore, that enactment of its proposals would perpetuate the double standard of medical purchasing power that already exists. While most employed Americans and each of their dependents would be entitled by law to $50,000 worth of private insurance coverage in the event of catastrophic illness, the poor and near poor, whose premiums would be federally subsidized under the Family Health Insurance Plan (FHIP), would get far less protection.

The administration contends that FHIP participants who exhausted their benefits could then turn to medicaid, the existing health care assistance plan operated by the states with matching monies from Washington. But whether all the states would in fact step in to fill the breach is questionable.

In any case, the level of medicaid services varies from state to state and two states don't have this program at all. Meanwhile, the blind and the disabled, plus elderly persons whose medicare benefits had run out would not be entitled to FHIP and would have to rely on medicaid. Poor people under 65, who were single or married but without children, would have no coverage at all.

The proposed changes for medicare also can be expected to draw fire. Oldsters will welcome the suggestion that the $5.30 they now pay each month to help defray the cost of doctors' bills be eliminated. But depending on fixed incomes, as many retirees do, they hardly are likely to enthuse over the idea that they would begin to pay a share of the costs on the 13th day of hospitalization instead of the 61st, or that the deductible that comes out of their own pockets when they must see a doctor would rise as the cost-of-living index goes up.

The White House has correctly put its finger on two of the chief culprits in the nation's health care crisis—imbalances of supply and demand and their handmaiden, poor geographic distribution of facilities and personnel. But again, the remedies it offers cannot be said to be comprehensive.

The Department of Health, Education and Welfare argues that competition among private insurance companies—whether profit or nonprofit—would prevent needless duplication of facilities like automated diagnostic laboratories and cobalt units for cancer therapy. But again, there is little in the history of the industry that suggests it has succeeded in controlling such overbuilding or could do so now.

When Blue Cross boards consist preponderantly of people with some links to medicine, hospitals, or both, this hardly is surprising. Yet the Nixon plan does not accord consumers or their representatives this kind of role at all.

None of this is to say that there is nothing good in what the White House has proposed. Certainly, its perceptions of the shortcomings of American medicine are accurate and no other administration has sought to come to grips with them, let alone offer solutions on so broad a scale.

Two central questions arise: First, can health care for all Americans be made a reality by nationalizing the regulation of insurance rather than nationalizing the insurance system itself so as to offer everyone a uniform range of benefits? And second, would the first plan cost more or less over-all than the other? Fortunately, the debate now starting on the issue should give the nation the opportunity to decide.

ACCOMPLISHMENTS OF THE NIXON ADMINISTRATION

Mr. MILLER. Mr. President, Life magazine for February 5 contains an excellent article by the distinguished Secretary of the Department of Housing and Urban Development which places a fair and timely perspective on the accomplishments of the Nixon administration. I ask unanimous consent that it be printed in the RECORD.

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

A REPLY TO LIFE'S EDITORIAL ON NIXON

(By George Romney, Secretary of HUD)

President Lincoln once said he could not answer all the attacks against him, as it would involve him in a "perpetual flea hunt."

Two weeks ago, LIFE meticulously published so many "fleas" about Mr. Nixon and his Presidency—I asked this opportunity to bag the legal limit.

Foreign policy. Though conceding him high marks in foreign policy, LIFE skates over—in two sentences—the President's historic arms control proposals, Soviet policy, the new footing toward Communist China, the peace initiatives in the Middle East. Instead LIFE zeroed in on Cambodia.

Nowhere was credit conceded for the accomplishments of Cambodia: the new American troop withdrawals; the greatly improved chance freedom in South Vietnam will survive; the dramatic decline in American war dead.

Who would have predicted 24 months ago that by the spring of 1971 almost half of America's troops would be either home or on the way?

Had this President been of a different political philosophy, those dismissing his achievements with faint praise might well be alto sopranos in the Nixon choir.

Economic policy. Ernest Hemingway wrote that two evils inevitably brought nations "temporary prosperity . . . permanent ruin." They are inflation and war; Mr. Nixon inherited them both.

It required both political courage and statesmanship to move away from war and inflation, up onto the high road to peacetime prosperity. Almost two million defense-related jobs had to be eliminated in the transition.

But Life's gloomy assessment notwithstanding, unemployment for 1970 was lower than any peacetime year in the '60s. Last year's downturn was the mildest in 25 years. Interest rates have declined. Price rises have dropped 25% in six months. Housing starts are moving up. Food prices have stabilized. The stock market has rocketed 200 points in eight months. Public confidence is everywhere on the upswing. A business recovery is at hand.

Social policy. Doing its bit to "bring us together," Life notifies 22 million black Americans that, under President Nixon, you must "be content with the ongoing progress . . . under laws on the books."

Yet, largely through this President's initiatives, millions of poor, many of them black, are exempted from income taxes; the number of Americans getting food stamps has tripled to 10 million; the number getting food assistance nearly doubled to 12 million; "black capitalism" loans to minority business have shot up to $135,000,000. These tremendous gains are not even hinted at in the Life editorial.

"Nixon has fought *only* [emphasis added] for welfare reform . . ." claims Life. Only for welfare reform!

Where have Life's editors misplaced the clippings on the 37-point environment program; the revenue-sharing bill; postal reform; the all-volunteer Army proposal; extension of unemployment insurance to five million Americans; the D.C. crime law and the billion dollars to combat crime; the proposals to stop the flow of smut to children; the higher education bill; the mass transit bill; Social Security reforms; coal mine safety; consumer proposals; the occupational health and safety law; veterans' programs; manpower training and a dozen others?

The Nixon style. Clearly, from Life's inventory, the Nixon "style" is being weighed in the balance with the style of the retinue that arrived in Washington in 1961. But let us broaden the judgment beyond comparative styles to comparative accomplishments.

In my book, substance counts more than style.

The men of style who departed government in 1969 left behind a bitter legacy—a division in the country, disruption on the campuses, inflation in the economy, cost overruns in a bloated defense budget, crime in our cities, powderkegs in the ghettos, backlash in the suburbs—and two hundred coffins being ferried home each week from Southeast Asia.

What a price America paid for the overblown rhetoric of the sixties! And what did it all accomplish?

The day the men of style departed Washington—15 years after Brown *vs.* Board of Education—one in 16 Negro children in the South attended school in legally desegregated districts.

It was not they, but Richard Nixon, who presided quietly over the dismantling of the dual school system. He placed his faith, not in pompous rhetoric or federal power, but in the basic goodwill and dedication to law of the people of the South.

The President did not barnstorm the country promising an "end to poverty in 1976." But calmly, articulately, forcefully he proposed to the nation the most far-reaching program in 35 years to eliminate poverty from American life. He has gone to the people: to rally them at the time of the massive street demonstrations—to argue the case for a missile defense—to justify his decision to a nation alarmed over Cambodia—to explain the economic necessity for his veto of a popular health and education bill.

But, if the President truly seemed, in these appearances, a "calculating lawyer"—why, then, almost without exception have they enhanced the President's standing and rallied support for his causes?

If his appearances disappoint, why do networks and Democrats anguish aloud that the President's televised addresses give him too great a power over national opinion? Hopefully, in 1971 the American people are more interested in performance than theatrics.

Were the President genuinely "isolated," how could an informed critic like Eric Sevareid walk away from an hour's live television interview praising the President's mastery of the matters of government?

From my experience, Richard Nixon's severest critics are the pundits who know him least; his staunchest advocates those who know him best.

When the elite of the intellectual community, the media and the capital deserted President Johnson, his Presidency did not survive. But President Nixon can survive and endure their opposition—for never in his career has he had their support.

If the editorialist cannot fathom the nature and depth of Mr. Nixon's support, perhaps it is because he does not understand the American people.

On Jan. 20, 1969, America was most deeply concerned with a tragic war in Asia, campus crises, mob violence in her cities, crime on her streets. If the day Mr. Nixon departs the Presidency, America's concerns have turned to saving the environment, making government more responsive, maintaining peaceful prosperity—then history will not dwell long on comparative styles. History, rather, will write that Richard Nixon guided America through a dark night of the American spirit into the bright calm of a new day, and was, therefore, a great President.

LET US CONSIDER SOCIAL SECURITY ON ITS OWN MERITS

Mr. CHURCH. Mr. President, the members of the House Ways and Means Committee—now working once more for early action on Social Security and Family Assistance Plan legislation—merit the appreciation of all Members of Congress for their meticulous attention to the crucial issues involved in H.R. 1.

Concern is growing, however, over the possibility of another legislative tangle, similar to that of last year, when certain controversial provisions of the FAP proposal contributed to the Senate delay on the overall bill.

This prospect is especially dismaying to those older Americans who depend upon monthly social security payments for all or a major part of their income. Their disappointment about last year's delay has been expressed in many letters to the Senate Committee on Aging and, I am sure, to individual Members of Congress.

They should not be asked to wait again, even if, as is likely, benefits are made to be retroactive.

The elderly, after all, are concerned about today's bills and today's food for the table. All the retroactivity in the world will not help someone who needs food, prescription drugs, or other essentials today.

I would suggest, therefore, to the members of appropriate committees in both Houses of the Congress that they detach title I of H.R. 1 and report this title as a separate bill to the floor.

In this way, the proposed reforms in social security could be considered on their own merits without being tied to several controversial provisions of the family assistance programs—provisions which have been questioned by the Ways and Means Committee within recent days.

Two important objectives would be served by such action:

First. It would assure swift action on vitally needed, overdue benefits and other important provisions.

Second. It would put the Congress—once final passage of social security increases has taken place—in a much better position to determine what action should be taken on the adult categories of the family assistance program.

In other words, we would have more information on how big a gap must be filled between old age assistance and the new social security levels.

As to the rate at which those benefit levels should be placed, I am firm in the conviction that we should enact an across-the-board increase of 15 percent. The Administration proposal for a 6 percent increase is unrealistic and symptomatic of a growing attitude within the executive branch of neglect, benign or otherwise, to aged and aging Americans. I believe that the 10-percent increase now under consideration by the Ways and Means Committee is inadequate, too, for the following reasons:

First. The 5.5 percent increase in the cost-of-living during 1970 affected the elderly far more than indicated by even that high overall increase. Costs of several items rose higher than the net increase, and these costs had special relevance to the elderly. I am referring to increases in such items as medical costs, transportation, and property tax.

Second. If a similar increase in the cost-of-living occurs during 1971, the proposed 10-percent increase would be depleted before the end of the year. It would be months before Congress could bring benefit levels up to the new cost levels.

Third. At a time when governmental efforts are being made to raise national economic output to exceptionally high levels within the next year, it is reasonable to expect that economic growth will increase contributions to the Social Security trust fund. It is my hope that a 15-percent increase could be financed without increases in payroll taxes.

I am happy to report that the proposal for a 15 percent increase has the support of the National Council of Senior Citizens, the AFL–CIO, and the National Retired Teachers Association-American Association of Retired Persons.

Mr. President, the Senate Committee on Aging has, within the past 2 years, published several thousand documents related to its study of the economics of aging. In all such documents, great stress was placed upon the central role that social security must play in all long-range efforts for truly adequate retirement income throughout this Nation. The proposals offered would merely provide one more step toward that goal. Other steps are needed, and I intend soon to introduce legislation calling for other social security reforms.

Older Americans, most of them dependent upon social security for the bulk of their income, stand in need of earliest possible action to improve social security. The Committee on Aging study to which I referred before documents that one out of every four persons of 65 years and over lives in poverty, that this age group lives on approximately half the income of younger Americans, and that they are hard-hit by increases in medical costs, property taxes, and rentals.

For these and other reasons, I urge early and adequate action.

ON THE FRONT LINE OF THE ENVIRONMENTAL FIGHT

Mr. WILLIAMS. Mr. President, one of the topics that most concerns all Americans is that of the pollution of our environment and the possible solutions to this poisoning of the earth on which we live.

On this issue, we have a genuine national consensus on the need for action. We may differ on solutions but we agree on the enormity of the problem and the need for dispatch in moving toward solutions.

It is conceded, I think, that government alone cannot solve this problem. The united efforts of public officials, the business community and private citizens will be required.

On February 21 of this year, the Washington Evening Star published an article which details the efforts of residents, businessmen and public officials in the area of Cape May, N.J., and Rehoboth Beach, Del., to do all that they can to stop the pollution of the Atlantic Ocean.

Their work clearly has paid dividends which shows what an aroused citizenry can do. Equally clear is that they need legislative help from the Federal Government if their efforts are to prevail. I am certain they can count on that assistance.

The article describing this effort is a most comprehensive one which I think

would be of great interest to all Americans. 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:

"PAUL REVERE" AT THE HELM—WILDWOOD TACKLES OCEAN POLLUTERS

(By Roberta Hornig)

WILDWOOD, N.J.—When Clarence Shoffler spots barges carrying sewage sludge or chemicals out to sea he chases after the tugboat operators, shakes his fist at them and hollers, "Where the hell are you going to dump that stuff?"

Shoffler began his chases about six years ago, three years after the City of Philadelphia began dumping its sewage in the Atlantic, 11 miles out from the mouth of Delaware Bay, and nearer the New Jersey and Delaware coastlines. A few years later Camden and Bridgeton, N.J., started disposing of wastes there, too.

The site—5½ miles off Cape May, N.J., and 7½ miles from Rehoboth Beach, Del., both prime resort areas—was a favorite with clammers. Shoffler had angrily noted his fish and clam catches steadily going down and squarely blames ocean dumping.

In May, when the Food and Drug Administration suddenly declared the sewage site off-limits to shellfishers because of a contaminated ocean botton. Shoffler, in his own words, "really got mad."

"I tied the boat up for a couple of weeks and started talking around," he said the other night at the Happy Hour, a gathering spot for Wildwood townspeople.

"It's not an easy life to begin with, and when the FDA comes out with a report that there's 120 square miles of ocean in your backyard polluted, then I want to do something about it," he said.

In "talking around," Shoffler, a waterman for 25 years, became the catalyst, a kind of Paul Revere for a small but vocal environmental movement that has become one of the liveliest along the Eastern seaboard.

Officially incorporated as the "Stop Ocean Dumping Association," it's better known by its acronym SODA.

In its short, active life, SODA has:

Got Rehoboth Mayor Lester Johnson to join Wildwood this weekend in asking Sen. J. Caleb Boggs, R-Del., ranking minority member of Sen. Edmund S. Muskie's Air and Water Pollution subcommittee, to hold a hearing in Rehoboth on the ocean dumping. The hearing was requested by the Rehoboth Beach Board of Commissioners.

The immediate goal is to get Philadelphia and Camden and Bridgeton in New Jersey to dump their sewage sludge at least 100 miles off the coast. Ultimately it wants ocean dumping stopped.

Encouraged U.S. Rep. Charles W. Sandman Jr., R-N.J., to force a defunct Bucks County, Pa., plant to dump 3½ million gallons of toxic industrial wastes at least 100 miles out at sea. The plant originally planned to dump the poisons 30 miles offshore from Ocean City, Md.

Obtained 60,000 signatures on a petition to support congressional legislation sponsored by Sen. Harrison A. Williams, D-N.J.; Sandman, many other senators and representatives, and the Nixon administration, to end ocean dumping as quickly as possible. This is a fairly impressive number considering that Wildwood proper has a population of roughly 7,000.

Moreover, SODA has become a household word in Cape May County, is becoming well known on the Delmarva Peninsula, and the hard core of its 98 members have become instant ecologists, if not oceanographers.

Wildwood is probably one of the few places in the country where President Nixon's ocean dumping report, published by the Council on Environmental Quality in October, has become almost a best seller.

SODA bought 200 copies and got a discount rate—46 cents each instead of the usual 55 cents—because of the number purchased. Waitresses, the mayor, realty agents and clammers quote some of the report's statistics verbatim, from memory, and know exactly the page they want to make a point.

Several clammers have copied from the report the various kinds of ocean dumping sites in the Atlantic, which is the receptacle for an estimated 39 million tons of wastes annually. They show off their own super-sized chart verision to anyone who will take a look.

Besides the sewage sludge, the Cape May-Maryland-Delaware offshore area also is a dumping ground for industrial wastes, explosives, toxic chemicals, ammunition and radioactive wastes. These sites, on charts at least, are 100 miles away from the coastline.

It is the Cape May-Delmarva ocean sewage dump, however, that particularly worries SODA. The Wildwood people fear a second Dead Sea is developing off the East Coast—similar to the only other officially designated contaminated ocean area off New York Harbor.

They are eager to spread the word, confirmed by the U.S. Army Corps of Engineers, that roughly 140 million gallons of sludge, 110 million of it from Philadelphia, is known to be dumped annually near their shoreline.

SODA members also tick off these claims: that Philadelphia's sewage is supposed to be 90 percent cleaned up by the time it hits the Atlantic but that Philadelphia also dumps other kinds of waste ("You name it, they're dumping it"); that Camden's sewage is treated only 25 percent and that Bridgeton's (population about 30,000) gets no treatment at all.

The Wildwood clammers and townsfolk who depend on shellfish and seashore vacationeers for a living were well aware of the ocean dumping off their shoreline and had long scoffed at Philadelphia as a "city of brotherly love."

"Humph! I do believe there's another outlet for their sewage other than our backyard. I wonder if they'd be offended if it were reversed," said Wilbur Ostrander, SODA's president and Wildwood's commissioner of public works.

But it was only last July 10—nearly two months after FDA closed the shellfishing grounds—that Don Long, head of the town's clam processing company was officially notified that the ocean area was contaminated and was ordered to spread the word.

It took two more months for the SODA people to get their organization off the ground.

After brooding for weeks, Shoffler in early October went to Capt. Otto Stocker, owner of the towns cruising boat, to discuss the contamination that is forcing clammers to move out further to sea or down the coast.

Then Stocker, Long and Ostrander met in Long's office and Ostrander arranged a boat trip to the sewage dump site for area officials and news media.

From the ocean bottom they dredged up, for all to see, "thousands of dead clams" and what in polite circles is called "Black muck."

The hard-core group—which by then had grown to include Wildwood Crest's mayor, Joseph Von Savage; realty agent Joseph Olwell; Anthony Bianchi, head of the Greater Wildwood Hotel & Motel Association, Mrs. Eleanor Hughes, a printer; and several watermen—then decided it needed a quickie course on ocean ecology.

On Nov. 18, a "marine conference" was held at the Lobster House, a Cape May restaurant. Guests included university oceanographers, New Jersey scientists, an FDA representative, members of the State Department of Environmental Protection and the director of the Shellfish Institute of North America.

In the words of a recently drafted "History of the Stop Ocean Dumping Association":

"Then Ostrander crossed the Delaware Bay and carried the word to the states of Delaware and Maryland."

A week ago, Rehoboth Beach joined. "They've got a good thing going and we're behind them," said Mayor Johnson. "Our only asset is our beach. If that one mile goes, we may as well close shop."

Ocean City, Md., officials are in the process of deciding whether to join up.

Even though its activism is still relatively new, SODA members are now philosophically confirmed environmentalists. They are beginning to question what they had unskeptically accepted in the past.

For example: the closing down three years ago of a once-booming menhaden processing plant in Wildwood.

Accoring to clammer Shoffler and Eirik Kirkeberd, who owns the Wildwood fishing boat dock area, the once-abundant menhaden, used for bait or converted into fertilizer, have just about completely disappeared from catches off-shore Cape May County. They also report that they have been catching flounder and sea bass with "big sore rings around their fins, and with tails looking like somebody chomped on them."

"It's something out there that's doing it," Shoffler said, shaking his head.

The watermen also are beginning to question what's happening to fish in the "back creeks," the Jersey Meadow spawning grounds up and down the coast.

"In the ocean, if the fish don't like it, they go someplace else. But in the back creeks, you get fish kills," Shoffler said, and Kirkeberd agreed. In their own minds, they have decided that past pesticide spraying to kill meadow mosquitos is behind the disappearance of several species of fish.

Long produced statistics which seemed to confirm the watermen's theory, at least in part. In the last year, New Jersey has lost 1,671 acres of back creek and estuary areas because of pollution.

Shoffler calls the sewage dumping site "sheer idiocy."

"What really got me is that this area was 70 percent clam bottom and 40 percent of that was clam seed. They buried those poor things alive," he says.

"A DESERT OUT THERE"

"The mouth of any bay . . . it's like a fertile valley where things grow. That's a desert out there now."

In 1963, Shoffler says, his boat was taking on 2,000 to 3,000 pounds of fish a day. In the last few years, the catch has dropped to 700 to 800 pounds.

In 1963, he says, he had $30,000 worth of lobster pots trapping 100 pounds a day. "Now you just don't see them," he said.

Clams are still on the ocean bottom, but Shoffler and the others are worried about their susceptibility to pollutants.

Shoffler also questions whether the sewage sludge and other wastes really are dumped as far at sea as they are supposed to be.

"If it's bad weather, say, all these barges care about is to get out three miles and one inch—they've been dumping haphazard, you might say, for better than three years."

There are no restraints now on ocean dumping beyond the three-mile territorial limit. This is what SODA wants changed quickly. Its ultimate goal is a complete halt to putting wastes of any kind in the sea.

"Sure we want that sewage to go out 100 miles now. But even if we get those towns to take it out farther, what will it do to the new area? There's life out there, too," one SODA member said.

Up to the last month, the Wildwooders operated on a pretty much out-of-pocket basis, with individuals paying their own way to

"sell" Rehoboth Beach, set up the marine conference, visit the Bucks County chemical plant and to buy newspaper ads.

Since incorporating as a non-profit organization January 14, SODA has built up a kitty of $3,000, all of it from membership dues of $5 to $250. The smaller amount comes from individuals. The larger comes from the Wildwood Junior Chamber of Commerce and Rehoboth. Eventually, the group hopes to get contributions in the $1,000 range.

"Our original purpose was to combat local problems—to inform, educate, persuade and seek passage of effective laws which will ensure that our sea life in every form is not annihilated," realtor Olwell says.

A NEW MISSION

But now SODA sees its mission as changing. "We now recognize the significance of the ocean dumping problem, off the Gulf and Pacific coasts as well as ours," Olwell says.

"It's like science fiction. It's crazy."

With its small budget, the new environmentalists are setting out an ambitious program.

Working out of "Eleanor's house" (Mrs. Hughes), Ostrander's office at the city hall or the Happy Hour, SODA is averaging a mailing list of 300 "alert" letters a day. Its current project is sending literature to 10,000 in the next county up, Atlantic.

Next it plans mass mailings on the "down counties" on the Delmarva Peninsula.

"We plan to go up and down the coastline, a county at a time. When we're finished on the East Coast, we'll work our way around the Gulf and up the Pacific. Heck, we might even call a national convention," Ostrander says.

DRAFT REFORM

Mr. KENNEDY. Mr. President, I invite attention to the brief report published in yesterday's newspapers, indicating that the Department of Defense had been forced to institute the doctor draft once more to meet its medical service needs.

It seems clear that even in this area where some of the greatest inducements exist to promote voluntarism, voluntary enlistment falls short.

The need to reestablish a draft call for some 21,000 doctors this year deems to demonstrate the distinct difficulty an all-volunteer Army will have in providing adequate manpower resources for the Armed Forces.

Perhaps the most concise discussion of the issues raised by the advocates of a volunteer Army was the article by David Rosenbaum, published in the New York Times recently. The questions he asked were:

Do you really think that any significant number of men from upper and upper-middle income classes will volunteer? Could you go to the nearest college campus and find enough volunteers to man the smallest infantry patrol? Is it fair that youths from the lower classes, the ones who can be induced by money to enlist, should carry the burden of fighting a war, while their better-educated, better-heeled counterparts stay home?

These are vital questions that volunteer Army proponents must answer.

Another discussion of the volunteer Army appeared in the Boston Globe last Sunday. A fine article by Martin Nolan summarized the problems facing the Congress this year in its deliberations over whether or not to extend the draft. In separate statements, Roger T. Kelley, Assistant Secretary of Defense, and I commented on the volunteer Army and the need for draft reform. Although I disagree with many of his observations, I believe they should be available to Senators for their information.

Because of the growing interest in this matter. I ask unanimous consent that the articles be printed in the RECORD.

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

[From the Washington Post]

PENTAGON ASKS DRAFT OF DOCTORS

The Defense Department asked the Selective Service System yesterday to draft 2,100 doctors this year in the first callup of physicians since 1969.

The Pentagon said the callup of physicians, osteopaths and dentists was needed because too few medical school graduates have volunteered for military service.

Beginning in July, 1,531 doctors of medicine, 77 doctors of osteopathy and 536 dentists will be drafted into the Army, Navy and Air Force for a period of two years active duty.

Dr. Louis M. Rousselot, Assistant Secretary of Defense for Health and Environment, recommended to Secretary of Defense Melvin R. Laird last month that he approve a callup of physicians after two warnings to the medical community went unheeded.

[From the New York Times, Feb. 7, 1971]

DRAFT: TOUGH QUESTIONS ABOUT A VOLUNTEER ARMY

(By David E. Rosenbaum)

WASHINGTON.—If you believe that the draft should be eliminated and replaced by a better-paid all-volunteer force, answer these questions: Do you really think that any significant number of men from upper and upper-middle income classes will volunteer? Could you go to the nearest college campus and find enough volunteers to man the smallest infantry patrol? Is it fair that youths from the lower classes, the ones who can be induced by money to enlist, should carry the burden of fighting a war, while their better-educated, better-heeled counterparts stay home?

AT POVERTY LEVEL

If you are opposed to a volunteer army and want to continue the draft, answer these: Is it right to pay servicemen at a poverty level, far below the minimum wage, merely to maintain the draft system? If, as a high-level Presidential commission has reported and as President Nixon contends, the draft could be abolished if only troops were paid a salary competitive with civilian jobs, is it right for the country not to make this effort?

Such are the questions Congressmen will have to answer before the present Selective Service Law expired June 30. The draft is expected to be one of the most explosive issues in Congress during the next few months, starring such strange political bedfellows as George McGovern of South Dakota and Barry Goldwater of Arizona on one hand, and Edward M. Kennedy of Massachusetts and John C. Stennis of Mississippi on the other.

President Nixon's own proposals fall somewhere between the extremes of continuing the draft system unchanged or abolishing it entirely. Last week the Administration trotted out its big guns—Defense Secretary Melvin R. Laird and Draft Director Curtis W. Tarr—to defend its stand, as the Senate Armed Services Committee began what is expected to be the most careful Congressional review of the draft since World War II.

What Mr. Nixon wants Congress to do is to extend his draft authority for two years and at the same time approve $1.5-billion for increased pay and better living conditions. With the additional salaries and bonuses and with what Mr. Laird called "a positive public attitude toward military service," the Administration believes that draft calls can be ended by the middle of 1973. This assumes a reduced American presence in Indochina and a reduction in the total military force from 2.9 million men now to 2.5 million.

NOT FAST ENOUGH

The President's time schedule is not fast enough for Senators McGovern, Goldwater and Mark O. Hatfield of Oregon. They want to double the money to the $3.2-billion recommended last year by the Presidential Commission on an All-Volunteer Armed Force, and they believe that by doing this the draft can be eliminated immediately.

Senator Kennedy, although he approves of the increased salaries, is completely opposed to ending the draft as long as there is a war going on. Rich young men could not be induced by money to volunteer, the Senator argues, so with a volunteer army "you would have poor people fighting a rich man's war."

Senator Stennis' objection is less philosophical. The Armed Services Committee chairman simply doesn't believe that enough men would ever enlist voluntarily. Talk about a volunteer army "confuses the American people," he said during his hearings last week, "and raises false hopes." Most of the members of his committee appeared to agree.

As if the issue of the draft versus the volunteer army were not enough to generate an interminable Senate debate, Senator Kennedy added another twist by proposing that Congress set a ceiling on draft calls of 150,000 men a year. To exceed the ceiling, the President would have to obtain Congressional approval.

This limit on the President's power to increase the size of the armed forces would "reassert Congressional control over a vital aspect of foreign policy," Senator Kennedy said, noting that the Constitution gives Congress the power to "raise and support armies."

It was just such argument over Congressional prerogative in military and foreign policy matters that led to weeks of debate last year over such measures as the Cooper-Church and McGovern-Hatfield Amendments. There is every indication that this year's debate will be equally lengthy and involved.

Still, it is the question of the volunteer army that it likely to generate the most interest this year, especially among young people and their parents.

[From the Boston Globe, Feb. 21, 1971]

FOUNDING FATHERS SAW NEED; SET UP NO PROCEDURES

(By Martin F. Nolan)

WASHINGTON.—"The method is fair, it is sure, it is democratic," said President Franklin D. Roosevelt as he signed into law the nation's peacetime draft in 1940.

After three decades of war, peace and semi-war, the only agreement on American conscription is that it must be either altered or ended.

The choice must come before June 30, when the current draft law expires.

President Nixon promises that the two national years of drafting authority he seeks will be the last with a goal of zero draft calls by July 1, 1973.

As with other issues facing the 92d Congress—revenue-sharing or public funding of a supersonic transport—predictions on the outcome fail to divide into neat ideological platoons.

When the Senate defeated a move towards a volunteer Army last August the 52–35 votes uncovered the strangest parings of political bedfellows, including the cosponsors of the

end-the-draft amendment, Sens. Barry Goldwater (R-Ariz.), and Mark O. Hatfield (R-Ore.).

Feelings about the virtues of a volunteer Army go beyond political and social philosophies and the Senate is not alone in its quandary. Not a campus rap session, PTA meeting, country club cocktail hour of sergeants' mess finds unanimity on the subject.

"The US Army has always been very closely identified with the broad base of the population of the country," said Gen. Earle G. Wheeler, former chairman of the Joint Chiefs of Staff in 1964. "And I like it that way."

Many professional military men are as chary of the "garrison state" as are sociology professors. Many commanders, too, are vexed with morale problems inevitably associated with reluctant soldiers.

The current national debate about the virtues and vices of the draft vs. a volunteer Army surfaced in 1966 at a time of rapidly rising draft calls for Vietnam.

During the 1950s and early 1960s a huge manpower surplus of young men encouraged the creation of loopholes, varying standards and bizarre caprices in the Selective Service System.

Deferments for educational, occupational and religious reasons had honeycombed the draft with inequities, none so vivid as those described by Yale president Kingman Brewster.

Brewster charged that educational deferments meant that the burden of the draft fell "Primarily upon those who cannot hide in the endless catacombs of formal education."

The question of undergraduate student deferments still remains to be setled, since President Nixon has already ended other student deferments and deferments for those engaged in "critical occupations."

Another ancillary issue facing those who wish to continue the draft is the question of national standards as opposed to the standards of acceptance promulgated by more than 400 local draft boards.

Besides student deferments and national standards, debate on the draft is likely to center on large, philosophical questions:

Can the nation afford the increase in salaries to make the infantry competitive with civilian life?

Is it more unjust to encourage blacks and other disadvantaged young men to seek the "easy" way out of a troubled economy?

Will a professional Army with less dependence on civilian support produce more politically ambitious leaders?

Would continuing the draft exacerbate distrust among young people towards their government?

Would the draft's existence encourage a modern presidential habit of undeclared wars?

During the debate, attention will also be paid to the results "humanizing" service life has had on morale. If the tradition of "Micky Mouse" is really dead, does that mean new life for re-electment rates?

Ever since George Washington had troubles keeping recruits at Valley Forge, the draft has been a constant summons to controversy.

In 1863, in New York City, more than 1200 people were killed in riots protesting new draft laws.

In the war of 1812, Daniel Webster declared that "If the Administration has found that it cannot form an Army without conscription, it will find it cannot enforce conscription without an Army."

For inspiration, the founding fathers of the Constitution played it down the middle. In the Bill of Rights they called for "a well-regulated militia", without spelling out the regulations for obtaining one.

Nixon's Plan Best

(By Roger T. Kelley)

President Nixon stated in a message to Congress almost a year ago, and in another message Jan. 28, that the Administration intends to eliminate reliance on the draft and achieve an all-volunteer armed force. I believe this can be accomplished by July 1, 1973, if the American public and the U.S. Congress give us their full support.

The Administration has presented to Congress a program to achieve this goal. One of its key factors is a big increase in the pay of military people with less than two years of service, including a 50 percent increase at the entry level. These proposals should become law as a matter of simple justice to our servicemen, even if the goal of an all-volunteer force was not at stake.

FREE CHOICE

By itself, increasing military pay will not produce an all-volunteer force. Many other things must be done, and they are a part of the Administration's proposals. In addition to pay increases they include improved barracks living, an expanded recruiting program, more scholarships and higher subsistence for ROTC and similar officer programs, and the elimination of make-work and "Mickey Mouse" work details.

I have always felt that free choice is important as applied to one's work or career. But while the idea of free choice appeals to me, I didn't know when I became Assistant Secretary of Defense two years ago whether the all-volunteer force could be attained.

Also, I wasn't sure that it represented the best deal for the American taxpayer. These are my conclusions after studying the subject carefully for two years:

1. In the adult work world, the armed forces (like other organizations) function best in a free environment where they compete with others for people.

2. An organization composed of volunteers, having survived the test of free competition, tends to be more efficient than one that relies on forced entry.

3. The alleged pitfalls of the voluntary military organization—that it will be dominated by mercenaries, who will take over our nation, or be all black—are gratuitous and false claims. They should be knocked down hard, lest the American public be misled by them.

4. Once the transition to an all-volunteer force has been accomplished, the military organization will be totally more effective and will consist of many fewer people than its conscripted counterpart.

IMPROVE PAY

If these conclusions are right, then eliminating the draft is important because, above all else, it would provide better national security. It is also important because it would cost less and would serve its military members better than the compulsory form of organization.

But in the last analysis, there is no point in extending the debate on the all-volunteer force. Whether we eliminate the draft or not, military members are entitled to decent pay, adequate housing, and satisfying work.

If providing these things produces an all-volunteer force, then it is the right thing to do. There is simply no way to justify poverty level pay below the Federal minimum vintage barracks, and benefits that otherwise do not compare with civilian life.

The claim is made that an all-volunteer force would become a "mercenary army." This is an emotional charge, without foundation in fact. The leadership of the armed forces today, both officers and NCO's, are volunteers. They are responsible to civilian officials in government. This relationship will be unchanged with an all-volunteer force. The major difference will be that our men in uniform will be paid on a competitive scale with civilians.

The charge is also made that an all-volunteer force would mean the poor, black would fight the rich man's wars. If this were true, then the number of racial minorities and poor people who have volunteered would be a lot higher. The facts are these:

1. Racial minorities, including blacks, in the armed forces are within 1 percent of their total population mix.

2. Among those who have entered service as volunteers, the middle class is as well represented as the poor. Now a brief comment about ending the draft. Should it be now, a year from now, or sometime later?

President Nixon has asked Congress to extend the induction authority under Selective Service for two years—to July 1, 1973. The military manpower supply system has relied upon the draft for many years and it will take until 1973 for pay increases and other actions to produce enough volunteers. In the meantime, we must meet the overriding consideration of our nation's security and rely partly on the draft to maintain the strength of our armed forces. We wish the draft could be ended now, but it is not realistic to plan in those terms. Nor is it realistic to think that the conversion from conscription to all-volunteer could be accomplished in the next year.

On the other hand, some believe the draft should be extended for four years. To do so would be inconsistent with the Administration's all-out effort to end reliance on the draft by July 1, 1973, which would be an outstanding national achievement. It can be done, but it will take an unselfish national will and a heap of positive thinking to make it happen.

HONOR DESERVED

Finally, one factor is essential in attracting and keeping volunteers in the armed forces. That is for our American society to recognize that military people, and the uniform they wear, deserve honor and respect. Our military men and women are, after all, protecting your rights and mine. Those who find fault with American policy and our involvement in the Vietnam War should understand that military people do not make foreign policy; they help to carry it out. They deserve the gratitude and respect of all Americans.

A Tragic Mistake Now

(By Senator Edward M. Kennedy)

The Congress of the United States must decide by June 30, 1971 whether or not to extend the Selective Service Act of 1967. For many, there is only one question: shall we repeal the draft and establish a volunteer army?

Although I would support a volunteer army in peacetime, I believe it would be a tragic mistake to adopt a policy of an all-volunteer army at this time.

While American men continue to die in Vietnam, I shall continue to support an equitable draft which cuts across all levels of society.

At the same time, I shall join in all efforts to produce an immediate end to the war in Southeast Asia. I believe the Congress can achieve that goal by legislating the final withdrawal of U.S. troops by Dec. 31 of this year.

But whatever the merits of a volunteer army in peacetime, when American men are dying in Vietnam, Cambodia, and now in Laos, a volunteer army is both inequitable and unwise.

HURTS THE POOR

First, I find it morally indefensible for the risk of death to fall only on those less affluent Americans who might be induced by higher pay to enter the military.

This society still denies to the poor, both black and white, equal opportunity for advancement and achievement. Since that situation exists, a volunteer army would be programming poor boys into the military to fight a rich man's war.

Some have argued that there would be little change between the current numbers of young men from different segments of our society within the military and their numbers in a volunteer army. I disagree and I would challenge the advocates of a volunteer army to go to any college campus and find a sufficient number of volunteers to man an infantry combat unit.

Recent studies also demonstrate that few from the middle and upper middle classes would volunteer. The Marshall Commission found that mainly the less affluent would be attracted by a volunteer army. Department of Defense attitude studies in 1964 and 1968 have confirmed that finding.

I find it grossly inequitable for this nation to embark on a policy that would hold out only one option to the poor to break the cycle of poverty—an option that requires them to face the risk of death.

Second, it is supremely unwise to insulate the more affluent and politically powerful members of our society from the horrors of war. If the day arrives when the sons of the middle and upper classes do not face the threat of the draft, then it will be much easier for those in power to lead this nation into future Vietnams.

$3.2 BILLION

I doubt whether the antiwar movement that developed in this nation during the past few years would ever have materialized if young men from every social background were not threatened with service in Vietnam.

Finally, in wartime, a society can least afford the extra price of trying to achieve a volunteer army. The Gates Commission found the minimum additional expense of establishing a military force of 2.5 million men to be $3.2 billion.

Others, including the Department of Defense, have formed higher estimates. But even $3.2 billion is a major expenditure when Vietnam costs already lessen our ability to meet domestic needs.

When the nation must halt the pollution of its air and waters and must end the hunger and malnutrition that cripple many of its citizens, $3.2 billion is a substantial expense. It is greater than the total Federal expenditure planned for elementary and secondary education in fiscal year 1971. It is a cost that can best be borne in peacetime.

In peacetime, there also are other factors which come into play. The legitimate demands for the full expression of voluntarism in a democratic society become more compelling.

And, most important, there no longer is the moral question of inducting only the disadvantaged groups within our society to accept the dangers of battle. In peacetime, then, the free play of the manpower market can be permitted to operate.

However, there is one element to proposals for a volunteer army which I would seek to incorporate immediately into our military manpower policies. Most volunteer army advocates require the executive branch to obtain Congressional approval reinforces the balance between the legislative and executive branches and reasserts Congress' Constitutional responsibility for the raising of the armies.

Yet I believe that objective can be obtained more directly within the present draft system. The draft reform bill I introduced last week sets a 150,000 draft ceiling for each of the next two years. In this way, any effort by the executive to bog this nation down in future military adventures could be checked by the Congress, which would have to ratify any removal of the draft ceiling.

For the past four years, I have fought to make the draft system impartial, certain and fair. The hearings which I conducted in 1967 and 1969 clearly demonstrated the bias within the system. Many of my suggestions have been adopted. There is a random lottery system and occupational deferments have been halted. But more must be accomplished.

My bill would require a national call so that every youth, regardless of where he lived, would face the same chance of being inducted. Now, a young man with a number of 123 in one area may be called, but someone with the same number in a different draft board across town may not.

REFORMS

My bill also would mandate an end to new undergraduate deferments, but would not take deferments, but would not take away deferments from those who now hold them. I see no reason why the Harvard College student should be allowed to postpone service when the Weymouth mechanic is not.

In addition, there are procedural reforms which I also feel are important to give all youngsters the same right to present their case for a hardship or conscientious objector deferment. These are among the critical changes in the existing system which I think will spread the burden of military service more evenly across society.

In a democratic society, when the threat of death or injury is demanded by the state, then that threat must be shared by every sector of the society and not borne only by the poor. If we must call upon some of our young men to face death on the front lines, there must be no doubt that the system which selects them is the fairest and most nearly just that men can devise.

PADLOCKING THE DATA BANKS

Mr. MATHIAS. Mr. President, the perennial challenge of controlling our own ingenuity is particularly urgent in regard to data banks. We have seen more and more evidence recently of the need to regulate not only what information about American citizens is collected, and by whom, but also how that information is stored, shared and utilized.

In a very interesting column published in the Baltimore Sun of January 31, Ernest B. Furgurson described the unusually perceptive and cautious policies being enforced by Dr. Robert R. J. Gallati, director of the New York State Identification and Intelligence System—NYSIIS. According to Mr. Furgurson, material collected for NYSIIS is carefully screened, with identification data separated from intelligence, and each type of information made available only to those with a legitimate need for it. Further, records are purged in cases where a first offender is found not guilty, and individuals are allowed access to their own files to correct misinformation.

The standards and safeguards established by Dr. Gallati appear to go beyond even the generally meritorious guidelines developed for SEARCH, the multi-State criminal justice information system being shaped with funding from the Law Enforcement Assistance Administration. In turn the standards for Project SEARCH, in which Dr. Gallati has been deeply involved, are far mose stringent than any rules or restrictions yet applied to Federal data banks.

Under the Crime Control and Safe Streets Act of 1970, the Law Enforcement Assistance Administration is directed to report to the President and Congress by May 1, 1971, on recommended legislation to insure the accuracy and integrity of criminal justice data banks and to protect the constitutional rights of all individuals covered or affected by such systems. I trust that, in developing these recommendations, LEAA will give close attention to the New York State experience and progress in reconciling the legitimate needs of law enforcement with the dictates of the right of privacy.

I ask unanimous consent that Mr. Furgurson's column be printed in the RECORD.

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

[From the Baltimore Sun, Jan. 31, 1971]

PADLOCKING THE DATA BANKS

(By Ernest B. Furgurson)

NEW YORK.—It appeared the local sport of throwing verbal garbage at the police had reached peak popularity during the patrolmen's recent wildcat strike. Not so. Now it is even more inspired, following indictment of four cops from sensitive positions for selling confidential police records.

The assertion that eight particular detective agencies and two airlines chose to deal under cover with policemen and other officials here in New York does not make it an exclusively East-of-the-Hudson phenomenon which could not happen anywhere else. It could, has and will.

It is fueled by the nationwide growth of data collection, often of the most injurious potential, and its mishandling by those officially entrusted to guard and use it. This governmental side of the threat to privacy was exemplified by the Army's silly but dangerous building of dossiers on politicians and others arbitrarily selected by God knows who. The civilian side, involving credit agencies, junk mail distributors and the like, is at least as omnipresent.

The case that just broke here is one in which the government and private efforts found common cause—the cause so often sanctified because it can be labeled "business." The airlines and detective agencies wanted police records of prospective employees. Instead of doing their own investigating, they allegedly took the lazy route of bribing policemen to provide the information from confidential files. If nobody gets caught, everybody makes a buck.

It is not so cut-and-dried as it may sound. There are shades of ambiguity in the field. Theoretically, police records are public information. In some states, businesses can buy from the police just the sort of data involved in the case at issue. They should not be able to, though. And in New York they cannot.

At the state (not the city) level New York is fortunate to have a man in charge of its computerized police data collection who also is dedicated to protecting the data from leakage and abuse. He is Dr. Robert R. J. Gallati, director of the state's Identification and Intelligence System (NYSIIS), which was not connected with the current bribery case.

Gallati insists on the strict separation of material as either identification (fingerprints, arrests, conviction and parole records, etc.) or intelligence (much more nebulous and slanderous matter, the product of investigations and even hearsay). The intelligence section of his computer bank in Albany is not yet in full operation, and when it is, he says, it will deal only with organized crime.

As for the identification data, it is made up of bits of information most of which are available to legitimate inquirers at city

and county courthouses throughout the state. But Gallati firmly believes that once those bits are centrally collected into a comprehensive "rap sheet" on an individual, there is a qualitative difference.

At that stage the police have performed the task, either very expensive or impossible for a private firm, of pulling together incriminating or otherwise damaging information from across local, state and even national borders. To pass out that "rap sheet" casually to anyone who asks for it or is willing to pay for it, out of whatever motive, is not the same thing as merely opening the records of public court proceedingss.

Contrary to the standard view of civil libertarians, Gallati believes the computer is more safeguard than threat to individuals, including those under arrest. Some expertise is required to steal information from a computer, while anyone with physical access can pilfer card files.

For the past year, law officials in New York state have been able to obtain records from the NYSIIS computer within two to three hours, compared to a period of days in the past. This speeds the bonding process and cuts down on cases of mistaken identity.

In addition, first offenders found not guilty are able to purge their records from that bank, and anyone suspecting that wrong data are held there is able to come in and offer to come in and offer corrections to his own file.

These attitudes and procedures, however, are unusual on the government side of the fence. And in New York state alone, there are some 3,600 police departments, district attorneys, courts, justices of the peace, probation, parole and correction agencies with acecss to the NYSIIS collection. Multiply that to account for all 50 states, and by the number of individuals in each agenices, and you have the potential for incidents like the present bribery case becoming a new feature of the American way of life.

That is why tight federal standards for use and security of such data collections are demanded, and why Senator Sam Ervin's subcommittee would do well to call Gallati as an expert witness when it conducts hearings into the subject beginning next month.

CAN WE REVIVE THE U.N.?

Mr. CHURCH. Mr. President, usually, insertions in the RECORD are preceded by bland and noncommital introductory remarks. However, in the case of Harlan Cleveland, the president of the University of Hawaii, and a distinguished American diplomat in former years, something more is required.

Mr. Cleveland recently made a noteworthy address on the subject, "Can We Revive the U.N.?" which he presented at the Hoover United Nations Conference, sponsored by the Hoover Institution on War, Revolution, and Peace at Stanford University. Because Mr. Cleveland is one of the foremost American scholars on the United Nations, his remarks command respectful attention.

In my opinion, the Cleveland paper is an important statement on ways in which the United Nations might be strengthened in the future. I confess that I cannot subscribe to the paper in its entirety. There are parts of it which too closely reflect a Pax Americana philosophy to be wholly compatible with my views. In certain places, the author seems to be arguing that the U.N. should be improved, the better to advance our own national purposes abroad, this being justified, presumably, upon the theory that "what's good for the United States is good for the world."

Nevertheless, many suggestions made in the Cleveland paper are worthy of the closest consideration by all who would see the United Nations strengthened in its role as international keeper of the peace. I commend it to the Senate, and ask unanimous consent that the complete text be printed in the RECORD.

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

CAN WE REVIVE THE U.N.?

(By Harlan Cleveland, president, University of Hawaii)

We are, it seems, at another of those moments of history when, as Churchill wrote of the days before a Great War, "every man had only to do his duty to wreck the world." The Secretary General of the United Nations, in a short speech ending the General Assembly "debate" on the U.N.'s 25th Anniversary, harked back to an earlier Englishman, Edmund Burke, and a similar sentiment: "The only thing necessary for the triumph of evil is for good men to do nothing." And commenting on the worldwide environmental crisis, U Thant captured a mood of desperation which only served to dramatize how far mankind still is behind its declared aspirations:

"As we watch the sun go down evening after evening through the smog across the poisoned waters of our native earth, we must ask ourselves whether we really wish some future universal historian on another plane to say, 'With all their genius and their skill, they ran out of foresight and air and food and water and ideas'; or, 'They went on playing politics until their world collapsed around them'; or, 'When they looked up, it was already too late.' If the United Nations does nothing else, it can at least serve a vital purpose in sounding the alarm."

But the United Nations under new leadership will have to serve a more vital purpose than crying havoc. It is not man's last best hope, because if we cannot revive the U.N. we will have to do something else. But the other options all require us to start from scratch in building an international order to avoid the scourge of war, so we had better start from where we are.

Where we are is not on the brink of disaster; there is still some elbow room. The caution induced by possession of thermonuclear weapons has almost ruled out war among the major world powers; military stalemate of the NATO-Warsaw Pact variety is not the most attractive kind of peace, but it is proving a durable kind. "Little" wars are likely to continue, more in the developing world than among industrialized nations. And it is precisely in "little" war peacekeeping that we the members of the United Nations have some relevant experience. How are we going to build on that experience? Let me first suggest a good red-blooded American reason for doing so.

The trouble with the United Nations is that it became indispensable before it became possible. Our problem now is to make it a practical proposition. Because the U.N., or some facsimile thereof, is paradoxically the best chance to develop an *American* foreign policy that works.

The war in Vietnam has been our last, our longest, and our bitterest experience with what must now be counted the first principle of world politics—that unilateral action, even by the strongest powers, is increasingly likely to be inconclusive abroad and unpopular at home. Peacekeeping, peaceful settlement of disputes, aid-giving and the control of global technologies—the lesson of experience since the Second World War is that, with few exceptions each is better tackled through international organizations than unilaterally, better legitimated by international consensus than by domestic decision-making, better symbolized by an international flag than by the Stars and Stripes. And this is so despite the rigidities, inefficiencies, and hesitancies of international organizations in general and the United Nations variety in particular.

The lesson of this lesson is that it is heavily in the U.S. national interest to invest, nourish and lend our power to international organizations, buying specialized results by burying general rivalries, trading some of our discretion for legitimacy, attracting partners by swallowing our pride and prejudice.

The technological imperative to worldwide organizations gets more obvious as each new proud technical achievement turns out to be also an ecological threat. Perhaps it was natural that a nation like ours, which has the capacity to act on the world stage and to affect by its own decisions that world environment, should be slow to think transnationally—just as the smoker in a roomful of non-smokers does not think of himself as a polluter while others do.

But everybody knows now that the air we breathe is an international resource. How much the content of carbon dioxide in the atmosphere is being increased by the burning of fossil fuels, or what foreign particles are being introduced into the air we share, cannot even be estimated, let alone controlled, by nations acting alone. Oil dumping and waste disposal in the oceans are choice current examples of issues that will be sorted out internationally or not at all. And the power to modify other people's weather, redirecting the winds and changing the pattern of precipitation at human command—that would certainly be an outrageous form of power for one or a few scientifically advanced countries to arrogate to themselves.

The internationalizing imperative is equally evident in development aid, the transfer of resources and technique from rich countries to poor countries. We have been through it all in the twenty-five years since the first relief and rehabilitation programs after World War II, and we know that national "foreign aid" does not—as most people used to think—provide more control, elicit more gratitude, or produce better results than aid administered through the World Bank and the U.N. Development Program. They are not very efficient, but neither are the unilateral aid programs. And in terms of domestic political support, unilateral "foreign aid" is consistently in hotter water than U.S. support for international organizations. If there is not a lot to choose between them for effectiveness, why take the political fallout abroad and the annual political trauma in Washington, that "American-flag" operations seem to entail? The Peterson Commission, without explicitly asking this question, has drawn the obvious conclusion in advocating as much multilateral aid as possible. (It is of course a "safe" recommendation, since the parallel reluctance of other contributors helps ensure reasonable limits on what we have to do.)

When it comes to peacekeeping the lesson of experience is even more striking. We were able to withdraw from the Congo because the "we" that were engaged was the United Nations. Deeply enmeshed though we are in the Middle East, the presence for a time of U.N. observers and until now of a U.N. mediator has enabled us to avoid taking a unilateral responsibility for keeping an uneasy truce and making an almost impossible peace. In the Cuban missile crisis, we managed to engage two international agencies, the Organization of American States to sponsor our blockade and bless our overflights, and the U.N. Secretary General to urge a Soviet pullback and propose international

inspection in Cuba. (The published histories of this crisis have missed how multilateral was the diplomacy that legitimated the threat to use our military power to get rid of those missiles; for example, Castro's refusal to consider U Thant's inspection proposals provided the justification for continued aerial surveillance of Cuba by the United States acting for the OAS.)

Even in the Dominican Republic intervention, when President Johnson acted unilaterally, the peacekeeping operation was converted in time to OAS sponsorship, which certainly helped us get out in about a year instead of staying around to become involved in the local aftermath. And where United States forces have had to stay for protracted defense—in NATO Europe and in South Korea—international consultation and command have helped protect American involvement from ineffectiveness abroad and unpopularity at home.

The contrasting case is of course Vietnam. Our effort in the 1960s to tackle that peacekeeping job unilaterally has to be counted a major strategic error. Taken together with the early American belief in conventional military force as a counter to unconventional attack, and the later illusion that escalation by imported armies and bombing by American planes could lead to a negotiated peace, the unilateralism of our approach guaranteed an inconclusive outcome. This has been the most unilateral, the most unsuccessful, and the most unpopular war in American history; there is clearly a correlation among these superlatives.

In his address to the U.N. General Assembly last Fall, Andrei Gromyko said of Vietnam that "by its aims and its nature the war is still an American war." The irony of our involvement is that most Americans, both those who have supported the war and those who have opposed it, would have to agree with Gromyko.

If operating unilaterally is the worst foot forward in international politics, and equally a dead-end street in U.S. domestic politics, it is quite natural that the Vietnam experience has produced a widespread yen to cut back on U.S. commitments and ambitions, indeed a turning away from foreign policy in favor of concentration on domestic issues —race, poverty, the cities and the environment. The danger in this sudden shift of priorities is that future peace-and-security crises will find us no longer willing to face unilateral involvement and not yet able to work through effective international peacekeeping machinery—because it doesn't yet exist.

During recent "peace games," in which possible future crises are played out by responsible officials or their surrogates, the players representing the United States Government have been much inclined, when the crunch comes, to rule out the use of U.S. military power on the ground that, after Vietnam, the American people could not be brought to support of another overseas adventure. They are probably right; the slogan "No More Vietnams" has very wide support today across the American political spectrum. If the option is unilateral adventure or none, the mood of America in the 1970s might well dictate a kind of isolationism. But if the options also include U.S. support to a multilateral operation, legitimated by some reputable international organization and shared in by a number of other countries, Americans are likely to reject both lonely withdrawal and Lone Ranger activism, and join an international patrol instead. And one result of acting multilaterally is to require us to consult internationally before acting; in some cases this might have the effect of substituting a political settlement process for military intervention. Again, the Vietnam experience teaches us how important it is to keep that option open.

If in order to make sense of American foreign policy we need multilateral options so badly, can we revive the U.N.? That it needs a major injection of both strength and adrenalin, there can be no doubt.

I will not rehearse for this sophisticated audience the multiple sclerosis which has overtaken the United Nations in its less than three decades. The detachment from reality of much General Assembly debate, the frozen procedures of the Security Council, the underfinancing and overbureaucratization of the Specialized Agencies, the demoralization of the U.N. executive and the growing timidity of its aging leadership—these are the familiar complaints, no less justified for being familiar.

A House of Representatives subcommittee was surprisingly gentle in referring to the U.N. as "ill-equipped" for its future, "impotent" in the face of threats to the peace, "cumbersome" in its structure and "peculiarly inefficient" in its method of operation—and even gentler in its summary finding that "the overall record of United States' participation in the United Nations has been less than satisfactory." Gromyko, in the U.N. speech already mentioned, was equally circumspect: ". . . we feel it can safely be concluded that the task of keeping and strengthening the peace has been growing increasingly more complicated, but the requirements for successfully coping with this task have been developing even more rapidly and to a greater extent."

The circumspection illustrated by these two quotations may itself be part of the problem. The almost universal stake in pro-U.N. rhetoric discourages frank analysis of the Organization's reparable deficiencies. Thus, for example, it is often said that there is no nourishment in reviewing the United Nations Charter to look for ways of changing it. "If we renegotiated the Charter, we would not come out with as good a document as we have already." You have heard it said many times; I used to say it myself when I had some responsibility for U.S. participation in the U.N. The judgment is probably true of the Preamble and the first two Articles; they still stand as eloquent statements of universal human aspirations. But is it equally true of the fifty pages of procedure that follow the Charter's five pages of philosophy? Is the mind of man incapable of inventing processes that move more quickly to consensus about action instead of disagreement about words?

The Charter is essentially an expression of Western democratic philosophy. In consequences the machinery it establishes reflects a devotion to two-sided parliamentary procedures which just may be out of place in dealing with the "increasingly more complicated" task of peacekeeping and peacemaking, which almost never have just two sides. Certainly the emphasis in U.N. bodies on choosing up sides, and on voting, has often reduced the Organization to absurdity, forcing nations to record rather than negotiate their differences, and producing outcomes which merely harden in their intransigence and holders of minority views.

The North Atlantic Council, by contrast, rarely takes a formal vote—because it is obvious that there is no point in outvoting the Scandinavians on how to defend Scandinavia or outvoting the Germans on how much money they will contribute, or outvoting the United States on how many troops it will retain in Europe, or outvoting the French on whether France will cooperate in NATO defense. These are real-world decisions, and everybody involved knows by instinct that if they cannot achieve a consensus by persuasion, dramatizing the disagreement by a vote doesn't help—and may even hinder a further effort to achieve consensus later on.

The U.N. way, at least in the General Assembly, is more often the opposite: the majority outvotes the nations whose policies are at issue (the colonial powers on colonial issues, the rich countries on money questions, the Communist countries on questions of Communist behavior). This fails to persuade the dissenters, and may even harden them in their dissent. The only thing it clearly accomplishes is to dramatize the impotence of the General Assembly to affect the real world by voting. In the Security Council, smaller numbers, more urgent issues and the veto threat combine to produce negotiations that better reflect the facts of power; when a vote is finally taken after long nights of bargaining, it sometimes reflects real *quid pro quo* accommodations among the member nations.

It would be foolish to suggest that the only trouble with the U.N. as peacekeeper and peacemaker is its formal machinery for making decisions by voting. At least one of its chief executives, Secretary General Dag Hammarskjold, found ways to get executive action launched that jollied or shamed national governments into following his lead. The record of U.N. agencies in promoting economic and social development provides some evidence that the awkwardnesses of parliamentary diplomacy need not inhibit major executive actions by international organizations, if there is a will to action on the part of the relevant national governments. Other less-than-global organizations, notably the North Atlantic Treaty Organization and the European Economic Community, have also demonstrated the capacity for large scale executive activity.

But what are the common factors in these comparative successes? Without reviewing here the evidence for my conclusion, I would say that the most effective international organizations are those which have (a) eschewed votes in their governing bodies, operating as much as possible by consensus procedure, and (b) placed the major responsibility for initiative in their international executives.

The promise of the United Nations was always, and still is, its capacity to act—as a mediatory force in the politics of nations, and as the source of law and the organizer of its enforcement. Yet the structure of the Organization requires such an overwhelming concentration on hearing the nation's differences aired (and therefore widened) in public, that the leadership is not available to plan and administer even the executive actions that all nations would acknowledge to be in the general interest. It is certainly dysfunctional for the Secretary General to sit on the General Assembly dais, listening to predictable sentiments in five languages, when he could be developing from his unique vantage point some executive initiative to deal with the multiple crises of our time.

Less irrelevant voting and more executive leadership—what would these two principles of growth imply for changes in the United Nations? Here is a checklist—each item is worth a full lecture by itself.

1. *Streamline the General Assembly.* It is arguable that the General Assembly is now too far gone to be useful for anything but blowing off steam. But the amount of diplomats' time it requires can certainly be reduced by permitting statements for the record (as in the U.S. Congress), exercising birth control on new membership by micro-states, doing more of the work in expert groups, and encouraging the Secretary General to take more of the leadership in organizing the debate and posing the questions than can usefully be addressed by such a body. The notion of expert groups is especially constructive; apart from the General Assembly, no parliamentary body in the world does nearly all its committee work in Committees of the Whole.

2. *Make the Security Council work.* The key to international legitimacy for peacekeeping operations is the Security Council. The U.N.'s experience shows that it works

best when the Secretary General is taking the initiative—as in the Congo, Cyprus, and pre-1967 Mideast operations. A special place should be made for powerful but non-nuclear powers—such as Argentina and Brazil from Latin America, Australia, India and Japan from the Asian region, Nigeria and Egypt from Africa, Poland, Sweden and Germany (when admitted) from Europe, and Canada and Mexico from North America. There are ten nonpermanent members on the Security Council now; five or six seats might well be reserved for those which—as the Charter contemplated—could make a greater contribution to the maintenance of international peace and security. The People's Republic of China will sooner or later take over the China seat on the Council; the puzzle will be to accomplish this shift without losing the Republic of China from the General Assembly.

3. *Encourage the Secretary General to engage in fact finding* in peace-and-security disputes, without waiting to be told by some legislative body to do so. New observation technologies may make this a far more important power than heretofore: for example, we are just around the corner from reconnaissance satellites which can monitor a visible happening on earth (say, launching of a missile), and televise it in real time to whomever controls the satellite. But quite apart from modern technology, the U.N. executive's ability to send a competent fact-finder or mediator into a complicated situation is still one of his main powers—if it isn't used in too gingerly a manner.

Moreover, the United Nations provides a sponsor for peaceful settlement which combines the pressure of latent big-power intervention with the facilities for keeping it latent. If most "little" wars are likely to be fought or threatened in non-Western regions, we need local and regional machinery for settling disputes in which Westerners (Russians as well as Americans) do not have to be involved. The initiative of the U.N. executive, however, can be an "outside" factor that is politically acceptable to peoples which can't settle their own disputes yet don't want to turn their problems over to external Big Brothers to settle for them. The U.N. has hardly begun to realize its potential as sponsor of regional conciliation machinery.

4. *Establish a real standby force.* So far, the earmarking of national forces for U.N. employment has been good symbolism but has not provided the U.N. executive with any real discretion in emergencies. A modern force actually available, equipped and with at least a minimum airlift capability of its own, has become an indispensable part of the Secretary General's "third man" role in international disputes. A permanent international peacekeeping staff, with the capacity to plan, train for, and execute peacekeeping missions, should be located in the Secretary General's office; it might be supplemented with a special group of Under-secretaries who, whatever called, would be effectively in touch with the permanent members of the Security Council to maximize the Secretary General's freedom of action.

How big a standby force? Twenty or thirty thousand well-trained men, with the requisite airlift to get around in a hurry and the arrangements to call forward further national forces promised by member nations, would be large enough to ensure that the U.N.'s mediatory role is taken seriously—and not so much as to threaten the security of the nations whose military restraint is ultimately the key to peace in every region. To the cynical question, "How many divisions has the U.N. executive?" the answer should be "One for sure, and it can be there the day after tomorrow."

Much smaller peacekeeping responsibilities brought the U.N. to a condition of financial crisis during the 1969s. Can a major peacekeeping force be financed internationally? The answer, as always, is in the will of the nations to pay—or to contribute forces, equipment, and airlift in kind. The cost is certainly small by the grotesque standard of current military budgets; even a billion dollars for international peacekeeping would be a fraction of one per cent of world defense spending. New U.N. leadership and a new system for command and control, backed by an unprecedented American willingness to pay for a force which would be subject to some U.S. influence but not to U.S. control, might make a voluntary peacekeeping fund possible—especially since most of the expenses for troop pay, material and airlift could probably be contributed in kind and thus count as national security spending rather than as eleemosynary contributions. We can readily abandon the notion of paying for standby forces through every-member assessments; the General Assembly has already demonstrated that it is not willing to back its taxing authority with two-thirds of its votes.

5. *Develop a consortium of the concerned.* There is a growing body of opinion to support the notion that the United States should take the lead in developing a working community of those nations which would be willing to go farther than others in building up an international executive to keep the peace and mediate disputes of less than global magnitude. Such a consortium, constituted within the framework of the Charter's purposes but outside its established machinery, with its own arrangements for fact-finding, mediation, and quick mobilization of peacekeeping forces, might well be a useful pressure on the U.N. executive and the Security Council to act, for then the alternative to U.N. intervention would not be inaction but action by a smaller number of members in the Charter's name. The same group of nations might develop among themselves procedures for settlement and adjudication which would provide a quicker references to the World Court or to conciliation processes of disputes among the members of the self-constituted inner circle.

6. *Sponsor a formal review of the Charter.* The Charter cannot be changed without U.S. consent. It is worth a year or two of intensive multilateral diplomacy to see if the procedures of parliamentary diplomacy cannot be streamlined and the U.N. executive given more discretion to act in, or to avert, emergencies.

7. *Fill the coming vacancies carefully.* The 26th General Assembly, on the recommendation of the Security Council, will elect a Secretary General. U Thant, who has proved himself a conciliator of quality and sometimes courage, is almost certainly not the kind of international executive required for the revival and extension of the U.N.'s peacekeeping and peacemaking role that is here projected. A shift is moreover required to symbolize a new era of U.N. revival; or to put it another way, the reelection of U Thant would betoken a continuation of the trend toward atrophy of the U.N.'s political and security role—and encourage groups of nations to take more of the peacekeeping law into their own hands.

The higher levels of the United Nations Secretariat are heavy with men in their sixties and seventies who in most organizations would be past the date of mandatory retirement. It is a distinguished array of talent: Paul Hoffman, former leader of the Marshall Plan and longtime Administrator of the U.N. Development Program and its predecessors; Undersecretary General Ralph Bunche, winner of the Nobel Peace Prize, who has worked for the U.N. ever since the late 1940s; Philippe deSeynes, the Frenchman who has presided over the U.N.'s work in economic and social affairs; Constantin Stavropoulos, long-time legal adviser and now Undersecretary General for General Assembly affairs. Together with C. V. Narasimhan, the Indian who is U Thant's closest assistant (and who, being younger than the others, can provide a welcome continuity in the 1970s), these men have provided the top leadership of an enterprise which is no longer sparkling with ideas or exuding a sense of destiny. The coincidence of top vacancies presents an enormous opportunity to engage first-rate younger people who have the personal force to bring to life the forgotten genius of the Charter—the U.N.'s capacity to act for peace—not just talk about it. Such men can also more easily face up to new issues, such as the deterioration of our world environment, which were not in the minds of the men who drafted the Charter a generation ago.

The filling of these half-dozen prospective vacancies, including the Secretary General's office, should be taken as one of the 1971's most important international negotiations.

If 1971 is going to be U.N. Personnel Year, we would also do well to have a new look at the concept of U.N. careers. A generation ago, the need to protect U.N. staff from undue national influence produced the notion of an international civil service. We can see now that lifetime employment in an international bureaucracy produces the same Parkinsonian tendencies, and the same cautious time-serving, that are so evident in national career services. For many categories of position, and especially in the policy-making roles, the member nations might well be better served by a reasonably frequent turnover of U.N. functionaries. At a minimum, future appointments to middle level and higher positions should be limited to term contracts lasting not more than five or six years.

8. *Give the U.N. major jobs to do.* Throughout the life of the Organization, nations (including ours) have justified unilateral action by saying the U.N. was too fragile for major peace-and-security tasks, and would collapse under the strain of a Berlin or a Vietnam. But institutions grow in strength and relevance because they must—and not until they must. And in Southeast Asia especially, an international solution, internationally monitored and enforced, seems the only alternative to an American commitment indefinitely prolonged.

As long as we are not nationally responsible for the outcome, there is a wide range of outcomes possible in Southeast Asia. Any of them will probably mean some sharing of authority and territory between Communists and non-Communists, and the many shades in between. Our interest lies in turning back to the Southeast Asians the bickering and politicking and governance for which we have unilaterally assumed too much responsibility these past few years. It is hard to imagine an outcome worked out under U.N. sponsorship that would be worse from the point of view of the American interest than a continued massive commitment in Vietnam, Laos and Cambodia.

Preceding a new "Geneva conference," it might well be possible to induce a number of countries, representing an acceptably wide spectrum of political orientation, to take on the peacekeeping task after a settlement is reached. The Russians would have to agree, of course; but they may have some interest in keeping the foot in the Southeast Asian door which we have made possible by our involvement there. The mainland Chinese would also have to agree; but a package large enough to include their full participation in the United Nations, including the China seat on the Security Council, might turn out to be negotiable if we wanted it badly enough. The Chinese and Russians both agreed to the Laos settlement of 1962; of course it wasn't a very good deal from our standpoint, but we have not won the war in Vietnam and we won't be able to have the peace all our own way either.

Given the projected American withdrawal and a willingness on our part to share the burden of masterminding Southeast Asia's future with the widest possible community

of nations, the natural venue for the question "After Vietnam, What?" is the Security Council of the United Nations. The aftermath will go on for a decade or more; any settlement will be ragged. If the results of U.N. involvement are not then to our taste, we still have to ask ourselves—would we have done better taking on the post-war settlement as an American responsibility? Experience in the Congo, Cyprus and the Middle East is instructive: multilateralism is often messy, but still, better than direct confrontations of major powers.

In his 25th Anniversary speech to the General Assembly last October 23rd, President Nixon gave assurances that we want neither a Pax Americana nor an American Century. But the alternative he there described is equally undesirable—"a structure of stability and progress that will enable each nation to chart its own course and make its own way without outside interference, without intimidation, without domination by ourselves or by any other power." The world of independent sovereignties, from which words like these have been handed down from Administration to Administration, was never a good description of the probable, and is now a description of anarchy. What we need is a structure of stability and progress which rests on the close, organized cooperation of nations who know they are interdependent, and have learned to stop talking about independence. U Thant, criticizing the tendency of nations to use the United Nations "to promote their own national policies," was closer to the mark when he went on to advocate "a new kind of organization in which the nations of the world in cooperation could forge *and execute* (the italics are mine) solutions to world problems. . . ."

PRESS COVERAGE OF VIETNAM WAR

Mr. MILLER. Mr. President, columnist Kenneth Crawford, writing in the Washington Post of February 23, had some succinct comments on press coverage of the Vietnam war.

It is not my intention to condemn the press' coverage of the war; to do so would be to unfairly criticize those reporters and editorialists who have been objective in their presentations, even if they themselves disagreed with the policies.

Nor would it be fair to indict the entire press corps for the omissions and commissions; to do so would be to deny the right to a free press, which is so necessary and vital to a society such as we have.

But it would be well if the press, which is so demanding in its crusade for soul-searching on the part of public servants, would also do a little soul-searching itself.

Mr. Crawford's column contains some "soul" food. I ask unanimous consent that it be printed in the RECORD.

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

ON PRESS COVERAGE OF THE VIETNAM WAR

(By Kenneth Crawford)

How would the modern media have reported George Washington's crossing of the Delaware at McKonkey's Ferry on Christmas, 1776? J. Russell Wiggins, former editor of The Washington Post, asked this important question—and answered it—in a speech to the Washington Association of New Jersey on Washington's arbitrary new birthday, February 15.

Television camera men would have focused their zoom lenses on the rag-wrapped feet of Washington's troopers. When it was over, microphones would have been thrust under the noses of stripling recruits to catch their answers to the question: "How do you feel about some of your buddies being lost in this sneaky operation?" The writing war correspondents would have salted their dispatches with suggestions that the whole bloody venture was ill-conceived by an incompetent commander, ill-excused by a badly trained and equipped army and predestined to fail.

New York editorial writers would have followed up with lamentations about the plight of Trenton's civilian population, driven from its snug houses into the cold on a sacred holiday, caught in the crossfire between Hessian defenders and attacking colonials, and forced into a fight against its will over a questionable cause: something about taxation without representation. Washington, instead of attacking, should have been negotiating. His occupation of Trenton and quick withdrawal showed that he was still engaged in search-and-destroy operations—"following the will-o-the-wisp of military victory," as Wiggins thought the editorial writers would have put it.

Wiggins fantasy was, of course, a wry comment on the way the media of the 60s and the start of the 70s have dealt with the war in Vietnam. This war is the first in which American media, measured by weight of viewership, readership and influence, have been kinder to the nation's enemies than to its friends. This has been partly inadvertent, partly not. In any case, Ho Chi Minh has come off as this war's greatest hero, the Vietcong as its most admired fighters, American and South Vietnamese leaders as its most mistrusted participants, American GIs as its least appreciated warriors, especially since My Lai, which has been made the basis for unjust generalization, and South Vietnamese soldiers, as invariably unreliable, also unjust.

All this is something new for Americans. They have always before tended to be home-team rooters. In British pubs Rommel may have been the favorite hero of the second world war but Americans stood by their own even when correspondents on the scene in North Africa intimated, insofar as intimation could be slipped through the censorship, that the "Darlan deal" and mistreatment of De Gaulle were compromising the morality of the allied war effort.

Wars have never been pretty but their ugliness has never before been conveyed to American households in living color, as it has this time, and always from our side because the other side is out of reach of cameras and correspondents. But it is more than that. War Correspondents have often been instant experts and critics and they seem even more so this time. They have to be youthful to stand the physical rigors and brave to take the chances they must run in Vietnam. More than 30 of them have been killed. They are admirable in action but scmetimes wrong in their strategic and tactical judgments and simplistic in their politics.

Prize committees, Pulitzer included, have rewarded the most captious. The self-styled "cowboys" who constituted themselves a sort of get-rid-of-Diem committee in the early days of the war made a point of being on hand for every bonze immolation and of representing the Saigon disorders as a sort of holy war between the ruling Catholics and the subject Buddhists. Reputations were forged in the bronze fires.

Here in Washington, too, there has been a lively journalistic contest to be first with the worst. One of its high points was The New York Times revelation in the aftermath of the Tet attacks that the military was asking for 206,000 more troops to take advantage of the enemy's overextension. Coming as it did, two days before the New Hampshire primary, the Times report had enormous political impact. It almost certainly contributed to the big McCarthy vote and, in turn, to President Johnson's subsequent decision not to run again.

The genesis of the expose, if that is what it was, has just been publicly revealed for the first time by Philip Potter, Washington Bureau Chief of the Baltimore Sun. It was leaked to the Times by Townsend Hoopes, then a Pentagon official of dovish persuasion. Actually, the plan Hoopes made available to the Times was one of the alternatives under consideration and one which had little chance for Presidential approval in the Washington atmosphere of post-Tet distress. Hoopes had to violate a specific presidential order of secrecy pending decision to spring the leak.

Things haven't changed much, as the suspicious reporting of the South Vietnamese effort to cut the Ho Chi Minh trails in Laos demonstrates. By part of the press it is treated as a cunning scheme to inject Americans into an expanded war rather than what it is, a bold attempt to prepare for continued evacuation of American forces. Reporters and editors keep telling themselves and others that they have been more perceptive about this war than have military and political leaders. They may be right. But they have enjoyed the advantage of ultimate irresponsibility. In President Nixon's place, they would probably be doing about what he is doing. And history may be more approving of him than of them.

PRESIDENT NIXON SEIZES THE INITIATIVE ON DOMESTIC REFORMS

Mr. MATHIAS. Mr. President, as President Nixon himself has often said, the theme of his administration is reform. During the past 2 years the President has expressed this theme in many challenging proposals to reshape such massive programs as public welfare, to reorder the relationships between the Federal Government and States and cities, and to modernize such systems as the postal service and manpower training.

As James Reston wrote in a perceptive column in the New York Times on February 19.

It is not necessary to agree with his proposals in order to concede that, taken together, they add up to a serious and impressive effort to transform the domestic laws of the nation.

In fact we have to reach back many years to find another 2-year period in which a President proposed such far-reaching changes in the structure of American Government and public policy.

As Mr. Reston wrote, the Nixon proposals have posed a substantial challenge to Congress and to the opposition party. Congress will not meet its responsibilities to the Nation if the Nixon initiatives are shelved or met only with quibbling and sniping. Where legitimate differences of opinion and philosophy do exist, the opposition has an obligation to respond to the President's plans with serious debate and comprehensive alternatives.

As a sponsor of many of the administration's important domestic measures, I intend to do all I can as one Senator to insure that these historic proposals receive the full and fair consideration they so obviously deserve.

I ask unanimous consent to have printed in the RECORD James Reston's column about the President's reform proposals and their impact on the current political and congressional scene.

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

WHAT OF THE DEMOCRATS?

(By James Reston)

WASHINGTON. — When President Nixon came into the White House he said, "We were elected to initiate an era of change. We intend to begin a decade of government reform such as this nation has not witnessed in half a century. . . . That is the watchword of this Administration: reform."

His new health program for the nation, sent to Congress this week, is only the latest evidence that he has kept his word. For more than a year now he has sent to Capitol Hill one innovative policy after another: on welfare reform, revenue-sharing reform, Social Security reform, reform of the grant-in-aid system, and many others.

It is not necessary to agree with his proposals in order to concede that, taken together, they add up to a serious and impressive effort to transform the domestic laws of the nation, all the more remarkable coming from a Conservative Administration, and that they deserve a more serious and coherent response than they have got so far from the Democratic party and the Democratic majority in the Federal Congress.

What is the Democratic party's alternative? This we would like to know. There are alternatives from Democrats—a Kennedy alternative on health policy, the beginnings of a Wilbur Mills alternative to revenue sharing, a Muskie alternative to Vietnam policy—pick a date and get out—but as often as not the Democratic alternatives contradict one another, and the party as a whole seems to be settling for the old political rule that it is the business of the opposition party merely to oppose.

A party out of office, of course, always operates at a disadvantage. It lacks the authority and resources of the Presidency. It is usually leaderless and broke. Its power is dispersed among the committee chairman, the rival candidates for Presidential nomination, the Governors, and the National Committee, the latter now meeting in Washington.

In the present case, the titular head of the Democratic party is Hubert Humphrey of Minnesota, a new boy in the back row of the Senate. When the National Committee meets, it usually concentrates on the party deficit and President Nixon, both of which they find disagreeable. But so far, about all they have been able to agree about is that they should not tear each other apart in public, which, come to think of it, is quite an achievement for Democrats.

Nevertheless, hard as it is to get an opposition party to agree on what it stands for, it would be reassuring to think that they got together once in a while and at least tried to define the broad outlines of a program for the future.

It is perfectly clear that many of the old Democratic programs of the fifties and sixties are no longer relevant to the problems of today, let alone tomorrow. In 1960 there were only 44 grant-in-aid programs for the states; now there are over 430; and even the Democratic Governors are bewildered by their complexity and inefficiency.

In the short time since President Nixon first came forward with his welfare reform bill, over 2 million people have been added to the welfare rolls, at an additional cost of $1.5 billion a year.

President Nixon has at least seen that this is dangerous nonsense and put forward a bold, if controversial, alternative that deserves to be voted up or down. As things now stand, the Democrats are demanding, and quite right too, that the scandal of campaign expenditure be corrected, but they cannot agree on how this should be done; and beyond that, they have not even managed to agree on how to pick their spokesmen if they do get free time on television.

The last time the Democrats were out of power, they at least recognized the problem and organized a kind of brain-trust outside the Congress to question their old assumptions and write position papers on the main subjects coming up for decision. It wasn't much, and Lyndon Johnson and Sam Rayburn resented the experiment, but it started the process of revision and even of thought within the party.

What the Democrats are doing now is merely sniping at the President's programs and often saying some damn silly things in the process. Here is George McGovern, for example, normally a sensible man, proclaiming that Mr. Nixon is "flirting with World War III in Asia." And Ed Muskie calling in Pittsburgh the other night for a "new coalition" cutting across lines of race, geography and economics.

But to do what? In support of what programs? President Nixon has been singularly successful in ignoring old Republican taboos and prejudices, and if you want to be cynical about it, he may be putting up programs he knows the Democrats will probably knock down; but at least he has a program on the home front, which is more than you can say for the Democrats.

CONSUMERS HAVE A STAKE IN PROPOSED POLICY ON COMBINATION DRUGS

Mr. MAGNUSON. Mr. President, the consumer has a vital interest in a proper national policy on combination drugs. Drugs which are marketed in combination form generally cost more than the same dosages when taken separately. This increased cost is significant since nearly 40 percent of the most widely used prescription drugs and most over-the-counter drugs are combination products. These products also raise serious health questions which have been studied by medical experts for several years.

I am pleased that the Commissioner of Food and Drug last Thursday published his long expected proposed policy statement on drugs in fixed combination. His proposals have the general approval of the Council on Drugs of the American Medical Association.

The proposed statement of policy is the product of several years of study, and it merits the attention of all interested consumers. The Department of Health, Education, and Welfare will accept comments on the proposed policy until March 20, 1971. I encourage interested consumers and their representatives to submit comments in support of FDA's efforts to reduce consumer drug costs.

I ask unanimous consent that the proposed policy as it appeared in the Federal Register and a news article regarding the action which appeared in the New York Times be printed in the RECORD.

There being no objection, the items were order to be printed in the RECORD, as follows:

[Department of Health, Education, and Welfare, Food and Drug Administration (21 CFR Part 3)]

COMBINATION DRUGS FOR HUMAN USE; PROPOSED STATEMENT AMPLIFYING POLICY ON DRUGS IN FIXED COMBINATIONS

The Commissioner of Food and Drugs after considering a number of reports from panels of the NAS–NRC Drug Efficacy Study, the large numbers of combination drug available, and those proposed for marketing, is of the opinion that criteria for rational combination drugs should be published for the guidance of the regulated industry. This statement is intended as amplification of the requirement that a new drug or antibiotic drug application for a combination drug may be refused unless there is substantial evidence that each ingredient designated as active makes a contribution to the total effect which the drug combination is represented to have and purports to possess.

The problem of fixed combinations has been discussed with a number of experts; it is the subject of extensive discussion by experts in the medical literature. It is the consensus of these informed experts that a fixed dose combination drug must have an advantage to the patient over and above that obtained when one of the individual ingredients is used in the usual safe and effective dose. No drug should be present in a fixed combination unless its inclusion clearly enhances safety or efficacy and the fixed ratio of doses is safe and effective for all indications and for patients requiring such concurrent therapy. There are marketed combination drugs which meet these criteria. Many do not. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended, 507, 59 Stat. 463, as amended, sec. 701(a), 52 Stat. 1055; 21 U.S.C. 352, 355, 357, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes that Part 3 be amended by adding thereto the following new section:

§ 3.____ Drugs for human use in fixed combinations.

(a) In implementing the provision of the 1962 Kefauver-Harris Drug Amendments to the Federal Food, Drug, and Cosmetic Act, which requires that a new drug and an antibiotic drug be shown effective for its labeled indications through adequate and well controlled clinical investigations by qualified experts, the Food and Drug Administration has found the unique problems presented by fixed combinations to require a more clearly defined position on such drugs.

(b) Fixed combinations represent a significant proportion of all marketed drugs. A 1969 survey indicated that of the 200 most widely used prescription drugs, approximately 40 percent were fixed combination dosage forms. Over-the-counter drugs are for the most part combination drugs.

(c) The Council on Drugs of the American Medical Association has consistently expressed the need for a sound medical rationale for using drugs in fixed combinations and has recently reaffirmed its longstanding position that the use of fixed-ratio combination drugs, anti-biotics included, is with few exceptions neither a sound nor judicious practice. The United States Pharmacopeia has long had a policy against inclusion of combination drugs.

(d) The National Academy of Sciences-National Research Council in its reevaluation of all drugs marketed through the new-drug procedures between 1938 and 1962 to determine if the products were effective for all their labeled indications has clearly indicated the limitations in medical practice of fixed combination drugs. As a result of their recommendations, a number of widely used

fixed antibiotic combinations have been removed from the market.

(e) The complexities of the problems were apparent to the Food and Drug Administration in evaluating several hundred fixed combination drugs in the Drug Efficacy Study; through the review of pending new drug applications and Notices of Claimed Exemption for Investigational Drugs, and in reviewing the labeling of other marketed drugs. Policies resulting from consideration of these problems would have significant impact on the pattern of medical practice. As a result, an Ad Hoc Committee was convened, consisting of outstanding experts representative of a cross section of medical disciplines, to assist in formulating the most scientifically sound guidelines for general application to determine when a fixed combination drug is rational. In addition, an Ad Hoc Committee consisting of members of the American Society of Pharmacology and Experimental Therapeutics prepared recommendations on this problem at the request of the Food and Drug Administration.

(f) It is recognized that fixed combination drugs have or may have certain advantages, in addition to enhanced safety or efficacy, over use of the individual ingredients. These include:

(1) Better adherence to a therapeutic regimen, greater patient convenience, and greater economy than if each of the ingredients were given separately but concurrently.

(2) Availability of information on biopharmaceutic compatibility or unanticipated drug interactions.

(g) However, fixed combination drugs also present disadvantages to their use. The most common objections to these products are:

(1) Lack of flexibility to adjust the dosage of each component to the individual patient's needs.

(2) exposure of patients in unnecessary drugs when one drug component alone would be effective.

(3) Increased possibility of adverse reactions without increased efficacy.

(h) Based on the above considerations, and in line with the recommendations of expert advisors and sound principles of medical practice, the Food and Drug Administration concludes:

(1) The concomitant administration of two or more medicinal agents may be indicated in the treatment of a patient. However, the effects of drugs are intrinsically so complex that it is generally advisable to administer therapeutic agents separately in order that the dosage and frequency of administration of the individual drugs may be varied in accordance with the patient's requirements.

(2) A combination of drugs in one product suggests and implies an added usefulness over one component alone. The implied or suggested usefulness, as well as the claims in the labeling of a drug, must be considered by the Food and Drug Administration in its evaluation of the validity of labeling claims.

(3) Fixed combinations of drugs may be approved where there is evidence of safety and substantial evidence of effectiveness showing that each active component contributes to the effect claimed for the product in the following circumstances:

(i) Where components are combined to:

(*a*) Enhance efficacy (increase potency, prolong duration of effect, etc.), or

(*b*) Enhance safety (decrease the incidence or severity of adverse reactions), or

(*c*) Prevent abuse or misuse.

(ii) Or where components would be given concurrently and the dosage (amount and interval of administration) of each component is such that the fixed combination is safe and effective for patients requiring such concurrent therapy. The advantage of the combination must obtain for all conditions for which it is labeled, for the various dose schedules recommended, for the duration of dosage suggested, and for most patients for which the product is recommended.

(iii) And studies demonstrate that the pharmaceutical compounding of the fixed combination does not interfere with the bioavailability of each of the ingredients as compared with administration of the individual ingredients separately but concurrently.

(iv) In the event that a combination, presently the subject of an approved NDA or antibiotic monograph, has not been recognized as effective by the Commissioner based on his evaluation of the appropriate NAS/NRC panel report, or for which substantial evidence of effectiveness has not otherwise been presented, formulation, labeling or dosage changes may be proposed and any resulting combination may meet the appropriate criteria listed above.

Interested persons may, within 30 days after publication hereof in the Federal Register, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: February 16, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc. 71-2283 Filed 2-17-71; 8:52 am]

[From the New York Times, February 18, 1971]

FDA ASKS RULES ON DRUGS' VALUE

(By Harold M. Schmeck, Jr.)

WASHINGTON, Feb. 17.—The Food and Drug Administration today proposed strict new safety and effectiveness standards for fixed combination drugs, including many of the most widely sold prescription and over-the-counter products.

The standards, which will probably become effective in 30 days, require that each active ingredient in a drug combination contribute to the product's usefulness. For many drug products on the market today, there has never been firm evidence that each ingredient has value.

"The new policy affects up to 40 percent of the most widely sold prescription drugs and most over-the-counter drugs—those sold without prescription," the Federal agency announcement said.

An officer of the agency said that about 50 percent of the over-the-counter drugs were affected. Most cough medicines, cold preparations, medicines for asthmatics and drugs for pain relief are fixed-combination products. Some of these include as many as 10 different active ingredients.

Such products are called fixed combination drugs because they consist of more than one active ingredient in a fixed dosage form. That is, a patient will get the combination in its fixed amounts when he takes a pill or capsule or a spoonful of the product.

The statement by the agency said that the action was being taken to improve patient care by insuring that such drugs * * * used only when the product offered the patient a therapeutic advantage over any one or more of the ingredients given separately.

POLICY TO BE PUBLISHED

The Food and Drug Administration's policy statement on the combination drugs is to be published tomorrow in The Federal Register, with a provision allowing 30 days for interested persons to make comments. The proposal has been under discussion with the industry for several months and many companies have already made their comments. It is considered likely that the new policy will become effective at the end of the 30-day period.

In announcing the formal declaration of proposed policy, Dr. Charles C. Edwards, commissioner of the F.D.A., said that his agency fully recognized that some combinations had a legitimate place in medical practice.

"Our purpose is to insure that fixed combination drugs not only are safe and effective," he said, "but are formulated so they can be used rationally and in dosages matching concurrent therapy needs of the patient."

APPROACH QUESTIONED

The Pharmaceutical Manufacturers Association issued a statement today saying it was encouraged by the indication that the F.D.A. recognized the medical and practical value of products of this type.

It said, however, that a rigid approach would make it difficult to keep some important combination products on the market and that such stringency could stifle research in combination drugs.

The F.D.A. policy proposal set several specific criteria for combination drugs. For each product, proof would be required that each active ingredient contributed to the effects claimed by the manufacturer for the fixed combination.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, does the able minority whip know of any Senator on his side of the aisle who wishes to transact further morning business?

Mr. GRIFFIN. No.

Mr. BYRD of West Virginia. Mr. President, I ask that morning business be closed.

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

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 PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Alabama (Mr. ALLEN) to postpone until the next legislative day the consideration of the motion of the Senator from Kansas (Mr. PEARSON) that the Senate proceed to the consideration of Senate Resolution 9, a resolution to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. FULBRIGHT. Mr. President, as my colleagues know, we have had two votes on the pending business, neither of which came within a reasonable distance of achieving the required two-thirds of those present and voting. There was an article in the morning newspaper, I believe attributed to the distinguished Senator from Idaho, evidencing a certain impatience with the delay of getting to a vote. It puzzled me a great deal. We have had two votes. I am not clear what he has in mind. He is impatient with regard to the Senate's procedures.

The Senator from Idaho and his colleagues know perfectly well what the votes have been. They ought to know that there is little if any chance of any change in the votes, because this is an

issue which has been thoroughly explored. If there is any change, I am quite certain in my own mind that it will be against the position of the Senator from Idaho; because the more this matter is considered, and the more attention is brought to it, especialy of the newer Members—who have not been subjected to the debate about this subject in the past—and the more they know about it, I am quite sure the more likely they are to sustain the present rules of the Senate.

But there is some misunderstanding, and I think that in a sense it is being deliberately fostered by the proponents of this change. It is that we who oppose it are in some way wasting the time of the Senate, that there is too much debate, too much talk about this subject, and that we ought to proceed to a vote. This is what caught my eye this morning.

The reasons for the undue delay, if it is undue, I submit, are the tactics of the proponents of the change in the rule. First, they could have submitted a cloture motion much earlier and had two votes 2 or 3 weeks earlier than they did, had they wished to do so. It seems to me that the only reasonable explanation of their delay in submitting the cloture motions is to try to create a prejudicial attitude toward those of us who wish to preserve the integrity of the Senate.

I simply mention this by way of background. I do not believe that it is a reasonable position to accuse those of us who oppose the change in the rule of any real delay in the procedures of the Senate.

It is also known, of course, as is always the case in the beginning of a session, that no legislative measures of any consequence have yet been reported from the committees.

There are a few routine money bills from the committees, but there is no substantive legislation. The committees have not had time to act upon them. So that in that sense there is no waste of time of the Senate.

It is, however, a very serious imposition upon the time of a number of Senators who should be and could be giving their attention to committee work and their other duties, and they have to adjust their time to the convenience of the proponents of this change.

Personally, it is a great inconvenience. All of us have to wait until their pleasure dictates the filing of another cloture motion. But, I would submit, it is much more reasonable to say that the delay and the waste of time are attributable to those seeking to change the rule. In addition to that, this is such an old matter. For many years now, many of the same people have submitted these proposals to change the rules. They have not succeeded and they should not succeed. Formerly it had important political significance, when it involved the issue of civil rights, a substantive matter. My position was clear on one side and theirs on the other. It was a legitimate political issue and no one can complain about that.

Here we are dealing with procedures—the procedures of the Senate. The substantive issue of civil rights has been disposed of. I submit that this is getting to be a rather old story. Surely, at some time, they will reconcile themselves to their inability to muster a two-thirds vote and allow Senators to give their attention to the business of the Senate. The procedures of the Senate are important but it has been demonstated by the two recent votes that they will not be changed now.

Mr. President, a short time ago, in an article written by Anthony Lewis, there was one paragraph which appealed to me very much. I thought it so appropriate to the basic question involved in this proposal to change the rules. The real significance of these rules is, it seems to me, summed up in this one paragraph, one of the most succinct statements I have ever seen, and I want to read it for the RECORD:

> For democracy is a process not a result. It is no particular set of policies but the means of reaching them. It is a commitment to rational discourse, to persuasion, to restraint in the use of political advantage, to the renunciation of force or threats.

Mr. President, it seems to me that sums up the case, really, that we are trying to make, those of us who seek to retain the capacity in the Senate for persuasion, for a rational discourse, rather than to resort to the pure, brute force of numbers.

I do not know that I can say that any better than Mr. Lewis has.

I wish to say for the record that Mr. Lewis did not write that article, from which I quoted the paragraph with this debate in mind. He was merely speaking of the essence of democracy. He is a thoughtful person—on many subjects.

But I think it is so pertinent to the significance of this particular debate that I could not resist using it to illustrate the point.

This procedure, as he says, is the very essence of democracy. It is the procedure and the process that we are interested in, not any particular status or state that one achieves and then enjoys from then on.

Now, Mr. President, with regard to this same question about the proponents of the change, they have had some encouragement from the press and I want to comment on it.

The article I hold in may hand is dated February 10, 1971, written by Spencer Rich, a most objective reporter. This article was published in the Washington Post. I believe it is fair to say that the Washington Post has always been for a change in the rules. It has never had very much confidence in Congress. It is usually disposed, as most powerful institutions are, toward the executive branch. I believe, if my memory serves me correctly, it has always been in favor of changing rule XXII. Perhaps that view is not warranted, but, anyway, this is the way the article reads:

> Filibuster reformers appear to have more votes this year than ever before, but unless President Nixon throws his prestige behind it, the drive to ease the Senate filibuster rule will probably fail by 7 to 10 votes.

That is the first paragraph. Later in the same article there appears this:

> The biggest block of potential new supporters consists of new GOP senators and of Republicans who in the past have backed Southern filibusters to block a rules change but are not firmly committed on the issue this year. Reformers believe a plea from the President to these senators might yield enough votes to tip the balance. "We can make it if we get some help," said Church yesterday.

Mr. President, I shall not end the quote there, I will go on and read the next paragraph. It is rather interesting:

> This block of senators includes Bob Dole (Kansas), who has just become Republican national chairman; Ted Stevens (Alaska); Winston L. Prouty (Vt.); Henry Bellmon (Okla.); Norris Cotton (R-N.H.); possibly Milton R. Young (R-N.D.), who said yesterday he wouldn't vote a debate cutoff on the first try, but "maybe afterwards," and new senators William V. Roth, Jr. (Del.) and James Buckley (N.Y.).

Mr. President, although I do not know Mr. Rich's sources, I would very respectfully submit I think that is an unwarranted and unjustified criticism, or at least speculation, about some very able men. I cannot believe that many—certainly not many, if any—have so little understanding of the significance of the Senate as to change their vote on rule XXII.

One thing particularly about this article and the view attributed to the distinguished Senator from Idaho (Mr. CHURCH), which surprises me very much, is going to the President and seeking his assistance to destroy the independence and the effectiveness of the Senate. That, it seems to me, is most unusual. I find it very difficult to understand why a Senator who has been elected as a Senator, unless he has very good justification to believe that he will become President one day—and some of them do, I realize that. But short of anticipating becoming President, how they could feel it was appropriate to solicit the support of the President—any President, not just this one, but any President, to seek his assistance to subvert the rules of the Senate, is beyond me. In line with Mr. Lewis' statement, I would say that is antidemocratic.

Mr. President, of all the barriers to simple majority decisions in our political system, the only one that seems to elicit widespread and concerted opposition is the Senate cloture rule.

No one, for example, is campaigning to amend the Constitution to eliminate the two-thirds requirement for ratifying a treaty or initiating constitutional amendments.

Why is it that this group of Senators, year after year, feel it is necessary to change the two-thirds rule with regard to the limitation of debate, which is the essence of the senatorial function and, yet, none of them are out saying, "We must abolish the two-thirds rule to ratify a treaty."

Why do they not come forward with a proposal to reduce ratifying treaties to a majority or by a three-fifths vote; because, it seems to me, treaties have meant far-reaching commitments for this country some of which have caused us great harm and they have been made by the treaty process.

Or, take the initiation of constitutional amendments. Why is it democratic to require two-thirds in the Senate, and in the House to initiate an amendment and,

three-fourths of the States to ratify? Why do they not come in and ask us to change the constitutional amendment requirement and change the Constitution to make it a majority instead of three-fourths?

Why is it that the Senators whom I have just referred to, who seek the support of the President, have they not mentioned the idea of eliminating the Presidential veto? A Presidential veto can go much farther to thwart the majority than Senate rule XXII.

After all, rule XXII applies only to the Senate. It requires two-thirds of the Senators, to make it stick. The Presidential veto allows one single man, one man—who incidentally used to be a Senator for a short period of time—to thwart the majority of the whole Congress. This Presidential filibuster—which is what it amounts to—can only be overridden by a two-thirds majority of both Houses.

Why is there so much concern about the two-thirds in the Senate? Why is no one proposing in the name of democracy and efficiency the abolition of the Presidential veto, or at least reducing the vote required to override from two-thirds to three-fifths? Why is that not perfectly logical? I cannot understand it.

I should think the President himself for the sake of consistency should wish to divest his office of the power of the veto. He has not responded to this. However, if, as indicated by the paper, he might be considering at least soliciting support for this change, then I think he should voluntarily suggest that we have a constitutional amendment to change the number of votes to override a Presidential veto.

Mr. Nixon's press secretary said recently that the President favors reforms that would enable Congress to do its work "more promptly and expeditiously."

Most recent Presidents have opposed Senate filibusters as barring prompt and expeditious action; but none, so far as I know, has recommended a constitutional amendment to eliminate the Presidential "filibuster" embodied in the power of the veto.

In recent decades the filibuster has been associated with opposition to civil rights legislation.

When southern Senators have warned their colleagues that a fundamental question of constitutional government was involved, or more pointedly suggested that opponents of rule XXII might someday find it useful themselves, their arguments have usually been dismissed as masks for their own opposition to civil rights. Now that the civil rights bills have been passed—despite the filibuster—one would think that rule XXII could be considered on its own merits, and in relation to present and prospective issues, rather than issues which have already been contested and largely resolved, as far as legislation is concerned.

But old habits die hard, and the alteration of rule XXII is still being advocated as a "progressive reform." For that reason it has been particularly refreshing to note a new and more contemporary attitude on the part of certain perceptive writers and journals. Mr. Nicholas von Hoffman for instance, comments in a recent article:

The Senate's job isn't speed or neat dispatch, but wisdom.

And he also notes, most pertinently:

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 antiballistic missile, the draft and the SST. . . . 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 (Nicholas von Hoffman, "Shouting Back, Not Shutting Up," the Washington Post, February 17, 1971, p. B1.)

In similar vein the New Republic recently noted:

Of the several filibusters that marked the second session of the 91st Congress, and particularly its last few weeks, most were conducted by liberals—and to very good purpose: to block the supersonic transport or expenditures for U.S. forces in Cambodia. For on most issues, liberals scarcely form a majority in the Senate, certainly not in the Congress as a whole. All too often, the problem the liberals face is not to get something past an obstructive minority, but to give an impatient majority pause.

The New Republic further notes:

The filibuster has the virtue at its best of giving the majority pause without necessarily stopping it, and of testing its intensity against that of the minority. The ballot is an excellent counting mechanism, but it neither measures nor weighs what it counts. "Filibusters," *The New Republic*, February 20, 1971, p. 13.)

Since neither Mr. von Hoffman nor the New Republic can be accused of a "southern conservative" orientation, Senators of liberal persuasion may wish to reflect on their observations before the next cloture vote. For that reason I ask unanimous consent that Mr. von Hoffman's article, entitled "Shouting Back, Not Shutting Up," which appeared in the Washington Post on Februry 17, 1971, and the New Republic commentary, "Filibusters," which appeared in the issue of February 20, 1971, be inserted in the RECORD at this point.

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

SHOUTING BACK, NOT SHUTTING UP

(A commentary 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 old filibuster is.

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 acts 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 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.

FILIBUSTERS

Liberals, many of whom are poor at arithmetic, like to think that they constitute a majority in the United States. They also tend to be addicted to ideological abstractions. We know whereof we speak, for we speak from introspection. And so on issues of the structure of institutions of government, liberals generally favor simple, straight-out majoritarian solutions. Hence, about every two years, they lead a fight to abolish the filibuster, or as currently in the Senate, to make it relatively easy to stop one by allowing cloture to be imposed on a three-fifths (60 percent) vote.

But of the several filibusters that marked the second session of the 91st Congress, and particularly its last few weeks, most were conducted by liberals—and to very good purpose: to block the supersonic transport or expenditures for US forces in Cambodia. For on most issues, liberals scarcely form a majority in the Senate, certainly not in the Congress as a whole. All too often, the problem the liberals face is not to get something past an obstructive minority, but to give an impatient majority pause.

Is the ideological case against the talk-athon, the case against it on principle, so strong then that the liberal position is justified even though, in practical terms, it runs counter to self-interest? Well, to begin with, a simple majoritarianism is not the overriding organizing principle on which the institutions of our governemnt rest. Senate seats are not apportioned on a population basis, the Supreme Court is not a majoritarian institution, the Constitution itself, which is very difficult to amend, is not a majoritarian device, and neither very often is the Presidential veto. "The American idea of a democratic decision," wrote Walter Lippmann on the occasion of another of these antifilibuster fights 22 years ago, "has always been that important minorities must not be coerced. . . . For if that principle is abandoned, then the great limitations on the absolutism and the tyranny of transient majorities will be gone, and the path will be much more open than it now is to the demagogic dictator who, having aroused a mob, destroys the liberties of the people."

It is of course true both that minorities can and should ultimately be coerced on many occasions—as in the past 16 years we have time and again successfully coerced an important segregationist minority—and that institutions and devices other than the filibuster are available for their protection. But the filibuster has the virtue at its best of giving the majority pause without necessarily stopping it, and of testing its intensity against that of the minority. The ballot is an excellent counting mechanism, but it neither measures nor weighs what it counts. It does not, therefore, register intensity, and we are consequently relegated, for the most part, to the street, or to exaggerated and even violent rhetoric, when we want to give witness of the depth of our convictions, and test the will and conviction of our opponents.

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 trust 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.

Mr. FULBRIGHT. Mr. President, I once again would like very much to urge my colleagues—and not just the new ones to whom I called attention a moment ago, but also the Senators who have been here for a while—to study these new points of view as expressed by Mr. von Hoffman and the New Republic. I call the articles to their attention. I would hope that all Senators would reconsider the reasons and the attitudes that they have formed during a period of time when the procedures of the Senate became, in my opinion, confused or merged with substantive issues which were highly controversial, specifically civil rights legislation.

That period is over, and now we have a new period. I am not saying this in connection with any of these other measures such as the ABM or the SST. I do not wish to put it on that basis, either, but just as a matter of procedure, as Mr. Lewis says. The preservation of the process of democracy which this country has been fortunate enough to enjoy is what I am deeply interested in. I believe that these same people—many of them the principal sponsors of the measure to change the rules—are interested in the process of democracy.

I submit with the greatest of deference that there has been confusion between a substantive issue and the procedure which this body follows. So, I would hope that those men who have in the past been committed to the principle of a change in our rule would reconsider their belief in the light of the new conditions which confront us.

My last comment about our general situation is not anything very new. I simply wish to reemphasize the attitude that I attempted to discuss before, and that is the preservation of the proper balance between the legislative and the executive branches of our Government.

I think our experience is very clear, not only in this country but also in all countries, that a continuation of a state of war always undermines the traditional democratic process. It is almost inevitable. I say this without any idea of reflecting upon the present executive. It was just as applicable, or more so, to the previous administration or the one before that or any of them. This always takes place.

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

Mr. FULBRIGHT. I yield.

Mr. SPONG. Mr. President, I believe the Senator was making the point that in time of war in the history of this country, the powers of the Executive have automatically grown as a result.

Is it the Senator's main thrust that because of the present state of undeclared war and the past history of wars in the last 25 or 30 years, the executive has grown beyond imagination in its powers and activities?

Mr. FULBRIGHT. Yes; the Senator is quite right. I want to emphasize that there should be no implications drawn with regard to the present occupant of the White House. I think this is an inevitable tendency. It has been true in other countries when enormous powers have been given to the executive branch, or, in our case, to the President. There was a film on television night before last on "The Selling of the Pentagon." This does not represent some devious scheme on the part of the Pentagon or the President to unduly take over the power in the country. It is simply the inevitable result of the state of war, and we have been in a state of war or a near state of war since World War II, some 25 years. I submit that this is just a terrible price, one of the great prices of war.

The point I am making is that we have to be extremely careful not to give up what few powers the legislative branch has, and to resist this enormous increase in the power of the Executive, and to keep balance within our constitutional system. To that end I think rule XXII is an extremely important element.

Mr. SPONG. Mr. President, will the Senator yield for a further question?

Mr. FULBRIGHT. I yield.

Mr. SPONG. The Senator is saying not only that the rule is important to maintain strength in the legislative branch of Government, but also that it is unique in this body and unique in the world because there remains within the legislative branch an opportunity to pause and to halt in the face of an overeager and overzealous executive branch.

Mr. FULBRIGHT. That is correct. The Senator states it very well, indeed. The pressures to make Congress and to make the Senate respond immediately to the will of the Executive become very great in time of war because of the nature of the operation, with people being killed, with our young men being killed, and enormous amounts of money being spent. There is an impatience in our country to move on, and to get it done. There is some feeling that we could act more rapidly somehow or other, that we would be better off, not by acting more wisely, but more rapidly.

I think it is not pure coincidence that one of the sponsors this time of this change was also a sponsor of the resolution known as the Church-Cooper resolution which was delayed last spring for 7 weeks. He became very impatient about that delay. He became impatient with the fact that the Senate could delay passage of that resolution. The Senator is familiar with what I am talking about.

But aside from that resolution or any resolution we have to be extremely care-

ful when there is impatience. I am impatient that we cannot get the war over, because it is such a great tragedy. But I do not believe changing the rules of the Senate is relevant to that issue. It has nothing to do with the prolongation of the war. That is a matter of judgment on the part of the executive branch. I am dubious that the legislature can force the hand of the President. We can try to persuade him and change his judgment or urge a different course, but so far as stopping the war by legislative procedure, I seriously doubt that can be done. Theoretically, we can cut off money, but I do not think as a practical matter that could be done because, as a matter of fact, we do not have the votes. We have not had the votes on many issues not specifically directly related to the war.

As I said, I do hope that not only the newer Members but those who have become committed to this proposal to change our procedure will reconsider that in light of the fact that the issues on which they became committed really have been disposed of as far as they can by legislative action.

Mr. SPONG. Mr. President, will the Senator yield for a further question?

Mr. FULBRIGHT. I yield for a question.

Mr. SPONG. Does the Senator see this rule and its use in parliamentary debate as being the tool of any philosophy as opposed to another?

Mr. FULBRIGHT. I do not; other than the philosophy of democracy. I think this rule is important for the preservation of the balance between the executive and the legislative branches of Government which, to me, is the essence of our system of democracy. I do not mean to say there are not other ways to have a government organized. We have this constitutional system of a separate executive and legislative. There are many people, historians and scholars, who have thought that maybe the more effective democratic system is to have the executive selected by the legislature, in other words, the parliamentary system.

That is an academic matter as far as we are concerned. We do not have that; we have a separate executive. The history of these countries with a separate executive is that the executive has often usurped all the power and turned it into a dictatorship.

This rule is one of the principal safeguards against that, in my opinion. So it cannot be said to be liberal or conservative. If anything, it is conservative in the sense that it conserves the essential elements of our constitutional system.

To state it another way, if we changed the system to where we had rules similar to the House, where under the closed rule they can pass a bill in the 1 hour or 2 hours without the opportunity for amendment, I would say this would make the Senate a cipher in the legislative branch. As far as the Senate is concerned, there would be no excuse for the Senate. The argument could be made, why have a Senate which has the same rules as the House; it cannot bring about further legislation so let it go the way of the House of Lords.

I do not think that would be a good thing for constitutional democracy. We must make the system we now have work.

Mr. SPONG. Perhaps the Senator touched on this before I arrived in the Chamber. I did hear him say we had been in a state of war, or a near state of war, for many years. Would the Senator from Arkansas agree that during that time in the history of our Government, going back to just before the Second World War, we have seen an amazing growth in the executive branch of Government, and a greater role of activity by the judicial branch of our Government and a concurrent—not demise but lessening of power on the part of the legislative branch of our Government?

Mr. FULBRIGHT. I think the Senator is quite correct. That is true. That has taken place. Well, it is not so remarkable when one thinks of the impact of the war, and before that the impact of the great depression, which started the process of centralization and siphoning more money through the Central Government, that was when the erosion began of what we knew as our system of States rights. It started with that. Then the war emphasized it tremendously. Enormous wealth and power are now concentrated in the Federal Government. That means the President and the executive branch to a great extent. They have the responsibility for the administration of the money we appropriate. Great discretion is in the hands of the President. Power and money are bound to lead to the enhancement of the power of the executive versus the legislative branches of Government. It always has and always will.

When we think of military expenditures alone, they are highly concentrated. There is no participation by local governments, in contrast with some of the programs of welfare, old-age assistance, agricultural programs, and others. There is participation by the local governments in those programs. They play a function or part in them. But in the military activities of the United States, no local or State government, outside of the very minimal participation of the militia, the National Guard, which is usually used for local purposes, by and large, takes part. The disposition of the great resources is given to the Military Establishment, which is the President, and this builds up a constituency.

The film shown on TV the night before last, "The Selling of the Pentagon," demonstrates one aspect of this problem. We have spent for military purposes and for purposes relating to military affairs, such as the veterans programs and interest on the military debt, $1,200 billion. When I say that, we have appropriated it, but the executive has spent that and disposed of it. Necessarily, it creates a clientele. It creates supporters and a constituency in this country that has enormous influence in Congress. The spending of these vast amounts have created a situation which makes it difficult for us to do something about the ABM or the space program or any of those closely allied programs involving the coterie of people who have this enormous economic interest in the continuation of these programs.

I am not sure whether we are going to be able, if this war goes on much longer, to ever reestablish a proper balance. I am not sure we can. I think it is my duty, and I think it is the duty of all of us, to try to preserve the capacity of the Senate to influence events; and rule XXII is essential to that capacity to influence.

Mr. SPONG. I thank the Senator from Arkansas.

Mr. FULBRIGHT. I appreciate the Senator's questions. I think, coming from the State he does, with the great tradition of Virginia, and its participation in the creation and being the principal architect of our constitutional system, he ought to have a great interest in the preservation of our constitutional system. It is a system that has worked quite well. It is a difficult and complex system. Many people, as I mentioned a moment ago, have suggested that we permit a system in which the Congress—that is, the legislative—selects the executive, so that we do not have this separation and competition between the executive and the legislative in the same sense that we have today, as a more democratic and stable system. That is all very well. There is no point in arguing that here. That is not the issue before us. The issue is in trying to make the system we have work. It is unrealistic, I think, to talk about changing basically our constitutional system. If it is ever changed, I do not think it will be by the orderly process by which we are conducting the business of this body; it will be by some other process.

Mr. SPONG. Should the rules affecting debate be changed, does the Senator from Arkansas foresee a weakening of the role of the upper body of our legislative branch, and does he foresee the possibility that the Senate of the United States, today unique in the world as an upper body of a bicameral system, ultimately going the way of the House of Lords or the Canadian Senate or the French Senate, which, through successive strong executive branches, has been weakened?

Mr. FULBRIGHT. I would think that is inevitable. I am as certain as one can be of any such development. All the precedents would indicate that. Really, there is no particular function of the Senate unless it has the capacity on occasion to require thorough debate of important issues. If it is going to follow the same procedure as the House, what good does it serve? What function does it serve? The very fact that the Senate has this capacity, in my opinion, influences very greatly the attitude of the Executives who submit proposals of all kinds. Those measures are usually developed by the Bureau of the Budget. It is true that an individual Member of Congress can introduce bills, but all the major programs in the field of defense, which takes a large part of our money, or in health, education, and welfare, are essentially the function of the Executive. It is true that an individual Member can introduce such a bill, but he

rarely introduces a comprehensive bill. He introduces just a part of it.

The fact that the Senate has the capacity to force serious and deep consideration, and can delay if necessary, is taken into consideration by the Executive. I think it has a tremendous influence upon what it proposes. If the Executives thought they could run over the Senate like they do over the House, they would be much more radical, in my opinion, in what they propose. They would be much emboldened. They would be emboldened to try to usurp even greater authority and power.

Even today, under the influence of the war, the power of the Senate has been greatly eroded. Never since I have been here, and I do not believe in the history of this body, has the Executive shown such disrespect for the constitutional role of the Senate. Take this war. They are waging a war now in Southeast Asia without even any pretense of authorization from the Congress other than the supplying of the money.

The Senator will recall that when this matter was brought up 2 years ago, the issue was repeal of the Gulf of Tonkin resolution. I had alleged that it ought to be repealed because it was secured through misrepresentation on the part of the then Executive. The Senator from North Carolina (Mr. ERVIN) made the argument that, even though it was, there was a color of authority in it to conduct the war. He opposed the repeal on some very persuasive constitutional grounds, but it was repealed. We were told then by the spokesman for the administration that he was not going to oppose it; that, having inherited the war, with our troops abroad, surely the President had authority to bring them home.

That was persuasive. The President has the authority to bring them home. This was the attitude that was advanced. The Senate and the people accepted it.

That was before the invasion of Cambodia. That was before the invasion of Laos. Now it is becoming increasingly difficult, I think, for anybody to maintain that all the President is doing is bringing those troops home. Those troops could have been brought home. If that is all the authority he has as Commander in Chief, they could have been brought home in 3 months. Of course, some of them have been brought home.

I say this to show that the executive branch, I think, has less respect today for the constitutional role of the Senate than it has ever had. Even President Johnson thought he needed the resolution. In the beginning at least, he said he needed the Gulf of Tonkin Resolution to show unity and the support of Congress behind the Executive; this would impress the North Vietnamese and would prevent the war from widening.

He thought it had some significance. This administration takes the view they do not need anything. They do not need anything out of Congress other than the money or the Senate to authorize them to continue a war, an ever-widening war, and in recent statements of the President, he says he accepts no restrictions whatever upon his right to use the Air Force in any way he chooses. He chooses, he says, not to use tactical nuclear weapons, as of the present, at least; but other than that, he can use the Air Force in any way he likes, and therefore, he has completely, in my view, departed from the basic constitutional principles of the war powers of Congress.

Mr. SPONG. As a constitutional matter, then, would the Senator from Arkansas agree with the view of the Senator from North Carolina (Mr. ERVIN)—in which I might say I concur—that as a result of the repeal of the Gulf of Tonkin Resolution, there is indeed a vacuum in which some legislative guidance or expression is called for?

Mr. FULBRIGHT. Yes, I agree. I do, indeed. I think he is acting without any constitutional authority when he goes beyond bringing those troops out and protecting their withdrawal.

He says, though I do not know how any reasonable person can believe it, that invading Laos is protecting our troops.

Mr. SPONG. I was not a Member of this body at the time the Gulf of Tonkin Resolution was adopted. I have read the RECORD, and I have heard the thoughts of the Senator from Arkansas expressed on numerous occasions with regard to its adoption, but I would ask—and not facetiously—had more extended debate taken place at the time of that resolution, in looking backward, might it not have helped the direction of this country?

Mr. FULBRIGHT. The Senator is absolutely correct. That was a great mistake. I have, if I may say so, and as the Senator knows, often stated publicly that this was a great mistake on my part. I had the right, as did every other Senator, to talk at that time. I could have delayed that vote, as any other Senator could have. Former Senator Morse, who voted against it, and who had been noted as one of the most talented filibusterers—he at one time held the record of 24 hours and 35 minutes, I believe, or something like that, for the longest single individual speech ever made on the Senate floor—at that time had the right to speak, as I did.

I was, as I have often said, hoodwinked; I was deceived by the executive, first as to the occurrences which were alleged to have taken place in the Gulf of Tonkin, and second as to the administration's purposes in the bombing of the north at that time.

But in any case, the vehicle was there. The power was there. I failed to have the wisdom to use it, as did every other Member of this body, including Senator Morse. Senator Morse asked for 2 hours of debate. He could have, as he often did, say, "I accept no limitation of debate; this matter has got to be discussed at length." We had the authority, but we did not use it.

Mr. SPONG. The Senator from Virginia sought to cast no reflection upon anyone involved in that debate.

Mr. FULBRIGHT. I understand.

Mr. SPONG. It is easy to look back when one was not a participant. But in asking the question, I wanted to point out that at the time of this serious action, from which have flowed years of involvement and the expenditure of billions of dollars, then as in the future, there was available this rule which enables this body, to ask that the wheels stop momentarily, and that all listen and consider what might flow from action that is recommended.

Mr. FULBRIGHT. That is right. That is a good illustration of where this rule could have played a great role had any of us, any single Senator, or two or three Senators, at least, had the knowledge, foresight, instinct—I guess it would have to be called instinct—to utilize it.

The Senator from Virginia must remember that there was a great emotional binge, shall I say, stirred up because of this alleged unprovoked attack upon our ships. It created an emotional state which just swept everyone along. So the rule is not self-executing. It does not itself jump into the breach, if there is no Senator with sufficient determination, understanding, and all that goes together to make a man determined to oppose a course. If that does not happen, of course, it is not self-executing. But the rule does stand; and hopefully we will learn from our past experiences. As long as I am here, I can assure the Senator that no similar resolution will be disposed of in any such fashion, and I think that will be true for a number of others here.

Of course, it may be that in time it will be forgotten, and we will not have learned; but for those who were here at the time, I am quite certain there will be no repetition of that.

As a matter of fact, one or two minor incidents of the same nature did occur following that. For example, we were asked to give a kind of blank check authority to President Johnson when he went to a conference in Montevideo not long afterward, and the Senate said, "No, we want to wait and see what the Conference produces before we give you a blank check." I think that was an outgrowth of the realization of the missed opportunity. I think the commitments resolution is also an outgrowth of that experience. Other things, too, indicate that some benefit has been derived from the experience.

But in any event, this rule still stands here, available for use. If we get rid of it, I am quite certain, as the Senator has already indicated, that this body would soon become purely ceremonial, like the House of Lords, with no real authority—perhaps a place where a man who has given a great endowment to a university could be made a Senator, in the same way that they make a man a member of the House of Lords, and call him lord, duke, viscount, or something of that character. That, I assume, is not what the Senator from Virginia wants, and neither do I.

The worst kind of system, it seems to me, would be to subvert the legislative branch, under our system, and have only the executive, without any restraint at all. It would be far better to go to a parliamentary system or to a constitutional monarchy, for that matter, because those systems invariably do create some kind of council, some kind of body which consults with and exercises, together with the executive, the power of the state.

Mr. SPONG. They provide for an ex-

ecutive accounting within the legislative body.

Mr. FULBRIGHT. That is right, yes. So if we dispense with this rule, I think it would be a major step toward simply abdicating from our responsibilities as an effective part of our constitutional system.

Mr. SPONG. Again I thank the Senator from Arkansas for answering my questions. I share his apprehension of an impatient and all-powerful executive. I view the Senate of the United States as a unique body, and I view this rule as something that can keep the Senate of the United States a unique body, and can be used to protect the rights of all, regardless of their philosophy.

I do not believe that there have been many recent occasions when the rule has been abused. I think much that can help us in the future flowed from the Cooper-Church debate, although there are many who do not share that view; and I believe the lengthy discussion that accompanied the consideration of some nominations on this floor has perhaps helped us for the future, both as to the nominating process and how advice and consent should be given.

I thank the Senator from Arkansas.

Mr. FULBRIGHT. I thank the Senator from Virginia for his questions and his contributions. I think he cited additional examples of the usefulness of this rule.

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

Mr. FULBRIGHT. I yield for a question.

Mr. LONG. Is it not also true that we have occasions in which a law is passed which may be of very dubious constitutionality? In those cases, the Supreme Court, as any court, is fallible. We have appellate courts because the trial courts are likely to make a mistake. We hope they will not, but they do. When they make mistakes, an appellate court is there to correct the mistake of the trial court. If the appellate court should be in error, the Supreme Court should correct it. But the fact that courts do make mistakes is the reason why we have appellate courts, including the Supreme Court. From time to time, a law of dubious constitutionality will be passed by Congress, and it can be upheld by the courts, sometimes by a close decision.

For example, recently we passed a bill which I felt was unconstitutional. The President of the United States said he thought it was unconstitutional, notwithstanding which he signed it, on the theory that he wanted to leave the question up to the Court. The Court held, by, we might say, a 1-4-4 decision, that the law was constitutional in part and that persons 18 years of age could not be authorized to vote in State elections, although they could be authorized to vote in Federal elections. But only one Justice on the Court, Justice Black, believed that this was what the Constitution intended. Four Justices said that the entire law was unconstitutional, and four others said that it was constitutional in its entirety, rather than constitutional only in part.

If the Senate and the House are considering a bill of dubious constitutionality, does it not become extremely important that those 100 Senators, each of whom has sworn to uphold the constitution should do that within their power, to persuade both the Senate and the country that the measure is not constitutional and that to pass it would deny for 200 million people the rights that the Founding Fathers sought to preserve for them?

Mr. FULBRIGHT. The Senator is absolutely correct. That is one of the greatest functions—he has put his finger on it—that we are to perform. It is in a sense, in the legislative field, similar to that of the Supreme Court.

Many of the things that come before the legislative branch, proposed by the Executive, are much more dangerous to the survival of our country than are many of the lawsuits that go to the Supreme Court—not that they are not important individually; but very often, in such things as the making of war, when we become involved in world wars, the future and the fortunes of all the people are more involved than in any lawsuit. I think the Senator is absolutely correct. That is one of the great reasons for the Senate.

I am bound to say that one of the reasons why this country, big as it is and as diverse as it is, is still a functioning country, in spite of our difficulties, is because of the Senate, because it has provided just what the Senator has said—that it continues to be a place where at least democracy is possible. We have the institutions by which democracy is possible. We do not always make those institutions work as they ought to, and we make mistakes in their operation; but the framework is here, and this is an important part of it. If we can preserve the Senate as a body which has the capacity to make mistakes the Senator has referred to, and to revise the measures in the light of discussion and, we hope, our own wisdom, I think it makes a great contribution to the survival of our country.

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

Mr. FULBRIGHT. I yield for a question.

Mr. LONG. Does the Senator recall that for many years some Members of this body argued that a civil rights bill could never be passed?

Mr. FULBRIGHT. Yes, I certainly do.

Mr. LONG. The contention was that no meaningful civil rights legislation could ever be passed, and that the reason it could not be passed was that we had relatively free debate in the U.S. Senate. So, accordingly, the argument was made that free debate must go down the drain, that it must be disposed of, that it must be buried forever, because otherwise the rights of more than 20 million Americans could not be adequately protected. Notwithstanding that argument, in 1964 Congress passed such a civil rights act, and indeed it had the opportunity to pass anything it wanted to along that line.

After the Senate had voted in 1964 to shut off debate, any amendment to do anything in the nature of a civil rights bill could have been added to the so-called civil rights proposal at that time, because it took nothing more than a majority vote. Notwithstanding that those who were in 1964 arguing for a gag rule still came back at the beginning of each subsequent Congress and, I suppose from force of habit, to argue that we still simply had to change the rules, because we had to pass more civil rights laws.

At that point, this Senator asked the question: "What civil rights? What remains to be done on the subject that requires that you change the rules of the Senate?" These rules have been changed several times since I became a Member of the Senate. The argument was consistently made that we still had not passed a good voting rights bill. I said at that time that there was not the slightest doubt in my mind that if a case could be made for a voting rights bill, the Senate would pass one, and the Senate did subsequently pass such a bill.

Mr. FULBRIGHT. That is correct.

Mr. LONG. And cloture was obtained in order to pass a voting rights bill.

Can the Senator tell me what there is before us today now that requires that we put an end to free debate in the Senate in order to pass a particular measure or in order to benefit a particular group? What is there?

Mr. FULBRIGHT. I take it that the necessity to introduce this change is like the urge that impels a man to keep on smoking cigarettes even though he knows it is going to give him emphysema. They have to have it, and they cannot kick the habit. There is no justification for it.

The oddest thing is that the very people who were for civil rights and wanted to change the rules are now the ones who are coming into the situation where they use it, as was demonstrated in the last session, before Christmas. I do not think it can be said that the liberals—using that term the way they use it—have ever been in the majority. They are not today and they never have been.

Mr. LONG. Is it not correct that some of the people who are sponsoring the resolution to limit the debate in the Senate availed themselves, more than any of us, of that privilege during the previous Congress?

Mr. FULBRIGHT. The Senator is correct.

It is ironic, when we read the newspapers today, that this effort to prevent the emasculation of the Senate rules is referred to as the "southern effort." It is a great compliment. The southerners are the ones who have enough sense to see that the preservation of our democratic system depends upon the rules.

Rules are the essence of democracy. That is all there is to democracy, the process by which we solve differences. That is all democracy is. The newspapers think they are using that term in a pejorative sense, that it is led by Southern Senators. There is great confusion in the minds of those who have for so long identified the rules of the Senate with civil rights. They have not yet been able to disassociate the two.

Mr. LONG. I would like to ask the Senator, whether in the previous Con-

gress, when the President sent troops into Cambodia, there were some Senators who felt the President was right and some felt he was wrong; so a resolution was proposed to say that we should not have American troops in Cambodia. Those opposed to having troops in Cambodia fought to bring the resolution to a vote and those who were on the other side felt they could debate as long as it took the President to get the troops out of Cambodia——

Mr. FULBRIGHT. Yes; and that is what he did.

Mr. LONG. So they won. It was a successful filibuster, because the troops were out before the resolution came to a vote. I think that debate went on for 5 or 6 weeks.

Mr. FULBRIGHT. Seven weeks, I believe; was it not?

Mr. LONG. It was a long period of time. Does not the Senator find some of the same Senators promoting this resolution that were supporters of the Cambodian resolution?

Mr. FULBRIGHT. That is ironic. I think it is the experience with that, last spring, that may have inspired Senator CHURCH to want to change the rules because it took him a number of weeks to get his resolution passed. As I said a while ago, this may be purely speculation, but in this case, he was one of the most impatient over that delay. But as the Senator has properly said, all these are substantive matters, and they can come and go, but the Senate, if we are to maintain a great country, must maintain its role which would be sadly and seriously undermined if this rule were changed.

Mr. LONG. Will the Senator from Arkansas yield for a further question?

Mr. FULBRIGHT. I wanted to suggest this one other point first, if I may. Right today—on this question the Senator just propounded, which suggested the thoughts to me—what is the policy of this Government with regard to Laos and Cambodia and Vietnam? Serious doubts have been raised in the minds of many people who have heretofore accepted the expressed policy and words of the administration so that the people are confused—as I confess I have been—although I think I have resolved my confusion and have resolved it by no longer going by what they say but by what they do. I am following the advice which the administration gave the public at one time in the past.

The truth of the matter is, we must look at what they do and forget about what is said as to the objectives. I have about resolved in my own mind what their policy is. But the country as a whole, many of whom do not follow it as closely as those who have special responsibilities in the field, are very much confused. It is a perfect example of a situation in which a serious debate about these matters should be taking place in the Senate today.

There is nothing before the Senate in the way of a declaration of war. If our system is to function properly, there should be some kind of resolution, say a joint resolution, authorizing the President to do what he is doing in Laos and doing what many people think he is going to do in North Vietnam. I know that there are resolutions being proposed, or proposals being made ready because they have spoken to me about them, to deny the President the right to use troops in North Vietnam. The constitutional way to proceed would be for the President, the executive branch, to come to Congress and ask for authority to do that, if he is going to do it. If there was any respect for the Constitution left in the Executive, it would not be their position that anything that has not been expressly denied to them, they have the authority to do.

The Senator knows that has never been the traditional concept of the Constitution. The President has only that authority given to him explicitly by the Constitution. All other reserved powers are reserved to the people and not to the President. The Executive now is interpreting the 10th amendment of the Constitution as meaning that all powers not explicitly given to someone else are reserved to the President, but, unfortunately, the Constitution does not say that. It says they are "reserved to the States respectively, or to the people."

The President's procedure in Vietnam and in Cambodia, and especially in Laos now as to his proposed procedure, is that he does not need any authority. I think that is unconstitutional in the traditional sense.

What the President should do—if he is going to do this—is to have already asked for a joint resolution authorizing him to proceed to invade Laos in the national interest for the purpose of protecting our country. If he is going to do the same in North Vietnam, he would come to the Senate with a resolution. It would go to the House, and under their rules and their procedure I suppose they might pass it, but a resolution would then come here and precipitate the kind of discussion that would resolve the doubts I have been talking about that are bothering so many people in this country; namely, what is our role and our policy in Vietnam?

It is a hard way to get a debate going today, a real debate, beyond more than the Senator and myself and perhaps two or three others. I cannot remember when there has been genuine, full-scale debate on an issue like his one in the past 2 or 3 years. There has been declamation by the President, speeches on television, and we are asked to comment, and two or three of us say we do not believe he is correct, or he is wrong, or something else, and that is the extent of it. There has been no real, serious examination and debate of the objective of our policy. There was some debate at the time of the Son Tay raids because of the dramatic circumstances there, as to the objective. But this is the sort of question that goes to the security of our country.

I would like to see a serious debate participated in by one-half the Senate, say—perhaps that may be too ambitious, say one-third—on these questions.

I noticed the other day that one of our distinguished citizens was awarded a plaque for making the greatest contribution to the security of the country.

How does one make a contribution to the security of the country?

Is it by engaging in further war and more military preparations, or is it by urging that we conserve our resources for the development of the country, and follow courses leading to settlement of the war by political and diplomatic means. There are many ways to do it. There are certain people who assume that more and bigger weapons mean greater security. At the ABM hearings in our committee, the finest scientists in the country testified that since we and the Russians have enormously increased the number of our nuclear weapons, and the megatonnage of our missiles, both of us are less secure than we were before we ever had nuclear weapons.

Each country has created circumstances that have made it less physically secure than it was before. So then, can we argue that 10 times more nuclear weapons makes us 10 times more secure? It does not make any sense.

All these kinds of issues generate a degree of confusion and the Senate is the best place I know of where such debate might take place, if we are under the proper circumstances. That is what the Senate is for. I think some of these debates have taken place. I think the main reason there has been much criticism of the Senate is that the Senate is the one place where the executive cannot run roughshod over the opposition. The Senate dares to raise questions about waste in the Pentagon, about waste in the C–5A, and it is the place where there is opposition to the SST. Where are these questions raised? In the Senate. Nearly every one of the major issues has been developed in the Senate. As an outgrowth, the Senate is subjected to criticism by all the people who are thwarted in their desires. If a Senator wants the Senate to be efficient, why does he not wish to abolish the Presidential veto? The veto is a much more effective obstruction to action than is Senate rule XXII.

I do not see anyone proposing that we get rid of the Presidential veto. That is an obstruction to quick action. How many bills did the President veto? He vetoed two or three bills that some of the most liberal Senators were in favor of. Why do they not bring out a constitutional amendment to get rid of the veto?

The President is one man. He was a Senator not too many years ago. To override a Presidential veto, it requires two-thirds of both houses. All that poor little rule XXII requires is two-thirds of the Senate. It is a relatively mild obstruction, if that is what one wants to call it.

I do not understand it. These people want immediate and quick action for all of these great schemes they have.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. FULBRIGHT. I yield.

Mr. LONG. Mr. President, if the purpose is to avoid delay and to get on with the business of the Senate, can the Senator tell me of anything in his recollection that has wasted more time of the Senate? Every time the Senate meets, it spends the first 6 weeks debating about a change in the Senate rules and all to no purpose.

Does not the Senator from Arkansas think that the leadership on the two

sides of the aisle ought to be able to take a poll and find out whether they have the votes to impose cloture and change the rule. If they want to engage in the procedure that has been tried before and usurp power and run roughshod over the Senate to change the Senate rules, they should first see whether they have the votes to impose cloture. After having found out whether or not they have the votes, they can put on the calendar bills that are ready and get on with the business of the Senate rather than finding ourselves reaching a decision in December on legislation that could have been acted upon long before.

We are not going to change this particular rule. We have been trying now for lo these many years. It seems to me that this is where I came in. As I recall, when I came to the Senate in 1949, we had a big fight to change this rule. It took up about 2 or 3 months. Every Congress since that time has been confronted with the same type of procedure, with perhaps one or two exceptions.

It seems to me that almost every time we meet, if one wants to talk about taking 12 months to do the business of the Senate that could be done in 7 or 8 months, this is the best example I know of a big waste of time. Some here insist on trying to force people to do what they do not want to do. They are not going to invoke cloture. They will grind on and on and try to get Senators to change their votes.

Mr. FULBRIGHT. We have had two votes this year already on this matter. It is beyond my comprehension, unless they think they can create prejudice against the Senate and say that we are using this to waste the time of the Senate. I say that they are wasting time by bringing up such a hopeless matter at this time.

I do not know why they do it, other than it is a habit like the cigarette habit. I do not know why I smoke cigarettes. I know that it is a bad habit.

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield for a question?

Mr. FULBRIGHT. I yield.

Mr. HOLLINGS. Mr. President, I think the Senator from Arkansas is pointing out the gut issue, the integrity of the U.S. Senate and the matter of power. The Black Panthers want to bring power to the people. Now the President wants to do it.

Here we begin to get a little sunlight at the end of the tunnel. I have before me an editorial entitled "Too Much Power," published in the Baltimore Sun of today.

I think a few lines of this editorial will be helpful, if the Senator will indulge me on this matter.

The editorial reads:

> In recent weeks the President of the United States has ordered troops across an international boundary, suspended the provisions of a law requiring that certain wage policies be followed, and halted construction of a canal in Florida.
>
> I might add that in January, last month, he used a depreciation allowance for machinery that the chairman of the Committee on Finance knows will cost $2 billion or $3 billion. I continue to read the editorial:
>
> In none of these cases was Congress consulted. No consultation was required, and certainly no joint action was required, because previous actions by Congress had granted to the President the power to act as he did. In many other areas, the President may also so act on his own. We are a long way from 1789, when the Constitution was officially adopted.
>
> President Nixon has talked often of the need for power to flow back from Washington to the states. There is also a need for power to flow back from the White House to Capitol Hill.

Mr. President, I think the distinguished Senator from Arkansas submitted a resolution 3 or 4 years ago that was finally enacted into law last year. That has been bringing this matter to the forefront and to the attention of the country in a very salutary way. While the Senator feels that we cannot get a debate, I say that there is a little light at the end of the tunnel. We are beginning to have the opposite effect. We will bring the news media down on our heads. They will have vote after vote until finally they bring up a big filibuster that flops around and wastes the time of the Senate. The truth then finally comes to the surface. Here we are taking the time of the Senate. Here I am, an ugly-headed liberal and intellectual. I join with the Senator from Arkansas.

Mr. FULBRIGHT. The Senator is correct.

Mr. HOLLINGS. The Senator is correct. Some of our good friends, among them the distinguished Senator from Minnesota, and others, are beginning to see the light. They wish that they were voting with us. They wish they had not committed themselves so quickly. They did not analyze the problem. The wrong facts went into the computer.

What was the Executive doing in the last 2 years? There was 4½ or 5 weeks' debate on my appointment of Judge Haynesworth to the Supreme Court. That was caused by the White House.

The debate over Judge Haynesworth was caused by the White House. That took another 6 weeks. That was 2½ to 3 months. Seven weeks was spent on the debate on the Cooper-Church resolution. That was caused by the White House.

They are the ones who have been killing time around here.

Fortunately we had the debate here on the Carswell appointment. There were 51 commitments when the nomination hit the floor. If we had not had extended debate—whether the Senator likes it or not, I voted in favor of Judge Carswell's appointment to the Supreme Court—we would not have had the result we did. By allowing extended debate and by allowing a minority to be heard, issues came to the forefront and the U.S. Senate did not confirm his appointment.

If there has been a development in this country, it has been a communications explosion. It has been the tail wagging the dog. It has been the White House that has been responsible. They have 255 or 300 employees, up to 577 employees. How many employees has our good friend, Mr. Kissinger, got?

Mr. FULBRIGHT. He has 110 on his staff.

Mr. HOLLINGS. He will need assistants and aides and a Cabinet officer himself in order to keep up with his department.

All along they are talking about power to the people. Their main credo is, "Watch what we do, not what we say." What they are doing is giving power to the President.

Mr. FULBRIGHT. Mr. President, the Senator is correct. It is a challenge to us.

I appreciate the Senator's comments and I certainly welcome his association in this venture. I hope it will not embarrass him too much; certainly it will not me. I am proud to have the Senator agree with me on matters of such consequence.

Mr. HOLLINGS. I thank the Senator.

Mr. FULBRIGHT. There are many things for us to be discussing beside the change of the rules. I know time is fleeting, but I wish to comment about the confusion in our country today over the course of this war. I want to say that I deliberately for 6 weeks have refrained from saying anything about the war, partly because I said everything I knew to say and I was getting tired of the repetition. Furthermore, everyone knew what I thought and did not want to hear me say it again. For various reasons I have said almost nothing at all about the war recently.

However, this morning an article was brought to my attention and I thought it was worthy of the attention of the Senate. I wish to end my remarks today by reading a part of it. It illustrates a state of mind in this country that I think is troubling a great many people, a state of mind that troubles me, at least, and that is indecision, the inability, I guess I should say, to have a clear picture of just what we are doing. What is our policy? What is our objective? It is very difficult for me to express it.

We have become involved in a kind of morass of semantics. There is the development of all these new words; concepts we used to think we understood. Today there is "protective reaction strike" for a bombing raid. They have these esoteric words and it gets everyone confused. It makes the situation hard to talk about. We have to use these words of the Executive. The Executive states, "We have today mounted 15 protective reaction strikes." In other words, "we bombed the hell out of them this morning." But they do not say that. Everyone would understand them if they did. All of these moves are colored and disguised in new language. This has resulted in a state of mind that is very troubling to me.

It reminds me of some of the history I used to read. It reminds me of the state of mind in France just before the revolution in 1848. At that time Louis Philippe was considered the king of the great bourgeois middle class that we hear so much about. He was identified with the middle ground.

But the government of Louis Philippe was that middle ground. Other forces were growing up that the king did not know about. I believe Thiers and Molé

were his ministers. All of a sudden. Louis Philippe was out; he abdicated. They wanted a democracy and there was a debate about how to achieve it which was very interesting. They did not like the British because they recently had their troubles with them. They thought they liked the system in the United States. They tried to copy our system, and made the President separate from the legislature. It is a difficult system and they experienced great troubles in their efforts to make it work.

This situation today is described in this article, and it reminds me a bit of the situation in France. They had their election and they elected a President. They had the attacks upon the assembly and in 2 years they ended up with another emperor. The executive took over and the Prussian war occurred 20 years later.

I do not say we are going to follow that example. All I say is that there is a lack of understanding of where we are and a lack of understanding of our policy; and another problem is lack of support for policy because no one knows what it is.

The article to which I have referred states:

After a period of uncertainty, the American-South Vietnamese campaign in Laos once again makes it clear that the United States is trying to win the war in Indo-China. When one uses the word "win" in connection with this war, it is necessary to specify exactly what one means. Our objective in going into Vietnam was to help a government fight its enemies until it could stand on its own. Attaining this objective, and nothing more than this objective, is what it would mean for the United States to "win" in Indo-China. It is this objective that has eluded us for a decade, and it is this objective that President Nixon seems to be still pursuing by extending the war into Laos. This, apparently, is what he is talking about when he uses the code words "peace with honor." "Honor" here means winning. The real difference between a dove and a hawk is not that a dove wants the war to stop and a hawk wants it to continue; it is that a dove wants us to get out of Indo-China whether the Saigon government collapses or not, and a hawk doesn't want us to leave until the Saigon government is strong enough to stand on its own. In saying that the President remains a hawk, no one is suggesting that he loves war and hates peace, or that he wants our troops to stay in Indo-China just because he likes having them there. One is saying that, whatever he may want, he will end up keeping our armed forces in Indo-China, because he is unwilling to give up trying to achieve the objectives this country has failed for ten years to achieve. This is not something that the Administration always readily admits to. It claims that the campaigns in Cambodia and Laos are designed to protect our forces as we evacuate them, but this is almost self-evidently not the case. Our troops could leave speedily and safely without first attacking all the neighboring countries. The real purpose of these new military campaigns is to insure the survival of the Saigon government, not *because* we are leaving but *in order that* we may leave, and this is precisely the policy that the United States pursued under two Presidents before President Nixon.

Does this mean, then, that after several years in which it seemed plausible that the United States had changed its policy we have returned to the situation in 1967, when President Johnson was still convinced that the war could be won by military measures? Unfortunately, it appears that we are actually in a more discouraging position than we were then. What we see around us is a breakdown—or, rather, the evidence of a cumulative breakdown. It is a breakdown of Constitutional restrictions, public debate, and political action, and also a breakdown of will, judgment, and moral scruple.

This is the point. Debate in the Senate, if it were properly mounted upon a request by the President to authorize what he is doing would clarify the air, and get a decision one way or another as to whether the Senate and the country want him to do what he is doing—and he could proceed with confidence.

I think the disunity and the uncertainty in the country would evaporate. I think this is the crux of the matter. I think his actions are one thing, which is what this article is about, but it is not what he says he is doing. It creates a kind of schizophrenia in the public mind which is very dangerous. We cannot get unity. How can we get unity when many of us say, "This is what he is doing," and the others say, "This is what he says"? Nobody knows.

Debate on the Senate floor is the only place where such fundamental discussion can take place. Unfortunately, there is no vehicle or measure in which the Executive has raised the question of the constitutional authority to do what he is doing. I maintain he does not have that authority; that he is proceeding without constitutional authority; that he is waging an unconstitutional war. Of course, we all know the Constitution is not self-enforcing. We should follow the guidelines and rules which it sets out. If we choose to ignore them—and the Constitution has been ignored—that does not make such action constitutional. I would hope he would propose some legislative action which would give the matter proper consideration in a debate on the floor of the Senate. I do not know whether I would be on the prevailing side or not, but we would at least clarify the matter. This is the only place in the United States where such a debate is likely to take place.

I continue to read from the article:

In short, it represents one extreme—although not, one trusts, final—collapse of the delicate constraints that a free people exercises over its war machine and its leaders. In Congress, in the press, and all over the country, there is a numbness, and even a paralysis, among the people from whom one might expect leadership in the current crisis. In 1967, with each escalation of the war one could expect a stiffening of the opposition. Each new move called forth a fresh response. In 1967, also, one could expect that as politicians and the public learned more about the dangers of the war, and as the stories of crimes committed by Americans in Indo-China multiplied, the public's revulsion against the war would deepen, and would perhaps serve, in the end, to get us out. It seemed then that there were certain obstacles to new escalations—certain principles in the Constitution, certain limits to the abuse that the Congress was willing to take, and certain simple standards of decency that most Americans shared. But now it seems that all these obstacles have been faced and crushed. Two new borders have been crossed, the bombing of North Vietnam has been intermittently resumed, and the entire nation knows that, except for nuclear war and genocide, there is almost no crime that Americans have not committed in Indo-China. Our B–52s are ranging freely across the newly violated borders. When the B–52 strikes, it leaves a path of craters a mile long.

In the month before the Laos campaign, there were roughly six thousand B–52 strikes throughout Indo-China. Yet, knowing all this, and having been moved to widespread protest on several occasions, the nation has now *grown silent*. Having looked at what we have done to Vietnam, we are doing it again in Cambodia and in Laos. Now that we have accepted all this, and have continued with the war, what is left that can stir us into finally leaving Indo-China? Is there any limit to what we will accept? Certainly it has been one of the particular triumphs of this Administration that, along with continuing to expand the destruction of Indo-China, *it has destroyed the debate over Indo-China in the United States*. The Administration's degree of success in this can be judged from the fact that few men in Congress or elsewhere *challenged the Administration's statement that the incursion into Laos* was not *a "widening of the war."* But if it was not a widening of the war, then what *would* be a widening of the war? As for the press, it seemed so preoccupied with the "news embargo" that it presented the actual move into Laos almost as a footnote. Everywhere, except in Vietnam itself, where energetic preparations for the new move were under way, *Americans seemed dispirited and tired*. It is as though expansion of the war had been *accepted* as a natural law, like gravity, which no one can control and only madmen would even consider opposing.

But in reality to what extent has this war ever been under anyone's control? To what extent has it been obedient to any American's will or judgment? Have our Presidents been in control of the war? What has this war been if not the story of the *breakdown of the government's control over its own actions?* Does the record show that it ever enjoyed the power to do anything but bring *senseless destruction or leave?* Doesn't the record show that our Presidents and their advisers and our generals and all our other "leaders" who have "run" this war have been trapped in isolation and in ignorance of the war, their judgment destroyed by the flood of *spurious "information"* given them by *overfinanced armed bureaucracies* that had gone wild in a part of the world no bureaucracy understood?

The significance of the Senate and the significance of rule XXII, it seems to me, is to deal exactly with this type of problem. It is true that I was as guilty as others were when I did not protest as much as I should have. I did with respect to the incursion into Laos. I said I thought it was a mistake.

But the continuation of the process of stating one objective and taking actions that promote another objective leads to statements which are not very seemly and which suggest that public officials are not telling the truth. The Senate is the best place where we might have a debate which could be—even though some persons may differ with this—a very intelligent and searching debate on this kind of issue. I do not believe it is in the interest of the country to curtail the capacity of the Senate to discuss this or any other question.

It is true that we have not used the instrument of debate on every occasion when we should have, but it remains there as a tool which not only present Senators but future Senators can use for enlightenment of the country and for the solution of just such questions.

I think today it is a very ominous thing that there is not more discussion and de-

bate with the objective of determining our purpose in Vietnam. Is it to gain a victory? Is it to stay there until the North Vietnamese surrender? Or is it to go home and thus end the war?

I have said time and again, and I will say once more, if we could win the war, fine; we would all be for that. But past and present administrations have been trying to do that, and it looks like it is impossible to do without paying a price we do not want to pay. By that I mean use nuclear weapons and destroy everybody. The President has discovered that. Or do we seek to negotiate a settlement? The key to negotiations is the terms. If the terms are that they surrender, that our boys are then free to go home, that our "clients" are going to rule the country, I do not believe the present government or any subsequent government in North Vietnam will ever accept those terms voluntarily.

Then, hovering over all this, making it much more dangerous than any of us like to admit, is the possibility that China will begin to send volunteers into north Laos, as she did into North Korea. There have been more and more reports in the newspapers, in news accounts, in the judgments of commentators, and so on, which we have all seen, that the situation is very similar to what happened in Korea. Those reports were made then. We were notified by the Indian Ambassador that if we moved to the Yalu, China would intervene. Our leading officials said no, they would not do it; it was foolish; it was not in their interest. But they did it. There we were, and there we were stuck.

If that event comes on top of this long and exhausting war, I think it would be a very serious threat to the stability of our country.

I just returned from Arkansas yesterday. While there, I had a long talk with, particularly, the executive secretary of our Governor, concerning their need for resources, and their need for a share of the resources that are now continuing to be spent in Indochina and by the military around the world.

Our Governor, and he is a very fine new Governor, is having one difficult time to get a new tax bill passed to raise $25 million for schools and operating costs. That $25 million would not run the war in Vietnam 6 hours. He is having a very hard time. He has been voted down in the Senate; he lost it by two votes. And here are people all over the country struggling to get a little money to do things that people at the local level want done, and yet we continue to pour these vast sums, a thousand billion dollars we have poured in since World War II, in fact about 1,200 billion, into military ventures. I expect we have poured in more than $100 billion in Vietnam. Yet they talk about sharing income, sharing the revenues, at a time when we have our biggest deficit, or one of the biggest deficits, in our history, this year. No one knows whether it will be 18 or 20 or 25 billion, and yet we say we are going to share income with the States. Is that not a parody? This is a part of that doubletalk I am talking about.

What can a sensible man back home, when he reads about the deficit and then reads that we are going to share revenues, think, except that those people are mad? You cannot share any income you have not got. It is sharing a debt. They do not want to share a debt; what they want is a little money, and I believe they would like to have conditions such that their own taxes would raise it. I think it would be a lot better if the people of Arkansas could raise their own taxes and pay their own bills. I would like to see them able to do it.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. FULBRIGHT. The Senator is a greater authority on taxes than I. I yield.

Mr. LONG. Would it not make for better understanding to have a Federal law state that notwithstanding anything in the State constitution, or any statutes they might have in the States—I do not know how the Supreme Court would view this—States should just be permitted to go in debt, like the Federal Government does. This would let them go deeper into debt, rather than us the Federal Government, because as a practical matter, are we not under this new proposal going to go farther into debt for the money we share with the States?

Mr. FULBRIGHT. How can we help it? Has anyone proposed new taxes to pay for the revenue sharing?

Mr. LONG. Not to my knowledge.

Mr. FULBRIGHT. Nor to mine, either.

Mr. LONG. Does it not, then, follow that we would go deeper in debt to give somebody money we do not have?

Mr. FULBRIGHT. That is right.

Mr. LONG. Why not let them go deeper in debt to borrow the money for themselves? In the last analysis, is it not the same taxpayer that pays it?

Mr. FULBRIGHT. He surely does. I think maybe we ought to give them a tax credit; now that we have the chairman of the committee here, I ask him, why not just give the citizen of Arkansas a tax credit; for every penny he pays in income tax to the State of Arkansas, give him a credit against what he owes the Federal Government. That would help the State of Arkansas; would it not? Then we would not have to take the Federal Government to the people; it would not have to come from Arkansas to Washington and then go back down there.

Mr. LONG. Why not either pass a statute or a constitutional amendment, whichever was needed, depending on how the Supreme Court felt about it, just to say the States can go just as deeply into debt as they want to?

Mr. FULBRIGHT. We have a constitutional provision in our own State that deals with that. I am not sure whether that would be as feasible; however, I will tell Governor Bumpers about it, and maybe he would prefer going in debt to raising taxes.

But he is having trouble. He lacked about two votes. You have to have three-fourths—talk about an obstacle here, where it is two-thirds for changes in the Senate rules—under the Arkansas constitution, you have to have a three-fourths vote to increase the income tax. You can increase the sales tax by a majority, but you have to have three-fourths to increase income taxes, and he failed by two votes.

Mr. LONG. We had a similar experience in Louisiana, where the Governor called the legislature together and tried to raise taxes, but the people had voted for a constitutional amendment to say it required a two-thirds majority in both houses to raise a tax; so, in view of the fact that the people fixed it up so the legislature could not raise the tax, then it is said, the Federal Government has to have revenue sharing. This means we have to go deeper in debt because the States have fixed it up so they cannot.

Mr. FULBRIGHT. I think we should modify the Federal income tax laws so that they should have a credit on what they pay to the State government. I submit this for the consideration of the Senator from Louisiana. That would give an incentive to the taxpayers. The taxes to the Federal Government are now so heavy, especially for those who have anything, that they just fight like tigers not to pay more in addition. But if they could get a credit, why would they not rather pay it to Arkansas, if they got a tax credit against their Federal tax in the full amount? Then our Governor could get a credit, why would they not doubt, and I think it would be a good way, and maybe it would cut down the costs and there would not be so much money wasted in Laos and on C–5A's, for example.

Mr. LONG. Why should we not have some provision like we put in the foreign aid program, requiring self-help. Such a law would say that if the State will raise some money to help solve its own problems, we will raise some money to help them, and thus we take the view that we are not going to provide Federal money to do something for the States when the States are capable of doing it themselves.

Mr. FULBRIGHT. My State would be able to do it if it did not have to pay so much Federal tax. That is why I say, why not make it easier for them to raise their own taxes? Is that not sound? They would understand it a lot better, I am quite sure, especially with a deficit like we have now.

Mr. LONG. It would make a lot of sense, and it is certainly an alternative that ought to be considered to the tax-sharing proposition, because the Senator is aware, is he not, that if we start the tax sharing thing, every State in the Union is going to demand more money from each succeeding Congress than they received from the Congress before?

Mr. FULBRIGHT. I am aware of that.

Mr. President, I have about concluded. I see that the distinguished Senator from Michigan (Mr. HART) has come into the Chamber. I am very sorry that he was not here earlier. It is one of the characteristics of this debate that while they say we are wasting time, none of those who are opposed to our position are here to pay any attention to what is said; so that makes it very difficult for us to exercise the art of persuasion and change old habits of thinking.

Mr. HART. Mr. President, will the Senator yield just a moment?

Mr. FULBRIGHT. I yield.

Mr. HART. The reason we do not come in is that we dislike to be trapped, the way the Senator just trapped me.

Mr. FULBRIGHT. I apologize if the Senator feels I trapped him. I have been talking for 2 hours, and I regret that the distinguished Senator from Michigan did not hear my arguments, because I think he is one of the most enlightened and openminded Senators, and very likely he might have changed his mind if he only knew what is involved in his proposal to change the rules of the Senate. Not being able to continue any longer, because others are going to come on, I shall have to desist in a moment, but I am very sorry that the Senator from Michigan and the Senator from Idaho, among others—I do not wish to say just the Senator from Michigan alone; I looked around the Chamber and, during the time of this very enlightening discussion, there has not been a single proponent of the changes here except the Senator from Minnesota (Mr. HUMPHREY), who I think was here for 5 minutes. During this time, all the other proponents of this change have been otherwise engaged, which is their right; there is nothing to require other Senators to come in, it is true. But they have taken the position in the past that we ought to take a little less time.

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

Mr. FULBRIGHT. I yield.

Mr. HART. Now that I understand the subject the Senator from Arkansas was addressing himself to, I do regret that I was not here. Am I to assume that, in the last 2 hours, anything was said that had not been said at least 10 times in the last 10 years on this subject?

Mr. FULBRIGHT. Now, I do not think that is very nice of the Senator, to suggest that I have never had an original thought.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

Mr. FULBRIGHT. At least it was said in a different way from what it had been said before. And I also wish to reassure Senators that we have in no way violated the Pastore rule. Everything we have said here this afternoon has been dedicated to the proposition that serious and enlightened debate on the floor of the Senate is in the interests of the Government and of the survival of the democratic process.

What I was saying a moment ago—although some might have thought I was seeking to make a point on the substantive question of the validity and correctness of the war in Vietnam—was that I was only using that as a vehicle to demonstrate that it is the kind of question that ought to be debated here under the Senate rules as they now exist, and that if we change rule XXII, enable it to choke off debate with a majority or even with three-fifths—which everybody knows is a way-station to majority rule—we would then have destroyed the principal function of the Senate of the United States. This was the lesson and the theme of our discussion this afternoon.

Mr. HART. I will read the RECORD with care in the morning.

Mr. FULBRIGHT. That is too much to expect, and I would not expect the Senator to do that.

Mr. HART. I thought the principal function of the Senate was not to debate but to act.

Mr. FULBRIGHT. This is what we were talking about.

Mr. HART. I continue to hold that deep conviction.

If the Senator has any way to end Vietnam through Senate action, it would require a vote, and we seek to enable this body to act. That is why we think a modification of rule XXII is appropriate.

Mr. FULBRIGHT. As I have said, I know that the Senator did not come here to hear me, and I promised that I would desist.

But the Senator raises exactly the core of the question. We maintain that the action on the part of the Senate is quite secondary to the wisdom of the policies which it develops and the enlightenment of the country. Very often, action is not called for.

I proposed a moment ago, for example, that if we were following the Constitution today, if the executive department had any respect for the Constitution, a debate would be taking place right now on a request by the Executive for authority to wage war in Laos and in North Vietnam, which they do not have. The Gulf of Tonkin Resolution, whatever its merits one way or the other, has been repealed. There is no longer even pretense of constitutional authority to wage a new war.

The President's spokesman, when this matter came up, as I have already mentioned in discussion with the Senator from North Carolina, stated that he certainly has authority to withdraw from a place where he was when he came into office; and we are bound to say that we could not contest that. He had the authority to withdraw. But since that time, a great many people do not think it is withdrawing when you mount the kind of action that has been mounted in Cambodia and Laos.

So that if the Constitution still was in force and respected by those in the executive branch, we would be debating today the authority to do that, and the question then would not be the ability to act and to approve that without debate in accordance with the Senator from Michigan's concept. It would be the opposite. It would be debated to the point where there was a resolution of the wisdom of it, and I would think that two-thirds certainly is not too much to require on a decision of that kind. I think it is exactly that kind of decision.

I will conclude by saying this to the Senator from Michigan: While I agree that I am not a particularly original thinker, I did raise this question with respect to some of our colleagues: Since action is their primary objective, why do they not also offer a consitutional amendment with respect to the Presidential veto, because that stands in the way of action far more than rule XXII does? Within the last year, two or three important bills have been passed by Congress which the President vetoed. He obstructed one or two of them, and he opposed one. Here is one man who requires two-thirds of both Houses, and it is a much greater obstruction to action, if action is what one is after, than is rule XXII.

I disagree strongly. Action is not the No. 1 objective of this or any other legislative body. It is the consideration, the development, and the understanding of the people of where we are going and what our policies are that are far more important.

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

Mr. FULBRIGHT. I yield for a question.

Mr. LONG. May I say to the Senator that the Senate is here to deliberate and that, in terms of the time that the Senate spends doing something, the deliberation is the principal part of it.

Mr. FULBRIGHT. The Senator is correct.

Mr. LONG. If we put a voting machine up there—and I have tried to do that—we could act much faster. We could take a vote in 30 seconds instead of 20 minutes. This Senator has been trying to do that, but he has not had much support for it. If the purpose is just to act in a hurry, that would help us to act in a hurry.

The Senate is here to deliberate as well as to vote; and if we do not do these things wisely, we would be better off not to exist at all.

Mr. FULBRIGHT. Exactly. If action is the objective of our constitutional system, then we certainly ought to dispense with the Senate altogether and just have a House, with its present rules, where a bill for $50 billion can be passed in an hour and a half, with no amendments allowed, and with just a brief discussion. This would bring about action much quicker than what we have now. Certainly, the veto ought to be abolished, so that the President could not interfere with the action.

Mr. HOLLINGS. Along that line, I would be glad to take the floor.

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

Mr. FULBRIGHT. I yield for a question.

Mr. LONG. If action is what one has in mind, it would be pertinent to ask, "Why do we have these committees and why do we hold hearings?"

If one wants to curtail the right of Senators to speak, and if that stands in the way of action, why do we take the time to hear anybody but a Senator, if action is what one has in mind?

It seems to this Senator that it is the thoughtful process of deliberating and exchanging ideas, to try to sift out the wisdom from folly, that is our principal function.

Mr. FULBRIGHT. That is correct. And to clarify policies, particularly for the people of this country to know the real objective of their Government. I think that today they are deeply confused. There is a difference of opinion.

What is our objective in Vietnam? What are we trying to achieve there? There are all kinds of differences of view

about it, as the Senator knows. Regardless of whether one is for or against it, there are many differences about what we are trying to achieve. Debate ought to clarify that.

Mr. LONG. This Senator would like to ask this question: Assuming that one wants to change the rules of the Senate, what would be his objective? Is it to pass a resolution on Vietnam? Is it to pass a constitutional amendment? I would hardly think it could be that, even though two constitutional amendments failed to pass last year. It takes a two-thirds vote to pass one, and if two-thirds of the Members want to pass it, they can vote to shut off debate. Is it to pass a particular bill? I know of no particular bill that cannot be passed because of the processes for deliberation that we have here. What is the objective?

If one finds it difficult to determine what the objective is for shutting off the war in Vietnam, it is equally difficult to find what the objective is in trying to change this rule.

Mr. FULBRIGHT. I agree. I think the objective is that they have become accustomed to do this, and they cannot get over the habit, just as some people cannot stop smoking cigarettes. That is the only objective I can think of at the present time.

Mr. HOLLINGS. Is it not a fact that during a period of action, 1964, 1965, 1966, 1967, and 1968—we ground through under President Johnson, more action and bills than ever before in the history of the Nation, and yet we were coming apart at the seams?

Mr. FULBRIGHT. That is correct.

Mr. HOLLINGS. Everybody wants action, and they equate it with the idea that when a bill is put in and it is passed and the President signs it, the problem is solved. That is just a problem identified, and too often mistakenly identified, as this problem is. Rule XXII has not held up anybody. The White House has. That is what has kept us here.

Mr. FULBRIGHT. The Senator is correct.

Mr. HART. Mr. President——

Mr. FULBRIGHT. Does the Senator wish me to yield for a question?

Mr. HART. For a moment.

Mr. FULBRIGHT. I yield for a question.

Mr. HART. I repeat—and I mean it—I am going to read what the Senator has said.

Mr. FULBRIGHT. I do not wish the Senator to make any pledge.

Mr. HART. Let us identify the problem that occupies the Senate right now.

I am not at all certain, and it perhaps is our fault, that the people of the country understand what we are seeking to do today and have been for more than 30 days.

We are seeking to permit this body to change a rule of the Senate. The people who love to talk about the Constitution actually are in the middle of a constitutional problem. They will not admit it.

The Constitution provides the veto for the President, and the Constitution says, with respect to the Senate, that more than a majority is required in order to act with respect to treaties and certain other things. Then the Constitution says that the Senate shall fix its rules, shall adopt its rules.

Mr. FULBRIGHT. That is correct.

Mr. HART. I am certain that the Founding Fathers, whose names we invoke when it serves our purpose, intended by that document to say that a majority——

Mr. FULBRIGHT. What is in the debate that makes the Senator sure of that? That is just the Senator's own idea, is it not?

Mr. HART. Is there any other interpretation permitted, given the tradition of the evolution of a democratic society, but that a majority of a body may act unless the basic Constitution requires more than a majority? What we are trying to do is to establish that right. I think that is a serious constitutional effort——

Mr. FULBRIGHT. I do not believe the Senator has any basis whatever for that. Actually, this country functioned and functioned better than it is functioning now without any restrictions whatever. There was no rule XXII until 1917. I do not know how the Senator jumps to that conclusion or assumption which just happens to accord with his own views about the nature of democracy. Democracy, by no means, I do not know—I should not say I do not know of anyone—but I know some of my colleagues think that democracy is identical with majority. But a great many scholars of Government, and others that I have discussed this subject with in other days, say that is not so at all.

Mr. HART. Then why did the Founding Fathers establish certain areas as——

Mr. FULBRIGHT. I do not recall, in reading about past debates, or the Federalist papers, or in Madison, or in Hamilton, or anyone else where it says, "We believe majority rule is the equivalent of democracy. We believe that everything should be decided by majority rule." They do not say that at all.

The rules of the Senate were made by the Senate itself. The rules leave it up to the Senate, and properly so, to make its own rules. The Senate has made them. All we need to do is get two-thirds. There is nothing wrong with that. In fact, three-fourths would be better, in my opinion, but we have already given you two-thirds, to try to accommodate you, you and your school. But I think, as I said awhile ago, in my own State of Arkansas, it takes three-fourths of our legislature to impose an income tax. There are all these variations——

Mr. HART. Your State constitution imposes that limitation?

Mr. FULBRIGHT. Majority rule has never been—I should not say never—but I do not believe majority rule by any great political scientist has been identified as being identical with democracy.

Mr. HART. Why cannot the legislature of the State of Arkansas impose an income tax except by three-fourths, or two-thirds——

Mr. FULBRIGHT. Because the constitution requires it.

Mr. HART. Then I understand that. Clearly the Senator does.

Mr. FULBRIGHT. Yes. The rules of the Senate also require two-thirds. I think it would be better if it were three-fourths, probably, but I am not quarreling about that.

Mr. HART. Just as the framers of the Arkansas constitution made provision for those situations which will be the exception, so did the drafters of the Federal Constitution. They said that on the overriding of a veto, for example, not a majority, but two-thirds, and that was a restraint they imposed on this body. But they were silent with respect to the adoption of rules, which suggests to me very clearly that they intended the majority of this body to be permitted to write the rules of this body, and that is what we are trying to establish.

Mr. FULBRIGHT. That may mean that to the Senator, but not to me. It means to me just what it says, to leave it up to the Senate; and that is what it did. Each body, the House and Senate, writes its own rules. The House has its own rules. Perhaps those rules happen to suit the Senator. He thinks they are fine. But all the Constitution says is that each body shall make its own rules. It does not say they have to accept majority rule. The Senator is absolutely wrong in saying that that is implicit in the Constitution. There is no such thing in the Constitution. The Senator is beginning to fall into the fault of the executive branch which has adopted the principle, certainly in the case of foreign relations, and in the making of war, that anything not explicitly forbidden in the Constitution the executive branch is authorized to do. That is directly opposite to what the accepted constitutional principles assert, that is, prior to recent years.

We are authorized to do only what we are authorized to do, and anything else not authorized specifically is reserved to the people. That is the overall provision which says that if you have authority you can do it, and if you do not, you cannot.

There is nothing to support the Senator constitutionally. The Senator's only argument would have to be only from a pragmatic point of view, that the Senate is not serving its purpose properly, or wisely. All we have to do is get two-thirds to change the rule. That is not asking too much.

Mr. HART. It has been some 6 weeks now. We have not been able to get it. We cannot get to a vote.

Mr. FULBRIGHT. That is because the Senator and his colleagues have such a weak case. That is the only reason. You should not get to vote.

Mr. HART. How do we get to it except by calling the roll?

Mr. FULBRIGHT. Well, I would say——

Mr. HART. How do we do it, except by calling the roll?

Mr. FULBRIGHT. You have had two votes already. What more do you want? Why do you keep on wasting our time by more and more votes. You have had two votes already, so it is perfectly obvious you are not going to get two-thirds. Why continue to try to blacken the name of the Senate by these stories that we are wasting the time of the coun-

try? You have had two votes. How many do you want?

Mr. HART. I did not charge that the Senate was wasting time——

Mr. FULBRIGHT. News stories do and some of the Senator's colleagues do. They say that we are interfering with the orderly processes of our Government. How many votes do you want before you can be convinced that you are not going to get two-thirds?

Mr. HART. Mr. President, the point I seek to suggest is that the obligation to obtain two-thirds of this body in order to act is an obligation that we have to find in the Constitution or it does not exist——

Mr. LONG. It is in the rules.

Mr. FULBRIGHT. Yes, it is in the rules.

Mr. HART. The present occupant of the Chair, the distinguished Senator from Delaware (Mr. ROTH), able man that he is, was told that he could not join the Senate and form a majority because he was not here when this theoretical continuing body picked up rule XXII, or whatever the subdivision was that "hangs" us here. The distinguished Presiding Officer was not here and there were some men here who took away with them part of that rule because they were not permitted to come back. I have never understood this notion that those dead and gone can, nonetheless, inhibit those of us here in establishing the rules of the Senate when we start this Congress.

Mr. FULBRIGHT. We do not inhibit you. All you need is two-thirds.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 104 (3), Public Law 91–405, the Speaker had appointed Mr. FUQUA of Florida and Mr. NELSEN of Minnesota, and the following members from private life: Mrs. Marjorie McKenzie Lawson and Mr. John B. Duncan, both from the District of Columbia, as members of the Commission on the Organization of the Government of the District of Columbia, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 5(a), Public Law 87–758, the Speaker had appointed Mr. CARNEY of Ohio and Mr. FREY of Florida as members of the National Fisheries Center and Aquarium Advisory Board, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 2(a), Public Law 91–332, the Speaker had appointed Mr. FOLEY of Washington, Mr. MELCHER of Montana, Mr. SAYLOR of Pennsylvania, and Mr. SKUBITZ of Kansas as members of the National Parks Centennial Commission, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 1, Public Law 523, 78th Congress, the Speaker had appointed Mr. YATRON of Pennsylvania, Mr. BYRON of Maryland, and Mr. MIZELL of North Carolina as members of the National Memorial Stadium Commission, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of 16 United States Code 513, the Speaker had appointed Mr. COLMER of Mississippi and Mr. SAYLOR of Pennsylvania as members of the National Forest Preservation Commission, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 1, Public Law 86–417, the Speaker had appointed Mr. SLACK of West Virginia, Mr. CELLER of New York, Mr. THOMPSON of Georgia, and Mr. WAMPLER of Virginia as members of the James Madison Memorial Commission, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 1, Public Resolution 32, 73d Congress, the Speaker had appointed Mrs. SULLIVAN of Missouri, Mr. ROY of Kansas, and Mr. CAMP of Oklahoma as members of the United States Territorial Expansion Memorial Commission, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 1(a), Public Law 89–187, the Speaker had appointed Mr. GRAY of Illinois, Mr. ZABLOCKI of Wisconsin, Mr. BYRNES of Wisconsin, and Mr. RUPPE of Michigan as members of the Father Marquette Tercentenary Commission, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 202(b), Public Law 90–259, the Speaker had appointed Mr. MILLER of California and Mr. PETTIS of California as members of the National Commission on Fire Prevention and Control, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 401(b), title 4, Public Law 91–510, the Speaker had appointed Mr. BROOKS of Texas, Mr. GIAIMO of Connecticut, Mr. O'HARA of Michigan, Mr. HALL of Missouri, and Mr. CLEVELAND of New Hampshire as members of the Joint Committee on Congressional Operations, on the part of the House.

The message announced that the House had passed, without amendment, the following joint resolutions of the Senate:

S.J. Res. 31. Joint resolution extending the date for transmission to the Congress of the report of the Joint Economic Committee; and

S.J. Res. 44. Joint resolution to extend the time for the proclamation of marketing quotas for burley tobacco for the 3 marketing years beginning October 1, 1971.

SEATTLE AND KING COUNTY, CONVENTION AND VISITORS BUREAU

Mr. MAGNUSON. Mr. President, Seattle's current economic condition will take a turn for the better when the efforts of the Seattle/King County Convention and Visitors Bureau begin to bear fruit.

Just completing a 2-week trip to New York City and Washington, D.C., are a team fron Seattle composed of Hartly Kruger, manager of the Seattle/King County Convention and Visitors Bureau; David Heinl, director of sales for the bureau; Louis V. Larsen, marketing manager for the Seattle center and Larry Stephan, director of sales for the Washington Plaza Hotel in Seattle.

Supported by the combined efforts of the city of Seattle, King County, Port of Seattle, State of Washington, and private business sector with the full realization that one of the leading opportunities for economic growth lies in the convention and visitor industry, the bureau's budget has been doubled over the previous year and already this investment is paying off.

Seattle and King County are a prime visitor destination capable of being hosts to 83 percent of all national convention business.

The sales team from Seattle called on over 250 associations interviewing nearly 400 of the top association executives and travel industry officials.

A reception at the New York Hilton Hotel in New York City and in Washington, D.C., at the Mayflower Hotel premiered a new closed circuit TV video presentation entitled, "The Sights and Sounds of Seattle." In addition, fresh seafood was flown in especially for the occasion. The reception marked a "first" by any city so far this year in the Nation's Capital and was greeted with enthusiasm by visitors who have never been exposed to the convention and visitor potential of the "Queen City" of the Pacific Northwest. Members of the State's congressional delegation also attended to discuss the future of this most important business potential.

Hartly Kruger, bureau manager, stated:

> The goal is to double convention and visitor spending in the next decade and by doing so we will create 30,000 new jobs in the area.

In discussing Seattle's future potential with the team, James Reynolds, Deputy Director of the U.S. Travel Service and Martin J. Parity, State-city coordinator of the USTS stated that visitor spending was vital to Seattle's economy and that the Seattle-King County area must be considered not only a gateway for visitors from foreign countries but a major destination as well.

The results of this sales trip will bring in excess of $50 million in future business to Seattle and is a big step forward to an improved economy for the region.

The bureau hopes to appoint a full-time representative within the next 2 weeks to cover the major eastern cities of the United States. He would be headquartered in Washington, D.C., and would work mainly with association executives of travel associations.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

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

Mr. HOLLINGS. Mr. President, the Senator from Michigan was trying to find out where in the Constitution was the two-thirds requirement and why, at the beginning of each session, a majority

could not organize the Senate by a simple majority vote.

He said all historic precedent was for the requirement of a simple majority at the beginning of a session to organize and adopt its own rules.

The evidence of history is otherwise—the Federalist Papers, by John Jay, James Madison, and Alexander Hamilton, other papers kept by participants at Philadelphia, all these records contradict the idea of new rules at each session. They all point out one single historic fact—that the Senate is a continuing body and that 1 day, the first day of a session, is no different than the final day of the session.

Every day is the same. Two-thirds is the requirement. All historic precedent has been to the effect that the Senate is a continuing body and has been since the beginning of the system. We have had this two-thirds rule since 1917. It can be amended by two-thirds, in accordance with the continuing rules of this Chamber.

All of the initial papers talk about this body being a continuing body. That is the difference between this and all of the other parliamentary bodies in the free world.

Mr. President, our distinguished colleague from Michigan (Mr. HART) was presenting his position. I think the record should show that the Senator has had to leave the floor, because I do not want it appear that he was here and had nothing to say. As I understood it from listening to him, he argues that the Constitution provides that each State must organize under its own rules, and that all history, all precedent, and all the provisions of the Constitution itself support the concept of the Senate as a majority body. The Senator from Michigan was beseeching the Senator from Arkansas (Mr. FULBRIGHT) to come forth with history or precedents to the contrary.

Of course, we have at hand both recent history and more distant history, both the history of the last 20 years relative to rule XXII and the Senate being a continuing body, and the history of the founding days, as we see in it the intent of the framers of the Constitution that this particular legislative body be unique in and of itself as a continuing body. I submit that therein is the true history and the true precedent.

I think it noteworthy that the point made by the Senator from Michigan as to a majority adopting rules at each session gives the appearance that somehow or other, in the last year or two, the Senate has bogged down, that somehow historically we had been doing all right, and we did pass many laws and many statutes during the 1960's, but now, with the acceleration of all events, we in Government should learn how to expedite and accelerate also; it gives the appearance that we have suffered in the eyes of the public, who have somehow lost confidence in the Government and confidence in the Senate as a body itself; and that one of the big reasons for the loss of confidence in the U.S. Senate was this nagging, endless debate over a particular question, and the consequent killing of time—or, as they have characterized it, filibustering where somehow the minority ruled the majority, who could not get a bill passed; and that we should do away with this now so that we could reinstill confidence in the U.S. Senate.

I believe, Mr. President, that the loss of confidence in Government during the latter 1960's resulted not from legislative inaction, but from Executive failure to match promise with performance. At any rate, certain it is that rule XXII bears no responsibility for that sad state of affairs—and to argue differently is to ignore all the testimony of recent history. The Senate has acted in recent years more responsibly than the executive branch.

The late distinguished Walter Reuther, one of history's most dynamic leaders in the labor movement as well as one of history's most dynamic leaders in the recognition of hunger in America, addressed himself to the question of the nature of senatorial debate some 20 years ago. Mr. Reuther, known to move and move quickly, positively, and objectively, posed this issue, pointing out that as he saw it, a majority should organize at the beginning of each particular session of the Senate; it was not a continuing body.

In short, Mr. Reuther's position, Mr. President, was that Senate rules were not continuing, and new rules could be adopted by a simple majority of the Senate, rule XXII notwithstanding. And 20 years ago, I say to the Senator from Michigan (Mr. HART), this was drawn out just as he himself poses it today; and here, 20 years later, we still have the Senate as a continuing body, we still have rule XXII, we still have unlimited debate, and still the land is in relatively good hands. The country is relatively safe, and I think that confidence in Government is being reinstilled by the fact that we have not changed this rule, and by so doing completely altered our character as a body.

But the history of the 20 years, in the light of the posing of the question by one of Michigan's most distinguished citizens some 20 years ago, leads us all to no other historical conclusion but that, having considered the question at each of the past 10 sessions, during the past 20 years, we have continued to find this a continuing body.

Mr. Reuther did not just mention the subject; he outlined a specific game plan for getting around rule XXII.

Proposal No. 1: Mr. Reuther suggested that when the new Senate of the 83d Congress convened on January 3, 1953—he was making this proposal in 1951—the following procedure should be adopted:

(1) After the credentials have been submitted and accepted, a Senator can rise and move the adoption of the Rules of the Senate of the Eighty-third Congress which he will then submit to the body. These rules may include a new rule XXII providing for limitation of debate by majority vote. He may state, in making his submission, that there are no existing rules of the Senate because the rules of one Senate cannot bind a succeeding Senate—

Exactly the position of that other distinguished citizen of Michigan (Mr. HART) today, over 20 years later.

Mr. Reuther stated:

It could then be pointed out that until adoption of rules, there is no committee to which his motion can be referred.

(2) It can be expected that a point of order will be made that the motion is out of order since, it will be contended, there are existing rules which can only be amended as provided through the present rules.

(3) The President of the Senate must rule on this point of order.

(4) His ruling, if he rejects the point of order, is subject to an appeal. Under general parliamentary rules, which would be in effect during the period prior to the adoption of specific rules, the appeal can be debated, although most parliamentary authorities limit the debate to one speech by each person.

Should the minority group attempt to turn the debate on the appeal from the ruling of the Chair into a filibuster, the debate can be cut off either by a motion to lay on the table or by moving the previous question. A majority vote in favor of the motion to table would operate to affirm the Chair's ruling. A majority vote in favor of the call for the previous question would permit an immediate vote on the appeal.

(5) If the ruling of the Chair is sustained by a majority vote, the Senate would be able to adopt rules for the Senate of the Eighty-third Congress by regular parliamentary procedure of majority vote. If a filibuster should be attempted at this point, it can again be dealt with by the parliamentary device of moving the previous question outlined in step 4, above. It is significant that the Speaker of the House, at the time of an attempt to prevent the adoption of rules by repeated dilatory motions, ruled that he would refuse to recognize Members attempting these delaying tactics as they were interfering with the constitutional right of the House to determine its rules—Cannon, Precedents, Volume 5, sections 5706 and 5707. If such a theory were to prevail chaos would rule the day. It is quite clear that the basic and fundamental issue is that our rules are continuing and that the constitution and the intent of the founding fathers so intended it to be so.

Therein, Mr. President, is the game plan as outlined by the distinguished, late Walter Reuther some 20 years ago. It should be borne in mind that today we are not debating a new proposal.

The very majority adoption of rules and the disregard of rule XXII which we consider today have been proposed, discussed, and worked on for the past 20 years, in the last 10 sessions of the U.S. Senate. We look today, and we still have rule XXII. So therein we have recent history.

What about more distant history, the history of the founding days?

In the 83d Congress, Senator Knowland of California—who was majority leader at that time—presented a statement entitled "Senate Rules and the Senate as a Continuing Body." I would like to quote from that statement relative to the constitutional provisions and the intent of those who framed the Constitution. I do so because the Senator from Michigan asks: Where in the Constitution do you find that, you who are trying to extend the debate? If this is a continuing body, he asks, wherein do you find proof and precedent? He says the Senate can, by majority vote, adopt new rules. Wrong. The precedent is all otherwise.

I read from the paper of Senator Knowland, "Senate Rules and the Senate as a Continuing Body":

(A) Constitutional Provisions—

Article I, section 3, provides for rotation of one third of the Senate every 2 years. This provision has been compared with the requirement in the Constitution for biennial elections of all House Members. Unlike the case of the House of Representatives, the plan of rotation every 2 years has resulted, ever since the Senate organized for the first time in 1789, in there always being more than a majority of sitting Senators. The Senate has thus always been able "to do business," since it always has had a quorum as required by the Constitution.

Other provisions of the Constitution cited to establish that the Senate is an always organized body include (a) those dealing with the office of the Vice President and the President pro tempore; (b) those establishing the Senate's executive functions, as distinguished from its legislative functions; (c) the power of the President on extraordinary occasions, (to) convene both Houses or either of them * * *; (d) the limiting proviso in article V (which deals with amending the Constitution), as follows: "* * * no State, without its consent, shall be deprived of its equal Suffrage in the Senate."

(B) The Intent of the Founding Fathers—

The Constitutional Convention of 1787 had before it various alternatives with respect to the powers, duties, and composition of the Senate, as well as the manner of selection and tenure of office of its members. The agreements which were finally reached on these alternatives appear in varying degrees to have a general bearing on the subject of this discussion. These details were expanded upon at length by the authors of The Federalist, Messrs. Hamilton, Madison and Jay. Typical of their comments are the following:

In the Federalist No. 62, James Madison (or Alexander Hamilton) wrote:

"The necessity of a senate is not less indicated by the propensity of all-single and numerous assemblies, to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions. Examples on this subject might be cited without number; and from proceedings within the United States, as well as from the history of other nations. But a position that will not be contradicted, need not be proved. All that need be remarked is, that a body which is to correct this infirmity, ought itself to be free from it, and consequently ought to hold its authority by a tenure of considerable duration. * * *

"The mutability in the public councils, arising from a rapid succession of new members, however qualified they may be, points out, in the strongest manner, the necessity of some stable institution in the government. Every new election in the states, is found to change one half of the representatives. From this change of men must proceed a change of opinions; and from a change of opinions, a change of measures. But a continual change even of good measures is inconsistent with every rule of prudence, and every prospect of success. The remark is verified in private life, and becomes more just, as well as more important in national transactions.

"To trace the mischievous effects of a mutable government, would fill a volume. I will hint a few only, each of which will be perceived to be a source of innumberable others.

"In the first place, it forfeits the respect and confidence of other nations, and all the advantages connected with national character. * * * The internal effects of a mutable policy are still more calamitous. It poisons the blessing of liberty itself. * * *"

Also, in the Federalist, No. 63, Madison or Hamilton wrote as follows:

"Yet however requisite a sense of national character may be, it is evident that it can never be sufficiently possessed by a numerous and changeable body. It can only be found in a number so small that a sensible degree of the praise and blame of public measures may be the portion of each individual; or in an assembly so durably invested with public trust, that the pride and consequence of its members may be sensibly incorporated with the reputation and prosperity of the community. The half-yearly representatives of Rhode Island, would probably have been little affected in their deliberations on the iniquitous measures of that state, by arguments drawn from the light in which such measures would be viewed by foreign nations, or even by the sister states; whilst it can scarcely be doubted that if the concurrence of a select and stable body had been necessary, a regard to national character alone would have prevented the calamities under which that misguided people is now laboring.

"I add, as a sixth defect the want in some important cases of a due responsibility in the government to the people, arising from that frequency of elections, which in other cases produces this responsibility. The remark will, perhaps, appear not only new, but paradoxical. It must nevertheless be acknowledged, when explained, to be as undeniable as it is important.

"Responsibility, in order to be reasonable, must be limited to objects within the power of the responsible party; and in order to be effectual, must relate to operations of that power, of which a ready and proper judgment can be formed by the constituents. The objects of government may be divided into two general classes: the one depending on measures which have singly an immediate and sensible operation; the other depending on a succession of well-chosen and well-connected measures, which have a gradual and perhaps unobserved operation. The importance of the latter description to the collective and permanent welfare of every country, needs no explanation. And yet it is evident, that an assembly elected for so short a term as to be unable to provide more than one or two links in a chain of measures, on which the general welfare may essentially depend, ought not be answerable for the final result any more than a steward or tenant, engaged for one year, could be justly made to answer for plans or improvements which could not be accomplished in less than half a dozen years. Nor is it possible for the people to estimate the share of influence which their annual assemblies may respectively have on events resulting from the mixed transactions of several years. It is sufficiently difficult, to preserve a personal responsibility in the members of a numerous body, for such acts of the body as have an immediate, detached, and palpable operation on its constituents.

"The proper remedy for this defect must be an additional body in the legislative department, which having sufficient permanency to provide for such objects as require a continued attention and a train of measures, may be justly and effectually answerable for the attainment of those objects"—

Mr. President, therein, under the Federalist Papers, we have the Senate being considered overtly and patently as "the" body constituting a continuance in Government and not being abolished at the termination of one particular session the Senate is not reinstituted, with all new rules at every new session but, rather it is to be considered on the opening day of one session as on the final day of the previous session. Hence rule XXII stands as the legitimate creation and rule of this Chamber—

The Federalist, No. 64, by John Jay, concerns itself with the Senate and treaty-making. The following, on the permanency of the Senate is quoted from that paper:

"Although the absolute necessity of system, in the conduct of any business, is universally known and acknowledged, yet the high importance of it in national affairs has not yet become sufficiently impressed on the public mind. They who wish to commit the power under consideration to a popular assembly, composed of members constantly coming and going in quick succession, seem not to recollect, thus such a body must necessarily be inadequate to the attainment of those great objects, which require to be steadily contemplated in all their relations and circumstances which can only be approached and achieved by measures, which not only talents, but also exact information, and often much time, are necessary to concert and to execute. It was wise therefore, in convention to provide, not only that the power of making treaties should be committed to able and honest men, but also that they should continue in place a sufficient time to become perfectly acquainted with our national concerns, and to form and introduce a system for the management of them. The duration prescribed is such as will give them an opportunity of greatly extending their political information, and of rendering their accumulating experience more and more beneficial to their country. Nor has the convention discovered less prudence, in providing for the frequent elections of senators in such a way, as to obviate the inconvenience of periodically transferring those great affairs entirely to new men; for by leaving a considerable residue of the old ones in place, uniformity and order, as well as a constant succession of official information will be preserved."

In the Federalist, No. 59, Alexander Hamilton commented on the regulations of elections of both Senators and Representatives. He stated:

"It may be easily discerned also, that the national government would run a much greater risk from a power in the state legislatures over the elections of its house of representatives, than from their power of appointing the members of its senate. The senators are to be chosen for the period of six years; there is to be a rotation, by which the seats of a third part of them are to be vacated, and replenished every two years; and no state is to be entitled to more than two senators; a quorum of the body, is to consist of sixteen members. The joint result of these circumstances would be, that a temporary combination of a few states, to intermit the appointment of senators, could neither annul the existence, nor impair the activity of the body; and it is not from a general and permanent combination of the states, that we can have anything to fear. The first might proceed from sinister designs in the leading members of a few of the state legislatures; the last would suppose a fixed and rooted disaffection in the great body of the people; which will either never exist at all or will, in all probability, proceed from an experience of the inaptitude of the general government to the advancement of their happiness in which even no good citizen could desire its continuance.

"But with regard to the federal house of representatives, there is intended to be a general election of members once in two years. If the state legislatures were to be invested with an exclusive power of regulating these elections, every period of making them would be a delicate crisis in the national situation, which might issue in a dissolution of the union, if the leaders of a few of the most important states should have entered into a previous conspiracy to prevent an election."

The motivating spirit of the Convention—not expressed, but clearly understood—was to make the Nation safe from unlimited democracy. Madison's own notes, as well as the papers of most of the other delegates, make such an intention unmistakable.

Perhaps the clearest exposition of the intention of the Founding Fathers as to the role of the Senate is contained in Madison's

own account his own participating in the debate on the subject. "Madison's Journal" quotes the author, both directly and indirectly, as follows:

"In order to judge of the form to be given to this institution, it will be proper to take a view of the ends to be served by it. These were first to protect the people against their rules; secondly to protect the people against the transient impressions into which they themselves might be led. A people deliberating in a temperate moment, and with the experience of other nations before them, on the plan of government most likely to secure their happiness, would first be aware, that those charged with the public happiness, might betray their trust. An obvious precaution against this danger would be to divide the trust between different bodies of men, who might watch and check each other. In this they would be governed by the same prudence which has prevailed in organizing the subordinate departments of government, where all business liable to abuses is made to pass through separate hand, the one being a check on the other."

Mr. President, Madison's transcript of his own words, continues thusly:

"It would next occur to such a people, that they themselves were liable to temporary errors, through want of information as to their true interest, and that men chosen for a short term, and employed but a small portion of that in public affairs, might err from the same cause. This reflection would naturally suggest that the government be so constituted as that one of its branches might have an opportunity of acquiring a competent knowledge of the public interests. Another reflection equally becoming a people on such an occasion, would be that they themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion . . .

"It ought finally to occur to a people deliberating on a government for themselves, that as different interests necesarily result from the liberty meant to be secured, the major interest might under sudden impulses be tempted to commit injustice on the minority. In all civilized countries the people fall into different classes having a real or supposed difference of interests. There will be creditors and debtors, farmers, merchants and manufacturers. There will be particularly the distinction of rich and poor. It was true as had been observed by Mr. Pinckney we had not among us those hereditary distinctions, of rank which were a great source of the contests in the ancient governments as well as the modern States of Europe, nor those extremes of wealth or poverty which characterize the latter. We cannot, however, be regarded even at this time, as one homogeneous mass, in which everything that affects a part will affect in the same manner the whole. In framing a system which we wish to last for ages, we should not lose sight of the changes which ages will produce. An increase of populations will of necessity increase the proportion of those who will labor under all the hardships of life, and secretly sigh for a more equal distribution of its blessings. These may in time outnumber those who are placed above the feelings of indigence. According to the equal laws of suffrage, the power will slide into the hands of the former. No agrarian attempts have yet been made in this country, but symptoms of a leveling spirit, as we have understood, have sufficiently appeared in certain quarters to give notice of the future danger. How is this danger to be guarded against on republican principles? How is the danger in all cases of interested coalitions to oppress the minority to be guarded against? Among other means by the establishment of a body in the government sufficiently respectable for its wisdom and virtue, to aid on such emergencies, the preponderance of justice by throwing its weight into that scale."

Madison then goes into a third-person account of the remainder of his presentation on the subject, writing:

"Such being the objects of the second branch in the proposed government, he thought a considerable duration ought to be given to it. He did not conceive that the term of nine years could threaten any real danger; but in pursuing his particular ideas on the subject, he should require that the long period of life, as would render a perpetual disqualification to be re-elected little inconvenient either in a public or private view. He observed that as it was more than probable we were now digesting a plan which in its operation would decide forever the fate of republican government, we ought not only to provide every guard to liberty that its preservation could require, but be equally careful to supply the defects which our own experience had particularly pointed out."

Mr. President, Madison made it clear in even the early deliberations of the Founding Fathers that they were undertaking to establish an entirely new concept of government—one which be neither pure democracy nor pure republic, but rather a product of compromise in which the interest of all groups, present and future, would be fully protected.

He made it equally plain that the second legislative chamber then being devised—and which we now know as the Senate—would be the safeguard of minority thought and interests.

While the question of the ratification of the new Constitution was before the people of the country, Madison, Alexander Hamilton and John Jay—over the common name of "Publius"—published in the press of that day a series of 94 articles explaining the various passages of the new instrument.

The Senator from Michigan asked where is the history. There it is.

Those essays are unrivaled for their clarity, power and illumination. After their appearance they were brought together and published in one volume entitled "The Federalist," a work to which I have earlier referred. That volume is recognized by historians as the most authoritative source of contemporaneous interpretation and construction of the origin of the U.S. Constitution and the institutions of the U.S. Government.

For an exposition of the precise effects of this new form of government, we must turn to letter 9 written by Alexander Hamilton as it appears in the 1787 edition of "The Federalist." In it he wrote:

The proposed Constitution, so far from implying an abolition of the State governments, makes them constituent parts of the national sovereignty, by allowing them a direct representation in the Senate, and leaves in their possession certain exclusive and very important portions of sovereign power.

Hamilton was joined in that view by Madison who later wrote in letter 45 as follows:

The State Governments may be regarded as constituent and essential parts of the federal government; whilst the latter is nowise essential to the operation or organization of the former.

Our Government was not designed or intended to be purely national in character under which unlimited majorities might trample a helpless minority. Madison in letter 39 cited several propositions of constitutional construction to prove that point and concluded in these words:

The proposed Constitution, therefore, even when tested by the rules laid down by its antagonists, is, in strictness, neither a national nor a federal Constitution, but a composition of both.

Madison explained, as the distinguished senior Senator from Georgia, (Mr. TALMADGE) said the other day, that ratification of the Constitution by sovereign States was a Federal act; representation in the House, a national act; representation in the Senate, a Federal act; election of the Executive, a compound National-Federal act, with emphasis on the former; in exercising its delegated powers, a Federal act; and in amending the Constitution, again, a compound National-Federal act.

Those, Mr. President, are the checks and balances written into the organic law to protect the people, to protect the people's rights, to protect the sovereignty of the several States and to protect the institutions originally contemplated and prescribed in the Constitution itself or more specifically to protect the U.S. Senate as a continuing body.

Mr. President, I could go on further, but I am prepared to yield. I would like at a later time in the continuation of the debate with my distinguished colleague, the Senator from Michigan, to renew the outline, as I have been doing now, of the entire history of the measure we are today debating.

At that time we can go into the era over 120 years ago when this issue was raised on the Senate floor, and my distinguished predecessor, John C. Calhoun of South Carolina, gave his disquisition on Government, differentiating the mere majority rule from the concurrent majority.

Mr. President, I yield the floor to the distinguished Senator from West Virginia.

QUORUM

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

The PRESIDING OFFICER (Mr. GRIFFIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATION FROM ENVIRONMENTAL PROTECTION AGENCY HELD AT THE DESK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a communication dated February 10, 1971, from the Environmental Protection Agency addressed to the President of the Senate be held at the desk until a later date.

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

REFERRAL OF DRAFT OF THE ENVIRONMENTAL FINANCING ACT OF 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a communication from the Acting Secretary of the Treasury addressed to the President of the Senate, and a bill draft which would be cited as the Environmental Financing Act of 1971, be referred to the Committee on Public Works, and that if and when such legislation is reported from that committee it be at that time referred to the Committee on Finance for consideration of section 10.

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

ORDER FOR RECESS TO 11 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 11 o'clock a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATOR CHURCH AND FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, following the approval of the Journal, if there be no objection, and the recognition of the two leaders or their designees under the standing order, the Senator from Idaho (Mr. CHURCH) be recognized for not to exceed 15 minutes, and upon the conclusion of his remarks there be a period for the transaction of routine morning business for not to exceed 45 minutes, with statements therein limited to 3 minutes.

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

QUORUM

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, MARCH 1, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, immediately upon the conclusion of the remarks by the able Senator from Georgia (Mr. TALMADGE), there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

Mr. BYRD of West Virginia. Mr. President, the period for the transaction of routine morning business on Monday next would come immediately prior to the call of the Legislative Calendar beginning with Calendar No. 8.

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

NOTICE OF HEARINGS ON ALASKA NATIVE LAND CLAIMS LEGISLATION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be permitted to submit a statement by Mr. JACKSON with reference to hearings which Mr. JACKSON is announcing for the Alaska Native Land Claims legislation on March 16, 1971.

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

HEARINGS ANNOUNCED FOR ALASKA NATIVE LAND CLAIMS LEGISLATION ON MARCH 16, 1971

Mr. JACKSON. Mr. President, on March 16, 1971, the Senate Interior and Insular Affairs Committee will hold an additional hearing on pending legislation to settle the long standing Alaska Native land claims. This hearing will provide an opportunity to take testimony on the new policy positions proposed by the Alaska Federation of Natives and the new legislation proposed by the Administration.

It is my hope that as soon as possible after this hearing the Committee can proceed to mark-up and report a bill on this subject. The hearing will be held in Room 3110 of the New Senate Office Building and will begin at 10:00 a.m. The Committee asks that witnesses confine themselves, insofar as possible, to new matter not covered in previous hearings in this and the 91st Congress. The Committee welcomes and will print as a part of the hearing record the statements of all interested parties.

PROBLEMS CONFRONTING SENIOR CITIZENS

Mr. HARRIS. Mr. President, testimony presented at recent public hearings which I held in Ada, Okla., on January 13, 1971, focused attention on a number of the problems confronting our senior citizens. I believe that all Senators and relevant committees can benefit from the matters presented at these hearings. The questions concerning public housing for the older American, and the effect of the successful Green Thumb and Green Light programs, and further consideration of the problem of medical costs are included in this portion of the testimony.

I ask unanimous consent that this final part of the transcript be printed in the RECORD.

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

EXCERPT OF TESTIMONY

Senator HARRIS. Is Miss Hager here? Miss Hager is President of the American Association of University Women, Ada unit. She has some brief remarks.

Statement of Miss Eva Lee Hager, president, ADA unit of the American Association of University Women: I have just two or three bombshells to throw out. You know the old saying is that you throw a rock in the water and you never know where the ripples are going to stop. So I'm throwing out some rocks and I'm hoping that they will just keep rippling. There's an old saying that small minds talk about people and great minds talk about ideas. We surely have heard some wonderful ideas here this morning. Senator Harris has a treasure chest full and we're going to expect him to act on them.

Why should a member of a family that has the love for her or his parents to go into their home and take care of them be penalized of their social security? If the mother or the father is a welfare patient the minute that a member of their family comes in to take care of them automatically his or her check is demoted. In my book, something is wrong with that law and it should be adjusted.

Another thing. The reason that I am here too—I have taught school all my life and I am proud of my profession. I didn't teach in the same place. I started out here in this county in a two room school and then I went up to Kansas and taught. Then I went down to teach school in Texas. I didn't teach continuously, but I have been teaching and I think there should be a pension for teachers regardless of where they taught and which state they taught in. There is no boundary line in teaching. So I want that to be checked into, Senator Harris.

I do think that the housing project is just wonderful. I travelled from coast to coast and called on schools and I used to pass school buildings that were beautiful buildings and they were not occupied. I had been thinking how wonderful it would be if we could use them.

If a person takes care of his mother or father, I don't want the mother or the father penalized. I want something done about the transportation. I want something done about our school buildings that are being converted into cow pastures.

Senator HARRIS. Thank you very much. I wonder if there's anybody in the audience who has anything to say before we go on with our schedule.

Statement of Mrs. Bess Irick, Ada, Oklahoma: I'm Bess Irick. I live here in the Aldridge Building. I consider it a great privilege to live here. It is really wonderful.

I am concerned about the medicare program that covers you and me if we need to go to a nursing home. As the situation now stands, most nursing homes don't want to be covered with medicare. The requirements are too stiff. They cannot meet them. I think one of the main drawbacks for them is the requirement of a registered nurse around the clock. You know how short registered nurses are. We cannot obtain these registered nurses so they're really not interested. They say they don't even want to be qualified under medicare. Yet you and I are paying for the medical part of medicare to take care of us for so many days in a nursing home if we need to go there. But we won't get any good out of it. If we want to go to a nursing home after an illness in a hospital or surgery, we have to leave Pontotoc County to do it. We have to go clear to Coalgate to the Mary Hurley Nursing Home. But what do we find down there? The chances are that we find that they are filled up and can't take any more patients. They really want welfare patients, that is their main concern and their main desire. I don't know why that is, Senator Harris. Many of us are not on welfare and we hope we never have to accept it. Of course if it came to that we would very humbly ask for it and receive it, I am sure. There are so many of us that don't qualify for that and we can't get in a nursing home if we need to under the medical part of medicare. I think something should be done about that.

Senator HARRIS. Thank you. We will go back to our regular schedule. I will try to get back to the audience once or twice again if there's something we have left out. For example, Mrs. Westbrook came up to me at lunch and said that one thing was left out this morning and that was the business of reducing veterans pensions or welfare benefits when social security benefits are increased. That is wrong. I think that idea should be a part of these hearings.

Now I would like to call on Mr. Judd Wood who is Director of the Ada Housing Authority. Judd, I was very impressed with the housing project here in Ada which is very attractive. I visited in one of the apartments and we had lunch out there at the community building. We'd be pleased to hear from you.

Statement of Mr. B. E. (Judd) Wood, executive director, Housing Authority of the Chickasaw Nation, Ada, Oklahoma: I'd like to mention something I'm sure you're quite aware of. The greatest people in the world are the elderly people we have in our communities. We can't do enough for them. Twenty years ago they were the backbone of our community and now they need to be able to relax and enjoy themselves. We're happy in housing to be able to provide what we can and certainly within the limitations of the present laws we do all we can.

A. QUALITY OF PUBLIC HOUSING

(1) Housing that this writer has seen in Oklahoma is all of high quality, except the interior of the unit is small. The interior of a 0-Bedroom, as well as a 1-Bedroom, needs to be increased by an additional 50 to 100 square feet. The current HUD guidelines permit the 0-Bedroom to have 300 square feet and the 1-Bedroom to have 420 square feet. This is just enough room to sit and sleep. The bedroom in the 1-Bedroom is so small, a family of two cannot have adequate bedroom furniture, nor does the space allow ample room for an elderly person to make up the bed. It also makes it most difficult for the elderly to move about in the unit when it is properly furnished. The occupant of the 0-Bedroom finds the same problem in the bedroom, plus inadequate space in the living, dining, and kitchen area.

B. DESIGN OF PUBLIC HOUSING

(1) Generally the design, at least in Oklahoma, has been very good. There is a need for better and more activity space, both inside and out. Current HUD guidelines restrict expenditures for this based on the number of units to be built in the community, when at the same time HUD requires the local entity to conduct a program designed for the entire community. A good program for the elderly needs to involve all the elderly of the area, and space should be allocated to meet the minimum needs of the entire community. There is a need for more outside activity space with more and better outside functional games that the elderly would desire to participate in.

C. LOCATION OF THE UNITS

(1) It is a proven fact that the highrise near the center of a community is the most desired place for the elderly. So often housing for the elderly is miles from the amenities. The elderly like to be near (but not in) the everyday bustle of a community. They like to be able to see people and activity, yet if the mood strikes—to shut it out. The downtown highrise permits this. We point with pride to the Aldridge Building. All occupants live upstairs, yet the ground floor is constantly active with the coffee shop, barber and beauty shop customers constantly passing through the lobby area. These people are still a part of the everyday life of the community, if they get tired, they may easily take the elevator up to their room and be in complete seclusion. Every amenity is within three blocks of the elderly home—including the main shop and store area. All the safety of a fireproof building is another important feature of the highrise structure.

(2) No development of units for elderly should be permitted that are outside of a distance of six to eight blocks from the amenities, unless it was impossible to place them otherwise. The elderly find it expensive to own and operate an automobile, plus they no longer have the ability to safely operate the automobile. Taxi service is so expensive, and often hard to get. They like to be independent, and thus will not permit their friends and loved ones to haul them back and forth.

D. BUDGET OF PUBLIC HOUSING AUTHORITIES

(1) The budget of a public Housing Authority should provide sufficient funds to operate a community space for the elderly. There should be no payment in lieu of taxes to the local entity—These elderly people have paid their share of taxes in the productive years. This PILOT money could be used in providing them with good wholesome fun and enjoyment in the fading years.

I will be glad to assist you in any way I can in the future, and I appreciate your coming down here, Senator.

Senator HARRIS. Thank you for that very good and very useful statement.

Now I want to call on Mr. Chester Stone who is Director of the Oklahoma Green Thumb Program, a mighty good program.

Statement of Mr. Chester Stone, director, Oklahoma Green Thumb, Inc., Oklahoma City, Oklahoma: I have two of the workers of the program with me. Myrtle Walker from Konawa is a Green Light worker. Noah Connor lives in Fanshawe in LeFlore County and is a foreman on our Green Thumb projects. Mrs. Willis is the Director of the state Green Light Project and Ronald Ragland helps me in the eastern part of the state on the Green Thumb project.

I want to talk about an area that's near to me and that is employment opportunities for senior citizens. There are twenty million people in rural America that have reached 65. Several million of these don't have the whatfor to live on. They are living on welfare payments and there should be no shame in older persons receiving welfare payments. They've earned it. They've given 65 years of their lives to this country. And it is little enough that young people and the middle aged can give back to these people a decent standard of living.

This has been brought up before. If a person accepts a part time job to uplift their standards, they take away a little bit of their welfare. Today, the older people are afraid to accept part time employment because of what you'll lose from welfare. The same thing goes for the social security raise. The social security raise is offset by what they lose from their welfare. Under these conditions the older person's health generally fails, medical bills pile up and the situation gets worse.

In 1965, the national Farmers Union with a grant from the U.S. Department of Labor and with the help of our friends in the Congress, Senator Harris, Carl Albert and many more of them, started a small program in four states called Green Thumb. I'll explain a little about Green Thumb and what we do in just a minute. In 1968, the program was expanded to fourteen states and Oklahoma was included. In 1969, a small program designed primarily for senior women called Green Light was initiated. We are operating in seventeen states and we employ over 3,000 senior citizens. This is a small portion of those who could benefit in a program such as ours. Our program, the Green Thumb Project, is primarily designed for beautification across the country in the seventeen states. We have built several new parks and we have rehabilitated many recreational areas. Lady Bird Johnson was very effective in getting our program off the ground in the beautification program. The most important thing we have done is provide our people, our seniors, with small part time jobs. They work three days a week. We pay them $1.60 an hour and they earn about $1600 a year. This matched with their social security or other incomes gives them a pretty decent standard of living.

Our Green Light project operates in community betterment activities. We have ladies that work totally with the home bound, the elderly, the invalids who can't get out. We were talking about transportation. About 30 percent in our current survey in Indiana of the senior citizens had no transportation. I believe that the percentage in the counties in eastern Oklahoma is more than that. Our ladies will one day a week pick up five or six of their neighbors and take them over to McAlester or the nearest urban area to go grocery shopping. This is a real problem in the rural areas especially for the older American. They can't get to the stores to buy fresh meats and vegetables and the nutritional value is very important to the senior citizen. We have them working in hot lunch programs in the rural schools and there again the rural schools come back. Many of them are closing down. Our people are capable of helping in these areas. The school is the heart of the community. We have in Checotah a senior citizen center with three employees. They serve hot lunches to the seniors at a very nominal cost. They work in handicrafts with senior citizens. The list goes on and on.

I would like for Noah and Myrtle to have just a few minutes to tell what the Green Thumb and Green Light projects have done for them and their communities.

Senator HARRIS. I would like to hear from them, and I'm sure every one else would, too.

Statement of Mr. Noah Connor, Green Thumb Worker, Fanshawe, Oklahoma: Thank you. I must say that I am happy to be with all of you people here today and most especially with Senator Harris. I want to make a few remarks before I go on to say what the program means. When I speak of myself I have in mind a half million people. I doubt very much if I would have wanted to inherit the responsibility of Senator Harris and the other leaders of our country today. One of the greatest tasks that's ever been known is bringing love and peace to this world and this nation today. That's what these men are faced with. I wonder how anyone would want that responsibility. There's no better way for us to help these people than to remember them in our prayers.

I can recall when Alice, my wife, and I owned a little ranch with a few cattle. We got to an age when we thought we couldn't take care of it. We sold it and moved to Fanshawe. Three days after completing our house, I tried to move a 400 pound deep freeze and I felt something. I woke up about two or three weeks later in an oxygen tent. Fourteen more months passed by and what little savings that Alice and I had put together were gone. There was no medicare then.

I can recall looking in the morning paper and seeing an ad. They wanted somebody who had experience in the production of oil and machinery to train two or three new men a week. I answered that ad. The doctor told me that he thought I could go to work. I passed the test and when I put my application on the desk they looked down and said, "69 years old—too old." You can imagine just how that hurt somebody who went through life and now his savings were gone, and had no medicare. So I went home downhearted, disgusted. I wanted to live just like all the rest of us. We had a little social security to live on which helped quit a bit. Last year in November and December I went in for another serious operation. I want to say this on behalf of medicare—I was in the hospital for 27 days and when I got out my bill was $1750, of which medicare didn't pay it all, but thank God for Senator Harris

and all the rest who spent their time in bringing about that medicare bill because it did help.

I looked in the paper one morning and it said "Wanted: men over 60 years of age." I went down for information and was referred to Mr. Stone, a man who I am grateful for and who is a wonderful man. I started to work two years ago. Later on, Mr. Stone made me foreman of the job. Recently he's made me district foreman. My job is to go out and plan programs for parks in the cities and small towns, help the men arrange and plant grass and other things to make a beautiful park. That is my job today. I have been working over the entire state of Oklahoma with Mr. Stone and Mr. Ragland.

There are a lot of men in Oklahoma who really appreciate this great Green Thumb program. As Mr. Stone has already stated, it gives us a little extra money to meet our family needs. It also gives us pride in life. It gives us a chance to show what we still have a desire to do. We still want to enjoy this life and to enjoy the things which God nas made for us to enjoy. I am pleased to state the benefits of the program. I have the opportunity to go places and I find that every man who works with me has great pride. They enjoy the work, and making this country a more beautiful place to live.

Senator HARRIS. That was a very eloquent statement.

Statement of Mrs. Myrtle Walker, Green Light worker, Konawa, Oklahoma: Mr. Harris, it is my pleasure to be associated with the Green Light program around our area. I just want to say amen to what he said. I work with the County Commissioners office in Konawa and it means a great deal to me. It gives me the sense of being needed. I tniuk a thing that all older people need is to feel that they're still needed. I feel that I am doing a good job there and they tell me I am and I am enjoying it tremendously. I just hope that the program can go on and that we'll be able to extend this program to more and more people. Thank you very much.

Mr. STONE. I just want to finish up here. What can you say after he sat down. The point I want to make is that we need more money. More money for a training program and work experience program for older Americans. We need money to provide public service employment. This is not make-work jobs for a small pay check, but meaningful activities, something they can leave for the community. We need money to develop programs to train people in the development of the community. As I said before, there is no end to the development of people, and this is what it is all about. Our program has proven just because a man or a woman reaches that age of retirement set down by rule or custom, 65 years old, that they're no longer useful to our society. Most of them are not ready to retire. Many of them cannot afford it. Senator Harris, I want to close with this request. Go back to Washington and send us more money to train and employ older Americans. The people who have given the better portion of their lives deserve the opportunity to keep doing so in their later years. Thank you.

Senator HARRIS. You're doing great work and I think our hearings would have been poorer if we hadn't had this chance to hear about your program.

Now, Mrs. Gladys Nunn is here. She is President of the Oklahoma Retired Teachers Association. Mrs. Kate Frank is also here. I'm glad you're here. Mrs. Frank is one of the outstanding educators in our state.

Statement of Mrs. Gladys Nunn, president, Oklahoma Retired Teachers Association, Muskogee, Oklahoma: I believe you were interested in the approach to social security and medicare from the standpoint of retired teachers. I think as I have listened to the people here and as I have analyzed questions that have come to us that you are going to be perhaps covered by this very same case. I would like to point out that the lack of proper financing in regard to medicare has brought about a reduction of the payment of claims that are made. No longer are we receiving 80 percent of reasonable charges as a result of those claims that have gone in. In any number of cases, and I can certainly cite a number of them to you, the people who have filed legitimate claims have had those claims processed according to the 80 percent formula and they have been reduced in considerable numbers. Many times they have had to have correspondence with several different people and finally after having worked and worked on it they will receive a form that says so much has been allowed which is a definite reduction. It is not signed by any particular individual and nobody knows who has made the decision that this is a reasonable charge or a reasonable allowance. For example, I can cite a gentleman who had surgery and his 80 percent claim should have been $350 on the surgeon's bill and he only received $200. When he asked for some kind of interpretation he received this kind of form statement which simply said that the reasonable settlement had been arrived at. Nobody knows who makes these decisions. This is something that needs to be looked at.

Different kinds of determinations will be made, possibly by a secretary because she does not read all the claim. For example, ambulance service for an individual transferring to another hospital was turned down. This service had been from a hospital where there were not the facilities which were needed by the patient. The transportation to the first hospital was covered in our medicare regulations. But transportation from that hospital to another hospital was not covered. And the whole thing was turned down. There was a lot of correspondence and the claim was delayed and in deciding whether this was a reasonable charge there was no consideration given to the fact that the patient had been placed in the hall in the hospital where he had been taken because there was no bed available and there was to be surgery. It was necessary for this patient to be transferred by an ambulance to a hospital where he could have a bed. This was a lack of proper interpretation. Evidently, here, there was someone who had passed on that particular claim without reading it. It seems we have a very great need for a check here.

There is a great deal of inconsistency too in the matter of determining doctors' fees. There is no standard set and the doctors' fees escalate within the same community. There needs to be something that will standardize fees. Doctors' fees for office visits are rising. There is a growing trend of saying, I'll meet you in the emergency room. These are things that are causing the cost of medicare to go up. This matter is not limited to Oklahoma or limited to teachers. Many people do not know how to use medicare; it's very complicated. The doctor and nursing facilities are very often refusing to bother with complicated reports that are required, especially with regard to nursing homes. The doctors say, "I don't want to bother with that particular thing." There are very, very lengthy delays coming up in the settlement of claims which cause another complication.

Recently the teachers in Oklahoma thought that we needed to look into this matter of the nursing homes. We found over and over again that active teachers in the classroom who were trying to place parents in nursing homes found that they were running into problems connected with medicare. There are 393 nursing homes in the state of Oklahoma, and out of the 393 there are 26 of them participating in medicare. In our survey we asked whether or not they did participate in medicare and would they please give us the reasons. In the compilation of the report I have listed thirteen reasons why they did not participate. You have referred to one several times which has to do with the cost of the licensed personnel which is prohibitive—for round the clock nursing. I think the people in nursing homes deserve to have this kind of nursing that will take care of their needs. But I do think that something needs to be done to look at the standards that are set and to make it possible for those people who are aged and need nursing care to go into a place where they can get care. People who are using medicare, people who are on social security represent the older segment of our population and they are people who should know that there is some certainty of care if they need it.

Another thing we have included in our survey was to determine how much it cost for semi-private and ward care. We found that the price range ran from $100 a month to $750 a month. You take the person on medicare and social security with no other income and say to him, "You go into the hospital and you're going to be placed in a ward or a semi-private room where it will cost you $100 a month." But the social security check that person gets is $84. This is one of the fallacies about the program being of service to a great many of our citizens in the state.

Another thing that is a problem that we feel needs to have a good look is this business that the widow does not receive 100 percent of the benefits. Many times the widow needs the benefits more than the couple did. At the present time it is 82.5 percent. We feel that it should be increased so that the widow receives 100 percent of the benefits. We have advocated a minimum benefit of $120 a month. And we have the facts to support our position.

Another problem is that dental care is not covered under medicare. There should be something such as denticare.

I'm sure almost everybody here has some kind of medication with them. That's a problem of getting older. One of the tremendous things that cuts into the budget of older Americans is the cost of prescriptions. You can run $40 or $50 a month on your prescriptions.

This also leads into the income tax area. One of the big problems that the aging have is the problem of whether or not their income tax includes certain things or whether they are free of certain income tax charges which should not be out of their small budget. I think prescription medicine should all be deducted, provided they are not covered by some kind of insurance program. The credit income tax should be brought in to correspond with the social security.

I was recently working on the White House Conference on Aging and was appalled by the number of persons who are trying to hold on to their own little homes. These retired people are unable to make the repairs on their little homes under federal programs. The housing program is a separate identity which creates housing and takes care of those people and yet they tell me if something happens to the roof and it begins to leak, this causes them not to have enough to eat during the month they have to pay to have this taken care of. People are having all kinds of difficulties—they don't have very good credit. People don't want to give them credit. The houses are deteriorating around them, and in a lot of places there is no housing project for them to move into. They would like to keep their homes and there is no kind of federal or state program to help them repair their homes.

Thank you very much, Senator.

Senator HARRIS. It was a very thoughtful testimony and I'm really grateful you came all this way to give it. Thank you very much.

Additional testimony submitted by Mr. G. T. Stubbs, Oklahoma Retired Teachers Association, Stillwater, Oklahoma:

I had planned to attend the hearing you held in Ada last Wednesday, January 13, on Social Security and Medicare but ice covered streets and highway made travel hazardous. I was to have joined Mrs. Gladys Nunn, President of the Oklahoma Retired Teachers Association in presenting the point of view of Oklahoma retired teachers on these matters.

Herewith I present in brief the issues that I had planned to discuss for your consideration.

SOCIAL SECURITY

1. Many Oklahoma retired teachers have not been able to be covered by Social Security because of conditions beyond their control. Some retired before this was available. A number of other unfortunately taught in school districts that did not have the revenue to finance the employers payments. We suggest that provision be made so these retirees can be covered.

2. An automatic cost-of-living mechanism should be added so adjustment could be made as quickly as our economic condition changes.

3. Benefits for widows of deceased husbands covered by Social Security should be 100% of the husband's primary benefit.

4. The retirement Income credit limit for Federal Income Tax purposes should be increased.

MEDICARE

1. We are faced with rising costs for health care and lower Medicare payments.

2. Rising costs are due to unregulated "Reasonable Charges" by doctors and hospitals. Under Part A as of this month the charges to the patient for hospital and nursing home care has increased 50%. For benefits under Part B the monthly charge has been increased from $3.00 to $5.60 as of July 1, 1971.

3. Lower payments have resulted from the order of the Social Security Administration that froze the levels for "Reasonable Charges" at the 1968 level. This freeze does not apply to the charges made by doctors and hospitals but lowers the payment to the patients and increases their costs.

3. Who determines the "Reasonable Charges"? Perhaps this area needs some investigation.

Under date of January 11, 1971, I note a news report quotes the president of the AMA from Chicago in which he protests the new fee schedule that has been announced by the federal authorities. I have not seen a copy of that fee schedule but the protest from the president of AMA indicates that the doctors do not want regulations but want to be able to exploit the ill and society in general through this agency that they opposed to the last.

May I thank you for holding this hearing in our state and for your continued interest and concern in those in our state who need a voice in Congress. I feel sure you can count on the support of the retired teachers in Oklahoma in your efforts to represent their interests.

Senator HARRIS. Now I'll call on Mr. Lloyd Roach, a volunteer worker from Oklahoma City. Mr. Roach, I'm glad you're here and we'll be glad to hear from you.

Statement of Mr. Lloyd Roach, Oklahoma City, Oklahoma: Senator Harris and all of you interested friends. As we have heard the problems of the elderly expressed I have become more deeply concerned about the solutions possible.

Having retired from the more affluent income working group into the low-income bracket, I have been engaged in volunteer work among our low-income population in the Southwest area of Oklahoma City, and have observed the problems and sought solutions.

My conclusion is, that whether from legislation or voluntary resources, to obtain solutions we must have the widespread support from the affluent. My personal observation is that we are losing ground in this direction.

What we term the "middle and upper income classes" must be made aware and become concerned about all our aging citizens and particularly the poor. Most of the affluent people are decent and kind, but far too many are blinded by false beliefs that prevent them from taking action to help.

So my number one point is that we must have a plan and an effort on a national basis to get the truth across to the affluent concerning the plight of our aging citizens.

Even some recent newspaper editorials in Oklahoma I noticed, make no distinction between our Old Age Assistance and the other assistance programs when welfare is criticized and accused of being abused and defrauded, yet I'm sure they would deny accusing our aging of being lazy and dishonest. However, the readers do not always interpret correctly.

For example, many of our affluent friends sincerely hold the beliefs that:

1. The government is taking care of the poor including the elderly—in fact, some believe the poor are living "high on the hog."

We know better. At the best even those on Old Age Assistance get only bare subsistance and many on social security and pensions receive less.

2. All the tax dollars of the more affluent are going direct to the poor.

My observation is that the actual cash from most government programs goes direct to the middle and upper income groups—the poor get intangible benefits including advice and referrals. This money is circulated and is a vital part of our economy.

3. The assistance rolls are loaded with persons who prefer welfare to work.

If the assistance rolls are loaded it is by the elderly poor and mostly widows with health problems and not even enough money for both food and medicine.

4. There are plenty of paying jobs for anyone who wants to work.

Actually, there are few such jobs for the elderly, and too often they have no transportation to look for a job nor get to one if they were to obtain one.

My second point is that we need Economic Enterprise Centers, jobs and transportation for the elderly whose health permits them to work, but we usually offer them only places to play.

The Oklahoma elderly have always worked long hard hours and this has been their "worth" in the eyes of their community. Now we wonder why so many are withdrawn and won't participate in activities they were brought up to believe were time-wasting.

My third point is something affecting only a portion of the low-income elderly, but to me is especially sad because it destroys an American "dream." Many families worked, scrimped and saved to buy a small home. Now many of these homes are literally falling down around the owners, mostly widows, who due to inflation do not have the finances to have them repaired and repainted.

We must somehow have a program to bring together the unemployed workers and these people, or obtain volunteer help from trade unions and others to solve this problem.

In conclusion, point number four is: our elderly, regardless of their income status, can help themselves and others to a fuller and more rewarding life if they can be brought to understand that unpaid volunteer work outside their circle or friends and relatives can be just as worthwhile as paid work and is urgently needed.

They also must get out and about and help get the truth across to all our fellow countrymen. Thank you.

Senator HARRIS. Very good. One of the things that I've run into is the serious problem in getting support for these kinds of programs. There are a lot of myths that people believe. I appreciate what you have had to say and what you've said is in our record which will be circulated and which will begin, I hope, to do something about correcting those myths. Thank you very much.

Next, I would like to call on Mr. John Hoppis who is Supervisor of the Special Unit on Aging of the Department of Institutions, Social and Rehabilitative Services. John, we're glad you're here.

Statement of Mr. John Hoppis, supervisor, special unit on aging, Department of Institutions, Social and Rehabilitative Services, Oklahoma City, Oklahoma: Senator Harris, on behalf of Mr. L. E. Rader, Director of the Dept. of Institutions, Social and Rehabilitative Services, I should like to express appreciation to you for the Department's being included in this meeting, and my personal appreciation for being asked to represent the Department. I would also like to say that the selection of the site for this meeting is excellent, since it is in low-cost housing for the elderly complex, and in space provided for a program for the older people and one which was funded with Title III funds under the Older Americans Act of 1965.

Recently, an ambitious attempt to determine and hopefully to meet many of the needs of Older Americans has been initiated. This attempt is the President's White House Conference on Aging to be held in November, 1971, and the preparatory activities of that conference.

During 1970 each state, in preparation for the National White House Conference, held a number of meetings called White House Community Forums, in which older Americans were invited to "speak to the nation" about their needs in the nine areas of: Income, Health and Mental Health, Nutrition, Housing, Transportation, Employment and Retirement, Education, Retirement Roles and Activities, and Spiritual Well-Being.

In Oklahoma 157 White House Community Forums were held in 63 counties; with 7,952 persons attending. Participants were asked to fill out a questionnaire about their needs and to rank the nine needs in order of their importance. They ranked them as follows:

1. INCOME

Slightly more than one-half of the participants reported incomes of less than $200 per month. The median income for older respondents was $182. Almost two-thirds of the older persons completing the questionnaires relied upon some combination of earnings; Social Security, employee pension, annuity, Old Age Assistance, savings and investments, and relatives for their income. Other respondents relied solely upon one of these resources for their entire income. Social Security, for example, was the sole source of income reported by 16% of the older persons.

Income was an extremely important variable in relation to almost all the other needs categories, with lower income persons reporting more difficulty in almost all other needs areas.

Specific needs mentioned by other persons at the forums regarding income centered around the need for increased Social Security and welfare benefits based upon the cost of living, and around the need for more income generally.

We do not feel that this gives an accurate picture of the median income of all the older people throughout the State because we feel that each person, in listing the amounts of their income, listed the family income rather than their individual income. We show above that a majority of the people participating in the community forums were those with better than the average income for older people in Oklahoma.

2. HEALTH AND MENTAL HEALTH

Nearly one-third of the forum participants reported that they had a medical problem that needed medical attention but which was not getting medical attention. This prob-

lem was especially severe among low-income persons and was more frequent among males. Slightly more than one-fourth of the participants reported they were not able to see a physician when they needed one. Again, the problem was more severe among low-income persons. Money to pay for physicians' services and prescription drugs was reported as not available by about one-fourth of the participants. The most frequently cited specific needs in the area of health were more medical facilities, more doctors and an increase in Medicare benefits.

It is felt the need for more doctors was more extreme in small communities.

3. TRANSPORTATION

Arranging for transportation from home to shopping areas, churches and visiting friends proved to be difficult for nearly one-third of the forum participants. Females and lower-income persons experienced more transportation difficulties. A ranking of transportation problems in the order of their reported severity was:

a. Lack of public transportation
b. Do not own automobile or can not drive
c. Can not pay fare for public transportation
d. Encounters physical difficulty in getting out and about
e. Encounters difficulty in getting on and off buses

It is recognized by older people throughout the state expressing to us that the problem is more severe in rural areas where there is no public transportation available; however, people in urban areas quite often have the same problem in that public transportation does not come close enough to their residence to permit them to use it, or the older persons do not have sufficient funds for paying for this type transportation.

4. MISCELLANEOUS

The fourth most frequently mentioned need area was the miscellaneous category which included primarily needs dealing with homemaker services, lower insurance rates, and the need for some sort of tax relief. About 10% of the sample also indicated they had been victims of consumer fraud.

5. RETIREMENT ROLES AND ACTIVITIES

More than one-third of the participants belonged to an organization for retired persons. These people were predominately urban and higher income persons. Nearly one-half of these respondents frequented a senior citizens center. Of those not belonging to either type of organization, one-half would like to do so.

6. NUTRITION

While no attempt was made to conduct a comprehensive study of nutrition, some information about the nutritional standards of participants was obtained from the questionnaires. The great majority of respondents cooked for themselves and encountered no great difficulty in doing so.

Males tended to claim more difficulty than females. Nearly one-half of the respondents ate alone and nearly one-third of these would have preferred not to do so. More than one-fourth of the forum participants found food to be packaged in too large amounts for their use.

7. HOUSING

Between one-third and one-half of the older persons attending the forums lived alone. Three-fourths of the persons not living alone lived with their spouse only. About two-thirds of the forum participants owned their own homes; one-fourth rented, and the balance lived in nursing homes or had other living arrangements. Over one-third reported difficulty in paying for housing costs, including taxes, rent and electricity. Rural respondents were more likely to report difficulty in paying for housing costs than were urban respondents. Almost all older persons reported that they were happy in the neighborhood where they were living. The two most frequently mentioned needs in the area of housing were for more and/or better homes and for assistance in the upkeep of property.

8. EMPLOYMENT AND RETIREMENT

30% of forum participants were working; 12% of these worked full time, and the remaining 18% were part-time workers. An attempt was made to determine how many of the older persons would like to have full or part-time employment; non-response to these items, however, was too high to allow a valid conclusion.

9. SPIRITUAL WELL-BEING

One of the needs areas of older persons singled out for study was the area of spiritual well-being. It was felt that intangible, nonmaterial factors might well play a part in the life satisfaction of older persons. Spiritual well-being was extremely hard to define and even more difficult to measure. Two questionnaire items dealt with this need. Older persons were asked if they sometimes felt that they were just not wanted, and if they sometimes felt they had nothing to live for. Roughly one-fourth of the respondents answered affirmatively to both items.

10. EDUCATION

The only specific recommendations for this area of need cited by older persons was the need for programs explaining fraud to older persons, and a general desire for continuing education.

Since 1965, following the passage of the Older Americans Act of 1965, Oklahoma has made extensive efforts to work with local organizations in communities in developing programs for older persons in the communities. It is recognized loneliness is one of the greatest problems older people have, and our efforts have been in the area of helping to alleviate that loneliness. With the use of Title III funds from the Older Americans Act of 1965 and with local resources, we have developed 49 programs in Oklahoma which are considered multipurpose activity centers for senior citizens. It is felt that this type program is alleviating the great need, loneliness, in that it gives people a home away from home during the daytime where they can meet new friends and renew acquaintances with old friends. We feel certain this is meeting a great need of older people, since 15 centers that are not now being funded from Title III funds continue to be operated with local resources only. Ada is a prize example of this type program's being recognized as a need by local government, which is now funding the program. It is also recognized that there is a need for more funds for these type programs, and our dream is to develop these programs in every community throughout the State of Oklahoma.

It is our belief that a lot of the needs areas discussed above are being met in these centers at the community level.

Again, may I express to you our appreciation for inviting us to participate in this meeting.

Thank you.

Senator HARRIS. John, my regards to Lloyd Rader. And special thanks to you for being here and for that statement which will help give our considerations a little more scientific basis. It backs up pretty much what has been said here, but it gives us a little more detail about what others around the state feel.

Before we go on to the next person on our prepared schedule, I want to ask at this time, again, whether someone in the audience might have thought of something to add.

Testimony of Mr. Paul J. Lewis, Ada, Oklahoma: Senator and friends. I'm a native Oklahoman. I've lived here most of my life although for a few years I lived in California. I'm a painter by trade. My point is this. In the Congress, with all the problems of the elderly, how many billion dollars have been appropriated to the space program to shoot men up on the moon? It's doing no good to nobody. That's what I can't understand. Could you give us a rough estimate?

Senator HARRIS. I believe they're spending at the rate of about $3.5 billion a year. That's down some but still in the billions. I've been one of those strongly opposed to spending a lot of money looking toward landing a man on Mars and bringing him back, and toward a space shuttle that they're talking about building. I tried to get that cut out. I opposed the supersonic transport plane. I think that programs such as the ones we're talking about today should take higher priority, and I think it's really important to bring out this question of priorities.

Mr. LEWIS. Another thing I'd like to ask about is this fact of parities to farmers. I don't mean the little farmer that the money was originally meant for, but the big farmers like the Senator who gets $170,000 a year. Is that right?

Senator HARRIS. No, it's not right, and that's why I supported the National Farmers Union and others in this year, for the first time, putting a limit on the amount one person can draw from the farm subsidy program, and that's long overdue.

Mr. LEWIS. It seems that the government could do a little bit less spending, just in little things like new postage stamps which cost a lot to produce. There's many things like that. Thank you.

Senator HARRIS. Thank you, Mr. Lewis.

Now, I would like to call on Mrs. Viola Blakeley who is the State Director of the American Association of Retired Persons. Thanks for coming and waiting here so patiently all day. We'll be pleased to hear from you.

INCOME

Statement of Mrs. Viola Blakeley, State director, American Association of Retired Persons, Oklahoma City, Oklahoma: Senator Harris and distinguished guests, if everyone had sufficient income, most of their problems would be solved. They would have the necessary means to provide proper nutrition which in turn safeguards their health; they should be able to drive a car which would solve their transportation problems, and on and on. In other words they could provide all the things which were a part of life before they were retired at 65.

First—I would like to go into the social security phase of our lives. The income available ten years ago may have been sufficient then, but definitely is inadequate now. I would recommend that everyone be put on social security whether they were eligible or not at the time the social security program was instituted. It does not seem fair to select certain groups of workers and permit them to have social security, while others who have done work just as important—be discriminated against.

The social security payments should be adjusted along with the cost of living index. However, it should not be considered by other pension plans, as a means of lowering their monthly payments. The social security plan is one we have paid into such as any other insurance, and is not a hand-out by the government.

Pensions are payable to widows of deceased veterans at $50.40 a month or $604.80 a year. They must make an income report every year, and if they have received more than the allowable amount set by the Veterans Administration they lose their pension. One case was reported to me where a lady received a $500.00 inheritance. That year her widow's pension was discontinued. She actually lost $104.80. This seems very unfair, since people usually need every nickel to keep themselves going. It would be understandable if she had been reduced the difference in amounts received and amount payable, she would still have what her regular income would have been.

A retirement at 65 with your income greatly reduced, is not a pretty picture, in view of the fact that you are going into a period of life, where doctor bills and other related things are constantly increasing in price. Many things around the home for instance, that the husband used to repair and maintain, must be hired done now, in order to keep up the standards of his neighborhood, and maintain the value of his property. This is an added expense.

In many cases it is found difficult to pay his ad valorum taxes to keep his home, which he probably has paid for years ago, thinking he would be secure in his old age, only to find out that real estate taxes are costing him more than he used to pay for rent, and money must be saved out of his meager pension checks each month, in order to meet this tax bill at the end of the year—or he could lose his home, thereby creating another problem for himself and family. I would like to recommend here, that an additional homestead exemption of at least $1,000 be granted to all persons at 65 years of age.

With this compulsory retirement at 65, one must go on Social Security if he has it, whether he is financially able or not. In these cases, if a person is still physically able to work at least part time, and can find a job, he should be permitted to do so without restrictions in order to help himself, as many people cannot make ends meet on the amount paid them by social security.

If not permitted to help themselves in some way—the next alternative is "welfare," again adding to the tax load, instead of earning so he would be able to pay his share of the taxes, this right is taken away from him and he is forced into poverty.

I would like to quote from the federal statute on the Public Health and Welfare law on Social Security. Title 42, Section #302, page 110, paragraph 10, sub-section A—provide that the State Agency shall, in determining need for such assistance, take into consideration any other income and resources of an individual claiming old-age assistance, as well as any expense reasonably attributable to the earning of any such income; except that in making such determination, of the first $50.00 per month of earned income, the State Agency may disregard not more than the first $10.00 thereof, plus one-half of the remainder."

I would like to suggest and recommend that this federal law be amended to provide a decent standard of living, such as President Johnson recommended at the time he left office, namely: That each individual be permitted to earn or receive a minimum of $3,000 a year, without being penalized. Also that Soc. Sec'y be extended to cover both eye and dental surgery.

HEALTH AND NUTRITION

Health and Nutrition are closely related. Everyone should be able to provide himself and family with the proper foods to maintain good health. People who are on special diets such as diabetics and certain other diseases, need certain things for their well-being. In talking to various people who have been on welfare and have participated in the "surplus commodities program" state there is entirely too much starch and not enough of the essentials for a balanced diet. Old people should eat very sparingly of starchy products. These surplus calories can be very detrimental to the health of anyone, thereby encouraging certain diseases as heart trouble, etc.

A well balanced diet is not always the cheapest. But when people do not have the means to buy the necessary things, sometimes they must take what they can get in order to survive. For persons who are living alone and must eat out, perhaps the government may in some way select certain places where people could be provided meals at nominal prices. But of course this would involve much detailed planning.

The Meals on Wheels program seems to be very successful and is wonderful for persons who are unable to get out. But there are many others who could get out, and if the local schools would permit use of their cafeterias at certain hours, proper meals could be provided there under the direction of a qualified dietician. Talks and instructions could be given during meals informing persons of the dietetic value of certain foods and their relation to other foods and their uses in the human body. This would be very helpful for people if the time comes when they are able to have food provided or cooked for them at home, they will know what foods to prepare in order to have a well balanced meal.

HOUSING

It has been learned that a great number of people who may be eligible for housing under the government program, prefer to be located in a central part of a city, rather than in outlying communities. This is due to the availability of stores, doctors, hospitals, etc. People who are no longer able to drive a car, must walk in order to partake of these services. So I would recommend that the location of these government projects be given consideration to all these details before selecting a site and construction begins. Also, that money not be wasted on swimming pools and such unnecessary items in these buildings. The percentage of people enjoying or using these things is very minimal, and the expense does not justify itself. These apartments should have the necessary things for decent living, minus all the jim-cracks that are put into some of them. Also—the rooms could be larger and provide more storage space. This could be done at far less expense than putting in a lot of useless things.

Some of these apartments have only a tub bath. Many people who have certain ailments are unable to crawl in and out of a bath tub, so I recommend that a shower be put over the tub and safeguard rails be installed on the tubs to hold on to when getting in and out, thus preventing many falls and broken bones. An emergency button should be in each bathroom near the tub or shower.

Apartment houses should have a small porch or balcony for each apartment. Many times, in the case of persons who are invalids, this is the only opportunity for them to get a little sunshine and fresh air, as they may not be able to dress in order to get out on the street. Besides it eliminates the pent-up feeling so many people have in an apartment, especially after they have lived in houses all their lives.

Could not some individual houses or duplexes be built at a reasonable figure, that people just above the poverty level could rent. I do believe many could and would pay a reasonable rent without government subsidy, but there is no such thing as reasonable rent in many cities today. People cannot pay rents from $100 up for a respectable place to live, yet they could pay a reasonable sum, which could help them to stay out of the poverty level and public welfare, by reducing the amounts of money they have to pay out.

My recommendation is: That the federal government should not give so many free hand-outs, but create conditions to enable retired people to help themselves, by more lenient taxation, and give to those able to pay, more for their money, so they can remain independent and self-sustaining.

RETIREMENT AND ACTIVITIES

Retirement does not mean the end of living—it is only changing the direction from which you have been living. Many fine and useful services can yet be rendered by those persons who find time dragging on their hands. There is an organization known as the American Association of Retired Persons who have a wonderful program for the retired. They are a service organization, and have chapters established throughout the country, with a total membership of over two million.

Each month the various chapters are asked to report on work done by individuals who have helped someone else without pay. This volunteer service consists of many varied things, from baby sitting to the more active who visit hospitals, work with veterans organizations and hospitals, Red Cross, Boy Scouts, church work, and dozens of other projects. It has been a wonderful morale builder, and has been very successful, since it gets people active, and in helping others who may have greater problems, they forget some of their own. They establish friendships with other persons, all of which makes their lives more meaningful. This is also a great help in maintaining health. When one permits himself to become inactive and disinterested in other people, life becomes a bore, he is lonely, and soon bad health develops.

Senator HARRIS. That was a really good statement, Mrs. Blakeley, and I thank you very much.

Is there anyone else from the audience who would like to come up here?

Reverend SMITH. I want to speak about the World War I veterans. I'm a veteran. When they raise the social security they cut the soldiers pension to the extent of what the raise amounted to. In 1966, I have $75 extra income. They penalized me $360 for $75. They take away the incentive to try to help yourself. Naturally I am disabled. I have diabetes and high blood pressure. I was the minister in a church for 38½ years. I think I have led a good life. I was asked by a pastor to come and fill in. I paid my expenses over there and got $10, and they demand you to give that $10 in. They don't allow you anything. So they forced me to report that. Trying to be honest, I reported it. They came back and penalized me $360. So they took my entire veterans check in February and they took half of it from then on until they collected $360. They gave as a reason that I hadn't let them know that I was going to make that much money. I didn't know that I would even be able to preach, but I was asked to fill in. I think that year with being selected to speak I received an extra $75. I can't see such injustice being imposed on men who try their best to live honest.

Senator Harris, I think this is one of the greatest steps I've ever seen a Senator take to get right down to the heart of the problems we're faced with. I appreciate it with all my heart. Thank you for the privilege of having my say.

Senator HARRIS. Thank you, Reverend Smith.

Mr. CHARLES BLAKELEY. I'm Charles Blakeley. Our legislature must determine the standard of living under welfare. They forget to add medical expenses as part of that standard of living. When a doctor treats a medicare patient he should be bound to accept the medicare payment as the full amount. Thank you very much.

Senator HARRIS. Thank you.

Now, I want to call on Mr. U. S. Grant who is the business representative of the Carpenters Union and financial secretary of the Ada Trades Council. He's an old friend of mine and has sat patiently through the morning and afternoon. We're glad you're here and we'll be glad to hear from you.

Statement of Mr. U. S. Grant, business representative, Carpenters Union, and financial secretary, Ada Trades Council, Ada, Oklahoma: Thank you, Senator. This is the most patient group I've been before in a long time. They've sat here all day and they've been interested in it. I've heard some good recommendations here. I can concur with most everything that's been said here today. We find there's a real need for the senior citizens. Your income is almost set. You're not going to get much raise in pay if you go out

and work. But you do have a need. In the labor field, including the construction field, we've been getting about a 10 percent raise a year for the last ten years or so. I'm talking about someone who is drawing about $600 a month; when he gets a 10 percent raise he gets $60. When you get a 10 percent raise in social security, if you're getting $80 a month, you get an $8 raise. Well $8 and $60 is a whole lot of difference when you're talking about the cost of living. Someone said that social security should be tied to the cost of living. That would be fine if you draw enough to start with.

I'm not going to go through all the needs. We've heard them and there are many, many more of them here. But there is going to have to be something done because inflation is eating up your incomes, what you've already saved. I go along with most of the government programs; they're real good. But when they go far out like this supersonic plane and past the moon and spend billions of dollars when the main programs that we should start are in the grass roots, here, to help the people, then I have to say that I can't go along with that; there's just not that much out there. We need it right here and now. We need some assistance and we need it fast. If you do get a 10 percent raise, before you even get your check the cost of living is going to eat that up. These medical bills and the medicine you buy is so high. I saw a cartoon in the paper recently. A man was travelling across the desert. He came to a container of water with cups there. Under it it said, "$10 a cup," and, up above, it said, "The law of supply and demand." (laughter). When you go to the drug store you have the law of supply and demand which is going to eat you up. There are going to have to be some controls now. We have to get down to the grass roots of this thing and begin to help the people who need it in time, before you starve to death. They talk about locking the barn door after the horse has gotten out; well, that's just about like some of the things this Administration has tried to do. The President vetoed the bill to train some more doctors and then turned around and gave more money for some overseas project or $10 billion for a war we can't hope to win.

I think the thing we need to do is tell the Senator what we think about the programs we know about. He has this record here and he is going to take it back and he is going to be your spokesman. A program like this might not make him very popular. He'd get more votes by voting for a $10 billion airplane or some space program, but he's trying to help you and it won't hurt him. I'm speaking the truth. When you get into these grass roots programs helping the people back home they say it is inflationary and you're going to bankrupt the country—this $6 a month we're going to give the senior citizens is going to cause inflation.

Another thing this Administration said was that unemployment would help the country. In the unemployment office for the first time in the history of Ada they ran 500 people through the office in one week. Inflation is not going to be curbed until we've got the money. Inflation is going to eat you up and if you don't get in there and help support some legislation then you are going to get left behind.

Those people are up there because we sent them up there. We have the supply and they have the need for our votes or they aren't going to go back up there. We have to say that we aren't going to support you unless you give us some legislation to help us. As long as you're quiet they're going to somehow pacify you. You may not be able to go up there and tell them what you need, but you have a man you've sent up there who will. He did it before and he's come and stood behind some programs we've started which are making progress. He may not win any votes, but he's not looking for votes, now, he's trying to help the people. I think we have one of the finest groups of representatives from our state, the Senator here and Congressman Carl Albert.

The senior citizens will be with us always because when you pass on we will take your place and we'll have a need, too. The time to get that need filled is now and get ahead of it. We appreciate you. You've been a good audience. There's a wealth of knowledge here and we've heard it today. I never knew there were so many needs but I knew there were a lot. The government has the means, the money, and we have the ways. If they can get the means down here we have the ways to spend it.

Senator HARRIS. Thank you. That was mighty good. I would like to call on Reverend Kerney Graham of the Asbury Methodist Church and representative of the Ada Ministerial Alliance.

Statement of Rev. Kerney Graham, Asbury Methodist Church, and representative of the Ada Ministerial Alliance, Ada, Oklahoma: As a minister, part of my job is dealing with people's problems and everybody has problems. Sometimes it worries me that we get a rather had vantage point when we dwell on them too much but I hope we haven't done that here today. I recall a radio program that I heard once, an interview type program, where they asked the people what the best age to be was. Everyone had different suggestions. Some thought being three years old and being innocent would be wonderful. Some said six or eight or sixteen or twenty-five. One lady finally brought the house down when she said the best age to be is whatever age you happen to be. I guess this was her way of saying one good age to be is old. Being old isn't all bad; at least I hope it isn't because I'm going to be there myself one of these days. I talked to a fellow the other day who thought it would be good to be twenty-five, but I disagreed with him because I wanted to become a grandfather. I've heard so many people talk about how thrilling it is to be a grandparent. So there are advantages to being old.

Every age in life has its problems. My twelve year old son thinks he has tremendous problems because he's not as old as his dad. My eight year old thinks his problems are even worse because he's not as old and big as his brother. Many of our old people think their problems are bad because they're not as young as their children. I guess there's just no point in life when everything looks bright.

Many here today have mentioned the good things about being old and the fun they're having. In the process of preparing for this meeting, I met with a group of retired people in my church to see what I might say in their behalf and I was very surprised that they had no complaints, no problems that they didn't feel that they could deal with. In fact, almost unanimously they said that they've never had it so good. They were quite happy. I think they were a select group of people among the retired. They are people who have been able to save some money or work for a company that had a retirement program. They are young enough to be in good health and have their spouses and live in their own homes. So life seems very good to them at this point.

But I think there are other categories of people who don't have it quite so good in their old age. I felt the contribution I could make would be to tell you about one of the elderly widows from my congregation. She called me on the telephone because she couldn't come to the meeting we had. I want to share her crucial problems. She speaks, I think, for a great many older people. Maybe I can just present her problems here. She is a lady who lost her husband; she is in her early 80's; her health has slipped and she has to pay $30 or $40 a month for medicine; she has had to quit her church contributions altogether which I had a hard time comforting her about. She's just that hard pressed. She has social security supplemented by welfare. They had savings but her husband had a stroke and was paralyzed for about three years before he died and that ate up all their savings. So she is dependent on the welfare supplement to bring her income up to $104.90, I believe. She lives in her own home and wants to live there as long as she's able to. Her taxes which were just due were $57. She was able to get them reduced to $38 some way. She was able to pay her taxes and keep her home but she doesn't have much left to live on. She has a very critical problem. I understand that people who rent homes and draw welfare get a rent supplement, but those who live in their own homes don't get a supplement, but yet they have the maintenance costs which renters do not have.

I spoke with the ministers of the community also to get their views, and this is one of the very crucial problems which they singled out. This is kind of a forgotten group of older people who need help and there is nobody they can really go to to get that help. If there could be some provision to adjust this inequity so that the people who live in their own homes could get help for upkeep and expenses.

Being a widow makes it even more difficult. I have never understood why when two people live together and one dies, if the one who dies happens to be the woman the man goes ahead and gets his full benefits. But if the man dies, the widow only gets 80 percent or so. I don't know why she doesn't deserve as much as a man does. We suggest this is something that needs to be corrected.

Senator HARRIS. Thank you very much.

Now, I'd like to call on Mr. Floyd Hardin of the Pontotoc County Welfare Department who is here. We'd be glad to hear anything you have to say, any suggestions you may have.

Statement of Mr. Floyd Hardin, county administrator, Pontotoc County Department of Public Welfare, Ada, Oklahoma: I would like to enumerate some points that I have, even though it is repetition. But you wanted to hear about the problems. We talked with some people to determine what they felt their principal problems were and we tried to emunerate them in the way they thought they should be rated. This is what people have told us or what we have observed.

I. COST OF MEDICINE

Older people most often complain of the large amount of medicine they must take regularly, which consumes a considerable proportion of money available to them. Help from their families is often necessary, when available.

The cost of this item tends to be larger in a nursing home, when the individual is not in a position to make his own purchases at a discount store.

II. INADEQUATE GRANTS

One of the principal problems in this area is that medical costs must be paid from money budgeted for other necessary expenses—which creates a continual shortage.

If medical expenses should be more adequately covered in assistance grants, or included in social security, there would need to be a far more rigid control than we have at this time as to what constitutes "needed" medical expense. Family physicians could be of great benefit.

III. TRANSPORTATION

In towns without bus service and in the rural or semi-rural areas this has become a real problem. Although most of the older people have moved to or near some town this has not solved the transportation need.

They still must get to the grocery store, doctor's office, commodity distribution point, church, etc. Taxi service, even when available, is very expensive.

A special fare for older people is needed.

IV. LONELINESS

Both at home and in nursing homes people feel neglected due to a lack of familiar faces and conversation with people who can talk with them on a basis of common interest.

This is primarily a department and community problem. Senior centers have helped considerably.

V. MEDICAL CARE (RURAL)

Many areas do not have doctors, physicians seldom make home calls even in their home territories. This means that many problems which might be prevented become serious due to lack of early, preventive care.

Improved transportation would help, as would the availability of doctors' assistants or even trained nurses and nurses' aides.

VI. HOUSEWORK AND PREPARATION OF MEALS

Old people, especially men, often fall into a habit of eating the wrong kinds of foods at irregular intervals. Keeping the house in order follows the same routine.

Some help has been given by meals-on-wheels, church groups, friends, and neighbors. Thus far it has fallen short of meeting the need on a sustained basis, and many are overlooked.

VII. HOUSING

In spite of several housing projects there remains a shortage of rental units within a reasonable price range. Increasing shelter allowances in assistance grants would offer some help, but would be offset by an increase in rental costs across-the-board.

If real estate groups were given assistance in the construction of homes they could probably afford to rent them for the amount we can pay, or the people with other types of income.

VIII. SAFETY

Danger from fire, tornadoes, sudden illness, burglars, etc. is a continuing threat. We have worked with Civil Defense, churches, and neighbors in this area. A program of this type works well in the beginning but requires regular attention to keep the interest alive.

SUMMARY

Within the items listed there are many more problems. This department has continually worked at the task of enlisting local groups in attempting to meet a substantial part of these needs. We have found that many willing people and organizations are only vaguely aware of services that can be given in addition to financial assistance. Our efforts, although there is much that is yet to be done, have served to impress and amaze people regarding the services carried on in our program. Also, it has brought to their attention an area of responsibility that has properly belonged to the general public all along.

I think this has been a real good meeting. If there's any value in democracy in action this has been beneficial and I think we ought to appreciate Senator Harris's coming here.

Senator HARRIS. Thank you.

Mrs. PANSY PRICE. Senator, I have one more thing on my mind. Most of the problems we have listened to here today have been concerned with the person who is already retired. I could cite any number of small business people who have spent their lives in their small business with adequate means as long as they were able to operate their business. But the day comes when they are eligible for social security and there is nobody available to operate the business. He liquidates the business and could he hold on to what he gets from the business it would make him independent. He would pay income taxes and he would be a contributing citizen to society. But the way the situation stands now, by the time he pays the income tax on the other and makes some sort of arrangements for living some place else he finds himself with not enough income to sustain him. There have been some ideas projected that maybe if this income tax could be deferred the man could have the use of his money as long as he lived and as long as his wife lived. Most of us have educated our children and they are fully capable of taking care of themselves. We do not object to paying taxes. But we would like to have the use of our money.

Senator HARRIS. I'll look into that, Mrs. Price. I would like to say again, as I said at the beginning of the hearings, that we are grateful to you for everything you have done to help us set up this meeting.

I would like to say, finally, I am grateful to everyone of you who has taken part in these hearings, and to those of you who have been here all day as well as those who have had something to say. It is democracy in action. As I said to some of you at lunch, I can now put some of these issues with faces and they take on a lot more life than just reading about the issues. It is important to actually see the people and hear what they have to say. It certainly will help me in what I try to do especially in the coming session. There is no question in my mind that too many of the elderly people of Oklahoma and this country are lonely and left out. That's got to be corrected. We've learned about some ways and we've reemphasized to each other some ways that that can be done. And that should be the first order of business as this new session begins this coming Wednesday. That will be my intention and this hearing and your parts in it have strengthened my hand as I go back up there. Now I'll call on Reverend Graham to dismiss us.

Reverend GRAHAM. Let us pray. We thank You Our Father for the gift of life that You have given us and for the length of days we have been permitted to enjoy. We thank You for every blessing and every good thing that life has brought to us. We are grateful to be a part of a country in which the philosophy seems to be that the government exists to serve the people and not vice versa. We pray that Your blessing will be with Senator Harris and with all of his coworkers in the Senate and the Congress, the President and all the others, and that You will guide and direct this nation not only in this problem concerning the needs of older people, but in many other problems as well. We pray that You will direct their steps as well as ours and lead us all in the path of righteousness. We pray in Christ's name. Amen.

ORDER VACATING ORDER FOR RECOGNITION OF SENATOR CHURCH TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order previously entered for recognizing the able Senator from Idaho (Mr. CHURCH) for not to exceed 15 minutes on tomorrow be vacated.

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

ORDER FOR RECESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 o'clock meridian tomorrow.

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

LEGISLATIVE PROGRAM

Mr. BYRD of West Virginia. Mr. President, if no other Senator seeks recognition at this time, I shall announce the program for tomorrow.

Mr. President, the Senate will convene tomorrow at 12 o'clock meridian following a recess.

Upon the approval of the Journal, if there is no objection, and the recognition of the leaders under the standing order, there will be a period for the transaction of routine morning business of not to exceed 45 minutes, with statements therein limited to 3 minutes.

Following the period for the transaction of routine morning business tomorrow, the Senate will continue its consideration of the pending business.

There will be no votes tomorrow, Mr. President; and, under the previous order, when the Senate completes its business tomorrow, it will stand in recess until 10 a.m. 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 41 minutes p.m.) the Senate took a recess until tomorrow, Friday, February 26, 1971, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 25 (legislative day of February 17), 1971:

DISTRICT OF COLUMBIA COURT OF APPEALS

Hubert B. Pair, of the District of Columbia, to be an associate judge of the District of Columbia court of appeals for the term of years prescribed by Public Law 91–358, approved July 29, 1970, and vice a new position created by said Public Law 91–358, to which office he was appointed during the October–November 1970, recess of the Senate.

J. Walter Yeagley, of Virginia, to be an associate judge of the District of Columbia court of appeals for the term of years prescribed by Public Law 91–358, approved July 29, 1970, and vice a new position created by said Public Law 91–358, to which office he was appointed during the October-November 1970, recess of the Senate.

IN THE NAVY

The following-named officers of the Navy having been designated for commands and other duties 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. Frank W. Vannoy, U.S. Navy.
Rear Adm. Means Johnston, Jr., U.S. Navy.
Rear Adm. Harold E. Shear, U.S. Navy.

Rear Adm. Frank W. Vannoy, U.S. Navy, for appointment as Navy senior member of the Military Staff Committee of the United Nations pursuant to title 10, United States Code, section 711.