By Mr. PATTEN:

H.R. 11770. A bill to authorize grants and loan guarantees for construction or modernization of hospitals and other medical facilities in the District of Columbia; to the Committee on the District of Columbia.

By Mr. WHALLEY:

H.R. 11771. A bill to retain November 11, as Veterans' Day; to the Committee on the Judiciary.

By Mr. CHARLES H. WILSON:

H.R. 11772. A bill to permit suits to adjudicate disputed titles to lands in which the United States claims an interest; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 11773. A bill to amend section 135 of title 4 of the District of Columbia Code to exclude the personnel records, home addresses, and telephone numbers of the officers and members of the Metropolitan Police Department of the District of Columbia from the records open to public inspection; to the Committee on the District of Columbia.

By Mrs. MINK (for herself and Mr. MATSUNAGA):

H.R. 11774. A bill to authorize a study of the feasibility and desirability of establishing a unit of the national park system in order to preserve and interpret the site of Honokohau National Historical Landmark in the State of Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TALCOTT:

H.R. 11775. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE (for himself, Mr. HECHLER of West Virginia, Mr. MAZZOLI, Mr. WARE, Mr. WINN, Mr. HELSTOSKI, Mr. CLEVELAND, Mr. DERWINSKI, Mr. DENHOLM, Mrs. ABZUG, Mr. ANDERSON of Illinois, Mr. MIKVA, Mr. FORSYTHE, Mrs. GREEN of Oregon, Mr. ROBISON of New York, Mr. MCCOLLISTER, and Mr. MCCLORY):

H.R. 11776. A bill urging units and individual members of the armed services to engage in civic works; to the Committee on Armed Services.

By Mr. WHALEN:

H.R. 11777. A bill relating to comparability adjustments in pay rates of Federal employees; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida (for himself and Mr. WINN):

H.J. Res. 968. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans' Day; to the Committee on the Judiciary.

By Mr. CASEY of Texas:

H. Con. Res. 458. Concurrent resolution accepting the gift of the "Centennial Safe" and expressing the thanks of the Congress to the late donor, Mrs. Charles F. Deihm, and authorizing its display in the Capitol to create interest in the forthcoming bicentennial; to the Committee on House Administration.

By Mr. RARICK:

H. Con. Res. 459. Concurrent resolution expressing the sense of Congress that no action should be taken on the part of the Federal Government, any State or political subdivision thereof that would remove the song "Dixie" from its proper place in the history of the United States and that region of the United States known as the South, or prohibit it from being played as a part of any public function or gathering; to the Committee on the Judiciary.

By Mr. HELSTOSKI (for himself, Mr. ABOUREZK, Mrs. ABZUG, Mr. BURTON, Mr. CORMAN, Mr. DELLUMS, Mr. DRINAN, Mr. FORSYTHE, Mr. GREEN of Pennsylvania, Mr. HALPERN, Mr. HARRINGTON, Mr. LEGGETT, Mr. MIKVA, Mrs. MINK, Mr. MITCHELL, Mr. MOSS, Mr. ROONEY of Pennsylvania, Mr. ROSENTHAL, Mr. RYAN, Mr. SISK, and Mr. THOMPSON of New Jersey):

H. Res. 705. Resolution expressing the sense of the House of Representatives relative to the Pakistani civil war and the furnishing of relief assistance to persons affected by it; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

282. The SPEAKER presented a memorial of the Legislature of the State of California, relative to establishment of national cemeteries; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON:

H.R. 11778. A bill for the relief of Thomas G. Jolley; to the Committee on the Judiciary.

By Mr. CLARK:

H.R. 11779. A bill for the relief of George Nicolaros; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 11780. A bill for the relief of Thomas G. Jolley; to the Committee on the Judiciary.

By Mrs. MINK:

H.R. 11781. A bill for the relief of Esther Nano Ramos; to the Committee on the Judiciary.

SENATE—*Monday, November 15, 1971*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

The PRESIDENT pro tempore. The Senate will be led in prayer today by the guest Chaplain, the Reverend W. Benjamin Holmes, rector of the Church of St. Martin-in-the-Fields, at Philadelphia, Pa., which happens to be the home church of our good friend the Senator from Pennsylvania (Mr. SCOTT).

PRAYER

The Reverend W. Benjamin Holmes offered the following prayer:

Almighty God, whose perfect will for mankind is made known through the imperfect councils of men, we praise Thee for instruments of government whereby the impoverished are fed and sheltered, the young are educated, the sick are healed, the trespassers find justice and mercy, and the complexities of contemporary life are interwoven so that we may live in some peace and our self-interests find some reasonable compromise.

We thank Thee for these Thy servants and for those who assist and enable them to do their work, for their willingness to leave family and hearth, for their readiness to listen to each other, their ability to discern the possible in the midst of chaos and confusion of conflicting interests and, above all, for their private vision of life in this Nation.

Bless them in the use of their power, comfort them in their moments of cynicism, doubt, and loneliness, accept their limitations, forgive them their inadequacies, restore constantly, we beseech Thee, the stream of hope in their fellow men that we so deplenish by the hostility, callousness, and selfishness that we express to them.

Above all, O Lord, grant the Members of this council the knowledge that they are Thy chosen servants to bring Thy kingdom on earth. Amen.

Mr. SCOTT. Mr. President, it is a great privilege to welcome as our visiting Chaplain, the Reverend W. Benjamin Holmes, rector of the Church of St. Martin-in-the-Fields at Philadelphia, Pa., as that is my home church—as the President pro tempore just noted.

The church was established by members of the Houston and Woodward families a good many years ago. It is a beautiful church in the English style, in a quiet and pleasant community.

Dr. Holmes became rector some 4 years ago. Before that, I had the honor to serve on the vestry of St. Martin-in-the-Fields. So it is a great pleasure to note this occasion and to welcome him here. Since I have so few opportunities to return to Philadelphia, I am very glad that my rector was able to come down here to pray over all of us—but especially to one who needs it the most; namely, myself.

Mr. President, I am happy now to yield to my distinguished colleague, Mr. SCHWEIKER.

Mr. SCHWEIKER. Mr. President, I thank my senior colleague for yielding to me. I am delighted to join him in honoring the Reverend Holmes for offering the opening prayer of the Senate this morning. It is quite fitting and proper that we have the rector of the home church of my distinguished colleague from Pennsylvania, who is also the Republican leader on this side of the aisle.

I am delighted to join in tribute to the Reverend Holmes for offering the prayer this morning.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of proceedings of Saturday, November 13, 1971, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees

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may be authorized to meet during the session of the Senate today.

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

A NEWSPAPER REPORTER'S FAREWELL TO VIETNAM

Mr. MANSFIELD. Mr. President, in the National Observer for the week ending November 20, 1971, an article is published, taken from the Chicago Daily News, entitled "A Writer Says His Goodby to Vietnam." The writer is Mr. Keyes Beech, one of the outstanding reporters in all of Asia—if not the most outstanding one.

Mr. President, when Mr. Beech speaks, he speaks from knowledge and understanding.

I ask unanimous consent that his well-thought-out and frank article be printed in the RECORD.

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

A WRITER SAYS HIS GOOD-BY TO VIETNAM

(By Keyes Beech)

After 10 years, more or less, the time has come to say farewell to Vietnam. I said good-by once before, but it didn't take. Tet, 1968, changed my mind and brought me back. That Tet changed lots of people's minds, including Lyndon Johnson's.

People sometimes eye me curiously and ask why I've stayed so long. One reason, I suppose, is that I was curious to see how it would turn out. Now I'm not sure I'll live long enough to find out.

Vietnam, as someone has observed, is a fickle mistress. It's time I traded her in.

After all these years I know that I should have something terribly profound to say, but I haven't. Not really. I doubt there is anything new to say about Vietnam. For every truth about Vietnam, there is an opposing truth. Truth is in the eye of the beholder.

WAITING FOR A HISTORY

Fifteen or 20 years from now, someone will get around to writing the definitive history of this war, but not before. For the present I'm rather like the Australian who said upon leaving this place after three years:

"I don't want to talk to anybody about Vietnam who doesn't know what I'm going to say before I say it."

Or, as a bright young colleague of mine remarked after a stormy evening: "All arguments about Vietnam end the same way. Everybody finally goes to bed."

Then he added casually: "I don't give a damn about your generation. I just want to get my generation out of here."

I gave him an A for honesty.

Probably it is irrelevant by now, but the Communists lost the shooting war in 1968. Yes, the war still goes on, and, yes, people are still being killed. It may go on for years. But wars often go on long after the decisive battle is fought.

The Communists' 1968 Tet offensive was the decisive battle of this war. Hanoi gambled everything on that offensive and lost. It has never recovered. Neither, for that matter, has the United States, for different reasons. Herman Kahn, the human think-tank, summed up things better than most when he said:

"Any military operation that results in the abdication of the President of the United States can hardly be called a failure. On the other hand, I'll bet there is no rejoicing in the streets of Hanoi tonight over the military outcome."

LETHAL CONSEQUENCES

In carrying the war from the countryside to the cities, including the streets of Saigon, Hanoi was aiming for a knockout blow. But the risk was great because it meant the enemy had to fight far from his sanctuaries.

The consequences were lethal. Up to Tet, 85 per cent of all enemy casualties were the result of Communist-initiated actions. After Tet that situation was radically reversed. The enemy became the hunted, and we the hunters.

The Communists were now fighting on our terms, in massed formation in relatively open terrain, terribly vulnerable to awesome U.S. firepower. We slaughtered them by the thousands, the tens of thousands.

Hanoi could afford to lose the bodies. It could not afford to lose the leadership. By autumn 1968, the big-unit war was over for all practical purposes.

Tet was a milestone in another sense. It was the beginning of Vietnamization. Because ARVN (South Vietnam army) did fight, because the Saigon government did not collapse, and because there was no "general uprising" to welcome the invaders, Washington decided something might yet be salvaged from the ruins of its policy.

So many rationales have been invented to justify our presence here that the original one has been forgotten. It was very simple: to deny South Vietnam to the Communists.

To that extent we have succeeded. We have never understood the enemy, and we still don't understand him. So we fought the only kind of war we knew how, which was largely World War II all over again.

We stomped him to death. We ran over him in our bulldozers. We plowed him under with Rome plows. We rained destruction on him from our invisible B–52s. We mowed him down with artillery and gunships.

There was nothing very noble about this, but it was effective. Today the enemy's main-force units have been driven out of the South and back to border sanctuaries. In most places he is back where he started in the early '60s.

He has by no means given up. He can't afford to give up. But at best he is engaged in a holding operation. That isn't a great deal to claim after losing more than 600,000 dead.

But what, someone will ask, do we have to show for more than 45,000 dead?

It's a good question, my friend, and I don't have the answer. Call me back 5 or 10 years from now.

DEMOCRACY: GENERATIONS AWAY

One thing we don't have is a democracy business. President Nixon made one of the few honest statements ever made on Vietnam by an American President recently when he said it would take generations for democracy to take root here. He might have added: if ever.

The Vietnamese were considerably more realistic. "We Vietnamese know Vietnam isn't ready for democracy," Maj. Gen. Nguyen Ngoc Loan once said. "But we have to talk about it to keep you interested."

Remember Loan? He was the one who made all the front pages during the 1968 Tet offensive when he shot an unarmed Viet Cong in the head.

Another thing we don't have in South Vietnam is self-determination. President Nguyen Van Thieu, with considerable assistance from the Nixon Administration, saw to that during his recent one-man election.

What we and Thieu wanted was a contested election, which Thieu would be sure to win. His chief opponent, retired Gen. Duong Van Minh, refused to go along with that, much to the outrage of Thieu and Ambassador Ellsworth Bunker. So Thieu ran all by himself.

Does all this mean that South Vietnam will go to the Communists once the Americans leave? A great many Americans in some rather high places think so.

A GUT FEELING

I don't share that view. But please don't ask me for a scenario. This country is hell on scenarios. Call it a gut feeling. Somehow the Vietnamese will muddle through. If the Communists weren't able to take over the country at peak strength in 1968, I don't see how they can do it now or in the foreseeable future.

Invariably, people ask me what lessons we have learned from Vietnam. The most obvious lesson is not to get involved in another Vietnam. If that sounds cynical or smart-alecky, I don't mean it that way.

But I would like to think that Vietnam has taught us a lesson in something else, a lesson in humility. Never has so small and primitive a country turned such a powerful nation on its ear.

In closing I would like to offer a salute to that skinny little Viet Cong somewhere out there in the jungle shivering in the monsoon rains.

He is one hell of a fighting man.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. SCOTT. I asked the distinguished majority leader to yield, because the name of Keyes Beech is one very well known to me. I was a junior officer on the flagship U.S.S. *Mount Olympus* steaming into Tokyo Bay in 1945.

From across the water, on the U.S.S *Mount Olympus*, I witnessed the surrender of the Japanese on the deck of the U.S.S. *Missouri*. One of our passengers was Keyes Beech. I remember him because he was the first member of the press that I met, as I recall, as we landed in Yokohama.

I believe that Mr. Beech stayed in Japan longer than any other member of the press, and more continuously. I came to know him very well in a place called "No. 1 Shinbone Alley" which was a gathering place for the press—perhaps I should also say a watering place—in Tokyo. It was the leading center for news and information, a sort of oasis for visiting press and friends.

Keyes Beech made a great name for himself in Japan, not only as a correspondent but also because he discovered that there was a need for paperback books. He wrote a great many romantic and lusty novels, which were translated into Japanese and read with enthusiasm by the Japanese, who must have received another impression of Americans from his paperback books. But Mr. Beech has bad a long and distinguished career and I am most glad that the distinguished majority leader has placed his article in the RECORD.

Mr. MANSFIELD. Mr. President, I am delighted that the joint leadership sees eye to eye on the matter of Mr. Keyes Beech who, in our opinion, is really one of the top flight reporters in the world. Perhaps, I should say, without question, based on the long period that he served in the Far East, he is the best known and most knowledgeable reporter covering the American press in that area.

TEACHERS' PAY INCREASES

Mr. MANSFIELD. Mr. President, I listened with interest to the program on "Face the Nation" yesterday, in which the chairman of the economic boards created by the President answered questions posed by reporters.

I noted that the matter of teachers' pay raises was brought up and that some

encouragement was forthcoming that they would be given reconsideration.

May I say that if any group has a right to be reconsidered, it is the teachers group which, over a period of months before the August 15 wage-price-rent control freeze went into effect, had signed contracts in good faith and had looked forward to the increases in this school year.

May I say further that, overall, to the best of my knowledge, these increases in teachers pay agreed to last spring, last summer, and even last winter, were not overly high insofar as the percentage of increase was concerned, but did mark the recognition of a group which has done much to bring about a better understanding of this country. Indeed, these are people who have dedicated themselves, by and large, to a profession which offers a great deal of understanding for this Nation, its problems, and its difficulties.

So, without giving any advice whatsoever to the Wage-Price Board, I want to say that I am delighted they are going to reconsider this matter. I am hopeful that justice will be done to the teachers of this country, come Friday or Saturday next.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the order previously entered, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

Is there any morning business?

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

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

"SENATE CONCURRENT RESOLUTION No. 172

"A concurrent resolution applying to the Congress for a convention to propose an amendment to the Constitution of the United States

"Resolved, By the Legislature of the State of Michigan, That said Legislature, hereby and pursuant to Article V of the Constitution of the United States, makes application to the Congress of the United States to call a convention for the proposing of the following amendment to the Constitution of the United States:

"'ARTICLE —

"'No student shall be assigned to nor compelled to attend any particular public school on account of race, religion, color or national origin'; and be it further

"Resolved, That this application by the Legislature of the State of Michigan constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical with that contained in this resolution before January 1, 1974, this application for a state application shall no longer be of any force or effect; and be it further

"Resolved, That since this method of proposing amendments to the Constitution has never been completed to the point of calling a convention and no interpretation of the power of the states in the exercise of this right has ever been made by any court or any qualified tribunal, if there be such, and since the exercise of the power is a matter of basic sovereign rights and the interpretation thereof is primarily in the sovereign government making such exercise and since the power to use such right in full also carries the power to use such right in part the Legislature of the State of Michigan interprets Article V to mean that if two-thirds of the states make application for a convention to propose an identical amendment to the Constitution for ratification with a limitation that such amendment be the only matter before it, that such convention would have power only to propose the specified amendment and would be limited to such proposal and would not have power to vary the text thereof nor would it have power to propose other amendments on the same or different propositions; and be it further

"Resolved, That a duly attested copy of this resolution be immediately transmitted to the secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, to each member of the Congress from this State and to each House of each State Legislature in the United States.

"Adopted by the Senate, October 27, 1971.

"Adopted by the House of Representatives, October 28, 1971."

A petition from the Association for Grand Jury Action, Inc.; ordered to lie on the table.

REPORTS OF COMMITTEES

The following report of a committee was submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with amendments:

S. 2601. A bill to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes (Rept. No. 92–452).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. McGEE:

S. 2858. A bill for the relief of Juan Leo DeHerrera. Referred to the Committee on Veterans' Affairs.

By Mr. McINTYRE:

S. 2859. A bill for the relief of Leonard Davis. Referred to the Committee on the Judiciary.

By Mr. PERCY:

S. 2860. A bill to amend the Internal Revenue Code of 1954 to allow a deferment of income taxes to individuals for certain higher education expenses. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY:

S. 2860. A bill to amend the Internal Revenue Code of 1954 to allow a deferment of income taxes to individuals for certain higher education expenses. Referred to the Committee on Finance.

HIGHER EDUCATION EXPENSES TAX DEFERMENT ACT

Mr. PERCY. Mr. President, if you believe, as I do, that educating our young is an investment in the very growth and development of our country, then we must make the availability of the best possible higher education for our young people a prime national goal. To help this country keep faith with the education birthright of our children, I am introducing today the Higher Education Tax Deferment Act as a much needed complement to existing and proposed student financial aid programs.

Virtually all American parents hope that they can send their children to college. At a time when a bachelor's degree can cost between $10,000 to $20,000, relatively few families, even those with substantial incomes, are prepared in advance for the staggering financial burden of higher education.

My constituents, through correspondence and during the course of "listen ins" I have conducted around the State, have made the magnitude of this problem increasingly clear to me. The increasing cost of tuition bills, the expenses of room and board, and the related fees and charges of a college degree have forced many to take on second jobs or to place second mortgages on their homes. The hardship is particularly great for parents who have more than one college age child eligible for higher education at one time.

Exactly how many young people are deprived of a college education because of the lack of financial resources is difficult to determine, but it is unquestionably true that the rapidly increasing cost of higher education is a fact that no longer can be ignored.

The price of a year on almost every campus has jumped by at least 50 percent over the last 10 years, passing the $4,000 per year mark at many private universities. Current and projected college costs are growing faster than income, and annual expenditures per student have been rising three times as fast as the cost of living.

Congress has acted to some degree to relieve the financial plight of parents contemplating a college education for their children. Still, Federal student financial aid programs are woefully inadequate in light of the tremendous rise in costs involved in sending children to college. Present Federal programs provide relief in the form of scholarships, work-study programs and loans to those most in need, as they should. A 1968 HEW study on the adequacy of present student financial aid programs found that 94 percent of the total student financial needs from the lowest income quartile—mean family income of $2,321—was covered either by grants, work-study wages, loans, or by some combination of the three. By contrast, only 31 percent of the needs of those in the second highest income quartile—mean family income of $8,359—was covered by formal aid programs, of which roughly half came from loans. Thus, as a result of this concentration on lower income groups, often there is no financial assistance available for the student from a middle-income family whose needs are also great.

Under the Federal tax laws, a family of four with one child in college and a net income of $10,000 a year would be required to pay $1,019 in income taxes, with, generally, an additional $300 in State and local taxes. Of this family, the College Scholarship Service expects a yearly contribution of $1,690 toward their child's college expenses before he is eligible for assistance, leaving only $6,991 for the family's everyday necessities of food, clothing, and shelter. A similar family earning $15,000, having $12,682 after taxes, would be required to contribute as much as $3,010.

The distressing fact is that families in the middle-income groups who are expected to meet a large portion of the burden from their own resources either have no savings plans for college or have plans that are dangerously inadequate. A 1967 study sponsored by the college scholarship service discovered that among families whose mean gross income is $14,000, 62 percent have saving plans for college, but the average amount actually saved was $310, about $100 per child.

Thus, so many families, good citizens who work hard to pay the mortgage, meet tax obligations and educate their children, are often burdened by a payment that they either cannot meet or must sacrifice to meet. Most student financial aid officers are only too familiar with the problems of parents whose income should be adequate to finance their children's higher education, who have every intention of doing so, but who simply cannot meet the college bills when they fall due. While the lower-income families may need complete financing to attain their higher education goals, middle-income families also require and deserve some help.

While my tax deferment bill is not the final answer to the skyrocketing cost of higher education, it will help middle-income families to meet college expenses as they come up. My bill would allow a taxpayer to defer a part or all of his taxes while he is paying the expenses of higher education for himself or his dependents.

My bill recognizes the great need not only for academic learning but also for quality career education. Assistance would be available for those who choose to pursue post secondary training in colleges and universities, as well as to those in technically oriented schools, be they public or private. The bill also recognizes the needs of part-time students, many of whom would be unable to obtain a higher education without working.

Under the tax deferment plan, an undergraduate or a graduate student would be eligible for a deferment of as much as $1,500 per academic year. Unlike a tax credit, the amount deferred, like a loan, must be paid back with interest at 7 percent. Repayments would be adjusted according to a taxpayer's income level, amounting to a 20 percent tax surcharge.

This bill is designed to benefit middle-income families and not wealthy individuals who can afford higher education costs. The available deferment for a taxpayer paying the higher education expenses of either himself or his dependent would begin to be phased out when taxes owed equal $1,500 and would be completely phased out when taxes owed equal $3,000. The available deferment for a family of four with one child in college would begin to phase out when the family income reaches $14,000 a year and would completely phase out when its income reaches $21,000.

I ask unanimous consent that a table outlining the available benefits to various income groups and the bill itself be printed at this point in the RECORD.

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

S. 2860

A bill to amend the Internal Revenue Code of 1954 to allow a deferment of income taxes to individuals for certain higher education expenses

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 "Higher Education Expenses Tax Deferment Act."

SEC. 2. (a) Subchapter A of Chapter 1 of the Internal Revenue Code of 1954 (relating to determination of tax liability) is amended by adding at the end thereof the following part:

PART VII—DEFERMENT OF TAXES IN CONNECTION WITH HIGHER EDUCATION EXPENSES

SEC. 59. DEFERMENT OF TAXES.

"(a) GENERAL RULE.—There shall be allowed to a taxpayer who is an eligible individual a deferment of a portion of the tax imposed by this chapter for a taxable year which is not in excess of the amount of the net qualified higher education expenses paid by him during that year, subject to the limitations of subsection (b).

"(b) LIMITATIONS.—

"(1) MAXIMUM AMOUNT.—The amount of the tax deferred under subsection (a) shall not exceed in any taxable year, the lower of—

"(A) 75 percent of the net qualified higher education expenses paid by the taxpayer during that taxable year;

"(B) $1,500 per academic year for an undergraduate student (not to exceed a total of $7,500 for any student; or not to exceed, when added to any amount deferred on behalf of the same individual as an undergraduate or graduate student, $10,000); or

"(C) the amount of tax imposed by this chapter for such taxable year, reduced by twice the amount that such amount exceeds the amount of tax deferrable, except for the provisions of this subparagraph, multiplied by the number of students for the payment of whose qualified education expenses a deferment is claimed.

"(2) MINIMUM AMOUNT.—The amount of tax deferred for any taxable year under subsection (a) shall not be less than 2 percent of the taxpayer's gross income.

"(3) NUMBER OF CLAIMANTS.—Only one taxpayer who is an eligible individual with respect to any student in a taxable year may claim a deferment under subsection (a) with respect to the net qualified higher education expenses of such student. If more than one eligible individual claims a deferment with respect to a particular student for any taxable year, the eligible individual who has the highest priority shall be permitted to claim the deferment. Eligible individuals have priority in the order in which they are listed in subsection (c)(1).

"(c) DEFINITIONS.—For purposes of this part—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means—

"(A) a taxpayer who is eligible to claim a personal exemption deduction for a student at an eligible institution;

"(B) a student at an eligible institution;

"(C) the spouse of such student;

"(D) the parent, step-parent, foster-parent, or guardian of such student;

"(E) the parent, step-parent, foster-parrent, or guardian of the spouse of such student.

"(2) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

"(A) an instituiton of higher education;

"(B) a vocational school; or

"(C) with respect to students who are nationals of the United States, an educational institution located outside of the United States which is comparable to an eligible institution under subparagraph (A) or (B) of this paragraph and which is approved for purposes of this part by the Secretary or his delegate.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution of higher education as defined in section 1201 (a) of the Higher Education Act of 1965.

"(4) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school as defined by section 108 (2) (C) and (D) of the Vocational Education Act of 1963.

"(5) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expense'—

"(A) means an expense incurred by a student at an eligible institution during the taxable year payment of which is made during such year, including, but not limited to, tuition and fees required for the enrollment and attendance of such student at such institution, other fees attributable to educational activities at such institution, the cost of books, supplies, and living expenses, including room and board (except that living expenses shall not exceed $150 multiplied by the number of months during the taxable year such student was enrolled as a full-time student at such institution); but

"(B) does not include any such expense which, in the case of a student who is a candidate for a baccalaureate or higher degree, is not attributable to courses of instruction for which credit is allowed toward such degree, or, in the case of an individual who is not a candidate for such a degree, which is not attributable to courses of instruction necessary to fulfill requirements for the attainment of the educational, professional, or vocational objective for which he is enrolled in such institution.

"(6) NET QUALIFIED HIGHER EDUCATION EXPENSE.—The term 'net qualified higher education expense' means the amount of a student's qualified higher education expenses for a taxable year reduced by the total amount of student financial aid received by such student during that year, including, but not limited to, funds made available to students under the National Defense Education Act or any other Act of Congress or of any State, benefits paid under chapters 31, 34, or 35 of title 38, United States Code, scholarships, grants, and other stipends.

"(7) FULL TIME STUDENT.—The term 'full time student' means an individual who is enrolled at and attending an eligible institution and who is carrying at least 75 percent of the normal full-time hours of instruction or other activity required by such institution.

"(8) STATE.—The term 'State' means each of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(d) TERMS OF DEFERMENT; REPAYMENT.—

"(1) INTEREST.—Amounts deferred under subsection (a) shall bear interest at the rate

prescribed by section 427(b) of the Higher Education Act of 1965 beginning on the day after the last day of the taxable year in which the qualified higher education expenses on which such deferment is based were paid, but shall not be subject to any other interest or penalty until after the date on which payment is due under this subsection.

"(2) PAYMENT SCHEDULE.—Amounts deferred under subsection (a) shall be paid, with interest as provided in paragraph (1), in each taxable year subsequent to the taxable year with respect to which any amount was deferred under subsection (a), except in those taxable years with respect to which an additional tax deferment is claimed under such subsection.

"(3) AMOUNT OF PAYMENT.—The amount of the payment due under this subsection for any taxable year prior to the last taxable year of a taxpayer is an amount equal to 20 percent of the amount of tax imposed by this chapter on such taxpayer for the taxable year until the amount so deferred has been paid, with interest. If the amount remaining unpaid, with interest, in any taxable year is less than such 20 percent, it shall be the amount due for that taxable year. The amount of the payment due under this subsection for the last taxable year of a taxpayer is the aggregate amount, with interest as provided in paragraph (1), of any amounts deferred under subsection (a) and not paid as of the first day of such last taxable year.

"(4) PREPAYMENT.—A taxpayer may pay any amount due under this subsection before the date on which it is due and no additional interest or penalty shall be due on account of such prepayment.

"(5) SUSPENSION OF RETIREMENT INCOME CREDIT.—The credit provided by section 37 (relating to retirement income) shall not be allowed to any taxpayer who has deferred any amount under subsection (a) until such amount has been paid in full together with any interest due on such amount.

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this part."

(b) The table of contents of such Code is amended by inserting after the item relating to part VI of subchapter A of chapter 1 the following:

"Part VII. Deferment of taxes in connection with higher education expenses 59

SEC. 3. (a) Subchapter B of chapter 65 of the Internal Revenue Code of 1954 (relating to rules of special application with respect to credits and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6428. DEFERMENT OF TAX; REFUND OF AMOUNTS WITHHELD.—

"(a) GENERAL RULE.—In the case of a taxpayer who elects to defer a portion of the tax imposed by chapter 1 for any taxable year under the provisions of section 59(a) (relating to deferment of tax for certain expenses of higher education), the Secretary or his delegate is authorized to refund to such taxpayer an amount of such taxes paid or withheld for such taxable year equal to the amount of the deferment under section 59(a) for such year reduced by any amount of such taxes not paid by such taxpayer for such taxable year.

"(b) REGULATIONS.—The Secretary or his delegate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6428. Deferment of tax; refund of amounts withheld."

SEC. 4. The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1971.

TABLE 2.—HIGHER EDUCATION EXPENSES TAX DEFERMENT ACT, MAXIMUM TAX DEFERRABLE—FAMILY OF 4 WITH 1 ELIGIBLE STUDENT

Adjusted gross income	Tax liability	Maximum tax deferrable
$7,500	$514	$514
$9,000	744	744
$10,000	905	905
$11,000	1,066	1,066
$12,000	1,288	1,288
$13,000	1,391	1,391
$13,582	1,500	1,500
$14,000	1,578	1,422
$15,000	1,765	1,235
$16,000	1,952	1,048
$17,000	2,139	861
$18,000	2,335	665
$19,000	2,548	451
$20,000	2,760	240
$21,000	2,972	28
$21,129	3,000	0

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

Mr. PERCY. Mr. President, our investment in the education of our children is an investment in our society. According to the latest Bureau of Census figures, the average lifetime earnings for high school graduates is $374,094. Those who have completed 4 years of college averaged $584,094 in lifetime earnings, and that figure increases to $633,119 for those with 5 or more years of college.

While college graduates generally earn more money than those with less education, the benefits extend far beyond either the size of their bank accounts or the returned tax dollars to the Treasury. A recent Carnegie Higher Education Commission study reported that college graduates are more likely to be happy, healthy, and hopeful than less educated Americans. An investment in higher education is an investment in people, the very best investment we can make for the future of our country.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1424

At the request of Mr. MCGEE, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 1424, a bill to amend chapter 89 of title 5, United States Code, to provide improved health benefits for Federal employees.

S. 1580 THROUGH S. 1591

At the request of Mr. PERCY, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1580 through S. 1591, bills dealing with additional health and other benefits to the elderly.

S. 2465

At the request of Mr. CHILES, the Senator from Wyoming (Mr. MCGEE), the Senator from Maine (Mr. MUSKIE), the Senator from Montana (Mr. MANSFIELD), the Senator from California (Mr. TUNNEY), and the Senator from New Mexico (Mr. ANDERSON) were added as cosponsors of the bill (S. 2465) to establish the Everglades-Big Cypress National Recreation Area in the State of Florida, and for other purposes.

S. 2711

At the request of Mr. FONG, the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 2711, a bill to amend section 312 of the Immigration and Nationality Act to relax certain literacy requirements for naturalization.

S. 2828

At the request of Mr. NELSON, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 2828, the Family Farm Act of 1972.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 677

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 679

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (H.R. 10947), supra.

AMENDMENT NO. 680

(Ordered to be printed and to lie on the table.)

Mr. HARRIS submitted an amendment intended to be proposed by him to the bill (H.R. 10947), supra.

AMENDMENTS NOS. 682, 683, AND 684

(Ordered to be printed and to lie on the table.)

Mr. TAFT submitted three amendments intended to be proposed by him to the bill (H.R. 10947), supra.

AMENDMENT NO. 685

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. STEVENSON, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10947), supra.

AMENDMENT NO. 686

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself, Mr. SCOTT, and Mr. CRANSTON) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10947), supra.

BIG THICKET NATIONAL PARK, TEX.—AMENDMENT

AMENDMENT NO. 676

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to the bill (S. 118) to establish the Big Thicket National Park in Texas.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972—AMENDMENT

AMENDMENT NO. 681

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

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (H.R. 11731) making appropriations for the Department of Defense for

the fiscal year ending June 30, 1972, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 533

At the request of Mr. JAVITS, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of amendment No. 533, intended to be proposed to the bill (H.R. 10947) an act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 657

At the request of Mr. PERCY, the Senator from New Jersey (Mr. CASE), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Michigan (Mr. HART) were added as cosponsors of amendment No. 657 intended to be proposed to H.R. 10947, the Revenue Act of 1971.

AMENDMENT NO. 642

At the request of Mr. ROTH, the Senator from California (Mr. CRANSTON) was added as a cosponsor of amendment No. 642, intended to be proposed to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 643

At the request of Mr. KENNEDY, the Senator from Michigan (Mr. HART) was added as a cosponsor of amendment No. 643, intended to be proposed to the bill (H.R. 10947), the Revenue Act of 1971.

ANNOUNCEMENT OF HEARING ON CERTAIN TREATIES PENDING BEFORE THE COMMITTEE ON FOREIGN RELATIONS

Mr. SPONG. Mr. President, on behalf of Senator J. W. FULBRIGHT, chairman of the Committee on Foreign Relations, I wish to announce that the Committee on Foreign Relations will hold a public hearing on Friday, November 19, on the following treaties:

First. The Nice Agreement Concerning the International Classification of Goods and Services to Which Trademarks Are Applied—Executive M, 91–2.

Second. Tax Protocol With France—Executive O, 91–2—and Tax Convention With Japan—Executive E, 92–1.

Third. Treaty to Maintain the Rio Grande and Colorado Rivers as the Boundary Between the United States and Mexico—Executive B, 92–1.

Fourth. The Locarno Agreement Establishing an International Classification for Industrial Designs—Executive I, 92–1.

Fifth. Protocol Enlarging the Membership of the Council of the International Civil Aviation Organization—Executive K, 92–1.

The hearing on these treaties will be held in room 4221 of the New Senate Office Building, beginning at 10 a.m. Any person wishing to testify should communicate with the clerk of the committee without delay.

ANNOUNCEMENT OF HEARING ON THE NOMINATION OF EARL L. BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. TALMADGE. Mr. President, I wish to announce the Senate Committee on Agriculture will hold a hearing Wednesday, November 17, on the nomination of Earl L. Butz of Indiana to be Secretary of Agriculture. The hearing will begin at 10 a.m., in room 324, Old Senate Office Building. Anyone wishing to testify should contact the committee clerk as soon as possible.

ANNOUNCEMENT OF AN OPEN HEARING BY SUBCOMMITTEE ON PARKS AND RECREATION

Mr. BIBLE. Mr. President, I wish to announce to the Members of the Senate and other interested parties that the Subcommittee on Parks and Recreation will hold an additional open hearing on S. 36, to preserve and promote the resources of the Connecticut River Valley and specifically to create the Connecticut Historic Riverway in the State of Connecticut, on November 22, at 2 p.m., in room 3112, New Senate Office Building. The subcommittee held a previous hearing on this legislation on November 8.

ADDITIONAL STATEMENTS

REPRESENTATIVE H. JOHN HEINZ III OF PITTSBURGH, PA.

Mr. SCOTT. Mr. President, the newest Member of Congress is H. JOHN HEINZ III. He is from Pittsburgh. He succeeds the late Bob Corbett, who, at the time of his death, was the dean of the Pennsylvania delegation.

JOHN HEINZ will make an outstanding Congressman. He has a bright future. I have a special feeling of warmth for this young man since he worked for me 1 year and helped in my campaign in 1964. An excellent editorial, entitled "New Face in Politics," was published in the Pittsburgh Press of November 4, 1971. The editorial also refers to my Pennsylvania colleague, DICK SCHWEIKER, and to former Representative and Governor of Pennsylvania Bill Scranton.

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

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

NEW FACE IN POLITICS

There was only one congressional election in the U.S. Tuesday, and the result was to give the Allegheny County Republican Party a fresh new representative endowed with the qualities it takes to win.

H. John Heinz III, bearer of a famous name, well-educated, well-to-do and only 33, took on the assignment of trying to keep the Republican Party in power in the 18th congressional district (North and East Hills) by running for the seat vacated by the death of Rep. Robert J. Corbett, veteran of 28 years in Congress.

Mr. Heinz won by better than 2 to 1 over a popular and energetic opponent, John E. Connelly.

There had been some trepidation among Republicans over their party's chances in the district.

Rep. Corbett, an astute campaigner, had held the congressional seat largely through the building of what was mostly a personal organization. With a Democratic registration majority of 16,000, the chances for any new GOP candidate did not appear too bright.

Mr. Heinz, youthful and skillful at handling issues, changed that outlook. His victory in the special election puts him in the forefront as a new Republican luminary.

But his tenancy in Congress is good for only the remaining 14 months of the term Mr. Corbett started last January.

In a forthcoming reapportionment of Pennsylvania's congressional districts, occasioned by the loss of representation as a result of the 1970 census, this district's boundaries are sure to be changed.

Right after Mr. Corbett's death eliminated the incumbent congressman, plans were drafted to split off parts of the district to make it conform to the new population ratio.

Then the death of Rep. James G. Fulton, also a Republican, in the neighboring 27th (South Hills) district, opened up other possibilities for reapportionment.

With two Republican incumbents eliminated, the districts could be combined in a manner which would comply with the population ratio without ousting any holdover congressmen.

The Republicans may have second thoughts about any such arrangement, now that they have discovered a successful new campaigner in their ranks. And the Democrats, whose legislative majorities in Harrisburg will enact the new congressional apportionment, may want to take another look at their plans too.

Mr. Heinz may be in politics for quite a while. The emphatic majority by which the 18th district voters elected him forecasts other campaigns to come.

It may be recalled that William W. Scranton, another young man of wealth and ability, started as a congressman and then went on to become one of Pennsylvania's most successful governors. And Richard S. Schweiker of Montgomery County, of similar pedigree, started as a congressman and parlayed his win into a seat in the U.S. Senate.

It's good to know that new men of this caliber are coming up on the horizon—and that the future seems to hold bright promise for them.

FARM OUTLOOK BRIGHT, SAYS THE RETIRING SECRETARY OF AGRICULTURE

Mr. SYMINGTON. Mr. President, when back in Missouri last Saturday, I noticed in the St. Louis Globe-Democrat an article entitled, "Farm Outlook Bright, Hardin Says."

In that I had just come from a talk and discussions in one of the leading farm areas of my State, if that assertion by the retiring Secretary of Agriculture is correct, then the people of agriculture with whom I talked, and who make their living from the land, do not know what they are talking about.

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 St. Louis Globe-Democrat, Nov. 13, 1971]

FARM OUTLOOK BRIGHT, HARDIN SAYS

WASHINGTON.—Agriculture Secretary Clifford M. Hardin, who is turning in his Cabinet suit for a job in industry, says the farm situation will be brighter by spring and that President Nixon stands tall in the countryside.

Hardin, whose resignation was announced Thursday, appeared in good humor at a farewell news conference Friday. He said he expects few ripples in turning the reins over

to Earl L. Butz, a Purdue University dean and former Eisenhower farm official.

Asked about Mr. Nixon's farm belt prospects for 1972, Hardin replied:

"I think they're very good. Yes, indeed, I do . . . and I think you'll see the farmers' situation improving during the winter and spring months."

Livestock prices are expected to improve, he said, and farmers can look forward to corn prices picking up if they use the government's price support program fully to keep excess grain off the cash markets.

Hardin refused to speculate on what Butz might do to help boost sagging corn prices, knocked down sharply by a record crop this year of more than 5.55 million bushels.

"I'm not going to dig a hole for him to dig out of," Hardin said.

At the White House Thursday when the Cabinet switch was announced, Butz acknowledged corn prices are too low and pledged a helping hand.

Hardin, 56, said his resignation will be effective sometime next week. Then he will join the Ralston Purina Co., St. Louis, as head of corporate research and development.

Hardin discounted criticism he had not been aggressive enough on behalf of farmers. The record of farm legislation, he said, suggests otherwise.

TRIBUTE TO FORMER SENATOR HOLLAND

Mr. AIKEN. Mr. President, one of the great privileges I have enjoyed as a Member of the Senate has been that of working with Spessard Holland, both as a member of the Committee on Agriculture and Forestry and the Subcommittee on Agricultural Appropriations of which he was chairman.

Spessard Holland was one of the most outstanding Senators I have known.

As a Senator, his first love was good government, and he steadfastly supported this ideal during his 24 years of service in this body.

He knew the value of a dollar and insisted upon value received for each dollar appropriated.

But perhaps his strongest influence was in the field of agriculture.

He knew this field thoroughly and his knowledge of citrus growing, livestock raising, vegetable growing, and crop raising was unsurpassed.

He was extremely devoted to his home State and Florida never got the short end of any stick so long as Spessard Holland represented it in the Senate.

He was, however, eminently fair to all the States.

When he retired at the end of his term last year, not only the State of Florida but the Nation lost a powerful disciple of good government, and I also lost a friend.

In the passing of Spessard Holland, the United States has lost a great statesman, and American agriculture lost a loyal friend.

My wife, Lola, and I join all others in extending our heartfelt sympathy to his devoted wife, Mary.

THE POCKET VETO AND THE CONSTITUTION

Mr. KENNEDY. Mr. President, the October issue of the American Bar Association Journal contains an excellent and informative article by Mr. Benny L. Kass on the current controversy over the scope of the President's pocket veto power under the Constitution. The article includes a useful analysis of the relevant Supreme Court precedents, a discussion of the bill recently pocket vetoed by the President, and a summary of the legislation now pending in both the Senate and House of Representatives to deal with the question.

Mr. President, I believe that Mr. Kass' article will be of interest to all of us concerned with the issue, so 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:

[From the American Bar Association Journal, October, 1971]

THE LAWYER'S WASHINGTON

THE POCKET VETO: AN EXCLUSIVE BONE OF CONTENTION

Every student of the Constitution knows that when a bill passes both houses of Congress, the President of the United States has but ten days to act upon it. He may sign the bill, in which case it becomes law. He may veto the bill and return it to the house in which it originated, giving Congress an opportunity to override the veto by a two-thirds vote of both houses. Or he may do nothing, in which case Paragraph 2, Section VII, Article I, of the Constitution provides:

"If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law."

When this last event happens, it is commonly called a "pocket veto", and in recent months a considerable controversy has been stirred up between Congress and President Nixon as to whether two bills suffered a pocket veto.

President Nixon received two bills from Congress on December 14, 1970. One was the Family Practice of Medicine Act, which had passed the Senate by a 64–1 vote and the House by 346 to 2, and which authorized the appropriation of $225 million over three years to help train family-practice physicians. The other was a private bill granting the Foreign Claims Settlement Commission jurisdiction to consider a dispute.

Both bills were sent to the President on December 14; thus the ten-day period expired on December 25. But the Senate, in which the bills had originated, recessed for the Christmas holiday from the close of business Tuesday, December 22, until the following Monday, December 28. Since the Senate was not in session on December 25, President Nixon announced that the bills had been pocket vetoed. No formal veto message was sent to Congress.

A legislative confrontation came quickly. When Congress reconvened, Senator Edward Kennedy, Democrat of Massachusetts, accused the President of introducing "an arbitrary element into the legislative process—an element never contemplated when the pocket veto provision was written into the Constitution by the Founding Fathers". According to Senator Kennedy: "This promiscuous use of the pocket veto in this situation was obviously designed to avoid an embarrassing vote in Congress on a veto that would surely have been overridden. The President's action raises the possibility of similar arbitrary vetoes every time Congress takes a brief recess."

But the Justice Department, in defense of the President's action, responded that the use of the pocket veto not only conformed to the two judicial precedents in the area but also "to the consistent practice of other Presidents during the last quarter century". Assistant Attorney General William H. Rehnquist wrote to Senator Kennedy that, "while I believe that the President was on very firm legal ground in taking the action he did, there is no doubt that the use of the pocket veto power has been a bone of contention between the President and the Congress throughout the years."

Indeed, it is a bone of contention, going back a long way in history. By 1928, for example, the first definitive survey into the use of the pocket veto cited more than 400 bills and resolutions that were neither signed nor returned by Presidents. And in recent years, almost every President has used the pocket veto as a means of stopping unwanted legislation.

IS AN "ADJOURNMENT" AS SIMPLE AS IT SOUNDS?

In the words of the Constitution, a bill held by the President for more than ten days becomes law "unless the Congress by their adjournment prevent its return, in which case it shall not be a law". Sounds simple, but what is an "adjournment"? Clearly when Congress adjourns *sine die*, at the end of a Congress, the President has the constitutional right to exercise the pocket veto. In effect, he has no choice, for there is no Congress in session to which he may return his veto message.

There are, however, many other periods when one or both houses are in adjournment. In *The Pocket Veto Case*, 279 U.S. 655 (1929), the Supreme Court held that the word "adjournment" was not limited to a final adjournment. The Court, through Justice Sanford, concluded:

"We think that under the constitutional provision the determinative question in reference to an "adjournment" is not whether it is a final adjournment of Congress or an interim adjournment, such as an adjournment of the first session, but whether it is one that "prevents" the President from returning the bill to the House in which it originated within the time allowed. It is clear, and, as we understand, is not questioned, that since the President may return a bill at any time within the allotted period, he is prevented from returning it, within the meaning of the constitutional provision, if by reason of the adjournment it is impossible for him to return it to the House in which it originated on the last day of that period."

The Court ruled that an interim adjournment of Congress at the end of a session prevented the return of a bill by President Coolidge, and it upheld his pocket veto. It is significant to note that while the Court drew no distinction between the types of adjournments—whether at the end of a Congress *sine die*, at the end of a session or within a session—the issue at hand was, in fact, adjournment at the end of a session.

An interesting collateral issue was then raised as to whether the bill must be returned to the house itself while it is in session or whether it may be returned to the house, although not in session, by delivering it to an officer or agent of the house. The Court decided "that the 'House' to which the bill is to be returned, is the House in session". According to Justice Sanford:

"Aside from the fact that Congress has never enacted any statute authorizing any officer or agent of either House to receive for it bills returned by the President during its adjournment, and that there is no rule to that effect in either House, the delivery of the bill to such officer or agent, even if authorized by the Congress itself, would not comply with the constitutional mandate."

Nine years later the Court again had occasion to consider the pocket veto question. In *Wright* v. *United States*, 302 U.S. 583, (1938), a majority of the Court held that when only the Senate had adjourned, and the adjournment was for a period of three days, "Congress", as that term is used in the constitutional provision, had not adjourned. Therefore, a pocket veto was not available to the President.

In the *Wright* case, a bill that had originated in the Senate was vetoed by President Roosevelt and returned with his objections to the Senate during a three-day adjournment of that body. The House of Representatives was in session. The bill with the President's message was received by the Secretary of the Senate and submitted by him to the Senate when it reconvened two days later. The issue was whether the veto was effective since the President's objections had not been received within the ten-day period by the originating house while in session. In a majority opinion written by Chief Justice Hughes, the Court held that as the Senate alone had adjourned, the constitutional provision did not apply, and the veto was effective.

Wright considerably limited the opinion and dictum of the *Pocket Veto Case*. In the latter case the Court said (in a statement that does not appear to have been necessary to its holding) that even though one or both houses of Congress were to authorize an agent to receive messages from the President, "the delivery of the bill to such officer or agent . . . would not comply with the constitutional mandate".

The Court in the *Pocket Veto Case* was concerned with the impropriety of delivering a bill during a period of adjournment to "some individual officer or agent not authorized to make any legislative record of its delivery, who should hold it in his own hands for days, weeks or perhaps months . . . In short, it was plainly the object of the constitutional provision that there should be a timely return of the bill, which should not only be a matter of official record definitely shown by the journal of the House itself . . but should enable Congress to proceed immediately with its reconsideration."

The Court in *Wright* responded to these concerns. Chief Justice Hughes wrote: "However real these dangers may be when Congress has adjourned and the members of its Houses have dispersed at the end of a session—the situation with which the Court was dealing [in *Pocket Veto*]—they appear to be illusory when there is a mere temporary recess."

While it is true that the recess taken in the *Wright* case was for only three days, it is hard to imagine the Court ruling differently for temporary or interim adjournments when only a few more days are involved. Indeed, in his letter to Senator Kennedy, even Mr. Rehnquist recognized this when he wrote: "There is undoubtedly a legal 'gray area' with respect to the question reserved in the *Wright* case—whether a pocket veto is appropriate during an adjournment for more than three days by one house of Congress. Advice from this office in the past has been to the effect that in this situation, without controlling judicial decision to guide him, the President ought to disapprove a bill by the *normal veto message and return*, rather than by the pocket veto" (emphasis added).

WHY WAS THE POCKET VETO USED FOR THESE BILLS?

Returning, then, to the two bills which were the subject of President Nixon's pocket veto, there is a real question why the President apparently ignored advice to disapprove the bills by the normal veto message. Fred B. Rooney, Democrat of Pennsylvania, the principal House sponsor of the Family Practice of Medicine Act, believes that the President, faced with a 346–2 vote in the House and a 64–1 vote in the Senate, took advantage of the pocket veto "because he knew if he did send a veto message back to the Congress, the Congress would override his veto unanimously".

During a roundtable discussion at a meeting of the Subcommittee on Separation of Powers of the Senate Judiciary Committee, Senator Kennedy asked Mr. Rehnquist why the President took the "rather extraordinary procedure of the pocket veto" instead of returning the bill with a veto message. Mr. Rehnquist responded that by the time the President determined to veto the measures, Congress had adjourned: "I felt at this point he had no choice after Congress had adjourned. If it is an adjournment which under the constitutional language prevents the return of the bill, if he wishes to veto it, he must pocket-veto it."

No matter what the legal merits of the qustion are, the fact remains that President Nixon's pocket veto thus far has been effective. But Congressman Rooney, Senator Kennedy and Senator Sam Ervin, Democrat of North Carolina, have indicated their intention to test the constitutionality and legality of the vetoes, and recently there have been a number of developments.

HOW CAN THE POCKET VETO BE TESTED?

One method of bringing the issue to court is for Congress to treat the Family Practice of Medicine Act as a valid public law and appropriate funds for its implementation. If the Nixon Administration were unwilling to spend the appropriated monies, then a legal action could be brought to test the validity of the purported pocket veto.

Following this approach, on May 11 Congressman Rooney introduced an amendment to an appropriation bill that would have appropriated $25 million to implement the provisions of the act. Responding to a point of order that there can be no appropriation for something that is not authorized, Speaker of the House Carl Albert ruled the amendment invalid, stating:

"The Chair is not oblivious to the fact that certain questions have been raised about the legal propriety of this veto. However, the Chair cannot rule on this constitutional question. The Chair may only refer to the statutes at large or the United States Code to find the authorization required to support this appropriation. Since no such statute can be cited, the Chair must sustain the point of order."

And the Senate similarly refused to make the appropriation.

Another method of testing the pocket vetoes might be to proceed on the private claim. One of the vetoed bills would have conferred jurisdiction on the Foreign Claims Settlement Commission to pass upon a $215,200 claim of the estate of Miloye Sokitch, a refugee from Yugoslavia. After the Germans had occupied Yugoslavia in World War II, they handed over a manganese mine owned by the Sokitch family to the Italians, and the family's loss of ore from the mine is the basis of their claim.

In April of this year the Sokitch family filed their claim with the commission, alleging jurisdiction on the basis that the private bill is now law. If the commission rejects that view and holds the pocket veto authority validly used, this may open the door for an ultimate Supreme Court ruling. Although commission rulings on claims usually are final and not subject to court review (22 U.S.C. § 1623(h)), because of the constitutional issue involved, a federal district court might be willing to accept the case for review.

CONGRESS MOVES TO DEFINE "ADJOURNMENT"

Only time and a possible judicial decision will determine the ultimate legality of the Family Practice of Medicine Act and the private claim statute. Many members of Congress believe, however, that Congress should act to prevent what they regard as the possibility of future abuse of the pocket veto power by defining what "adjournment" means. For example, Congress probably will have recessed at least seven times during 1971, and presumably the President would be able to exercise the pocket veto during at least some of those recesses.

Senator Ervin, along with Representatives Emanuel Celler, Democrat of New York, and William M. McCulloch, Republican of Ohio, have introduced bills that would define the scope of the pocket veto (S. 1642 and H.R. 6225). Specifically, the word "adjournment" in the Constitution would be defined as an adjournment *sine die* by either the Senate or the House of Representatives. The bills also would make it clear that if the respective house were not in session when a President wants to return a bill, then presentation to an officer designated and authorized by that house to receive bills under those circumstances would constitute a valid return of the bill. Both bills have been referred to the respective committees on the judiciary, where they are under active consideration.

In June of 1833, James Madison wrote Henry Clay on the President's duty to return bills to Congress, stating:

It is obvious that the Constitution meant to allow the President an adequate time to consider the bills . . . presented to him, and to make his objections to them; and on the other hand that Congress should have time to consider and overrule the objections. A disregard on either side of what it owes to the other, must be an abuse, for which it would be responsible under the forms of the Constitution.

The legislative bone of contention has been hauled out again. Perhaps this time, Congress—and the courts—will have an opportunity to bury it completely.—BENNY L. KASS

(Now a lawyer in Washington, D.C., Benny L. Kass formerly served on the legal staffs of two Congressional committees. He was educated at Northwestern University (B.S. 1957), the University of Michigan (LL.B. 1960) and George Washington University (LL.M. 1967).

NOMINATION OF WILLIAM REHNQUIST TO THE SUPREME COURT

Mr. GOLDWATER. Mr. President, needless to say, we have heard many thousands of words of arguments for and against President Nixon's latest nominations for seats on the Supreme Court to fill existing vacancies. And I am sure that I do not have to point out that the weight of opposition to the President's selections has fallen on Mr. William Rehnquist, a highly qualified constitutional lawyer from the State of Arizona.

Mr. President, I have no complaint about arguments being raised against Mr. Rehnquist so long as they have a direct bearing on an implication which might reflect upon his qualifications to serve on the highest court of the land.

We have already heard about Mr. Rehnquist's exceptional performance during many hours of close questioning by members of the Senate Judiciary Committee.

What the situation boils down to at the present time is strictly a question of Mr. Rehnquist's political views and whether they are in accord with those of some of our liberal Members of this body. Nothing that I have heard so far has in any way qualified or diminished my belief that Mr. Rehnquist would make one of the finest members ever to serve on that distinguished body, so it is with disgust and even a little sadness that I denote a deliberate effort to smear an honorable and highly qualified attorney in order to prevent the confirmation of a man who might add to the conservative forces on the High Court.

On November 2, it will be recalled, I denounced on the Senate floor a rumor campaign which was then underway to

cast an unfavorable reflection on Mr. Rehnquist. As I mentioned at that time, the tactics being employed were beginning to look exactly like the one that Mr. Rehnquist's critics used to call "McCarthyism."

The unfair and reprehensible attempt at character assassination in this case began on a talk show the night of November 8, when a guest accused Mr. Rehnquist of being a member of the John Birch Society. And almost before Mr. Rehnquist could reply to the charge his friends and associates were being plagued with questions from newsmen on whether the charge was correct. I have personal knowledge of this because the very next day, when I held a news conference in Atlanta, Ga., the first question put to me was what I thought of charges that Mr. Rehnquist had been a member of the John Birch Society. I labeled the allegation a deliberate lie; but I must say, Mr. President, that any neutral observer listening to that recorded question and answer would be justified in believing that it was merely my word against that of a newspaperman who presumably had some inside information.

For all this, I think the campaign against William Rehnquist reached its alltime low before the Judiciary Committee, where Clarence Mitchell and Joseph Rauh, representing the Leadership Council on Civil Rights, were testifying and where Mr. Rehnquist had presented a sworn statement to the fact that he was not and had never been a member of the Birch Society. When the statement was presented to the Judiciary Committee, both Mr. Mitchell and Mr. Rauh made it plain that they did not believe the statement. Mr. Rauh stated for the record that Mr. Rehnquist's statement "was the weakest denial I have ever heard." He went on to add: "What of all the possible relations short of membership? I am flabbergasted."

This deliberate, underhanded smear was too much even for committee members who have the strongest reservations about the Rehnquist nomination; and in this connection, I want to warmly commend the senior Senator from Massachusetts (Mr. KENNEDY) for his quick and forthright action to put an end to innuendo rather than fact in the case of Mr. Rehnquist. Senator KENNEDY told Rauh his suggestion was completely unwarranted and uncalled for. He added that while he had reservations about the nominee, he was completely satisfied that the John Birch charge was false. The Senator from Indiana (Mr. BAYH), another committee member having reservations, said his investigation provided no evidence that the charge was correct. To cap it all, Senator KENNEDY admonished the witnesses not to spread charges without evidence, adding:

You have left an atmosphere that I think is rather poisonous.

Mr. President, the smear tactics resorted to in this case come with particular ill grace from Mr. Rauh, who was one of the loudest voices in the country complaining about "guilt by association" when questions of Communist associations by persons holding sensitive Government jobs came into question back in the early 1950's.

With some of the opponents of Mr. Rehnquist, the familiar double standard is beginning to emerge. Those who were so sensitive about any hint that some liberal might actually hold membership in the Communist party now take the position that since Mr. Rehnquist was accused of belonging to a rightwing organization he must prove himself innocent beyond any conceivable objection.

It is most unfortunate that the smear tactics have reached such a low point on such an important matter. They not only distort the record and unfairly persecute the nominee, but they reflect most unfairly upon the Senate.

This situation was set forth very effectively in an editorial published in the Wall Street Journal of Friday, November 12, 1971. It commended Senator KENNEDY for cutting off a leftwing smear directed against Supreme Court nominee William Rehnquist. I ask unanimous consent that the editorial be printed in the RECORD at the conclusion of my remarks.

Mr. President, I should like to say, further, that I believe it is time to bring the President's nominations for the Supreme Court to a vote in the Judiciary Committee and in the Senate. The record is about as complete as it can get. Further delay will merely encourage the smear artists to extend their propagation of the big-lie technique.

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

AN EXAMPLE OF DECENCY

Senator Edward Kennedy provided a fine example of fundamental decency the other day in cutting off a left-wing smear directed against Supreme Court nominee William H. Rehnquist.

Clarence Mitchell and Joseph L. Rauh Jr. were representing the Leadership Conference on civil rights before the Senate Judiciary Committee. The purpose of the exercise was to say that they disagreed with some positions Mr. Rehnquist had taken in the past, and to incant the litany about this meaning the nomination was an "insult" and "the foot of racism is placed in the door of the temple of justice," etc.

It happened that the night before, a talk-show guest some place had accused Mr. Rehnquist of being a member of the John Birch Society. The nominee promptly submitted a sworn statement that he is not now and never has been a member of that group. This did not satisfy Mr. Mitchell and especially Mr. Rauh. "The weakest denial I've ever heard," said the latter. "What of all the possible relations short of membership?" Mr. Rauh complained, "I'm flabbergasted."

"Your suggestion is completely unwarranted and uncalled for," Senator Kennedy interrupted. He said that while he had reservations about the nominee, conversations left him "completely satisfied" that the John Birch charge was false. Senator Birch Bayh, another committee member who also has reservations provided no evidence of the charge. Senator Kennedy told the witnesses they should not spread such charges without evidence, and that "you have left an atmosphere that I think is rather poisonous."

Senator Kennedy clearly recognizes that smear tactics can be used on both sides of the ideological fence. Such tactics, in fact, come with particular ill grace from those who see themselves as special guardians of civil liberties, from those who would be most outraged if the tables were turned. If, say, someone objected that a nominee's affidavit denying Communist Party membership did not cover all the possibilities no doubt Mr. Rauh would be not merely flabbergasted but apoplectic.

By now we are becoming accustomed to this particular double standard; in fact, Mr. Rauh's charge that the nominee is a "laundered McCarthyite" was a fair warning of what was to come. Today the invocation of that word is almost always a signal that the speaker is about to use precisely the tactics he is ostensibly deploring, only for opposite ideological purposes. So you have Mr. Rauh taking the position that since Mr. Rehnquist was accused he must prove himself innocent beyond any conceivable objection.

In blowing the whistle on such tactics by his natural allies, Senator Kenendy has acted in a responsible political manner. That we frequently disagree with him is no secret, but we must say he clearly recognized what political leaders more often should; that excessive charges are good neither for the case they are intended to serve nor for the political health of the nation.

CHINA IN THE U.N.

Mr. FULBRIGHT. Mr. President, in these days of agitation and heated issues, it is most refreshing and encouraging to receive the views of those whose interest in such issues is based on thoughtful and objective deliberation.

Prof. Maurice Waters of Wayne State University in Detroit, Mich., forwarded to me a copy of his letter to the President of the United States with regard to the recent United Nations vote admitting the People's Republic of China to its international body.

I ask unanimous consent that Professor Waters' letter be printed in the RECORD.

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

WAYNE STATE UNIVERSITY,
Detroit, Mich., October 29, 1971.

PRESIDENT OF THE UNITED STATES,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to express a deep concern regarding the reaction in this country to the United Nations vote on the representatition of China. As a person who has spent some time working at the U.N., and studying and writing about it, I have been acutely aware of the great emotional feelings that prevail in many circles in this country. I am also aware that much of the public discussion on radio, television and in the newspapers, and the debates on the floor of Congress reveal either an ignorance of some of the issues, both legal and political, or an unwillingness to face up to them honestly and forthrightly. That such a condition should be reflected in the news media and in Congress is extremely distressing, primarily because both should be sources of information and should provide bases for rational thinking and judgment. When men in high office state, as Ambassador Bush did immediately after the U.N. Assembly vote, that the U.N. has reached a turning point having for the first time voted to expel a member state or, as Senator Dominick said when interviewed on NBC TV, that it was outrageous to permit those forces interested in destroying capitalism and the Free World to gain the upper hand in the U.N., and that the Chinese Peoples Republic had killed nearly 34 million Chinese, statements that are either misleading or false, or based upon totally inadequate evidence, then the nation suffers badly because the public does not have the mature and responsible leadership it so desperately needs in these serious times.

It seems that one must acknowledge, as

our Founding Fathers in fact acknowledged, that every people has a right to choose their own government, and that every government that is meeting the juridical test of ruling authoritatively over its people must be acknowledged as the legitimate government of that country. It does not mean that one's own government must recognize it, although the constitutive theory may be the wisest one to adopt, but it does mean, where membership in international organizations is concerned, that governments that are in exile cannot provide any useful service to the cause of peaceful settlement of disputes if they continue to have their representatives seated in such organizations. In effect, permitting the Chiang kai-Shek delegate to speak for the Chinese people has been foolish and nonproductive. Once that government had to flee from the mainland of China, there was no reason any longer to permit it to maintain representation in the U.N. It was, in fact, only able to do this because of U.S. insistence, pressure and diplomatic maneuvering. In my own estimation, from what I observed and have learned about the issue, the emotional "binge" in the U.N. which apparently angered the President and members of Congress, was just a natural response to the realization that the country which for so long had "ruled the roost" on a matter they defined as absurd had finally been defeated. The fact that those representatives who came from Formosa were decent and honorable men does not alter the circumstances that they were illegitimate representatives. We, as a nation, would have been infinitely better off if our government had not made what is, in fact, a representation issue into one of great national importance. That error we were bound to suffer from eventually. It was therefore absolutely inevitable that when we were defeated, we would feel a loss of face. Had the very latest United States move to partially rectify our mistake succeeded, we might have been confronted in the near future with a very real loss, namely, that the Chinese Peoples Republic would have two votes in the U.N. once the two China delegations were brought under the one government speaking from Peking.

Contrary to Ambassador Bush's statement, the U.N. has not ousted a government, but finally agreed that the representatives who had been sitting for so long were no longer acceptable to the majority of nations, according to the latter's conscience and their own conception of national interest. There is no doubt that a two-thirds vote was not necessary on this matter because, in fact, no state was expelled.

Furthermore, to now take the position, as Senators Buckley, Brock, Dominick and no doubt others take, that we should reduce our financial support to the U.N. or to states who voted contrary to us, is childish, an act of petulance and reminiscent of the Soviet Union's behavior and of France's when they would not support the U.N. in its Congo operation. Surely, no Senator in the U.S. Senate would urge that his state refuse to accept the majority vote of the U.S. Congress just because his own state, small or large, had been opposed to that vote. How can the U.S. be a good member of the U.N. and a respected and responsible world power if it is going to treat the U.N. decision so disrespectfully and with such a parochial understanding of international relations.

I would urge you to exert leadership and lend your voice to instill a note of reason and calm reflection into the national debates that have erupted.

Very respectfully yours,

MAURICE WATERS, *Professor.*

NUTRITION AND DIET

Mr. PERCY. Mr. President, I would like to bring to the attention of the Senate an excellent series of articles on nutrition and diet which appeared in the Chicago Tribune last week. In this comprehensive six-part series by Ronald Kotulak, many of the problems surrounding the myths of adequate nutrition are examined as one of the causes of poor nutrition in both infants and adults. Important sections of these articles also deal with nutrition and pregnancy and the importance of diet to our health.

These subjects have been studied by the Select Committee on Nutrition and Human Needs in the past and will be a source of further indepth investigation by the committee in the near future. I commend these articles to Senators and ask unanimous consent that they be printed in the RECORD.

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

[From the Chicago Tribune, Nov. 7, 1971]

MALNUTRITION HITS MANY: YOUR DIET JUST MAY BE KILLING YOU

(By Ronald Kotulak)

Most Americans have long taken food for granted. But now many scientists have become alarmed that our foods and eating habits have deteriorated so badly that malnutrition is widespread thruout the land, affecting the middle-class American as well as the ghetto dweller. This is the first in a series of articles exploring the crisis.

You are what you eat, but to a growing number of nutrition experts, what you are isn't so good.

In fact, the federal government has finally admitted that many of us are eating ourselves sick.

As a nation, we have the highest rate of heart disease in the world and one of the highest infant death rates; we don't live as long as people in many other countries; and death rates from many other diseases are higher here than in other nations.

"Most all of the health problems underlying the leading causes of death in the United States could be modified by improvements in diet," declares Dr. C. Edith Weir, assistant director of the human nutrition research division of the U.S. Department of Agriculture.

Americans have long thought of themselves as well-fed, healthy people. So it has come as quite a shock to learn from studies conducted in the last five years that there is widespread malnutrition in our land of plenty. The health of 30 million Americans at all economic levels may be threatened by one form or another of dietary deficiency experts say.

Malnutrition has reached the level of a national disaster, claims Dr. George M. Briggs, chairman of the nutritional science department at the University of California in Berkeley.

More costly than alcoholism, drug abuse, or crime, it accounts for $30 billion a year in poorer health, mental problems, obesity, physical deficiencies, and increased susceptibility to other diseases, he says.

NOT JUST A POVERTY PROBLEM

Malnutrition does not just occur among the poor. It cuts across all socioeconomic lines, affecting the well-off American, the millions of females constantly on and off diets, and the harried housewife who has become totally confused about what foods offer proper nutrition.

"I don't think there's really any question that malnutrition exists to a high degree in the United States population," says Dr. Myron Winick, of the Cornell University Medical College, one of the nation's leading nutrition experts.

But many find that evaluation difficult to believe. They see apparently fit people and relatively few cases of severe nutrient deficiencies that cause scurvy, rickets, or beriberi.

The signs of malnutrition are there, but they are hidden.

WEAKENS WITHOUT DESTROYING

"The less dramatic manifestations of malnutrition—growth retardation, weight loss, increased burden of chronic diseases, depression, weakness, retarded convalescence from disease and trauma, poor performance in pregnancy—are widespread and of great significance," says the American Medical Association's Council on Foods and Nutrition.

In other words, suboptimal levels of some nutrients may not cause any easily recognized disease, but will keep a person from functioning at his peak either mentally or physically, and make him more prone to illness.

More than 50 nutrients in the forms of proteins, vitamins, and minerals are known to be important for proper health.

The trouble is that too many people fail to eat a varied enough selection of foods to provide them with the desired amounts of these nutrients, says Dr. Fredrick J. Stare, chairman of Harvard's nutrition department.

BIG LOSS IN FOOD VALUE

Furthermore, the preparation, preservation, and storage of foods from the time of harvest to the time the housewife prepares them causes some loss of nutrient content, he adds. For some vitamins and minerals, the loss in the processing and preparation cycle may be 100 per cent.

The body can often compensate for low intake of certain nutrients, but what this adjustment eventually costs the total health of the body is unknown, Dr. Weir says.

For instance, the increase in adult onset diabetes may be the payoff of marginal intakes of chromium for the last 25 years, she explains. Chromium, found in liver, has recently been pinpointed as important in insulin metabolism.

FEED OUR ANIMALS BETTER

"The American public is eating a strange diet," Berkeley's Dr. Briggs says. "We feed our farm animals better, giving them all the vitamins and minerals we take out of the food for humans."

Much of the $100 billion a year Americans spend on food is spent unwisely on "junk" or "empty calorie" foods that lead to nutritional deficiencies, he says.

He points out that the average American annually consumes 276 pounds [dry weight] of sugar, fat, and white flour [often not enriched] that go into making snacks, convenience foods and soft drinks with little nutritional value.

On the other hand, he says, the average person annually eats only 259 pounds of the foods that experts regard as nutritious: meat, poultry, fish, eggs, milk, cheese, fresh fruits, and vegetables.

"This is a terrible diet, and I wouldn't feed it to a pig without fortifying it," he asserts.

DOG FOOD IS A DIET FOR SOME

This strange diet has given rise to such bizarre things as traveling business executives being treated for scurvy because they avoid citrus fruits and eat mostly meat and potatoes. There are also reports that some elderly people living on skimpy budgets eat dog food because it is cheaper and more nutritious than many other foods designed for human consumption.

Our eating habits are undergoing drastic changes. We are eating more processed or convenience foods, more meals away from home, fewer meals together as families, and more mini-meals and snacks.

One of the most revealing studies of the breakdown in our nutritional habits was conducted by Dr. Howard Bauman, vice president for science and technology of the Pillsbury Co. and a member of the A. M. A.-Food Industry Liaison Committee.

FINDS HOUSEWIVES PUZZLED

When first asked, most women are satisfied that they are doing a good job of meeting the nutritional needs of their families, Dr. Bauman says.

But, on further questioning, it turns out that only about half of them come even reasonably close to knowing what balanced meals are, he says. Some 50 to 60 per cent of the homemakers frequently provide nutritionally inadequate meals, the Pillsbury surveys show.

Much of their nutritional knowledge is based on folk beliefs and half-remembered advice from magazines, he reports.

If their families, particularly the children, are well, active, and look good, with good color and bright eyes, the homemaker is confident she has done a good job of feeding them what they need, even tho the taste and appearance of food is her primary consideration in purchasing food, he adds.

TASTE WINS OUT, SURVEY SHOWS

"In survey after survey, women admit that when faced with the choice between serving less appetizing nutritional food and foods that the family likes, even tho they are not as nutritional, they usually opt in favor of the appetizing but less nutritional foods," Dr. Bauman reports.

The only major health consideration that consistently occurs to homemakers is dealing with overweight, he says.

The husband plays a big role in barring balanced meals, he finds. In most homes the husband's preferences determine what will be served.

To add to the problem, many mothers are losing the battle against their children's overconsumption of snacks and soft drinks "which are unhealthy as well as spoiling the children's appetite for the dinner meal," Dr. Bauman notes.

EATING PATTERNS ADD PROBLEMS

The accelerated disintegration of the family that eats together is further increasing the nutritional problem.

In up to 50 percent of the families, one or more members regularly skip breakfast, and 75 per cent of the families do not eat breakfast as a family unit.

No less than 50 per cent of school age children either have no breakfast or a nutritionally inadequate breakfast, Dr. Bauman reports.

One of the most stunning examples of the effect of food on humans has recently occurred in Japan. Until a few years ago, the shortness of the Japanese was attributed to their generic inheritance.

But contemporary teenagers in Japan tower over their parents and are as tall as American youths. The reason: a switch from the traditional rice and fish diet after the war to a high protein, Americanized food pattern.

Nutritional research has entered a promising new era where better health, a longer active lifespan, and greater satisfaction from work, family, and leisure time can be expected, Dr. Weir says.

Among the expected benefits, she says, are:

A 25 per cent reduction in heart and vascular diseases, which now affect more than 5 million Americans; a 20 per cent reduction in respiratory and infectious diseases; a 10 per cent drop in mental disease; a 50 per cent drop in the infant death rate; a 50 per cent reduction of osteoporosis; an 80 per cent reduction in obesity; a 33 per cent drop in alcoholism; and a 20 per cent decline in cancer.

Better food also can improve learning ability by raising the I. Q. levels of some persons in the 70–80 I. Q. range by at least 10 points, Dr. Weir says.

"The benefits we are talking about," she points out, "are not just for low-income groups but are those likely to accrue on a national basis."

SURVEY STUNS AMA—WELL-FED UNITED STATES? THAT'S JUST A MYTH

(By Ronald Kotulak)

Studies that opened the nation's eyes to the existence of hidden hunger and malnutrition are described in the second of a series of articles on malnutrition in America.

The myth that hunger and malnutrition do not exist in America was punctured in 1968 and destroyed this year.

Now there is growing concern among health officials that the price we are paying for this hidden malnutrition is that our children don't grow as tall as they should, are more sickly, and aren't able to learn normally.

STUDY APPEARS IN 1968

Furthermore, the studies indicate that while malnutrition is more prevalent among people in the poverty income bracket, it is nevertheless widespread among middle-class Americans.

The first study to call attention to the plight of the underfed and undernourished appeared in 1968 when the Citizens' Board of Inquiry into Hunger and Malnutrition in the United States reported that one-third to one-half of the very poor may experience hunger of varying intensity and duration.

Stunned by this disclosure, the American Medical Association stated: "The existence of hunger, in a society that can afford to abolish it, is morally and economically indefensible."

But the "Hunger U.S.A." report was only the beginning. Congress ordered the Department of Health, Education, and Welfare to conduct a survey of nutrition among Americans.

FAIL TO PROVIDE FUNDS

However, the legislators neglected to provide funds for the survey.

Normally, without enough money to conduct the study, the most that could be done would be a spot check of doctors by telephone. And since doctors haven't been reporting malnutrition problems, they were not likely to reveal any trouble.

But this was not to be. A plucky nutritionist who suspected that America did have a deep-seated nutrition problem took charge of the survey and scraped up enough funds to do a first-rate job.

SURPRISED AT FINDINGS

However, even Dr. Arnold Schaefer, of HEW's health service and mental health administration, was surprised at the findings of his survey. While bits and pieces of the study, which was conducted from 1963 through 1970, have been reported earlier, the preliminary report was sent to Congress last April.

"I don't think there's any doubt that enough evidence was accumulated during our survey to indicate that there are widespread nutritional problems," Dr. Schaefer said.

"People aren't falling over dead from malnutrition, but there are sufficient numbers whom we consider to be nutritional health risks," he said.

ONE IN FIVE IS RISK

Dr. Schaefer estimated that based on his survey, which included more than 83,000 persons, as many as one in five Americans may be a nutritional health risk of some kind.

The most widespread problem was iron deficiency with 25 per cent of the people studied having insufficient amounts in their blood, he said. Many were anemic because of their iron deficiency and needed immediate medical treatment, he added.

"Anemic kids just aren't very good students in school," he said. "They are tired and lethargic. There isn't any doubt that anemia does have an effect on their physical output and mental attitude."

VITAMIN A LEVELS LOW

Twenty-five per cent of the persons in the 10-state study had unacceptable vitamin A levels, and there were lesser deficiencies for vitamin C, proteins, riboflavin, folic acid, and thiamine.

The 10 states in the survey were Texas, Louisiana, Kentucky, Michigan, New York, West Virginia, California, Washington, South Carolina, and Massachusetts.

Some 15 to 30 per cent of the children in the study had stunted growth, Dr. Schaefer said.

"To me that's serious," he explained. "That means the children are not getting the chance to grow to their physical maximum capability."

DISCOVER RICKETS

Another big surprise was the discovery of rickets, which is caused by a deficiency of vitamin D, in 3 per cent of the infants up to 5 years of age, Dr. Schaefer said.

"That's uncalled for. God almighty, everybody said we eliminated rickets with the advent of fortified milk." The apparent cause of this deficiency, which causes bowlegs, is that many infants, especially in poverty areas, were fed powdered milk that did not contain vitamin D. As a result of this finding, the Department of Agriculture has begun putting vitamin D in powdered milk.

Some areas, such as Texas, had a high goiter rate because only 40 per cent of the salt sold there contained iodine, which prevents the enlargement of the thyroid gland in the neck.

NUTRIENT IS NECESSARY

The vitamin A deficiency uncovered in the survey is particularly ominous since it is a nutrient that is required for the proper structure of every cell and some scientists feel it is vital in fighting infections, Dr. Schaefer said.

The eye is the favorite target of a vitamin A deficiency. Mild deficiencies can lead to night blindness and severe shortages can cause permanent blindness. An estimated 80,000 of the world's children under the age of 4 go blind each year because of a lack of vitamin A.

Altho the complete findings of the survey have yet to be made public, it is clear that these nutritional deficiencies are found in every socio-economic level, Dr. Schaefer said.

WIDE INCOME RANGE

Some 40 per cent of the persons in the survey were below the poverty level but the rest were above it, he said. The annual family income ranged from $100 to $140,000.

For example, in Washington about 25 per cent of the people above the poverty level had a vitamin A deficiency as compared with 17 per cent of those in the poverty bracket.

The main reasons given for malnutrition were ignorance about what constituted a nutritious diet, lack of money to buy proper food, and indifference to good eating habits.

Worried about Dr. Schaefer's findings, the A.M.A. said "Malnutrition is debilitating; those so affected cannot perform optimally.

ESTIMATES ARE UNRELIABLE

"Current estimates of the numbers so affected are unreliable but the cost in human waste is great indeed and the effect in terms of future performance cannot be accurately measured."

For his efforts in uncovering the nutritional deficiencies in our land, Dr. Schaefer has met with frustration. He has charged that the federal government is attempting to delay or stop publication of the full report on the grounds that it might be politically embarrassing.

He has since left the HEW in despair because "they are now spending more money to study the problem than to eliminate it." He is a consulting nutritionist with the Pan American Health Organization.

The government, however, has apparently taken some heed of Dr. Schaefer's finding and has stepped up its food supplementation programs for needy people.

Almost at the same time that Dr. Schaefer

started his survey, Dr. George M. Owen of Ohio State University began a similar study of iron deficiencies in a large sample of average American children.

His findings involving more than 3,000 children, were just as startling: 7 per cent of the children between 1 and 6 years of age were anemic and some 45 per cent had iron deficiencies.

"Iron deficiency is a relatively common occurrence among preschool children regardless of socio-economic status," Dr. Owen said. Furthermore, there is preliminary evidence linking iron deficiency to stunted growth, he added.

Disturbed by these findings, Dr. Philip Handler, president of the National Academy of Sciences, concluded "there is rising malnutrition in the United States."

EXTENT NOT KNOWN

"We don't know the extent of it but acute malnutrition has begun to appear again in American hospitals. That disturbs me greatly because malnutrition is occurring in a country that can produce vast agricultural surpluses it doesn't know what to do with."

Additional evidence of malnutrition has come from the Department of Agriculture, which released a report in 1968 stating that a study of 7,500 households asking people what they bought and ate revealed that half had inadequate diets.

More and more experts are beginning to think along the lines of Dr. Grace A. Goldsmith, dean of the school of Public Health and Tropical Medicine at Tulane University, who insist that "in this country, there is no economic reason why government and industry working together cannot make available a nutritionally adequate diet for all consumers."

WARNS OF CONSEQUENCES

If nothing is done, warns the A.M.A., the consequences may be disastrous:

"Hunger and malnutrition is only one of the reasons for the fierce resentments of the U.S. poor. But it is one that can be removed in very large degree.

"The cost of a massive attack upon hunger and malnutrition will be great in money; the cost of doing nothing will be immeasurable in terms of lost human potential and social unrest."

MALNUTRITION, U.S.A.: BAD DIET IN PREGNANCY CAN STUNT, KILL BABIES

(By Ronald Kotulak)

(How a mother's bad diet affects her unborn baby is told in the third article of a series on malnutrition.)

Because of the lack of proper nutrition during pregnancy, thousands of American babies are doomed to die each year before reaching the age of one month.

Others who manage to survive will be marked with stunted brains and bodies.

These are some of the findings scientists are beginning to uncover as they seek answers to such questions as why America has a relatively high infant death rate, why many people are never able to reach their full potential, and why slums perpetuate slums.

MYTH ABOUT MOTHERS

For generations it has been widely believed that an unborn infant held a privileged place because it could "rob" its mother of any nuritional ingredients essential to its own development.

Now there is growing evidence that the unborn baby has to compete with its mother's body for the available supplies of nutrition. If the mother doesn't eat right, it is more likely the baby who will suffer severe and permanent effects.

"Thousands of American babies die each year because of their mothers' bad diets and unwise use of drugs," said Dr. Tom Brewer, who works with lower income mothers at the Contra Costa County Clinic, Richmond, Cal.

DANGER IN POOR DIET

Inadequate diets during pregnancy lead to stillbirths, low birth weight or premature infants, babies with brain damage and less intelligence, and babies who contract infections, easily, he said.

The problem is especially serious among teen-age mothers because their own growth requires extra nutrition.

Some experts are becoming concerned that with the sharp rise in teen-age pregnancies, we may be breeding an inferior race.

The United States probably has more teenage marriages and pregnancies than any other nation in the world, said Dr. C. Edith Weir, assistant director of the human nutrition research division for the U.S. Department of Agriculture.

FEAR OF DEFECTS

"This creates the likelihood of a steadily increasing percentage of birth defects due to poor nutrition, because, the younger the mother, the less likely she is to enjoy professional guidance during pregnancy and the more likely she is to commit all the nutrition sins common to teen-agers," she said.

The life-threatening nature of these nutritional sins was recently documented by a Chicago Board of Health study conducted by Florence Smith, assistant director of nutrition, and Dr. Jack Zackler, deputy health commissioner.

The study of pregnant girls 15 years old or younger revealed that almost 044 per cent had poor diets. Some 6.4 per cent had fair diets and only 30 per cent had good diets.

"EMPTY CALORIE" PROBLEM

Twenty per cent ate two meals or fewer each day and they frequently consumed "empty calorie" items such as soft drinks, candy, potato chips and french fries.

The infant death rate among these girls, who came mainly from poor neighborhoods, was higher than the average for some underdeveloped countries.

To see if this death rate could be reversed, the board started a pilot project to give a group of them adequate nutrition and medical care. The board soon found the death rate from these high-risk mothers could be drastically reduced.

FEWER BABIES DIE

This group of mothers then had fewer infant deaths than the average for mothers in Chicago who were being cared for by private doctors.

The latest Board of Health figures from January to September of this year revealed that the infant death rate in this high risk group had been cut by two-thirds.

Based on this type of evidence, many authorities feel that poverty breeds poverty. According to Dr. Charles Lowe, formerly chairman of the American Academy of Pediatrics' nutrition committee, a poorly nourished mother will give birth to a lower than average weight baby.

HOW CYCLE WORKS

The infant is in danger of serious malnutrition which, if uncorrected, can lead to growth depression and possibly to mental retardation, he said.

"An infant so endowed most likely will become a handicapped adult, if he survives. The female with this heritage when adult becomes a prime candidate to emulate her mother—completing the cycle."

Malnutrition affects the brain in two ways, said Dr. Myron Winick, a nutritionist at Cornell University Medical School. If malnutrition occurs during pregnancy or the first six months of life when brain cells are rapidly dividing, permanent stunting of the brain may occur.

If malnutrition occurs later, after the first six months, a child's learning ability may be seriously reduced, Dr. Winick said.

ONE CORRECTABLE

The first type of damage is uncorrectable but the second type can be remedied with a proper diet, he added.

Concludes Dr. Philip Handler, president of the National Academy of Sciences: "There is ample evidence that protein malnutrition [in pregnancy] leads to a reduced number of brain cells."

Alarmed at the increasing number of low birth weight babies at all social levels in America, the academy's National Research Council a couple of years ago studied the problem.

It found the increase in premature births was probably due to the traditional advice doctors have been giving to pregnant women, cautioning them to keep their weight down. Mothers were told that a weight gain from 10 to 15 pounds was acceptable but that they should not go over 20 pounds.

STRIKES DOWN BELIEF

As a result of the study, the academy struck down the old taboo of limited weight gain for pregnant women, stating they should be allowed to gain as much as 24 pounds or more.

Evidence showing that the weight of babies at birth is directly related to the nutritional status of the mothers was recently reported by Dr. Aaron Lechtig, medical officer of the Institute of Nutrition of Central America and Panama.

The results of the major study showed that supplying a number of Guatemalan mothers a cupful of a high-protein food supplement each day produced dramatic results, Dr. Lechtig said.

The infant mortality rate for these mothers was reduced by 50 per cent and they produced babies that weighed an average of one pound more than the children of similar mothers who followed their routine diets, he said.

LINKED TO LEARNING

Iron deficiency anemia has long been linked to slower learning because of the victims' lack of attention and concentration. Since iron plays a major role in aiding blood cells to carry oxygen to body tissue, a shortage of the metal is believed to prevent sufficient oxygen from reaching brain cells.

When malnourished youngsters at a New Orleans school were given two meals a day to eliminate their iron deficiency, there was a marked increase in their attention and motivation, Dr. Jefferson L-Sulzer, psychology professor at Tulane University, said.

The President's Committee on Mental Retardation reports that among the poor, severe mental retardation is two to three times higher than the average. They suggest that this greater rate of retardation may be due to poor nutrition, prematurity, poor hygiene, or a combination of all three.

[From the Chicago Tribune, Nov. 10, 1971]

THERE'S LOT MISSING IN CONVENIENCE FOODS

(By Ronald Kotulak)

Many experts are taking a second look at the foods we are putting into our mouths to see if they need something extra. The fourth in a series of articles on malnutrition explores their reasoning.

A growing number of nutritional experts are demanding that better, more nutritious food products be made available to satisfy the American appetite.

Prodded by reports of epidemic levels of malnutrition in low- and middle-class families, the Federal Food and Drug Administration [FDA] is reassessing the nutritional standards for the more than 10,000 edible items now being sold.

VITAMIN A IN YOUR COLA?

But to many experts, that step is not enough. They want manufacturers not only

to restore the nutrients that processing takes out of foods but also to add vitamins, minerals, and proteins to the oceans of soft drinks and mountains of snacks that now make up so much of our diet while providing no nutrition.

I feel quite strongly that man's nutrition in his new life environment will depend more and more on fortified foods, particularly fortified cereal products," said Dr. Fredrick J. Stare, chairman of the nutrition department at the Harvard School of Public Health.

The new life environment he is talking about is one in which man is using more processed and packaged foods, minimeals, and snacks. These habits, as well as skipping meals, unwise dieting, less eating together as family units, and general ignorance of good nutrition, have contributed to the disintegration of our eating habits.

MIGHT FORTIFY SUGAR, TOO

To the list of foods to be fortified, said Stare, "I might add fortified potatoes and fortified sugar, cheap and efficient sources of energy. And energy is a basic need, perhaps after water the most basic requirement of our diet.

"We will be fortifying these basic foods, possibly even tea, coffee, and soft drinks, not only with vitamins and minerals but also with amino acids [proteins] and fatty acids," Dr. Stare said.

India has already taken this path by fortifying commonly used salt with iodine to prevent goiter and vitamin A to prevent blindness.

We are in a nutritional chaos. The human body is a complex chemical factory that requires a wide range of essential nutrients, most of them on a daily basis, to operate at its optimum level.

FIFTY-SEVEN NUTRIENTS NEEDED

To feed our chemical factories we need at least 57 nutrients [there are undoubtedly some not discovered yet]. The nutrients consist of 13 vitamins, 22 amino acids [the protein we eat is broken down into amino acids, which our bodies then reconstruct into human protein], and 17 minerals, in addition to fatty acids, other fats, sugars, starches, and water.

The proteins are needed for growth and the maintenance of our body tissues. The vitamins and minerals are used to regulate cellular activity. And the fats and carbohydrates are needed for energy.

But it has become evident from studies that because of the new lifestyles, as well as poverty, Americans are not coming even close to meeting these daily nutritional requirements.

One of the reasons is that people often become confused about how to classify the new product. For instance, they may eat a pizza pie or frozen egg roll as their main food during a meal, assuming they fulfill their nutritional needs.

JUMPS TO WRONG CONCLUSION

"When the individual consumer no longer can place foods into appropriate classes, he begins to do some classification of his own, and probably puts some foods into classes which are erroneous and consumes them on the assumption they provide certain things to his total diet that simply are not there," explained Dr. Ogden C. Johnson, director of nutrition for the FDA's bureau of foods.

The startling magnitude of the malnutrition problem in America was recently documented in the 10-state nutritional survey conducted by the Department of Health, Education, and Welfare. The survey covered low- and middle-income families.

The survey revealed that in some states, up to 46 per cent of the children were stunted in growth, and one of every five persons had an iron deficiency; in another state, nearly 7 per cent of the preschool children suffered from rickets, and up to 40 per cent of the citizens consumed inadequate amounts of vitamin A. Low levels were also found for folic acid, riboflavin, vitamin C, and thiamine.

BIG CHANGE IN 10 YEARS

Just 10 years ago our food patterns were somewhat simpler, and we stood a better chance of meeting our nutrient requirements by eating a variety of foods from the four basic classes: meat, fish, eggs, poultry, legumes, and fats and oils; whole-grain and enriched breads and cereals; milk and other dairy products; and fresh fruits and vegetables.

But this pattern has drastically changed. Approximately 70 per cent of the foods we eat now are processed in one manner or another, while our consumption of fresh fruits and vegetables, important sources of vitamins and minerals, is steadily declining.

Nutritionists now recognize that this great trend toward processed foods is shortchanging us in vitamins and minerals.

NO PROBLEM IN ADDITION

"A considerable part of the vitamin content of fruits and vegetables present at harvest may be lost in subsequent handling, transport and processing operations," said Frederic R. Senti of the United States Department of Ariculture.

It would be an easy matter to put these lost nutrients back, and "such enrichment of selected food products would be a feasible and economical way to improve the dietary intake of vitamins and minerals for a large part of our population," Senti said.

For instance, the popular dehydrated instant potato mixes are so thoroughly processed that they have lost all of their natural vitamin C. The loss is critical, because the potato is perhaps the main source of vitamin C in our diet.

One of the most important factors in the destruction of nutrients in our food is the final preparation of foods in the home, restaurant, or school cafeteria, said Dr. R. E. Hein, manager of food research for the H. J. Heinz Co., Pittsburgh.

The steam table can destroy much of what had been preserved in all the prior steps of processing so that the nutritious vegetables people often think they are eating actually are providing nothing more than bulk, he said.

VITAMINS JUST DISINTEGRATE

Most vitamins disintegrate in air, light, and heat. When fresh vegetables containing these nutrients are cooked, the losses range up to 40 per cent for vitamin A, 100 per cent for vitamin C, 75 per cent for niacin, 80 per cent for thiamine, and 55 per cent for Vitamin E, he said.

Since just standing around will cause vitamins to deteriorate, fresh vegetables should be stored in a cool place and eaten as soon as possible, he advised.

Many of these nutrients are dissolved in the cooking water, which is frequently poured down the drain—"another practice that helps make the sewage system better nourished than the American family," said Marcella Katz, nutrition director of the Health Insurance Plan of Greater New York.

When cooking vegetables, a minimum amount of cooking time will help preserve more of the nutrients, experts say. The leftover water should be used for soups and gravies.

BETTER LABELING URGED

Alarmed at the growing nutritional crisis, the FDA has launched a program of nutritional labeling in which food manufacturers will be encouraged to label their products so shoppers can see a listing of all the vitamins, minerals, and proteins the goods contain, if any.

If the labeling program is to help solve the ignorance of malnutrition, it must be reasonably simple and understandable for the housewife as well as the nutritionists, said Dr. Virgil O. Woodicka, director of the FDA's bureau of foods.

While the nutritional labeling program will be voluntary, it now appears likely that so many companies will enter the program that few will dare to stay out, Wodicka said.

WHAT IT HAS, NOT HAD

The labeling program, expected to begin soon, will require that the manufacturer show the actual nutritional value inside the food package, not what the ingredients contained before processing.

"If a nutrient is declared on the label and the food in the package does not, in fact, supply the declared amount of that nutrient, this constitutes misbranding and is eminently actionable under the law," he warned.

So serious does the FDA now consider the nutritional crisis that even stronger steps are being proposed to help consumers who are unwilling or unable to help themselves to adequate nutritional status.

The FDA is gearing up for a massive food fortification program that will allow manufacturers to add vitamins, minerals, and protein to most products.

WILL ENCOURAGE ADDITION

"To sum up the regulatory prospect with respect to fortification, or more specifically, the addition of pure nutrient to foods, is that there will be considerably less restriction and, in fact, some encouragement of this practice where it is necessary or desirable to guarantee an appropriate level of nutrition in the food as eaten," Dr. Wodicka said.

"The FDA already has asked the National Academy of Sciences to establish nutritional guides for classes of foods, and the first two guidances, for complete dinners and formulated main dishes, are close to publication," he said.

"The purpose of the guideline program is to provide to the consumer those nutrients that the consumer might have reason to expect in the food offered and at the levels it might be expected."

"The principle is one of guaranteed nutrition rather than one of nutritional supplementation or medication."

DIFFERS FROM OLD PROCESS

In this respect, the nutritional guidelines program differs from earlier supplementation programs in which nutrients were added to foods that never contained them or in higher amounts than normally found in the products.

The first of these was the addition of iodine to salt to prevent goiter, followed by the enrichment of flour during World War II with nutrient levels above those naturally occurring in whole grain.

That step was widely credited with the virtual elimination of clinical deficiency diseases in this country. When wheat is milled into white flour, almost all of the nutrients are removed.

FOOD INDUSTRY EAGER

Dr. Wodicka said that the emphasis will be given to having people meet their nutritional requirements thru natural foods, since all essential nutrients are not known and the proper amounts of some others are in doubt.

The food industry is eager to make more healthful foods, but has been hampered by FDA reluctance in the past to update the enrichment and fortification standards.

According to Dr. W. H. Sebrell Jr., director of the Institute of Human Nutrition at Columbia University "Our past experience with fortification makes it clear that the future in this area is most promising and essential for our health and well-being."

OVERWEIGHT? MOM MAY BE TO BLAME

(By Ronald Kotulak)

The reasons for the high number of fat Americans are told in this, the fifth of a series of articles dealing with malnutrition.

No one would purposely condemn a child to a life of fatness. Yet there is growing evidence that many mothers are inadvertently programming their babies to become obese adults.

Obesity is the most prevalent chronic disease in America today and it is increasing. It is our most visible sign of malnutrition.

Some 10 million adolescents are obese and about one-third of these are estimated to be seriously ill with overweight.

MANY BORDER ON OBESITY

The United States Public Health Service estimates that one-sixth of the population borders on obesity and that 60 to 70 per cent of men and women over 40 years of age are above their best weight. A person is generally considered to be obese if he weighs more than 20 per cent above the average for his age and height.

In a study comparing obese with nonobese adolescents, Dr. Sherrel L. Hammar, who treats obesity problems among youngsters at the Pacific Institute of Rehabilitation Medicine in Honolulu, found three characteristics typical of obese children.

They had an increased number of feeding problems and food concerns in infancy, they were given solid foods earlier than the nonobese group [as early as six weeks after birth], and their parents used food, particularly sweets, to bribe them into good behavior.

MAY ESTABLISH PATTERN

Overfeeding and overconcern about food early in infancy may establish a biological pattern for obesity, said Dr. Myron Winick, a nutritionist at the Cornell University Medical College.

Fat is larded away in the body in adipose tissue and the number of fat cells a person has is determined quite early in life, probably by the age of 3, he said.

If a child is overweight during the period that his fat cells are multiplying, then he will get more fat cells and the chances are very high that he will be an obese child, an overweight adolescent and a fat adult, Dr. Winick said.

In this type of obesity, each fat cell may have the normal amount of fat in it, but there are too many fat cells, he explained. These cells also tend to be somewhat bigger than the average fat cell.

In adult obesity, a person may have a normal amount of fat cells but each cell is stuffed with too much fat, he said.

This may be the reason why it is so difficult for a person who has been obese from childhood to lose weight, said Dr. Donald T. Forman, a biochemist at Evanston hospital.

LOSES FROM ADIPOSE CELLS

When an obese person loses weight, he loses fat from these adipose cells, he said. The cells shrink, but their number remains the same.

Since cells deprived of their normal intake will send out chemical messages telling the body they want more food, these shrunken fat cells may constantly be perking up the dieter's appetite, Dr. Forman said.

"Early feeding habits have lifelong import," he said. "The child with normal weight will have a normal number and size of adipose tissue cells.

"The fat child will have larger cells and more of them, clamoring to be fed thruout his life. If he wants to maintain normal weight, he'll have to battle his cells to do it."

For most, the battle for weight control is too much. A long-term study of 200 overweight youngsters showed that 86 per cent of the boys and 80 per cent of the girls carried excessive fat into adulthood.

According to these experts, prevention in the form of sound eating habits and normal weight early in life is the best way to avoid obesity later.

NO FUN BEING FAT

So far, the field of medicine has failed to make much of a dent in permanent weight modification for the obese person who was fat from childhood.

And it certainly is no fun being a fat teenager, according to Dr. Hammar's study which showed that even parents often failed to have any warm feeling for their obese offspring and that brothers and sisters frequently harassed and belittled them.

"Altho life in the family environment may be most unpleasant, ridicule and rejection by their peers often prevent normal progress toward independent activity and create a frustrating, depressing role for these young people," he said. "Relief is frequently sought thru eating, and a vicious cycle occurs."

What worries doctors most about obesity, however, is that it is linked with bad health. It is regarded as a form of malnutrition because it involves faulty or imperfect nutrition.

Overweight people have far more problems with heart disease, diabetes, kidney disease, high blood pressure, respiratory disorders, postural difficulties, low back pain, and varicose veins.

SPAWN DIET FADS

America's sizable obesity problem has spawned a $100-million-a-year fad diet busines, but most of these diets are useless and some may be harmful, said Dr. Philip L. White, director of the American Medical Association's Food and Nutrition Department.

In order to lose weight under any diet, you must reduce your intake of calories so that your body burns off some of the stored fat. When your body gets too much food, it stores it in the form of fat.

The sound way to drop pounds is to reduce calories without reducing intake of essential nutrients, Dr. White said. Increasing exercise and establishing proper eating habits will help keep the weight off.

TRICK IN MOST DIETS

The trick in most commercial diets is to get people to lose weight on a high-protein, low-carbohydrate diet or just the opposite on a low-protein, low-carbohydrate diet or just the opposite on a low-protein, high-carbohydrate diet, he said.

Most of these diets say you can eat all you want of certain types of appealing foods such as meat, cheese, and eggs. But the idea of eating all you want to lose weight is nonsense, Dr. White said.

AVOIDS PROPER BALANCE

In most of these cases, the dieter gradually becomes weary of the same foods and whether he realizes it or not he begins eating less, Dr. White explained. This is what leads to weight reduction, the fact that a person is eating less and not what he is eating, he said.

The problem with this type of diet is that it avoids a proper balance of foods. Nutrition is achieved thru a balance of a wide variety of foods. If this variety is severely limited, then the dieter may be endangering his health, Dr. White said.

Such health hazards have recently been documented among strict followers of the Zen Macrobiotic diet. Cases of scurvy, anemia, emaciation, kidney damage, and even death have resulted from this diet, reports the A. M. A.

One of the most popular fad diets today, Irwin Stillman's "Doctor's Quick Weight-Loss Diet," offers a new twist, Dr. White said. It urges dieters to drink up to eight glasses of water a day.

To most people on this diet it is a mystery how drinking so much water can reduce weight, but actually water has nothing to do with losing weight since a person excretes exactly as much water as he takes in, Dr. White said.

Like other fad diets, this one is a high protein, no carbohydrate diet and people who lose weight on it do so because they eat less, he explained.

And there is no magic food such as grapefruit that has the ability to eat away body fat, he added. "That's asinine."

So lucrative has the weight reduction field become that some doctors have limited their practices to treating obese patients. The A. M. A. frowns on this practice when the main regimen for treatment is a reliance on such drugs as amphetamines to suppress appetite.

SAFE TREATMENT OF OBESITY

"It is clear that the safe treatment of obesity involves a combination of reduced food intake and an increased energy output," the A. M. A. said.

NEW HOPE IS SEEN IN WONDER WATERS

(By Donald Kotulak)

(How trace elements affect health is told in the last of a series of articles describing malnutrition in America.)

Some 1,500 years ago Caelius Aurelianus, a physician in Africa, prescribed the use of alkaline spring waters to cure mood disorders.

Several months ago, a Texas scientist reported that in some Texas cities the drinking water may be similar to the ancient spring water, the wonder drug of its day.

And, he reported, these cities have far fewer cases of mental illness than towns with regular drinking water.

CREDIT LITHIUM IN WATER

Many scientists now believe that the centuries-old spring water remedy for mania and other disorders, which still is used in some European countries, is effective because the water contains trace amounts of the metal lithium.

Lithium is found in the drinking water in El Paso where the rate of admissions to state mental hospitals is drastically lower than in Dallas which has no lithium in the water, said Dr. Earl B. Dawson, a research assistant professor at the University of Texas Medical Branch in Galveston.

The discovery is even more astonishing in view of the fact that the Food and Drug Administration recently approved the use of lithium carbonate for the treatment of manic-depressive disorders. The drug appears helpful in treatment of depression and other mental diseases.

Some trace elements are known to be essential to human health, such as the body's need for iron to prevent anemia. There are more than 100 of these elements.

Many can be found in hardly measureable traces in our food and water, but no one yet knows what the bulk of them do for us.

Nutritional experts say that we may now be getting an inadequate supply of trace elements. There are two reasons for this. One is that continuous farming practices have depleted the ground and the other is that modern food processing removes many trace elements.

In their studies to understand trace elements, scientists have found that drinking water with lithium in it produces better mental health and that a number of other minerals may be able to protect from heart attacks and strokes.

Dr. Dawson thinks that lithium may be important for human nutrition and that it may turn out to be an essential nutrient.

During a three-year study, be found that El Paso has 130 micrograms of lithium per liter of drinking water.

CHECKS COMMITMENTS

When he checked the rate of commitments to state mental hospitals per 10,000 population between El Paso and Dallas, which has no lithium in the water, he found remarkably fewer cases in El Paso.

Dallas had three times as many admissions for psychosis, six times more admissions for neurosis and three times more for personality disorders, Dr. Dawson said.

"The main selling point of the Carlsbad Springs in Czechoslovakia is their lithium

water," he said. "People drink this water and get a feeling of euphoria and tranquility."

TAKES PART IN SURVEY

Dr. Dawson came across his unusual finding while taking part in the national 10-state nutritional survey which began in 1968. He studied 24 Texas communities and found a persistent relationship between the levels of lithium in the drinking water and lower rates of mental disease. The lithium is washed into rivers from granite rocks, he explained.

A study associating trace elements to production from cardiovascular disease was conducted by Dr. Hansford T. Shacklette, a research botanist for the United States Geological Survey.

The findings came to light after the federal scientists became puzzled about why persons living in one part of Georgia had 50 per cent fewer heart attacks and strokes than those living in another part of the state.

The only significant difference between the two groups was that the group which had lower death rates were exposed to more trace elements in their food and water, Dr. Shacklette said.

Studies of the trace elements in the soil showed that the area with less heart disease had greater concentrations of aluminum, barium, calcium, chromium, copper, iron, potassium, magnesium, manganese, niobium, phosphorus, titanium, and vanadium.

"If geochemical differences between the high death rate area and the low death rate area do, in fact, have a causal relationship to death from cardiovascular disease, the cause would appear to be a deficiency . . . of the elements which were studied," Dr. Shacklette said.

ROLE OF ELEMENTS

The known role of trace elements is to help put cellular enzymes together. They act like catalysts and this is why such small amounts have such a big effect. Enzymes are critical since they direct and speed up the chemical reactions necessary for life. They also influence the effect of hormones and vitamins.

The effectiveness of metals in such minute quantities, their interaction with enzymes and hormones and the profound metabolic changes resulting from deficiency, toxicity, or imbalance of trace elements, suggest they may be as important to human nutrition as the vitamins.

Dr. C. Edith Weir, assistant director of the U.S. Department of Agriculture's human nutrition research division, said preliminary studies indicate a possible relationship between diets that are submarginal in trace elements and the health of succeeding generations.

TECHNOLOGY IS BLAMED

Changes in food technology, including formulation of foods, may result in chronic marginal intakes of some nutrients, especially trace elements, with the development of subclinical deficiencies not recognized at this time as being nutritionally caused, she said.

The National Research Council, in its Recommended Dietary Allowances, lists fluorine, iron, iodine, copper, zinc, and manganese and cobalt as essential for man and it regards chromium, molybdenum and selenium as possibly essential.

But there has been recent research, especially with animals, indicating that tin, nickel, bromine, arsenic, cadmium, barium, vanadium, and strontium may play important nutritional roles. Additionally, there are some 20 to 30 other trace elements that have been found in living tissues altho no one knows what they do.

The importance of zinc is becoming evident. It is necessary for wound healing and a number of studies have found that half the patients undergoing surgery in hospitals have a zinc deficiency. As a result, some hospitals are giving all surgery patients zinc supplements.

Many trace elements, however, are removed from processed foods and perhaps they should be put back in, at least to the levels at which they occur naturally, said Dr. Walter Mertz, chief of the U.S. Department of Agriculture's Vitamin and Mineral Nutrition Laboratory.

For example, milling wheat into white flour removes most of the trace element content, including zinc, manganese, copper, molybdenum, cobalt, and others, he said.

ENRICHMENT PROPONENT

"I'm a very strong proponent of looking into enrichment and fortification [returning trace elements and vitamins to foods]," he said. "I do believe we need it very badly."

"These data should alert us to the possibility that nutritional problems for any one of these elements may be shown at some later time to exist in humans," he added.

THE TRAGEDY IN ULSTER—II—STORMONT AND THE INCIDENT OF MR. FOX

Mr. KENNEDY. Mr. President, the New York Times for Saturday, November 13, 1971, contains a significant column by Anthony Lewis on an incident that symbolizes the repression and disillusionment of the Catholic minority in Northern Ireland.

The incident concerns the plight of Mr. John Joseph Fox, who was arrested on August 9 and has now been detained without charges or trial for more than 3 months under the Special Powers Act and the internment policy being carried out under the act by Stormont, the Government of Northern Ireland. Mr. Lewis uses the incident to point up his conclusion that, so long as the present Stormont system continues, it can never bring peace to Northern Ireland.

Two of the principal reforms that Senator ABE RIBICOFF and I proposed in Senate Resolution 180, the Senate resolution we introduced last month on Northern Ireland, were a call for the end of internment and a call for the dissolution of the Stormont government and the institution of direct rule of Ulster from London. In recent days, there have been increasing reports that such steps may be near, in part because of increasing pressure by the Labor Party in Britain. I believe, therefore, that Mr. Lewis' analysis will be of interest to all of us concerned with ending the violence and brutality in Northern Ireland. 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:

[From the New York Times, Nov. 13, 1971]

THE INCIDENT OF MR. FOX

(By Anthony Lewis)

LONDON, Nov. 12.—It began with a letter from the Ardoyne, a Roman Catholic ghetto of Belfast.

"My husband's name is John Joseph Fox, he was in the British Army for six and one-half years, also he was on reserve. We came home to Ireland after 25 years in England where all the children were born. . . .

"Now they have taken my husband into prison from his home on the 9th of August and he is still a detainee at Crumblin Road Prison. He was beaten up terrible, in fact he thought it was the end for him. . . . I know they have made a mistake so why don't they let him go? I just don't understand. . . ."

Mrs. Fox wrote to Victoria Brittain, an English journalist who had stayed in the Ardoyne last spring on assignment for The Times of London. Miss Brittain turned the letter over to The Times, which printed it.

Stormont, the Northern Ireland Government, at once denounced the letter as false. Mr. Fox was not being detained without trial as a suspected terrorist, an official said: He was in jail awaiting trial on a charge of car theft. He had appeared in court on that charge on Aug. 25, been remanded to prison (denied bail), and appeared and been remanded again on five later occasions.

When that official denial was published, it seemed odd. Do British courts really deny bail in auto theft cases? Could a man be held in jail for months before trial on such a charge? A simple check showed that the answer to these questions was no.

The Stormont statement was in fact a farrago of untruths. Officials, asked to check, took two days and then admitted they had been wrong: Mr. Fox *was* being detained under the Special Powers Act, just as his wife had said. The facts were:

Mr. Fox was charged with the theft of a car last June. He pleaded innocent, producing what he said was a canceled check for the car and its proper documents. He was freed on bail of $1,200, later reduced to $480.

On Aug. 9, the day Stormont began interning suspected Catholic terrorists, Mr. Fox was seized under the Special Powers Act and taken with other detainees to Crumlin Road Prison. If it were not for that, officials now agree, he would be free on bail. But the Government has neither lifted the detention order nor proceeded with the car theft case.

Mr. Fox has now been detained under the Special Powers Act for more than three months. Ordinarily Stormont decides within 28 days whether it has grounds to enter a formal internment order against a suspect, but even that has not happened. Mr. Fox is in limbo. And his prison is not in Greece or Brazil or the Soviet Union but in what the Ulster Protestants proudly insist is a part of the United Kingdom.

There is nothing very special about the episode—it does not come near the worst horrors of Northern Ireland. It just happened to be played out before a public audience, and it shows why things are as they are: why, despite all the announced reforms of recent years, the Catholics remain so totally alienated from the Ulster system.

If you live in the Ardoyne, you are convinced that there is no truth in Stormont, that there can be no real commitment to equal rights. You are convinced also that there is no assurance of fair treatment from the Ulster police, or of justice in an Ulster court.

None of this is to say, from an outsider's viewpoint, that injustice is all on one side. It would be impossible to say that after the I.R.A.'s cruelties, or after the terrible scenes of Bogside women shearing and tarring a girl because she loved a British soldier.

But no nice balance from outside can change what the Catholic one-third of Northern Ireland perceives as reality: It lives in a sectarian Protestant state, created fifty years ago for the very purpose of maintaining Protestant domination, and there can be no hope until the structure of that sectarian state is dismantled.

That is the truth that successive British Governments have tried to avoid: The Stormont system, with its separate, perpetually Protestant Parliament and Executive for Northern Ireland, can never bring peace. No one should pretend that there is an easy way out of the Irish troubles, but the way has to begin with British recognition that the Stormont idea has failed.

ADDRESS BY SENATOR BEALL BEFORE MARYLAND CHAPTER, ASSOCIATION OF THE U.S. ARMY

Mr. BEALL. Mr. President, recently I had the pleasure of addressing the Maryland chapter of the Association of the

U.S. Army which met at Fort Meade, Md., on November 4, 1971. Coming as it did, shortly after the Senate defeat of the original foreign aid package, I was able to take advantage of this opportunity to explain in considerable detail my thinking on this matter. The Senate has subsequently enacted the two-part modified foreign aid program, proposed by the Foreign Relations Committee.

I ask unanimous consent that my speech be printed in the RECORD.

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

SPEECH BY SENATOR J. GLENN BEALL, JR.

Last Friday night when, by a vote of 41–27, the Senate refused to authorize the continuation of America's foreign assistance program for another year, it surprised the Administration, the Nation, the World—and the United States Senate. I believe it is fair to say few of us in Washington would have predicted that this vote would turn out as it did. While foreign aid authorization legislation has periodically been in trouble in the House of Representatives, there was only one previous occasion in recent years when the vote was even close in the Senate.

Many reasons have been ascribed by various people for the Senate's unexpected reversal of form:

There are those who lay the blame at the doorstep of the Administration contending that they did not make enough of an effort to win votes for the program. Perhaps this is true. I was not contacted by anyone in the Administration requesting my vote, pro or con, on this measure. Nor was I contacted by anyone from the Agency for International Development, which is even more surprising, because this is the agency with the primary responsibilty for administering the foreign aid programs.

There are those who say that the defeat of this bill was the result of the action taken by the United Nations in expelling the Nationalist Chinese Government from that body. I was bitterly disappointed by the United Nations' action in this matter, although, I think that it is diplomatically reasonable and desirable to bring Mainland China into the United Nations. After all, the People's Republic of China contains 800 million people and it is certainly desirable to open lines of communication with these people. The United Nations, however, must be an inclusive and not an exclusive organization if it is to serve successfully as a forum where the nations of the world can talk out their differences. But even so, I don't think that the action taken in the United Nations is sufficient reason for the United States to discontinue the entire foreign aid program.

Many Americans, and many members of the United States Senate, are deeply frustrated by the continuing conflict in Southeast Asia. The foreign aid bill, as reported by the Senate Foreign Relations Committee, contained the so-called "Cooper-Church Amendment" which restricted the President's ability to spend money where needed in Southeast Asia. Such a proposal would clearly have restricted the President's options as he seeks to sucecssfully conclude the withdrawal of America's military presence in Vietnam. The Administration made a strong and successful effort to have this particular section deleted from the bill, during the course of the floor debate, and thus there are those who think this affected the outcome of the Foreign Aid Bill.

Others attribute the defeat of this legislation to the fact that there is growing disenchantment with foreign spending during a period when our own nation is confronted by serious social and economic problems requiring the expenditure of large sums of public money at home. Many blame our present economic dislocations on excessive federal spending and see foreign aid as a convenient and domestically painless area to cut.

Some claim the bill lost because it includes very generous doses of military assistance, and there are those who cannot see military assistance as an extension of our foreign policy.

There are those who feel that the legislation lost because there were 32 members of the Senate who were not present when the vote was taken.

And, finally, there is a growing "isolationism" or "neoisolationism" which seems to be prevalent in our country, and the defeat of the foreign aid bill last Friday night may be the first clear-cut manifestation of this feeling.

I believe that all of these factors, in varying degrees, probably contributed to the vote ending our foreign aid. A study of the roll call vote indicates that an interesting coalition developed between some Senators who are ideologically to the right and who have traditionally opposed most foreign aid expenditures and a group of Senators who are ideologically to the left and who have recently become disenchanted with the kind of programs which we have previously embarked upon, particularly where military assistance is involved.

In any event, it now becomes a question of what to do about the siutation that we have created for ourselves. Personally, I do not feel that it is in the best interest of the United States of America to resign from the world. I think that the political, economic, and social well-being of our country depends to a great extent on our ability to maintain a position of leadership in the world—diplomatically, and economically (militarily). The facts seem to indicate that the outward looking foreign policy pursued by the United States in the years since World War II has served to avert World War III, not to hasten it. I think it is clear to any student of history that the isolationism practiced by the United States during the 1920s and the 1930s was not in the least a deterrent to our involvement in World War II. While I am *not* satisfied with our foreign aid program as it has developed and been administered in recent years, I do not think that there is sufficient justification to abruptly terminate this program and lay down the burden of responsibilities we have borne for the last quarter of a century.

Let us look at some of the positive aspects of the foreign aid programs and the contributions it makes to the overall foreign policy of the United States. As we all know, President Nixon is seeking to reduce America's presence abroad without creating a dangerous power vacuum that could bring about instability, chaos, and a golden opportunity for our adversaries to advance their cause. The Nixon doctrine makes the overall objectives of our foreign aid program substantially more important in light of the diminished role of the overt U.S. presence abroad.

One need only examine the primary objectives of the foreign assistance program as enunciated by the President himself, to begin to grasp the magnitude of its importance as an extension of our foreign policy. In a message to the Congress, the President stated that the goal of our foreign aid program is to "strengthen the defense capabilities and economies of our friends and allies." The President went on to state that it is in our nation's best interest to "assist the lower income countries in their efforts to achieve economic and social development." Addressing himself further to this point, the President has said "that the prospect for a peaceful world will be greatly enhanced if the two-thirds of humanity who live in these countries see hope for adequate food, shelter, education, and employment in peaceful progress rather than in revolution."

I have always believed that one of the greatest facets of the American spirit is our compassionate response to the human consequences of national disasters and political upheavals. Disasters, both at home and abroad, have always brought out the best in the American personality and the foreign assistance apparatus gives us the vehicle to relieve such suffering whenever and wherever it occurs.

One of the real problems when we talk of foreign aid results from the fact that there is a general misunderstanding about the program and its goals among the American people. There are many in our country who believe that foreign aid is simply a matter of giving money to irresponsible, corrupt, and overwhelmingly ungrateful recipients.

I think it is important to note that the foreign aid program is generally divided into three categories. Those being economic assistance, technical assistance, and military assistance. And it is also important to note that the funds to support this program flow to approximately 4,000 American companies and approximately 1,000 private institutions in all fifty states. Let us look for a minute at how these monies are spent:

1. In fiscal year 1970, agency for International Development funds bought $976 million worth of goods from all regions of the United States, this accounting for 98% of AID-financed commodity procurements for that year. Among the items purchased were many that need additional markets such as farm commodities; if you are acquainted at all with the farm picture today you know that new markets are essential to the farmer.

2. As of June 30th, 1970, AID had 1284 active technical service contracts with private institutions, companies, and individuals valued at $63 million. At a time when we are trying to expand our economy and produce new employment opportunities, the loss of these funds would be a serious blow.

3. Likewise, American carriers—airlines, shipping agencies, and others—earned over $90 million in 1970 transporting our products to less developed countries. Once again, industry would be hard put to make up the difference, and employment would suffer accordingly.

4. During fiscal year 1971 the foreign assistance program actually made a small contribution to the plus side of our balance of payment problem. Approximately $79 million flowed in as a result of payments of principle and interest on prior years' loans.

I think it well to point out that the consequences of the lack of a foreign aid program do not end here either:

U.S. efforts to assist underdeveloped nations to curb their skyrocketing population explosion will come to an end.

International programs aimed at cutting off the flow of narcotics and dangerous drugs will end.

U.S. participation in programs such as UNICEF will end—to the detriment of millions of children throughout the world.

Disaster relief programs that have enabled the United States to quickly and effectively respond to earthquakes, floods, famines, etc. will cease to exist.

There are today ten million refugees from the civil war in Pakistan. Think of it—that number is more than twice the population of the State of Maryland—and almost the entire U.S. program of refugee relief in this troubled region was contained in this defeated measure.

U.S. suppliers can expect to lose approximately $3 billion worth of orders for supplies and services in the coming year with a corresponding loss of jobs, a serious blow to our economy.

Approximately 15,000 students in underdeveloped nations are now enrolled in edu-

cational programs and institutions financed by the United States. These are the future leaders of the "Third World". What will their reaction be to this precipitous American action?

And, of course, our investment in men and material and money in the conflict in Southeast Asia would be vitally affected. While our military involvement is coming to an end, the whole Vietnamization program is supported through aid from this nation. No longer would we be able to provide the equipment or technical advice needed by the South Vietnamese to give them a chance for a free society when we depart.

One of the purposes of all foreign military assistance is to make other nations strong enough to defend themselves so that they can then strengthen their own economies. But cutting all assistance off in the middle of the stream we are seriously endangering the lives of many thousands of Vietnamese as well as the nation. It would be the most absolute breach of faith by this nation within memory.

This same reasoning would apply to Cambodia. HR 9910 contained $341 million of aid for this nation.

The anti-communist Cambodian Republic has confounded many of its critics by its mere survival and its gradual consolidation of strength. The Lon Nol government is presently holding its own against five North Vietnamese divisions. I think it is clear that the collapse of the government of Cambodia would free these seasoned troops for combat in South Vietnam against our rapidly diminishing forces there, and seriously endanger American lives.

And last, but certainly not least, the Foreign Assistance Act of 1971 contained over $300 million worth of aid to Israel. In the face of the rapid Soviet build up of men and material in Egypt and other Arab states I think it is utterly inconceivable that this nation could so abruptly terminate its economic and military assistance to Israel in its hour of greatest need. We cannot let this happen.

With these serious consequences facing us, I think it's clear that the Senate must reassess the vote of last Friday night. It would be easy to acquiesce and let the program die. But we must not let this happen.

Instead, I call on the Senate to act in concert with the Nixon Administration in the formulation of a new bill that recognizes the continuing need for foreign aid. We can change the system. We can make it better. We can require that our loan be repaid. We can demand that assistance go for those purposes for which it is intended. We can put teeth into enforcing the ways and means of administering the program. But we can't just drop it!

We must recognize the value of foreign aid—not just to other nations—but to our own. Foreign aid—the right kind of foreign aid—is necessary for our country as well as theirs. Let's be selfish about it! It helps our nation!

The world today is small—it is getting smaller. We cannot return to a policy of isolationism because such a policy ignores all the realities of the modern world.

America is a strong nation. But we need help. We need friends that can police their own neighborhoods.

We seek to build the foundation for a generation of peace in the last quarter of this century and foreign aid is an integral part of this effort.

I personally would prefer not to consider the implications of a decision by this nation to pursue the concept of a "little America". I am firmly convinced that a "little America" cannot guide a troubled world toward a better tomorrow. A "little America" cannot deter the expansionist tendencies on the part of our major adversaries. A "little America" cannot help to lead the underdeveloped nations into the 21st century and perhaps more importantly, a "little America" cannot guarantee the freedom and safety of its own people. This is why I have consistently supported and will continue to support responsible policies designed to preserve our nation's military, diplomatic, and economic eminence in the world today.

That is the challenge that lies before us and only history will tell whether the American nation had the wisdom and courage to reach out and achieve true greatness.

WELFARE FACTS AND FICTION

Mr. RIBICOFF. Mr. President, earlier this year I placed in the RECORD an analysis I made of the myths and facts surrounding welfare in America.

The Department of Health, Education, and Welfare recently prepared its own analysis of welfare facts and fiction.

Since the debate on welfare reform will hopefully culminate in Senate action early next year, it is important that the basis upon which we legislate is reality, not fantasy.

I ask unanimous consent that the HEW study be printed in the RECORD.

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

WELFARE MYTHS VERSUS FACTS

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Social and Rehabilitation Service.

AN OBSERVATION

People who work for a living—and pay taxes—frequently find it difficult to understand those who do not.

In this country, the "work ethic" spans the years from pioneer times to the present. It is a good one. We would not have a strong, productive Nation without it.

How do we explain, then, that every year different millions of fellow citizens are in and out of jobs, unable to earn enough to support themselves and their families, or dependent partially or entirely on public funds in order to survive? Why do welfare rolls grow and grow and grow when the country is economically more affluent than at any time in history? Are welfare recipients lazy, cheats, chiselers? Or is the welfare system wrong?

President Nixon identified the flaws in the system when he proposed welfare reform in August 1969. His recommendations to create a new income maintenance program with built-in work incentives expressed what millions of Americans had sensed but had been unable to articulate: "If we do not find a way to become a working nation that properly cares for the dependent, we shall become a Welfare State that undermines the incentive of the working man . . ."

This leaflet makes no attempt to explain the present welfare system and its shortcomings. Its purpose is, rather, to explode some of the popular misconceptions which have proliferated over the years about welfare recipients, especially those who receive Aid to Families with Dependent Children (AFDC)—misconceptions that not only malign the victims of poverty but the social workers who labor with dedication to make the present inadequate welfare system work.

JOHN D. TWINAME,
Administrator,
Social and Rehabilitation Service.

MYTH

Welfare families are loaded with kids—and have more just to get more money.

FACT

The typical welfare family has a mother and three children. Since 1967, the trend has been toward smaller families on welfare. The birth date for welfare families, like the birth rate for the general population, is dropping.

Most children in welfare families (90 percent) are two years old or older. Studies show that the average family receives assistance for about two years. It is clear, then, that the majority of welfare children were conceived or born *before* the family applied for assistance. Also, the typical payment for an additional child is $35 a month, hardly enough to cover the cost of rearing an additional child. Some States impose maximum payment limits; families reaching that ceiling—usually a 4- to 5-person family—get no additional money for another child.

MYTH

Most welfare families are black.

FACT

The largest racial group among welfare families—49 percent—is white.

Blacks represent about 46 percent. Most of the remaining 5 percent are American Indians, Orientals, and other racial minorities. Latin American families cut across racial lines; 14.4 percent of AFDC families are of Latin birth or ancestry: Mexican, Cuban, Venezuelan, etc.

Families headed by females account for most of those on welfare—black or white. Studies have shown that such families are significantly less able to survive economically than those with both parents present, regardless of race.

MYTH

Why work when you can live it up on welfare?

FACT

The average payment to a welfare family of four with no other income varies among States, from a low of $60 per month in Mississippi to a high of $375 per month in Alaska.

In all but four States, welfare payments have been below the established poverty level of $331 per month, or $3,972 per year, for a family of four. Unfortunately, some of the Nation's working poor—ineligible for assistance under the present welfare system—earn less than the poverty level, too.

Each State establishes its own "need standard"—the amount required for the necessities of family living. A State standard may be below or above the poverty line. A State will use its "need standard" as a base for determining eligibility. However, 38 States pay less—some much less—than their own established standard of need. The Federal Government shares the cost of payments made by the States.

Welfare reform proposals—establishing a Federal income floor nationally for welfare families—would provide an even base for payments and increase recipients' incomes in at least eight States now paying the lowest amounts. The working poor would get a cash assist as well, insuring that a family head would always be better off by working. Under welfare reform, any family head who is able to work but remains unemployed would have to take a job or job training in order to receive welfare benefits.

MYTH

Give them more money and they'll spend it on drink and big cars.

FACT

Most welfare families report that if they received any extra money it would go for essentials. A survey of welfare mothers showed that almost half would spend it primarily for food. Another 28 percent said they would spend any additional money on clothing and shoes. The survey found that 42 percent of mothers bought used clothing or relied on donated clothing to help make ends meet. Seventeen percent of the mothers said their children occasionally stayed home from school because they lacked decent clothes and shoes.

Nearly 10 percent of the mothers in the survey said they would spend extra money on rent for better housing, and 13 percent said they would spend it on a combination of food, clothes, and rent.

MYTH

Most welfare children are illegitimate.

FACT

A sizeable majority—approximately 68 percent—of the more than 7 million children in welfare families were born in wedlock, according to data compiled by the Social and Rehabilitation Service.

In addition, most middle- and upper-income families have always been able to purchase family planning counseling and services from private physicians. However, only in the past few years has government made a concerted effort to deliver such services to the poor.

MYTH

Once on welfare, always on welfare.

FACT

Length of time on welfare

Sixteen percent—less than 6 months.
Seventeen percent—6 months to 1 year.
Nineteen percent—1 to 2 years.
Eleven percent—2 to 3 years.
Fourteen percent—3 to 5 years.
Fifteen and .7 percent—5 to 10 years.
Seven and .3 percent—more than 10 years.

The average welfare family has been on the rolls for 23 months.

Studies by the Social and Rehabilitation Service, HEW, show that at any given time about two-thirds of welfare families will have been receiving assistance for less than three years. The number of long-term cases is relatively small—only 7.3 percent have been on welfare for 10 years or more. Such cases are likely to involve some form of disability.

Government-sponsored surveys show that the majority of welfare families are also embarrassed by, and discontented with, welfare. Most want to move off the welfare rolls, but it takes the average family about two years to overcome its problems.

Proposed welfare reforms are designed to strengthen work incentives, eliminate barriers to employment, and thus help present recipients rejoin the work force as soon as possible.

MYTH

Welfare people are cheats.

FACT

Suspected incidents of fraud or misrepresentation among welfare recipients occur in less than four-tenths of one percent of the total welfare caseload in the Nation, according to all available evidence. Cases where fraud is established occur even less frequently.

Another 1 to 2 percent of welfare cases are technically ineligible because of a misunderstanding of the rules, agency mistakes, or changes in family circumstances not reported fast enough. These are human and technical errors; it is not cheating.

While the proportion of those who deliberately falsify information is very low, both the Federal and State governments seek to eliminate them from the welfare rolls as well as to remove all errors in determining eligibility. The overwhelming majority of recipients, like most other Americans, are not willfully misrepresenting their situations.

State agencies are required to check the eligibility of AFDC families at least once every six months; those with unemployed fathers, once every three months. The Federal Government also analyzes State records and makes on-site checks of a portion of each State's welfare cases.

Many publicized charges of cheating or ineligibility simply have not stood up under investigation.

MYTH

The welfare rolls are full of able-bodied loafers!

FACT

Less than one percent of welfare recipients are able-bodied unemployed males: some 126,000 of the more than 13 million Americans on Federal/State-supported welfare (April 1971 statistics). Most of them—80 percent—want work, according to a Government-sponsored study; about half the men are enrolled in work training programs.

The largest group of working-age adults on welfare are 2.5 million mothers of welfare families, most of whom head families with no able-bodied male present. About 14 percent of these mothers work, and 7 percent are in work training. Many of the other mothers confront serious barriers to employment under the existing welfare system. But if day care were available for their children, and if job training and jobs were to be had, it is estimated that another 35 percent would be potential employees. An additional 4 to 5 percent of mothers have some employment potential, but require more extensive social rehabilitative service to prepare them. (The proposed welfare reform program includes provisions for day care, job training, public service jobs, and more extensive service for welfare recipients.

The remaining 40 percent of welfare mothers have little or no employment potential because they care for small children at home, have major physical or mental incapacities, or other insurmountable work barriers. In spite of this, 70 to 80 percent of welfare mothers consistently report they would work if present barriers to employment are overcome.

Factors in the employability of welfare mothers

(From a 1969 study—in percent)

Needed at home to care for small children, have a long-term disability	40
Employable if job training, jobs and day care were made available	35
Already employed full- or part-time	14
In work-training programs or waiting to be accepted	7
Need extensive medical or rehabilitative services before becoming employable	4

Federally assisted welfare population

(As of April 1971—in percent)

Children	55.5
Mothers	18.6
Aged	15.6
Blind and disabled	9.4
Able-bodied fathers	0.9

MYTH

Welfare's just a dole, a money handout.

FACT

Money is necessary to a family lacking subsistence, but it usually takes more than just cash to help the typical welfare family get on its feet and back into the mainstream of our society.

The Social and Rehabilitation Service asked welfare agencies what social services they had given to welfare families besides money. Here's what the agencies reported and the percentage of families receiving each kind of service (most families received more than one service):

(In percent)

Health care advice and referrals (including Medicaid)	55.7
Counseling on financial and home management	54.2
Employment counseling	51.0
Services to secure child support	37.5
Services to improve housing conditions	36.2
Services to enable children to continue school	27.8

Other services which many agencies provide include those related to child welfare, vocational rehabilitation, and youth development. This range of social services has been found essential in helping disadvantaged people move toward independence and constructive living.

Welfare reform, among other things, would separate the administration of cash payments from the delivery of social services. The goal is improved social and rehabilitation services, more accessible services, and more coordinated services to those in need.

THE COLLEGE PRESIDENCY TODAY—ADDRESS BY DR. JAMES L. FISHER, PRESIDENT, TOWSON STATE COLLEGE

Mr. MATHIAS. Mr. President, recently a symposium entitled "The College Presidency Today" was held at Morgan State College, Baltimore, Md., in recognition of the inauguration of Dr. King V. Cheek, Jr., as Morgan State's seventh president. I invite the attention of Senators to a speech made on that occasion by Dr. James L. Fisher, president of Towson State College, Towson, Md. Dr. Fisher has given us, in his own words, "an honest testament about the presidency today from a man who is happy in the office."

During these times of increasing concern about the whole area of higher education, Dr. Fisher has eloquently expressed a sense of mission which, I think, is essential for enlightened and effective leadership of our colleges and universities. I ask unanimous consent that the address be printed in the RECORD.

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

THE COLLEGE PRESIDENCY TODAY

For me to condense a statement on the college presidency today into 20 minutes is for me to force out an abstract that will be wanting in both insight and content. There are so many things that I want to tell you about this subject that I simply cannot do justice to it this evening.

When I was invited to participate in this symposium my response was "yes" for two reasons—my sincere admiration and affection for President King V. Cheek and my quick assessment that because I live this subject I could prepare an acceptable paper without much effort. Let me tell you that at least for me, this assignment wasn't that easy. My first draft immodestly read as if a college president today were a superhuman, my second made him a human saint, and yet I knew instinctively that both estimates were wrong, for I certainly knew that at least this college president was completely moral, rent through with the passions of joy and despair, and with the whole gambit of human strengths and weaknesses.

This third draft is a combination of the three—superman—saint—and the real man. I leave to you the definitions.

However, through all three preparations I remembered these words of Dag Hammarskjold which have meant much to me in office:

"Around a man who has been pushed into the limelight, a legend begins to grow as it does around a dead man. But a dead man is in no danger of yielding to the temptation that nourishes his legend to accept its picture as reality. I pity the man who falls in love with his image as it is drawn by public opinion during the honeymoon of publicity."

For purposes of grim reminder and objectivity I will first briefly style the shape of higher education today, then I shall speak of the presidency and the implementation of that office. I have decided to personalize this part for to do otherwise would cloud my impressions and, quite frankly, the third person would only amount to a transparent veil for me. If nothing else, what I am giving you is an honest testament about the presidency today from a man who is happy in the office.

First, the state of higher education. Since the early 1960's, higher education throughout the world has been in a state of turmoil that has included revolution, disintegration and violence. Universities in Paris, London, Tokyo, Berlin, Berkeley, New York, College Park, and Baltimore have been scarred by a Damoclian sword of disruption. Insidious attitudes born of distrust and a misguided sense of justice and morality have resulted in a foolish passion that yielded violence, bombings and death. We were stunned when many of our better members adopted a self-righteous belief that the way to freedom was to enslave others either in mind or body, and that the only free forum was theirs. Through these years the collective university stumbled on as if drugged by fear or stupidity. A worshipful society looked on in stunned disbelief that was at first sympathetic and later hostile. The world's citadels of reason and dispassion became hotbeds of hatred and unhearing zealotry.

University presidents were called wasteful, foolish, and incompetent. They had heart attacks, nervous breakdowns, were beaten, and some died in office. They went out so fast that on one occasion a full page of the *Chronicle of Higher Education* was filled with the tense faces of newly appointed college presidents.

Why? What could account for this terrible condition? Some persist in blaming the Vietnamese War, a new awareness of the plight of the poor, the domestic racial situation, the wanton destruction of our natural resources and the generally declining quality of life.

To deny the basic importance of these issues to our citizens is to be unthinking or unmoral. But to a growing number of persons in higher education, they stood as symptoms of a deeper problem that was the very nature of the American university. We were as the ancient Romans, unable or unwilling to look at ourselves.

Those who had been styled the shepherds of higher education, both administrator and faculty, had unintentionally but surely developed a system of education that was antithetical to the goals and needs of students. We rewarded behavior that was the diametric opposite of our stated purposes. We developed and enhanced programs that prepared research scholars and pretended that they were qualified and committed to teaching undergraduate students. Our stars were those who taught three-hour loads at the graduate level, published articles and books, and could hold undergraduate teaching in disdain. We assumed that what was best for the discipline or the college was best for the student and, of course, it follows that we assumed that everybody was a good teacher so we didn't need to evaluate the process. Our principal function, teaching, was assigned to our newer members and to anxious graduate assistants. And even on campuses that had not arrived at this antediluvian state of excellence, dedicated teachers felt bound to silence or apology for their lesser role and, quite naturally, therefore, aspired to become somebody in the yesterday land of the Harvards.

We had pushed our most promising young people into the university ovens of dehumanization, and from World War II to the 1960's the situation intensified.

Finally in exasperation, in 1964, students rose up for reasons that were pure but symptomatic. They were really saying to us, "I'm here. I'm somebody. You tell me I'm important and treat me like I'm a disease."

And when the students struck, we were surprised. Historians will shake their heads in wonder that our assembled wisdom could be so unseeing.

But, as I have implied, today there is emerging a new breed president, the kind of person who places human needs above institutions and whose priorities are consistent with these goals. Although still woefully few, these men and women are growing in number and impact. They are persons of courage, insight and conviction—persons who are neither afraid to love or lead. King Cheek is in their vanguard. I liked the way Dr. Cheek was characterized in a recent article in *Ebony* magazine. He was styled as a "dynamic young black Joshua before the walls of American education's old Jericho."

There is implicit in what I have said about the state of higher education today an obvious presidential characteristic—a sense of mission. He must hold a conviction that is sound and in which he is so secure that he can fend off the articulate contextual argument of yesterday and at the same time inspire others to his banner. He must embody a few unmistakable goals and he must bear them in mind with every decision. He must know that his presidential influence is limited and he should use it only for issues that threaten or deny his fundamental goals. To waste his official substance in a display of power over petty issues is to play his cards for pennies.

While he must deny none, neither can he compromise his mission except through new truth. He must be and feel confidently relevant, so much so that in doubtful hours, when even friends waver, he has the courage to stand forth alone. I cannot overemphasize the need for this characteristic in today's college president.

The mystique of presidential leadership in the new university is almost impossible to describe, but where it exists, people prosper. Oh, they anguish in the process of achieving a Franciscan-like fulfillment, but change occurs and somehow things are better. When a student body and a faculty know that their president really cares about them, "in times of crisis" they will follow and support him to the point of personal sacrifice.

By now you must sense that I have a certain belief, born no doubt out of my own prejudices, that the central person exercising moral and political leadership (in the most enlightened sense of the words) for an institution, be it college or country, must be its president. And so, to me, a most important ingredient in presidential leadership is the ability to foster trust and inspire confidence. While I do not pretend to these things, I strive for them. It is obvious that each president must establish his own credibility. I believe that he can best accomplish this through his own activities and life style. His rhetoric must shine through in his behavior and his attitudes, for I certainly agree with the implied criticism rendered by John Hope Franklin, who wrote these eloquently simple yet demanding words: "Why does such a gap exist between our public statements and our private deeds?"

The days of presidential detachment are over. If justice needs a voice the president must have the wisdom and courage to say what must be said. And at the same time, he must protect the precious neutrality of the university for he must preserve at all costs the right of others in his community to be and become unneutral. If he sees inequity or inefficiency, he must deny it. He must be able to fight antiquated and unfair systems and not men. If faculty or students need defense, he must defend them. If they need criticism, he must render it honestly. If the system is so far behind the needs of its people that it is preparing them for a non-existent world, then he must be the first to speak out . . . He must blow the trumpet loudly, because today he can do no less.

Today's president must provide a tentative sense of direction and attitude for his community and he must spend himself in their accomplishment. He must do so in a manner constantly revealing his respect for individuals, students and faculty, and their right and responsibility to participate in the shaping of the institution.

And in this I see no contradiction, for I stand convinced that an effective president can provide direction and at the same time respect and accommodate himself to a system of representative participation. Indeed, I believe that though his approach may appear schizophrenic to some, it is the only way that meaningful change can come to our institutions.

The president must know and feel the needs of the people he serves. To do this he must be with, among, and of them. He should regularly expose himself in informal settings to the scrutiny of all his community, and most especially students. He should listen to their aspirations, know their problems and feel their dreams. He must be able to stand in their shoes so fully that he is not tempted to judge or condemn or confuse. He must have experienced their struggle for identity in both a personal and representative way. Their arrival must be his peace.

What I am saying is not simply moral, it is essential to the survival of higher education, for any who know our history know that virtually all our progress has come through the influence of students—sometime vigorous but always productive. I liked Charles de Gaulle's words when greeted on his return to power by cries of acclaim from his countrymen. He answered, "je vous ai compri." ("I have understood you.") The president must understand.

Today's president must surround himself with men who are better than he. For him to be so insecure as to be comfortable only in the professional company of lessers is a guarantee for failure. His associates must be both able and good. In the eyes of the president they must be so wise that he in times of trouble will honestly ask them for advice, not out of courtesy but because he so values their judgment. There must be an administrative camaraderie that includes all of these—high respect, forgiveness, and love.

Yes, they must also be committed to at least the general parameters of the mission, for today no president can afford to have dissenting administrators. From faculty and students, yes, for their contrary positions will keep us honest and tested and are basic to the spirit of university. But today's administrator has but three choices—to agree with the president, to change the president's mind, or to resign. For once a decision is made, he implements it in both deed and spirit.

As for me, the college presidency is my life. It is a process of joint consumption; I consume the office as it consumes me. The presidency is with me on public platforms and in private places. To think that I can truly shed it on vacation, on the tennis courts, in the exercise of poetry, painting and pages of philosophy, or in the company of tested and loved associates and family amounts to childish naivete. To me, for a college president today to expect otherwise should amount to his resignation. Yes, I need the challenging exhaustion of athletic competition, the creative discipline of art and scholarly excursion, the freedom and non-judgmental acceptance of loved ones, and the anonymity of other places, but ever present is the mission and the responsibility of the office. The presidency drives and drains me. It inspires me to things beyond myself to the point of self wonder. In the quiet aftermath of frustration and lesser failure, I admit to passing thoughts of a more relaxed and personal—perhaps I should say selfish—life. But each day I revel in the job and capitalize on the rare opportunity to make real the mission that is mine.

I hope that when I go I will be remembered by these inelegant words from a cowboy's tombstone in Arizona:

"He done his damnedest."

VOTER PARTICIPATION BY YOUNG VOTERS

Mr. McGEE. Mr. President, I ask unanimous consent to insert in the RECORD a Gallup poll published in Newsweek magazine a few days ago concerning the effect of voter participation by citizens between the ages of 17 and 23.

One of the submerged issues involved in considering S. 2574, the voter registration bill which I reported earlier this week from the Committee on Post Office and Civil Service, is the relative benefit that substantially increased voter participation would give to the major political parties. There appears to be a conviction generally unexpressed, that increased registration and voting might tend to benefit the Democratic Party because most of the qualified electorate who do not now register and vote may be philosophically, economically, or socially inclined toward the Democratic Party.

This Gallup poll contradicts that supposition. According to this poll the greater the participation by young voters, the greater the benefit to the President and the Republican Party. Gallup's survey shows that if 42 percent of the youth group votes, the President loses against two prominent Democrats and does not better than tie a third; while if 100 percent of the youth group votes, the President leads all three Democrats.

In light of the unexpressed, but obvious, sentiment on the part of some Members of this body to scuttle a national voter registration program, I think these statistics bear careful consideration.

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

NEWSWEEK POLL (GALLUP), YOUTH 17 TO 23, OCT. 25, 1971

	If all voted	If 70 percent voted	If 42 percent voted
Nixon	39	40	35
Muskie	38	43	48
Wallace	13	10	9
O/undecided	10	7	8
Nixon	39	41	38
Humphrey	37	40	42
Wallace	13	11	10
O/undecided	11	8	10
Nixon	41	42	40
Lindsay	33	37	40
Wallace	13	10	9
O/undecided	13	11	11

THE FBI INVESTIGATION OF MR. SCHORR

Mr. BYRD of Virginia. Mr. President, there is something disturbing about the White House-ordered FBI investigation of Daniel Schorr, a CBS news commentator.

The White House had complained about Mr. Schorr and presumably regards him as a less than accurate reporter.

Yet the White House says that the reason it had the FBI investigate Mr. Schorr is not that it disliked the way he covered the Nixon administration for CBS, but that it wanted to offer him a job—apparently an important one, since it required an FBI investigation.

The White House explanation does not increase its credibility record.

One wonders just why the White House would want to offer an important and sensitive Government position to a television commentator whose reliability it questions. Nor had Mr. Schorr been informed that he was being considered for an important Government position. Certainly, there seems something pretty fishy in all of this.

I do not know Mr. Schorr. By the time I return to my apartment each evening from my Senate office, it is nearly 8 p.m., and the TV commentaries are over. So I get very little news from television.

But as a citizen, a U.S. Senator, and a former newspaperman, I have great concern when the FBI is used to investigate the personal life and qualifications of one who has been critical of the Government.

I commend the senior Senator from North Carolina (Mr. ERVIN) for having his Subcommittee on Constitutional Rights look carefully and thoroughly into this rather strange matter.

"PHYSICIAN, HEAL THYSELF," PARTS III AND IV

Mr. KENNEDY. Mr. President, on last October 13, I asked that two articles written by the distinguished journalist, Mr. Anthony Lewis, be printed in the RECORD. Today, I should like to submit two additional installments in this series for inclusion in the RECORD.

In the third installment, Mr. Lewis deals with the problem of physicians' fees and compares various aspects of the difference in atmosphere between Britain and the United States which affects the nature of a health care delivery system. He concludes the article, referring to Wesley Hall, president of the AMA, by saying:

Wake up, Wesley Hall. The American public is tired of reactionary, selfish medical leadership and so are more and more doctors. You are losing your audience.

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

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

PHYSICIAN, HEAL THYSELF: III

(By Anthony Lewis)

LONDON, Nov. 5—American doctors are an articulate group. That much is shown by the reaction to two recent columns in this space criticizing aspects of medicine in the United States. The doctors wrote, some in a defensive or abusive vein but many in constructive disagreement.

Not surprisingly, they were especially irritated at the comment that too many American doctors care too much about money. For the medical profession to top all others in income, it was said, is evidence of a sick society. That phrasing was doubtless unduly provocative.

Doctors, and some of their wives, asked why people who had studied and trained for so long should not get the highest financial reward. Was it better to enrich pop singers, or athletes, or journalists? Dr. William A. Rolston of New Orleans wrote:

"If the professions were to be salaried in proportion to their value to humanity, as indeed they should be, it is logical to assume that the medical profession should be among the highest paid."

But America is not Erewhon, and men are not paid according to their social deserts. Among doctors, for example, the most highly trained may well be found in research work or teaching, at modest salaries.

No, the reason that doctors do so well in the United States (median income over $40,000 in 1969) is largely supply and demand. They control a scarce commodity desperately wanted by the consumer. And some—not a majority but enough—are greedy in using their economic leverage.

What happened after Medicare began is no secret. Seeing that more money was going to be available, many doctors simply raised their fees. When a patient complained to one distinguished general practitioner, he replied that others were doing it and he might as well get his share. As a private British doctor, a Harley Street specialist, said to an American the other day: "There is too much commerce in your medicine."

Some American doctors said as much in writing here. Dr. Harry H. Gordon, of the Einstein College of Medicine in New York, wrote: "One point is critical—that so many physicians have adopted the mores of their affluent patients in pursuit of the dollar. There is too little sense of a calling, too little appreciation of the satisfactions that come from helping people."

Now in fact most American doctors are dedicated men and women who work immensely hard and long for whatever they earn. Too much moralizing about their income is not in order. But the elements of greed in the profession are still significant for a practical reason: The aim of assuring all Americans medical care without fear of bankruptcy—as the country now earnestly desires—cannot be achieved unless any new system modifies or limits the law of supply and demand in medical economics, including doctors' fees.

The Medicare experience makes that clear. If the Federal Government were now to supply vast new funds for private medical care without any change in the system, the result would be to inflate costs enormously.

The doctors point out, fairly, that they are not the only cause of medical inflation by any means: hospital and drug and other costs mount, too. But taking one problem at a time, it is clear that any new Federal program will have to take a new approach on doctors' fees. One possibility would be to provide fixed levels of compensation for doctors serving certain numbers of patients on a panel, as in Britain.

An English doctor now living in New York, Arnold Miles, raised a question about all this that many may ask. He wrote:

"In the U.S. a man is judged by, and lives for, material gain. Until the values of this society change, it is surely hypocritical to expect doctors voluntarily to be less materialistic than their neighbors. Dedication is not an accepted form of currency, so why should not the doctor live by the current ethic?"

Yes, the materialist values of our society ought to be questioned altogether, if that is what Dr. Miles means to suggest. There are enough horrors in the tax system to occupy reformers for a long time. But it is not unfair to begin with the area of medical care.

No society can be called civilized that allows the money ethic to dominate in matters of life and death. The United States, one way or another, is going to reconstruct its way of delivering medical care. And many doctors are coming to accept—as they did in Britain a generation ago—that the process will require a fresh social commitment from them.

The problem is not, in the end, whether it is right or wrong for doctors to earn more than other people. It is that American doctors have allowed their powerful spokesman, the A.M.A., to make the mode of private practice and fees an obstacle to necessary change.

PHYSICIAN, HEAL THYSELF: IV

(By Anthony Lewis)

LONDON, November 7.—Two columns in this space last month contrasted British and American medical care. They were commenting on a charge by the president of the American Medical Association, Dr. Wesley Hall, that standards under Britain's National Health Service were tragic. The articles pointed out that health standards had risen dramatically here during the twenty years of the service and more than comparable American figures.

Numerous doctors have written to warn against the danger of facile comparisons between Britain and the United States. Some of the letters merely paraded standard A.M.A. horribles: Americans are free, while the British learned to take orders during the war and now have been socialized. But others made serious points.

Britain is a tiny country, in which even provincial doctors in most cases are in easy reach of London or other metropolitan centers. It has a relatively homogeneous society, with a long tradition of honesty in the public service. The British accept hierarchies to a remarkable extent, for instance in the commanding position given to medical specialists and the limited openings for younger doctors.

An American health program would have to be different in many ways. It should be administratively decentralized, with real independence and diversity allowed in regional or even smaller units. It neither could nor should attempt the rigid structuring of the profession that tends to apply in Britain.

That still leaves one very large difference—in the character of the two countries' populations. Several doctors made the point that a nation's standards of health may depend less on its quality of medical care than on its level of nutrition or other social factors. Dr. John V. Waller of New York wrote:

"In England there has been no problem of an uneducated, unfed, unemployed and under-housed minority comparable to that pertaining here. Eliminate those minorities and our statistics would compare favorably."

There was a moving letter from Dr. Joseph Kramer, who three years ago left a pediatric practice in the suburbs for New York's Lower East Side. If the A.M.A.'s Dr. Hall ever got to his slum area, Dr. Kramer said, he wouldn't say the situation was tragic—"He would be in shock!" Dr. Kramer continued:

"I thought that I would swoop into the slums, open an office and wipe out disease. You know what's needed down here? Housing—I see at least one rat bite a week, the most recent just over the eyelid of an eleven-month-old baby. So, Department of Community Medicine, how do you handle that? What about drugs . . .?"

Yes, the state of society matters more than the state of medical care. When an Administration tries to cut off subsidized school lunches for one million or so needy American children, everyone ought to be sickened.

But the differences between Britain and the United States should not prevent us from borrowing the best features of the National Health Service, notably its insistence on universality—the right of everyone in Britain to use the service if he wishes. Some better-off people go to private doctors, but the middle class overwhelmingly relies on the Health Service, thus preventing it from becoming a segregated system for the poor. That is crucial.

Nor does concern about underlying faults in American society mean that we should be complacent about the medical system. Least of all should doctors, that is what is so sad about the A.M.A.

Dr. Hall also wrote a letter critical of the British-American comparison. His concluding argument was: "About 85 per cent of British health care is financed through central Government tax revenues. On that basis, American taxpayers would have had to pay some $57 billion last year for Federal health programs (instead of the $19.6 billion they actually paid)."

Can Dr. Hall really believe that anyone would be naive enough to be moved by that argument? Any across-the-board Federal program would of course largely replace private expenditure. What matters is the total national cost.

The United States now spends 6.9 per cent of its gross national product for medical care, far more than Britain and in fact more than any other country. For that it gets a non-system that leaves millions without any doctors and makes others fear bankruptcy if they became ill.

Wake up, Wesley Hall, The American public is tiring of reactionary, selfish medical leadership, and so are more and more doctors. You are losing your audience.

RESPECT FOR THE FLAG

Mr. GURNEY. Mr. President, in recent times we have witnessed many instances of outright abuse of the American flag. Oftentimes it appears that too many Americans have failed to consider the significance of the Nation's banner. There is much that could be said in favor of patriotism and respect for our Star-Spangled Banner, and I think my good friend, Lee Caron, has managed to say most of it.

Lee is an entertainer in Brevard County, Fla., who produces a variety-type show for a nightclub. One portion of Lee's show is dedicated to developing patriotism. I commend Mr. Caron's dedicated Americanism and ask unanimous consent that his commentary about the American flag be printed in the RECORD.

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

THE FLAG

As a child I did the Pledge of Allegiance because I was told to and out of rote, but as the years went by, and now that I'm an adult and listening to all the TV and news media about our militants, and watching them spit and burn our flag, I get mad because I love this beautiful flag of ours.

On different occasions when I would do something patriotic to an audience some reactions I received were that it was flag waving. Even sometimes called "Corny." Well, I believe that the greatest privilege any person can have is to wave the flag of this country.

Have you ever looked, really looked at our flag and thought of what it stands for, or wondered what it has gone through? Can you imagine if our great American symbol could talk, what it would say?

(Flag) Hello there! Remember me? Some people call me "Old Glory," others call me the "Stars and Stripes", I have also been referred to as the 'Star Spangled Banner," but—whatever they call me, I am your flag, or as I proudly state—the Flag of the United States of America. There is something that has been bothering me, so I thought I might talk it over with you—because its about you—and—me.

I remember some time ago, I think it was on Memorial Day, people were lined up on both sides of the street to watch the parade—the town's high school band was right behind me and naturally, I was leading the parade. When your Daddy saw me coming along waving in the breeze he immediately removed his hat and placed it against his left shoulder so that his right hand was over his heart—remember And you, yes, I remember you, standing there straight as a soldier, you didn't have a hat, but you were giving the correct salute—your right hand over your heart.

Oh, I was proud as I came down your street. There were some soldiers home on leave and they were standing at attention giving the military salute; also, some VFW veterans with their caps at jaunty angles were saluting smartly. Ladies as well as the men paid me the reverence I deserve—Now I may sound a little conceited—well, I am—I have a right to be, because I represent the greatest and finest country in the world—the U.S.A. More than one aggressive nation has tried to haul me down, but they all felt the fury of this freedom loving country. Remember—many of you had to go overseas to defend me—Well, now things aren't the same. What has happened? I'm still the same old flag! Oh, I've had a few more stars added since you were a boy. A lot more blood has been shed since that Memorial Day parade a long time ago. Dad is gone now. The old home town has a new look. The last time I came down your street I saw that some of the old landmarks were gone—But in their place shining majestically in the sun were a number of new buildings and homes . . . Yessir ! ! ! The old home town sure has changed. But now, I don't feel as proud as I used to when I come down your street. You just stand there with your hands in your pockets and give me a small glance, then look or turn away. When I think of all the places I've been: Anzio, Guadalcanal, the Battle of the Bulge, Korea, and now Vietnam; I wonder what's happened? I'm still the same old flag.

Now I see children running around and shouting as I pass by. They don't seem to know who I am. I saw an old man take his hat off, and then look around, he didn't see anybody else with theirs off, so he quickly put his back on.

Is it a sin to be an American patriot anymore? Have you forgotten what I stand for? Have you forgotten all the battlefields where men fought and died to keep this nation—your nation free? When you salute me—you're actually saluting them.

Take a look at the memorial honor rolls sometime. Look at the names of those who never came back and are resting neath white crosses on a far away shore. Some of them were friends of yours, or maybe even went to school with you—that's who you're saluting ! ! !

Well it won't be long until I come down your street again. So when you see me, stand straight, place your hand over your heart, and you will see me waving back. My salute to you. I'll show you that I too remember.

CIGARETTE SMOKING

Mr. MOSS. Mr. President, the evidence continues to mount. Just last week, the Surgeon General of the United States, Dr. Jesse Steinfeld said that cigarette smoking was the No. 1 health problem in the United States. Now, Sir George Godber, chief medical officer of the Department of Health in Great Britain, reports that cigarette smoking is the biggest single avoidable killer in the United States. If we need any more evidence, just wait for the December 31, 1971 report of the Secretary of Health, Education, and Welfare on the health consequences of smoking.

And the tobacco industry says there is still a controversy. Balderdash. Mr. President, I ask unanimous consent that an article from the November 7, 1971, New York Times concerning this matter be printed in the RECORD.

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

SMOKING IS CALLED NO. 1 BRITISH KILLER

LONDON (AP)—Smoking is the biggest single avoidable killer in Britain, the Department of Health reported.

"This is still predominantly a smoking community, giving every incentive to children and adolescents to follow the foolish examples of their elders," said Sir George Godber, chief medical officer of the Department of Health, in his annual report.

"At a conservative estimate," he continued, "smoking causes one in every eight deaths among men aged 35 to 44, one in four of those 45 to 64, and one in five of those 65 to 74."

Tobacco strikes through lung cancer, bronchitis and coronary heart disease, he added, helping keep the life expectancy of the British male at 69.1 years, one of the lowest in the Western world. Out of 31 nations listed, England and Wales rate 17th, Northern Ireland 20th and Scotland 28th.

Deaths in England totalled 540,196 in 1970, compared with 543,425 in 1969. Cancer deaths rose from 108,290 in 1969 to 109,342.

ESTABLISHMENT OF GENOCIDE AS A CRIME

Mr. PROXMIRE. Mr. President, article I of the Genocide Convention establishes genocide as a crime. It has been argued that the Senate should not ratify the convention because it is not proper for this treaty, or any treaty, to establish a crime. Is this an unprecedented action?

The Interim Convention on Conservation of North Pacific Fur Seals passed the Senate without a dissenting vote. It is in many ways similar to the Genocide Convention and may help us answer this question. Article III of the fur seal convention states that the parties will prohibit all pelagic sealing in the North Pacific that is not done in accordance with the treaty. It, therefore, implicitly declares nontreaty sealing to be a crime. With the passage of the Fur Seal Act of 1966 this prohibition was enacted into law.

Mr. President, this is a strong indication that article I of the Genocide Convention is not proposing anything new in the history of U.S. treatymaking. It seems that there is some precedent for a treaty to establish a crime.

The world has known too many cases of genocide. Now for the first time in history the nations of the world are banding together to take action to prevent any further occurrence of genocide. Seventy-five nations, including almost all of our NATO and SEATO allies, have ratified the Genocide Convention. The time has come for the United States to stand up and be counted as being against this crime.

Mr. President, the Senate should ratify the Genocide Convention without delay.

TRIBUTES TO ROBERT A. LEFLAR, PROFESSOR OF LAW, UNIVERSITY OF ARKANSAS

Mr. FULBRIGHT. Mr. President, earlier this year I had the honor and distinct pleasure of joining in a special dedicatory issue of the Arkansas Law Review in tribute to Robert A. Leflar, distinguished professor of law at the University of Arkansas.

This special issue contains numerous articles and tributes which reflect the high esteem in which Bob Leflar is held by the legal community of our Nation.

Therefore, Mr. President, in order to share with Senators some of the tributes paid to this truly eminent jurist, I ask unanimous consent to have printed in the RECORD excerpts from the Arkansas Law Review.

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

[From the Arkansas Law Review and Bar Association Journal, Spring 1971]

LEFLAR TESTIMONIAL

(By Warren E. Burger, Chief Justice of the United States)

Other contributors to this issue of the Review will be discussing the specifics of Professor Leflar's various ocntributions to the law. For that reason I confine myself to an overview of his career, and in particular his role in helping to bridge the gap between two words of law: the practitioners, and the academicians.

Professor Leflar's career has a uniquely American flavor. It could hardly have occurred elsewhere, for in most countries the legal profession is much more rigidly compartmentalized than here. Even in England, which has no career judiciary such as is found in civil law countries where a judge grows up in the system, one who is basically an academician cannot aspire to go on the bench; nor can one who is on the bench think of leaving it for other legal work. Nor can an academic lawyer in England expect to assume a position of controlling leadership in practical law reform.

In the United States, however, conditions are such that a man of Leflar's capacity and versatility cannot only attain distinction of a scholar and teacher, but also as a judge and as a leader in down-to-earth law reform. Although he has been a law professor, and was Dean of the School of Law of the University of Arkansas from 1943 to 1954, he has also served as an Associate Justice of the Supreme Court of Arkansas, as a Commissioner on Uniform State Laws for 25 years, as Chairman of the Arkansas Statutory Revision Commission for ten years, and as Chairman of the Arkansas Constitutional Revision Commission since 1967, to mention only some of his more important activities. One of the most interesting of his assignments has been as Director of the Appellate Judges Seminars, held each summer since 1956 at the New York University Law School under the auspices of the Institute of Judicial Administration. The idea of a "school for judges" is itself somewhat astounding, but even more astounding is the fact that it is run and administered by a professor, who presides with aplomb over both his judicial faculty colleagues and his judicial "student body."

As Professor Leflar's career attests, the legal profession in America is fluid, not rigid, and there is excellent communication between its various elements; it exemplifies the value of the "great partnership" of lawyers, judges and law teachers. Able men can and do move from one key spot to another, enriching their own lives while at the same time bringing fresh points of view to whatever tasks are currently demanding their talents. Some of America's most notable achievements have resulted from this "partnership" of the three groups. The various federal rules of procedure, the restatements and model codes of the American Law Institute, and the standards of criminal justice promulgated by the American Bar Association, the work of the Institute of Judicial Administration, to mention only a few. Herein lies much of the strength of the legal profession in America. Robert Leflar has been one of the great contributors.

THE STERLING LEFLAR OF ARKANSAS

(By Roger J. Traynor, professor of law, University of California, Hastings College of the Law; Chief Justice of California, retired).

Blessed is the nation that has attained greatness step by step, *löffelweise*, through communities joined in a national network that yet retain regional distinction. Such a community is Fayetteville, Arkansas, the home of Robert A. Leflar, sparked from the flint of the Ozarks. The farmers and traders who founded it in 1828 must have had a hare's spoon-shaped ear to the ground, a *Löffel* for strategic location, as well as an eye for beauty. Roughly a generation after its founding, it became a tug-of-war prize in the Civil War. It fell captive to one side and then the other, but not for long. When it emerged free of entangling alliances, it retained an identity all its own. Now this town of some thirty thousand people is frequently singled out as one of the most distinctive communities in the United States.

The citizens of Arkansas knew the worth of their hill town. Armed with plowshares, they lost no time in advancing to their share of booklearning, and by 1871 they had established a state university at Fayetteville. The children of Arkansas would have a way clear to a matchless education. When they looked up from their printed text for the day, which they could reckon as of no more durable form than the familiar lumber it had once been, they could look out on a scene that inspired faith in the land. Though the hills were a sound and lightspectacle of perennially changing vistas, though storm and buzz saw regularly felled the green sentinels, there remained the outline of a durable range of continuity. The campus bells that echoed through the thin air marked more than the time of day. They marked all that remained timeless despite days that were named and numbered.

Geography is a relevant preamble to a statement about one of Arkansas's greatest native sons, though it takes time to perceive that relevance. I first met Robert Leflar in 1958, not in his own highlands, but along the Atlantic Coast where large cities were already spilling over in every direction to become one monstrous pudding precariously crusted with concrete strips. I had come to the Appellate Judges' Seminar, sponsored by the Institute of Judicial Administration at New York University and directed by Professor Leflar, well-known also as Judge Leflar by virtue of his service on the Supreme Court of Arkansas.

The seminar classes met in the lowlands, in the heart of Greenwich Village and within view of the countless disjointed tall buildings whose heads point upward for a place in the sun. The only semblance of continuity in the longicorn loners is a common proximity to the Statue of Liberty that gives them a status by association as symbols of strength. The semblance is a sometime thing, constantly dispelled by the shatter and clatter of old sentinels rammed to rubble to make way for new pretenders. No reassuring outline endures in the mad sequence of gap and new filling and new gap.

For a goodly number of judges and their families, their first journey to the Seminar is also their first glimpse of urban bedlam on a massive scale. The Leflar family in New York—Robert and Helen and their two young sons—have cushioned the jolt for others simply by being themselves. At Hayden Hall, overlooking Washington Square, where visiting judges are housed on some eighteen floors, the Leflar household at the roof penthouse has a settling influence. Urban fright

subsides in newcomers when they step into a temperamental small elevator and find the Leflars, laden with kitchen supplies or books, unobtrusive and yet friendly, and looking for all the world as if they were going eighteen paces up a pleasant country road.

It is no common faculty to make people feel at home. In the Leflars it is one of substance, not form. They do not speak the cool small talk of the wordly; they do not undertake the folksy knit-one, purl-one overtures of instant egalitarians. Their courtesy is in a low key. Their special quality is a percolating sense of fun that may find sudden expression in a sunny phase or quizzical glance, quickening others to stop, look, and listen.

It is extraordinary that people so responsible should be possessed of such happy impishness. I still cannot predict when an imp will make its presence felt in a serious Leflar sentence. Its unexpected presence, perhaps surprising even its possessor, can lift the mood of an assembled company from the merely sublime to that sublimely uproarious state where laughter induces new perceptions.

Those invisible spirits speak in various Leflar voices. One of the most engaging expresses itself in a muffled mutter, tossing off asides while the visible Leflar looks at you calmly with owlish eyes or takes to stargazing. The occasion might be a late-day gathering when chatter mounts on such trivia as the comparative merits of plays or restaurants. Out of the blue comes a subdued monotone: In case of hunger, repair to your own kitchen. Peace, good food, and a chance to catch up on comparative law. Amen.

Did one really hear that small voice? Well, surprise twists and turns appear to be characteristics of the family speech. Up at the penthouse deck young Robert and Charles might be soberly doing chores, in line with the ethic of responsibility that is also characteristic, along the garden border that stretches round the building. They shrug off compliments at their industry. It's a great way to see the city, they convey to you courteously, adding that there is plenty of time left over for projects all their own. You soon learn that the projects all their own are complicated beyond the ken of many an adult.

Helen Leflar, too, leaves it to those around her to make whatever balance seems appropriate between her pleasantly noncommittal voice and the twinkle in her eyes. Versed in the mysteries of streets like West Fourth, whose names defy the compass, she has been the volunteer guide of many a Seminar group through the back country of New York City. We could of course take a taxi, she has a way of beginning, but then what would you see. After a pause there are sprightly sequiturs, hinting at the wonders at see-level. We could of course take a subway, but that would only save time at a great loss. Could there possibly be anyone who would not want to walk to that little old place no more than a few miles from Washington Square?

At faculty meetings Bob Leflar talks shop in a direct and frugal speech that would have served him well as an editorial desk. It is easy to see how he has become the very spirit of the Seminar as he moves from workshop to dinner assembly to post-dinner groups, bringing his bird's-eye view of fifty jurisdictions plus one to newcomers eager to expand their sights and to oldtimers equally concerned to keep their sights well adjusted to a changing world. With fine judicial discretion, he knows when to enjoin others relentlessly to remain at their reading and when to declare a break for the informal pursuit of open questions. It is no wonder that he was able to enlist such teaching colleagues as Justice William Brennan of the United States Supreme Court, Judge Fred Hamley of the Ninth Circuit, Judge John Minor Wisdom of the Fifth Circuit, Judge Walter Schaefer of the Illinois Supreme Court, and Chief Justice Frank Kenison of the New Hampshire Supreme Court. Their pioneering inspired others of like caliber to join the ranks. The Chief Justice of the United States, Warren Burger, has recorded with pride his service at the Seminar and has encouraged other judges to take part in it.

I have never ceased to marvel at how Bob Leflar could bring together so amiably, often to a consensus that would have beneficent repercussions throughout the country, so many judges of diverse background, temperament, and training, accustomed to having the last word in their home territories. There was some magic in the Leflar manner that was not entirely explained in terms of gentleness and outstanding intellectual qualities.

I had yet to meet Robin Löffel of Fayetteville.

Then, in the spring of 1967, I went to Fayetteville to give a lecture at the Law School. The journey from San Francisco was far from streamlined. There was a change at Fort Smith to the small plane that flew to Fayetteville. Night was falling as we approached the town. The stunning beauty of the region took us by surprise, though we had read about it often enough. We had even marked an ancient schoolbook, which departed from its stilted language to editorialize that more people should make their homes in the Ozarks. It called upon schoolchildren to look closely at an illustrative picture of lakes and trees and to explain why this out-of-doors land was called The Land Of A Million Smiles. If you looked at the trees intently enough, if you knew how to look at them every which way, they smiled back at you.

There were no more doors on the imagination than on the land, we mused, as our plane began its bumpy descent. At the Fayetteville airport, much like a small railroad station, the weariness of travel quickly gave way to invigoration in the clear air of the Ozarks. Then Bob Leflar appeared, with several students in tow, and smiled at us. I hope you recognize me, he said jauntily; you've seen a lot of me in New York. He presented his companions, young men and women with the friendly courtesy of those who have never been other than liberated spirits. Off we all went to the nearby hotel and we spoke for awhile about their mountains and our Sierras, and also about the wild places where doors multiply and falling plaster takes the place of falling leaves.

Even now, the memory of that visit has healing power in time of stress. We heard the gentle voices of America at a gathering of friends in the Leflar home. Once again, the young Leflars were immersed in projects of their own making. On the outdoor deck, looking out at the neighboring green hills, we understood why the Leflars of New York would always return to their home in Fayetteville. It was a place where a child growing up would have reason to love his country and where adults would find in public service the natural expression of their love of country.

Bob Leflar spoke of his students with almost parental affection and mostly he spoke of their future. There was so much work ahead for them in the law. Now and again a marginal note emerged in his fierce concern. I'll bank on their taking any place in stride, he said, but I want to make sure they'll be more than a match for the tasks that await them in Arkansas.

They have the example par excellence before them. It will take many scholars to do justice to all that Professor Leflar has done to mitigate conflict in conflict of laws. His academic work is but one piece of his great career. The judges who have been his students at the New York Seminar, aware of his own stint on the supreme court of his state, envisage him as the ideal judicial colleague. However great the loss to his court when his term ended, he became free to render perhaps even more valuable service to his state and country. Among other tasks, he has worked heroically to advance the law of his state through statutory and constitutional revision.

How could a man remain so lighthearted throughout such uphill work? What guardian imps guarded his sweet soul? The rudiments of an answer came at the close of our visit to Fayetteville, as we waited for the plane. We bantered away the twinges of sadness that attend such leave-takings. Are you a silver spoon?, Madeleine asked him. Leflar sounds so much like Löffel. Are you perchance Robin Löffel?

Could be, said Robin; could be that Löffel forebears gave up asking people to pronounce the name correctly because they had to get on with all the work to be done. Then he looked at us intently and added: You had better believe it's going to be done. Anyway I believe it.

On my desk is a recent announcement from the American Judicature Society that on February 8, 1971, Robert A. Leflar would give an address on judicial administration and its improvement, captioned *No Task For The Short Winded.*

The fulfilment of the task, his colleagues would add, depends on people like Bob Leflar, who has brought to his work a superlative mind, superlative character, and one thing more. He has also brought just the right measure of flint to make what he believes in come true.

ROBERT A. LEFLAR: TORTS REALIST

(By Ralph Bischoff, Charles L. Denison Professor of Law, New York University School of Law)

Separating the many sides of Bob Leflar is impossible. He is one person whether teaching Conflicts or Torts or expounding on legal education, whether administering New York University's Summer Seminars for Appellate Judges[1] or chairing the 30-member Arkansas Constitutional Revision Study Commission and the Constitutional Convention of 1969–70,[2] or whether functioning as Associate Justice of that state's Supreme Court or just writing as a legal scholar. It has been my good fortune to know him in many of these activities, though particularly as a scholar, colleague and friend at New York University. In one respect I am sure to I have missed a great deal; namely, I am too near his age to ever have been his student. Students at the University of Arkansas School of Law have described to me the athletic figure approaching the School shortly before his class at nine—they are already attending a 7:30 class—from the direction of his home. As I write this, he is teaching a large class of Torts, some two hundred eager first-year students. For the first weeks he instills in them a bit of fear and a maximum of respect. However, soon they too realize that here is a friend, as well as a scholar and great teacher. I am sure his colleagues will not begrudge my calling him "Mr. School of Law."

In the many semesters and summers that Bob Leflar has spent at New York University School of Law, I have seen him particularly as colleague and co-teacher in Torts as well as "Chief Judge," i.e., Director of the Seminars for Appellate Judges. Without any reflection on younger colleagues who have taught Torts with me, the real experience has been in those years when the "other section" had as its professor either Warren Seavey or Bob Leflar. Warren Seavey visited with us many times after his retirement from Harvard, and it was from him that Leflar and I first learned our Torts; but

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[1] Leflar, *Seminar for Appellate Judges*, 4 JOUR. SOC. PUB. T.L. 150 (1958).

[2] Symposium, *Comments on the Proposed Arkansas Constitution*, 24 ARK. L. REV. 155 (1970).

whether the "other section" had the old master or Bob Leflar, I knew they were favored students.

As for the many summers with the Judges' Seminars, this is a story in itself, one with which many readers will be familiar. The details of this Seminar do not belong in this piece. Suffice to say that in 1955 the idea was born that judges should have the opportunity of going back to school. "Acquiring a legal education is a lifetime job."[3] Every summer since then, some twenty to twenty-five judges from the highest courts of the states, the federal Courts of Appeal and the Canadian courts, have spent two to three weeks stimulating each other with the aid of a faculty made up of a few from New York University and a core of judges who return year after year. I mention only a few: Burger and Brennan of the Supreme Court, Hamley of Washington, Kennison of New Hampshire, Traynor of California, Schaefer of Illinois, Roberts of Pennsylvania, Desmond of New York and so forth. During recent summers as an additional seminar has been held for intermediate appellate judges. The director, "Chief Judge" and catalyst has been and is Bob Leflar. For each seminar, I have been privileged with him to lead discussions in Torts in a sort of Socratic manner. Has negligence outlived its usefulness? Is proximate cause a label for a result? Since the courts created the common law, why can they not change it? Is comparative negligence a question for legislature or courts? Which of the traditional immunities should remain? Long after we both have retired, I shall hear the "Chief" bang on the table with the flat of his hand as he calls the seminar to order.

The above may explain why I talk about the man as he arrives at his seventieth birthday and retirement. My interpretation of his ideas on the law of Torts are gained from conversations, from these summer seminars and, of course, from his writings. Although the emphasis on his legal scholarship has been in Conflict of Laws, many articles and reviews have focused on Torts. At my request, the Library of New York University School of Law assembled the lengthy list of his writings, attached here as an appendix. Aside from the chief treatise on Conflicts,[4] the list includes over eighty articles in law reviews and over thirty book reviews.

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[1] The editors wish to express their appreciation to Professor Ralph Bischoff, New York University, for his compilation of the major portion of this bibliography.

[3] Leflar, *Continuing Education for Appellate Judges*, 15 BUFFALO L. REV. 370 (1965); *also*, Leflar, *Seminars for Appellate Judges*, 52 JUDICATURE 112 (1968); Leflar, *Appellate Judges Seminars*, 21 ARK. L. REV 190 (1967).

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DR. ROBERT ALLEN LEFLAR

(By Edward L. Wright, member of the Arkansas Bar; A.B., 1923, Little Rock College; J.D., 1928, Georgetown University. Mr. Wright served as president of the American Bar Association, 1970–71)

Fifty years ago this summer I first met Robert Allen Leflar while we were members of the same R.O.T.C. training company at Fort Snelling, Minnesota. Since that time our personal and professional paths have intertwined frequently and intimately. Each succeeding year has added to my respect, admiration, and affection for this remarkable man. Others will speak in detail of his stature as a Professor of Law at both the University of Arkansas and New York University, as Dean of the University of Arkansas School of Law, as Director of the Appellate Judges Seminar of the Institute of Judicial Administration, as Associate Justice of the Supreme Court of Arkansas, and as author of works on conflict of laws. My brief and sincere tribute to him will be from the vantage points of a friend of nearly a half century and a coworker in the organized bar.

The place of a man's birth does not determine the greatness of his mind. Given the opportunity for education and development, the expression of genius is not the product of geography. Bob Leflar was born and reared in Siloam Springs, Arkansas. When he came into the world on March 22, 1901, the first of eight children born to Lewis D. and Viva Pilkington Leflar, Siloam Springs was a relatively obscure community with a population of 1,748. Yet the influence of Bob Leflar has profoundly affected not only his native state but the nation as well.

In 1922 Bob Leflar received his B.A. degree from the University of Arkansas. For the next two years he taught school, one year each at Stuttgart High School and at John E. Brown College in Siloam Springs. Those were lean years for a young man determined to go to law school. And to Harvard Law School he went, receiving his LL.B. degree cum laude in 1927. I shall not dwell on the hardships and sacrifices of his student days at Harvard, for he would not want me to do so; I shall simply state for the record that in this period he was entirely "on his own" and worked at various jobs to keep himself in school.

Since 1927 Bob Leflar has had a continuous relationship with the University of Arkansas School of Law at Fayetteville, first as Professor, then as Dean, and now as Distinguished Professor of Law, although there have been periods when he was absent on leave in the performance of other legal assignments. Until comparatively recent years, few members of the law teaching fraternity had active interests in the work of the organized bar, but Bob Leflar is an outstanding exception. From his early teaching days he has been a most effective worker in the Arkansas Bar Association, the American Bar Association, the National Conference of Commissioners on Uniform State Laws, and the American Judicature Society.

It was my privilege to serve twelve years with Bob Leflar as a fellow Commissioner of the Conference of Commissioners on Uniform State Laws, of which he is now a life member. No Commissioner of that unique and hard-working body is more highly regarded than Bob Leflar. In the orderly deliberations of the Conference, his counsel is constantly sought. As a craftsman of the highest skills, his imprint may be found in the countless uniform acts adopted through out the United States.

Bob Leflar's outstanding qualities as a legal draftsman and as a leader of men have been given prominent recognition by bench, bar, and state officials through his secretaryship of the Arkansas Criminal Law Reform Commission, 1934–37; his Chairmanship of the Arkansas Statute Revision Commission, 1945–54; his Chairmanship of the Arkansas Constitution Revision Commission, 1967–68; and his Presidency of the Arkansas Constitutional Convention, 1969–70. But his interests and talents are not confined to the law; as illustrations we can cite that he has served as President of the Southwest Athletic Conference and is the commissioned author of a centennial history of the University of Arkansas.

On January 25, 1969, Robert Allen Leflar received the coveted Research Award from the Fellows of the American Bar Foundation at its annual meeting. I was present at the occasion and I shall never forget the characteristic grace and modesty with which he accepted this honor. The Award is given annually to a single recipient "In recognition of his outstanding contributions to the law and the legal profession through his research in law and government." The following is a portion of what Chairman E. Dixie Beggs of the Fellows said about Bob Leflar when the Award was presented:

"Research and scholarship have always been viewed by lawyers as noble activity. In past years this award has been presented to some of this country's most outstanding scholars—Herbert Wechsler, Austin W. Scott, E. Blythe Stason, John Cobb Cooper, Herbert F. Goodrich—men whose lives have been devoted to scholarship.

"Another such man is this year's recipient, Dr. Robert Allen Leflar. His whole career reflects a scholarly interest in research and leadership in translation of research into law.

"The contributions of Dr. Leflar to the law through his scholarly research and leadership cannot be overemphasized, and I take great pleasure in presenting this award to a distinguished lawyer highly deserving this great honor."

Today Bob Leflar is serving with great distinction as a member of the American Bar Association Committee on Standards of Judicial Conduct, which is engaged in the work of completely redrafting the current Canons of Judicial Ethics. Never in the history of the United States has the interest of the public in the action of judges, on and off the bench, been so great. The ongoing activities of the American Bar Association are numerous, varied, and important, but none is more important than the work of the Committee on Standards of Judicial Conduct.

Nearly forty-four years have passed since Robert Allen Leflar taught his first class at the University of Arkansas School of Law at Fayetteville. His influence for good in his beloved Arkansas and the nation since that time cannot be measured quantitatively, but this we know: it will continue in vital form far, far beyond the forty-four years that lie immediately ahead.

A TRIBUTE TO DR. ROBERT A. LEFLAR

(By Dr. David W. Mullins, President, University of Arkansas)

One serious problem confronting American legal education is that Robert A. Leflar can't be everywhere at once. However, this is not Dr. Leflar's fault. He has done his very best by such things as commuting between the University of Arkansas and New York University and serving as visiting Professor of Law at such institutions as the University of Kansas, the University of Missouri and the University of Colorado.

They used to say you would have to "get up early" if you wanted to catch "Bob" Leflar. He might have been on a 7 a.m. flight to Little Rock, on a New York jet, or meeting a 7:30 a.m. class on Conflict of Laws. This is in the days when he was commuting between New York and Arkansas and had little sympathy for New York students when they blamed commuting problems for poor grades. Leflar, who always arrived on time, traveled about 1,400 miles to do so, using two airplanes, a bus, an automobile, and a taxi or two subways. He lectured in New York on Mondays and Tuesdays and on the UA's Fayetteville campus on Thursdays, Fridays and Saturdays. To keep up with his split schedule he had two residences, two wardrobes and two offices.

Typically, he refused to let his hours on airplane flights go to waste. He once told a newsman that he read an average of two books on each trip. When the writer of this article was selected to become President of the University of Arkansas, he received a congratulatory letter from Dr. Leflar which was written aboard a plane during one of his commuting trips. Interestingly, Dr. Leflar said he couldn't provide a return or "place" address because "I don't know what State I'm over at the present time."

For a man of such caliber, it is easy to write a tribute. As pointed out in the *Distinguished* Alumnus Citation recently awarded him by the University of Arkansas, Dr. Leflar is a man whose career has been *distinguished* in the highest sense of the word. He is one of only two individuals ever to be honored with the rank of *Distinguished* Professor at the University, and was the first to be so designated. In 1969, he received the American Bar Association's Award for *Distinguished* Research in Law and Government. For fifteen consecutive years he has conducted a Seminar at New York University for newly appointed and elected Appellate Judges of State Supreme Courts and the United States Court of Appeals. He has served as the *Distinguished* Chairman of the Arkansas Constitutional Revision Study

Commission and President of the Arkansas Constitutional Convention. And he is the *Distinguished* Journalist who now is writing the Centennial History of the University of Arkansas.

He also has won distinction through any number of other major achievements. He served as an Associate Justice of the Arkansas Supreme Court. An avid sports fan, he was President of the Southwest Athletic Conference in 1948 and 1949. He was Dean of the University's School of Law for 11 years. He was acting President of the University in 1947. He has served for 25 years as Arkansas Commissioner on Uniform State Laws. He has served the Federal Government in several capacities and is a member of the Federal Mediation and Conciliation Service Labor Arbitration Panel and of the American Arbitration Association.

In light of all of these accomplishments, it is no wonder that Dr. Leflar was elected Man of the Year in 1969 in a poll conducted by the Arkansas Democrat.

Dr. Leflar received his Bachelor of Arts Degree at the University in 1922, taught high school at Stuttgart, and then taught journalism at John Brown University while editing a weekly Siloam Springs newspaper. Deciding on a legal career, he enrolled at Harvard Law School for his LL.B. and his Doctor of Juridical Science degrees. He joined the UA Faculty in 1927 and became Law Dean in 1943. He has written several important law review articles and is the author of nationally recognized textbooks in the field of Conflict of Laws.

The Appellate Judges Seminar is a good example of Leflar's major contribution to the legal profession. As Director of the Seminar, Dr. Leflar is responsible for organization, selecting the participating judges, employing the faculty, finding topics to be discussed, assigning topics to faculty members and serving as a member of the Seminar Faculty. The Seminar is important nationally because it keeps appellate judges aware of the best procedures and practices of other courts throughout the country and keeps the justices abreast of new trends in the law. It is enthusiastically received because it gives justices a chance to gain knowledge outside the restrictive legalistic confines of their own jurisdiction.

Dr. Leflar exemplifies to the highest degree the type of scholar who is concerned not only with knowledge in his field, but in ways in which this knowledge can be applied to the progress and improvement of our society. This is dramatically illustrated in the services he has rendered to his State, including his work in the proposed revision of the State Constitution and in his service on the State Supreme Court.

Unfortunately, the history of the University which Dr. Leflar is preparing will not adequately reflect the achievements of one of the most exceptional men in the life of the University—the history's author. Since Dr. Leflar modestly refrains from dwelling upon his own career, other historians of the future must be charged with the considerable responsibility of describing his outstanding contributions to his University, the State, the Southern Region, and the nation. His contemporaries can only say, with great admiration and affection, that he is one of the greatest articulators of the law, its meaning and its services, in his day and time.

Tribute to Robert A. Leflar

(By Senator J. William Fulbright, Democrat, Arkansas; chairman, Senate Foreign Relations Committee)

It is an honor for me to participate in this special dedicatory issue of the *Arkansas Law Review* in tribute to Robert A. Leflar. Bob Leflar has had a long and distinguished career as a jurist and an educator. He is widely respected both in the legal profession and among legal academicians. His directorship of the Appellate Judges Seminars at New York University has brought him personal and professional recognition and has reflected credit on our State and the institution he represents. Arkansas should be exceptionally proud to have Bob Leflar as a citizen and on the faculty of its law school.

As a teacher, Bob Leflar has achieved a respect from his students equalled by few. Two generations of Arkansas lawyers have experienced the quality of his instructional ability and have benefited from his depth of knowledge and his respect for the law and the legal profession. His former students whom I have known consistently recall the humor and wit which were present in his lectures. His Treatise on Conflict of Laws is internationally recognized as the definitive work in that area. One of my constant fears while President of the University of Arkansas was that Arkansas might lose Bob to another law school. It is my belief that he could have assumed the Deanship of any one of this country's great law schools. Yet his roots were in Arkansas, and Arkansas should consider itself fortunate that he decided to make his contribution here.

Bob Leflar has played an important role in our State's recent history. He, perhaps more than any other man, is responsible for the proposed new constitution for Arkansas being presented to the voters. Its recent rejection was a matter of concern to many of us and a deep disappointment to him. Yet, characteristically, Bob Leflar has continued to work for its reconsideration.

It is my hope, shared by many, that our law school, the University, Arkansas, and the nation's legal profession may continue to have Bob Leflar's active counsel and guidance for many years to come. He is one of our State's native sons and one of our proud possessions.

Robert A. Leflar, Associate Justice

(By George Rose Smith, LL.B., University of Arkansas, 1933. Associate Justice, Supreme Court of Arkansas, since January 1, 1949. (Judge Smith is the only present member of the court who served with Leflar)

On August 25, 1949, Dean Robert A. Leflar was appointed associate justice of the Supreme Court of Arkansas, to fill the vacancy created by the death of Justice R. W. Robins. Justice Leflar served as a member of the court only for the remaining sixteen months of Judge Robins' term of office, being ineligible under the Constitution[1] to succeed himself. Despite the demands of his new position, Leflar continued to carry out many of his administrative duties at the law school, driving from Little Rock to Fayetteville almost every weekend. In later years, it will be remembered, Leflar commuted by air from Fayetteville to New York while he was teaching both at the University of Arkansas and at New York University.

Leflar made an excellent judge. One great merit of a bench court lies in the likelihood that the ultimate decision in a particular case will be a fusion of divergent views. To that end a certain willingness to give and take, to accept at times half a loaf, is an indispensable element of what is thought of as a judicial temperament. In fact, the most serious defect an otherwise well-qualified justice may have is an attitude of militant advocacy, characterized by a persistent unwillingness to budge one inch from his original conclusions about the case at hand.

No doubt years of experience as a teacher tend to enable a person to see both sides of even the most hard-fought controversy. Whatever the reason, Leflar brought to the court an approach to the cases that was exceptionally judicial. Unlike most new judges, he seldom persisted in his own beliefs to the point of writing a dissenting opinion.[2] There were many instances in which he helped make an opinion with which he had not at first been wholly in agreement. In fact, I remember one case in which a proposed dissenting opinion so completely convinced Judge Leflar that he rewrote his own suggested majority opinion to reach the opposite result, carrying all but one of the other judges with him.

Leflar's contributions as a judge will naturally be remembered mostly by the majority opinions (66 in number) that he wrote during his sixteen months in office. Before turning to those opinions, I should like to insert a preliminary note of caution:

Appellate advocates are apt to think that their own cases present, pretty much without exception, issues of great theoretical and practical importance. In fact, almost the opposite is true. Appellate litigation tends to be routine. True, the scales are often so evenly balanced that the decision is difficult, but the competition is between rules of law settled long ago, with innovations being a rarity.

Hence, landmark decisions are few. Think, for example, of Cardozo—surely one of America's greatest masters of the common law. How many outstandingly significant decisions did he hand down during some eighteen years on the New York court? There come to mind such classics as *MacPherson v. Buick Motor Company,*[3] *Palsgraf v. Long Island Railroad Company,*[4] *Epstein v. Gluckin,*[5] *Meinhard v. Salmon,*[6] *Loucks v. Standard Oil Company,*[7] and others, but the list is not long. Hardly one great opinion a year, perhaps not even half that many.

Thus no disparagement is implied in the observation that there did not fall to Justice Leflar the opportunity to write any of the great cases in American law. But his work as a judge was of consistently high quality. His opinions were uniformly well written, clearly worded, and straight to the point. Among the best are *Wisinger v. Stewart,*[8] *Williams v. Harris,*[9] *and Hill v. Wilson.*[10]

But a judge's worth is to be tested by the content of his opinions rather than by their form. Here is to be found the difference between what Llewellyn called the Grand Style and what he called the Formal Style. The Grand Style is not a way of writing but a way of considering and deciding cases. Rules are shaped and reshaped to allow the law to keep pace with the times. Considerations of policy are always taken into account. Statutes are implemented beyond their strict letter in accordance with purpose and reason. By contrast, the Formal Style is characterized by a wooden approach to precedents and by a literal reading of all statutes, no matter how loudly policy, reason, and justice may shriek against the result.

In the matter of construing statutes, Llewellyn had this to say:

Thus in the period of the Grand Style of case law statutes were construed "freely" to implement their purpose, the court commonly accepting the legislature's choice of policy and setting to work to implement it. (Criminal statutes and, to some extent, statutes on procedure were exceptions.) Whereas in the Formal period statutes tended to be limited or even eviscerated by wooden and literal reading, in a sort of long-drawn battle between a balky, stiff-necked, wrongheaded court and a legislature which had only words with which to drive that court. . . .

One last thing is to be noted: If a statute is to make sense, it must be read in the light of some assumed purpose. A statute merely declaring a rule, with no purpose or objective, is nonsense.

If a statute is to be merged into a going system of law, moreover, the court must do the merging, and must in so doing take account of the policy of the statute—or else substitute its own version of such policy.

Footnotes at end of article.

Creative reshaping of the net result is thus inevitable.[11]

Leflar's opinion in *Morley v. Capital Transportation Company* [12] typifies the Grand Style of statutory construction, with a dissenting opinion in the Formal Style. The court was called upon to construe a statute levying a tax upon "motor busses." The preamble to the act recited as a basis for the new law the fact that street cars had been replaced in some municipalities by motor busses. The Capital Transportation Company had replaced its street cars with busses that were rubber-tired vehicles, but their motors were powered electrically by means of a flexible trolley rather than mechanically by means of a gasoline tank. The question was whether such busses, popularly called trackless trolleys, were taxable under the new statute.

Leflar's opinion carefully and fairly analyzed the competing arguments of counsel and concluded that the electric busses were taxable as motor busses. He reasoned that, as a matter of policy and fairness, the legislature, in taxing vehicles that had replaced street cars, was not primarily concerned with whether the new vehicles had electric motors or gasoline motors. That approach was summarized in this final paragraph in the opinion:

There is nothing in the nature of "trackless trolleys" that makes inappropriate the application of the statute to them. Everything in their physical characteristics and mode of operation makes it as fair as appropriate for the statute to be applied to them as to other motor busses falling within the statutory description. It would be unfair to the owners of gasoline busses and contrary to the spirit and purpose of the statute if "trackless trolleys" were not taxed under it. The statute purports to cover these busses, and we hold that there is no justification for an interpretation that would take them out of the coverage which appears on the face of the statute.

It is significant that the dissenting judge, viewing the case in the Formal Style, quoted the foregoing paragraph as the basis for what was the real heart of his disagreement: "Now I submit that this paragraph shows in itself the fundamental error; because it impliedly admits that the Court is extending a taxing statute beyond its strict language." One could hardly find a better example of the contrast between the Grand Style and the Formal Style of deciding cases. In such situations Justice Leflar instinctively took the right view.

An interesting innovation was introduced in a case which Leflar chose to style as *A. v. B.*[13] The case involved the adoption of a child born out of wedlock. In a compassionate effort to conceal the child's identity Leflar omitted the names of all concerned and used instead the letters *A* and *B*.[14]

In closing, I must mention not only the great pleasure that I experienced in serving on the bench with Justice Leflar but also the genuine benefits that are to be derived from such an association with him. In a way those benefits have been shared by hundreds of American judges, for it is doubtful if Leflar would have been selected to conduct the annual appellate judges' seminars at New York University if he had not himself had judicial experience. Thus his service on the bench must be regarded as doubly beneficial to the law.

FOOTNOTES

[1] ARK. CONST. amend. 29.

[2] New judges *do* tend to cling to their own points of view. Statistics are not available, but perhaps my own experience is not far from the average. In my first and second years on the bench I wrote 23 dissenting opinions; in my twenty-first and twenty-second years I wrote four. What a remarkable improvement in the abilities of my colleagues!

[3] 217 N.Y. 382, 111 N.E. 1050, Ann. Cas. 1916c 440, L.R.A. 1916F 606 (1916).

[4] 248 N.Y. 339, 162 N.E. 99, 59 A.L.R. 1253 (1928).

[5] 233 N.Y. 490, 135 N.E. 861 (1922).

[6] 249 N.Y. 458, 164 N.E. 545, 62 A.L.R. 1 (1928).

[7] 224 N.Y. 99, 120 N.E. 198 (1918).

[8] 215 Ark. 827, 223 S.W.2d 604 (1949).

[9] 215 Ark. 928, 224 S.W.2d 9 (1949)

[10] 216 Ark. 179, 224 S.W.2d 797 (1949).

[11] K. LLEWELLYN, THE COMMON LAW TRADITION: DECIDING APPEALS 373–74 (1960).

[12] 217 Ark. 583, 232 S.W.2d 641 (1950).

[13] 217 Ark. 844, 233 S.W.2d 629 (1950).

[14] When the case was tried both *A* and *B* were married couples, but Leflar scorned the puristic suggestion that the case be styled "*A. et ux. v. B. et ux.*" Moreover, the B's were actually the appellants; so this is the only instance in the Arkansas Reports in which the appellees are listed first in the style of the case. By such radical and progressive departures from precedent did Bob Leflar demonstrate the boldness of his thinking!

BOB LEFLAR'S IMPACT ON THE JUDICIAL PROCESS

(By Albert Tate, Jr., Associate Justice, Louisiana Supreme Court; Chairman, Appellate Judges' Conference, Section of Judicial Administration, American Bar Association)

A young judge with three years' appellate service, I first met Bob Leflar when registering to attend one of his judicial seminars at New York University. A country boy from Louisiana meeting a country boy from Arkansas, I made polite conversation about the conflict of laws, a subject I had just learned he taught. Unaware of his distinction in the field, and indeed innocent of any real acquaintance with conflicts thinking since law school days, I remarked how satisfying recently had been the resolution of the lone issue of conflict of laws I had ever been called upon to decide—in a dressed-up version of my remarks, "a pure law issue, no worry about policy or justice, just find the correct rule by legal reasoning and apply it." [1]

This remark must have seemed incredibly naive or incredibly stupid to this distinguished scholar, one of the authors of the revolution just about to result in new approaches in the judicial resolution of conflicts of law. Typically, this decent Arkansas gentleman gave no indication of this, as he politely changed the subject—although, just as typically, this honest and frank scholar could not indicate agreement with a view he did not share, even in an innocuous social conversation. In the seminar that followed, I learned his own beliefs about conflicts of law—not advanced to convert others, but to stimulate their thinking. (In the fact, of course, his writings and the perceptiveness of his views did make converts.[2])

But I do not propose to discuss here the tremendous contributions to legal thinking and scholarship made by his writings in the fields of conflict of laws and torts, let alone those about judicial administration, legal education (both garden variety and continuing), and assorted other topics. (It is appropriate, however, to note that not only in the conflicts area, but also in others his earlier writings often foreshadowed by well more than a decade the changed law of the future.[3]

My purpose, more, is to note his major contribution to the understanding through the United States of the nature and function of the judicial process. I wish to dwell particularly upon the contribution he has made in this regard by vitalizing the appellate judiciary through his association with a substantial proportion of the appellate judges of America, well more than half, in seminars and conferences inspired and led by him particularly those at New York University's Institute of Judicial Administration.[4]

The Judicial process, the process by which litigated disputes are adjudicated, is accomplished ultimately through men serving as judges. The judges themselves usually come on the bench fresh from a busy practice, usually concentrated in a few legal areas. They are often, as I was, influenced by the notion that to decide legal issues they just need to "find" *the* law-rule applicable and then apply it—somehow convinced that certainty can always be attained by the same process of synthesizing and explaining past decisions they formerly utilized as advocates (which actually so often yielded the opposing advocates two satisfying, but contrary, law-rules to apply). The judges often come to the bench believing that, outside of the area of their expertise, in which they recognize growth has occurred and is occurring, the "tough" law [5] they learned in law schools retains its eternal verity and remains unaffected by subsequent changes in society and legal thinking.

With such preconceptions, until recently judges came to the bench without any particular training in the judicial function, and they never received any thereafter. They were, so to speak, put at once in the batter's box and started to swing at the issues thrown to them to decide, kept busy swinging year after year, and often never had the occasion or opportunity to think about the fundamental purpose of the game. In the detached world of appellate judges, they also tended to become insulated from contact with the people and the bars they served, and to have their thinking constricted to the limits of the isolated and in-bred small courts upon which they served.

In contrast, today, continuing education for the judiciary is recognized as a necessary feature of a judicial system. Concomitant with the rapid changes in our society of the last decade or two, there have been rapid new developments in legal theory and applications. New statutes and new approaches have been conceived for more effective regulation of our ever more complex economic and social institutions and malaises. Judicial techniques and judicial precedents, sufficient for other times, have been found wanting for today's needs. Just as county commissioners, pediatricians and teachers find institutionalized techniques essential to their

[1] Some years later the writer had occasion to discuss this decision and his misanalysis in it. Tate, Book Review, 39 TUL. L. REV. 163, 171–77 (1964).

[2] *See, e.g.*, Clark v. Clark, 107 N.H. 351, 222 A.2d 205 (1966); Woodward v. Stewart, — R.I. —, 243 A.2d 917 (1968); Heath v. Zellmer, 35 Wis. 2d 578, 151 N.W.2d 664 (1967).

[3] For example, *compare* Leflar, *The Social Utility of the Criminal Law of Defamation*, 34 TEX. L. REV. 984 (1956), with Garrison v. Louisiana, 379 U.S. 64 (1964); and *compare* Leflar, *Negligence in Name Only*, 27 N.Y.U. L. REV. 564 (1952) *with* developments reported in Keeton, *Judicial Law Reform—a Perspective on the Performance of Appellate Courts*, 44 TEX. L. REV. 1254 (1966) and in Prosser, *The Fall of the Citadel (Strict Liability to the Consumer)*, 50 MINN. L. REV. 791 (1966).

[4] The honoree has described these in several articles, including Leflar, *Seminars for Appellate Judges*, 52 JUDICATURE 12 (1968) and Leflar, *Continuing Education for Appellate Judges*, 15 BUFFALO L. REV. 370 (1966).

[5] Leflar, *Taught Law is Tough Law*, 8 WAYNE L. REV. 465 (1962).

becoming acquainted with recent developments in the fields of their own responsibilities, so judges find that judicial conferences, seminars and workshops are, more and more, necessary for a judicial system which desires to have its judges keep in touch with current developments in judicial administration and substantive law—not to speak of one which desires to enhance its efficiency and the responsible performance of its duties by creative evaluation and improvement of its functioning.

In the vanguard of this movement to help the judiciary maintain its validity and its ability to serve the needs of modern society has been Bob Leflar. Although the initial impulse came from the ABA's Section of Judicial Administration, Bob Leflar can be regarded as the guiding Moses and spiritual father of the New York University Appellate Judges Seminars,[6] which themselves inspired so many other developments in continuing judicial education. His insights, developed from his own broad experience (including judicial service, as well as elective candidacy[7]) his broad and authoritative legal knowledge; his concepts of the areas where discussion might be most fruitful; his essential practicability and common sense; his perception that appellate judges are *people* administering, not solely abstract rules of law, but also justice for *people;* his sympathetic understanding of and basic liking for most human beings, including, relevantly, the judges at his seminars: for these and similar reasons, most appellate judges have felt their two weeks or so at seminar with Bob Leflar to be one of the most stimulating periods of their judicial careers, and one of the most pleasant.

For these reasons, also, through the appellate judges' seminars Bob Leflar has made a direct and significant contribution during the past decade to the philosophy of judicial decision. He has done this not by indoctrination but instead by encouraging our judges to examine openly the nature and function of the judicial process, and to draw their own conclusions.

In so many instances, the frank exchange of views between judges has helped them and the other participants to comprehend and refine a theory of judicial decision which may justify practices and approaches barely (and sometimes, previously, shamefully) acknowledged; the determinative use of policy as the basis for decision, for instance, rather than the word-logic used to justify it. (Bob, who sits not as an exponent, but rather as the wise Socrates helping the discussion with perceptive questions here and there, has rarely expressed himself positively on the issue. However, I believe his view might be that we judges should not only ourselves realize the policy basis of a decision we make, but we should also articulate it, as part of our opinion's resolution of the issue by conventional legal techniques.[8] The articulated real reason may serve better as a rational basis for future growth of the law than a legalistic non-reason.)

In almost all instances, the thoughtful re-evaluation by us judges of the way we do our work, as a result of attending a Leflar seminar, has led us to a much more profound understanding of our function in the judicial process—a better understanding which must inevitably lead us to make more significant contributions to the administration of justice in the appellate courts throughout the country. Without a period set aside for reflection upon the fundamentals of our craft, we judges might never have the opportunity or incentive to undertake such creative re-evaluation.

I am not here speaking of the seminars' value to judicial efficiency by acquainting our judges with the latest developments in judicial administration, or with the new techniques developed to meet the surfacing problems of appellate congestion. Nor am I speaking of the practical value of familiarizing ourselves with national research facilities, nor of finding out by mutual exploration the best ways, for instance, to use law clerks or to write opinions (or how to *not* write opinions in cases which can be decided by memoranda per curia). I am speaking more of a judge's coming to realize that his duty is not so much to apply rules mechanically (although this may be appropriate in clear-cut situations), as it is to effectuate the social purpose of a law-rule. This realization may constitute a fundamental breakthrough —a difference in approach and function similar to that between a carpenter mechanically following specifications and an architect with the responsibility for adapting materials and designs to the functional needs of the situation.

The idea that even appellate judges can be educated, and the functioning of their courts thereby improved, is now commonly accepted. When the concept of appellate seminars originated, however, its success was by no means assured. Several factors contra-indicated acceptance. Most appellate judges are pretty busy with court work, or think they are. Many do not feel they need much improvement (and of course they usually are able and dedicated men). Human beings are creatures of habit, and until recently courts had a way of keeping on doing things the same way as always, despite the availability of better ways or the desirability sometimes of accommodating methodology to changed circumstances.[9] Chief Justice Vanderbilt is supposed to have had reservations because the major items of interest at most judicial conferences he had attended had been solely pensions and pay raises.

In my opinion, the smash-hit status attained by the appellate seminars could not have been attained without Bob Leflar's leadership and imagination. The selection of the discussion topics is helped by advance polling of the judges to attend, but the final choice usually closely parallels the curriculum originated by him. The topics are a fine blend of the practical day-to-day concerns, of substantive law developments, and of sophisticated examination of abstract legal theory and jurisprudential philosophy. The advance reading helps return the judge to the library and to an overview of the judicial function for which he, in the busy practice of deciding cases, might not otherwise find time. Above all, the ten days or two weeks of discussion with fellow judges, in the peaceful atmosphere of a university and away from the pressing demands of the docket, offer an exhilarating opportunity to think and talk and read and dream about first things, and to come away refreshed with a clearer understanding of judicial responsibilities and an eagerness to perform them well.

But, without Bob Leflar the appellate judges seminars could not have succeeded so well as they have. The format is his conception. His personal contributions to the discussions are an important reason for the easy flow of view, for the willingness of us participating judges to lay aside preconceptions and pomposities and roll up our sleeves and get into the fray, to listen with tolerance to positions we may abhor, to become interested in concepts and approaches previously unknown, and to awaken to implications and nuances of substantive law or legal philosophy we previously had little time to consider. Bob Leflar does not preach so much as raise questions; but the questions are good ones, and often raise fundamental issues. His deadpan Arkansas humor sometimes underscores a point. What I am trying to say, I guess, is that the effectiveness of the discussions has owed a lot to the quality of Bob's remarkable personality, unassuming yet forceful. The participants like him, and they respect his mind and learning and practical experience. He serves as the essential catalyst by which is released the contributions of the participating judges, each enriching the experience for all.

Deepened by the experience, the participants (now more than four hundred of the seven hundred-plus appellate judges of America) return to their own courts, and their courts benefit by the insights gained at the seminars. Often, the judges themselves, as did we in Louisiana, see the value of such intensive discussion of fundamentals at a time set aside for the purpose, and therefore on their return establish periodic seminars for the judges of their own state. Such conferences, of course, lack the valuable pollination through participation by judges from other jurisdictions; but they do afford intra-state exchange of views and procedures, itself of value in a multi-court jurisdiction.

Further, without derogating the importance and the volume of the work of the trial bench, in the final analysis the judges on the appellate courts determine the approaches and the directions and the outer bounds of the process by which judicial adjudications are made. In perceiving that the functioning of the judicial process of America could be substantially improved through seminars for the appellate judiciary, Bob Leflar conceived an escalating notion of continuing inspiration and rededication.

Each year about forty judges (twenty from high and federal circuit courts, twenty from state intermediate courts) attend the seminars, a fair cross-section from America's eighty-plus appellate benches. Each year they return to enrich their home courts with insights and experiences gained. Year by year the number of judges so enriched has increased—and, from my own personal experience, I think I can say, once our thinking and imagination has been activated by the seminar experience, we tend to continue wanting to learn and grow in the years afterwards. The inter-judge and inter-court stimulation increase year by year, so that throughout the United States appellate courts are no longer the static, isolated bodies they once were. The appellate judges themselves, with revitalized interest in judicial administration and the judicial process, tend to share and communicate this interest throughout the judicial system they serve.

Other major social and legal factors have also contributed. Nevertheless, through his appellate judges' seminars and his personal influence and writings, Bob Leflar has all by himself made a major contribution to the quest for improvement in, and the better understanding of, the judicial process so notable over the past decade. He himself is a substantial cause of the current judicial rejection of the concept of law as a set of self-contained mechanical rules of neutral social value. The influence of his thinking—even more, of his encouraging *others* to think—has been and is a major factor in the present willingness of American appellate

[6] Burger, *School for Judges,* 33 F.R.D. 139 (1963).

[7] This modest man refers briefly to his judicial service and candidacy in Leflar, *The Quality of Judges,* 35 IND. L.J. 289 (1960).

[8] Leflar, *Some Observations Concerning Judicial Opinions,* 61 COLUM. L. REV. 810, 816–17 (1961).

[9] For instance, long after the typewriter (and even after Xerox), at least one high court does not circulate in advance of conference proposed opinions, nor reports on recommendations to grant or deny a writ of review. Just as did their predecessors of one hundred fifty years ago, the justices for the first time at conference learn, from an oral reading, of the action or opinion they are supposed to sign at the conclusion of the reading.

courts to accept their responsibility for rational and creative development and application of law-rules.

ROBERT A. LEFLAR: A TRIBUTE TO A PROFESSIONAL

(By Robert R. Wright, Dean of the College of Law, Director of the Law Center, and Professor of Law, the University of Oklahoma. Professor of Law, University of Arkansas (1963–70))

Then said a teacher, Speak to us of Teaching.
And he said:
No man can reveal to you aught but that which already lies half asleep in the dawning of your knowledge.

* * *

If he is indeed wise he does not bid you enter the house of his wisdom, but rather leads you to the threshold of your own mind.
—Kahlil Gibran, The Prophet.

In a sense it seems somewhat out of place and singularly inappropriate to be writing an article in an issue of the *Law Review* devoted to Bob Leflar. It is not because he does not deserve it; it is because I do not think he is quite ready for it. It seems a little like turning a thoroughbred out to pasture after he had just won the Triple Crown. My view of Bob Leflar (distinguished professor emeritus though he may technically be) is always of a man beginning things and doing things and not of a man about to retire from the field of battle. Bob Leflar, nearing 70, has more irons in the fire and more things going than 95% of the law professors in the United States. From empirical observation, I would say that his view of "retirement" is when a man goes home around five o'clock in the afternoon, instead of putting in what he would personally regard as a decent day's work.

But the rules of the University of Arkansas Board of Trustees force them to do their duty in this case in the same manner as in others and to turn Man of War out to pasture in his prime as if he were some garden variety form of animal (for whom the rules were made) instead of the war horse that he is. Arkansas must do his duty—and so must Arkansas' man at Oklahoma. Therefore, I am quite pleased that a distinguished professorship at the University of Oklahoma College of Law will be held during the spring semester of 1971–72 by Robert A. Leflar.

You have to realize in the beginning that I find it difficult to approach the subject of Bob Leflar objectively. It is a bit different than dealing with the Rule in Shelley's Case [1] or the Arkansas stallion, jack and seed horse statutes.[2] The burden of the subject matter is overwhelming. Shelley is long since dead and doesn't give a damn about his case anymore, and the stallion, jack and seed horse statutes are largely notable for their entertainment value—somewhat on the same order as the question of whether Arkansas' Rana Catesleianas can go out to California and be permitted to outjump interior frogs.[3] Leflar is a subject of substance, and unlike Coke (of whom I also like to write), he is very much around to tell me where I go astray when I write about him. Moreover, when you get around to looking at all the things Leflar has *written*,[4] and all the law reviews in which he has published,[5] you begin to accumulate something approaching the *Harvard Classics*. Deans have more important things to do than read all that stuff—like making sure that the Physical Plant (known locally as the sons of Dracula) has not charged more than ninety-six dollars for three men to replace a lock, or that a requisition for yellow pads has been approved by several vice-presidents, two or three accountants and a bursar (whom I used to think only existed on British vessels). Of course, it is just as Leflar once said in a faculty meeting in which some serious, inane discussion was taken place as to whether a certain man should be brought in as an Assistant Professor or an Associate Professor, and I had remarked that somewhere in between Dean and Janitor would be appropriate. Leflar pointed out that I had the "range" wrong with respect to Law School status. "The only thing lower than a Janitor," said Leflar, "is a Dean." In many respects he was correct. A Dean is to some extent a Janitor with academic degrees and with some access to power and to "side honors" from those who do not know the truth. Leflar, a great Dean, knew the truth.

That is where we begin, I suppose. The students, now lawyers, said it best in the late 1950's with one of their ribald skits, when they referred to Bob Leflar (to the tune of "Holy, Holy, Holy") as:

Robert Allen Leflar
Dean of Arkansas's Law . . .

He has been that, and more. And we know it, and it is time that we acknowledged it. He has been the overriding figure in Arkansas law—the intellectual symbol of the quality of our law, the teacher of those who make the law and those who try it in the crucible of the courtroom—for fully two generations. Dean Waterman began the law school, and he was a mighty figure; but not even Julian S. Waterman exercised the influence over the legal profession in Arkansas that belongs to Bob. We are his products, and when we do the good things, the wise things, the work that wins cases—many times it is because of him and his influence. He was and is the master craftsman; and he has made us better than we were before, better than we were likely to have been without him. He has led us, as the prophet said, to the threshold of our understanding. To me he was the good teacher, the great scholar, the maker of lawyers, the architect of law. He still is, and thus it is as appropriate that we honor him now as it would have been some years before or some years to come.

I. LEFLAR, THE LEGAL EDUCATOR

It was altogether fitting that in honor of its centennial year, the University of Arkansas should ask Bob Leflar to write a new history of the University. He was the first man to hold the chair of Distinguished Professor at Arkansas, and certainly in its history he must stand in the front rank of those professors who have distinguished themselves at Fayetteville. His eminence as a legal educator extends far beyond the confines of the Ozarks to the point that within the law he has long since become a national figure. So many times, professors and deans from prominent law schools and leading attorneys and judges from throughout the nation, upon learning my background, have asked me about Bob and paid him high compliments. It is not just that they knew of him; they knew him personally or had worked with him in the past or were currently working with him, and invariably they would laud the quality of his work, his keen insight, his contribution to a particular project or to the profession generally. His scholarly contributions in the law of conflicts have marked him as one of the leading thinkers and authorities in that field.[6] In his work as Professor of Law and Director of the Appellate Judges program [7] at New York University, he has won renown throughout the legal profession and particularly among the judiciary for a program that has likely influenced the quality and style of the decision-making process in federal and state appellate tribunals throughout the United States. Thus, Leflar, the teacher/scholar, has earned a rare place even among distinguished law teachers. (The emphasis there should be on "*earned*".) [8]

But let us dwell for a time at least on Leflar's views on legal education generally, his place in it, and upon his contribution to legal education in Arkansas in particular.

It is a matter of history that the University of Arkansas Law School, since its institution of classes in Fayetteville in September, 1924, has only had four deans—Julian S. Waterman, Robert A. Leflar, Joe E. Covington, and Ralph C. Barnhart.[9] The small number of its deans, considering the fact that the school is now nearing the half-century mark, is a tribute to the leadership of these men and the conditions of development and stability which they created.[10] Whether as a teacher or a dean, Leflar has been an integral part of this nearly fifty years of growth in legal education in Arkansas. He joined the faculty in 1927, only three years after the school's inception and in the same year that it was approved for membership in the Association of American Law Schools (having been fully accredited by the American Bar Association almost two years earlier, in January, 1926).[11] He taught at Arkansas continuously during the period since then, except for one year during which he completed the requirements for his S.J.D. at Harvard, a year as Visiting Professor at the University of Kansas, and a year as Visiting Professor at the University of Missouri.[12] In more recent times, he has served on both the faculties of New York University and Arkansas, and during one year commuted back and forth by air, teaching in both locations. NYU would have liked to have had his services on a full-time basis, as would have some other prominent American law schools. The fact that he remained inextricably attached to Arkansas is a tribute to his dedication to the institution. As the years passed, he came more and more to feel a responsibility for it, a sort of professional stewardship which tied his future to the future of the Bar of Arkansas. "A man would be a fool to say that he would never leave," he would say. But whatever his reasons, he never did, even when opportunities beckoned. So, nearly a half-century of Arkansas lawyers bear his imprimatur, and since over half of the Arkansas Bar is composed of the University of Arkansas law graduates, it is literally true that over half of the Arkansas Bar is Leflar-educated. It is a much stronger Bar because of it.

A professor who devotes most or all of his teaching career to a single institution makes a singular contribution to that school, particularly if he is an able man whose impact the students will carry with them. And if the particular institution happens to be a state university, such a teacher will cast the shadow of his influence across the entire bench and bar of the state. His views will influence its legal development; his attitudes will touch and affect the growth of the law and the quality of the practice within the jurisdiction; and his traits will become those of many of his intellectual progeny. If he is a man of quality, he will usually be viewed as too "liberal" even by those whose professional education has taught them that law provides the vehicle for social and economic change and thus produces an orderly society. Without question, Leflar has universally been viewed in Arkansas as a "liberal," and properly so, although in the best and traditional sense of the word and not in the current pattern of misuse which occasionally elevates a down-and-out barnburning radical into the ranks of "liberalism." Moreover, when a lawyer is a teaching professional rather than a practicing professional, he will usually suffer from allegations that he is "impractical" or a "visionary." Leflar has no doubt been the subject of such assertions from time to time in Arkansas, although he was "practical" enough to sit on the state supreme court and to preside over the creation of a very down-to-earth, proposed new constitution for Arkansas and equally practical enough to steer clear of issues which would surely doom it in advance. Thus, in the words of Dean Page

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Keeton of the University of Texas Law School, if a legal educator "works hard and lives courageously, it can then be said that he lived for a time, and it made a difference." [13]

No great educator, of the law or otherwise, will amount to very much unless he is both courageous and a first-rate "visionary." To the layman, and even to those lawyers who are inclined to employ the word negatively, this may mean that the individual in question is up on cloud nine except when he comes down once a month to pay the rent and the utility bills. Unfortunately, some people in the teaching profession manage to promote the distortion by assuming that very image. I have heard some of them (who usually teach liberal arts courses) from time to time speak of the "outside world" or "outside community" (i.e., the non-campus or non-academic community—the "town" rather than the "gown"). Unless these people work in the pure physical sciences, where knowledge of human nature may be of lesser consequence, their "vision" is about as valuable as that of Mister Magoo on a Saturday night drunk. The true man of vision in the best sense of the word, is the man who does in fact know human nature and the weaknesses and proclivities of men, who knows history and the interrelationship of time and men and events, and who finally and most importantly can apply the knowledge to see and mold the direction of society and to determine how and where it must go to achieve its better goals. It was men of this stripe whom Judge Learned Hand had in mind when he ascribed to law schools the function of "contriving new methods, of discovering new ideas, of surveying new territory . . ." [14] By these standards, Bob Leflar is indeed guilty of being the "liberal visionary" of which some might accuse him. More than once, he foresaw time and events and steered us toward the calm waters in a practical and yet courageous manner. In the law he pursued new ideas and new methods in the manner Judge Hand suggested. Primarily, Leflar's contribution in this latter area lay in the field of conflict of laws, in his work as a Commissioner on Uniform State Laws, and in his direct participation in the law-making process in Arkansas as a member of the state supreme court. Even so, within the law school context, his influence served to keep the University law school up-to-date in its practices and approach to law teaching In his history of the school up to 1962, he discusses the "continuous re-evaluation of courses and curriculum." [15]

As for "liberals", it might be said that there are those who only preach the liberal virtues and those who practice them. Certainly Thomas Jefferson, America's foremost liberal, was not just a preacher but a practitioner, whose words were given substance in the Declaration of Independence, the Bill of Rights and the Virginia Statute of Religious Liberty, among other documents. Leflar, the practitioner, was Dean of the Law School at the time when it became predictable that the United States Supreme Court would require that Negroes be afforded equal access to law schools of equal quality in states of their residence. But the court had not yet said this—as they later would in such cases as *Sweatt v. Painter*,[16] *McLaurin v. Board of Regents*,[17] and the *Sipuel* [18] decisions—when the determination was made at Arkansas that qualified Negro applicants would be admitted. The result was that before any Court decision required it, Arkansas admitted the first Negro since Reconstruction to a "white" institution of higher learning in the South.[19] The fact that later cases would have made it mandatory does not eliminate the fact that this was accomplished voluntarily at the University of Arkansas Law School; and the fact that the Board of Trustees and the Governor acquiesced in this action [20] is a tribute not only to Leflar's vision but also to the political acumen with which he approached the situation. It would be many years before Robert Kennedy and Ross Barnett would lock horns over James Meredith at Ole Miss and before George Wallace would stand in the University of Alabama's "schoolhouse door." That these things did not occur at the University of Arkansas, that the Fourteenth Amendment came peacefully and without rancor to the Ozarks, must be attributed in no small measure to Bob Leflar.

And so, one canont help but think of Bob Leflar when he reads Dean Keeton's words:

[T]he importance of the rule of law will not change; and the legal educator will take his place, as it seems to me he already has, as free society's leading spokesman for those fundamental notions that underlie the expressions, "the rule of law" and "a free society." [21]

As Dean of the Law School, however, Leflar made a much more tangible and non-philosophical contribution in presiding over the construction of Waterman Hall,[22] which provided the school with more modern and spacious facilities than it had ever known, even though it has now outgrown those facilities and faces a serious need for additional library, office and classroom space on the Fayetteville campus. The Law School had begun in the basement of Old Main and had later acquired its own small building, which was adequate for its needs at the time but which by the late 1940's had become demonstrably inadequate. The result was described in these words:

In the summer of 1951 Dean Leflar, who had just completed a short appointive term on the Arkansas Supreme Court, was authorized by the Board of Trustees to seek contributions from lawyers in the state toward construction of a new Law School building. Approximately $75,000 was pledged, and the Board provided the balance of the $365,000 cost from University funds. Planning of the new structure had been under way for years. The result was a building, Waterman Hall, uniquely suited for law school purposes. The building has since been studied and copied by a number of other law schools in their new construction.[23]

In building Waterman Hall, Leflar and the law faculty acquired as much space and quality as they could for their money. They envisioned the school growing to the point that a maximum of around 250 students would be in attendance—substantially more than had ever previously been enrolled. Waterman Hall was built to accommodate 250 comfortably and even to take as many as 300, if necessary, but no one in 1951 could have envisioned the demands of twenty years in the future. By the latter half of the 1960's, enrollment had begun to grow by leaps and bounds and the requirement of an undergraduate degree (along with the taking of the Law School Admission Test) did little to slow it. Today, the School of Law has grown out of its "small school" status and into the medium-sized category. Over 1,500 people [24] have graduated from the Law School—to form the majority of the Arkansas Bar and to become civic leaders, businessmen, public officials, judges, law professors and deans.[25]

What they have achieved, and what quality and reputation the school has acquired in so short a span, relates in no small measure to what Bob Leflar gave them and to what he gave the school. His legacy is his energy, his loyalty and his devotion, just as much as it is his teaching and his reputation as a scholar.

And what should a law school be? When I was Director of Continuing Legal Education on the University law faculty, I thought it would be well to have Leflar express his views on the subject as a part of the 1965 fall legal institute. His discussion of the subject, which was reproduced in the *Law Review*,[26] provided certain salient views on what a good law school should be. Among them were these:

(1) A good law school should be a part of a university "because no school that is not part of a university, partaking of its university's cultural and academic atmosphere, has ever amounted to much."

(2) Obviously, a good law school should be approved by the ABA's Section of Legal Education and by the AALS, but there is "no magic" in such approval, because these are only minimal standards—only starting points for a good law school.

(3) "The first test of a law school's quality is the teaching that is done in it," but nothing is harder to measure. Good teaching will give a student the understanding of fundamental rules, principles, policies and the organization of the legal system, will cause him to master the technique of in-depth analysis, will cause him to appreciate the law's relationship to society, and will give him an interest in the law sufficient to "induce him to spend the rest of his life trying to learn something about it."

(4) It would be ideal if the first and second years could take care of the "subject matter courses" and the third year could be spent in "problems and drafting courses, seminars that check into narrow areas of the law in thorough detail, interdisciplinary courses that would tie law in with" human concerns and jurisprudential courses that would enable the student to think deeply on the broader picture of the law.

(5) "For the men good enough to make the staff, the law review gives the best education that law schools afford."

(6) The main value of a bar examination is that "it compels the student to engage in a comprehensive review of all that he has studied so far, at the close of his period of formal education."

(7) "After the faculty, the law library is the most important part of any law school" which means "the right boks and plenty of them, which can be expensive" and which assumes the extensive use of the library by both students and faculty alike.

(8) While the building is less important than a good faculty, a good usable library, and an atmosphere of learning, an adequate building is essential in order to accommodate the major functions and needs of the institution.

(9) Law school administrators must have reasonable autonomy within the university structure to do things that they can do better than the central administration and to fulfill the school's ties to the legal profession.

(10) A good faculty "with as low a student-faculty ratio as is reasonably possible, is the most important feature of any law school." Classes which are too large detract from the teaching process. "A good faculty is hard to get, and harder to keep."

(11) Good law teachers are made, not born. They have to work at it, and they are also expected to demonstrate their scholarly abilities through periodic articles and research. But a law teacher's main job is teaching, and if he does not take it seriously, he ought not to be in teaching. He must also be something of a long-term planner and train lawyers for tomorrow, not today or yesterday.

(12) Admission standards should exclude students who clearly cannot make the grade in law school. This is hard to do, because personal drive is hard to measure, but it is cruel to admit people who are likely to flunk out after a year and thus take a year out of their lives.

(13) The mounting costs of legal education to the student should not make law schools a haven for the well-to-do. Scholarship and loan funds should be made available to those who need them.

(14) Placement programs, student orga-

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nizations, continuing legal education, a law alumni organization, and a good moot court or skills program are important ancillary activities of law schools.

(15) Faculty participation in efforts to improve the law is quite important, as is faculty service to the university community.[27]

He concluded: "No law school ever became great by merely continuing to do what it has done in the past. That is the way to lose greatness. Only persistent work coupled with creative imagination can open the future's doors. When the doors are opened, wisdom and common sense must choose the paths beyond." [28]

And so, "Leflar on Legal Education," without specifically saying so, leaves us with a challenge to achieve the quality which is the mark of a good law school. Quality does not come cheap. To achieve the objectives which he set forth as the definitive characteristics of a first-rate operation is to make a financial and professional commitment to the University of Arkansas Law School considerably beyond what has yet been the case. For although we could point out examples of how Arkansas meets each of the criteria which he set forth, it would be generally conceded that the fulfillment of those characteristics is uneven and imperfect at best. Through financial inadequacy, Arkansas has not yet achieved what the legal profession or the faculty would wish for it, or what Bob Leflar has spelled out for it. That it has come as close as it has, can largely be attributed to the dedication and efforts of a relatively few men (and Leflar in particular). There are many gaps to be filled, and one of the greatest is that which results from the retirement of Bob Leflar.

II. LEFLAR, THE SCHOLAR

It would be not only presumptuous, but rather difficult, for someone who does not purport to be an authority on a subject to evaluate the work of someone who is. A truly worthwhile evaluation of Leflar's contribution to his particular specialty, the law of conflicts, should come from someone like Professors Albert Ehrenzweig, David Cavers, Elliott Cheatham, Russell Weintraub, Eugene Scoles, Roger Cramton, or one of several others who might be named.[29] These are "conflicts" men, who are sometimes thought of as a rather esoteric breed in the law teaching world. I recall the remark of one law professor—not a "conflicts" man, naturally—that he thought the whole field could be taken care of by a good statute. He was being facetious, and I feel confident that he was in error anyway because the people who would be picked to draft the statute would be leaders in the field, who would never agree, and each of whom would espouse his own theory of what was "true" and "good." It would be like a gathering of theologians talking about church union, in which each would advance his own view of the Deity. As an outsider looking in (which is obviously the only way I can semi-intelligently discuss the field of conflict of laws), it would appear that conflicts theories have been in almost a continuing state of flux, the movements of which rather resemble the perambulations of an amoeba. The original *Restatement of Conflict of Laws* must surely be least or close to it on the value scale of Restatements. Not only does it largely fail to express what the law is; it fails just as much to express what the law should be (or at least what conflicts scholars *think* it should be, since their thoughts run in unison only on certain basics). The ability to bring order out of chaos, or at least out of a well-spring of different views, has seemed to be the task confronting conflicts scholars. It is my belief as an onlooker that Leflar has done a better job of it than most anyone else.

Dean Roscoe Pound has noted the substantial effect of doctrinal writing on American law.[30] This effect may be seen in the conflicts field in the writing of Justice Joseph Story in the nineteenth century, whose book dominated during that period.[31] Modern thinking, however, probably begins with the split between Professor Joseph H. Beale of Harvard and Professor Ernest G. Lorenzen of Yale.[32] Beale took a rather mechanical approach to the subject, and his thinking dominated the *Restatement*, published in 1934, and also generally formed the basis for Judge Herbert Goodrich's text which appeared in 1927.[33] Lorenzen and his followers attacked this approach and the Lorenzen school of thought probably influenced the text by Professor George Stumberg [34] of Texas, which was less rigid in its analysis. The great Walter Wheeler Cook also opposed the Beale approach.[35] The *Restatement (Second)*,[36] though seeking more flexibility than the original version, has nonetheless been criticized on a rather continuing basis by Professor Ehrenzweig.[37] The late Professor Brainerd Currie of Duke also set forth views the subject of which have been widely and favorably discussed.[38]

The major problem in the conflicts field, stated perhaps too simply, is what law applies when, under what conditions, in what situations, to what extent, and why.[39] (Parenthetically, it might be noted that to a substantial degree, conflicts situations actually stem from our peculiarly American system of multiple sovereignty,[40] and that every conflicts scholar, who wishes to preserve his domain, should be a dyed-in-the-wool states' righter. This oversimplification ignores international disputes, of course.) Conflicts problems, of course, are quite serious business, since the outcome of the lawsuit may hinge upon the law of which jurisdiction is applied. Will an Arkansas court apply the substantive law of Arkansas to Mr. Ecks of Oklahoma City, who has a problem with Mr. Wye of Little Rock, when they are both in court in Washington County, Arkansas? The answer is not "yes", but "maybe" (or "probably"). You have to know more about it in order to say. And what if Mr. Ecks of Oklahoma City and Mr. Wye of Little Rock are in court in Caddo Parish, Louisiana? Or what if they engaged in a transaction which occurred or a tort situation which arose in Caddo Parish, Louisiana, and they are both in court (though only God and the conflicts scholars know why) in Tarrant County, Texas? Well, of course, the more complicated this sort of multi-state milieu gets, the more the conflicts scholars rub their hands in glee. These are problems to titilate a first-rate jurisprudential juggler, not some pedestrian property or contracts man.

When you get into choice of law problems, you get into all kinds and conditions of theories. Suffice it to say that I think all or most conflicts men would agree today that it just cannot be simplified and rigidified to the point that Beale might have liked. As a one-time equity teacher (before equity was combined with damages and restitution to form the course in remedies), I would have to say that much of the sense or spirit of equity seems to have permeated the thinking of conflicts scholars. Because what they are seeking is a generalized formula with enough flexibility in it that by a judicious and equitable application of it, a court can feel its way toward what most nearly approximates justice and fairness in a given situation, rather than saying rather arbitrarily that a particular law automatically will govern.

Now to get back to Bob Leflar and his work, it seems to me that what Bob has achieved (other than write the text which most lucidly and carefully expresses the modern American law of conflicts) [41] is to synthesize some of the best thinking into the sort of generalized formula of which I speak. I will not deal here with the "most significant relationships" [42] test or "center of gravity" [43] rule, or with the principles which different courts have employed. Suffice it to say that in more recent times, conflicts scholars have concerned themselves with the identification of factors or considerations which control or bear upon the outcome in situations involving a choice of law. Leflar undertook to analyze the cases and the considerations with the idea of "identifying, summarizing and listing the choice-influencing considerations." [44] He arrived at a list of five: (1) Predictability of results; (2) Maintenance of interstate and international order; (3) Simplification of the judicial task; (4) Advancement of the forum's governmental interests; and (5) Application of the better rule of law.[45]

It is seldom the good fortune of any of us to see our pronouncements become living law as enunciated by the courts. But in the case of the five choice of law considerations which Leflar summarized, this is increasingly becoming true. In a New Hampshire case, *Clark* v. *Clark*,[46] speaking through Chief Justice Kenison, the court summed up the five factors about as they have been expressed and applied them to the facts at hand. The Supreme Court of Wisconsin, a state tribunal which has often stood among the forefront of the more enlightened jurisdictions in the United States, followed Leflar's choice-influencing considerations in *Heath* v. *Zellmer*,[47] and then again applied the considerations in several later cases.[48] Rhode Island (and to some extent other states) have followed suit,[49] and legal encyclopedias and law review articles have praised the Leflar approach.[50]

Leflar is the first to admit that these "choice-influencing considerations are not eternal" and that the result will not be the same in similar cases, "because different courts will weigh the considerations on different scales." [51] Then, does not this flexibility in effect create chaos in choice of law problems? Not so, says Leflar, because "all must agree that there is virtue in flexibility for some areas of choice of law." [52] Therefore, "the search for truly relevant considerations, and frank recognition of their controlling effect, is particularly needed." [53] Thus:

"The variety is already there, presumably as it should be, but what is lacking is a reasonably clear explanation of what it is that justifies now one choice between jurisdictions and next a different one. Intelligent analysis in terms of the choice-influencing considerations should produce that explanation. Even in these areas it seems that no more flexibility than before is in prospect. The difference should be not in greater variety of results or more judicial freedom to reach various results, but in more realistic reasoning, more openly stated, behind the results." [54]

What he has done is to define the criteria, to identify the considerations, to leave the flexibility which may produce justice—or which may equally lay bare ignorance or parochial prejudices. The burden of Leflar's "choice-influencing considerations" thereby falls upon the courts, as it ultimately must, and they will adjudicate wisely or suffer the adverse judgment of history and time. For law is not chemistry, and to the extent that Beale sought to apply the litmus paper test to the law of conflict of laws, he demonstrated a remarkably poor look down the jurisprudential road. As Professor Willard Hurst of Wisconsin has observed:

The most creative, driving and powerful pressures upon our law emerged from the social setting. Social environment has two aspects. First, it is what men think: how they size up the universe and their place in it; what things they value, and how much; what they believe to be the relations between

Footnotes at end of article.

cause and effect, and the way these ideas affect their notions of how to go about getting the things that they value. Second, it is what men do: their habits, their institutions. Ideas and institutions obviously are inseparable aspects of men's history. We do not have to try to decide which, if either, is the more powerful.[55]

For we exist in the midst of constant change, and law is the tool by which society responds. We reach out to grab our moment in time, to seize it for better or worse, for good or for ill. And so it is that Leflar's "choice-influencing considerations" say: These are the criteria, the guidelines, the channelized principles from which you draw to find justice. Now, find it. And the good judges will, and the poor judges never could anyway.

III. LEFLAR, THE LAWMAKER

When I was a child, growing up in South Arkansas in the depression, Leflar was already making laws.[56] When I was an undergraduate college student, Leflar was then on the state supreme court determining disputes on appeal.[57] He has always performed well at that sort of thing, of course. But I will not dwell on those activities. Nor will I devote space to an enumeration of his service to the National Conference of Commissioners on Uniform State Laws, of which he is a lifetime Commissioner from Arkansas, and to which he has contributed far beyond the ability of the average member of this somewhat lawyer-intellectual elite which has produced so many laws of national significance.

For despite its unfortunate failure at the polls, perhaps the crowning achievement in the life of Bob Leflar, the lawmaker, was the Arkansas Constitution of 1970—which may very well yet find acceptance in many of its provisions upon submission of those individually or upon resubmission of the entire document (perhaps in some modified form). I will not go into detail discussing this constitution since it has already received recent widespread attention in the State press and since an issue of the *Law Review*[58] was devoted to a symposium on the subject. Suffice it to say that its defeat seems to be attributable in large measure to an unfortunate combination of misunderstanding, ignorance and apathy—spiced with a liberal sprinkling of resistance to change, fear of increased taxes and prejudices of one variety or another.[59] Like most Arkansans, I did not agree with all of its provisions, and there were some (which I see no need to go into) to which I felt rather strongly opposed. Nonetheless, the benefits of the Constitution of 1970 far outweighed its defects, and the State is much the poorer for not having approved it. The result of its rejection is that there are hands tied by the past which should be free to work toward the future. The economic development of the State and its local governing units remains seriously hampered by the antiquity and limitations of the old Charter. This perhaps is the legacy of the defeat which will in the long run most hamper the State in its efforts to move forward, because if there is anything that people of all political hues seem to agree upon in Arkansas, it is that the State needs to move forward economically. It cannot do so when its State and local administrative structure is an antiquated drain upon the resources of the State, when its cities are constricted in their growth and development, when basic tax reform is needed, and when otherwise legitimate revenue-producing sources remain outside of even the ability of the people to vote them in by popular election or through their representatives in the legislature. Similarly, judicial and governmental reforms, of a basic nature, are needed if efficiency is to prevail over inertia.

Leflar, and a few before the constitutional movement had really gotten under way,[60] had recognized that Arkansas could not go on with a constitution which was a century old—a document which was the product of a rural, populist socio-economic structure, which was a reaction to reconstruction, was overly detailed and which no longer had any relevance to a growing, changing society. This does not mean that certain basic truths no longer existed—nor did the Constitution of 1970 even suggest that such was the case despite occasional red herrings to the contrary. It did mean, as the great majority of educated men and women realized and as all of them should have realized, that the world of the Victorians, the world of a small-town Little Rock,[61] a world free of urban problems and modern economic needs and unrest among the young had long since passed into the mists of time. The 1970 Constitution, however one might view isolated segments of it, was as essential as blood is to the body. Its failure does not alleviate the need for massive transfusions in Arkansas government.

It was singularly appropriate that Arkansas' most distinguished legal scholar should preside over the drafting of such a document. The convention brought together a mixed variety of political views from throughout the State, although quite predominantly conservative. They produced a conservative document, in the sense that conservation in the true and best sense of the word merely preserves that which is sound while seeking to produce a legal order which recognizes and responds to constant and ever-continuing change. It was, on the whole, a well-written and carefully reasoned document, and those who wish to see the State move forward will continue in their efforts to incorporate its essentials into basic law. Over the long haul, the Constitution of 1970 will likely have left a greater legacy than those who defeated it yet realize.

IV. LEFLAR IN RETROSPECT

. . . I'm in the autumn of the year,
and now I think of my life as vintage
wine from fine old kegs, from the brim
to the dregs.
It poured sweet and clear;
It was a very good year.[62]

Bob's career, his contributions to his profession, have always been like vintage wine. For him, they have all been very good years. The stories about him are legion, as are those students who remember him with a mixture of awe, fondness and respect. You were always prepared for Leflar. One way or another, in the early morning hours—anytime but always sometime—you prepared. And as of that moment, you became a better lawyer without knowing it.

Time has a way of changing people and things, but not Bob in the eyes of his students. Those in 1949 saw him about as those did in 1969, as the consummate teacher-scholar. All that changed was his reputation, and it grew as the years passed; and those of us who studied under him grew with it. For in all of life, we carry bits and pieces of others with us for better or worse. All of us are part of an interrelating whole; the lives of other men touch us and shape us and we become part of them and carry them with us down through the years. So it is that over two generations of Arkansas lawyers and Arkansas law bear the Leflar imprint. There will be days on which courts will be a bit better or wiser than they are—and Bob Leflar will be there. There will be times when a lawyer will stand tall in a country court to do the good thing, the right thing, the courageous thing—and Bob will be there. There will be lawyer-statesmen arise in the halls of Congress and in the legislature to speak the truth as they see it—and Bob will be with them. There will also be the quiet, gentle days, the days of simple efficiency and calm, effective analysis; and that is Bob Leflar too.

We will remember him for many things, but perhaps the most for his part in helping us grow, in those years beyond today when we recall the warm Ozark sun, the crisp beauty of an Ozark autumn, the days of our youth, and the greatness and the wonder of the law.

FOOTNOTES

[1] Wolfe v. Shelley, 76 Eng. Rep. 206 (K.B. 1581). *See* Wright, *Medieval Law in the Age of Space: Some "Rules of Property" in Arkansas*, 22 ARK. L. REV. 248, 250 (1968).

[2] ARK. STAT. ANN. §§ 78–1136 through 1139 (Rep. 1957). *See* Note, *Legislative and Judicial Dynamism in Arkansas: Poisson v. d'Avril*, 22 ARK. L. REV. 724, 732 (1969) by McClodd and LePeu.

[3] ARK. STAT. ANN. § 47–508 (Repl. 1964) makes it illegal to export bullfrogs from Arkansas to other states, but Arkansans will recall that in 1970 after some minor legal gymnastics, it was decided that Arkansas' champion jumping frog could participate in the annual Calaveras County, California, jumping frog contest (which was won by the Arkansas entrant).

[4] Other than his books, Leflar has published at least 120 law review articles or other materials (and I fear I missed a few in making a hurried count). In the words of the great historian, Will Durant, "How shall we do justice so briefly to so powerful a personality, and so fertile a pen?" W. DURANT, IV THE STORY OF CIVILIZATION: THE AGE OF FAITH 71 (1950).

[5] Outside of the *Arkansas Law Review*, its predecessor, the *Law School Bulletin*, and state bar publications, Leflar has published in the *Harvard Law Review, University of Pennsylvania Law Review, Michigan Law Review, Stanford Law Review, Tennessee Law Review, Journal of Public Law, Missouri Law Review, Vanderbilt Law Review, New York University Law Review* (and its predecessor), *Boston University Law Review, Law and Contemporary Problems* (of the Duke Law School), *California Law Review, Texas Law Review, Mississippi Law Journal, American Bar Association Journal, George Washington Law Review, Illinois Law Review, Oklahoma Law Review, Cornell Law Quarterly, Rocky Mountain Law Review* (Univ. of Colorado) *Washington University Law Quarterly, Journal of Legal Education, Columbia Law Review, UCLA Law Review, Journal of the Missouri Bar, Ohio State Law Journal, Indiana Law Journal, Wayne Law Review, Buffalo Law Review, Cleveland-Marshall Law Review, Judicature, Trusts and Estates, Journal of the Society of Public Teachers of Law, Southwestern Law Journal* (of SMU), *Notre Dame Lawyer, American Law School Review, American Bar Association Section of Real Property Law, Tex Counselor's Quarterly*, and *the Trust Bulletin*.

[6] In reviewing Leflar's newest edition of his book, entitled *American Conflicts Law* (1968), Professor Albert A. Ehrenzweig of the University of California at Berkeley, himself one of the greatest conflicts scholars, stated in *Comparative Conflicts Law*, 16 AM. J. COM. LAW 615, 616 (1968):

Here a great judge and scholar, to my knowledge uniquely, has at the same time achieved both a first edition with a totally fresh approach and a new title, and a third edition building on the experience and growing perfection of two predecessors. In 1938, Leflar published his first text on the conflicts law of Arkansas. Not only did he thus decisively and definitively shape the law of his state. But everybody knew that the modest title concealed a national treatise which avoided the pretense and diffusiveness of other texts by concentrating on the complete analysis of the case law of one state. When in 1959 this book was followed by a Student Edition on THE CONFLICT OF LAWS, Leflar raised the curtain, quickly to occupy the stage with the leading scholars in the field.

He adds, in mentioning catch phrases with which the courts and legal scholars have concerned themselves:

This sorry maze of "modernism" Leflar has cut through with the sure hand of an experienced judge and wise man. In four bold steps he shows us the way to new certainties. First, he assures us "it is still law that the courts apply. After the 'gimmicks' are gone, the choice is between one rule of law or another." Second, "a court may well prefer what it regards as the better, sounder rule of law. . . ." Third, "courts in practice more often than not do use their own law rather than that of some other state. . . ." But, fourth, in their choice courts rely on several "choice influencing considerations." These considerations . . . have, during the short period since their first publication, become the principal tool of several distinguished courts in preference over the Second Restatement's obscurantist formulae.

Ehrenzweig concludes:

Perhaps this eulogy can fittingly conclude with the comment that one can hardly find anywhere a better treatment of the law of jurisdiction and the conflict law of crimes than in the book under review.

Id. at 617.

And he adds that the book is likely "the best American treatise on the conflict of laws. This book will be on every judge's, every scholar's, and every student's desk for a long time to come and American law will be the better for it." *Id.* at 619.

Similarly, the outstanding conflicts scholar, Elliott E. Cheatham, Professor of Law at Vanderbilt and Charles Evans Hughes, Professor Emeritus at Columbia, commented on Leflar's most recent edition in these words.

This excellent book sets out clearly the law of its time and is a major aid to anyone who works now in its intricate and intriguing field. It does still more and so has long lasting value. Throughout it seeks the fundamentals on which the application and development of the law should rest. In the minute examination of a particular case it is all too easy to overlook such larger factors as "the law's total task," "national interests that transcend state interests," and his choice-influencing considerations. Through attention to these factors, which Professor Leflar states so well, there will be developed conflict of laws principles adequate to the needs of the rapidly changing interstate and international systems.

22 ARK. L. REV. 804, 809–810 (1969).

In his book review in 21 S. C. L. REV. 133, 135 (1968), Professor David H. Means describes Leflar's work as "the considered judgments of a contemporary master of the subject of Conflicts of Laws."

See also, Felix, *Book Review,* 34 Mo. L. REV. 304 (1969).

[7] *See* Leflar, *The Appellate Judges Seminar at New York University,* 9 J. LEGAL ED. 359 (1956), one of a number of articles which Leflar has written on the subject of the appellate judges program at NYU and his work with it. Suffice it to say that the program has become familiar to every appellate judge, both federal and state in the United States and that large numbers of these judges have attended or served as instructors or lecturers for the seminar. The program is Leflar's own unique contribution to continuing legal education, and both the quality of the program and its effect on America's judicial elite mark him not only as a particular pioneer in the field of continuing legal education, but also as having a direct hand in shaping the concepts, attitudes and approach of the American judiciary.

[8] It should be stated (although I doubt that anyone has done so quite as bluntly) that the average state university law school is not the place to go to gain a national reputation. Most law professors attempt to gravitate, if they possibly can, to the Ivy League schools, to NYU, to Chicago or a Big Ten school, to Berkeley or Stanford, or to a scattered few others such as Virginia, Duke or Texas. They feel that the chances of acquiring a "name" are better there, because the school's prestige will help—with some variance based on the institution. Although Bob has served as Professor of Law at NYU, he has largely been associated over the years with Arkansas, and it is credit to the quality of his work that he first rose to high repute without the aid (or crutch) of one of the institutions named. In so doing, he unquestionably enchanced the reputation of the University of Arkansas Law School. His life is the example of a man who, by retaining a close association with a particular state and state university, raises the esteem of both the state and its school and has an extraordinary impact upon that particular jurisdiction. This is a reward that even the best of the Ivy League scholars seldom acquire. Perhaps it is a good reason why young professors should more carefully consider the choice which Bob Leflar made. Unfortunately, money or prestige will often lead the good ones elsewhere. Moreover, few professors, including those who staff the institutions I have mentioned, ever illuminate their fields sufficiently to achieve a prestige comparable to Bob Leflar's. Too many let the institution's prestige illuminate their otherwise limited contribution. They reflect light; Leflar generates it.

[9] *See* Leflar, *Legal Education in Arkansas: A Brief History of the Law School,* 16 ARK. L. REV. 191 (1962). In making this statement, I am taking the history of the school only from its establishment by Dean Waterman in the fall semester of 1924, on the Fayetteville campus, and I am not including the earlier efforts to establish a school either at Fayetteville or at Little Rock, which Leflar's article discusses. Dean Waterman contended that graduates of the "Law Department" of the University of Arkansas, established first in Fayetteville and later in Little Rock in the late nineteenth century, were University of Arkansas Law graduates; but President John C. Futrall disputed this contention. Leflar, *id.* at 200, states that Waterman won the point, and pre-1915 graduates of the School of Law are listed as alumni. This being so, it might well be contended that the first Dean of the University of Arkansas School of Law was Frank M. Goar in 1890. On a national level, however, the University of Arkansas School of Law is generally viewed as having its inception in 1924, with Waterman as the Dean. Waterman was Dean from 1924 to 1943; followed by Leflar from 1944–54; Covington from 1954–58; and Barnhart since 1958. In listing the four deans, I am listing only those named on a permanent basis, and I do not mean to ignore the fact that Professor Emeritus E. B. Meritwether served as Acting Dean during the year following Dean Waterman's death. *See* Leflar, *id.* at 202. Judge Meriwether served practically all of his professional life as a professor of property, wills, trusts, and related subjects at the University of Arkansas, was and is extremely dedicated to the school, and is remembered fondly by his students. Dean Covington, after many years of service in a number of capacities at the University of Arkansas (including Acting President and Provost), became Dean of the University of Missouri School of Law in 1958.

[10] None of them, unfortunately—and without any criticism intended—was ever able to solve the financial problems of the University of Arkansas School of Law. The burden is too great for a single man. And so, many able professors have "passed through" Arkansas, teaching there for a time, and then moving on for more money and for what they deemed to be greater opportunity. This problem, soluble only by a mass effort on the part of the Bar and the Law School's friends on the Board of Trustees and in the legislature, is quite obviously the school's major difficulty. I have known of far more professors who left Arkansas somewhat regretfully than those who left happily. The unfortunate thing is that legal education is, dollar for dollar, the cheapest form of professional education; and the University of Arkansas could create an outstanding state university law school, perhaps of regional significance, for far less money than it could acquire prestige in perhaps any other field. I look forward to the day when Arkansas will seek this excellence, realizing that there are not too many Leflars around who can lift a school on the weight of their own reputations.

[11] *See* Leflar, *supra,* note 9, at 194, 201.

[12] *Id.* at 201.

[13] Keeton, *Legal Education: Developments, Objectives, and Needs,* 20 ARK. L. REV. 31, 41 (1966).

[14] Hand, *Have the Bench and Bar Anything to Contribute to the Teaching of Law?,* 24 MICH. L. REV. 466, 480 (1926).

[15] Leflar, *supra* note 9, at 211.

[16] 339 U.S. 629 (1950). (University of Texas)

[17] 339 U.S. 637 (1950). (University of Oklahoma).

[18] Sipuel v. Board of Regents of University of Oklahoma, 332 U.S. 631 (1948), 333 U.S. 147 (1948).

[19] Leflar, *supra* note 9, at 209.

[20] *Id.* at 208.

[21] Keeton, supra note 13 at 40.

[22] For a discussion of the construction of Waterman Hall, *see* Leflar, *Waterman Hall at Arkansas,* 6 J. LEGAL ED. 379 (1954).

[23] Leflar, *supra* note 9, at 210.

[24] This is the author's estimate, based on a projection of older figures available to him.

[25] The school has produced two deans (at three universities), professors at American University, Arkansas, Denver, Kentucky, Missouri, North Carolina, Oklahoma, South Carolina, and a teaching fellow at Harvard. Arkansas law graduates have taught as visiting professors at Cornell, Iowa, Minneosta, Texas, Oklahoma, and elsewhere. Arkansas law graduates dominate the bench and bar of the State. Congressman David Pryor is a graduate of the schools, as is Attorney General Ray Thornton, former Attorney General Joe Purcell, U.S. District Judge J. Smith Henley, U.S. District Judge Paul X. Williams and the late U.S. District Judge Gordon Young. Senator J. William Fulbright once served on the faculty as did former Senator Claude Pepper of Florida. By far the bulk of recent State Bar Presidents in Arkansas are UA graduates.

[26] Leflar, *Legal Education: The Making of a Good Law School,* 20 ARK. L. REV. 50 (1966).

[27] *Id.* at 50–60.

[28] *Id.* at 60.

[29] *See* note 6, *supra,* as to Ehrenzweig and Cheatham.

[30] 3 R. POUND JURISPRUDENCE 387 (1959).

[31] *See* R. LEFLAR, AMERICAN CONFICTS LAW 1 (1968); and Lorenzen *Story's Commentaries on the Conflict of Laws—One Hundred Years After,* 48 HARV. L. REV. 15 (1934).

[32] R. LEFLAR, *supra* note 31, at 1.

[33] Which is now H. GOODRICH, CONFLICT OF LAWS (E. Scoles, ed., 1964).

[34] G. STUMBERG, PRINCIPLES OF CONFLICT OF LAWS (3d ed. 1963).

[35] W. COOK, THE LOGICAL AND LEGAL BASES OF THE CONFLICT OF LAW (1942).

[36] Primarily the work of Professor Willis L. M. Reese of Columbia, *See* Reese, *Conflict of Laws and the Restatement Second,* 28 LAW AND CONTEMP. PROB. 679 (1963). Leflar served as one of the advisers on this Restatement.

[37] *See* A. EHRENZWEIG, A TREATISE ON THE CONFLICT OF LAWS (1962).

[38] B. CURRIE, SELECTED ESSAYS ON THE CONFLICT OF LAWS (1963) is a superb collection. Currie had a way with words that few law professors have.

[39] This is the problem as I see it, and it necessarily points the way to a definition of criteria.

[40] I thought this idea was perhaps unique, but *see* R. LEFLAR, *supra* note 31, at 13.

[41] *See* note 6, *supra*.
[42] R. LEFLAR, *supra* note 31, at 219–22.
[43] *Id.* at 364–67.
[44] *Id.* at 244.
[45] *Id.* at 245.
[46] 107 N.H. 351, 222 A.2d 205 (1966).
[47] 35 Wis.2d 578, 151 N.W.2d 664 (1967).
[48] Zelinger v. State Sand and Gravel Co., 38 Wis.2d 98, N.W.2d 466 (1968); Conklin v. Horner, 38 Wis.2d 468, 157 N.W.2d 579 (1968).
[49] In Woodward v. Stewart, 243 A.2d 917, 923 (R.I. 1968), *cert. denied*, 393 U.S. 957 (1968), the Rhode Island Court stated: "Like the Supreme Court of Wisconsin, we are persuaded that those guidelines combine a 'workable brevity' with a 'reasoned analysis,' leading this court to their application when faced with a conflicts of law situation." This case was followed in Brown v. Church of Holy Name of Jesus, 252 A.2d 176 (R.I. 1969).

Other courts, while following the "most significant relationships" test and not expressly adopting the five choice-influencing considerations developed by Leflar have nonetheless been affected by them and by the New Hampshire and Wisconsin decisions. Thus, in Fuerste v. Bemis, — Iowa —, 156 N.W.2d 831 (1968), the Iowa Court indicated that Wisconsin law on the subject of the guest statute might be superior to Iowa law, but that the New Hampshire and Wisconsin courts apparently did not intend that "this one consideration" "predominate over the others." It may be inferred, however, that in a situation which was regarded as creating greater doubt as to which law applied, Iowa would consider the matter in the light of the choice-influencing considerations which Wisconsin and New Hampshire adopted from Leflar. Similarly, in Beaulieu v. Beaulieu, 265 A.2d 610 (Me. 1970), the Maine Court adopted the "most significant relationships" test without specifically taking into account the five considerations—but it relied heavily on the New Hampshire decision in the Clark case.

Mississippi *seems* to have adopted as relevant considerations both the five choice-influencing considerations of Leflar and the factors set forth in the Restatement (Second). In Mitchell v. Craft, 211 So.2d 509, 514 (Miss. 1968), the Mississippi Court states: "In a major contribution in this field, Robert Leflar has synthesized and analyzed five principal, choice-influencing considerations." The Court then discusses these in the light of the facts of the case and applies them along with the Restatement (Second) §§ 6, 145, 175 *et al.*

Arkansas has yet to adopt the Leflar considerations, although considering previous references to Leflar as a prime authority in Arkansas conflicts cases, it would perhaps not be unreasonable to assume that the Arkansas Court would apply these considerations in an appropriate case.

[50] *See* Annot., *Torts—Lex Loci Deliciti*, 29 A.L.R.3d 603, 631 (1970): Professor Robert A. Leflar has made a major contribution to American conflicts law in identifying "five choice-influencing considerations which seem to incorporate all the basic considerations. . . ." *See also* Coyne, *Contracts, Conflicts, and Choice-Influencing Considerations*, 1969 U. ILL. L.F. 323 (1969); and Juenger, *Choice of Law in Interstate Torts*, 118 U. PA. L. REV. 202 (1969).
[51] R. LEFLAR, *supra* note 31, at 264.
[52] *Id.* at 265.
[53] *Id.*
[54] *Id.*
[55] J. HURST, THE GROWTH OF AMERICAN LAW: THE LAW MAKERS 11 (1950).
[56] The reforms in criminal procedure in Arkansas in the mid-1930's were in large measure a product of Leflar's handiwork. *See* Leflar, THE CRIMINAL PROCEDURE REFORMS OF 1936—TWENTY YEARS AFTER, 11 ARK. L. REV. 117 (1957).
[57] Leflar, *supra* note 9, at 210.
[58] 24 ARK. L. REV. 155–243 (1970).
[59] *See* Arkansas Gazettes, Nov. 22, 1970, p. 1A, cols. 4–6; p. 2A, col. 3; p. 5A. This extensive discussion in the Gazette reveals that a political scientist at the University of Arkansas at Little Rock, Prof. Robert Johnston, ran two polls before the election under a project sponsored by Brown University. Johnston's poll was at random, by telephone, and probably would be subject to valid criticism by professional pollsters in that it apparently involved no carefully selected cross-section of voters. Nonetheless, the poll unquestionably has a certain degree of validity and, for the most part, supports what one might suspect. The educational groups who voted *for* the proposed Constitution reflected this support. Those who voted *for* the Constitution, according to the poll, included 73% of those with graduate or professional degrees; 67% of those with college degrees; 58% of those with some college training; 46% of those who were high school graduates; 45% of those with some high school education; but only 28% of those with less than a 10th grade education. Thus, the Constitution found substantial majority support among all those who had at least some college education and seemed to diminish in support on almost a parallel basis to the lack of education of the voter. Among economic groups, the poll showed substantial support among teachers (75%), professionals (68%) and businessmen (52%). Sales employees were 48% behind the Constitution, according to the poll. But among blue-collar workers, the Constitution found only 42% support, and only 22% of the farmers supported it. The poll indicated support was greatest in urban areas and poorest in rural areas, with the small towns in between. More younger people favored the Constitution than older people. In the 21 to 29 age group, 61% supported it; of those 30 to 39 years of age, 51% voted for it. After that, however, the index of support dropped below 50%. Of those age 40 to 49, only 43% supported it, and only 40% of those age 50 to 59 voted for it. In the 60 to 69 age bracket, a mere 31% supported the document with their votes. Strangely, after that the curve turned upward with 39% of those of age 70 or over giving the document their votes—apparently evidencing either senility or the wisdom of years, depending upon one's outlook.

It may be concluded from the foregoing that those less resistant to change—the college educated and those under 40—will give their approval to a new Constitution such as this one. This offers some hope for the future amelioration of the deleterious effects of the 1874 Constitution.

The reasons for voting against the document, as evidenced by those who expressed themselves, are hardly a commentary on voter information or wisdom. The Gazette report indicated that a number of Justice Building employees opposed the document because of its opposition from former state supreme court justice Ed F. McFaddin, the best-known of the vocal opponents of the new Constitution. One provision feared by the owner of a TV shop was wholly nonexistent. Trial judges voted against it in some instances because the judicial article combined courts of law and equity and thus would have caused them to have to gain knowledge in areas in which they had not been adjudicating. (Obviously, this was not true of all judges, but a few expressed this position.) Perhaps a very good reason why the document ran into difficulty, however, was expressed by some residents of the white-collar Sturbridge area of Little Rock. As one man expressed it, "They threw everything in it." The opposition of some people to a few of the items they new about in the Constitution led them to oppose the entire document, rather than view the total document on balance. Certainly, there were a number of items in it which this writer opposed, but you have to view the totality of the instrument and see how it compares to the old one.

[60] *See* Barnhart, *A New Constitution for Arkansas*, 17 ARK. L. REV. 1 (1963).
[61] In 1874, *all* the towns in Arkansas with more than 1,000 residents had a *collective* population of 20,000 about the present size of Helena-West Helena, and less than two-thirds the size of Fayetteville. *See* Leflar, *Constitutional Revision in Arkansas*, 24 ARK. L. REV. 155, 158 (1970). The 1874 Constitution was thus not even attuned to a small-town environment. It was prepared for a county-rural orientation in its entirety.
[62] Drake, "It Was a Very Good Year" © ASCAP. This was used in the 1970 Law Day skit in the portion relating to Leflar.

FOREIGN AID

Mr. McGEE. Mr. President, in this morning's edition of the Washington Post Bernard D. Nossiter paints a somewhat startling picture of how our foreign aid program stacks up with the rest of the non-Communist world.

As Mr. Nossiter points out:

Other rich, non-Communist nations are either maintaining or increasing what is labeled "assistance" and a few are stepping it up sharply. Over the last three years, Washington has cut back its official program from $3.5 billion to $3.1 billion in 1970.

In other words, while the U.S. Senate debates the question of whether to reduce our foreign aid program, whether to cut it out completely, or whether some new approach should be taken, some 15 other nations have moved to step up their programs by substantial increases in their commitments.

Mr. Nossiter also points out that:

In virtually all these other countries, the aid program faces no consequential political opposition and enjoys wide support from the establishment political parties.

I think it is worth noting this fact, particularly in light of recent events in this body.

As the world's richest and most powerful Nation, the United States finds itself in the most embarrassing position of ranking very low among the rich non-Communist nations with foreign assistance programs.

I believe it is time to reestablish some semblance of rationale in our debate over foreign assistance and to face the realities of the world around us. I do not believe we should be retreating from our international obligations and cloak ourselves in selfish arrogance.

I, therefore, ask unanimous consent that Mr. Nossiter's article be printed in the RECORD.

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

FOREIGN AID IS ALIVE AND WELL—IN OTHER COUNTRIES

(By Bernard D. Nossiter)

PARIS.—Foreign aid, or more accurately, a mixed program to promote exports, investment, influence and development in the third world, is alive and generally flourishing outside the United States.

Other rich, non-Communist nations are either maintaining or increasing what is labeled "assistance" and a few are stepping it up sharply. Over the last three years,

Washington has cut back its official program from $3.5-billion to $3.1-billion in 1970. But the other 13 Western aid givers plus Japan and Australia have moved in precisely the opposite direction. Their programs have expanded from $3.1 billion in 1967 to $3.8 billion last year. They overtook Washington even before the Senate acted.

In virtually all these other countries, the aid program faces no consequential political opposition and enjoys wide support from the establishment political parties. In Scandinavia, Canada and the Netherlands, the government typically comes under fire for not doing enough for the world's poor.

In a few countries, notably France, Britain and Germany, a scattering of rightists complain that aid is money down a rathole. And everywhere, left youths charge that it is a scheme to perpetuate a new form of neocolonialism on behalf of privileged investors and exporters. But outside of the United States, the program as a whole is nowhere regarded as in serious difficulty.

This relative immunity flows largely from the absence of any clear link between aid schemes and highly charged foreign and military adventures. In Japan, where 96 yen out of every 100 loaned for development must be spent on Japanese goods and only one aid yen in five is contributed to international organizations like the World Bank, the dominant business community appreciates that foreign assistance is largely a subsidy for themselves. Elsewhere, the pattern of self-interest may be less pronounced and the humanitarian aspect enjoys more popular support. But in no case—unlike the United States—is a substantial portion poured into shoring up unpopular regimes that foreign and defense ministries have labeled as vital to the nation's interest.

Perhaps the closest analogue to the United States is Portugal. There the bulk of what is called "aid" goes to the ex-colonies of Angola and Mozambique in an effort to reduce revolutionary movements. But if there is opposition to such spending, it can not surface in a totalitarian regime.

These are the chief conclusions emerging from an inquiry here into non-Communist aid schemes outside the United States. Paris is the place to come for such a study because it is the headquarters of the Development Assistance Committee, an arm of the Organization for Economic Cooperation and development, monitoring and promoting the aid programs of rich, non-Communist nations.

Despite the generally secure and growing levels of other nations' aid, the D.A.C. is not patting its members on their backs. Summing up the latest, 1970 review, chairman Edwin Martin observed that aid, as a share of the rich world's total output, actually fell a bit last year, from 0.36 per cent to 0.34 per cent. In other words, the rich slightly reduced the burden on themselves.

Martin, a former assistant secretary of state, said the record was "not encouraging." Moreover, after allowing for inflation and the rise in population in the third world, he figured that the buying power of aid per person was probably no higher than it had been ten years earlier, in 1960.

However the record is scored, it is nevertheless clear that other countries are experiencing nothing like the crisis of confidence over aid now embroiling the United States. In virtually all countries, the program moves through legislatures with little or no attention, and nowhere else is it the occasion for a searching foreign policy review.

Indeed, the program's link to foreign policy is often obscure or deliberately obscured and public opinion polls typically turn up sizeable if unenthusiastic majorities who think their country should help the poor. In Germany, with a program strikingly free of obvious self-interest, the powerful business community is pressing for a shift in aid to Latin America and Africa where industrialists see markets and investment outlets. But in Japan, with a scheme already tailored to business interests, government officials are slowly changing their program to emphasize development for its own sake.

Four nations—Britain, France, Germany and Japan—account for two-thirds or the bulk of the non-Communist aid given outside the United States. Apart from Germany, the other three send their help where their commercial and political interests clearly lie. Britain and France spend nearly 90 per cent of their nation-to-nation aid in former colonies, money that opens the way for cultural and political influence, opens markets for exports and opens doors for investment. Japan does much the same and most of its aid yen goes to those Asian nations that Japan once tried to embrace by force in the "co-prosperity sphere."

Among major powers, only the United States matches Japan in insisting that aid loans be spent on the "donor's products. But French and British aid does not go out without strings either.

Some 77 per cent of French development loans be spent on the "donor's" products. The British figure is 55 per cent.

In contrast, Germany provides half its aid to India, Pakistan, Israel and Turkey, countries where its cultural and political hegemony is virtually zero. Moreover, two of every three marks that Germany lends for development can be spent wherever the borrower finds its cheapest to buy.

The relative "purity" of the German program is not hard to understand. Its aid program reflects in part a conscience deeply troubled by World War II, the outsized aid for relatively well-to-do Israel especially reflects this fact, in addition, and until recently, Bonn was exceptionally attentive to Washington's wishes and Washington was pushing others to help Turkey, India and Pakistan.

There is no simple measure of disinterest in aid. The most common way of comparing each nation's performance is to measure the share of its total output or gross national product that goes into the official aid program. On this basis France leads the non-Communist league with 0.65 per cent, followed by the Netherlands at 0.63 and Australia at 0.59.

The United States is a poor twelfth at 0.31 per cent, trailed only by Japan, Italy, Switzerland and finally Austria at 0.13 per cent.

But this conventional measure is unsatisfactory as a gauge of altruism for several reasons. For one thing, it counts as aid the hundreds of millions of dollars that Washington pumps into Asia as supporting assistance—really a prop enabling regimes of varying stability to support outsized armies. It also counts France's big contributions to Martinique and Portugal's to Angola and Mozambique.

A better measure, perhaps, is the share of aid going to multilateral organizations like those of the United Nations or the World Bank. Aid given to these groups is less likely to buy political and military objectives because it is distributed as a lump and not identified as to national source.

On this basis, Norway comes out best with sixty per cent of its aid flowing through international organizations. Italy, with both a relatively and absolutely miniscule program, is next at 57 per cent, followed by Sweden, 46 per cent. The United States is once again near the bottom, 13th, with 13 per cent; Britain shows only 11 per cent; Australia, 6 per cent and Portugal, 1 per cent.

Another good measure of selfless assistance is the share of united development loans, money made available to the poor for spending on goods wherever they are cheapest. Here, published for the first time, is the league table of united aid loans. The precentages are official but authoritative:

Norway—100; Portugal—100; Sweden—100; Netherlands—79; Germany—67; Italy—54; United Kingdom—45; Belgium—27; France—23; Austria—12; Japan—4; United States—3; Australia (no loans, grants only); Canada, Denmark and Switzerland, zero.

In other words, all Canadian, Danish and Swiss aid loans must be spent in the "donor" country and thus amount to a disguised subsidy for exports. Virtually the same is true for Japan and the United States. In contrast, Norway and Sweden give their recipients a completely free hand. Portugal also comes in this category, but that is only because Lisbon gains nothing formally tying its own hands on expenditures in rebellious ex-colonies.

Although the point has been properly made that aid programs elsewhere are less overtly influenced by political and military considerations, Washington is not alone in taking them into account. Thus Britain has mounted sizeable efforts in Malaysia and Singapore to compensate for the withdrawal of its troops. Similarly, in the days of the now discredited Hallstein doctrine, Bonn cut off new aid from African countries recognizing East Germany.

The use of aid to generate economic pressure is not unknown elsewhere, either. Thus when France has had trouble with Tunisia over wine and Algeria over oil and gas, Paris has not hesitated to play the aid card in the diplomatic bargaining game.

This inquiry does not examine the role of private investment because economists and officials differ widely over whether profit-seeking funds should count as assistance and even whether foreign investment promotes or retards development in the third world. The D.A.C. counted $6.7 billion of profit-seeking investment flowing from the rich to the poor last year, virtually the same as the aid total from all 16 nations. But nobody has an accurate count of how much was brought home in dividends. The best estimates range from $4 billion to $7 billion, a sum equal to more than half and possibly more than all the private investment.

In contrast, only $448 million came back to the rich as interest payments on development loans, less than 7 per cent of the total spent for gifts, technical assistance and loans.

Despite the return of dividends, proponents of investment by the wealthy among the poor argue that in any event the money creates an asset—develops oil resources, builds a plant and the like—that would otherwise not exist and also provides jobs and teaches skills that would not be created. Opponents argue that foreign investment ties poor countries to the narrow, economic interests of international corporations, breeds political interference and preserves the best jobs and the exploitation of the richest resources for foreigners.

Indeed, the argument can be and is carried one step further. Does official or governmental aid promote or hold back economic development? The D.A.C. leaders, like most aid officials among member countries have no doubts. Aid helps. It adds to or complements domestic savings and provides hard currency with which to buy necessary goods and services abroad. But there are some skeptics, even deep within the D.A.C. They wonder if aid does not substitute for domestic savings, enabling recipients to continue in slack ways.

One familiar example is India. Some officials there contend that, thanks to foreign aid, Delhi has been spared from hard and necessary political decisions like taxing the incomes of rich farmers or enforcing largely paper laws to break up big land holdings.

In any event, the experts agree there is no statistical link between large amounts of aid and rapid growth. India and Pakistan got the

most assistance last year, $1.1 billion for Delhi and $470 million for Pakistan: Neither is a star performer in terms of economic growth. South Vietnam, with $450 million was the third biggest aid recipient, but the money goes to repair war ravages and development is not a consideration.

On the other hand, South Korea is the fourth biggest aid beneficiary and its growth rate is near the world's top. Israel and Taiwan both get large chunks of aid in relation to their population and both grow rapidly too.

One shrewd official here sums it up. "I know I can't make the numbers prove anything about the utility of aid. Nevertheless, I am strongly for it and in increasing amounts. If you like, it's an act of faith."

The amount, in dollars, of government aid program—loans, technical help and grants—for D.A.C. members in 1970, expressed in millions of dollars, and after subtracting repayments of principal on loans:

United States, 3,050; Germany, 559; Japan, 458; United Kingdom, 447; Canada, 346; Australia, 203; Netherlands, 196; Italy, 147; Belgium, 120; Sweden, 117; Denmark, 59; Norway, 37; Switzerland, 30; Portugal, 29; and Austria, 19.

DR. WALTER HELLER: ADVOCATE FOR EXPANSION

Mr. MOSS. Mr. President, when Prof. Walter Heller of the University of Minnesota speaks out on economic issues, it behooves White House policymakers to take heed. Between 1961 and 1965, this man's economic policies guided an unbroken expansion that created 7 million new jobs, doubled profits, increased the Nation's real output by a third, and closed the $50 billion gap between actual and potential gross national product.

Dr. Heller, whose latest contribution to political economic thinking appeared in yesterday's Washington Post, has long been an advocate of Federal tax cuts as a means of stimulating a sluggish economy. He has also been an incisive critic of such policies when they fail to address current economic realities.

As far back as 1955, he was chiding a Republican administration for its heavy reliance on special tax relief to corporations as a means of stimulating growth. Dr. Heller, who later became known as "Mr. Tax-cut" for his successful advocacy of tax relief while serving as Chairman of President Kennedy's Council of Economic Advisers, attacked the Eisenhower program for assigning only a supporting role to broad-based tax reduction aimed at expanding consumer markets and increasing sales volume.

It is significant that when a Democratic President returned to the White House in 1960, CEA Chairman Heller remained consistent in his advocacy of individual tax-relief aimed at stimulating a broad-based, vigorous consumer spending. The major across-the-board tax reductions of 1964 and 1965 offered $15 billion for the consumer and $4 billion for the business firm—a sharp contrast to the untested "trickle-down" philosophy of the Nixon administration.

Since leaving office, Professor Heller has continued to promote his views publicly to the benefit of both the Congress at large and the Democratic Party leadership. He has persisted in his call for stimulants to consumer spending as the key to economic expansion.

In the article which appeared yesterday, he argues most pursuasively that President Nixon's efforts to contain inflation will fail unless there is sufficient fiscal stimulus to increase production during the "Phase II" period. He maintains there is a strong connection between increased output and increased productivity—output per unit of labor. Unless output and productivity are stimulated significantly, the 5.5-percent wage guidelines for phase II wage increase could simply result in that much more inflation.

Administration economists should pay close attention to Dr. Heller's thoughts on noninflation expansion. Between 1961 and 1965, when the economy was growing at an unprecedented rate and employment opportunities were increasing substantially, prices remained stable. During that 5-year period, inflation was less than 2 percent a year, a far better record, it should be noted, than the current administration's most optimistic goal.

I ask unanimous consent that this article be printed in the RECORD.

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

HELLER: EXPANSION A MUST

(By Walter Heller)

Conventional economic wisdom associates stimulation of demand with an increase in inflationary pressures. The fear of these pressures has perhaps stayed the hand of the White House in its new economic program. Why else would it have accompanied its bold wage-price and international monetary initiatives on August 15 with such a weak-kneed program of fiscal stimulation?

The wait-and-see attitude at the Federal Reserve Board may also reflect a fear of rekindled excess demand inflation—wait and see if that $100 billion year really develops without moving from a supportive to an aggressive policy of monetary expansion.

The traditional answer to the "take-it-easy, inflation-is-just-around-the-corner" approach to economic expansion is based on the existing $70 billion GNP gap, 6 per cent unemployment, and 73 per cent operating rates in manufacturing. With this much slack, and no bottlenecks in sight, rising demand will express itself in rising output, more jobs, and higher incomes, not in higher prices.

At a time when excess demand is $70 billion away—a time when it will take three consecutive annual $100 billion advances in GNP just to catch up once more with our economic potential—bold fiscal and monetary expansion carries little risk of inflation.

But to argue that economic slack will keep expansion from being converted into inflation is essentially a passive or negative argument. Less well understood is the positive argument that, given reasonably effective wage-price restraint in Phase II, strong expansion will actually help subdue inflation. Strong expansion will generate the rising productivity that provides the vital grist for the mills of the Price Commission and the Pay Board in grinding out more moderate price and wage yardsticks as Phase II progresses.

Rising demand and rising output in today's slack economy quickly translate into rising output per man hour. Overhead costs are spread thinner. As more units of output are produced with the same machinery, equipment and plant, and without a corresponding increase in payrolls, average unit costs of output will fall.

Left to themselves, producers would be sorely tempted to capture most of this productivity surge in higher profits and higher wages, sharing little of their gains with consumers. The genius of an effective incomes policy, of successful Phase II wage-price restraints, will be to nudge business and labor into sharing their gains with consumers and thus convert rising output into receding inflation.

Within broad limits, the more rapidly output rises, the larger will be the productivity advance that the Price and Pay boards have to play with, i.e., to use in setting tough standards for prices and wages without unduly squeezing business profits and labor earnings.

For example, if productivity advances at a 4 per cent clip in 1972, the Pay Board's 5½ per cent yardstick for average pay advances would imply an increase in average unit labor costs of 1½ per cent. But if recovery lags and productivity crawls ahead at only a 2 per cent rate, a 5½ per cent wage standard would imply a 3½ per cent increase in unit labor costs, thereby making it far more difficult for the Price Commission to clamp a tight lid on prices.

On the more optimistic assumption of a 4 per cent productivity advance, converted into a tighter price yardstick and a consequent easing of inflation during 1972, the Pay Board would have less cost-of-living catch-up to build into its 1973 yardstick. It could then lower the 1973 pay standard a notch toward the 3 per cent trend growth in productivity.

In short, since productivity is the name of the game, rapid expansion is vital to the success of Phase II. And, in turn, success in Phase II will translate into more consumer and investor confidence and hence a stronger expansion.

Another vital interlock of expansion is with our international monetary and trade negotiations. On one hand, a successful reordering of exchange parities and a relaxing of trade barriers can make an important contribution to sound economic recovery. But again causation runs the other way as well. How can we expect our trading partners to bear the economic brunt of more expensive exports to us and cheaper imports from us unless we soften the blow by vigorous expansion of U.S. demand?

Given the current softness of many foreign economies, negotiations that will cut their exports and boost their imports are generating great unease and trepidation. To create an atmosphere within which our trading partners can come half way or even more, we must be able to assure them that vigorous U.S. economic expansion will offset much of the adverse trade effect of renegotiated parities and lowered trade barriers.

In other words, U.S. negotiators have to be able to hold out the prospect of a strong favorable income effect as a short-run offset to the negative price effects of U.S. initiative.

Given these imperatives, both the Price Commission and the Pay Board, not to mention our international monetary and trade negotiators, should exact a firm "do-all-possible" pledge from the administration and the Federal Reserve System to assure speedy economic recovery in 1972. With much of the economy other than autos and housing still listless, the President should be calling on the Congress to step up the temporary tax relief in the bill which is now before the Senate.

The Senate should sharply enlarge personal income tax relief. Without compromising federal revenues in the longer run—when they will be needed for high-priority social uses and for the renewed battle against demand inflation when we reach full employment—a temporary tax reduction—for example, a "recover tax credit" of perhaps $100

per married couple—should be enacted for 1972.

This would add another $5 billion to disposable income, thus energizing consumer spending and putting some of our grossly underutilized industrial capacity (roughly a quarter of our manufacturing capacity is idle today) back to work.

Side-by-side with this action, the Congress should declare a mortatorium on further payroll tax increase. What economic sense does it make to cut income and automobile taxes to stimulate the economy and then let $7½ billion in new payroll tax hikes in 1972 ($3 billion already in the law plus $4½ billion on the way via H.R. 1) to nullify much of the stimulative effect?

For better balance in the tax bill and to protect the revenues for the longer pull, the Senate should drop the depreciation liberalization (ADR's) completely and limit the 7 per cent investment credit to a two- or three-year period.

In short, bolder expansionary policy is not only the fastest way to generate the jobs we desperately need, boost labor earnings and profits, and create incentives to increase capital spending for new capacity—but given reasonable vigilance in our price and wage boards in Phase II, it will also be an effective engine of disinflation.

DISENCHANTMENT OF THE NATION'S YOUTH

Mr. DOMINICK. Mr. President, I am becoming increasingly troubled by the educational disenchantment of our Nation's youth. I believe that a great deal of this stems from a lack of relevant educational values and goals in today's world. Recently, in my individual views to S. 650, the Educational Amendments of 1971, and in a speech before the Colorado Library Association, I advocated a redefinition of educational priorities stressing relevant skills and vocational training and deemphasizing the importance of college education and college degrees for all students.

Soon thereafter, I was most encouraged by an interview on the same topic with U.S. Commissioner of Education Sidney P. Marland, Jr., published in U.S. News & World Report. In the interview, Commissioner Marland speaks with strong convictions about one of his top educational priorities—career education. He envisions a career education program which creates "social value and prestige in a wholly different kind of education for the nearly 50 percent of young people who choose not to enter college, and for the much larger percentage which includes those who enter but soon "exit."

Career education requires a massive societal reeducation of the value of skills and trades. Commissioner Marland's interview and my speech define the problem, and hopefully represent some initial steps toward this reeducation. Commissioner Marland's interview in the November 1, 1971 issue of U.S. News & World Report contains frank and authoritative answers to some of our most vexing educational problems by a very committed man. I recommend that Senators read the entire interview.

Mr. President, because of its length, I ask unanimous consent that only that portion of the interview relevant to career education be printed in the RECORD.

I also ask unanimous consent that the text of my October 1, 1971, speech to the Colorado Library Association be printed in the RECORD.

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

[Excerpts from an interview with the U.S. Commissioner of Education, Nov. 1, 1971, U.S. News & World Report]

NEW IDEAS FOR BETTER SCHOOLS

There are still too many young people leaving school because the schools simply are not providing a satisfactory experience for them. So we see clearly the unhappy statistics surrounding the dropout, the ugliness of drug abuse in our schools, the children from disadvantaged backgrounds who are failing to learn adequately, and the young people who just become disenchanted with the institution of education. I can't give you hard statistics, but I can assure you that not only young people from disadvantaged environments or from minority groups are asking more of the schools than we're giving them. This is part of my concern as I speak favorably of the other side of the coin—the side that shines—the side that shows we're doing a pretty good job for the great majority of our young.

Question: Is there anything that can be done about these young people who have become disenchanted with formal schooling?

Answer: I recommend a very substantial reform in education. I call it "career education." It's only the beginning of an idea now, but it's an idea for which the time may have come.

From the extraordinary vantage point that I have in Washington, I see ways in which the federal government—through its initiative, through its leadership, through the modest amount of leverage that we have with federal funds—may be able to change the universe of education in favorable ways to respond to this challenge.

Question: What do you mean by career education? Is that a euphemism for vocational training?

Answer: An emphatic "No!" This is anything but a trading of names, although I would be quick to say that vocational and technical education has a very large part to play in career education. But let me tell you a little bit more about the idea:

To begin with, our society has developed a kind of folklore that says to be good you must go to college—to be somebody you must have at least an A.B. degree. For many years, that was a very appropriate goal, and it served as a world model to increase the intellectual, social and economic level of our country.

But we have come to the point where a kind of self-hypnosis has set in. People are convinced that this is the only way to glory. And I hold that it is not true. I'm not talking only about differences in intellect. I'm talking about differences in aspiration, in goals; differences in human needs and what people want to do with their lives. I think there is a false set of values surrounding the whole theme of vocational-technical education that says, "That's for the other people, but my children are going to go to college."

Question: Grease education, it used to be called——

Answer: Yes, the dirty-hands school. That's the idea that's been held by many people. And if anything can come of my time of service in Washington, I hope it will be to correct that.

At present, about 54 per cent of high school graduates go on to higher education. And if you look closely at the average high school graduating class, you will see that no more than about 10 to 12 per cent studied vocational-technical programs leading directly to salable skills. And in between for all the rest of the young people there is that dubious euphemism, the general curriculum—which is a put on. It doesn't lead to anything.

I hold that we should do away with the general curriculum, which young people in our high schools now find to be a put-on. It contains no intrinsic motives, no tangible goals. It does not lead to satisfying and rewarding employment.

In talking about career education, I'm not trying to discourage young people from going to college——quite the contrary. What we must do is create social value and prestige in a wholly different kind of education for the nearly fifty per cent of young people who choose not to enter college, and for the much larger percentage which includes those who enter but soon exit. I want to give exposure to what the world of work is all about to all children.

You see, a career is something that you and I were trained for one way or another, just as did your doctor and your architect and your attorney and the man who prints your magazine. Many of us have come upon it accidentally, without very much planning and without very much information on which to make very important life choices, and, by chance or by the grace of the Almighty, we found ourselves where we are.

Now, that's a haphazard way to go about planning a life, notwithstanding the Almighty's wisdom. I hold that along about fifth, sixth or seventh grade, along about age 12 or 13, there ought to be some systematically planned information made available to young people through the curriculum so they can have a hand in shaping their own lives in a thoughtful and informed way.

Question: Do you have a plan to accomplish this?

Answer: We're now developing in the Office of Education 15 clusters-of-work categories—or curricular systems. One cluster, for example, is the health sciences, ranging all the way from the hospital orderly up to and including a highly specialized surgeon.

Then there is the electronic cluster. That has to do with everything from how to put in an electric socket to the construction and operation of a very sophisticated computer.

Those are just two examples. All the way through career education there must be the underlying academic learning that supports the specific or the generalized cluster of jobs.

This idea is far from jelled. It would be a mistake for me or for anybody in Washington to declare it as a fixed or final concept, although there is considerable enthusiasm for the idea across the country, as we explore the possibilities with school leaders, teachers and citizens at large.

Question: How would career education work in actual practice?

Answer: The concept is that the student should be ready when he leaves school—I didn't say graduate, necessarily—either to enter postsecondary education or to go directly into the world of work with pride, satisfaction and competence. He may want to be a service-station attendant at age 15, and leave school to do that. A year later he may want to come back and study about transmissions; he becomes a transmission expert for his community. Then perhaps he comes back again for some business courses. By the time he is 30 or 35 years old, he owns a garage and has become a businessman as well as a skilled craftsman.

In career education, the school system is constant, and students spin off from it and spin back onto it.

A young woman at age 14 or 15 may begin to think seriously about the health sciences. She graduates from high school and has, let's say, a year in community college and becomes a licensed practical nurse. After three or four years of earning money and finding satisfaction, she says, "I think I'll go back."

So back into the system she goes and becomes a two-year or a four-year graduate nurse.

The point is that the system is alway there supporting her or him.

I believe that one of the very important aspects of career education is that we will suddenly and finally begin to motivate young people with perfectly good minds who are not now learning effectively in school. As an educator—a teacher—that is one of my overriding hopes for the future, as I try to lend the power and influence of my office toward better schools for America.

[Speech of Senator PETER H. DOMINICK, before the Colorado Library Association, October 1, 1971]

EVOLVING EDUCATION: A CHALLENGE TO THE LIBRARIES

I will concentrate my comments on the tremendous challenges that I believe the libraries and other sources of knowledge will be confronted with during the decade of the seventies. I shall further confine my comments to those particular challenges created by a post-secondary educational system which is developing needs for increased emphasis on educational individuality rather than on formalized educational structure.

To remain a viable educational tool in the face of these needs, the libraries must develop relevant innovative resources to meet the divergent demands of America's high school graduates. It is important to stress that the phrase "post-secondary education" include not only the formalized education offered by colleges, universities and vocational institutions, but also the composite of experiences gained through work, the military, and independent study, among others.

Educators have become increasingly concerned over student discontent in our institutions of higher learning, and the increasing numbers of aimless college students they are graduating. Two of the more highly respected recent studies on post-secondary education, the Newman "Report on Higher Education", and the Carnegie Commission's special report on higher education, "Less Time, More Options—Education Beyond High School", conclude that our society's headlong rush to mystically ordained higher education institutions is proving ineffective as an educational tool and is systematically killing off the necessary and previously respected trades and careers which literally built our country. A preview of the effect of our over-sold higher educational system is best exhibited by the comparison of the salary of an unemployed Ph. D. and that of a bricklayer, a steel worker, a mechanic or a plumber.

The effectiveness of post-secondary education in America is indicated by the Carnegie Commission's estimate that of the students who were to enroll in American colleges and universities this fall, over 60 per cent of them will fail to get the degree to which they aspire—47 per cent will fail to earn a bachelor's degree and of those those who proceed to graduate school, another 15 per cent will dropout before they obtain the second degree. Statistics or estimates do not indicate the very substantial number of students who don't drop out, but are instead caught in what the Newman Report calls the "academic lockstep." Strong society pressures exerted by parents, peers, faculty, and employers keep students in an academic lockstep when they should be pursuing an occupation or a career which has relevance to their talents and desires. Instead, these students continue to attend college as a socially conditioned reflex, all the while becoming dependent upon the academic atmosphere and increasingly virgin of perspectives shaped only by non-academic experiences. More often than not, the lockstep student discovers that after four to seven years of college, he doesn't have the practical aptitudes necessary for his chosen profession or that he simply doesn't like the work.

Both of the previously cited reports suggest that the answer to our higher educational quagmire lies in a more relaxed, less structured form of what the Carnegie Commission terms "lifelong learning." Rather than perpetuating the present apartheid educational distinctions of "student" or "non-student," education should be made more a part of life. Students should not be separated from the realities of life, but rather they should mingle with their fellow citizens as part-time students and on-the-job training students and step-out rather than drop-out students. The value of off-campus experience is probably best illustrated by the high performance and sense of purpose which returning GI's and Peace Corps volunteers bring to college. Armed with these experiences, they are able to make intelligent and relevant career choices and then pursue these choices with diligence.

To accomplish this requires a massive re-education of our society. Americans must be taught that post-secondary education need not include attendance at a college or a university. Americans must be taught that college attendance is not a precondition to future success. The dignity and appreciation of trade and career occupations must be restored so that they can once again be considered a viable occupational alternative. Once Americans stop deifying college educations in and of themselves, then they can proceed with the task of creating a proper educational environment.

That environment would consist of a lifelong learning process integrating generations of students and emphasizing less formal tools of education. Particular educational emphasis would be placed on apprenticeship and job-training programs, work/experience programs, vocational schools, and the community colleges. To accomplish this objective, colleges and universities should capitalize on their prior successes with work/experience programs in legal aid services for law students, internships for medical doctors, and the military's training of paraprofessional corpsmen by allowing credits for such experience. The importance of community colleges in such an educational scheme is apparent even today. In 1968, two million students—25 per cent of all higher educational enrollment—were in two-year institutions, and over 80 per cent of these were in community colleges.

One of the principal beneficiaries of the diversified higher educational system would be the large state universities which today, because of financial and administrative problems, have centralized into large bureaucracies. For example, the State University of New York has 65 campuses and 314,000 students; the City University of New York has 11 campuses and 123,000 students; the University of California has 10 campuses and 147,000 students; and the California state college system has 19 campuses and 288,000 students. The product of these multi-universities is generally an homogenized education which is not responsive to the individual needs of the students. By relaxing the pressures of student admissions, the universities and colleges could stop administering and start educating with the net result being an improvement in the quality rather than in the quanity of the education. Less students would be run through a mechanized degree system, and more students would find universities better able to respond to their educational needs and interests. College and university students would be provided with rounded curricula and course requirements rather than being forced down some of today's narrow-gauged course studies. The result would be a student with a rounded and varied education—an aerospace engineer who could contribute to our environmental problems or a social worker who could assist as a paramedic.

The burden the library system must carry in such an emerging educational environment is substantial. A less structured educational system requires greater involvement of informal education sources, such as libraries. Life long learning to a great extent, requires a continuous intellectual stimulation to keep the part-time or step-out students interested in subsequent educational improvement. I see the libraries furnishing a very strong segment of this intellectual stimulation. Through their resources, they must keep the older prospective students intellectually alive.

Perhaps the greatest challenge the libraries, as well as other educational tools, face is to develop innovative programs to re-educate the American society to the values and dignities of a trade or career occupation. Vocational source materials must be made available in libraries as a good-faith, first-step effort toward the improvement of the image of vocational education. Once the dignity of skill and career occupations is restored, the libraries then would become a principal source of material to broaden and diversify the education of those individuals seeking the skill and career occupations. This once again will require innovative resources to provide the necessary stimulation to keep them interested in educational self-improvement.

In conclusion, I believe that the very real educational contribution that the library system can make in our evolving higher educational environment depends entirely upon the initiative exercised by you—the library administrators.

WEATHER MODIFICATION

Mr. DOMINICK. Mr. President, I invite the attention of Senators to an interesting article on weather modification. It is entitled "A Call for Action," and was written by Vincent J. Schaefer, director, Atmospheric Sciences Research Center, State University of New York at Albany.

Mr. Schaefer is one of the pioneers in weather modification. He was part of a research team at the General Electric Co. which developed, beginning in 1946, and later with Project Cirrus, sponsored by the Defense Department, the basic technology used in weather modification today. He reviews some of the problems which have delayed any substantial realization of its potential benefits. He is critical of the statistical analysis methodology which has been used by the Government and others in testing the effects of weather modification, and feels it is responsible for much of the delay. He suggests a reassessment of all that has been done in this field since 1946, and development of a long range program designed to apply this technology to beneficial use. He observes that the success of such a program will be dependent on active participation by the private sector, which is largely responsible for advancing weather modification technology to its state today.

In view of increasing demands on this country's limited water resources by our constantly expanding population, I agree with Mr. Schaefer that we should be thinking about the possibility of a long range program to augment our water supply through weather modification.

Due to the length of the article, I have taken excerpts from it. The full article appears in the 1970 "Journal of Weather Modification."

I ask unanimous consent that these excerpts be printed in the RECORD.

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

During the first decade following my demonstration on 13 November 1946 (23 years and one day from the time I am writing this paper), there were some persons who would not believe that it was possible to employ dry ice (or silver Iodide) to modify natural clouds in the free atmosphere. It took nearly twenty years for my experiment of 25 November 1946 in dispersing a supercooled ground fog, to be recognized as a valid undertaking for clearing supercooled fogs or low stratus in the vicinity of airports despite our demonstration of success at the Rome Air Force Base in the Mohawk Valley on 24 November 1948, and our now famous 17 miles long "race track-L"—"gama"—and "Figure Four" patterns cut into clouds during that same year. Following these successful demonstrations we even worked up a series of operational procedures for conducting airport clearing operations—in 1948—21 years ago!

Following my initial seeding with dry ice, Dr. Bernard Vonnegut of our group dscovered the effectiveness of silver Iodide for producing effects equivalent or even superior to dry ice under some conditions. The acceptance of silver Iodide as an effective substance for massive cloud seeding was not as readily accepted by some persons as dry ice even though it was quickly adopted by commercial operators as more adaptable to field operations. However, the debate as to its effectiveness when dispensed from ground generators still occupies the attention of a number of persons and a few diehards continue to deny its usefulness.

Following the termination of Project Cirrus operations (requested by our advisory group in General Electric when we lost our trained pilots due to the Korean War) a number of other field and flight activites were initiated by other groups in the United States. In other countries, notably Australia, France, Russia, Israel, Japan and Switzerland, intensive studies were started shortly after the announcement of my first laboratory and field experiments.

In 1952 at General Electric we disbanded our group whereupon I left to join the Munitalp Foundation and subsequently recruited Ray Falconer, Don Fuquay, and Paul MacCready. Bernie Vonnegut and Maynard went to Arthur D. Little where they were joined by Charlie Moore. Duncan Blanchard joined the Woods Hole Oceanographic Institute. Dr. Langmuir retired from General Electric but returned an active interest in weather dynamics and helped me in some of my activities with Jack Barrows in organizing Project Skyfire in the U.S. Forest Service. He and I were modelling tradewind clouds shortly before he died in 1957. We all retained a continuing interest in weather modification and continued the friendships nurtured by our earlier work with Dr. Langmuir at G.E.

It was during this period that a number of commercial cloud seeding firms were organized and began to offer services to farmers, ranchers, municipalities, irrigation districts, and similar groups of private and public organizations. In some instances the potentials for weather modification were exaggerated to varying degrees so that after a few years many of the customers became disillusioned. Thus, a considerable proportion of "rain making" as it was sometimes referred to became a subject of questionable merit. Contracts were cancelled and earlier critics were able to say, "I told you so." During his period, however, a number of stubborn and knowledgeable persons, who had the courage of their convictions, stayed in the field quietly conducting their operations, carefully watching the scientific community and adopting new ideas and findings as rapidly as their own experimental trials convinced them of the usefulness of the reported new knowledge. Those who had the fortitude and stick-to-it-iveness through this critical period just ending have developed an operational competence and the reputation of being effective weather engineers. This is about to pay off for these persistent pioneers.

In the early Fifties following the ineffectiveness of some commercial groups to produce obvious changes in the weather pattern they had promised to modify, it became obvious to those interested in obtaining an estimation of the economic value of some of the field operations that it would be desirable to establish proof of the value of the methods then in use.

It was at this time that an intensive effort was made to use statistical methods for testing the operational effectiveness of cloud seeding. This, I now believe, was a major mistake in our procedure. I am sure that some very competent scientists will not agree with this statement. However, I believe strongly in the contention made by Langmuir in 1948 during a meeting at Schenectady sponsored by the National Academy of Sciences that "weather" is basically a divergent phenomenon—one that is controlled by a nearly infinite number of small random events. As he said at the time, "It may be far easier to control the weather than to predict it!" Having worked with him for more than a quarter of a century, I was very much aware of his basic philosophy, his ability to take advantage of serendipitous events and his uncanny sense of "guessing" about the basic causes of important scientific phenomena and their interrelationships.

He was in strong agreement with some of the ideas expressed by pioneers such as Findeisen who in 1937 said,

"The recognition of the fact that quite minute, quantitatively inappreciable elements, are the actual cause setting into operation weather phenomena of the highest magnitude, gives the certainty that, in time, human science will be enabled to effect an artificial control on the course of meteorological phenomena. It would be going beyond the limits of the present work to discuss in detail the possibility of exercising a kind of technical control over the course of weather conditions. From the considerations under survey here, we have now come to quite new points of view on this. It can be boldly stated that at comparatively moderate expense, it will, in time, be possible to bring about rain by scientific means, to obviate the danger of icing, and to prevent the formation of hailstorms. Through the energy transformations thus secured, various other weather phenomena (e.g. temperature, wind) will be brought under a certain kind of control, which perhaps never, in a direct manner could, to an appreciable extent, be acted upon in the atmosphere. The colloido-meteorological investigations, by themselves with the only assistance of research work on the means to get some control over the weather factors, have opened up a new field for their efforts. They obviously only can solve those various problems with the close assistance of aerology."

Dr. Langmuir encouraged me to establish the routine measurement of ice nuclei on the summit of Mt. Washington which started in 1948 and has continued to the present time. In the studies there I found that the concentration of ice nuclei varied by as much as a million fold. If one concedes that the concentration of "natural" ice and cloud nuclei have any relationship to the micro- and macrophysics of clouds, it is a logical corollary that the concentration of such particles in the free atmosphere should have some effect on the development of weather and weather systems. If this is true then it is quite obvious that some aspects, at least of meso and synoptic weather systems, could be affected by the randomness of the generating areas of ice and condensation nuclei and the mass movements of these infected air masses. These vary from settling cirrus, dust storms, volcanic eruptions, forest fires, air pollutions, storms at sea, and other factors most of which cannot be classed as steady or predictable sources of such particles.

Is it any wonder that statistical methods have utterly failed to provide us with clear cut or even hopeful answers to the efficacy of cloud seeding operations? As a complete novice in the complex realm of statistics and statistical methods I still fail to see how these procedures can possibly help us to solve our current problems in testing the effectiveness of weather modification efforts. It is obvious, of course, that if the weather behaved in an orderly and repetitive manner it should be a simple matter to test the effectiveness of some specified procedures using statistical techniques. However, when one is a field man and has spent several decades on mountain tops and other places looking at the variabilities of the day after day weather, it soon becomes clear that there are few things about weather which can be used for making statistical comparisons. In fact, about the only factor which can be controlled in a realistic manner is the intentional seeding process and even this will be modified by the natural or inadvertent sources of nuclei from near and distant air pollution sources.

Thus, I believe the time has arrived when it is necessary to have the courage of our convictions and again resort to private enterprise, economic need and the ingenuity of our United States system to mount a major effort of work with local communities, municipalities, farmers organizations, ski slope operators and others having a big stake in the availability of atmospheric water resources which might be managed in a useful manner.

I am increasingly convinced that if we wait for the university community or the government to mount such an operation, it will never happen. This is not to say that the way will be an easy one! It will be necessary first of all, to solve the "people" problem. This cannot be done entirely by the federal or even the state governments. There is not enough continuity or desire on the part of those involved to get the job done in an effective manner although their services and mechanisms must be utilized. The university community cannot be involved either since they are much more capable by training and interest to become involved in basic rather than applied problems and are not a mission oriented community. Some will have transient interests in such an area but are not likely to have the "follow through" that is essential. Hopefully they can, however, be encouraged to devote considerable energies toward unravelling the complex and often baffling features of natural weather systems and cloud physics.

Only private free enterprise actuated by need and economic advantage is likely to apply the necessary effort to make such a program successful. In addition, it will be imperative to have the community likely to benefit from such services actively and intimately involved especially with their pocketbooks. If a proper educational effort is injected into the preliminary plans, I believe that the "people" problem will automatically be solved.

I should hasten to add that at the present time there are a few pioneers who understood all of these aspects of the problem more than fifteen and even twenty years ago who have not deviated in their objectives or services to the community. If it were not for their enterprise and intestinal fortitude we would now have a much larger job to do to "get going." Nor do I say that statistical methods are of no value whatsoever.

I believe we should be smart enough in sizing up the experience of the past 23+years to determine the useful aspects of all the efforts which have been expended during this period so that we can extract from it the useful factors and then collectively and individually reassess the situation and move ahead without further delay. Those who seize this opportunity, and I believe a fair number of them are in the Weather Modification Association, should have an exciting and satisfying future.

One reason why I have been forced to this conclusion is that shortly after World War II, I heard many of my friends in meteorology associated with the government and the academic community say that if they could get a radar network established they would be able to solve the forecasting problem. When a radar network became established and things didn't improve very much we heard that a very large computer was needed if satisfactory forecasts were to be made. Then we were told that weather satellites both moving and in a fixed position above the atmosphere would provide the necessary information. Now we are told that our forecasting problem will be solved by the World Weather Watch. While I presume some improvements have occurred in the course of these developments, I find myself wondering whether Langmuir wasn't right and that there will always be random factors which will forever defy man in his efforts to develop reliable methods of forecasting the weather in the detail that is desired by the average person.

One of the features of nearly all of the rather crude statistical comparisons which have been made of privately or publicly sponsored seeding operations most of which are still underway and have been running from ten to fifteen years, is the evidence in most instances of effects which indicate anomalous but positive precipitation increases during all or most of the operational periods as compared to the historical record. This tends to be the pattern which appears in most instances when the operation is carried out by knowledgeable and capable organizations.

In recent years, the introduction of more and more physical evaluation techniques has supplied us with many cause and effect relationships associated with radar anomalies, silver concentration increases in the fallen precipitation, crystal and structure of snow, concentration and size of snow particles, variation in rate of precipitation induced by the pulse operation of seeding generators, the size patterns of raindrops, and changes in cloud structure. Most of these physical studies can be used to support the evidence of precipitation augmentation by 5 to 20% above the historical target/control patterns.

I believe the time has come when an intensive effort should be mounted to do everything possible to take advantage of every opportunity to effectively control the weather pattern for some useful objective whether it be for moisture transport, lightning or hail prevention, rain or snowfall augmentation, or similar objectives. There is nothing which need prevent those who wish to conduct physical observations of seeding effects to work in such areas but they should not in any way control the basic objective of the effort to produce economic benefits for the recipients whatever their immediate and long range needs may be.

It is time to get moving!

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THE 10TH ANNIVERSARY OF THE MIKE DOUGLAS TELEVISION SHOW

Mr. SCOTT. Mr. President, next month the Mike Douglas television show, produced in Philadelphia for a nationwide audience, will observe its 10th anniversary. The date is December 10. Mike has contacted me to advise of his plans to have a mammoth birthday celebration at station KYW in Philadelphia, an affiliate of Westinghouse Broadcasting Co. He also has invited me to be a guest at his celebration and to be on his December 3 show. I would love to attend and hope we are out of session at that time.

Mr. President, the Mike Douglas show has made many contributions to the entertainment field. The most interesting guests have enabled the audience to gain an exceptional opportunity to see and hear such a diversified program. Mike Douglas is an interesting individual. He has a wonderful wit and a pleasant singing voice. His show reaches about 80 percent of the Nation. Mike has been doing the show in Philadelphia since 1965 and is now a resident of the Greater Philadelphia area.

Mr. President, I wish to extend 10th anniversary wishes to Mike Douglas and all those who make his interesting show possible.

TOY SAFETY

Mr. MOSS. Mr. President, on November 6, 1969, the Child Protection and Toy Safety Act became law. I am proud to have sponsored this legislation. In reviewing toy safety progress 2 years later, I am most pleased to note that our objective—providing safer, healthier, and a happier environment for children—is being met for the most part.

In the beginning we were faced with intolerable delays on the part of the Food and Drug Administration, the agency charged with carrying out the mandate of the act. But over the past 10 months, we have seen progress in the effectiveness of the legislation. Credit for this must be given to those at the Food and Drug Administration who seriously believe in product safety. The FDA has launched an extensive information program, providing the media with much of the information it needed in order to effectively communicate advice on toys.

The Food and Drug Administration has banned 144 toys from the market. Many of these toys have been redesigned and are again on the dealers' shelves, but there is insufficient manpower to check every dealer to see whether the banned toys have been removed. Therefore, I particularly urge gift givers to check the list closely and examine each toy closely to make sure that it is not on the banned list or, if it is, that the version in the store is the redesigned product.

Most toys are safe and most toy manufacturers take care to build nonhazardous toys. But we are well aware that a number of hazards are built into some playthings.

When we were investigating toys prior to passage of the act, we found that there were toy ovens which heat to more than 500 degrees; there were non-insulating wiring connections and places where water seepage could cause shock or short circuiting; cute, cuddly stuffed animals which when exposed to reasonable abuse exposed long sharp pins; dolls with straight pins holding hair ribbons to the head; and, rattles which come apart subjecting the child to sharp spikes and projectiles.

I would not want to put a damper on Christmas. As a matter of fact, the Washington Evening Star recently called me Santa Claus in an article about my toy safety efforts. So I would like to go over some of the items that should be checked when looking at prospective Christmas gifts for children.

Before purchasing each toy, carefully check to see whether it has sharp edges or glass or plastic which might shatter. Look for gears and springs that can catch onto clothing or little fingers. Check the thermal properties of the toys—it should not use any flammable materials or have surfaces which attain high temperatures. Try to assess its breakability; small broken off pieces can be easily swallowed.

Building blocks should be well finished and smooth. Metal toys should have rolled edges to protect against cuts. Arrows and darts should have rubber cups securely fastened. Guns which shoot projectiles are meant only for older children and should be used under supervision.

With electric toys, check to see how the service cords attach to the appliance. Examine the potential heat hazards on the surfaces. Some of the toy ovens now on the market have locks which keep them from opening until the temperature has gone down. Still, be wary of all thermal toys—they may not open until the temperature goes down, but a child can still get a severe burn from the surface temperatures. Some experts have advised that play appliances using electrical current might best be set aside. For younger children nonoperational toys sufficiently stimulate the imagination. And for older children, the real household appliance operated under the supervision of an adult, serves a more educational function.

The Christmas shopper has his work cut out for him. There are many considerations to which the shopper must be alert, but being alert every day of the year will mean that the wonderful Christmas gift remains a safe toy for the happy child.

Mr. President, I ask unanimous consent that the Evening Star article and the Food and Drug Administration's list of banned toys be printed in the RECORD.

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

[From the Evening Star, Oct. 24, 1971]

CONSUMER CONTACT: SANTA'S TOY BAG PARTIALLY BANNED

(By Arthur E. Rowse)

Santa Claus is riding early this year, and his real name is Frank E. Moss, the Democratic Senator from Utah.

Moss's bag is safer toys. As chairman of the Senate Consumer Subcommittee, he has been leading a campaign to get the Food and Drug Administration to enforce the 1969 Child Protection and Toy Safety Act which Moss cosponored with Sen. Warren G. Magnuson, D-Wash.

The federal agency ran into heavy criticism last year when it waited until a few days before Christmas before taking any action to get unduly hazardous toys off the market. By that time, it was too late to keep such dangers out of reach of wide-eyed children on Christmas Day.

Continued pressure from Moss and other consumer advocates, plus the addition of limited funds for enforcing the law, has changed the picture this year. The FDA has officially banned 140 toys because of safety hazards since last December.

But for some reason the agency sought to keep the list secret, although most of the toy names had appeared on lists of recalled products. Upon learning of the FDA's unwillingness to publicize the list, Moss publicly criticized the agency and urged it to reconsider its decision.

It didn't take the agency long to respond. Later that same day, it notified Moss that it would release the list of 140 banned toys, and Moss hailed the FDA "for a quick change of policy."

According to the FDA, most of the toys on the list have already been redesigned or have been taken off the market. As one official explained, that means any that are still being sold presumably have been redesigned in order to remove that alleged hazard.

In many cases, this means that easily removable parts that could be swallowed have been glued tight, sharp corners and prongs have been removed or blunted and warning labels have been added. Most of the toys are rattles and dolls intended for toddlers.

If you have purchased a toy banned by the FDA for a defect that has not been corrected—such as loose or sharp parts—you are entitled under the law to get your money back.

But you must first know which toys have banned and then must determine whether the hazard has been corrected. The "List of Banned Toys" and the reason for banning each is available from the FDA Information Office, 200 C St. SW, Washington, D.C.

From the list, you can determine the particular hazard of each toy, but you may have to take the toy apart to tell whether the hazard has been eliminated. Some people may simply prefer to avoid toys on the banned list.

LIST OF BANNED TOYS AS OF SEPTEMBER 16, 1971

REASONS FOR BANNING AND DATE OF NOTIFICATION

(NOTE.—Most of the toys on this list have been redesigned or their production ended since the date of notification.)

Champion Ring Darts—Lawn Darts: Haecker Industries, Philadelphia, Pa.; December 21, 1970; inadequate labeling.

King Model 1700—Lawn Dart: Change Athletic, 2615 Hunting Park, Philadelphia, Pa.; December 21, 1970; inadequate labeling.

Jarts: R. B. Jarts, Inc., Glens Falls, N.Y.; December 21, 1970; inadequate labeling.

Javelin Darts—Lawn Darts: Hasbro Industries, Pawtucket, R.I., December 21, 1970; inadequate labeling.

Lawn Darts—Lawn Dart: Regent Sports Co., 2500 Ranick Road, Hauppauge, N.Y., December 21, 1970; inadequate labeling.

Rocket Lawn Darts—Lawn Dart: Towne & Country Games, Ltd., Yonkers, New York, December 21, 1970; inadequate labeling.

Squeeze "Zoo-Zee": Stahlwood Manufacturing Co., 601 West 50th Street, New York, N.Y., December 21, 1970; squeaker removes.

"Dizzy Doodle" Doll—squeeze toy: Park Smith Corporation, New York, New York, December 21, 1970; squeaker removes.

Rubber Squeeze toy football player: Lefsure Group, 100 Tubb Avenue, West Point, Mississippi, December 21, 1970; squeaker removes.

Kooky Eyes—Squeaker toy: Azrak Hemway Corporation, New York, New York, December 21, 1970; squeaker removes.

Toy Rolling pin squeeze toy: Plaki Company, Youngstown, Ohio, December 21, 1970; squeaker removes.

Squeeze Toy Pig: J. L. Prescott Co., Arrow Molded Products Div., 493 Boulevard E., Patterson, New Jersey, December 21, 1970.

Little Angel play ball: Childhood Interest, Roselle Park, New Jersey, December 21, 1970; squeaker removes.

"Toys for Fun" squeeze doll: J. L. Prescott Co., Patterson, New Jersey, December 21, 1970; squeaker removes.

Toy poodle rubber squeeze toy: J. L. Prescott Co., Patterson, New Jersey, December 21, 1970; squeaker removes.

Blue Fox Model Youngster—Archery Set: Bear Archery Company, Grayling, Michigan, December 21, 1970; inadequate labeling.

Fleetwood Archery Cub Archery Set—Fleetwood Archery: Superior, Michigan, December 21, 1970; inadequate labeling.

Jerry Pets Stuffed Poodle: Jerry Elsner Co., New York, New York, December 21, 1970; sharp eyes.

Stuffed toy cat: Georg Jensen, Inc., 601 Madison Avenue, New York, New York, December 21, 1970; sharp eyes.

"Kooky-Eyes" Squeeze Doll: Uneeda Doll Co., Inc., Brooklyn, New York, December 21, 1970; removable eyes—possible ingestion.

Star Musical Rattle: Star Manufacturing Co., 100 Water Street, Leominster, Massachusetts, December 21, 1970; sharp prongs.

Tumbler ball toy: Stahlwood Manufacturing Co., 601 West 50th Street, New York, New York, December 21, 1970; small pieces.

"Honey Baby" Doll: P & M Doll Co., Inc., New York, New York, December 21, 1970; pins holding hair ribbons.

"Baby Beth" Doll: Allied Doll & Toy Corp., Brooklyn, New York, December 21, 1970; straight pin holding hair ribbon.

Little Sophisticate Doll, Model No. 79000 [exemption granted collector's item] Uneeda Doll Corporation, Brooklyn, New York, December 21, 1970; sharp hair pins & straight pin holding ribbon.

"I Cry Mama" Doll: Goldberger Doll Co., Inc., 538 Johnson Avenue, Brooklyn, New York, December 21, 1970; sharp wires.

"Candy at Play" Doll: Fun World, Inc., 200 Fifth Avenue, New York, New York, December 21, 1970; pin.

"Your Dream Bride" Doll #2080: Eugene Doll Co., Inc., 4012 2nd Avenue, Brooklyn, New York, December 21, 1970; pin in head band.

"Mini-Bend-A-Family" Doll: Pensick & Gordon Co., 6501 Flotilla Avenue, Los Angeles, California, December 21, 1970; sharp wires.

Toy Basket: Fun World, Inc., 200 Fifth Avenue, New York, New York, December 21, 1970; plastic spike.

"Jiggly" Rattle: Bomar Company, Division of Kitty Products, Inc., 542 East Squantum Street, Squantum, Massachusetts, December 21, 1970; sharp metal and protrusions when handle breaks.

"Magic Action Hammer": Childhood Interests, Roselle Park, New Jersey, December 21, 1970; sharp edges when broken.

Jackie Twisting-Waist Doll: Fun World, Inc., 200 Fifth Avenue, New York, New York, December 21, 1970; sharp pin in hat and dress.

"Moody" Doll: Holiday Fair, Inc., 48 West 37th Street, New York, New York, December 21, 1970: pins and long wire spike in neck.

Stuffed Head: Georg Jensen, Inc., 601 Madison Avenue, New York, New York, December 21, 1970; sharp eyes.

Stuffed Toy Dog or Doll: LaMar Toy Company, 148 39th Street, Brooklyn, New York, December 21, 1970; sharp eyes.

"New Born Baby" T. 80: Goldberger Doll Mfg. Co., 538 Johnson Avenue, Brooklyn, New York, December 21, 1970; sharp wires in arms and legs.

Toy Telephone Rattle: Childhood Interests, Roselle Park, New Jersey, December 21, 1970; small pieces.

Musical Merry-G-Round Canelon: F. W. Woolworth & Co., New York, New York, December 21, 1970; sharp spike.

"Squeaking" Toy Donkey: A. Ponnock, Inc., East State St. & River Road, Camden, New Jersey, December 21, 1970: squeaker removes.

Musical Hour Glass: Tico Toys, Pawtucket, Rhode Island, before April 6, 1971: squeaker removes.

Soft Baby Stuffed Dolls: Collette Toy Novelty Co., Inc., Long Island City, New York, May 26, 1971: sharp wires.

Mascon Squeeze Toy Cheerleader: Leisure Group, Inc., West Point, Mississippi, Before January 22, 1971; squeaker removes.

Bend-A-Family: Miner Industries, New York, New York, Before April 9, 1971; laceration/puncture hazard.

Plastic Squeeze Toy #20892, #1030/70: Tidy Ties Corporation, Importer, Monroe, Louisiana, About April 22, 1971; squeaker removes.

Talkie Tiger: Sanitoy, Inc., New York, New York, April 1, 1971; squeaker removes.

Protecto Squeeze Me Toy #838: Reliance Products Corporation, Woonsocket, Rhode Island, Before May 20, 1971; squeaker removes.

Stuffed Donkey #1422: Herman Pecker & Co. (dealer), New York, New York, March 29, 1971; sharp wire in ear.

Leatherette Grandpa Dog #386: Herman Pecker & Co., Inc., New York, New York, March 29, 1971; sharp wire on glasses.

Stuffed Easter Bunny #3502: Easter Unlimited, New York, New York, April 21, 1971; sharp wires.

Toy Squeeze Doll #64034, #64039, #63542; Tidy Ties Corporation, Monroe, Louisiana, April 28, 1971; squeaker removes.

Baby Gift Set #Y7452: Childhood Interests, Roselle Park, New Jersey, April 22, 1971; squeaker removes, small objects, small parts.

Pata Cake Baby Rattler: F. W. Woolworth & Company, New York, New York, April 23, 1971; sharp prongs.

Musical Rattle #37–T4037: New York Merchandise Co., Dallas, Texas, April 22, 1971.

Squeeze Toy Giraffe #125: Sanitoy, Inc., New York, New York, May 4, 1971; squeaker removes.

Musical Carousel #320: Plastic Toy & Novelty Corp., Brooklyn, New York, May 4, 1971; sharp prongs.

Hedgehog Squeaker Teethers: F. A. O. Schwartz, New York, New York, June 18, 1971; squeaker removes.

Squeeze Me Toy #835: Reliance Products Corp., Woonsocket, Rhode Island, May 6, 1971: squeaker removes.

Stuffed Dolls # 127B: Collette Toy Novelty Co., Long Island City, New York, May 11, 1971; sharp wires.

Squeaker Toys # 6565, 6576, 6590: Tidy Ties Corporation, Monroe, Louisiana, May 5, 1971; squeaker removes.

Stuffed Toy Bunny # 3450 (Mr. or Mrs. Cuddly Bunny), Eastern Unlimited, Inc. New York, New York, June 7, 1971; sharp wire in ears.

Rattle # 521, Electro Plastics, Inc., Newark, New Jersey, May 19, 1971; small pieces and sharp edges.

Rattle # 538, Toy Plastic Hammer, Electro Plastics, Inc., Newark, New Jersey, May 19, 1971; small pieces.

Rattle # 522, Happy Mates Happy Toys Electro Plastics, Inc., Newark, New Jersey, May 20, 1971; sharp pieces.

Rattle # 540: Happy Mates Action Rattle, Electro Plastics, Inc., Newark New Jersey, May 19, 1971; small pieces and sharp edges.

Rattle # 530: Happy Mates Rattle Balls, Electro Plastics, Inc., Newark New Jersey, May 19, 1971; small pieces and sharp edges.

Toy Green Cat, Squeze Toy # 679, Happy Toy 661: Electro Plastics, Inc. (dist.) Newark, New Jersey, June 7, 1971; squeaker removes.

Stuffed Dolls # 131 c/1: Collette Toy and Novelty Co., Long Island City, New York, May 26, 1971; sharp wires.

Squeeze Toys # 314: Stahlwood Toy Mfg. Co., New York, New York, June 8, 1971; squeaker removes.

Dolly Rattle # 632: Stahlwood Toy Mfg. Co., New York, New York, June 9, 1971; small objects.

Whirle Suction Toy # 660: Stahlwood Toy Mfg. Co., New York, New York, June 8, 1971; sharp edges and small objects.

Toddler Set Containing Suction Cup, Flipn'Roll # 822: Stahlwood Toy Mfg. Co., New York, New York, June 9, 1971; small objects.

Horseshoe Rattle # 200: Stahlwood Toy Mfg. Co., New York, New York, June 8, 1971; sharp edges and small objects.

Pretzel, Rocking Horse & Wishbone Toy #924: Stahlwood Toy Mfg. Co., New York, New York, June 8, 1971; squeaker removes.

Squeaker Toy #63542 with Special Squeaker: Tidy Ties Corporation, Monroe, Louisiana, May 12, 1971; squeaker removes.

Debbie Teen #1360 1/10, Thor Import, Inc., Dallas, Texas, May 27, 1971; sharp wires.

Musical Bells #105: Binky Baby Products Co., New York, New York, June 22, 1971; small objects.

Stuffed Myrtle Turtle: Len Art Mfg. Company, Petaluma, California, June 14, 1971; sharp wire & "I Love You"; sharp pin.

Toddly Toy (cat) #3/186: Star Mfg. Company, Leominster, Massachusetts, June 14, 1971; small objects.

Shake Me Rattle #818: Reliance Products Corp., Woonsocket, Rhode Island, June 14, 1971; sharp edges & small objects.

Klatter Balls #2915052: Sears, Roebuck & Company, Chicago, Illinois, Binky Baby Products (importer), New York, New York, June 22, 1971; small objects.

Baby Toys #6257 & 6258: Baby World Company, Inc., Great Neck, New York, June 14, 1971; sharp wire.

Reggie Rabbit (packaged with *Whitman's* Sampler): Imported by R. Dakin & Co., Inc., Brisbane, California, May 14, 1971; sharp wires.

"Poly-Fluff Animals": Consolidated Productions, Ft. Lauderdale, Florida, June 21, 1971; sharp nose.

Baby Rattler #831, #832, #833, and #834: Childhood Interests, Inc., Roselle Park, New Jersey, June 22, 1971; small objects.

Hour Glass: Mego Corporation, New York, New York, July 7, 1971; small objects & sharp edges.

Stuffed Yellow Teddy Bear: Fun World, Inc., New York, New York, July 13, 1971; sharp wires in ear.

Musical Chime Rattle #587: Binky Baby Products, Inc., New York, New York, around July 13, 1971; small objects.

Toy Rattle #289: Binky Baby Products Co., Inc., New York, New York, July 13, 1971; small objects.

Rolling Fun Ball #377: Binky Baby Products Co., Inc., New York, New York, July 13, 1971; small objects.

Teething Rattle #39/70: Binky Baby Products Co., Inc., New York, New York, July 13, 1971; small objects.

Happy Hassock: Kasta Corporation, Bellevue, Iowa, July 13, 1971; squeaker removes.

Toy Clown #26345: W. T. Grant Company, New York, New York, July 13, 1971; small objects.

Stuffed Bunny: Dollcraft Novelty Co., Inc., New York, New York; July 14, 1971; laceration/puncture hazard.

Squeeze Toys #690: J. L. Prescott Co., Arrow Molded Products Division, Passaic, New Jersey, July 13, 1971; squeaker removes.

Squeeze Toys, boy & girl likeness, Dreamland Creations, Bronx, New York, July 12, 1971; squeaker removes.

Rooster Pull Toy with Rattle Eggs #205, Mego Corporation, New York, New York, July 12, 1971; small objects.

Miss Fashion Doll, Blatt Distributing Company, La Mirada, California, July 14, 1971; sharp wire.

Musical Nursery Bells #640: Stahlwood Toy Mfg. Co., Inc., New York, New York, July 13, 1971; small objects.

Squeeze Toys #131: Binky Baby Products, Inc., New York, New York, July 12, 1971; squeaker removes.

Klatter Balls #793: Binky Baby Products, Inc., New York, New York, July 12, 1971; small objects.

Jingle Bells #764: Sanitoy, Inc., Palisades Park, New Jersey, July 13, 1971; small objects.

Happy-Mates Rattle #52: (improved design), Electro Plastics, Inc., Newark, New Jersey, July 12, 1971; small pieces.

"Squeeze N' Hammer Rattle" #538: (improved design), Electro Plastics, Inc., Newark, New Jersey, July 12, 1971; small pieces.

Dog Squeeze Toy #780/1: Louis A. Boettinger Co., Inc., Hewlitt, New York, July 28, 1971; squeaker removes.

Bear with Dark Glasses Squeeze Toy BV–5: Louis A. Boettinger Co., Inc., Hewlitt, New York, July 28, 1971; squeaker removes.

Cat and Duck Shape Squeeze Toy BV–8; Louis A. Boettinger Co., Inc., Hewlitt, New York, July 28, 1971; squeaker removes.

Colorscope Rattle No. 561: Louis A. Boettinger Co., Hewlitt, New York, July 27, 1971; small objects.

Assorted Rattles No. 5619P: Baby World Co., Inc., Grafton, W. Virginia or Great Neck, New York, July 23, 1971; small objects.

Telephone Shaped Rattle No. 6623: Baby World Co., Inc., Grafton, W. Virginia or Great Neck, New York, July 23, 1971; small objects and sharp edges.

Assorted Squeeze Toys No. 6500: Baby World Co., Inc., Grafton, W. Virginia or Great Neck, New York, July 22, 1971; squeaker removes.

Klatter Balls No. 238: Baby World Company, Grafton, West Va. or Great Neck, New York, July 23, 1971; small objects.

Klatter Ring No. 5868: Baby World Company, Inc., Grafton, West Virginia or Great Neck, New York, July 23, 1971; small objects.

Plastic Doll Squeeze Toy No. 297: Binky Baby Products Co., Inc., New York, New York, July 22, 1971; squeaker removes.

Duck Squeaker Toy No. 3–680: Star Mfg. Company, Inc., Leominster, Massachusetts, July 23, 1971; squeaker removes.

Monkey Squeaker Toy No. 3–160: Star Manufacturing Company, Leominster, Massachusetts, July 23, 1971; squeaker removes.

Tutti Fruitee Squeeze Toys No. 140: Stahlwood Toy Mfg. Company, Inc., New York, New York, July 21, 1971; squeaker removes.

Indian Drums No. 3715: Sally Distributors, 119 North Fourth Street, Minneapolis, Minnesota, July 26, 1971; sharp nail & small objects.

Toy Stuffed Porpoise: S. Dakin & Company, San Francisco, California, July 28, 1971; sharp wires in flippers.

Rattle Balls No. 907: Stahlwood Toy Mfg. Co., Inc., New York, New York, July 26, 1971; small objects.

Cuddle Rabbit #9406: Knickerbocker Toy Company, Middlesex, New Jersey, August 18, 1971; sharp wire in ear.

Animal Squeeze Toys #275: Stahlwood Toy Mfg. Company, New York, New York; August 18, 1971; squeaker removes.

Pata Cake Baby Rattler (new design): F. W. Woolworth & Company, New York, New York, August 18, 1971; sharp wire & small object.

Party Favors: Carousel Party Favors, Inc., Los Angeles, Calif., August 19, 1971; noisemaker removes.

Klatter Balls #4530: Formulette Company, Inc., Long Island City, N.Y., August 18, 1971; small object.

Jumbo Fun Ball #440: Formulette Company, Inc., Long Island City, N.Y., August 18, 1971; small objects.

Whiskers Toy Squeeze Lion: Ashland Rubber Products Corp., Ashland, Ohio, August 23, 1971; squeaker removes.

Shake N' Rattle #921: Stahlwood Toy Mfg. Co., New York, New York, August 23, 1971; small objects.

Whistle Packaged in "Cracker Jacks": Cracker Jacks Company, Chicago, Illinois, August 23, 1971; small object.

Squeeze Lion #3/187: Star Mfg. Company, Leominster Massachusetts, July 23, 1971; squeaker removes.

Xylophone Player #9151: Larami Corporation, August 25, 1971; sharp edges.

Suction Toy Rattle #674: Electro Plastics, Inc., Newark, New Jersey, August 31, 1971; small objects.

Toy Truck Kit. #5044: Nodel & Sons Toy Corporation, New York, New York, September 2, 1971; small objects.

Baby Toy Kit #5088: Nodel & Sons Toy Corporation, New York, New York, September 2, 1971; small objects.

"I Squeak for a Squeeze" Stuffed Mouse: Rushton Company, Atlanta, Georgia, September 8, 1971; sharp wires in ears & eyes.

Musical Ball: The Playhouse Company, Minneapolis, Minnesota, September 8, 1971; sharp prongs.

Patty Happy Landings Doll: Lovee Doll & Toy Company, Inc., New York, New York, September 15, 1971; straight pin in tam.

Squeeze Toys #2521 and 2548: West Bros. of DeRidder, DeRidder, Louisiana, September 15, 1971; squeaker removes.

Toy Whistle #662: Ralph Pressner, Metairie, Louisiana, September 15, 1971; small object.

Vinyl Bendy Dogs: Paul E. Sernau, Inc., New York, N.Y., August 18, 1971; sharp wires [exemption granted. Item used only as a part of an adult novelty ash tray.]

NOMINATION OF WILLIAM REHNQUIST TO THE SUPREME COURT

Mr. FANNIN. Mr. President, the vicious smear campaign that is being waged against William Rehnquist is appalling. It is incredible that such wild and groundless accusations should be made against this fine, extremely well qualified nominee for the highest court in our land.

It is significant that the attempt at character assassination is being led by people who have little or no personal knowledge of William Rehnquist.

People who know William Rehnquist, who have worked with him or against him, and who are familiar with his work, respect him as a man of high character who is devoted to law and to the Constitution of the United States.

The most meaningful assessments of William Rehnquist might well be those made by persons who have opposed him politically within Arizona.

On November 5, 1971, the Arizona Republic published a letter to the editor from Mr. Herbert Ely, the chairman of the Democratic Party in Arizona.

Emphasizing that he was commenting on the Rehnquist nomination as an individual and not as party chairman, Mr. Ely wrote:

Although I would not have nominated William Rehnquist as justice of the Supreme Court, nevertheless, as a Senator I would vote to confirm the appointment.

The President is entitled to someone of his own philosophical bent, providing the nominee is competent to serve and is not so extreme or radical that his biases would preclude judicial objectivity and thus make him dangerous to the republic as a Supreme Court justice.

From a decade of personal experience with William Rehnquist, I found him to be qualified to serve on the U.S. Supreme Court both in intellect and legal scholarship. He is a man who happens not to share my political philosophy. But in my opinion he is neither an extremist or a bigot.

Mr. President, here we have a political opponent who has known William Rehnquist personally for 10 years, who has done battle with him in several election campaigns, declaring that: ". . . in my opinion, he is neither an extremist or a bigot."

It seems to me that Mr. Ely's assessment is infinitely more valuable than the innuendo from those who, for one reason or another, now seek to block the Rehnquist nomination.

Mr. President, I ask unanimous consent to have printed in the RECORD the complete text of Mr. Ely's letter.

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

REHNQUIST WELL SUITED FOR SUPREME COURT

EDITOR, THE ARIZONA REPUBLIC: I write in response to your Oct. 31 editorial, "Vicious anti-Rehnquist tactics," and the accompanying cartoon.

I wish to make clear my position on the nomination of William Rehnquist to the Supreme Court, and to respond to your editorial handling of Mr. Rehnquist's nomination (as an individual, not as chairman of the Democratic Party).

I have stated before, and restate here, that although I would not have nominated William Rehnquist as justice of the Supreme Court, nevertheless, as a Senator I would vote to confirm the appointment.

The President is entitled to someone of his own philosophical bent, providing the nominee is competent to serve and is not so extreme or radical that his biases would preclude judicial objectivity and thus make him dangerous to the republic as a Supreme Court justice.

From a decade of personal experience with William Rehnquist, I found him to be qualified to serve on the U.S. Supreme Court both in intellect and legal scholarship. He is a man who happens not to share my political philosophy. But in my opinion he is neither an extremist or a bigot.

We debated in Phoenix on various occasions on a variety of topics. There has been a charge made that he has been aligned with the John Birch Society. My experience is the contrary.

In one particular debate (approximately a four-hour ordeal on open-end television) on the subject of dissent in a free society, a John Birch member was the third panelist. Bill Rehnquist's views were essentially opposed to the views expressed by the member of the John Birch Society.

When Rehnquist testified against the public accommodations bill for the City of Phoenix, I was there and testified for it. His position, in my opinion clearly wrong, was based not on a racist basis but on a philosophical belief that problems of racial injustice can be solved best by voluntary action.

Your editorial, however, went beyond support for Mr. Rehnquist. Its attack on liberals and others who would oppose Rehnquist was unwarranted, and will tend to polarize in an unfortunate way various groups in the community.

Detailed scrutiny of nominees for the highest court in the land is salutary. The Supreme Court, after all, makes decisions which affect the very fabric of our society. There are some who apparently have a different opinion of Rehnquist based upon facts not personally known to me. They should be heard and, indeed, if they feel he would make a poor justice, they have an obligation to expound their views.

There are many of us who believe that, particularly since 1954 (when the landmark desegregation case was decided), the Supreme Court has opened vistas of freedom through the protection of individual rights and liberties and has been a bulwark for a broad and healthy interpretation of the Bill of Rights. Many Americans rightfully do not wish the Court to back away from these interpretations. I understand and share their concern.

Your editorial further suggested that social, remedial legislation is inappropriate. But it is a little late in the game to be arguing such an anachronistic position. In public accommodations, to which you specifically referred, the facts are in. Those who oppose such legislation have been proved wrong.

In Phoenix, restaurants and motels which were closed to minorities before such legislation are now open to blacks and browns. The fears of businessmen have proved ill-founded and, if anything, their business has prospered because of these laws.

A final word for people who are opposing William Rehnquist: The remedy for keeping "strict constructionist," conservative judges off the bench is a political remedy and a very specific one—namely, to defeat President Nixon in 1972.

HERBERT L. ELY.

PHOENIX.

Mr. FANNIN. Mr. President, the Arizona Republic on October 27, 1971, published an editorial which refuted vague allegations that William Rehnquist is a "sophisticated racist." I ask unanimous consent that this editorial and another Republic editorial, published on November 11, 1971, be printed in the RECORD.

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

NO RACISM FOR REHNQUIST

The Southwest chapter of the NAACP is exposing itself to embarrassment by branding former Phoenix attorney William Rehnquist, one of President Nixon's two nominees to the Supreme Court, as a "sophisticated racist." It cannot make the charge stand.

The Rev. George Brooks, former leader of the Maricopa County NAACP chapter, declared soon after the President's announcement that Rehnquist had shown his opposition to civil rights bill by opposing a "1968" civil rights bill in the State Legislature. He soon modified that and began to speak more vaguely about Rehnquist's behavior in the "mid-60s."

The State Legislature did pass a Civil Rights Act in 1965. But leading Arizona Democrat Harold Giss of Yuma, then Senate Majority Leader as well as chairman of the Senate Judiciary Committee, said Rehnquist could not be cited as having taken a racist position.

Senator Giss added that he considered Rehnquist an outstanding nominee. Such is also the opinion of former State Supreme Court Chief Justice Charles Bernstein, also a Democrat, who described Rehnquist as a lawyer of exceptional ability.

In addition, yesterday morning the moderate-liberal Christian Science Monitor editorialized: "This newspaper reacts positively to the two newest Supreme Court nominations of President Nixon . . . the President is to be commended for seeking men of quality . . ."

And Herb Ely, liberal chairman of the Arizona Democratic Party, has said that he has "immense respect" for Rehnquist, even though the two of them may disagree on most political issues. Ely said he believes the Nixon nominee would be a first-rate justice.

We believe that neither slyness nor racism has any part in Rehnquist's personality. The NAACP has gone far astray by equating the Supreme Court nominee's conservative views with racial bigotry.

Prominent Arizonans of many diverse views utterly fail to agree with the group. The NAACP had better climb down from its shaky limb.

LOOK WHO'S TALKING

The ugly campaign to discredit Supreme Court nominee William Rehnquist has been marked by calumny and rumor. But it has not been without its humorous aspects, even though the humor is unintended.

We think specifically of the opposition to Rehnquist by Joseph L. Rauh Jr., of the Americans for Democratic Action, and the Leadership Conference on Civil Rights. Even Sen. Edward Kennedy rebuked Rauh for his "uncalled for and unwarranted" personal attacks on Rehnquist.

If there is one thing Rauh is big on, it is civil liberties. No person in Washington has ever been more vocal in support of those rights. And few people have never spoken so passionately one way and acted directly opposite.

Writing in The Progessive, May 1950, Rauh said: "Let us do away with confidential informants, dossiers, political spies . . . No one can guess where this process of informing will end." Just four years later Rauh, at that time chairman of the ADA, paid $8,500 to a self-confessed liar and confidence man—a confidential informant and political spy who was supposedly compiling dossiers on government officials.

The whole incident is part of federal grand jury records, and is amusingly detailed in William Buckley's "Up From Liberalism." Briefly, the story is this:

One Paul Hughes, 35, tried to sell the McCarthy staff and the FBI a lurid tale of high treason at a U.S. Air Force base. Both agencies sent him packing. Whereupon Hughes approached Rauh, Clayton Fritchey (then editor of the Democratic Digest), and the Washington Post with a grotesque and bizarre story, supposedly based on his knowledge as a McCarthy staff member, of intrigue between McCarthy and the White House . . . of McCarthy informers in the CIA and the State Department . . . of an arsenal of pistols, Lugers, and submachine guns that McCarthy and his staff had amassed in the basement of the Senate Office Building.

When Hughes told Rauh that McCarthy's spy on the ultraliberal New York Post was that newspaper's cooking editor, Rauh quickly informed Post editor James Wechsler—and later told the jury that McCarthy shouldn't have anybody on the newspaper, a vivid contrast to his view that loyalty risks should be allowed to hold government jobs.

Rauh and Fritchey agreed with a Hughes memorandum of December 1953 that phone taps could be used against McCarthy, that ethics should be relaxed to prove and document McCarthy's guilt, that "being nice, too ethical or squeamish, will accomplish less than nothing, where McCarthy is concerned."

The Washington Post prepared 12 articles on Senator McCarthy, based on the Hughes revelations. But when it began to check them out, the tissue of lies was revealed.

". . . Rauh and company had for years moralized about the venality of the secret informer—even when used under sanction of

custom, law, and relevant administrative rulings, subject, in the end, to all judicial safeguards," wrote Buckley.

"Now it developed that even while they were loudly condemning the use of 'political spies' and 'secret informers,' they were themselves making deliberate, extended, and blanket use of a man whom they believed to be a political spy and secret informer—one who, moreover, had told them explicitly and in writing that he was not merely being personally disloyal to his employer, but was prepared to use illegal methods to get his alleged information."

That is the sort of man who now charges that William Rehnquist does not have the proper respect for civil liberties!

SENATOR SPESSARD L. HOLLAND, LATE A SENATOR FROM FLORIDA

Mr. ALLEN. Mr. President with the retirement and subsequent death of the Honorable Spessard L. Holland, the Nation, as well as his native State of Florida, lost a great patriot and one of her most distinguished sons. The United States Senate, where Senator Holland made an outstanding record during an illustrious career of almost 25 years, lost some of its greatness and some of its luster on his retirement from the Senate; for, surely, it was Senator Holland and Senators of his type who earned for the U.S. Senate the accolade of "greatest deliberative body in the world."

In the Senate Reception Room, just off the Senate Chamber, are portraits of five former U.S. Senators. The room contains no other portraits. These Senators were chosen as the five greatest U.S. Senators of all time by a Senate committee, headed by then Senator John F. Kennedy, that had been appointed to name the five greatest U.S. Senators. Predictably, Webster, Calhoun, and Clay were named, as were Robert A. Taft and Robert LaFollette. Outstanding as were all five of these famous Senators, without question, in the judgment of the junior Senator from Alabama, Senator Spessard Lindsey Holland was the peer of the greatest of these great Senators.

Senator Holland's superior intellect and silver-tongued eloquence; his integrity and statesmanship; his fairmindedness and courtesy; his logic, leadership, and dedication all contributed to his greatness.

Mr. President, a man is judged by the company he keeps, by his deeds, by his thoughts and motives, by his dedication, sincerity and integrity—yes, and by the books he reads and the music to which he listens. But, Mr. President, I suggest that a man can also be judged by the men he most admires—by who his heroes are. To the junior Senator from Alabama, Senator Holland was one of his heroes, one of the public figures that he most admired. I welcome judgment by this standard.

I had the privilege of serving with Senator Holland only in the 91st Congress, but I did have the good fortune of enjoying a close association with him, on and off the Senate floor.

Many times—actually dozens of times—I had the privilege of sitting at the same table with him at lunch in the Senators private dining room at the table reserved for Democratic Senators. While I figuratively sat at his feet on those occasions, I actually sat beside him and listened intently and with great interest as Senator Holland told of the history and traditions of the Senate, and of the many great issues that had been debated in the Senate, and of the renowned statesmen who had served in the Senate. What greater authority could have been found than Senator Holland?

Mr. President, Mrs. Allen and I were always deeply touched by the love that Senator and Mrs. Holland had for each other. She was seldom absent from his thoughts or his conversation. We had the pleasure of attending their 50th wedding anniversary and, with hundreds of their friends, shared with them the happiness of the occasion. We pray that the Lord will comfort and sustain Mrs. Holland in her loss.

Senator Holland has been gathered unto his fathers and will never again be physically present in this Chamber, but the memory of his greatness and of his illustrious record will live on as long as our Republic stands.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. STEVENSON). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

REVENUE ACT OF 1971

The PRESIDING OFFICER. Under the previous order, the Chair now lays before the Senate the unfinished business, H.R. 10947, which the clerk will report.

The legislative clerk read the bill by title, as follows:

A bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from California (Mr. TUNNEY), which will be read:

The amendment was read, as follows:

On page 71, line 2, strike out "$12,000" and insert in lieu thereof "$18,000".

The PRESIDING OFFICER. The time is under control.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be taken out of both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. TUNNEY. Mr. President, the amendment which I am offering this morning would have the effect of amending the committee bill in that it would increase from $12,000 to $18,000 the point at which the deduction for expenses of child care and domestic help would begin to phase out. Other provisions of this deduction would remain unchanged from the bill proposed by the Committee on Finance, as amended. For example, the maximum deduction of $4,800 would be available for child care and domestic help expenses if incurred to allow the taxpayer to get a paying job.

There are four main arguments for the amendment which I would like to bring to the attention of the Senate.

First, child care and domestic help expenses are work-related and ought to be business expenses at this level, just as they are for lower income families.

One news commentator on television several days ago commented that if John D. Rockefeller needed to hire a new secretary in order to be able to utilize his time more effectively in his work, he would be able to obtain a business expense under present Federal tax laws. If, on the other hand, a mother wants to go out and earn some money, perhaps so that her family can live better or so that her children can have more opportunities, and she wants to hire somebody to help care for her home and help look after her children, she is not able to claim such a salary cost as a business expense. It really is not fair to grant relief to the businessman to hire a secretary and at the same time not grant that same relief to the mother who wants to work.

Second, I think that the committee and its very distinguished chairman, the Senator from Louisiana (Mr. LONG), have made a very wise decision in including in this legislation a deduction for the working mother. I think it demonstrates an awareness of the realities of life. However, I believe that the $12,000 limit is unrealistically low. I realize that the $12,000 limit was put on because it was assumed $12,000 would be the median income for families in the coming year. However, it seems to me that families should be able to take such a deduction beyond the median when we are talking about work-related activities.

Third, the Bureau of the Census has studies which show that families in the middle-income range face large tax burdens from all sources. I was able to develop some information on that point. Families with an income of between $8,000 and $10,000 have total State, local, and Federal taxes which represent 16.7 percent of their income. In the $10,000 to $15,000 range, it is 19.1 percent. In the $15,000 to $25,000 range it climbs to 21.1 percent.

As Senators know, the Senate has already accepted an amendment of mine which would make this deduction avail-

able to more low-income families. Beyond this the committee bill gives its greatest tax reductions generally to lower income families.

Inasmuch as Federal taxes alone increase progressively, we ought to have some additional form of tax relief for families with incomes between $12,000 and $18,000—particularly when that form of tax relief would allow a mother to work, and at the same time it would have the added benefit of giving work to a babysitter.

Fourth and finally, I feel that the deduction is necessary to avoid discriminating against women who do want to work and who are married and who have children. When a mother must work, it is unfair to require that she spend most or all of her salary on child care and domestic help expenses.

My amendment would allow a deduction of the most obvious work related expense women can have, and that is the expense that comes when a woman who works must have someone to take care of her children.

I sincerely believe that the innovative decision made by the Finance Committee and by its distinguished chairman (Mr. LONG) can be improved by increasing from $12,000 to $18,000 the amount of money a family can earn while taking full advantage of the benefit that is contained in the committee bill.

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

Mr. TUNNEY. I yield.

Mr. LONG. I am going to yield some time in opposition to another Senator, but I am personally strongly in support of the amendment.

As one who worked in committee to get the committee to agree that there should be a deduction available for amounts paid to someone who looks after children while one is working, or looks after the house while one is working, I could not agree more with the Senator from California.

Frankly, while the provision in the bill is a good one——

Mr. TUNNEY. Excellent.

Mr. LONG. And I am 1 million percent in favor of it—as it stands now when one goes home and talks with his constituents, about half of the working mothers are not getting the benefit of the deduction under present law while half of them are, and a Senator must spend half his time explaining why one-half of the working mothers do not get the benefit of the deduction while the benefit is available for the others. People say, "What is wrong about the fact that I am able to make $700 a month? What is evil about that?" I think it is appropriate to regard such an expense as a business expense of a mother.

A mother on the "Today" television program said not long ago that she felt that if David Rockefeller could deduct as a business expense the salary of a secretary that he needed, then she should be able to deduct as an expense the cost of hiring somebody to take care of the house while she is working.

When you accept the logic of that argument, as the Senate has done, then to cut it off at the $12,000 income level means two things: First, that a lot of people will not be able to use it; and second, if they do use it, they will have its benefits very much reduced, on the theory, in effect, that if a family income is above $12,000 for a family of three, four, or five, they should not be permitted the full benefit of a deduction.

That just does not make much sense. I can understand why you might say you would not want to provide this benefit where the family income is $30,000, $40,000, $50,000, or $100,000; but to say you have gone beyond the point at which the deduction should be allowed at $12,000 is really not logical. If we did that, we would spend more time explaining and defending our votes not to extend it than anything else we could do in this bill.

Assume a case where a mother is working and making $700 a month, and the father is working and making $800 a month, and assume they hire someone for $400 a month to look after their children and tend their home while they are both out working. You will have great difficulty in explaining to those people why they should not have this deduction. What is wrong about them making $1,500 a month—$18,000 a year—with two people out working?

The Senator has a very good amendment. I urge him to offer it, because I think this would be a tremendous improvement on what we were able to do in the committee.

Mr. TUNNEY. Mr. President, I should like to ask the Senator a question, if I may.

Mr. LONG. Yes.

Mr. TUNNEY. When the distinguished chairman developed this excellent creative idea in the committee, did he feel that there would be more mothers able to take advantage of it than has subsequently turned out to be the case, based on his conversations with personnel of the Treasury Department?

Mr. LONG. Mr. President, I personally think we should do much more for people who hire someone to do domestic work than we are doing in this bill, and I tried to do much more than that. We arrived at the point where there appeared to be about a tie vote on doing more than this; and in order to try to get the committee in agreement on something, I suggested we simply take the $12,000 income limit in the House-passed welfare bill, H.R. 1, and see how many votes we could muster for the formula there.

But I am frank to say that I really do think that after the committee started thinking about this matter, most of the committee members have felt inclined to agree that we could do more in this area, and that it makes sense.

The cost of this proposal, may I say, shocked some people, to begin with, but further revenue estimates have indicated it would not cost nearly as much as we had thought. I regret to state the reason why it would not cost as much as we thought this provision for a deduction for domestic help was going to cost. The reason was that people at this income level cannot afford to hire people at $400 a month; so the cost in revenue to the Government is limited by the fact that we are restricting the benefit of the provision to people who cannot afford to fully use it.

When you get up to about $18,000, you are getting to people who can afford to fully use the $400 deduction for hiring someone to look after their children.

Mr. TUNNEY. And that will make for more employment.

Mr. LONG. Yes. The committee voted for the provision now in the bill on the basis of the estimate that it would cost about $300 million. What we propose to do with the Tunney amendment that was adopted last week, and this amendment added to it, would not cost as much as we thought when we included the provision in the bill, and the reason it would not cost as much is that people at this level of income, even the $18,000 level, would not hire domestic help to the extent they would like to, because they just cannot afford it.

Mr. TUNNEY. I think the Senator is absolutely correct. I saw estimates that the cost of this particular provision would be $55 million, but that is not really a true cost, because it is clear that the couple who are going to hire a housekeeper to take care of their children are going to provide employment for someone who would not have had employment otherwise, and it is quite probable that the person who would not have had the employment otherwise would be on welfare. Also, the parent who is then able to work will pay taxes to the Treasury on that income. So I think when we talk about a cost of $55 million, we are only talking about one side of the balance sheet. We are talking about the loss in taxes, but we are not talking about the saving to the Treasury in not keeping a potential housekeeper on welfare.

Mr. LONG. The Senator is absolutely correct. There is not one dollar of feedback in this estimate of what the overall cost would be. It is estimated that the committee amendment, plus the two Tunney amendments, would cost about $315 million. But you are not going to find one penny of feedback in that estimate.

Where are they going to find the people to look after their children? Most of those people are presumably unemployed today. So when you put those people to work, you are going to take them off welfare, at tremendous tax savings. Most people would rather put such people to work than put them on welfare. So there is a two-way benefit: First, you benefit a working woman by permitting her to employ someone to help with domestic duties and help look after her children; and second, you benefit the people who are being employed because those people are then able to earn enough to make their own way, or, if they are on welfare, they can supplement their welfare payments so that that family, too, can live a little better, while Uncle Sam saves money in the process.

So if you look at the feedback involved, it probably would not cost more than $200 million to do this. There is no doubt in my mind that if we want to help people earn their own way and take people off welfare and put them to work, this

provision would go a long way in that direction.

Mr. TUNNEY. I think that when the Senator from Louisiana created the idea in committee, he was trying to accomplish this precise result. It may be that as a result of the amendment we are offering, we are going to allow more families to take advantage of this excellent idea.

I should like to read into the RECORD some recent Treasury estimates.

Under the bill with the first amendment expanding low-income coverage that I offered and the Senate offered last week, at least 1 million families would use the child-care and domestic service expense deduction. There are 10 million husband-and-wife families with children under 14 who earn from $7,000 to $15,000 annually. Two million additional husband-and-wife families have children under 14 and earn $15,000 to $20,000.

Of these, about 600,000 families have full-time working mothers. About 400,000 families would use the deduction under this second amendment.

I think it is quite clear that we would be putting more people to work. It will save so much in welfare costs, and I compliment the Senator from Louisiana for having come up with this great idea.

Mr. LONG. Mr. President, considering the Senate's priorities, it would seem to me that here we are affording a husband and wife an opportunity to live better while at the same time creating a job.

I am well aware of one particular tragedy, because it occurred very near where I live, just across the street, where a mother had no one to help her with the children. She left to go down the street for about half an hour, tied the door shut with a string, there was an open fire, apparently a log rolled out of the fireplace, the house burned down, and two little children burned to death in that house.

When you witness this kind of tragedy, you realize how important it is that we provide care for children. This is a problem that a great number of people have. Frankly, it is more important to the mothers invovled in these families than it is for a plant to displace a perfectly good machine in order to put a more futuristic machine in its place.

So I think that in terms of the overall priorities we have in mind, this is a good way to create jobs and help those who are already working.

Mr. TUNNEY. I thank the Senator.

Mr. LONG. Mr. President, I yield to the Senator from Utah the time in opposition.

Mr. BENNETT. Mr. President, this is a very appealing political tax approach. We have seen it many, many times before. If $1 is good, then $2 is better. And we keep on going up.

I think that with this amendment we cross an interesting line. We are not providing tax relief to take care of the one-parent family, where it is usually necessary for the mother to go out to work and she needs some help to pay for care necessary for her children. We are now moving into the range where we are providing tax relief for the wife who does not have to go out to work but who, in order to get a new automobile or better clothes or for any reason of that kind, would like to go out to work and have the Federal Government provide tax relief to take care of her child.

While it is pointed out that the amendment says that we are simply raising the base from $12,000 to $18,000, we are raising it so high that before the tax relief completely phases out, we are looking at an income of $27,600 a year. On this basis, the Treasury's latest estimate is that we are adding nearly another $100 million loss to the Treasury for the purpose of providing the privilege of employing domestic servants to people whose income goes up to $27,000 a year, in order that the wife can work to supplement the income—well above the poverty level, well above the question of need.

This amendment, presumably, is limited to the providing of help for child care; but it is so written that once a person qualifies for it, once a family qualifies for it, the money can be spent for domestic help of any kind.

If a family entertains a great deal and can show that the expense is employment related, it may get tax relief for the bartenders they bring in for their entertainment. I think the only exception to the household help provision is for chauffeurs; but on the ground that they are getting caretakers, they can hire gardners and hire any other type of domestic help, whether or not they actually need child care. To me, it opens the matter up to the point where it becomes very difficult to defend.

The proposal does nothing to alleviate the problems of low-income families with young children. We have already taken care of that. The problem of child care is the problem of mothers who are required to work in order that children may have some of the necessities, not the luxuries, of life. The problem should not be to ease the tax burden so that the wife may, as I say, work to secure a second car or an extended vacation or a better home or better clothes. That is what we are getting into when we raise the level at which the phase out starts to $18,000 so that the deduction in not completely phased out until an income level of $27,000.

I suppose the Senator from Utah is old fashioned. I can understand the sacrifice in relations with our children that a mother must make if she has to go out to work. But I am wondering whether we should provide tax incentive for a mother who does not have to go out to work, to leave her children in the care of hired domestics. We can read many sage observations on the part of psychologists and psychiatrists that many of our problems in society today grow out of the fact that there is no communication between parents and children, that the breakdown of the family and the home is one of the real causes of the very serious problems we face in the country today. Now we are being asked to provide a tax benefit to make it possible for that breakdown to be accelerated.

The proposal makes it less costly for the wife of a middle-income taxpayer to pass off the motherly duty of child rearing to an employee so that the mother can secure outside employment. As I say, it has no benefits for the woman who has to work in order to take care of her family.

The proposal contains a number of interesting deficiencies, from a technical standpoint. Since it limits the amount that can be deducted on a monthly basis, the IRS would have to look at the expenditures of that family for outside help of all kinds on a monthly basis. Some months they might have to disallow part of the deduction. One can imagine the additional auditing problems that would be added.

As I say, I realize that this has an appealing background. It is nice to be able to go out and say to your constituents, including those up to the $25,000 bracket, "We have provided you with tax relief, and you can spend it on any kind of domestic service you want—so long as you have a child under 15 and your wife works." Those are the only conditions. I believe she has to work only 30 hours a week in order to qualify. This is a nice little tax loophole, a nice little bonanza, for people who really do not need it, and it is going to cost the rest of us almost $100 million a year in additional taxes that we must make up to provide it.

So I can understand why my friend, the chairman of the committee, would support it; because it is basically an extension of his idea, and it is an appealing extension. But I think we should look, also, at the cost to the Treasury and the fact that we have moved out of the question of necessity into the area where it can provide some very pleasant amenities to people who really do not need it.

Therefore, Mr. President, I expect to vote against the proposal, and I hope that my colleagues will join me.

Mr. TUNNEY. Mr. President, I just cannot agree with the distinguished Senator from Utah that this represents a loophole, any more than it represents a loophole in a tax law to allow a businessman to claim a business expense for a secretary. The secretary he hires makes the businessman more effective and allows him to do his job better. The way the committee bill is amended, it does provide for a business expense in the case of a mother who desires to work. I do not see any reason why we should not say to that mother that she has a right to claim as a business expense the cost of household help to take care of her children so that she can go out to work.

I do not know of any distinction between the two cases, other than the fact that in one case we are talking about a man and in the other case we are talking about a woman. I feel strongly that if we are going to give equal rights to women as well as to men, a woman should be given the opportunity to have a business expense writeoff for the cost of her doing business. I really believe that the question of the family breakdown is an ancillary point. There are many other factors involved, psychological and sociological, that bring about a family breakdown. I do not believe that this

amendment will cause any further breakdown in the family that would not have occurred anyway.

Mr. LONG. Mr. President, will the Senator from California yield?

Mr. TUNNEY. I yield.

Mr. LONG. Some may not like to recognize it, but it is true that the idea that a woman is entitled to take a job and help bring income into the family, particularly if she can make arrangements for someone to discharge the family responsibilities and take care of the domestic work that ordinarily would be her task, has caught on in this country. It is accepted. The idea that a woman's place is in the home and that she cannot hire someone to do the household work in order to increase the family income is no longer current. Rather, it is recognized today as a right of women to do so. Some may not like it but at least, to that extent, the women's liberation movement has caught on.

Mr. TUNNEY. I would agree with the Senator.

Mr. LONG. Some women make better secretaries and business executives than they do housekeepers. If they want to hire a good housekeeper, they should have that privilege. The question is whether she can deduct the expense of it. That is what we are talking about.

Mr. TUNNEY. I could not agree with the Senator more.

Mr. President, one other point I would like to make. It is clear from reading the committee language, section 214, that the purpose of this provision is to enable a woman who has a child under the age of 15 to take advantage of this benefit. It is not designed to enable a family to write off the cost of a butler or a gardener, or someone like that. The language is clear.

It states:

"(1) The term 'qualifying individual' means—

"(A) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under section 151(e),

It goes on to say in (b)(2):

The term 'employment-related expenses' means the following expenses, but only if they are incurred to enable the taxpayer to be gainfully employed:

"(A) expenses for household services, and

"(B) expenses for the care of a qualifying individual.

Mr. BENNETT. Mr. President, will the Senator from California yield?

Mr. TUNNEY. I yield.

Mr. BENNETT. I can ask this question because I do not drink. But would not the Senator consider that if someone had a big party and brought in a bartender and a couple of girls to serve drinks in their home, that that would not be a household service?

Mr. TUNNEY. It depends on the definition. Under the Senator's definition——

Mr. BENNETT. It is service in the household. I think it is a household service.

Mr. TUNNEY. It is clear that the purpose of the provision is not to pay for a butler serving drinks but to pay for a babysitter or some other individual to take care of the child while the mother is working and to provide normal domestic services.

Mr. President, I would like to ask the distinguished chairman of the committee, who drafted the language, what he intended.

Mr. LONG. Mr. President, I suggest that this language can be further restricted if necessary. That is one of the things we can do in conference, in the event the Senator's amendment is agreed to. We have drafted the language so as to exclude a chauffeur and similar nonemployment-related household services. It may be that we could draft the language much closer. We could work on that, although I think the requirement that the expenses be incurred to enable the taxpayer to be gainfully employed should be adequate.

But, on the other hand, I do not know why, if someone is working as a cook, we should make it against the law to have a drink after a hard day's work. I do not know why we should make it against the law for a cook to bring a bottle of beer to a workingman when he comes home from work if that is in addition to his other duties. I know that in some homes it would be objectionable, but if one enjoys having a drink at dinner, I do not know why we should make it against the law.

But, let us talk about the intended result of this provision. Here we are talking about a situation where a man and wife with perhaps five children are making $1,500 a month combined income, which works out to $18,000 a year. So we are talking about allowing the benefit of a tax deduction for a man and wife where both work and have children in school—some perhaps may have six or eight children. They have to hire someone to look after the children and do the housework while they are both out working.

The PRESIDING OFFICER (Mr. BENTSEN). The time of the Senator from California has expired.

Mr. TUNNEY. Mr. President, will the Senator from Utah yield me 2 minutes?

Mr. BENNETT. I am happy to yield 2 minutes to the Senator from California.

Mr. TUNNEY. I should like to add to what the Senator from Louisiana has said that it is the purpose of the amendment to allow a mother to work and have someone at home taking care of the child and caring for the house, or to use the services of the day-care center. I think that there is something to be said for the committee language allowing a little bit of flexibility. After all, we do not want the Federal Government sending IRS agents to everyone's home to make the mother punch a timeclock, and the person working for the mother punch a timeclock, to determine how many minutes a day are spent doing various jobs. Obviously, the suggestion of the Senator from Louisiana that, occasionally, we might have a member of the household doing something other than the job for which he was hired, that is, taking care of the child, is logical, but if the major purpose of being in the home is to take care of the home, then I think the purpose of the committee language is served, and we have given the mother the opportunity to have an outside job and provide employment for someone who might very well not be employed otherwise—the mother on the one hand or the babysitter on the other.

I should like to point out to the distinguished Senator from Utah that there are many secretaries who serve their bosses drinks on occasions, and bosses do not lose a business expense deduction as a result thereof. [Laughter.]

Mr. BENNETT. Well, the Senator from Utah does not impose that on his secretary.

But I think the Senator sees the difficulty. We will be moving into an area now where the service is not needed. The Senator would move us into an area where it would be done for the convenience of the parents. Once we get into that area, we can stretch the thing out to include any service, except a chauffeur, as long as it is employment related.

I see no reason for continuing debate. I think the issue is clear: Are we going to spend $100 million a year of the Federal taxpayer's money to help married couples with incomes as high as $27,600 a year by permitting them to employ household help and deduct the full amount of the expenses incurred up to an income level of $18,000 and a portion of the expenses up to an income level as high as $27,600?

Is this good tax policy? Is this equitable? Is this good social policy to encourage a mother to go out and work if she does not have to?

I agree there are certain circumstances in which she may have to, and we have taken care of that in providing a scale that begins at $12,000 and fades out at $21,600.

I think the issue is clear. I am willing to yield back the remainder of my time.

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

Mr. BENNETT. I yield.

Mr. LONG. Mr. President, we have a bill here that creates jobs. We are talking about an expense. If people do not provide someone to look after their children, in most instances they are in violation of a State criminal law for child neglect. We can have the situation where children burn to death if the house catches on fire when there is no one to look after them when the mother has left home temporarily.

This is an expense that in many instances is required by law. If that mother is going to go to work, we are saying that should be recognized as a deduction. The deduction will create jobs and help reduce the welfare burden.

How can one say we should not permit this at all when it is an out-of-pocket expense and we allow a tax deduction for an expense that is not an expense at all. We give an accelerated depreciation allowance on machinery amounting to billions of dollars. We also give additional billions of dollars for tax investment credit for an expense which does not exist, and do not even require a basis reduction for depreciation purposes.

So, if we can do that to create jobs, why not allow a deduction for an out-of-pocket expense for which they have

very little choice? That is the argument for the amendment.

Mr. BENNETT. Mr. President, I do not know how many jobs this will create. If the mother is now working and is paying for a child-care arrangement, she gets the deduction. She does not have to hire anyone else. It covers the expenses she already has. And I think that most of the people with incomes of above $18,000 a year, between $18,000 and $20,000, up in that category, probably already have their child care arranged. So, this is just a nice windfall for people in that category.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 11 minutes remaining.

QUORUM CALL

Mr. BENNETT. Mr. President, on my own time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD of West Virginia. Mr. President, will the Senator yield to me for 2 minutes?

Mr. FANNIN. Mr. President, I yield 2 minutes to the Senator from West Virginia.

Mr. BYRD of West Virginia. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

UNANIMOUS-CONSENT AGREEMENT ON AMENDMENTS NO. 564 AND 655

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately following the disposition of the pending amendment the Senate proceed to take up the amendment cosponsored by the Senator from Illinois (Mr. STEVENSON) and the Senator from Kansas (Mr. PEARSON), amendment No. 564; that time thereon be limited to 1 hour, to be equally divided between the distinguished mover of the amendment (Mr. STEVENSON) and the distinguished manager of the bill (Mr. LONG); that time on any amendment thereto be limited to 20 minutes, to be equally divided between the mover of the amendment in the second degree and the distinguished manager of the bill, and that the same provisions apply with regard to time on motions and appeals, with the exception of nondebatable motions, as with respect to amendments in the second degree.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, reserving the right to object, what time is the Sparkman amendment scheduled for?

Mr. BYRD of West Virginia. It is my intention, if the Senate agrees to this unanimous-consent request, to then schedule the amendment by Mr. SPARKMAN immediately following the amendment by Mr. STEVENSON, which would put it at about 12:30.

Mr. McCLELLAN. The Sparkman amendment?

Mr. BYRD of West Virginia. Yes.

Mr. McCLELLAN. That will be entirely satisfactory. I have to leave later this afternoon and I want to be present to vote on the Sparkman amendment. I understood it would be scheduled as the second amendment today.

Mr. BYRD of West Virginia. That was the thought earlier, but I understood that the distinguished Senator from Alabama was conducting hearings until noon, and that he wanted to schedule his amendment in the early afternoon.

Mr. McCLELLAN. That would be very satisfactory. How much time is allotted for that amendment?

Mr. BYRD of West Virginia. One hour.

Mr. McCLELLAN. It is quite satisfactory to me if it comes up at 1 o'clock or 2 o'clock.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the amendment No. 564, by Mr. STEVENSON, the amendment by Mr. SPARKMAN (No. 655), then be laid before the Senate.

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

Mr. BAYH. Mr. President, I am pleased to be a supporter of both of Senator TUNNEY's amendments permitting a tax break for child care and domestic expenses. Together, these amendments would assist at least 1½ million working mothers in their efforts to supplement the family income while raising children. We are all aware of the dilemma faced by mothers of low income or middle income families. These women must choose between staying at home to properly raise their children and maintaining a job to pay for that health care and education which each mother believes is essential to her children's development. As we consider something as precious as the development of this Nation's children, I believe we should provide an alternative which eliminates the very difficult dilemma facing families today. Therefore the fairness of the amendment pending now which permits families with a combined income of $12,000 to $18,000 a year to deduct a portion of their child care and domestic help expenses from their income tax should not be underestimated. For these families are no less deserving than those earning less than $12,000 who were originally covered.

The need for quality assistance in the home has been increasing dramatically in the last 30 years. While the proportion of working mothers with preschool children was 10 percent in the 1940's and 40 percent in the 1960's, it is estimated that the percentage will increase to between 60 and 70 percent in the decade of the 1970's. And the crucial fact is that of these millions of working mothers, nine out of 10 work to satisfy an otherwise unmet economic need such as basic support, medical bills, future educational expenses, et cetera.

The need for a second income is a need affecting all income groups. For instance, for those families in which the husband is making $10,000 or more a year, 40.8 percent of mothers with children aged 6 to 17 are working; of the mothers with children under 6 years, 26.3 percent are working. On the assumption that in most of these families husband and wife are both making close to $7,000, the additional income which the wife is able to contribute to the family is essential. This amendment would encourage middle class as well as low income families to pay for high quality child care and household assistance without worrying about unduly shrinking their total income.

The effects of increasing child care opportunities will become increasingly evident over the years. According to research which I have done in connection with my Universal Child Care and Child Development Act as well as the Women's Equality Act, there are at least 14 million children in this Nation who have working mothers. Since eight out of 10 of these children now are cared for through makeshift arrangements, their educational development would directly benefit from provisions permitting their families to deduct the expense of higher quality care.

I commend this amendment to the Senate and hope that it will decide to extend child care deductions to those families who are earning between $12,000 and $18,000.

Mr. BENNETT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from California (Mr. TUNNEY). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from North Carolina (Mr. JORDAN) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Iowa (Mr. HUGHES), the Senator from North Carolina (Mr. JORDAN), and the Senator from South Dakota (Mr. McGOVERN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

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

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Colorado (Mr. ALLOTT). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Colorado would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Texas would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 59, nays 24, as follows:

[No. 331 Leg.]

YEAS—59

Anderson	Fulbright	Muskie
Baker	Gravel	Nelson
Bayh	Griffin	Packwood
Beall	Harris	Pastore
Bellmon	Hart	Pell
Bentsen	Hatfield	Percy
Bible	Hollings	Proxmire
Boggs	Inouye	Randolph
Brooke	Javits	Ribicoff
Buckley	Kennedy	Schweiker
Burdick	Long	Sparkman
Byrd, W. Va.	Magnuson	Spong
Cannon	Mansfield	Stennis
Case	Mathias	Stevens
Chiles	McClellan	Stevenson
Cranston	McGee	Symington
Eagleton	McIntyre	Taft
Eastland	Metcalf	Tunney
Ellender	Mondale	Williams
Fong	Moss	

NAYS—24

Aiken	Dole	Miller
Allen	Dominick	Pearson
Bennett	Ervin	Roth
Brock	Fannin	Scott
Byrd, Va.	Goldwater	Smith
Church	Gurney	Stafford
Cook	Hansen	Weicker
Cooper	Hruska	Young

NOT VOTING—17

Allott	Humphrey	Mundt
Cotton	Jackson	Saxbe
Curtis	Jordan, N.C.	Talmadge
Gambrell	Jordan, Idaho	Thurmond
Hartke	McGovern	Tower
Hughes	Montoya	

So Mr. TUNNEY's amendment (No. 671) was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. McGEE) laid before the Senate a message from the President of the United States submitting the nomination of H. Guyford Stever, of Pennsylvania, to be Director of the National Science Foundation, which was referred to the Committee on Labor and Public Welfare.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 564

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the amendment (No. 564), as modified, of the Senator from Illinois (Mr. STEVENSON), which the clerk will state.

The second assistant legislative clerk proceeded to read the amendment.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

Mr. STEVENSON's amendment (No. 564), as modified, is as follows:

On page 40, line 9, strike out "$675" and insert in lieu thereof "$700".

On page 40, line 15, strike out "$675" and insert in lieu thereof "$700".

On page 40, line 19, strike out "$675" and insert in lieu thereof "$700".

On page 40, line 21 strike out "$1,350" and insert in lieu thereof "$1,400".

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. STEVENSON. The personal exemption for 1971 is now $650. The House of Representatives and the Senate Finance Committeee have approved increases in the $650 personal exemption to $675. This amendment would simply increase the present $650 level to a new level of $700. It would affect only 1971, and would have no effect on subsequent years.

The effect of the increase from the $675 personal exemption approved by the other body and the Senate Finance Committee to $700 would be immediate relief to individual taxpayers in the amount of about $1 billion. That $1 billion would not only be relief for individual taxpayers, but it would also be an immediate stimulus to the economy. The effect that could be anticipated would be the conversion of that $1 billion into spending by consumers.

Most economists would agree that this is the stimulus most needed by the economy. Consumer spending has been lagging. The most recent statistics on consumer spending continue to show that consumer spending is increasing at an inadequate rate, and that this, in turn, is one of the most serious brakes upon the economy.

The PRESIDING OFFICER. Will the Senator from Illinois suspend while order is restored? The Senator is explaining his amendment. Senators who wish to converse will please retire to the cloakroom.

The Senator may proceed.

Mr. STEVENSON. Mr. President, this amendment requires very little explanation. As I have already indicated, it simply increases the personal exemption from the $675 approved by the House of Representatives and by the Senate Finance Committee for 1971 to a new level of $700. The immediate relief, not future relief would be about $1 billion in increased spending by consumers, with a consequent stimulus to the economy.

I might point out that the Senate has already approved an amendment offered by the Senator from Indiana (Mr. HARTKE) which increases the personal exemption for 1972 to $800. The exemption at present is $650. The bill reported by the Finance Committee would increase it to $675 for this year. In relation to the $800 level for 1972, $700 for 1971 would be a very modest increase.

Mr. MILLER. Mr. President, will the Senator from Illinois yield for a question?

Mr. STEVENSON. I am glad to yield to the Senator from Iowa.

Mr. MILLER. I would like to understand this amendment thoroughly. As I understand it, we would be providing for an additional $25 personal deduction for the calendar year 1971?

Mr. STEVENSON. 1971.

Mr. MILLER. The Senator is talking about purchasing power. What would this mean to the purchasing power of a low-income individual in the 14-percent tax bracket?

Mr. STEVENSON. For a family of four, it would be very little. I am told approximately $28. As the Senator knows——

Mr. MILLER. No; I am talking about a single individual now, in a low-income bracket of 14 percent.

Mr. STEVENSON. It would only make a difference of about $6 or $7.

Mr. MILLER. I am sorry; I did not hear the Senator.

Mr. STEVENSON. I am told it would only make a difference of about $6 or $7.

Mr. MILLER. $6 or $7? If my mathematics is correct, I would take the $25 extra deduction and multiply it by 14 percent, and I get $3.50.

Mr. STEVENSON. That would be the effect of an increase in the exemption from $675 to $700 for a single individual. My previous answers pertained to an increase from the present personal exemption of $650 to a personal exemption of $700.

Mr. MILLER. What would it do in increased purchasing power for the wealthy taxpayer in the 70-percent tax bracket?

Mr. STEVENSON. It would clearly do more for the wealthy individual. As his income goes up, his tax rates go up, so the effect of the exemption is to give him a larger benefit; that is true.

Mr. MILLER. What would that be? I would like to make sure we are on the same wavelength.

Mr. STEVENSON. About $17.50.

Mr. MILLER. So, as between a single taxpayer in the low income area, with a tax bracket of 14 percent, and the wealthy income person with a tax bracket of 70 percent, there would be $3.50 in additional purchasing power for the low income person, and $17.50 for the high income person; is that correct?

Mr. STEVENSON. That is correct. But very few tax returns are filed by single individuals in the 70-percent tax bracket.

Mr. MILLER. Do the Senator's mathematics agree with mine?

Mr. STEVENSON. Yes.

Mr. MILLER. Now, to carry my question a step further, let us take a husband and wife with six children, who have eight personal exemptions. That would mean that the Senator's amendment would give them an additional $25 for each exemption, or a total of $200 more in personal exemption deductions. For the low-income person in the 14-percent

tax bracket, would the Senator agree that would work out to a total additional purchasing power of $28?

Mr. STEVENSON. The Senator is correct.

Mr. MILLER. Now, if we take the same size family in the wealthy category, in the 70-percent income tax bracket, that is an additional $200 of deductions, and at 70 percent that would mean an additional purchasing power for that family of $140; does the Senator agree?

Mr. STEVENSON. The Senator is correct. We are going to give the Senate additional opportunities to vote on additional amendments which would provide more relief to the low-income taxpayers, including an amendment by Senator HUMPHREY, which I am cosponsoring. That amendment would increase the low-income allowance, often called the minimum standard deduction, to $1,300, retroactive to January 1, 1971. It is now only $1,050 for 1971.

Mr. MILLER. May I say to the Senator from Illinois, we will take those amendments up as they come. I am interested in understanding the amendment that is now before the Senate, that the Senator from Illinois has offered, and I want to make crystal clear what it would do by way of the purchasing power that the Senator was talking about.

Mr. STEVENSON. It is really very simple. It would provide $1 billion in increased spending through relief for individual income taxpayers, but obviously a wealthy family would get more relief than a less wealthy one. However since most families are not in the 70-percent tax bracket, wealthy families would not get most of the relief. In fact nearly 70 percent of the tax cut would be centered on households with income below $15,000 annually.

Mr. MILLER. And in the last example I gave, that would be $28 for the low-income individuals for a husband-and-wife-and-six-children family, and $140 for the same size family for the high-income, high-tax-bracket family in the 70-percent bracket; does the Senator agree?

Mr. STEVENSON. Yes.

Mr. MILLER. I thank the Senator.

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

Mr. STEVENSON. I yield to the distinguished Senator from Kansas.

Mr. PEARSON. Mr. President, I am pleased to have the opportunity to present, with the Senator from Illinois (Mr. STEVENSON) and the Senator from Minnesota (Mr. HUMPHREY), an amendment to H.R. 10947 providing an increase of $50 in the personal deduction on the Federal income tax.

If adopted, our amendment would have the effect of saving American taxpayers nearly $1 billion more than the present legislation provides by adding an additional $25 to the $675 now proposed as the standard personal deduction. The additional increase will not only implement and hasten the restoration of a normalized economy along lines proposed in the President's new economic policy, but will also add an immediate stimulus to the economy, an action which will most assuredly dovetail with the NEP's long-term salutary effects.

Mr. President, I support the measures the administration has offered to restore the economy. I believe that Congress should promptly enact the fundamental tax reductions and credits Mr. Nixon has proposed.

But Congress should not consider itself limited to the precise formula developed by the administration. Nor should we, in our desire to cure the ills which beset the economy, hurriedly approve these measures without exposing them to the light of debate and detailed discussion.

The American people are deeply disturbed about the present state of the economy. Their patience, understanding, and willingness to sacrifice during the freeze exemplified the best in our character and strength as a nation. But as we prepare to move into phase II of the NEP, apprehension will increase as the American taxpayers realize that it may be quite some time before freedom in the marketplace is restored. And as long as these restrictions—no matter how temporary—remain in effect, full confidence in the economy and its ability to advance and prosper will be somewhat inhibited.

Therefore, Mr. President, I believe it is essential to demonstrate to the individual taxpayer in a real and substantive way that the Government is confident in the success of its plan and that new prosperity and full employment are not merely dreams, but realities. It is my belief that the additional increase in the standard deduction is a sound way to demonstrate this confidence, and I support it for that reason.

I also believe, however, that in considering the tax proposals, we should attempt to strike a balance in our distribution of benefits among all aspects and sectors of the economy. We have an opportunity now to do much more than restore national and international confidence in the dollar. Success of our plan means that every American should benefit from such a restoration. In this regard, attention should be given to the adoption of special tax incentives to spur economic development and jobs in rural areas, so that a balance of growth between urban, industrialized centers, and rural communities can develop.

Likewise, Mr. President, we must achieve a balance between the benefits available to Americans in the immediately foreseeable future as well as those which will materialize in the coming years. On September 8, the Secretary of the Treasury stated in his testimony on the tax proposals before the House Ways and Means Committee that, spread over the years 1969–73, tax payments of individuals will have been reduced by $34 billion.

No one can deny that, as a long-term goal, this is indeed an impressive accomplishment. But, upon further analysis, it becomes apparent that the increase in the 1971 personal deductions for most low- and middle-income workers will be substantially negated as a result of next year's increase the social security tax. Although I understand the necessity for an increase of this nature, it means that unless the income tax breaks for the individual taxpayer are increased, an imbalance between tax cuts for the individual and tax cuts for the corporate structure will result.

I realize that in the long run, a balance could be restored through the creation of additional jobs and greater productivity. Nevertheless, it remains clear that the immediate impact on the individual consumer is limited at best.

Therefore, Mr. President, I urge approval of our amendment, in the interest of restoring the economy, encouraging the confidence of the American people in our plan for restoration, and providing a balance of benefits to all sectors of national life. Our proposal is a positive action, one which is responsive to the needs of all taxpayers, and it will not impede our efforts to restore the economy. In my judgment, it can only spur recovery by providing an added stimulus to the American consumer.

As a cosponsor of this amendment with the distinguished Senator from Illinois, I would really only repeat basic points that he developed in his explanation of this amendment. It would add a greater balance to the tax incentives that the President seeks, which I support, for industrial expansion and for consumer purchasing power. More than that, Mr. President, I think it adds some continuity and some consistency now, with the passage of the so-called Bayh amendment.

Under the Revenue Act of 1969, the personal exemption was scheduled to go to $700 in 1972 and $750 in 1973. The House passed 1971 bill, H.R. 10947, provided for an increase in the personal exemption to $750 in 1972.

While there is no great advantage in the consistency of the step, I think this amendment does provide for the orderly adjustment not only of revenues of the Government but also of the taxpayer himself. As the Senator so clearly explained, it falls into a consistent pattern in providing that it go back to the retroactive date of January 1, 1971.

Let me say in conclusion, that I think this amendment—and I have supported the President in this plan—provides for greater balance and gives a greater sense of certainty in a time when there is great public apprehension, not only at the end of Phase I of the absolute freeze but also as we go into a period of great adjustment, great accommodation, and great uncertainty as to prices and wages—what sort of incentives we need in this country.

I say to the Senator from Iowa, who brings great talent, knowledge, and experience to the Finance Committee, that the arguments he makes in relation to what this does for the low-income taxpayer could be made in relation to every exemption which of necessity must be consistent to every taxpayer.

I thank the Senator for yielding.

Mr. STEVENSON. I thank the distinguished Senator from Kansas for his statement and support, including his cosponsorship of this amendment.

As he points out, it would make for a smoother transition to the higher personal exemptions which we can expect for 1972, and it gives the tax proposals before us more balance.

Most economists would agree that what the economy most needs now is a stimulus to accelerate spending. Yet, the great incentives, the tax concessions in the proposed legislation before the Senate, are for business, which is now operating at only 73 percent of capacity. The accelerated depreciation schedules approved by the Senate committee would cost the Treasury approximately $1.7 billion in fiscal year 1972. The 7-percent investment credit would cost the Treasury in 1972, about $3.6 billion. The removal of the excise tax on the sale of automobiles is going to benefit those consumers who purchase automobiles. It is also going to benefit the automobile industry. The repeal of that one tax alone will cost the Treasury in 1972 about $2 billion.

In addition, there are provisions such as the DISC provision. In the entire package, there is precious little relief for the hard-pressed individual taxpayer and very little incentive to the economy where the economy needs it most.

Mr. President, I yield the floor.

Mr. BENNETT. Mr. President, it is my understanding that no time has been used by the opposition to the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BENNETT. Mr. President, will the Senator yield me such time as I may require?

Mr. LONG. I yield the Senator 15 minutes.

Mr. BENNETT. Mr. President, this is a very serious problem. If this amendment is adopted, it could become known as the amendment to make the taxpayers mad, as I shall try to point out.

It is going to make the Treasury mad, because it takes nearly a billion dollars out of the taxes due next year. It takes nearly a billion dollars more out of the revenue of the Government.

Last Friday, by amendments on this floor, we reduced the Federal revenue by $2.5 billion. Now we are taking out nearly another billion dollars.

As the Senator from Iowa makes perfectly clear, the effect on the individual taxpayer is comparatively negligible. For the man in the 14-percent bracket, it is $3.50. For the rich man in the 70-percent bracket, it is $17.50. For that little saving, you would deprive the Government of almost $1 billion. But, as I said, it is going to be the amendment that makes the taxpayer mad. The tax forms for 1971 are already being printed. They have gone so far that they cannot be stopped and reprinted if we are going to get them in the hands of the taxpayers by January 1.

What difference does that make, you might suggest? There are millions and millions of small taxpayers who, through the withholding system, overpay their taxes and count on the refund they are going to get as soon as they get the new tax form and can file for it. They are not going to get their refund soon after January 1, if we have to go back and reprint the forms. It will cost $5 to $8 million just for the job of reprinting, but that is not all. It has just been pointed out to me that 10 million taxpayers got refunds in January and February last year. So 10 million Americans are counting on that and would not be able to get it until sometime past that point because of the delay caused by reprinting the tax forms to reflect this amendment.

It seems to me that this is another case in which there are those who would like to destroy the President's program—another billion dollars out of the revenue—and we have already been told that this is only the beginning. There are other amendments to come which would have the same effect, but would change the effect of the exemption or make it apply differently to different people.

The point has been made constantly, over and over again, that we should not look to business to provide the jobs. We should not help business modernize or help it expand. All we have do is put money in the hands of the people and then they will go out and spend it and jobs will automatically blossom. The people who argue that way forget that, in the current circumstances, the people have greatly increased the volume of their savings. They are not spending the money that they get. They are socking it away in savings accounts until the uncertainty clears up. So anyone who wants to argue that by cutting taxes $1 billion now, we are increasing the purchasing pattern of the American people by $1 billion, I think, is begging the question very much.

I return to the point of the 10 million Americans who, if this passes, will not be able to file their refund requests on time. It would not only cost about $1 billion in a tax loss but it would just about drive the ordinary taxpayer up the wall.

Mr. President, I hope that the Senate has respect enough for the needs of the taxpayers of this country, under the circumstances, to reject the amendment.

Mr. PEARSON. Mr. President, will the Senator from Utah yield for a question?

Mr. BENNETT. I yield.

Mr. PEARSON. This is a question I do not actually know the answer to—like so many other questions asked here; but I was under the impression that the bill as reported by the committee on November 9 had increased the personal exemption from $650 to $675—

Mr. BENNETT. That is right.

Mr. PEARSON. And that the bill just came to the floor with a report on November 9. Have the tax forms actually been printed between the action of the Senate Committee and November 15 which we are taking up now, before we even pass the bill?

Mr. BENNETT. The Finance Committee reported to the floor a bill covering this increase and, on the basis of that action, the Treasury Department did begin to print the forms. It had to.

Mr. PEARSON. Is it subject to a time limitation? It is not the amendment of the Senator from Illinois and the Senator from Kansas, really, which is causing such a great problem in the printing. That went to the printing press before now, before even the conference report came in on this particular bill.

Mr. BENNETT. The Finance Committee figure was the same as the House figure so it was obvious that there would be no conference problem.

We had to assume that the Senate would support its committee because they had to get the forms out. If they had not been out, we would have had even more difficulties in making it possible for people to file their returns.

Mr. PEARSON. I thank the Senator.

Mr. BENNETT. So the forms are out, showing the personal exemption at $675. Most of them have already been printed.

Mr. STEVENSON. Mr. President, I do not believe that the IRS and the Treasury Department have been quite so contemptuous of the Senate as the Senator from Utah suggests. We have been in touch with the IRS and they tell us that as long as the exemption is decided upon by November 26 there will be no serious difficulties. There will be a minor increase in expense and there might be about a week's delay in getting the returns out to the taxpayers. The Senator from Utah has labeled this, "The amendment to make the taxpayers mad." I am not an authority on the taxpayers in Utah. Maybe they rejoice every time their taxes go up. In my case, in the State of Illinois, they rejoice every time their taxes go down.

Speaking for my own constituents, I feel reasonably confident they would gladly wait that extra week in exchange for a little tax relief and, if they have refunds coming, Mr. President, they do not have to wait—all they have to do is go down to the IRS office and get a flat sheet. The only delay will be in the printing of the forms with the explanations that go out through the mail.

The only other point which the distinguished Senator from Utah made was that my amendment does not amount to very much. It does not amount to a great deal of cost to the Treasury. That is one of the reasons I do not think there should be any serious objection. Collectively, it will aid all individual taxpayers to the extent of $1 billion. That is better than nothing. That is $1 billion which, translated into increased consumer spending, will benefit the economy.

The Senator from Utah also said that our people are saving more than before. That is true. That is one of the problems we have been having. The savings rate is about 8 percent of income now, nearly 2 percent higher than the normal rate. So if we apply the same savings rate to income made available to consumers under this amendment, we can assume that maybe 8 percent of the additional income—maybe a little more—would not get translated immediately into spending, but about 92 percent—in other words, slightly over $900 million—would. A $900 million increase in consumer spending is $900 million benefit to the economy, where most economists agree it is most needed.

Mr. President, I now yield to the distinguished Senator from Minnesota (Mr. MONDALE).

Mr. MONDALE. Mr. President, I rise to offer an amendment in the nature of a substitute to the pending amendment as offered by the Senators from Illinois and Kansas, and send it to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. McGEE). The Chair is advised that the

amendment is not in order at this time until all time is used or yielded back.

Mr. MONDALE. Mr. President, may I ask the authors of the amendment and those in opposition—

Mr. STEVENSON. Mr. President, how much time do I have remaining and how much time remains to the opposition?

The PRESIDING OFFICER. The Senator from Illinois has 10 minutes remaining and the opposition has 23 minutes.

Mr. BENNETT. Mr. President, on the opposition's time, may I ask the Chair to state the rules under which we are operating with respect to amendments to an amendment?

The PRESIDING OFFICER (Mr. McGEE). The Chair is advised that on a second degree amendment, under the order fixing a time limitation, there is 20 minutes, but that under the procedures of the Senate when there is a unanimous consent agreement, which operates as at the present time, limiting time on an amendment, it excludes offering a second degree amendment until all the time on the first degree amendment has been yielded back or used. Unanimous consent, of course, can change that procedure.

Mr. BENNETT. Mr. President, a further parliamentary inquiry—in operating under that rule, if time were yielded back, would we then hang without a vote on the amendment until after the amendment to the amendment has been considered?

The PRESIDING OFFICER. Yes, that would be correct. If all time were yielded back, we would proceed to the second degree amendment with a time limitation on it, and that would take precedence in action.

Mr. PEARSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Kansas will state it.

Mr. PEARSON. I understand that the Senator's amendment was in the nature of a substitute. Would the same rule so apply there?

The PRESIDING OFFICER. Yes. It would still apply to an amendment in the form of a substitute.

Mr. BENNETT. Mr. President, I would be happy to yield 5 minutes to the Senator from Minnesota in order to have him explain his amendment on this time for the sake of knowing what we are talking about.

The PRESIDING OFFICER. Is that agreeable with the Senator from Minnesota?

Mr. MONDALE. Mr. President, might I first ask a unanimous consent so that I may be permitted to call up my amendment in the form of a substitute notwithstanding the earlier unanimous-consent agreement?

Mr. BENNETT. Mr. President, I would have to object because we are not through presenting our case in opposition to the amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. MONDALE. I might, at this point, then, use the short time offered to me by the Senator from Utah.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. MONDALE. Mr. President, this amendment would substitute for the Stevenson-Pearson amendment a higher personal income tax exemption.

The PRESIDING OFFICER. The Chair would like to ask the Senator from Minnesota if the page numbers should be modified in line with the number adjustments.

Mr. MONDALE. Yes. I ask unanimous consent that the page numbers be adjusted to reflect the desired form.

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

Mr. MONDALE. Mr. President, the Stevenson amendment makes the scheduled personal income tax exemption $700 retroactive to January 1, 1971. My amendment would increase the amount of that personal income tax exemption from $700 to $750 and also make it retroactive to January 1 of this year.

My reasons for suggesting this are based upon sound principles. I believe that the economy is being understimulated and that we need more purchasing power now to produce jobs and get people back to work.

Yesterday, in the Washington Post, there was a very strong article written by Walter Heller. He said that the key problem confronting the economy is that it is stagnant and flat. It is growing hardly at all, and surely not enough to provide the jobs we need.

My amendment is designed to treat this stagnation by increasing the amount of money in the hands of the average taxpayer. Stimulation must come from increased spending by the average citizen. The average consumer spends about 92 cents out of every dollar. The quickest way to get increased economic stimulation in the form of purchases of goods and services is to increase the amount of money in the hands of the average taxpayer.

Mr. President, that is the nature of my amendment.

Mr. BENNETT. Mr. President, I thank the Senator from Minnesota.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield 3 minutes to the senior Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 3 minutes.

Mr. PERCY. Mr. President, I shall regretfully have to oppose the pending amendment. My very distinguished colleague from Illinois knows my position, for we have had discussions on this point and we simply see the issue differently.

I firmly supported the gradual increase in personal exemptions to $750. In fact, my amendment to the tax bill then pending helped to bring about that provision. However, I do feel that the effect on consumer buying of the pending amendment will be very minimal. I think that to change the deduction at this time, at this late stage, when we have already spent $25 million to print and distribute the 1971 income tax forms, which could not be reprinted in time, would mean that taxpayers would have tax forms showing the exemption of $675. Millions of tax returns would be incorrectly filed. It would mean that Internal Revenue would have to recompute millions of tax returns and mail out refunds to millions of taxpayers.

It would create terrible confusion.

Increasing the exemption from $675 to $700, when we consider the average family of four with an income of perhaps $10,000, that would mean, at a 20-percent tax level, only $20 difference in their annual tax returns.

I do not think that will allow the economy to be significantly stimulated, particularly considering that Americans are already saving at an annual rate of 8.3 percent today.

Furthermore, I point out that an article published in the Outlook column of the Wall Street Journal today, states:

> The crescendo of the cash registers now grows loud enough for even the deaf to hear.

We cannot say today that consumer retail sales are not good. The articles states:

> October saw more than a million new cars sold in 1 month in the United States for the first time in history. The flow of new autos to streets and highways at such a clip offers little comfort to traffic jam sufferers, but it hardly bespeaks sluggish consumer buying power.

The article also points out that consumer durable goods, from bicycles to color TV sets, also sell at a brisk pace, and that the September furniture industry orders were a whopping 18-percent over a year ago.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. Mr. President, I yield 1 additional minute to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for an additional minute.

Mr. PERCY. Mr. President, I ask unanimous consent that the entire article to which I have referred be printed in the RECORD at the conclusion of my comments.

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

APPRAISAL OF CURRENT TRENDS IN BUSINESS AND FINANCE

Phase 2's coming finds the economy more steady in its course than the country's nerves. The stock market reflects the nerves. And, faced with the uncertainties of the wage-price-control fog at home and the worry about trade disruption on the global scene, the securities market has been a jittery barometer of late. But in the more basic market out on the firing line of retail trade, there has been little uncertainty. The crescendo of the cash registers now grows loud enough for even the deaf to hear.

October saw more than a million new cars sold in one month in the U.S. for the first time in history. The flow of new autos to streets and highways at such a clip offers little comfort to traffic jam sufferers, but it hardly bespeaks sluggish consumer buying power. And autos aren't alone. Other consumer durables, from bicycles to color TV sets, also sell at a brisk pace. September furniture industry orders were a whopping 18% above a year ago.

Much has been said about the importance of consumer spending in the recovery from the 1970 recession. And there has been considerable head-wagging about its "sluggishness." Against this backdrop, it will be well

to trace the record of retail sales since last November (the recession low) to the present. The Commerce Department figures below show seasonally adjusted monthly sales in billions. (Rounded figures prevent totals from "adding" precisely.)

Month	Total sales	Durable goods	Non-durables
November 1970	$31.3	$8.9	$22.4
December 1970	31.8	9.2	22.6
January 1971	32.3	10.0	22.3
February 1971	32.9	10.2	22.6
March 1971	33.2	10.5	22.7
April 1971	33.6	10.7	22.8
May 1971	33.5	10.6	22.9
June 1971	33.8	10.8	23.0
July 1971	33.7	10.7	22.9
August 1971	34.7	11.3	23.4
September 1971	35.2	11.8	23.4
October 1971	35.3	11.7	23.6

As a barometer of consumer buying sentiment, the important column above is the middle one. Spending on nondurables—such things as food, clothing, gasoline—is not affected too much by minor ups and downs in the economy. And thus the steady climb of only 5% in nondurable sales over the period held down the rise in total retail sales to only 13%.

But, hidden behind these lesser gains, sales of consumer durables are now clipping along 31% above last year's November low point.

Nor, contrary to much popular opinion, does this big gain in retail trade reflect mere inflation of prices. It is primarily an increase in physical volume. Nondurable goods retail prices are up somewhere in the 3% range from a year ago, but on durables, where the action is, the price increases from last November's level average closer to 2%.

There is nothing now to suggest that this consumer buying pace isn't going to continue. With the big Christmas merchandising season just ahead, a survey by this newspaper just last week found most interviewed retailers predicting holiday sales will top last year's by 8% to 10%. For the first time in many moons, some of the storekeepers even spoke of possible shortages developing in some lines. With productive capacity being what it is, the shortage talk probably shouldn't be taken too seriously, but it is symptomatic of activity on the retail front.

In line with rising retail sales is the third quarter Commerce Department report on the relation between the public's spending and its saving. While still high by historical standards at 7.7% of disposable personal income, the savings rate is now the lowest since early 1970.

Commerce Department calculators figured people were saving at an annual rate of some $58 billion in the third quarer. That was actually about half-a-billion dollars less than in the recession-low final quarter of last year. But the disposable personal income (after taxes) in this past quarter, put at an annual rate of over $749 billion, was up some $48 billion from the $701 billion figure of fourth-quarter of 1970.

If the strong and rising consumer buying surge continues, it is hard to escape the conclusion that swelling production must follow in its traces. And that indeed is what most economists are still predicting.

Taking cognizance of all the confusing uncertainties associated with the Phase 2 wage-and-price-control effort, New York's First National City Bank, in its Monthly Economic Letter, commented last week: "It is noteworthy, however, that these uncertainties have not colored assessments of the likely course of the economy in 1972, although they are a factor in the recent decline in stock prices. The consensus is that the rate of advance in real output in 1972 will be the most rapid in six years, and that it will be accompanied by a decline in the unemployment rate and a further slowdown in the rate of inflation."

The bank's economists appear to be more concerned about a possible resurgence of inflation in late 1972 or early 1973 than about a slowdown in the economy.

The widespread slashing of payrolls that kept consumers in such a nervous state throughout last year seems to be clearly past. From a level well under 4% at the end of 1969, the seasonally adjusted unemployment rate bounded steadily upward for a full year, reaching 6.2% in December of last year. While it hasn't fallen much since then, it has stopped rising. The latest figure (Oct.) was 5.8%.

One little-noticed trend laterly has been the increase in "temporary" employes on business-payrolls. It is explained on the ground that employers, feeling the need for more help, are following this course because they are reluctant to hire permanent employes until an economic uptrend has been fully established. This could herald the expansion of full-time payrolls.

There is no doubt that the Phase 2 confusion puts a wet blanket on business management's psychology. And there is no doubt that, to a lesser degree, worry about the foreign trade muddle does the same. Both involve uncertainty. Both foster a "wait and see" attitude. But the fog of uncertainty may clear sooner than expected. And, when it does, expansive forces could be quickly more evident.

JOHN O'RILEY.

Mr. PERCY. Mr. President, the article points out that from a low in November 1970, of $8.9 billion, durable goods sales increased to $11.7 billion by October 1971, and total retail sales have increased in the same period from $31.3 billion to $35.3 billion.

The steady increase in consumer retail sales is a strong indication that the confidence of the consumer is a great deal better than it is in Wall Street.

I do not think that an amendment coming at this late date that would cause tremendous confusion and cost the Treasury $900 million of needed funds, would be worthwhile on this particular point, particularly when we are cutting down on welfare and other humanitarian programs because we do not have the money to carry them on.

The money for these programs will have to come from somewhere. If we are going to help someone, should we not help those people who cannot even file income tax returns and today are being deprived of welfare checks, rather than giving it to those who do not need it nearly as much.

I agree that it is a wonderful proposal with an election coming on. I would like to vote for it and so would many of my colleagues. However, in good conscience, I cannot do so.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 2 minutes.

Mr. MILLER. Mr. President, quite apart from the printing of the tax forms and their delivery to the taxpayers, it seems to me that the amendment does not meet the problem we are trying to solve.

In effect, it would mean that an individual in the low-income area would have $3.50 additional purchasing power. However, at the same time it would give a wealthy person in the higher bracket $17.50 purchasing power. The people in the $50,000, $60,000, and $70,000 bracket do not need any more purchasing power. They already have plenty. It is the people in the low area who need more purchasing power. If one believes in regressive taxation, he had better vote for the amendment.

If we take a look at the family consisting of husband, wife, and 6 children, and in the low-income tax bracket, that would mean $28 purchasing power. However, as to the person in the $70,000 bracket, it would give them $140 purchasing power. They do not need it.

The Mondale amendment would be even worse, and I will have more to say when that gets before the Senate.

It seems to me that we ought to get the purchasing power in the areas where it is needed. This is a repressive amendment. I hope it will be rejected.

Mr. MONDALE. Mr. President, will the Senator from Illinois yield for a question?

Mr. STEVENSON. Mr. President, I yield 4 minutes to the Senator from Minnesota.

Mr. MONDALE. Mr. President, one of the arguments in opposition to my amendment to increase the personal exemption to $750 in 1971 seems to be the cheery assumption that the economy is doing well and that economic growth is adequate.

I placed in the RECORD on Saturday a table showing growth of gross national product and consumption in real terms. In the second quarter of 1971, GNP grew 4.8 percent and consumption 6.2 percent. In the third quarter of 1971, and that is the latest figure, GNP increased by only 2.9 percent and consumption 3.6 percent. These are the latest official figures of the Bureau of Labor Statistics.

Does the Senator from Illinois feel that these growth rates are adequate to reduce unemployment and to increase productivity in this country?

Mr. STEVENSON. No. The gross national product in real dollars is now increasing at an annual rate of something less than 3 percent. That is not enough to even keep unemployment from rising. Consumer spending between the third quarter of 1970 and the third quarter of 1971 in real dollars increased by 3.9 percent. That compares with an average increase in the years from 1960 to 1966 of 4.8 percent.

The most recent figures indicate consumer spending is continuing to lag. Industry, as we know, is operating at only about 73 percent of capacity. So what is proposed? What is proposed are more and more tax concessions to industry so industry can modernize and improve plants that are only operating at 73-percent capacity.

What is needed to get the economy rolling is increased consumer demand which will automatically call forth greater utilization of already existing industrial capacity.

Mr. MONDALE. One argument which opponents of consumer tax relief use is the fact that automobile sales are rising. But the increase in auto sales as a result

of the projected cut in the auto excise tax is an argument for similar tax relief in other areas. This is because consumer purchases of autos have been stimulated because, in effect, the excise tax cut puts money in the hands of the consumer if he buys a new car.

Mr. STEVENSON. It is an advantage to those consumers who are wealthy enough and who are in a position for one reason or another to buy an automobile and, as my distinguished colleague from Illinois pointed out, those consumers purchasing automobiles now are having an impact on the economy.

Mr. MONDALE. But the overall figures—unemployment figures—have not changed. We are at a level of economic activity which, if anything, probably will continue to result in an unacceptable level of unemployment.

Yesterday the Washington Post published an article by Walter Heller. He states that the gross national product must grow at the real rate of about 4.5 percent a year, if unemployment is not to rise. This is because labor productivity increases about 3 percent per year. The labor force grows at 1.5 percent, so that a 4.5-percent growth rate is essential just to maintain present unacceptable levels of unemployment.

The PRESIDING OFFICER (Mr. BYRD of Virginia). The time of the Senator from Minnesota has expired.

Mr. STEVENSON. I yield an additional minute to the Senator from Minnesota.

Mr. MONDALE. So if these figures are correct, the latest official figures which show gross national product growing at only 2.9 percent indicate that unemployment will probably increase, not decline. Does the Senator agree?

Mr. STEVENSON. I do agree. I think most economists would agree with Mr. Heller. They believe that what the economy needs most is a stimulus to consumer spending.

Mr. MONDALE. The effect of the Senator's amendment and the effect of my modification would be to move tax savings forward immediately so that money will get into the hands of the consumer immediately, rather than a year from now.

Mr. STEVENSON. The consumer would reap the benefits of this tax relief early next year. This would be an immediate benefit and have an immediate impact on the economy.

I commend the Senator for offering a very constructive substitute.

Mr. MONDALE. Mr. President, I ask unanimous consent to have printed in the RECORD the article by Walter Heller, to which I have referred, which was published in the Washington Post yesterday, and also two tables showing the Federal income tax burden under the present law, under the Revenue Act of 1971, and under my amendment.

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

OUTPUT GAINS ANTI-INFLATIONARY: HELLER: EXPANSION A MUST

(By Walter Heller)

(Dr. Heller, former Economic Council chairman under Presidents Kennedy and Johnson, wrote the following article at the request of The Washington Post. He presently is professor of economics at the University of Minnesota.)

Conventional economic wisdom associates stimulation of demand with an increase in inflationary pressures. The fear of these pressures has perhaps stayed the hand of the White House in its new economic program. Why else would it have accompanied its bold wage-price and international monetary initiatives on Aug. 15 with such a weak-kneed program of fiscal stimulation?

The wait-and-see attitude at the Federal Reserve Board may also reflect a fear of rekindled excess demand inflation—wait and see if that $100 billion year really develops without moving from a supportive to an aggressive policy of monetary expansion.

The traditional answer to the "take-it-easy, inflation-is-just-around-the-corner" approach to economic expansion is based on the existing $70 billion GNP gap, 6 per cent unemployment, and 73 per cent operating rates in manufacturing. With this much slack, and no bottlenecks in sight, rising demand will express itself in rising output, more jobs, and higher incomes, not in higher prices.

At a time when excess demand is $70 billion away—a time when it will take three consecutive annual $100 billion advances in GNP just to catch up once more with our economic potential—bold fiscal and monetary expansion carries little risk of inflation.

But to argue that economic stack will keep expansion from being converted into inflation is essentially a passive or negative argument. Less well understood is the positive argument that, given reasonably effective wage-price restraint in Phase II, strong expansion will actually help subdue inflation. Strong expansion will generate the rising productivity that provides the vital grist for the mills of the Price Commission and the Pay Board in grinding out more moderate price and wage yardsticks as Phase II progresses.

Rising demand and rising output in today's slack economy quickly translate into rising output per man hour. Overhead costs are spread thinner. As more units of output are produced with the same machinery, equipment and plant, and without a corresponding increase in payrolls, average unit costs of output will fall.

Left to themselves, producers would be sorely tempted to capture most of this productivity surge in higher profits and higher wages, sharing little of their gains with consumers. The genius of an effective incomes policy, of successful Phase II wage-price restraints, will be to nudge business and labor into sharing their gains with consumers and thus convert rising output into receding inflation.

Within broad limits, the more rapidly output rises, the larger will be the productivity advance that the Price and Pay boards have to play with, i.e., to use in setting tough standards for prices and wages without unduly squeezing business profits and labor earnings.

For example, if productivity advances at a 4 per cent clip in 1972, the Pay Board's 5½ per cent yardstick for average pay advances would imply an increase in average unit labor costs of 1½ per cent. But if recovery lags and productivity crawls ahead at only a 2 per cent rate, a 5½ per cent wage standards would imply a 3½ per cent increase in unit labor costs, thereby making it far more difficult for the Price Commission to clamp a tight lid on prices.

On the more optimistic assumption of a 4 per cent productivity advance, converted into a tighter price yardstick and a consequent easing of inflation during 1972, the Pay Board would have less cost-of-living catch-up to build into its 1973 yardstick. It could then lower the 1973 pay standard a notch toward the 3 per cent trend growth in productivity.

In short, since productivity is the name of the game, rapid expansion is vital to the success of Phase II. And, in turn, success in Phase II will translate into more consumer and investor confidence and hence a stronger expansion.

Another vital interlock of expansion is with our international monetary and trade negotiations. On one hand, a successful reordering of exchange parities and a relaxing of trade barriers can make an important contribution to sound economic recovery. But again causation runs the other way as well. How can we expect our trading partners to bear the economic brunt of more expensive exports to us and cheaper imports from us unless we soften the blow by vigorous expansion of U.S. demand?

Given the current softness of many foreign economies, negotiations that will cut their exports and boost their imports are generating great unease and trepidation. To create an atmosphere within which your trading partners can come half way or even more we must be able to assure them that vigorous U.S. economic expansion will offset much of the adverse trade effect of renegotiated parties and lowered trade barriers.

In other words, U.S. negotiators have to be able to hold out the prospect of a strong favorable income effect as a short-run offset to to the negative price effects of U.S. initiative.

Give these imperatives, both the Price Commission and the Pay Board, not to mention our international monetary and trade negotiators should exact a firm "do-all-possible" pledge from the administration and the Federal Reserve System to assure speedy economic recovery in 1972. With much of the economy other than autos and housing still listless, the President should be calling on the Congress to step up the temporary tax relief in the bill which is now before the Senate.

The Senate should sharply enlarge personal income tax relief. Without compromising federal revenues in the longer run—when they will be needed for high-priority social uses and for the renewed battle against demand inflation when we reach full employment—a temporary tax reduction—for example, a "recover tax credit" of perhaps $100 per married couple—should be enacted for 1972.

This would add another $5 billion to disposable income, thus energizing consumer spending and putting some of our grossly underutilized industrial capacity (roughly a quarter of our manufacturing capacity is idle today) back to work.

Side-by-side with this action, the Congress should declare a moratorium on further payroll tax increase. What economic sense does it make to cut income and automobile taxes to stimulate the economy and then let $7½ billion in new payroll tax hikes in 1972 ($3 billion already in the law plus $4½ billion on the way via H.R. 1) to nullify much of the stimulative effect?

For better balance in the tax bill and to protect the revenues for the longer pull, the Senate should drop the depreciation liberalization (ADR's) completely and limit the 7 per cent investment credit to a two- or three-year period.

In short, bold expansionary policy is not only the fastest way to generate the jobs we desperately need, boost labor earnings and profits, and create incentives to increase capital spending for new capacity—but given reasonable vigilance in our price and wage board in Phase II, it will also be an effective engine of disinflation.

FEDERAL INCOME TAX BURDEN UNDER PRESENT LAW, UNDER THE REVENUE ACT OF 1971 [1] AND UNDER THE MONDALE AMENDMENT, FOR 1971

[Assuming deductible personal expenses of 10 percent of income]

	Present law	Committee bill	Saving over present law	Mondale amendment	Saving over present law
Married couple, 2 dependents:					
$4,000	$52	$35	$17	0	$52
$5,000	206	178	28	$133	73
$7,500	607	578	29	527	80
$10,000	1,019	1,000	19	943	76
$12,500	1,469	1,446	22	1,380	89
$15,000	2,018	1,996	22	1,930	88
$20,000	3,110	3,085	25	3,010	100
$25,000	4,352	4,324	28	4,240	112
Married couple, no dependents:					
$3,000	$97	$84	$13	$63	$34
$4,000	254	230	24	208	46
$5,000	422	386	36	362	60
$7,500	853	829	24	800	53
$10,000	1,266	1,257	9	1,228	38
$12,500	1,754	1,743	11	1,710	44
$15,000	2,310	2,298	12	2,260	50
$20,000	3,456	3,442	14	3,400	56
$25,000	4,764	4,748	16	4,700	64

[1] Figures are from pp. 88–89 of House report on H.R. 10947.

Mr. LONG. Mr. President, I would be happy to yield to anyone who wishes to speak on the amendment.

SEVERAL SENATORS. Vote! Vote!

Mr. LONG. Otherwise, I am ready to yield back our time.

Mr. STEVENSON. I am glad to yield back my time.

Mr. MONDALE. Mr. President, I call up my amendment, No. 582, as modified, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 40, line 9, strike out "$675" and insert in lieu thereof "$750".

On page 40, line 15, strike out "$675" and insert in lieu thereof "$750".

On page 40, line 19, strike out "$675" and insert in lieu thereof "$750".

On page 40, line 21, strike out "$1,350" and insert in lieu thereof "$1,500".

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Do I understand that the unanimous-consent request proposed by the distinguished Senator from Minnesota may be acted upon only after all time has been yielded back?

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

Mr. HANSEN. I yield.

Mr. MONDALE. This is not a unanimous-consent request.

The PRESIDING OFFICER. There was provision in the original unanimous-consent request for amendments to the amendment, with 20 minutes to a side.

Mr. HANSEN. I thought an earlier ruling indicated that the proposal now before the Senate made by the Senator from Minnesota (Mr. MONDALE) could not be acted upon until all time had been yielded back. Am I correct?

The PRESIDING OFFICER. All time has been yielded back.

Mr. HANSEN. On both sides?

The PRESIDING OFFICER. Yes.

Mr. MONDALE. Mr. President, I yield myself 5 minutes. How much time is available?

The PRESIDING OFFICER. Ten minutes to a side.

Mr. MONDALE. Mr. President, the arguments made by the distinguished Senator from Illinois and his cosponsor, the Senator from Kansas (Mr. PEARSON) for a $700 exemption retroactive to January 1, 1971, apply to my substitute to raise the personal exemption to $750 retroactive to the same date.

The biggest missing element in this Nation's economic policy today is adequate concern about stimulating growth to provide employment and industrial productivity. I am surprised that the administration continues to underestimate the need to deal with that problem. Yesterday the article in yesterday's Washington Post by one of the Nation's most distinguished economists, Dr. Walter Heller, stresses this point. In the article Professor Heller points out that such growth is absolutely essential. He points out that growth is the best prescription for fighting inflation because the more the economy expands, the more the fixed costs are spread over greater volumes of output, and the better able industry is to live within the confines of the present economic control program. With growing output, industry can have stable prices and expanded profits. We faced the same issue in the early 1960's when we had a similarly sluggish economy with under use of productivity and high unemployment. We began first with the strategy to improve business profits and to try to increase business purchases, the 7-percent tax credit.

Walter Heller points out it did not work out as well as anticipated; that it only began to work effectively when it was coupled with a tremendous tax reduction for the average consumer in 1962 or 1963. It was only then that the economy began to move and to achieve the rapid and impressive economic growth rates which are now a part of history of the mid-1960's.

Mr. LONG. Mr. President, I yield myself 2 minutes.

The pending amendment would increase the cost of the Stevenson amendment up to a figure of $2.7 billion. The objections to the Stevenson amendment spelled out by the distinguished Senator from Utah and other Senators would apply to this amendment, the principal one being that it would greatly increase the revenue loss. Most people would not get this benefit until they filed their tax returns, and it would make the tax return forms obsolete. It would also involve a very heavy revenue loss.

It is difficult to see how this amendment could encourage people to engage in further productive endeavor, because it applies to a tax liability that has already been incurred.

For that reason, Mr. President, it would seem to me that every argument that supports the side against the Stevenson amendment would apply with much greater force to the Mondale amendment, because it would greatly increase our deficit. It is difficult to see how it would provide any stimulating effect on our economy that would make a difference in the short run. For that reason, I would be compelled to vote against it.

Mr. BENNETT. Mr. President, I would just like to take a minute or so to express my agreement with the position taken by the chairman of the committee. We can get carried away with our enthusiasm for providing tax relief until we have no income left. We are now engaged in a game of leapfrog, one man trying to leap over the other man and increase the benefits the other man has offered. I think it is a pretty expensive game to play at $900 million to $1 billion per leap.

I hope the Senate will realize that, tempting as these suggestions are, we have the responsibility of providing the revenue on which this Government operates. I am sure that many of those who see the glittering temptation of tax amendments also are anxious to have the Government increase its expenditures for programs that are just as politically desirable as tax decrease. We cannot have it both ways.

So I hope the Senate will reject both the amendment of the Senator from Minnesota and the Senator from Illinois, for which the former is a substitute.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I would like to ask the Senator from Illinois if he is in support of the amendment of the Senator from Minnesota.

Mr. STEVENSON. I intend to vote for the substitute amendment.

Mr. LONG. If the Senator intends to vote for it, then I would ask unanimous consent that the Senator have the privilege of modifying his amendment to accept the amendment of the Senator from Minnesota.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENSON. Yes, Mr. President, I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. It would seem to me then, Mr. President, if the Senate wants to do this, we may as well find out by one rollcall rather than two. I am prepared to

yield back my time, and when I do, I will then move to table the amendment, which would carry this amendment with it.

I ask the Chair if that is not correct—that a motion to table the Stevenson amendment would carry with it the Mondale amendment.

The PRESIDING OFFICER. The Senator from Louisiana is correct.

Who yields time?

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. The amendment offered by the Senator from Minnesota is in the nature of a substitute, and I do not believe the motion to table my amendment also underlies the amendment for which I seek to offer a substitute.

The PRESIDING OFFICER. The Senator from Louisiana stated he would move to table the amendment offered by the Senator from Illinois. If that motion prevailed, it would take with it the amendment of the Senator from Minnesota.

Mr. MONDALE. Mr. President, a further parliamentary inquiry. Is that the pending business? The pending business, I understand, is the amendment which I have offered.

The PRESIDING OFFICER. The Chair will read from page 643 of Senate Procedure, under "Rule XXIII, Amendment, Tabling of":

An amendment to a bill may be laid on the table without prejudice to that bill . . .

The section pertinent to the inquiry of the Senator from Minnesota reads:

an amendment to which an amendment has been proposed and is pending, may be laid on the table, and if such a motion is agreed to, the amendment proposed thereto is carried with it.

Who yields time?

Mr. MONDALE. I yield myself 1 minute. My amendment is in the nature of a substitute, but I shall not argue that.

Permit me to say this: It is strange that mammoth, $2 billion tax cuts for big business are called manageable and are said to be good for the economy, but $10, $15, or $20 to the average citizen in the form of tax relief is called an irresponsible fiscal act. This is especially strange in light of the fact that most economists who are respected in this society say that the major economic problem today is the understimulation of the economy, and that the best way to stimulate the economy is to increase purchasing power.

I think the economists are right. There is another theory put forward by those who oppose tax relief to consumers because they say it is irresponsible. These people think that if you just keep giving big business more and more and more money, a little bit of it will trickle down and the average American might spend some of it. I disagree with that philosophy. I do not think it will work. I do not think when it has been tried it has worked.

For example, I ask unanimous consent to have printed in the RECORD at this point an article entitled "Money in the Till," written by Alfred L. Malabre, Jr., and published in the Wall Street Journal of October 22, 1971, showing that American big business is surfeited with cash, with rising and dramatic increases in cash flows for the American corporation, and the article points out that the accelerated depreciation bonanza of $4 billion given to big business has helped do that.

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

[From the Wall Street Journal, Oct. 22, 1971]

MONEY IN THE TILL: FIRMS REPLENISH CASH, TRIM THEIR SHORT-TERM DEBT

(By Alfred L. Malabre, Jr.)

However sluggish some aspects of the business recovery may be, one long-depressed item is making a strong comeback—corporate cash.

Less than 18 months ago, business analysts were openly wondering whether the financial collapse of the cash-starved Penn Central Transportation Co. would be merely the opening round in a series of major bankruptcies. Today, many corporations are still low on cash, but the general picture is much brighter than after the Penn Central failure.

John Gorman, an economist at the Commerce Department, voices the opinion of many analysts in and out of government. "The fact hasn't received much attention, but we've witnessed a vast improvement in the financial positions of corporations during the past year or so," he says, "I regard this as a very healthy development."

A "DRAMATIC" CHANGE

A. Gary Shilling, chief economist of Estabrook & Co., a New York securities firm, agrees. "There's no question that many corporations have managed to put their houses in order," he declares. "The change from the cash-hungry situation that prevailed a year ago is dramatic."

The trend can be glimpsed in government statistics that show the amount of cash held by corporations and the amount of their current liabilities, or obligations that must be paid within a year. The dollar figures in the table below are in billions.

	Corporate cash	Current liabilities
1969:		
3d quarter	$66.3	$330.9
4th quarter	67.6	342.7
1970:		
1st quarter	65.4	347.7
2d quarter	63.2	352.7
3d quarter	63.0	353.6
4th quarter	66.6	355.2
1971:		
1st quarter	65.9	356.5
2d quarter	68.9	356.3

Since the pit of the 1969–70 recession, the table shows, corporations have added nearly $6 billion in cash to their coffers. Still more significant, in the view of many economists, there has been a sharp slowing in the long climb of current liabilities. In fact, the liabilities actually fell slightly in the second quarter, the latest period for which data are available. This marks the first decline in 13 years.

The improving ability of corporations to pay their bills can be seen by measuring their cash as a percentage of their current liabilities. In the third quarter of 1970, this so-called corporate liquidity ratio stood at only 17.8%, down from 20% a year earlier. In the latest 1971 quarter, the ratio was back up to 19.3%, higher than at any time since late 1969.

"I would not have thought it possible for this much progress to be made in such a short period of time," says Tilford Gaines, chief economist at New York's Manufacturers Hanover Trust Co.

Analysts attribute the improvement in the liabilities picture chiefly to the fact that many corporate treasurers, frightened by the Penn Central's failure to pay its bills, have been scrambling to convert their companies' short-term debt, such as bank loans, into long-term debt, such as bond issues. Long-term debt, of course, must eventually also be paid off, economists note. But at least, as the government's Mr. Gorman puts it, the settlement dates have been "shoveled into the future."

THE ROLE OF PROFITS

The climb in corporate cash in recent quarters partly reflects the fact that corporate profits have been on the increase. After-tax profits in the second quarter, the latest period for which figures are available, amounted to $46 billion, at an annual rate, up from a recession low of $39.2 billion in the final three months of 1970. While a decided improvement, the recent rise still leaves the after-tax profit level slightly below the total for as long ago as 1965, when a dollar was worth about 25% more than today.

The main factor in the corporate cash buildup, economists claim, is the rapidly rising amount that companies have recently been deducting from pre-tax profits for the depreciation of such fixed assets as machine tools. While they don't appear as profits in company earnings reports, these depreciation funds are nearly as good as profits, according to analysts. Cash from depreciation, for example, can be used to meet all sorts of corporate expenses, including the purchase of additional machinery, which can lead in turn to larger profits.

"Unquestionably, profits backed by heavy depreciation funds are worth more than profits that are not," says an analyst at Chase Manhattan Bank. The table below pinpoints the rise of depreciation funds, as well as the profit picture, since mid-1969. The figures, at seasonally adjusted annual rates, are in billions, and the last column, titled cash flow, represents the sum of columns one and two.

	Profits	Depreciation	Cash flow
1969:			
3d quarter	$43.0	$51.9	$94.9
4th quarter	42.3	53.2	95.5
1970:			
1st quarter	41.5	54.4	95.9
2d quarter	41.3	55.7	97.0
3d quarter	42.9	56.7	99.6
4th quarter	39.2	58.0	97.2
1971:			
1st quarter	42.9	62.6	105.5
2d quarter	46.0	64.0	110.0

As Phase 2 of President Nixon's new economic program approaches, much has been made of the lagging profit record—especially by management spokesmen fearful of any move to control profit increases in coming months. A statistic frequently cited is that after-tax profits now amount to less than 5% of gross national product, the lowest rate since before World War II.

When the big rise in depreciation is taken into account, however, the picture appears much less gloomy. In fact, cash flow has recently been climbing even as a percentage of GNP, and currently it about matches the rate that prevailed in the early 1960s, when business activity was expanding rapidly. A major factor in the especially rapid rise of cash flow this year was the Treasury Department's decision last June to liberalize depreciation regulations, retroactive to Jan. 1, 1971. Economists say one effect of this move, which is being challenged in the courts and may well be scaled down in Congress, has been to make corporations seem more starved for cash than they really are.

Many economists view the improved financial status of most corporations as a solid plus in the business outlook for the months just ahead. A major reason that the business recovery has been disappointingly sluggish, many say, is the fact that since the Penn Central collapse, corporations have been using available funds increasingly to trim their short-term debt, rather than to buy, say, new machinery, an expenditure that would spur business activity.

Looking ahead, many analysts anticipate that, with healthier financial positions, corporations will be more apt to channel available funds into spending that will tend to lift economic activity. "Until now, corporate efforts to rebuild liquidity have acted as a sort of sponge, sopping up funds that would otherwise be spent on new facilities," says an analyst at New York's First National City Bank. "Now, however, the sponge isn't so dry anymore, and as a result we should begin to see more corporate money moving into areas that contribute directly to economic growth, new jobs and so on."

A dramatic example of improved financial strength is provided by Norfolk & Western Railway, a company whose balance sheet appeared exceptionally strong even during the 1969–70 recession. In the first six months of 1971, the carrier's cash holdings jumped about $21 million, while its current liabilities remained approximately unchanged. As a result, N&W's liquidity ratio soared to 63% at midyear, up from an already-healthy 49% at the end of 1970. Hamilton M. Redman, vice president for finance, explains that during 1970 "everybody suddenly realized that the balance sheet needed much more attention than it had been getting."

Economists generally believe President Nixon's new economic policy certainly won't hurt corporations' financial strength, and most predict that the new measures will help strengthen corporate finances, to the extent that they lead to a more vigorous economic recovery. In any event, most forecasters are convinced that corporate profits are in the middle of a sustained rise, a trend that obviously would further strengthen corporate balance sheets.

Normally, such a rise in profits would be followed by a boost in dividend payments. But the Nixon administration has placed heavy pressure on corporations not to increase dividends while the fight against inflation goes on. As a result, some analysts say, corporations will find themselves with even more cash than would normally be kept on hand after an improvement in operations. Mr. Shilling of Estabrook predicts that at least some of this would-be dividend money will be used instead to pay off debts.

Mr. MONDALE. What is needed are purchasers buying commodities, so that production can increase, people can be put back to work, and idle productivity put back to work.

That is what this country needs, that is responsible, and I believe that if we proceed in that way, we will have the kind of economy that can fight inflation, give people jobs, and deal with the tremendous unmet social needs of this country. That is what needs to be done, and those who consistently resist every attempt to help the average taxpayer, but stand and sing "Glory Hallelujah" for every extra billion dollars we give to big business, I think, are going to have some tough questions from the American voters in the next election, and they should have.

Mr. LONG. Mr. President, let me make it clear that I asked unanimous consent that if the Senator from Illinois wanted to agree to the substitute amendment, we let him accept it as a modification of his amendment. That was declined by the mover of the amendment.

It seems to me, if the Senate wants to get into this particular area, there are all kinds of ways to provide additional tax cuts, if we want to do it. I have voted for some of them myself that have cut revenues considerably more than the Stevenson amendment, although I would think, as a matter of fiscal responsibility, that it might be well to insist that there be some reduction of other tax reductions in the bill to cushion the cost to the public of putting in these additional cuts.

I should think that Senators would have all the opportunities they want to vote for all the tax cuts they want. There will be additional choices, beyond the choices we have voted for. If Senators want to, they can vote to repeal the whole Internal Revenue Code before this bill is behind us. But I should think we could get on with the job by disposing of this matter, if the Senate is so disposed, by one vote. If the motion to lay on the table does not carry, we can see if the Senate wants to increase this matter so as to lose $2.7 billion rather than just $1 billion.

But when it is appropriate, I shall move to lay on the table the Stevenson amendment, which would carry the amendment to the amendment with it, just to get on with the business of the Senate.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. LONG. I am ready to yield back the remainder of my time, if Senators on the other side will yield back theirs.

The PRESIDING OFFICER. Does the Senator from Minnesota yield back the remainder of his time?

Mr. MONDALE. Yes. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Several Senators addressed the Chair.

Mr. LONG. I yield to the Senator from Iowa.

The PRESIDING OFFICER. All time on the original amendment has expired.

Mr. MILLER. Mr. President, if the pending amendment in the nature of a substitute has been withdrawn, I shall withhold my remarks. I thank my colleague for yielding.

The PRESIDING OFFICER (Mr. BYRD of Virginia). All time having expired, the question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON).

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. I thought the Senator from Louisiana was going to move to table the amendment by the Senator from Illinois.

Mr. LONG. Mr. President, I ask unanimous consent that I may have just 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LONG. I was intending to move to table only because I wanted to see if the Senate wanted to conclude its engagement in this area by one vote rather than two. But if we are to have just one vote on the Stevenson amendment, I have no objection to voting on it up or down, on its merits.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Minnesota (Mr. HUMPHREY). If present and voting, the Senator from South Carolina would vote "nay" and the Senator from Minnesota would vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES) would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Alaska (Mr. STEVENS) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

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

The Senator from Tennessee (Mr. BROCK) and the Senator from Michigan (Mr. GRIFFIN) are detained on official business.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS) and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Minnesota (Mr. HUMPHREY). If present and voting, the Senator from South Carolina would vote "nay" and the Senator from Minnesota would vote "yea."

The result was announced—yeas 38, nays 44, as follows:

[No. 332 Leg.]

YEAS—38

Allen	Hart	Muskie
Bayh	Hatfield	Nelson
Burdick	Inouye	Pastore
Byrd, W. Va.	Jordan, N.C.	Pearson
Cannon	Kennedy	Pell
Case	Magnuson	Proxmire
Chiles	Mansfield	Ribicoff
Church	Mathias	Sparkman
Cranston	McGee	Stevenson
Eagleton	McIntyre	Symington
Fulbright	Metcalf	Tunney
Gravel	Mondale	Williams
Harris	Moss	

NAYS—44

Aiken	Dominick	Miller
Anderson	Eastland	Packwood
Baker	Ellender	Percy
Beall	Ervin	Randolph
Bellmon	Fannin	Roth
Bennett	Fong	Schweiker
Bentsen	Gambrell	Scott
Bible	Goldwater	Smith
Boggs	Gurney	Spong
Brooke	Hansen	Stafford
Buckley	Hollings	Stennis
Byrd, Va.	Hruska	Taft
Cook	Javits	Weicker
Cooper	Long	Young
Dole	McClellan	

NOT VOTING—18

Allott	Hughes	Mundt
Brock	Humphrey	Saxbe
Cotton	Jackson	Stevens
Curtis	Jordan, Idaho	Talmadge
Griffin	McGovern	Thurmond
Hartke	Montoya	Tower

So Mr. STEVENSON's amendment was rejected.

UNANIMOUS-CONSENT AGREEMENT ON AMENDMENT NO. 654

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on amendment No. 654 by Mr. HOLLINGS there be 2 hours to be equally divided between the able mover of the amendment and the distinguished manager of the bill, and that time on any amendment thereto, motion, or appeal, with the exception of nondebatable motions, be limited to 30 minutes, to be divided equally between the mover of such amendment in the second degree, motion or appeal and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. MILLER. Mr. President, reserving the right to object, may I ask a question? I understand we are operating under a 1-hour limitation now. This request would extend that to 2 hours.

Mr. BYRD of West Virginia. No. This would have nothing to do with the amendment now pending.

Mr. MILLER. I understand that, but I understand further that we are operating under a 1-hour limitation on all amendments.

Mr. BYRD of West Virginia. No; that is not correct. May I say, most respectfully, we are operating just from amendment to amendment, with no general understanding as to time.

Mr. MILLER. May I ask my colleague from West Virginia what the amendment is about?

Mr. BYRD of West Virginia. The distinguished Senator from South Carolina is here.

Mr. President, I ask unanimous consent that this little bit of time not be charged.

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

Mr. HOLLINGS. Mr. President, amendment No. 654 deals with sales and property tax reimbursement, which I presented before the Finance Committee.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request made by the Senator from West Virginia?

Mr. BENNETT. Mr. President, I have no objection.

The PRESIDING OFFICER. The Chair hears no objection to the unanimous-consent request, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield futher, I ask unanimous consent that amendment No. 654 be laid before the Senate upon the disposition of amendment No. 655, which is the amendment by the Senator from Alabama (Mr. SPARKMAN).

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on amendment No. 653 by Senator HOLLINGS there be a time limitation of 1 hour, the time to be equally divided between the mover of the amendment and the manager of the bill; provided further, that on any amendment in the second degree, motion or appeal, with the exception of nondebatable motions, there be a limitation of 20 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that amendment No. 653 be called up upon the disposition of amendment No. 654.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on an amendment to be offered by the Senator from Indiana (Mr. BAYH), on accelerated depreciation, there be a time limitation of 1 hour, to be equally divided between the mover of the amendment (Mr. BAYH) and the manager of the bill (Mr. LONG); provided further, that on any amendment in the second degree, motion or appeal, with the exception of a nondebatable motion, there be a limitation of 20 minutes, to be equally divided between the mover of such and the manager of the bill.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the amendment by Mr. BAYH be laid before the Senate upon the disposition of amendment No. 653 by Mr. HOLLINGS.

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

AMENDMENT NO. 655

The PRESIDING OFFICER (Mr. BYRD of Virginia). Pursuant to the previous order, the Chair now lays before the Senate amendment No. 655 which the clerk will report.

The legislative clerk read as follows:

Add at the end of title III thereof a new section as follows:

SEC. 316. (a) Section 103(c)(4) of the Internal Revenue Code of 1954 (relating to certain exempt activities) is amended—

(1) by striking out in subparagraph (E) "energy, gas, or water, or" and by inserting in lieu thereof "energy or gas,";

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or"; and

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

"(G) facilities for the furnishing of water, if available on reasonable demand to members of the general public."

(b) Section 103(c)(6) of such Code (relating to exemption from industrial development bond treatment for certain small issues) is amended—

(1) by striking out "$1,000,000" in subparagraph (A) and by inserting in lieu thereof "$5,000,000"; and

(2) by striking out subparagraphs (D), (E), (F), (G), and (H).

(c) The amendments made by this section shall apply with respect to obligations issued after January 1, 1969.

ORDER OF BUSINESS

Mr. RIBICOFF. Mr. President, could I ask unanimous consent to have this amendment postponed, as I have an amendment to the amendment which is in the process of being drawn up and which is not out of the typewriter yet.

Mr. McCLELLAN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I ask unanimous consent that we may have a short discussion, without the time being charged to either side.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that that discussion be limited to 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SPARKMAN. Mr. President, I want to ask the Senator from West Virginia, what would be the next amendment and how long would it take?

Mr. BYRD of West Virginia. Mr. President, in response to the inquiry of the able Senator from Alabama, the next amendment which has been clocked into the program, by unanimous consent, following the Sparkman amendment, will be an amendment by the distinguished Senator from South Carolina (Mr. HOLLINGS) on which there is a time limitation of 2 hours. That would be followed by another amendment by the Senator from South Carolina (Mr. HOLLINGS) on which there is a limitation of 1 hour. That would be followed by an amendment by the distinguished Senator from Indiana (Mr. BAYH) on which there is a limitation of 1 hour. That makes a total of 4 hours, not counting the time for rollcall votes or any time on amendments in the second degree, motions, or appeals.

Mr. SPARKMAN. I had assured the Senator from Arkansas, after getting clearance with the leadership, that this amendment would be called up in the early afternoon because the Senator has to leave and he was very much interested in the amendment.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that 1 additional minute be allowed for this colloquy.

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

Mr. McCLELLAN. Mr. President, I have the same understanding of the leadership. I do not want to oppose anything the Senator from Connecticut has in mind, but I want to be here to support the amendment and to be able to vote for it.

Mr. RIBICOFF. My feeling is, in view of the fact that the Senator has half an hour, by the time his time expires my amendment will be out of the typewriter.

Mr. SPARKMAN. Very well. We will go ahead.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent on behalf of the Senator from Connecticut (Mr. RIBICOFF) that Mr. John Koskinen and Mr. Theodore Leary of his staff be allowed the privilege of the floor during consideration of the Sparkman amendment and any amendments thereto.

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

Who yields time?

Mr. SPARKMAN. Mr. President, I ask unanimous consent that Mr. Robert Locklin of my staff also be permitted the privilege of the floor during consideration of this amendment and any amendments thereto.

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

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Maine (Mr. MUSKIE), I ask unanimous consent that Richard Fay be allowed on the floor of the Senate, except during rollcall votes, while the Senate is debating H.R. 10947.

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

Mr. SPARKMAN. Mr. President, do I correctly understand that we have 30 minutes to a side on this amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPARKMAN. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the names of the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from West Virginia (Mr. RANDOLPH) be added as cosponsors of this amendment.

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

Mr. SPARKMAN. Mr. President, this amendment has to do with industrial development bonds. Senators will recall that several years ago, the Congress authorized tax-exempt status for industrial development bond issues not exceeding $5 million. During the time that Congress was considering this legislation, as a part of a compromise worked out with the Treasury Department, the section providing exemption for these small issues made the further provision that the exemption be available only if the total capital expenditures made on the development project during the 6-year period beginning 3 years before the date of the bond issue and ending 3 years after that date did not exceed $5 million.

Mr. President, this provision in the law has created a number of problems. Obviously, when one of these exempt bond issues is used, the industry for which it is used is limited in the amount of further capital expenditures that it, or anyone else, may make on the industrial development project. This is because of the fact that, under the law as presently written, should the capital expenditures on the project amount to $1 more than $5 million during the 6-year period, the tax-exempt status of the bonds is lost. This not only affects the marketability of the bonds; it brings about numerous requests for tax rulings on the question of what constitutes a capital expenditure, and, more important, it has the effect of discouraging industrial expansion.

Mr. President, this provision in the law has simply created so many problems that it has seriously hindered the utilization of this very fine program which contributes so much to industrial development. My amendment will clear up this provision in the law by doing away with the 6-year limitation on capital expenditures. If my amendment is adopted, the tax exemption will continue to be limited to issues of no more than $5 million. The amendment simply removes the restriction against further capital expenditures. Of course, if further capital expenditures are made and if they are financed by bonds, those bonds would be taxable.

Mr. President, there is the provision in the law that the limitation on these bond issues will not apply to issues which are used to provide various kinds of public facilities, one of which is water systems. However, this provision has been interpreted by regulations insofar as water systems are concerned to cover only water systems which serve a single municipality or two counties, whichever is the greater. In many areas of the country, there is a need for water systems which serve more than two counties.

Accordingly, my amendment would also remove this restriction.

Mr. President, the exemption in our tax laws for small issues of industrial development bonds has made a tremendous contribution to industrial development throughout the country. It has been especially helpful in providing jobs in rural areas of the country. All Senators are aware, I am sure, of the great need to provide jobs in rural areas in order to halt the increasing urbanization of our population. I do not mean to say that this program has not been helpful in urban areas. It has. But it has truly made a significant contribution in rural America.

Mr. President, I reserve the remainder of my time.

Mr. President, I yield 5 minutes to the Senator from Arkansas (Mr. MCCLELLAN).

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. MCCLELLAN. Mr. President, I wish to commend the distinguished Senator from Alabama for offering this amendment, and I am very happy that I am permitted to cosponsor it.

Mr. President, national attention has been focused on the pressing plight of our cities for so long and with such intensity that we have often overlooked the equally pressing problems of our rural areas.

Today, however, that situation is changing and concern over the deteriorating economic conditions of many of our rural sections is being voiced daily. The President has spoken on the issue many times. And in the last Congress more than 40 bills were introduced dealing with rural problems.

During the latter part of the 91st Congress, I urged the President in Senate Resolution 463, to adopt and implement a national policy which would encourage industry to decentralize and expand in rural areas. Thirty-eight Senators cosponsored that resolution. This year I introduced S. 10, a more comprehensive version of that resolution. To date 43 Senators have joined me in cosponsoring this bill. I am hopeful of getting this bill passed during this Congress. Some hearings have been held and more are to be scheduled.

Mr. President, S. 10 has a dual objective—to revitalize withering, rural economies while at the same time giving urban areas—especially our decaying and compacted inner cities—an opportunity to concentrate on their own programs of revitalization and restoration.

S. 10 is not a complicated bill. It would simply establish a national growth policy by encouraging rural development and thereby reverse present migration trends which only serve to further drain the ebbing resources of our major cities.

The pending amendment to the tax bill to remove restrictions on the $5 million limitation on tax-exempt industrial development bonds is, I believe, another effective way to help develop rural America. Certainly, it is in keeping with the expressed concern over trying to help some of our job-starved rural areas. As members know, present law prohibits public financing support of large projects by limiting the capital spending of the recipient firm to a total of $5 million in any one location over a period of 3 years before and 3 years after the issue. In my judgment this limitation should be removed, thereby providing much more flexibility to municipalities which are trying to build an industrial base and generate jobs.

My own view is that the Senate should seriously consider raising the limitation from $5 million to $10 million. Certainly at today's inflated prices an increase to $10 million is modest.

The industrial development bond is a simple, straight-forward method of helping the rural areas to help themselves. It does not involve a big new Government agency or a complex Federal administrative apparatus. It simply gives the people an opportunity to use this developmental tool as a means to grow and to create new jobs.

Prior to 1968 municipalities had the authority to issue tax-exempt industrial bonds. In 1968 the issues were limited first to $1 million and then to $5 million with certain restrictive provisions. I was pleased to join with the Senator from Nebraska (Mr. CURTIS) in sponsoring legislation to increase the limitation to $5 million (S. 3782, 90th). That increase was subsequently incorporated into law by way of an amendment to a revenue act. The House accepted the increase to $5 million; however, it did impose restrictions which were written into the final law. The limitation and restrictions were deemed necessary since there were

apparently some abuses in the authority.

Mr. President, I concur in the need to place a reasonable limitation on the authority—a limitation that gives due regard for Federal revenues—and I have no reservations about imposing appropriate restrictions to curb any possibilities of abuses.

In my judgment, however, we are unnecessarily restricting and hampering rural growth by unrealistic limitations on these issues.

Mr. President, our rural areas need help.

If we want to be constructive and successful in our efforts to put rural America back into the economic mainstream;

If we want to effectively implement our concern about the lack of jobs in those areas;

If we are ever to reverse the migratory trends that are depleting the countryside and adding to the big-city woes, then we should adopt this modest amendment.

Mr. President, this is what has happended in my State with respect to this amendment.

According to information furnished by the Arkansas Industrial Development Commission, Arkansas has had 306 issues of industrial bonds since June 16, 1959, in the amount of $667,594,350. The industries involved employ 50,553.

Since the limitation on these bonds was put into effect in October 1968, there have been 61 issues in the amount of $114,188,000 to plants employing 7,909.

Thus, in the 9 years before the limitation, average annual issues totaled $61,489,593 with a resulting average total jobs amounting to 3,738. In the 3 years since the limtation was placed on industrial bonds, the average annual issues totaled $38,062,783 with jobs averaging 2,636.

Average annual issue	*Jobs*
$61,489,593—Prelimitation	3,738
$38,062,783—Postlimitation	2,636
$23,426,810	1,102

In other words, Mr. President, the annual growth rate was 1,100 jobs greater before the limitation was imposed than at the present time.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. Mr. President, I yield the Senator from Arkansas 1 additional minute.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 additional minute.

Mr. McCLELLAN. Mr. President, these jobs that are being kept in my State are responsible for relieving the pressure on the big cities and congested centers of this country where people go to find jobs. If they cannot find jobs, they wind up on the relief rolls.

For this reason, it is much cheaper to grant this tax exemption. It is much more economical when the Government provides these jobs where the people are born and raised than to pay the welfare costs arising from their relocation.

States are not able to finance the bonds without this tax exemption. Without it the people will go into the metropolitan centers where they cannot find jobs and then go on welfare where they become a burden to that community and a burden to the Government.

The amendment should be agreed to.

Mr. LONG. Mr. President, I favor the amendment. I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. FANNIN. Mr. President, I certainly agree that we want to help provide jobs for our people. At the same time, we do have problems as to how it is done.

Mr. President, this amendment to section 103 of the Internal Revenue Code would again open the door to abuse in the area of sale—and lease back of property by municipalities to corporations for the purpose of unfairly enticing corporations to relocate at the expense of the Federal Government.

Section 103 of the code, provides that interest on obligations of State and local governments generally is exempt from Federal income tax. The term "obligations" means some kind of a written instrument executed by the State or political sub-division thereof, in the exercise of its borrowing power.

The Revenue and Expenditure Control Act of 1968 withdrew tax exempt status from industrial revenue bonds which State and local governments were using to finance and attract private industrial development within their jurisdictions. This legislation applies generally to industrial development bonds issued after April 30, 1968, and was intended to prevent State and local governments from abusing the tax-exempt status of their obligations by using it as a basis for interstate competition to attract industry. The legislation, however, provides a special exemption for industrial development bonds which are part of an issue of $1 million or less and where substantially all of the proceeds from the issue are used first to acquire, construct, reconstruct, or improve land or depreciable property, or second to redeem all or part of a prior bond issue which was issued to acquire the property described above.

Mr. President, if we increase the limitations from $1 million to $5 million we will again be in an area where this method of financing is subject to abuse.

Mr. President, this is my great concern. A similar amendment was considered in the committee and voted down. It was a little more expensive in amount, but not as to coverage. The cost to the government would be less expensive, though the issue was up to $10 million rather than $5 million. However, as I say, it did not provide the coverage that is provided under the pending amendment.

Mr. President, this is, from everyone's standpoint, a very undesirable change in the tax law. It is proposed under the guise of benefiting local governmental authorities, but in fact it will operate to the serious detriment of the overwhelming majority of State and local governments.

Industrial development bonds are simply a device to enable private businesses to borrow funds by using the tax exemption privilege of State and local governments. The device arose as a means of attracting industry to a locality by the significantly lower financing costs available through tax exempt borrowing.

This device was stopped by Congress in 1968 because nearly every State had begun to issue industrial development bonds. Before Congress acted, the ability of any one State or locality had been, for the most part, neutralized; on the contrary, the State and local governments had found it necessary to offer the tax exempt financing benefits to industry as a defensive matter—they had to offer this advantage to keep from losing industry. The problem we have is that the States outbid each other. I know that most of the States in this country now have provision in the State to permit issue of these bonds.

The principal undesirable result that flowed from all of this was the increased competition for the very limited funds available for purchase of tax exempt bonds. This, of course, forced the interest rate on all tax exempt issues to rise, in turn raising significantly the financing costs of States and localities attempting to meet the pressing demands for capital needed to provide critical governmental services such as police and fire protection, schools, and sewage disposal.

Thus the 1968 legislation served its purpose well. Appropriate exceptions were made for semigovernmental functions carried on by private industry which had traditionally been financed through tax exempt bonds—such as airports, mass transit facilities, pollution control facilities, and others. Also an exception was made for issues of $1 million and less.

The present amendment would increase the $1 million exemption to $5 million; to that extent it would allow the competition among States and localities to be renewed—to the detriment of financing for traditional governmental functions.

In short, a vote for this amendment is a vote against the cities and other local governmental authorities most in need of help. The least we can do is help these hard-pressed local governments by protecting the integrity of their tax exempt financing privilege.

The cost is estimated at $350 million.

Mr. President, to go into this matter in a little more depth I want my colleagues to know that the Treasury is strongly opposed to this amendment.

Under present tax law, a State or local government may issue up to $5 million of tax-exempt industrial revenue bonds, but only if the total capital expenditures with respect to the facility being financed by the bonds do not exceed $5 million during the 3 years before, and the 3 years after, the date of issue. The proposed amendment would increase this $5 million exemption to $10 million.

Industrial development bonds are a mechanism to provide tax-exempt financing for private industry. Typically, a State or local government will issue its tax-exempt bonds and use the proceeds to construct a facility for the use of a

private business. The facility is leased to the private user at a rental sufficient to meet the debt service on the bonds. Since the interest paid on the bonds is exempt from Federal taxes, the cost of borrowing is lower for the municipality, and this savings is passed on to the industrial user in the form of a lower rent.

At current interest rates, the availability of tax-exempt financing represents a significant savings in the annual interest paid with respect to borrowings to finance such facilities. For example, if the taxable interest cost on a $10 million facility is 7.5 percent and the tax-exempt cost is 5 percent, the proposed amendment would result in an annual savings to the user of approximately $250,000. Over the life of a 20-year bond, the use of tax-exempt financing could result in a subsidy of some $5 million for each facility.

This tax bill already includes two significant steps to reduce the cost of capital equipment for industry. The 7-percent job development credit is designed to reduce the cost of new machinery and equipment and thus facilitate the construction of new factories. The new class life depreciation system represents a liberalization of tax depreciation policies on capital investment and also will act as such an incentive. These incentives encourage new capital investment in a healthy way which will increase the productivity of our workers without any serious and disruptive side effects on the economy.

Additional tax incentives for industrial investment in the form of tax-exempt financing through industrial development bonds will, however, have very serious disruptive effects on State and local government financing, and this additional kind of incentive simply is not necessary or advisable at this time.

The provisions in this bill are also opposed by the Securities and Exchange Commission because other problems are involved.

I have a memorandum from the Securities and Exchange Commission which states in part:

Although it does not appear on the face of the bill, the proposed amendment would also affect the amount of such bonds which would be exempt from certain provisions of the Securities Act of 1933, tne Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, in view of the provisions of Title IV of the Employment Security Amendments of 1970 (Public Law 91–373) which were enacted August 10, 1970, as explained below.

Mr. President, I ask unanimous consent that the memorandum prepared by the Securities and Exchange Commission be printed in the RECORD at this point.

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

MEMORANDUM PREPARED BY THE SECURITIES AND EXCHANGE COMMISSION FOR THE SENATE COMMITTEE ON FINANCE WITH RESPECT TO S. 1644, 92D CONGRESS

S. 1644 which was introduced on April 23, 1971 by Senator Dole, would amend Section 103(c)(6) of the Internal Revenue Code of 1954 so as to increase the small issue exemption thereunder for certain classes of industrial development bonds from $5,000,000 to $10,000,000 under Clause (D), and from $250,000 to $500,000 under Clause (F).

Although it does not appear on the face of the bill, the proposed amendment would also affect the amount of such bonds which would be exempt from certain provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, in view of the provisions of Title IV of the Employment Security Amendments of 1970 (Public Law 91–373) which were enacted August 10, 1970, as explained below.

Insofar as S. 1644 would increase the amount of industrial development bonds which would be exempt under the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, all of which are administered by this Commission, the Securities and Exchange Commission would be opposed to enactment of the bill in its present form. However, the Commission takes no position with respect to the effect of the bill on the exemptions for such bonds under the Internal Revenue Code as such, and this memorandum will discuss only those aspects of the bill which would have an impact on the federal securities laws mentioned above.

I. BACKGROUND OF PERTINENT FEDERAL SECURITIES LEGISLATION

The Securities Act of 1933 was enacted to afford to investors generally full and fair disclosure of the nature and character of the securities which are offered for sale in interstate commerce or through the mails so as to enable them to exercise an informed judgment regarding their suitability for their investment objectives.

The Securities Exchange Act of 1934 was enacted the following year to provide generally for continuous information to be available to securityholders regarding the issuer of securities listed on national securities exchanges which they may have acquired, to give them a voice with respect to their interests in the issuer and to prevent unfair use by corporate insiders of information regarding the issuer which is not available to all securityholders. This Act was amended in 1964 to extend such benefits and protections to holders of unlisted securities of issuers having over $1,000,000 in assets and 500 or more shareholders.

The Trust Indenture Act of 1939 was enacted to afford to holders of debt securities the benefits of disinterested and impartial trustees, under trust indentures meeting specified statutory requirements, to look out for their interests and to act in their best interests in the event of a default by the obligor on the securities, as well as to eliminate conflicts of interests between such trustees and the issuer and underwriters of such securities.

Certain exemptions are provided by each of these Acts for securities of certain classes, for securities involved in certain types of transactions, or for securities issued by certain classes of issuers. Among the latter are the exemptions provided in Section 3(a)(2) of the Securities Act of 1933 [15 U.S.C. 77c(a)(2)] and Section 3(a)(12) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(12)] for securities issued or guaranteed by the Federal, State or local municipal governments or their political subdivisions or instrumentalities.

Prior to enactment of Public Law 91–373, Section 3(a)(2) of the Securities Act of 1933 exempted from all except the anti-fraud provisions of that Act:

"Any securities issued or guaranteed by the United States or any Territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or Territory, or by any public instrumentality of one or more States or Territories, or by any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, . . ."

During such period, Section 3(a)(12) of the Securities Exchange Act of 1934 provided that for the purposes of that Act:

". . . The term 'exempted security' or 'exempted securities' shall include securities which are direct obligations of or obligations guaranteed as to principal and interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest and for the protection of investors; securities which are direct obligations of or obligations guaranteed as to principal and interest by a State or any political subdivision thereof or any agency or instrumentality of a State or any political subdivision thereof or any municipal corporate instdumentality of one or more States; . . ."

Section 304(a)(4) of the Trust Indenture Act of 1939 [15 U.S.C. 777d(a)(4)] incorporates by reference for the purposes of this Act the exemption set forth in Section 3(a)(2) of the Securities Act of 1933 and in Section 3(a)(12) of the Securities Exchange Act of 1934.

II. HISTORY OF EXEMPTION FOR INDUSTRIAL REVENUE BONDS

A. Under The Federal Securities Laws

Industrial revenue bonds as in use today were unknown at the time of the passage of the Securities Act of 1933 and the Securities Exchange Act of 1934. Their genesis springs from the municipal revenue bonds which came into existence during the mid-30s at a time when municipalities had reached the maximum permissible limits of their legal debt obligations or taxing power. At that time a new type of security was devised to raise funds with which to acquire and provide for the benefit of the citizens of a community certain services which prior to then might normally have been obtained with funds raised through taxation. Such services included new toll roads, bridges, tunnels, as well as airports, municipal water works, municipal power plants, sewer and sewage disposal systems, etc. Revenues obtained from such service were designated to be used for the payment of principal and interest on such revenue bonds, and the holders of such bonds could only look to such sources for payment, except that in some cases the full faith and credit of the municipality or State issuing such bonds were also pledged in an effort to obtain more favorable interest rates.

The present-day industrial revenue bond came into existence after World War II as a variation on the municipal revenue bond, but for an entirely different purpose. It was used as an inducement to entice manufacturers and other industries and employers to move into their communities so as to provide jobs as a solution to the post-war unemployment problems, and also to help boost sagging local economies. Funds obtained from their sale were employed in the purchase of land and construction of plants thereon which were then leased to such potential employers and businesses on a long-term lease basis generally geared to the normal life expectancy of the plant which had been constructed. Such bonds usually provide that the revenues obtained from such lease arrangements are pledged to the payment of interest and principal on the bonds in question, and the purchaser can look only to such revenues for repayment since the full faith and credit of the issuing municipality or authority are not pledged thereunder and they cannot be paid from tax revenues. Such arrangement is designed to obviate any constitutional challenge on the right of a municipality or an agency thereof to issue such securities for such private purposes and on the issuance of general obligation bonds without a vote of the electorate. As a fringe benefit, the municipalities may

also exempt the lessee from local taxation on such property for certain periods primarily because title to the land is in the name of the municipality or its agency. Lease payments in such cases are normally scaled so as to pay off the entire obligation on the bonds in question during the life of the lease.

As industrial revenue bonds grew in popularity as a means of encouraging local economic expansion, the amounts required to accomplish such purposes increased, and problems in financing were created since the local investors could not always absorb all of the issues proposed. In such cases, such bonds began to be offered in neighboring States and to be underwritten by underwriters and offered in interstate commerce. When brought to the attention of the Commission, the securities in question were found not to meet the test for exemption under the Securities Act of 1933 when they were offered and sold outside of the State, and thus were not eligible for either the exemption in Section 3(a)(11) of the Act for purely local financing, or the exemption in Section 3(a)(2) of the Act since investors could not look to the government or governmental agency named thereon for payment, but could only look to the revenues produced on the property constructed for private lessees not engaged in any essential governmental function or service for the community within the meaning of that section. For the same reason they failed to meet the requisite test for exemption under Section 3(a)(12) of the Securities Exchange Act of 1934 and were likewise not exempt under the Trust Indenture Act of 1939.

After asserting this conclusion on a case by case basis for several years the Commission decided in February 1968 to clarify this position by publishing a proposed rule under both Acts for public comment [Release Nos. 33-4896, 34-8248, published at 33 Federal Register 3142]. On August 28, 1968, the Commission announced adoption of Rule 131 under the Securities Act of 1933 [17 CFR 230.131] and Rule 3b-5 under the Securities Exchange Act of 1934 [17 CFR 240.3b-5], in Release Nos. 33-4921, 34-8388 [published at 33 Federal Register 12647]. Copies of these rules as proposed and adopted are attached thereto, and the releases contain an explanation of the rationale behind their adoption.

Following adoption of such rules, some municipalities raised questions concerning the impact of these rules on the issuance of bonds by municipal and other governmental units of the type described earlier as municipal revenue bonds, and the Commission thereupon amended Rule 131 and 3b-5 to make it clear that those bonds issued by a State or municipality to finance revenue producing projects of a governmental service nature such as toll roads, municipal water systems, transportation facilities, municipal recreational facilities and the like were still regarded as exempt under Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934 as were also the industrial revenue type bonds under which the full faith and credit of the State or municipality was pledged for payment of principal and interest. The amendment to these rules was to make it clear that only those industrial revenue bonds for the payment of which the investor-purchaser could look only to the revenues produced under the leasing arrangement and not the full faith and credit or taxing power of the State or municipality would be subject to these Acts, [attached Release Nos. 33-5055, 34-8850; 35 Federal Register 6000].

B. ENACTMENT OF TITLE IV OF PUBLIC LAW 91-373

When the Employment Security Amendments of 1970 bill was introduced as H.R. 14705 and passed by the House of Representatives on November 13, 1969 it contained no provision relating to exemptions under the federal securities laws for industrial revenue bonds, nor was such a provision in the bill when it was reported out to the Senate by its Committee on Finance. However, Title IV was added to the bill during debate on the floor of the Senate on April 7, 1970 when it was presented as an amendment to H.R. 14705 and was adopted by voice vote [Congressional Record, Vol. 116, Part 8, pp. 10578-10579]. The Conference Committee retained Title IV in the bill and it was accepted by both Houses of Congress when the Conference Report was adopted by them [Congressional Record, Vol. 116, Part 19, pp. 25608 to 25617, and Vol. 116, Part 20, pp. 27305-27323], and the bill was enacted into law on August 10, 1970 as Public Law 91-373.

Title IV of Public Law 91-373 amended both Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934 to add to each of them the following language: "or any security which is an industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code of 1954) the interest on which is excluded from gross income under section 103(a)(1) of such Code if, by reason of the applicattion of paragraph (4) or (6) of section 103(c) of such Code (determined as if paragraphs (4)(A), (5), and (7) were not included in such section 103(c)), paragraph (1) of such section 103(c) does not apply to such security;".

As a result of such amendment, securities which heretofore were not exempt were to be treated the same as those issued by a State or municipal government or governmental authority where the full faith and credit as well as the taxing power of such State or municipality were pledged or where they were issued in connection with the furnishing of an essential governmental function or activity. The exemption was limited to a maximum of $1,000,000 except that it could be increased in certain instances to $5,000,000 by action of the government concerned upon certain specified findings spelled out in the Internal Revenue Code.

III. COMMISSION'S VIEWS ON EXEMPTIONS ADDED BY TITLE IV OF P.L. 91-373

The Commission was not afforded an advance opportunity to comment on the proposed amendment in Title IV of Public Law 91-373 either through an oversight or through a misunderstanding regarding what may have been believed to have been a change of position. The first notice of such amendment was received after Title IV had been added and the bill had been sent to Conference, when the Commission received informal word of such action from the Office of Management and Budget. It was the concensus then that the only way any Commission objection to Title IV could be given recognition was by way of delaying further consideration of the Employment Security Amendments of 1970 which could have been fatal to the bill since it was so close to the time for adjournment of Congress. It was also decided that it would not be proper at that time for the Commission to recommend a veto to the President merely on the basis of the inclusion of this rider since the bill itself was otherwise a very important piece of legislation which had been sought by the Administration and by most members of the Congress.

Nevertheless, the Commission felt then, and it feels now, that such an amendment was ill-advised and runs contrary to the purpose and intent of the federal securities laws that investors are entitled to exercise informed judgment in purchasing securities based on full and fair disclosure of the nature and character of the securities which they are asked to purchase.

The Commission feels that an investor could easily be misled to believe that he is purchasing a "government guaranteed" security where the name of the State or municipality or that of one of its agencies appears on the security and only after reading the fine print does he find out that he cannot look to that issuer for payment but can only hope that the enterprise leasing the particular property involved is successful long enough to be able to pay off the interest and principal on the bonds as they become due. He is not afforded the protections of the federal securities laws in obtaining the minimum essential information prior to making up his mind and in giving him the remedies to which he would be entitled for any breach of the requirements of such laws. He should be entitled to know before making such purchase, for example, that his investment would depend upon the success of the lessee's venture and that it could be unfavorably affected if the enterprise leasing the property is not successful, if the lessee's business should terminate, become insolvent or be rendered obsolete and no other lessee could be found for the property on at least the same terms, and that in any case he could not rely upon the issuer of the bonds to make good on the payment of interest and principal if the revenue generated from the property in question is insufficient.

The Commission believes that the Title IV exemptions added to the federal securities laws are unfair to the investors concerned and that there appears to be no substantial reason for expanding them any further; in fact the Commission would prefer that such exemptions be repealed rather than enlarged.

Accordingly, the Commission does not favor enactment of S. 1644 insofar as it would affect those provisions of the Internal Revenue Code incorporated by reference by Title IV of Public Law 91-373, and which would have the effect of expanding further the federal securities laws exemptions for industrial development bonds.

NOTICE OF PROPOSED RULE 131 UNDER THE SECURITIES ACT OF 1933 AND PROPOSED RULE 3b-5 UNDER THE SECURITIES EXCHANGE ACT OF 1934

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt two new rules relating to "industrial revenue bonds"; Rule 131 under the Securities Act of 1933 and Rule 3b-5 under the Securities Exchange Act of 1934. "Industrial revenue bonds" generally are instruments issued in the name of a government or its instrumentality to finance the acquisition of a revenue producing facility which is leased to a private commercial or industrial company, to whose specifications the facility is usually created. The principal and interest on the bonds are payable from the proceeds of the lease, and the bonds are not backed by the taxing power and general credit of the governmental instrumentality in whose name they are issued. Such a bond is an instrument that represents: (1) an obligation on the part of the government or its instrumentality to perform certain acts, usually to collect the rental under the lease and to use it to discharge interest, sinking fund and other monetary obligations contained in the instrument; and (2) an interest in the obligation of the private company to make payments under the lease in order to provide funds for payment by the governmental instrumentality in whose name the bond is issued of principal and interest on the bond. Since the purchaser of an industrial revenue bond looks principally, if not entirely, to the lease payments for the payment of principal and interest on the bond, he is in reality purchasing an interest in the lease obligation of the private company. The new rules are proposed for the purpose of identifying the interest in the obligation of the private company as a separate "security" issued by the private company. These rules do not relate to, and have no effect on, the obligation of the government or its instrumentality nor do they require registration by the govern-

ment or instrumentality. The purpose of the rules is to provide prospective investors with adequate information concerning the nature of the obligation of the private lessee and sufficient information about the lessee and its business as well as the terms, nature and identity of the persons involved in the distribution to enable investors to make informed investment judgments.

Since the typical industrial revenue bond financing plan represents a financing by a private company, investors should be given information concerning the business, prior experience, fiscal responsibilities and earnings of the company that has leased the facility, as well as the terms and conditions of the lease arrangement, in order to assess the worth of such investment. The municipality or other governmental unit usually has no significant obligation under the bond, except to the extent of applying lease payments received from the private company to the payment of principal and interest. The investor cannot look to the municipality for interest payments or repayment of the principal; he can look only to the possibility of success or failure of the private company. The municipality serves as a conduit through which the amounts payable under the lease arrangement flow from the private company to the bondholder. In these circumstances, the investor is offered an interest in an obligation of the private company which is a "security" within the meaning of the securities acts and should have the benefit of the disclosures required by the Securities Act of 1933 and the Securities Exchange Act of 1934 when applicable.

The proposed rules do not question the availability of the exemption, provided in Section 3(a)(2) of the Securities Act, to the obligations of municipalities or of the states or their political subdivisions or instrumentalities. Such exemption is not available, however, to the separate security issued by the private company. Absent an exemption under the Act, the securities of the private company will be subject to the registration and prospectus delivery requirements of Section 5 of the Securities Act. Registration will not be required by the municipality or other political subdivision or instrumentality.

On the basis of available information, it appears that substantial amouts of these bonds have been sold to the public. Accordingly, the Commission believes that the proposed rules are appropriate to inform persons who may be issuers of securities identified by the rules, as well as person offering, selling, distributing or dealing in such securities, as to their obligations under the securities acts. Consideration should also be given to the applicability of the Trust Indenture Act of 1939 to the securities identified in the rules. It should be emphasized that the application of the registration requirements of the Securities Act to the securities of private companies which are identified in the proposed rules is intended to provide investors with material financial and other information concerning the private company and the nature and limitations of its obligations. The rules are not intended to affect the determination whether to utilize financing plans involving the issuance of industrial revenue bonds.

PROPOSED RULE 131

Under paragraph (a) of the proposed rule, any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any state or territory of the United States, any political subdivision of a state or territory, or any agency or instrumentality of one or more states, territories or political subdivision thereof, which is payable from from rentals received in respect to property which will be used under a lease by or for industrial or commercial enterprises, shall be deemed to be a separate security issued by the lessee under the lease. In addition, as essentially the same kind of financing plan could be carried out by a governmental body or instrumentality loaning the proceeds of the bonds to private enterprise or selling the revenue producing facilities to private enterprise on a deferred payment basis, paragraph (a) provides that any part of the obligation evidenced by any bond, etc. which is payable from payments received under a loan or sale arrangement, shall be deemed to be a separate security issued by the obligor under such loan or sale arrangement

The proposed rule is directed to financing plans in which any part of the principal and/or interest on a bond, note, debenture or evidence of indebtedness issued in the name of a government or its instrumentality is payable from payments which are to be made under a lease, sale or loan arrangement by private enterprise for property or money to be used by industrial or commercial enterprises. The rule does not apply to revenue bonds issued by a state, a political subdivision, a municipality or a public instrumentality to finance a revenue producing public project operated by such issuer, such as toll roads, municipal water systems, transportation systems or municipal recreational facilities. The rule also is not intended to apply to financing plans involving the issuances of revenue bonds which are to be funded by payments under a lease, sale or loan arrangement if the user of the facility or property is a state or a political subdivision or public instrumentality of a state or a municipality which is the lessee or obligor.

The Commission is aware that for many years issuer of the securities identified in this rule have not considered their obligations to be separate securities and that they have acted in reliance on the view, which they believed to be the view of the Commission, that registration under the Securities Act was not required. Under the circumstances the Commission does not believe that such issuers are subject to any penalty or other damages resulting from entering into such arrangements in the past. Paragraph (b) provides that the rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds or other evidences of indebtedness issued after the adoption of the rule.

The text of the proposed rule is as follows:

Rule 131. Definition of Security Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any State or Territory of the United States, any political subdivision of a State or Territory, or any agency or instrumentality of one or more States, Territories or political subdivisions thereof, which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprises, shall be deemed to be a separate "security" within the meaning of Section 2(1) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness issued after ———, 1968.

Proposed Rule 3b–5

The Commission believes that it is appropriate to adopt proposed Rule 3b–5 to make it clear that securities identified under Rule 131 are also "securities" within the meaning of Section 3(a)(10) of the Securities Exchange Act of 1934. The provisions of the proposed rule correspond to those of Rule 131. The proposed rule is intended to inform brokers and dealers who deal in industrial revenue bonds, that consideration should be given to the existence of separate securities issued in connection with the issuance of industrial revenue bonds, in determining their obligations under the Securities Exchange Act, where any part of the obligation evidenced by any bond, note, debenture or other evidence of indebtedness is payable from payment made in respect of property or money which is or will be used under a lease, sale or loan arrangement by or for industrial or commercial enterprises. Such separate securities ordinarily would not be exempted securities within the meaning of Section 3(a)(12) of the Act.

The text of the proposed rule is as follows:

Rule 3b–5. Non-Exempt Securities Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any State or Territory of the United States, any political subdivision of a State or Territory, or any agency or instrumentality of one or more States, Territories or political subdivisions thereof, which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale or loan arrangement, by or for industrial or commercial enterprises, shall be deemed to be a "separate" security within the meaning of Section 3(a)(10) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness issued after ————, 1968.

All interested persons are invited to submit their views and comments on the proposed rules, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before March 29, 1968. Except where it is requested that such communications not be disclosed, they will be considered available for public inspection.

By the Commission.

ORVAL L. DUBOIS,
Secretary.

ADOPTION OF RULE 131 UNDER THE SECURITIES ACT OF 1933 AND RULE 3b–5 UNDER THE SECURITIES EXCHANGE ACT OF 1934

The Securities and Exchange Commission announced today that it has adopted the Rule 131 under the Securities Act of 1933 and Rule 3b–5 under the Securities Exchange Act of 1934. The new rules relate to "industrial revenue bonds."

Proposed rules were published for comment on February 1, 1968 in Securities Act Release No. 4896 (Securities Exchange Act Release No. 8248). The Commission received many helpful comments that pointed out problems that would be created by the rules in the form in which they were proposed, and that suggested means of overcoming these problems. In light of these comments, the Commission determined to revise the proposed rules to meet the objections raised in these comments and incorporate some of the suggestions for revision.

As was pointed out in the Release announcing the proposed rules, the typical industrial revenue bond financing plan represents a financing by a private company. Accordingly, investors should be given information concerning the business, prior experience, fiscal responsibilities and earnings of the company that has leased the facility, as well as the terms and conditions of the lease arrangement, in order to assess the worth of such investment. The municipality or other governmental unit usually has no significant obligation under the bond, except to the extent of applying lease payments received from the private company to the payment of principal and interest. The investor cannot look to the municipality for interest payments or repayment of the principal; he can look only

to the possibility of success or failure of the private company. The municipality serves as a conduit through which the amounts payable under the lease arrangement flow from the private company to the bondholder. In these circumstances, the investor is offered an interest in an obligation of the private company which is a "security" within the meaning of the securities acts and should have the benefit of the disclosures required by the Securities Act of 1933 and the Securities Exchange Act of 1934 when applicable.

There appeared to be a failure on the part of many persons who submitted comments to understand that the proposed rules were interpretive rules that identify securities of private companies which are offered and sold in industrial revenue bond financing plans, and that the proposed rules were not intended to affect the exemptions for municipal or governmental bonds contained in the securities acts. In addition, in some of the comments it was noted that although the Release announcing the proposed rules pointed out that the rules would not affect the exemption for municipal or governmental bonds, they were broad enough in scope to have a contrary implication. As a consequence, the rules have been revised to remove such implication.

RULE 131

Paragraph (a) of the rule has been modified to relate specifically to Section 3(a)(2) of the Act. This was accomplished by deleting the words "State or Territory of the United States, any political subdivision of a State or Territory, or any agency or instrumentality of one or more States. Territories or political subdivisions thereof," and substituting therefor the words "governmental unit specified in Section 3(a)(2) of the Act."

Many of the comments that were received pointed out that a definition of the term "industrial or commercial enterprises" should be included in the rules, and gave suggestions as to how that term should be defined. In the light of those comments, the Commission has added a new paragraph (b), which states that "An obligation shall not be deemed payable from industrial or commercial enterprises if such obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in Section 3(a)(2) of the Act." This paragraph would make it clear that registration is not required where the lessee is a governmental unit specified in Section 3(a)(2) of the Securities Act.

Paragraph (b) of the proposed rule has been relettered (c) and the word "issued" in the last line of the paragraph has been changed to the word "sold" and the rule will become effective January 1, 1969. These changes were made in response to comments that pointed out certain technical and timing problems that were raised by the proposed rule.

The rule is directed to financing plans in which any part of the principal and/or interest on a bond, note, debenture or evidence of indebtedness issued in the name of a government or its instrumentality is payable from payments which are to be made under a lease, sale or loan arrangement by private enterprise for property or money to be used by industrial or commercial enterprises. The rule does not have the effect of requiring registration of revenue bonds issued by a state, a political subdivision, a municipality or a public instrumentality to finance a revenue producing public project operated by such issuer, such as toll roads, municipal water systems, transportation facilities and systems or municipal recreational facilities, or revenue bonds which are to be funded by payments under a lease, sale or loan arrangement if the user of the facility or property is a state or a political subdivision or public instrumentality of a state or a municipality which is the lessee or obligor. New paragraph (b) of the rule is designed to remove all doubt as to the effect of the rule. In this connection, concern was expressed in many comments that the rule would have the effect of requiring registration of bonds issued to finance construction of airports, wharves, recreational and sporting facilities and convention facilities. Paragraph (b) would clearly make the rule inapplicable to the financings of such facilities that are owned by a municipality and operated by it or a public instrumentality.

It should be noted, however, that if the municipality were not to control the facility but were to lease it or sell it to a private enterprise to operate for a profit, the bonds would be payable from an industrial or commercial enterprise and registration would be required, absent an available exemption. On the other hand, the Section 3(a)(2) exemption would be applicable where a governmental unit having taxing authority or other resources guarantees payment of the bond obligation in the event of default under the lease, or where such governmental unit is responsible for all the bond payment obligation even though a portion or all of the facility is leased to a private enterprise. Further, whether or not Section 3(a)(2) of the Act is applicable, if the securities are offered and sold exclusively to residents of the state in which the lessee company is organized and doing business and in which the facility is located, the exemption in Section 3(a)(11) of the Act would be available; or if the securities are not publicly offered, the exemption in Section 4(2) of the Act would be available.

It should be noted that the rule relates only to that part of an obligation evidenced by industrial revenue bonds which is payable from an industrial or commercial enterprise. Thus, if the lease obligation is in an amount less than the principal amount of the bonds, registration would be required of only that portion representing the lease obligation. Similarly, if a facility were leased to two separate lessee companies, each of which was obligated to make lease payments representing a portion of the principal amount of the bonds, each would be required to register its respective portion of the lease obligation.

The Commission has determined, based on a number of lease obligations that have recently been registered, that existing rules, procedures and policies under the Trust Indenture Act of 1939 are adequate in connection with the applicability of that Act to the securities indentified in the rules. For example, the indenture, which contains the provisions required by the Trust Indenture Act of 1939, may be executed between the trustee and the lessee and the lessee will be required to file the necessary reports and perform the other obligations of an obligor thereunder. However, it has been the practice for the municipality to execute the indenture and to assign its rights under the lease to the indenture trustee, in which case the lessee assumes the statutory functions of an obligor in the lease.

The text of Rule 131 follows:

Rule 131. Definition of Security Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any governmental unit specified in Section 3(a)(2) of the Act which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of Section 2(1) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed payable from industrial or commercial enterprises if such obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in Section 3(a)(2) of the Act.

(c) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness sold after December 31, 1968.

Rule 3b–5

Rule 3b–5 has been modified in the same manner as Rule 131.

Rule 3b–5 makes it clear that securities identified under Rule 131 are also "securities" within the meaning of Section 3(a)(10) of the Securities Exchange Act of 1934. The provisions of the rule correspond to those of Rule 131. The rule informs brokers and dealers who deal in industrial revenue bonds, that consideration should be given to the existence of separate securities issued in connection with the issuance of industrial revenue bonds, in determining their obligations under the Securities Exchange Act, where any part of the obligation evidence by any bond, note, debenture or other evidence of indebtedness is payable from industrial or commercial enterprises. Such separate securities ordinarily would not be exempted securities within the meaning of Section 3(a)(12) of the Act. In such instances all the provisions of the Exchange Act and the Commission's rule thereunder will apply to any part of the obligation evidenced by the bond which is not issued by a lessee or obligor described in Section 3(a)(12) of that Act.

The text of Rule 3b–5 follows:

Rule 3b–5. Non-Exempt Securities Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any governmental unit specified in Section 3(a)(12) of the Act which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of Section 3(a)(10) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed payable from industrial or commercial enterprises if such obligation relates to a public project or facility owned and operated by or on behalf of and under control of a governmental unit specified in Section 3(a)(12) of the Act.

(c) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness sold after December 31, 1968.

By the Commission.

ORVAL L. DUBOIS, *Secretary.*

AMENDMENT OF RULE 131 UNDER THE SECURITIES ACT OF 1933 AND RULE 3b–5 UNDER THE SECURITIES EXCHANGE ACT OF 1934

The Securities and Exchange Commission has amended Rule 131 under the Securities Act of 1933 and Rule 3b–5 under the Securities Exchange Act of 1934. Each rule relates to "industrial revenue bonds" and was designed to define those circumstances where bonds issued by a municipality or other governmental unit specified in Section 3(a)(2) of the Securities Act and in Section 3(a)(12) of the Securities Exchange Act of 1934 would be deemed to involve the issuance of a separate security by an industrial or commercial enterprise under a lease, sale or loan arrangement. The purpose of the amendment is to clarify certain situations where no

such separate security will be deemed to be involved.

Questions have been raised concerning the impact of the registration requirements of the Securities Act and Rule 131 thereunder to the issuance of bonds by municipal and other governmental units to finance airport improvements for leasing to airlines serving their areas. A similar question has been raised under Rule 3b–5 as to the existence of a separate security for the purposes of the Securities Exchange Act. These questions have been raised notwithstanding the following statement which was included in the Commission's Release No. 4921 under the Securities Act, announcing the adoption of Rule 131:

". . . The rule does not have the effect of requiring registration of revenue bonds issued by a state, a political subdivision, a municipality or a public instrumentality to finance a revenue producing public project operated by such issuer, such as toll roads, municipal water systems, transportation facilities and systems or municipal recreational facilities, or revenue bonds which are to be funded by payments under a lease, sale or loan arrangement if the user of the facility or property is a state or a political subdivision or public instrumentality of a state or a municipality which is the lessee or obligor. New paragraph (b) of the rule is designed to remove all doubt as to the effect of the rule. In this connection, concern was expressed in many comments that the rule would have the effect of requiring registration of bonds issued to finance construction of airports, wharves, recreational and sporting facilities and convention facilities. Paragraph (b) would clearly make the rule inapplicable to the financing of such facilities that are owned by a municipality and operated by it or a public instrumentality."

In view of the concern which has been expressed that paragraph (b) of Rule 131 as presently written might be construed as being applicable only if, for example, a particular airport facility, such as a hangar or a commissary, were to be operated and controlled by or on behalf of a governmental unit, the Commission has concluded that paragraph (b) should be clarified in such respect. The amendment of paragraph (b) of Rule 131 would make it clear in subdivision (3) thereof that it is not the purpose of the paragraph to require as a condition to its applicability that each separate facility constituting a part of a public project be operated and controlled by a governmental unit if the public project as a whole is owned by and under the general control of a governmental unit or an instrumentality thereof.

The amendment also makes explicit in subdivision (1) what had previously been implicit in Securities Act Release No. 4921 that the rules would not apply to any obligation which is payable not only out of the payments from the arrangements referred to in paragraph (a) but also from other substantial sources of revenue of the governmental unit.

The text of amended Rule 131(b) under the Securities Act of 1933 is as follows:

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) hereof if, (1) the obligation is payable from the general revenues of a governmental unit, specified in Section 3(a)(2) of the Act, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section, or an instrumentality thereof.

The text of amended Rule 3b–5(b) under the Securities Exchange Act of 1934 is as follows:

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) hereof if, (1) the obligation is payable from the general revenues of a governmental unit, specified in Section 3(a)(12) of the Act, having other resources which may be used for payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section, or an instrumentality thereof.

The foregoing action was taken pursuant to Section 19(a) of the Securities Act of 1933 and Section 23(a) of the Securities Exchange Act of 1934. Since the action relates to interpretative rules and is simply a clarification of the Commission's prior interpretation of the scope of the statutory exemptions for securities of governmental instrumentalities, the Commission finds that notice is unnecessary and that the amendments to the rules may be made effective immediately. Accordingly, the amended rules shall be effective as of March 31, 1970.

By the Commission.

ORVAL L. DUBOIS, *Secretary.*

Mr. PROXMIRE. Mr. President, this is, from everyone's standpoint, a very undesirable change in the tax law. It is proposed under the guise of benefiting local governmental authorities, but in fact it will operate to the serious detriment of the overwhelming majority of State and local governments.

Industrial development bonds are simply a device to enable private businesses to borrow funds by using the tax exemption privilege of State and local governments. The device arose as a means of attracting industry to a locality by the significantly lower financing costs available through tax exempt borrowing.

This device was stopped by Congress in 1968 because nearly every State had begun to issue industrial development bonds. Before Congress acted, the ability of any one State or locality had been, for the most part, neutralized; on the contrary, the State and local governments had found it necessary to offer the tax exempt financing benefits to industry as a defensive matter—they had to offer this advantage to keep from losing industry.

The principal undesirable result that flowed from all of this was the increased competition for the very limited funds available for purchase of tax exempt bonds. This, of course, forced the interest rate on all tax exempt issues to rise, in turn raising significantly the financing costs of States and localities attempting to meet the pressing demands for capital needed to provide critical governmental services such as police and fire protection, schools, and sewage disposal.

Thus the 1968 legislation served its purpose well. Appropriate exceptions were made for semigovernmental functions carried on by private industry which had traditionally been financed through tax exempt bonds—such as airports, mass transit facilities, pollution control facilities and others. Also an exception was made for issues of $1 million and less.

The present amendment would increase the $1 million exemption to $5 million; to that extent it would allow the competition among States and localities to be renewed—to the detriment of financing for traditional governmental functions.

In short, a vote for this amendment is a vote against the cities and other local governmental authorities most in need of help. The least we can do is help these hard-pressed local governments by protecting the integrity of their tax exempt financing privilege.

Mr. RIBICOFF. Mr. President, I have an amendment to the Sparkman amendment which I send to the desk.

The PRESIDING OFFICER. Is the Senator simply sending an amendment to the desk?

Mr. RIBICOFF. Yes. I will call it up at the proper time.

The PRESIDING OFFICER. The amendment is received, and will lie on the desk.

Who yields time?

Mr. RIBICOFF. Mr. President, will the Senator from Arizona yield to me 10 minutes in opposition to the amendment?

Mr. FANNIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 23 minutes remaining.

Mr. FANNIN. I yield 10 minutes to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, the problem of the tax treatment of industrial bonds is not a new one. We dealt with it first in the Revenue and Expenditure Control Act of 1968. When we considered the Renegotiation Act later the same year the treatment of industrial revenue bonds was liberalized.

The problem which faced us at that time was that industrial revenue bonds were being used extensively and often abused. Originally, industrial revenue bonds may have had a worthwhile purpose; namely, to attract industry to areas in need of economic development. This original purpose, however, has been long gone. According to my last count there were 44 States using industrial revenue bonds. As a result, industrial revenue bonds generally do not make investment in one State more attractive than investment in another State. Instead, these bonds merely represent an unjustified subsidy reducing the interest cost to industrial corporations and representing a tax loophole for wealthy investors.

The worst part of it is—and this is the point which is usually overlooked—the tremendous growth in the use of industrial revenue bonds in recent years has actually hurt rather than helped State and local governments. The demand for increasing and new varieties of governmental services have caused States and local governments to rely more and more on the municipal bond market to obtain necessary funds. The increased need for these funds has placed severe demands on the municipal bond market and driven up the cost of these bonds. The tremendous growth of industrial revenue bonds has further aggravated this situ-

ation since these bonds have used up the relatively limited quantity of funds available for State and local bonds. Generally, the effect has been to substantially increase the cost of State and local government bond financing. Under today's conditions this is the very last thing we should seek to do.

Mr. President, it was reasons of this type which led the Senate to limit the income-tax exemption for interest on industrial revenue bonds to a maximum of $1 million. Later some of my colleagues argued that we ought to permit plants to be built up to a limit of $5 million on the grounds that these were small industries. I approved that proposal. However, the Congress agreed finally to permit industrial revenue bonds to be used up to a total of $5 million but only where the total expenditure may with respect to a plant in the period beginning 3 years before and ending 3 years after the bond issue, aggregated no more than $5 million. Now, the distinguished Senator from Alabama (Mr. SPARKMAN) proposed to take this restriction off. He would permit any industrial bond issue to be exempt up to a total of $5 million.

This will have the effect of exempting a very large portion of all industrial revenue bonds and will almost put us back into the same position we were in when the tax-free issues of industrial bonds were first limited. The average size of an industrial plant issue today amounts to about $9 million, so you can see from this that if we exempt the first $5 million of any issue we will in fact be exempting more than one-half of all industrial issues if they seek State or local industrial bond financing. I can think of no more crippling amendment that we could provide insofar as State and local governments, generally, are concerned. Nothing that I can think of would be so likely to drive up the cost of the financing and to make it difficult to finance new issues for school construction, for highways, for sewage treatment plants, and the many other pressing needs of our local governments.

The Treasury Department for much the same reasons that I have given you, strongly opposes this amendment. The Treasury Department opposes this amendment not only because it increases the use of tax exempt bonds in a manner which will have serious disruptive effects on the State and local bond market, but also because it narrows the tax base by substituting more tax exempt income for taxable income and in this manner extenuates the problem of tax preferences.

The SEC opposes this amendment because these issues are excluded from the reporting requirements of the Securities Act and, as a result, even though these, in fact, are corporation issues rather than true Government issues, investors are not afforded proper protection.

It is ironic that this amendment should be added at this time when we are restoring the 7-percent investment credit. The 7-percent credit will be a substantial aid to industrial development throughout the country and certainly we need not add further to this by increasing the exemption with respect to interest on industrial bonds.

I strongly oppose this amendment. Historically we have heard that these bonds help develop jobs, but the AFL–CIO has always opposed the program. Local government supposedly favors these bonds but the National Association of Counties has always objected to their use. And the Advisory Council on Intergovernmental Relations—representing a broad cross-section of State, local, and Federal officials—has sought to have industrial development bonds totally removed from the tax exempt market.

We successfully curbed a large part of the abuses in this program in 1968. I would hope that we would not subject the cities and States of our country to those abuses again.

Mr. President, I therefore urge my colleagues to oppose the amendment of the Senator from Alabama.

Mr. FANNIN. Mr. President, if I believed that this amendment would provide an advantage to State and local governments in attracting industry, I would be very much in favor of it. But it does not provide an advantage to State and local governments in attracting industry since virtually all States authorize industrial revenue bonds. It does not have the great appeal that has been expressed. Congress dealt with this problem in 1968, and allowed industrial development bonds up to $5 million only where the total cost of the facility was under $5 million. Even with that restriction, the use of these bonds is growing at a faster rate today than in the early 1960's.

Mr. President, I have a chart which shows the industrial revenue bond issues for 1960 to 1970. They reached a peak in 1967 and 1968 and then fell off in 1969, following the legislative action of Congress. These bond issues, however, started picking up again in 1970.

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

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

INDUSTRIAL REVENUE BONDS, 1960–70

[Dollar amounts in millions]

Year	Number of issues	Amount	Average amount per issue
1960	55	$41	$0.7
1961	46	72	1.6
1962	66	84	1.3
1963	69	133	1.9
1964	90	192	2.1
1965	91	210	2.3
1966	124	499	4.0
1967	180	1,372	7.6
1968	165	1,606	9.7
1969	68	51	.8
1970	82	110	1.3

Source: Investment Bankers Association.

Mr. FANNIN. Mr. President, in 1968, Congress enacted tax changes to halt the proliferation of industrial development bonds. During the 1960's, a large number of State and local governments authorized the issuance of industrial development bonds. The practice was initially developed as a means to attract new industry to underdeveloped areas by offering business the use of the issuer's tax exemption. As more States authorized these bonds, the competitive advantage in luring industry to a particular area was neutralized. Large numbers of industrial development bond issues were competing with school bonds, sanitary bonds, and so forth. Thus, while the industrial users were saving money through the use of tax-exempt issues, there was a corresponding increase in the interest paid on traditional municipal financings.

Prior to the 1968 legislation limiting the use of industrial development bonds, there had been a steady increase in the use of this device. In 1960, 55 such issues were sold, representing a total face amount of $41 million; an average of $700,000 per issue. In 1968, the last year before the new provision was in effect, there were 165 such issues representing an annual face amount of $1.6 billion; an average of $9.7 million per issue. From 1960 through 1968, the aggregate face amount of industrial revenue bonds was over $4 billion.

The 1968 legislation continued to allow tax-exempt financing of projects whose total cost does not exceed $5 million.

In other words, that legislation continued to allow the use of industrial revenue bonds for small industrial plants.

The amendment before us, however, would extend this privilege of issuing $5 million of tax-exempt bonds for an industrial plant to all plants, regardless of their size—regardless of whether a $5 million or $100 million plant was involved. Under the proposed amendment, the first $5 million of costs of any industrial plant—regardless of its size—could be financed by tax-exempt municipal bonds.

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

Mr. FANNIN. I yield.

Mr. SPARKMAN. The Senator pointed out that this big increase swelled up to 1968.

Mr. FANNIN. Yes.

Mr. SPARKMAN. We all recognize the fact that there was an abuse of the old law.

The PRESIDING OFFICER. The Senator's 2 minutes have now expired.

Mr. SPARKMAN. I yield myself 1 minute.

We all recognize the fact that it had been abused.

We agreed to a limitation back in 1968. As I recall it, we wrote it into the bill on the Senate floor, but when we got to the House they wrote in these 6 drag years, under which no company could spend a dollar on capital expenditures. We are not changing the limitation. We are trying to remove those 6 years.

This operates primarily under the section 502 program of the Small Business Administration. All through this land we can find places where these section 502 projects have gone in and utilized this program and provided jobs in areas where they badly needed jobs. We gave liberally to big business. This is a plea for small business. The amount is no more in my amendment than it is under the present law. It takes away the 6 drag years.

Mr. FANNIN. I do agree that States originally had some benefits. Many indi-

vidual States have had benefits, my own State included. But by 1968, so many States were issuing these bonds that the competitive advantage had disappeared. The procedure we followed in 1965 in allowing small issues of these bonds was to prevent a $100 million plant from being constructed with it. There were limitations, and they were called for.

I am concerned about the long-term effect of the expansion in tax exempt industrial development financing which this amendment would permit and, in fact, encourage. This effect will be an increase in the cost of financing for traditional government projects, such as schools, bridges, police, and fire protection. States will have to pay more to finance these services because of the subsidies this amendment will provide to private industry. In other words, financing for these activities would be forced to compete with large industrial development bond issues. Local taxpayers will have to pay higher taxes to finance their schools, so that some States can attempt to lure industry away from other States in an effort that in the end is bound either to disrupt the economy as a whole or to fail because all States offer the same subsidy.

The Senator knows this is a competitive situation. One State will offer an incentive. Then another State in competition with it for these industries will offer the same or more lucrative opportunities for the industry. So it goes back and forth, without really making a great change, other than increasing the cost to the taxpayers, and here we are talking about $350 million, which is a sizable sum.

The Securities and Exchange Commission also is opposed to any expansion of the small issue exemption. Under a 1970 amendment to the securities laws, industrial development bonds which are exempt as "small issues" under the tax law are also exempt from the application of the Federal securities laws. This means that prospective investors in such bonds are not afforded the protection of the disclosure requirements in those laws. An investor could easily be misled to believe that he is purchasing a Government guaranteed security where the name of the issuing municipality appears on the security. Since the proposed amendment would bring a number of issues into the category of exempt small issues, it would have the undesirable effect of expanding the scope of this exclusion from SEC disclosure requirements.

Mr. SPARKMAN. Mr. President, will the Senator yield for a question?

Mr. FANNIN. On the Senator's time.

Mr. SPARKMAN. Mr. President, I yield myself 2 minutes.

I have the highest regard for the Senator from Arizona, but the statement that has been prepared for him simply does not jibe with the facts and does not make sense. It does not cost the Government anything more, because the limit is still the same, $5 million. It just takes away the 6 years in which that company or that plant or that man could not spend one extra dollar for capital improvements. If he does, he loses his whole tax benefit. Why put these chains on him? This is a small business proposal.

I did not hear this argument made in connection with rapid depreciation, which I support. I did not hear any of this argument in connection with the 7-percent investment credit, which I support. I think they are both good for the economy of the country. But now when we have this small business provision, which I also think is good for the economy of the country, I do not see how one could stand up here and blandly vote for rapid depreciation and investment tax credit—I did, and I believe in them—but when we come to the small businessman, say it is going to cost the Government more money. It cannot exceed the sum already provided. The limit is the same. All we are doing is keeping the law, except we are saying to small business, "When you get this $5 million tax-exempt loan, you are handcuffed for 6 years. You cannot spend another dollar."

There is another provision which lets money made available under the program which the distinguished Senator from Vermont wrote into the law a few years ago go into water and sewer systems throughout the country. This has benefited very greatly small towns and rural areas. There is a limitation there, under the interpretation of the Internal Revenue Service, that they cannot go outside a metropolitan area or an area that is bigger than two counties.

I know that in my State there are places where three or four or five counties are trying to work together to get the benefits written into the law, and which was promised to people in the rural areas, which would provide them with the decent living provided by water and sewer systems. That is what we are trying to do. All this is a part of the amendment. I say it is a good amendment, which should be written into law.

Mr. FANNIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 12 minutes remaining.

Mr. FANNIN. Mr. President, with reference to what the distinguished Senator from Alabama has said, I would not expect him to be for this amendment unless he thought it would increase the issuance of industrial development bonds. Now, if it does increase industrial development bond issues, it is going to cost more money. If I thought we were going to have additional benefits from the amendment, I would be in favor of what is proposed, but no one area of the country would receive any competitive advantage from the increased usage of industrial development bonds, because practically all States now have that privilege. So I do not think the amendment would have the effect the Senator from Alabama refers to. Moreover, as I indicated, it is not a small business amendment since it would allow tax-exempt bond financing regardless of whether a $10 million or a $100 million plant were involved.

I certainly want to help create jobs, but I do not agree at all that the way to do that is to encourage the issuance of industrial development bonds. Today, the only one who benefits from industrial development bond financing is the private industry which obtains lower cost financing for a plant it was going to build in any event. The State issuing the bonds obtains no benefit and the taxpayers obtain no benefits.

There are many reasons why this proposal should not be adopted. I think the principal reason, however, is that it would create tremendous additional pressures on the municipal bond market and thus would drive up interest costs on all municipal bonds, especially those affecting our schools and our other pressing local governmental needs.

I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. SPARKMAN. I yield 3 minutes to the Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, I thank my colleague from Alabama for yielding so I may make these remarks in support of the amendment.

I was happy to cosponsor the amendment which effectuated the compromise on this issue when it was offered by the distinguished Senator from Alabama some time ago. In that debate I think all of us agreed—and the distinguished Senator from Connecticut was in the forefront of that debate—that there were substantial abuses in the industrial development bond concept.

So a compromise was worked out that provided for a $5 million limitation on the amount of bonds that might be sold and still maintain a tax free status. As I say, I participated in those negotiations and that compromise, and I think it was a good compromise. I think $5 million is a realistic and reasonable limitation to put on them.

But, Mr. President, we now run up against one of those situations which not infrequently occur, that some of our friends in the executive department of the Government do not exactly interpret the statute the same way we thought we understood it, so that the unfortunate effect has been to provide that we put an unrealistic ceiling on the further operation, development, or expansion of facilities built with the proceeds of industrial development bonds.

The example used by the Senator from Alabama, as I understood him, was that if $5 million in industrial development bonds were sold, and the interest income from those bonds qualified as tax-free income, and then later the lessee company that operated that plant chose to use its own money, say $1 million of its own private funds to expand, upgrade, renovate, or modernize that plant, then the interest income from the whole $5 million would lose its qualification as tax-free income.

That situation, Mr. President, was not one of the intended effects of the compromise we reached. The amendment by the distinguished Senator from Alabama, in my judgment, does nothing more than clarify an unintended conflict which has developed between the interpretation of the statute as we passed it and what we as legislators intended at the time.

So I think the amendment is necessary and desirable, and I commend the Senator from Alabama for offering it.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, is there any Senator who would like to make a further statement in opposition?

If not, I am prepared to yield back the remainder of my time.

Mr. SPARKMAN. No, no, Mr. President, I cannot do that.

Mr. FANNIN. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Arizona has 8 minutes. The Senator from Alabama has 12 minutes.

Mr. FANNIN. I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield 3 minutes to the Senator from Georgia (Mr. GAMBRELL).

Mr. GAMBRELL. Mr. President, I should like first to address a question to the distinguished Senator from Alabama with reference to this amendment, to clarify it for me.

If this amendment is adopted, as I understand, if there is additional investment within the 3-year period, that is not exempted; in other words, it is only the principal investment that is made that is under tax-exempt financing, but any additional investment would not be, within that period?

Mr. SPARKMAN. Five million dollars is the maximum of the tax exemption. But it is worse than the Senator says. If the $5 million loan is made, then for 3 years after that, the borrower cannot spend one single dollar of capital payments. Suppose something breaks down, and he has to buy new machinery. He loses his exemption. All in the world I am trying to do is take out those 3 years, before and after.

Mr. GAMBRELL. After the amendment is adopted, if that situation should arise and an additional investment should be made, based on borrowed money, would that be subject to tax exemption?

Mr. SPARKMAN. It would not.

Mr. GAMBRELL. It would not?

Mr. SPARKMAN. It would not. Only the $5 million would be tax exempt.

Mr. GAMBRELL. So the effect of the amendment does not extend the $5-million limit?

Mr. SPARKMAN. No; not by $1.

Mr. GAMBRELL. This is, I think, a very important point, because, as the Senator has said several times, this is not an effort to increase the amount of the exemption, and in that respect does not deny the Federal Treasury one single tax dollar by way of any additional exemptions.

My own experience in this field of municipal finance and tax-exempt financing—and the Senator knows this, I am sure, very well—has been that in the bond market for municipal securities, any kind of little possible variation which might cause the bonds to lose their tax exemption does not simply impair their marketability, it just abolishes it. The possibility that at some later date within 3 years, someone out there would make a mistake or forget they were not supposed to make a capital investment, is something that would break the tax-exempt status, and this is something the market has no control over. The bonds are sold into the hands of people all over the country, and they become subject to tax exemption. How do you tell the investor in this market that his bond has now become subject to taxation? I think this is an important point.

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

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the names of the Senator from Texas (Mr. BENTSEN) and the Senator from Georgia (Mr. GAMBRELL) be added as cosponsors of the amendment.

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

Mr. SPARKMAN. Mr. President, I yield 3 minutes to my colleague from Alabama.

Mr. ALLEN. I thank my distinguished colleague.

Mr. President, I urge my fellow Senators to support amendment No. 655, because it is designed to promote capital investment by industry and the creation of additional jobs. I know of no amendment that has been adopted, on such a small scale, that will be as productive as this amendment in promoting capital investment and in creating jobs.

A companion bill has been introduced in the House of Representatives by the chairman of the Ways and Means Committee, Mr. WILBUR MILLS. I ask unanimous consent that a copy of that bill, H.R. 11124, be printed in the RECORD at this point.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103(c)(4) of the Internal Revenue Code of 1954 (relating to certain exempt activities) is amended—

(1) by striking out in subparagraph (E) "energy, gas, or water, or" and by inserting in lieu thereof "energy or gas,";

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or"; and

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

"(G) facilities for the furnishing of water, whether or not to the general public."

(b) Section 103(c)(6) of such Code (relating to exemption from industrial development bond treatment for certain small issues) is amended—

(1) by striking out "$1,000,000" in subparagraph (A) and by inserting in lieu thereof "$5,000,000"; and

(2) by striking out subparagraphs (D), (E), (F), (G), and (H).

(c) The amendments made by this Act shall apply with respect to obligations issued after January 1, 1970.

Mr. SPARKMAN. Mr. President, may I ask the Senator, is that not almost identical with our amendment?

Mr. ALLEN. It is identical, word for word, except as to the issue date of the securities proposed to be affected by the amendment, and a little different language which will assure that these water systems provided for in the amendment will be available on reasonable demand to the general public.

This amendment would remove a provision from the existing law that pretty well nullifies the exemption sought to be given thereby, because the existing law provides that if the entity issuing the bonds has made capital investments in the 3 years preceding the issuance of the bonds, or if it makes capital investments in the ensuing 3 years, then the securities cannot be tax exempt.

This puts a tremendous burden on the issuing entity, and it is self-defeating, in that once the bonds are issued and the improvements are made, then no further improvements can be made for 3 years, even if there is great need for additional improvements.

So the pending amendment eliminates the 3 back years and the 3 prospective years in which there may be no capital investments.

There was no real reason for that prohibition in the original law, that the junior Senator from Alabama can detect. This amendment would leave the ceiling exactly where it is, at $5 million, but would provide a method for getting the bonds issued and the capital investment made.

The PRESIDING OFFICER (Mr. BROCK). The Senator's 3 minutes have expired.

Mr. ALLEN. I yield myself 1 additional minute.

I know of at least one industry waiting on the passage of this bill to add to its existing facilities in my State, to the extent of several million dollars. They contemplate putting on some 2,500 new employees. This bill does carry the concept of the President's plan to create more jobs, to provide for more capital investment, and to promote rural development, for most of the plants are in small towns and rural areas.

I urge my colleagues to vote favorably on the amendment.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alabama has 4 minutes remaining.

Mr. SPARKMAN. Mr. President, the Senator from Alabama will bear me out in this statement. Under the industrial bond development plan, we have been able, in Alabama, to locate in small towns, in rural areas, many small businesses that have given employment to people who needed jobs. Is that not correct?

Mr. ALLEN. That is definitely correct. Furthermore, it carries out the concept of rural development which the administration is interested in, which the Committee on Agriculture and Forestry is interested in, and which the Subcommittee on Rural Development, headed by the distinguished Senator from Minnesota (Mr. HUMPHREY), is greatly interested in.

Mr. SPARKMAN. We have bills here that the administration sent up, urging rural development.

Mr. President, one thing I am afraid of in the President's economic program—and I am supporting it wholeheartedly—the only part in it of which I am afraid, is that of unemployment. Yet, here is something that makes it possible to get jobs where they are needed.

I want to point out another thing. I want to emphasize what the Senator from Georgia said. As it stands now, if this law continues, how are you going

to sell a $5 million bond issue? You would almost have to shave it down by something so as to make room for those capital improvements. The way it is now, you spend $1 on capital improvements after you get that loan, and then the tax-exempt status is lost with respect to the whole issue. Who would buy a bond issue of that kind?

Mr. President, I have referred to section 502 of the Small Business Act. I want to say that that was written into the small business law primarily upon the example that New England had set. Several States in New England, if not all of them, had local industrial development associations, and many of them were assisted by the States. Arkansas had one. It was primarily upon the example that we had from those areas that we wrote into the law section 502. It is under that section that most of these bond issues are made. It is a rural development program. It is a small business program. It is one that makes for better economy throughout the country, and we certainly ought to vote for it.

Mr. President, I am ready to yield back the remainder of my time, if I have any more time.

Mr. FANNIN. Mr. President, I will take 2 minutes, and then I will yield back the remainder of my time.

Mr. SPARKMAN. I reserve the remainder of my time, then.

Mr. FANNIN. Mr. President, why was this device stopped by Congress in 1968? Because there is a limited market for tax-exempt bonds—high-bracket individual investors—and the floodings of the market with these bonds had sharply raised interest rates on all other bona fide State and local bond isues—for school financing, road construction, and other needed State and local government purposes. I think we need to reemphasize that the net effect of these industrial development bond issues is that State and local taxpayers, in general, pay a higher interest rate to finance their government needs so that some States can lure manufacturing plants away from other States by enabling the private business to pay a lower interest rate to finance their factories.

The PRESIDING OFFICER. Does the Senator from Arizona yield back the remainder of his time?

Mr. FANNIN. If the Senator from Alabama will.

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

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

The PRESIDING OFFICER. All time on the amendment has been yielded back.

Mr. RIBICOFF. Mr. President, I have at the desk an amendment to amendment No. 655 which I believe could correct some of its deficiencies.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 2, line 15, insert the following:

Section 103(c) is further amended by adding a new paragraph (8) as follows:

(8) Employee Housing: The exception provided in paragraph (6) shall not apply to any industrial development bond issued by any state, territory or possession of the United States or any political subdivision thereof that has not complied with the following requirements:

Definitions

(A) As used in paragraph (8), except where otherwise specified, the following terms shall bear the definitions provided—

(i) "facility" shall mean any building, complex of buildings, plant, factory, installation or other place of business financed by an industrial development bond which is occupied by more than 25 employees;

(ii) "company" shall **mean any** person, corporation, partnership, or association with more than twenty-five employees;

(iii) "immediate area" shall mean any area which is within the corporate limits of the community in which a facility is located and which is within a reasonable commuting distance as defined by the Secretary;

(iv) "Secretary" shall mean the Secretary of Housing and Urban Development or his designee;

(v) "Commissioner" shall mean the Commissioner of the Internal Revenue Service or his designee;

(vi) "community" shall mean any political subdivisions of a State;

Community Agreement

(B) (i) Before approving the tax exempt status for any industrial development bond issue under this section, the Commissioner must have received from the Secretary certification that the community in which the facility is to be located has entered into an agreement with the Secretary whereby adequate housing is or will be made available to persons employed as a result of the construction of the facility.

(ii) Should, after the acceptance of the agreement by the Secretary, any community fail to comply with its approved agreement, the Secretary shall bring suit in the United States District Court for the District of Columbia to secure an injunction to require such community to conform to its agreement.

(iii) The agreement required by paragraph (B) (i) shall contain a timetable for provision of the housing units required under the agreement: *Provided,* That at least one-half of such units shall be in existence within six months after the actual completion date of the facility, with the remaining units to be in existence within twelve months after the completion date.

(C) (i) Should the Secretary determine that a change in the local situation, the size of the facility or other relevant factors necessitates a modification of the agreement, he may approve such modifications, if they are proposed by the community or require a community to make necessary modifications: *Provided,* That such modifications do not impede the effectuation or achievement of the purposes of paragraph (8);

(ii) Should the Chairman determine that, as a result of the size, location, and accessibility of two or more communities, it would facilitate implementation of the purposes of this Act for such communities to develop a joint agreement he may approve such a plan: *Provided,* That any such agreement otherwise meets the requirements of paragraph (8); *And provided further,* That each such community shall be jointly and severally liable for specific performance under paragraph (B) (ii).

(D) The community's agreement shall also provide the necessary assurances from the company that any previous employees of the company who might lose their jobs as a result of the new facility shall be given the right of first refusal for the new jobs.

FINANCIAL ASSISTANCE

(E) Each community that files an agreement under paragraph (8) may also file an application with the Secretary for financial assistance and the Secretary shall grant to each an amount not to exceed $100,000 to reimburse such community for the expense of developing an agreement to conform to the requirements of paragraph (8).

APPROPRIATIONS

(F) For fiscal year beginning July 1, 1971, and for each fiscal year thereafter there are authorized to be appropriated sufficient funds to allow the Secretary to fulfill the requirements of paragraph (8).

The PRESIDING OFFICER. Each side on the amendment to the amendment has 15 minutes.

Mr. RIBICOFF. Mr. President, I have opposed the use of industrial development bonds for many years because they are a subterfuge which only serve to undermine the legitimate municipal bond market.

I am also opposed to them because these tax exempt bonds are being used by communities which have exhibited a noticeable lack of concern for meeting the needs of the incoming company's employees.

I do not believe that such local communities should be allowed to tap the Federal treasury and then turn their backs on problems these bonds create—such as the shortage of housing for the new workers. Yet this is precisely what is happening across the Nation. Federal funds are being used to establish plants in communities which do not have an adequate supply of housing.

Consider the situation nationwide. The growth of manufacturing and service jobs in the suburbs and beyond has begun to distort our labor market because those most able to fill those jobs are often unable to reach them. Our present housing policies have served to effectively exclude millions of low- and moderate-income Americans from new employment opportunities.

Most of the Nation's housing units now being constructed are going up outside the cities. The housing being built, however, is simply too expensive for low- and moderate-income families. The land is there to be used, but all but the most expensive housing has been zoned out through the use of large-lot zoning and the absence of any provisions for low density multifamily housing.

For example, the 20 local governments in a 400-square-mile area around Princeton, N.J., have zoned enough underdeveloped land for industry and research firms to support 1,200,000 jobs. The same towns, however, have zoned the remaining land to house only 144,000 workers—one-tenth of the potential work force.

The effect of such practices is obvious.

The House Banking and Currency Committee found earlier this year that 28.4 million families—101 million people—cannot afford payments on a $20,000 mortgage. Yet the median sales price for an existing single family home is now over $25,000.

In fact, approximately 80 percent of the housing on the market nationally now is above the level a family with an

$8,000 income can afford. This means that the people who need the jobs opening up in new areas are trapped in the central city. The result is a scarcity of needed employment for the poor and in some cases an actual shortage of low- and moderate-income employees for new concerns. Numerous communities are now discovering that they have even priced their teachers, firemen, policemen and other municipal employees out of their own cities.

The only solution to this housing shortage and labor market distortion is to build more housing units near the new jobs. Unless the Government begins to assist in building the necessary housing, the unemployment, welfare and social dependency now endemic to the central cities will continue to soar upward at an alarming rate.

I believe it is unconscionable for the Federal Government to subsidize the establishment of industry in a community which does not have an adequate supply of housing for its employees.

Yet this is how many tax-exempt industrial development bonds are being used.

Too many towns offering such bonds want the benefits an industry brings in, but none of the responsibilities, such as schooling or housing the new employees.

Furthermore, people in the town which is losing the industry to another community find that people who have worked for 20 or 25 years no longer have a job.

The purpose of this amendment is simply to bring equity to the situation. If a community wants to use tax exempt industrial development bonds, it has an obligation to arrange for adequate supply of housing for the new employees the bonds will bring us.

Furthermore, any employee whose job is being lost because a plant is moving from one section of the country to another section of the country should have priority on that job. So, if a company should be moving from Wisconsin or Rhode Island or Connecticut to Alabama, Georgia, or Arkansas, the employee in Connecticut or Rhode Island or Wisconsin should have the right of first refusal on the job opening up in the new plant.

That, in essence, is the amendment I have offered to the amendment of the distinguished Senator from Alabama.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. RIBICOFF. I yield.

Mr. NELSON. Do I correctly understand that the theory of the requirement in the Senator's amendment, that they give first preference to a current employee, is that if we are going to have legislation which uses tax exempt revenue bonds, under a statute passed by Congress, to induce industries to build in a particular community, they should then be required to give their older employees—that is, their current employees—in whatever community they are now living, the right to their job in the new plant, as a preferential matter, over any other new employee?

Mr. RIBICOFF. That is correct.

It has been said that these new plants will generate new jobs in rural areas. The distinguished Senator from Alabama referred to a new plant that gave 2,500 jobs to people in Alabama. That is all well and good. But where did that plant come from, and what happened to those 2,500 employees in the community that lost that plant?

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

Mr. NELSON. The Senator from Connecticut has the floor.

Mr. RIBICOFF. I yield.

Mr. ALLEN. I will state, for the Senator's benefit, inasmuch as he was quoting the junior Senator from Alabama, that this is an enlargement of an existing plant that has been in Alabama for several decades, and it is not a plant that has been raided from another State. It is merely the enlargement of an existing plant.

Mr. RIBICOFF. I am pleased to be corrected. But in many instances they are not the enlargement of existing plants, but they are plants that are being taken from one section of the country to another and are aided by tax-exempt industrial development bonds.

Nothing is as cruel as to take a job from a man who has worked on it and lived in a community for 20 or 25 years, who is now 50 or 52 years of age, and who suddenly finds the plant is sold out from under him, and has gone to another community, which issues tax-exempt bonds that Uncle Sam pays for. If that man is willing to move to the new community, he should have the first shot at any new job he can qualify for.

Mr. PASTORE. If the Senator will yield, as a matter of fact, that is the historic story of the moving, the exodus, of the textile industry out of New England. I mean, concessions were made in other States to which we had been making concessions on this floor time and again because of their low per capita wealth. In every case we gave them the advantage and the consideration because they were the more depressed States and we were happy to do this. Then along with that in those States came special, nontax, situations which were attracting textiles to go out of Rhode Island.

When I was Governor of Rhode Island, the gross income of my State was 45 percent from the textile industry. Today it is less than 15 percent.

Mr. President, do you know where those factories are? They are in Alabama, North Carolina, and South Carolina. They are all over the South.

Mr. RIBICOFF. May I ask the Senator at that point, what happened to the workers in Rhode Island who lost their jobs?

Mr. PASTORE. Many of them went on relief.

Mr. SPARKMAN. Mr. President, will the Senator from Connecticut yield right there?

Mr. RIBICOFF. I am pleased to yield.

Mr. SPARKMAN. There is not a single textile plant in the State of Alabama that came down. We have had textile plants from 1830 and we have had them ever since throughout the State. Furthermore, I want to answer the question of the Senator from Rhode Island—he may not remember but JOHN MCCLELLAN remembers and BILL FULBRIGHT remembers, because they were here when we had a terrific fight over trying to equalize freight rates in this country. In those days, they could buy cotton from the South, have it shipped to New England, manufacture it into goods, and then send it to Chicago and sell it there more cheaply than we could in the South, because of freight rates.

Mr. PASTORE. I never resisted that——

Mr. SPARKMAN. I am not saying that the Senator did, but when those freight rates were equalized and made fair, then there was no need to ship cotton to New England or to manufacture it there and ship it back to the South.

Mr. PASTORE. That may be so——

Mr. SPARKMAN. That is the reason the plants came down.

Mr. PASTORE. I am saying that Federal money was used to finance and construct the mills—modern mills——

Mr. SPARKMAN. Not in my State.

Mr. PASTORE. I do not know whether in the Senator's State, but in the South—in the South——

Mr. RIBICOFF. If that is the case, may I make this comment to my colleague. If we say the purpose is not to raid the northern plants then, may I ask, what objection is there to giving priority to the northern worker from the northern plant who has followed his job south? I mean, is there any objection on your part, then, to complying with a request to give priority to that northern worker who has lost his job after 30 years? I would like an answer to that from my Southern colleagues.

Several Senators addressed the Chair.

Mr. RIBICOFF. I yield to the Senator from Georgia.

Mr. GAMBRELL. I am not sure I can answer that question specifically, but I would like to say that I think there is a red herring running loose in this Chamber today, because the tax-exempt financing we are talking about is just as available in Connecticut as it is in Georgia. We are not talking about the matter of concessions to build a textile plant in Georgia, in North Carolina, in South Carolina, or in Alabama. The same financing program can be used to build textile plants in Connecticut or in Rhode Island, and if there is a need to keep jobs in Connecticut or Rhode Island, this plant can be used.

Mr. RIBICOFF. May I say to the distinguished Senator from Georgia that Connecticut does not permit the use of these bonds. Nevertheless, if a northern town took a plant from the South, then the new plant should give priority to the Southern worker who lost his job. This should apply throughout the 50 States.

Mr. PASTORE. Mr. President, I will give you one example. We were called upon to support the TVA. We supported the TVA. Since they were not paying any taxes to the Federal Government, they were able to give reduced rates to their commercial users. What happened? You would pick up the New York Times or Newsweek and you would find their invitation, "Come to us because electricity is cheaper." This was after we helped them build the plant at the TVA, and only because they were tax free. In our State,

because our public utilities are not tax free, they have to pay taxes to the tune of 52 percent of their profits. So that we were losing our mills. So what did we do? We came on the floor of the Senate and developed and financed the TVA and then they used the TVA to take our industries away from us. If that is not pirating, I do not know what pirating is.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield to me?

Mr. RIBICOFF. The Senator from South Carolina (Mr. HOLLINGS) asked me to yield to him and I would like to do that now and then yield later to the Senator from North Carolina.

Mr. HOLLINGS. Mr. President, my friend from Rhode Island comes on and talks about his concern for the textile mills. Well, he could just as well be talking about Tokyo now. The fact is, the Senator could very well talk about two things: One is about the municipal tax-free bonds—the industrial development bonds. There are no other States developing more industry in the South than the State of South Carolina. Governor Hodges and myself, we never used the new development bonds in bringing industry to our State. We came to the Senator's State of Connecticut and adopted his program of industrial and technical programs and we put those in, but we never used TVA power in South Carolina, either.

The fact is, that is the worst way to run industry away, that is, to take away from the taxing power of a particular community which is going to build a school or wants to provide public facilities. Industry is not coming to southern communities where they have been denuded of their taxing power by giveaways and gimmicks and otherwise. They cannot provide for fine community facilities. They could say, "Here we have good educational facilities," and you are in the wrong key."

Regarding the textile industry, I had the Senator from Maine (Mr. MUSKIE) come down and he could not find it, if it had moved down 10 years before, because it has gone over to Tokyo now.

Mr. RIBICOFF. Will the Senator from Alabama (Mr. SPARKMAN) yield time to some of his colleagues on this colloquy so that I may have a few minutes left for my side? I will be glad to yield to the Senator from North Carolina (Mr. JORDAN) and to the Senator from Arkansas (Mr. MCCLELLAN) on the time of the Senator from Alabama.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. BROCK). The Senator from Connecticut has 4 minutes and the Senator from Alabama has 15 minutes.

Mr. SPARKMAN. How many?

The PRESIDING OFFICER. Fifteen minutes.

Mr. RIBICOFF. I have 4 minutes.

Mr. SPARKMAN. Mr. President, the Senator from Alabama has not used any of his time. The Senator from Connecticut yielded to me on this colloquy so that the Senator from Alabama has not used any of his own time yet.

Mr. RIBICOFF. The Senator has 15 minutes remaining.

Mr. SPARKMAN. Oh, was it 15 minutes? I am sorry. I thought we had 20 minutes. Yes, I yield.

Mr. RIBICOFF. If the Senator would please yield some of his time to his colleagues so that I could answer some of their questions.

Mr. SPARKMAN. Yes, I am very pleased to yield—wait a minute—wait a minute——

Mr. RIBICOFF. Go ahead.

Mr. SPARKMAN. I thought the Senator was going to yield some time.

Mr. President, I wonder whether I could say a few words before we continue. I have considerable sympathy with the Senator from Connecticut in his general overall thesis here. He presented a program to the Committee on Banking, Housing and Urban Affairs which was much more comprehensive than this one. When he presented it to me today, I said, "I wish you would wait and let it come on the housing bill and let us see what we can do with it as a part of the housing bill."

Mr. MCCLELLAN. Mr. President, will the Senator from Alabama yield right there?

Mr. SPARKMAN. We are going to act on that in the early part of the new year.

I want to remind the Senator from Rhode Island (Mr. PASTORE) that it is true the TVA is not taxed, as you and I are; but they give more money to the Federal Treasury each year, I suppose, than any taxation on them would amount to. They do not pay on navigation or on flood control and neither does any other part of the country, but they pay on their power. Every dollar's worth of power that they sell they pay into the Treasury.

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

Mr. SPARKMAN. I yield.

Mr. PASTORE. Mr. President, will the Senator deny that in other States they buy TVA power that is tax free and at a much lower rate than the rate in Rhode Island?

Mr. SPARKMAN. They are not tax free since they are required by law to pay into the Treasury a certain amount each year.

Mr. PASTORE. A certain amount that they cannot use.

Mr. SPARKMAN. They are far ahead on the payment schedule.

Mr. President, I yield 2 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 2 minutes.

Mr. JORDAN of North Carolina. Mr. President, we never have used it. We do not get TVA power there. We do not get any of it in North Carolina. They do have some cheaper rates, that is quite true. However, I think the distinguished Senator from South Carolina (Mr. HOLLINGS) hit the nail on the head when he said we had better go to Tokyo, South Korea, Taiwan, and Hong Kong to find out what happened to the plants. American money was spent to accomplish that.

Mr. PASTORE. Mr. President, no one fought harder about the situation that the Senator is talking about than the Senator from Rhode Island. I have been defending the mills in the South. However, we are talking about tax concessions to build plants and, at the same time, taking the work out of other States. Whether it goes into Rhode Island or South Carolina or North Carolina, when this is done, we should give the jobs to the people who have lost jobs because of those concessions. What is wrong with that? It works both ways.

If we in Rhode Island were to take advantage of this market and build a mill and take it out of South Carolina, the workers in South Carolina would have first preference to come to Rhode Island and work in that mill. What is fair for one is fair for the other.

Mr. JORDAN of North Carolina. Is the Senator saying that they have to move or that they have a right to move?

Mr. RIBICOFF. No. My amendment provides that in the event a company uses tax-exempt bonds to move a plant from one section of the country to another, two things must be done. The company must give first priority to the people that had been working in the plant at its previous location.

Mr. JORDAN of North Carolina. Does the Senator mean the worker has to move there?

Mr. RIBICOFF. No. The worker must be given the opportunity to move there if he wants to do so.

Second, if he chooses to move, the community must make arrangement for a sufficient supply of adequate housing so that when a person moves he will have a decent place in which to live.

Mr. JORDAN of North Carolina. Is the Senator proposing to put him on a pension before he moves?

Mr. RIBICOFF. No. He may, however, be forced to go on welfare if he does not move because his job was shipped out from under by the use of tax exempt industrial development bonds.

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

Mr. SPARKMAN. I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. AIKEN. Mr. President, Vermont lost its lowest wage industry, the textile industry, some years ago. We have been better off since that textile industry went to other lower wage States. It has been replaced by electronic and plastic industries and by other high-grade industries until today the average worker in Vermont gets a larger rate of pay and takes home more pay than workers in four of the other New England States. The only reason that he does not get more than the worker in Connecticut is that Connecticut has been so involved in Government contracts and contracts at higher prices that they can continue to pay higher wages—although at present Connecticut has a much higher level of unemployment.

I will say that Vermont encourages people to come there with their industries. And when an industry moves from Connecticut or any other State to Vermont, their employees usually come with them if they want to. However, up to recently they have not had the oppor-

tunity. New industry has now been developed to encourage them to come to Vermont. The latest census shows Vermont to have had a 14-percent increase in population in the last decade.

The State of Vermont pays one-fourth the cost of rural water and sewerage programs. That has been a tremendous help in developing rural living and rural industry. It is the only State that does that, so far as I know.

Mr. President, I want to add one other thing. We do not have the TVA in Vermont. However, we have the lowest electric rates of any State in the Northeast. We are, in effect, the yardstick for the Northeast in the electric field.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPARKMAN. Mr. President, I yield 1 additional minute to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 1 additional minute.

Mr. AIKEN. Mr. President, the monopoly-minded utility boys in the other States around our State do not like that one bit. They are now doing the best they can to make our power companies fail so that they can take them over.

We are doing all right. One company in southern New England which bought a machine tool business in Vermont and took it over has been losing business to foreign countries so fast that it is not funny. Overall we still have the best wage rates in the Northeast, the lowest power rates, the lowest rate of unemployment, and the most contented men and women that one ever saw.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alabama has 6 minutes remaining.

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

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 1 minute.

Mr. STENNIS. Mr. President, in addition to the other points that have been mentioned, I know that as a matter of fact, this is, in the first place, a very small tax exemption. It just increases it to $5 million.

Mr. SPARKMAN. Mr. President, it does not change the amount.

Mr. STENNIS. We had a terrible struggle a few years ago to even survive there.

I appreciate the fact that it was set at a certain figure and the Senator from Rhode Island was agreeable to that.

A great deal of this is used to create small, new industries for villages and rural communities that are helping to supply the expanded demand of the economy of the Nation.

With respect to light bulbs, for instance, the first factory in the South that made light bulbs was located in Mississippi a few years ago. We have been the purchasers and the consumers for many years. Now through this little effort, we are getting the opportunity to have small industry located there. It benefits those with small incomes. It is a miraculous thing to watch how it works.

I hope the amendment is agreed to.

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. FULBRIGHT. Mr. President, the existing law has worked extremely well in my State. Of the plants that I am aware of in my State, the major ones use the domestic raw materials such as the aluminum in the bauxite which is to be found there and the fuel and water transportation.

It appears to me that the amendment is not necessarily to provide housing.

The senior Senator from Arkansas has discussed with me, and we are all aware of the fact, that we face a shortage of housing and that there is unfunded apportion for housing already. We cannot get the money.

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

Mr. FULBRIGHT. I yield.

Mr. McCLELLAN. Mr. President, in the last 2 fiscal years, 5,178 units have been authorized and funded at a cost of $21 million-plus. We have pending applications for 14,028 units.

We had applied for funding in the amount of $96 million. In other words, we were only able to get one-third of what we wanted to get funded. If we want to achieve the objectives of the distinguished Senator from Connecticut, we ought to be given priority to build houses.

Mr. FULBRIGHT. They do not move the plants there. Those plants are indigenous to our local climate and raw materials.

We have only a few textile plants. They did not come from New England. There is one that makes a certain kind of velveteen. It is a branch of a plant from Virginia. It did not originate in New England.

It appears that the Senator's amendment is designed to prevent the Sparkman amendment from being agreed to.

If he is serious about doing something about housing, which I would support, I do not know why the Senator does not pursue the matter in the regular course with the chairman of the Committee on Housing, who has already stated it would be put in the regular bill carrying housing authority. I am for the housing bill and I would vote for more money.

We have been underfunded. This money for rural water and sewers, which is very much needed in my State, has been impounded. But there are many implications involved here. The Sparkman amendment is a constructive way to reduce the population trend toward the swelling urban ghettos of the North and to encourage people to live in rural areas. I would guess an insignificant percentage of employees in plants in Arkansas came from other areas.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RIBICOFF. Mr. President, I yield myself 1 minute in order to reply.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. RIBICOFF. If what the Senator from Arkansas states is so, there would be no problem because if they did not take a plant from another section of the country there would be no obligation to give an employee a job.

I am trying to be practical and fair, and so far I have heard nothing to controvert the equity, soundness, and decency of my amendment.

Mr. FULBRIGHT. There is nothing here that says they have to pick up the plant and bodily move it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. SPARKMAN. I yield 1 minute to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I want to say that in the overall view the amendment to the amendment offered by the distinguished Senator from Connecticut, in my humble judgment, has the effect of making a challenge to the validity for this method of financing.

I believe the ultimate question on the vote is whether we will have industrial development revenue bonds with a tax-free status. I thought we settled that question in the previous session when we had extended debate and agreed on a compromise between unlimited financing of this type and the limitation of $5 million. I think $5 million is reasonable.

If the Senate were to agree to this amendment to the amendment it would have the practical effect of killing industrial bonds for industrial financing, and I am opposed to it.

Mr. RIBICOFF. Mr. President, I will vote for the Sparkman amendment if my amendment is agreed to. My purpose is to put some social purpose behind the use of tax exempt industrial development bonds.

Mr. PASTORE. I know there is very little time left but I wish to say that is my sentiment too. If the amendment of the Senator from Connecticut is not carried, I will vote for the Sparkman amendment. I am not gaging one against the other.

Mr. BAKER. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. SPARKMAN. Mr. President, I shall use that minute for one purpose.

I have read this amendment. I do not see any tie-in with a plant being moved. The only place we have anything about employees with respect to being in some other plant is where it states:

> The community's agreement shall also provide the necessary assurances from the company that any previous employees of the company who might lose their jobs as a result of the new facility shall be given the right of first refusal for the new jobs.

There is nothing there about housing and there is nothing there about plants being reimbursed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIBICOFF. Mr. President, the answer is in section (B)(1) of my amendment. Section (D) provides that if a company does move as a result of these bonds the first refusal of jobs should be given the employee whose plant was moved out from under him.

That is the substance of my amendment.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. AIKEN. Mr. President, what amendment is the Senate now going to vote on?

The PRESIDING OFFICER. This is the amendment of the Senator from Connecticut to the amendment offered by Senator from Alabama.

Mr. AIKEN. We are voting on the amendment offered by the Senator from Connecticut to the amendment offered by the Senator from Alabama?

The PRESIDING OFFICER. The Senator correctly stated the parliamentary situation.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Montana (Mr. MANSFIELD), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), and the Senator from Iowa (Mr. HUGHES) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

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

The Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Pennsylvania (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 37, nays 42, as follows:

[No. 333 Leg.]

YEAS—37

Bayh	Eagleton	Kennedy
Bible	Gravel	Magnuson
Brooke	Griffin	Mathias
Burdick	Hart	McGee
Cannon	Hatfield	McIntyre
Case	Hollings	Metcalf
Church	Inouye	Mondale
Cranston	Javits	Moss
Muskie	Percy	Symington
Nelson	Proxmire	Tunney
Packwood	Ribicoff	Williams
Pastore	Schweiker	
Pell	Smith	

NAYS—42

Aiken	Cook	Jordan, N.C.
Allen	Cooper	Long
Anderson	Cotton	McClellan
Baker	Dole	Miller
Beall	Dominick	Pearson
Bellmon	Eastland	Randolph
Bennett	Ervin	Roth
Bentsen	Fannin	Sparkman
Boggs	Fong	Spong
Brock	Fulbright	Stafford
Buckley	Gambrell	Stennis
Byrd, Va.	Gurney	Stevenson
Byrd, W. Va.	Hansen	Taft
Chiles	Hruska	Weicker

NOT VOTING—21

Allott	Humphrey	Saxbe
Curtis	Jackson	Scott
Ellender	Jordan, Idaho	Stevens
Goldwater	Mansfield	Talmadge
Harris	McGovern	Thurmond
Hartke	Montoya	Tower
Hughes	Mundt	Young

So the Ribicoff-Nelson amendment to the Sparkman amendment was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Alabama (Mr. SPARKMAN).

Mr. SPARKMAN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BENNETT (after having voted in the negative). Mr. President, on this vote, I have a pair with the Senator from Nebraska (Mr. CURTIS). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

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The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

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

The Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The pair of the Senator from Nebraska (Mr. CURTIS) has been previously announced.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Pennsylvania (Mr. SCOTT). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 55, nays 23, as follows:

[No. 334 Leg.]

YEAS—55

Aiken	Eagleton	Mondale
Allen	Eastland	Moss
Baker	Ervin	Muskie
Bayh	Fong	Packwood
Beall	Fulbright	Pastore
Bellmon	Gambrell	Pearson
Bentsen	Gravel	Pell
Bible	Hansen	Percy
Boggs	Hollings	Randolph
Brock	Hruska	Roth
Burdick	Inouye	Sparkman
Byrd, W. Va.	Jordan, N.C.	Stafford
Cannon	Long	Stennis
Chiles	Magnuson	Stevenson
Cook	McClellan	Symington
Cooper	McGee	Tunney
Cranston	McIntyre	Weicker
Dole	Metcalf	
Dominick	Miller	

NAYS—23

Anderson	Griffin	Proxmire
Brooke	Gurney	Ribicoff
Buckley	Hart	Schweiker
Byrd, Va.	Hatfield	Smith
Case	Javits	Spong
Church	Kennedy	Taft
Cotton	Mathias	Williams
Fannin	Nelson	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bennett, against.

NOT VOTING—21

Allott	Humphrey	Saxbe
Curtis	Jackson	Scott
Ellender	Jordan, Idaho	Stevens
Goldwatef	Mansfield	Talmadge
Harris	McGovern	Thurmond
Hartke	Montoya	Tower
Hughes	Mundt	Young

So Mr. SPARKMAN's amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG and Mr. RANDOLPH moved to lay the motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11418) entitled "An Act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes."; that the House receded from its disagreement to the amendment of the Senate numbered 1 to the bill and concurred therein with an amendment in which it requested the concurrence of the Senate.

The message also announced that the House had passed, without amendment, the following bills:

S. 2216. An act to amend the Investment Company Act of 1940, as amended; and

S. 2339. An act to provide for the disposition of judgment funds on deposit to the credit of the Pueblo of Laguna in Indian Claims Commission, docket numbered 227, and for other purposes.

The message further announced that the House had passed H.R. 11341, an act to provide additional revenue for the District of Columbia, and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes, was read twice by its title and referred to the Committee on the District of Columbia.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 654

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate amendment No. 654 by the Senator from South Carolina (Mr. HOLLINGS), which will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. .(a) This section may be cited as the "Tax Reimbursement Act of 1971".

(b) Commencing with taxable year 1971, the Secretary, through the Internal Revenue Service, shall pay annually to any eligible family which applies for such payment an amount determined under subsections (b) and (c) as reimbursement for sales taxes on food and property taxes on a residence paid by the family during the preceding calendar year.

(c) The amount payable to any family under subsection (a) as reimbursement for sales tax on food shall be determined by multiplying the combined State and local sales tax rate in effect for that calendar year in the locality in which such family lived by the cost of the low-cost food plan established by the Department of Agriculture for that calendar year for a family of that size and composition. For the purpose of this subsection, any locality in which there is no sales tax shall be held and considered to impose a combined State and local sales tax of 4 percent on purchases of food.

(d) The amount payable to any family under subsection (a) as reimbursement for property tax imposed on that family's residence shall be:

(1) in the case of a residence owned by a family an amount equal to the property taxes paid by the family during the preceding calendar year;

(2) in the case of a residence which is rented by the family, an amount equal to 20 percent of the total rent paid by the family during the preceding calendar year, exclusive of any charges for utilities, services, furnishings, or appliances furnished by the landlord as part of the rental agreement.

(e) A family entitled to a payment under subsection (a) shall file an application with the Secretary in such manner as he shall prescribe. The application shall be filed on or before April 15 for a calendar year ending on the next preceding December 31. The applications shall set forth the applicant's address, the income of the family for the calendar year, the age and sex of each member of the family, whether any member of the family was pregnant or nursing an infant during such calendar year, the total amount paid during the calendar year as property tax or rent for the household, and such other information as the Secretary shall deem appropriate.

(f) The amount of the payment to which the family is entitled under subsection (a) shall be reduced by 50 cents for each dollar of income received by the family during that taxable year in excess of the poverty level income established for a family of that size and composition.

(g) As used in this section, the term—

(1) "family" means an individual living alone, or two or more persons living together in the same household provided these persons are over 65, or related by blood, adoption, or marriage, including a common law union recognized by the laws of the State wherein the persons reside; and

(2) "poverty level income" means minimum family size annual income levels established by the Bureau of the Census in its 1970 Current Population Report adjusted annually by the Secretary to reflect changes in the Consumer Price Index; and

(3) "Secretary" means the Secretary of the Treasury.

(h) The Secretary of the Treasury shall prescribe such regulations as shall be necessary to carry out the provisions of this section.

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

SEC. 4. (a) Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125 and by inserting after section 123 the following new section:

"SEC. 124. AMOUNTS RECEIVED UNDER THE TAX REIMBURSEMENT ACT OF 1971.

"Gross income does not include amounts received during the taxable year under the Tax Reimbursement Act of 1971 as reimbursement of food sales and property taxes paid during the taxable year."

(b) The table of sections of such part III is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Amounts received under the Tax Reimbursement Act of 1971.

"Sec. 125. Cross references to other Acts."

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the names of the Senator from Wisconsin (Mr. NELSON) and the Senator from Minnesota (Mr. MONDALE) be added as cosponsors of the amendment.

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

Mr. HOLLINGS. Mr. President, it seems that Congress repeatedly in the past decade has been enacting revenue act after tax reform act after investment credit act after tax reform act, all designed to make more equitable the tax burden, and all sold on the basis of helping the poor.

We had the Revenue Act of 1962, the Revenue Act of 1964, an Investment Credit Act of 1967 and, again, the Tax Reform Act of 1969.

Each time the intent was to obtain a job for the poor or lessen the burden of the poor.

And the fact of the matter is that each has not only missed its mark but also has slightly and positively drawn tighter the tax noose about the neck of the poor.

Some would withdraw in shock and say, "What about the low-income allowance plus the personal exemption which shields the poor from exactions of the Federal income tax?"

True, personal exemptions are permitted to all taxpayers, not just the poor, and when you compare the amount of tax revenue lost per personal exemption, we find that three-quarters of the revenue loss accrues to the benefit of those groups other than the needy.

While State, local, and other Federal tax measures continue to increase, sales tax, property tax mostly by way of rentals, sick pay, unemployment insurance, workmen's compensation insurance, and social security tax continue to grow.

The average Federal legislator feels that he has just about excluded the poor from the impact of taxation where in truth 28 percent of the poor's income is taken each year in State, local, and Federal taxes.

Of course, one reason for this misapprehension is that the Federal income tax represents only about 2 percent of the 28 percent taxation burden that is carried by the poor. The Revenue Act of 1971 only exacerbates the pitiful predicament. It relieves the haves, it relieves the havesomes, but the relief gun completely misses the target of have-nots.

Before elaborating upon this, I ask unanimous consent to have printed in the RECORD an analysis of the Tax Reform Act of 1969 by Paul M. Dodyk, professor of law at the Columbia University appearing in the Columbia University Law Review of May 1971.

This, to me, is the finest discourse, rendered from the hand of a technician rather than that of a bleeding heart, and it includes the compassion that we think we demonstrate each time we vote on a so-called tax reform act.

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

THE TAX REFORM ACT OF 1969 AND THE POOR

(By Paul M. Dodyk, professor of law, Columbia University. B.A., Amherst, 1959; B. Phil., Oxford, 1961; LL.B., Harvard, 1964)

I. INTRODUCTION

The purpose of this article is to assess the impact of the Tax Reform Act of 1969[1] (hereinafter referred to as the Reform Act), and more particularly the individual income tax provisions of that Act, on the tax structure of this country from the vantagepoint of the poor. I am impelled to adopt this per-

Footnotes at end of article.

spective on the Reform Act because of a conviction that the interest of the poor are too often unrepresented in the tax councils of the nation and that this lack of representation has permitted to remain unanalyzed numerous aspects of the Internal Revenue Code of 1954 (hereinafter referred to as the Code) which are distinctly detrimental to the interests of the poor.

The perspective which I seek to represent is that of the lowest income stratum of our society. Though debates have raged over the meaning of poverty in a modern industrialized society, no extended definition of that class is necessary for present purposes. It is widely recognized that a large segment of our society lacks the wherewithal to provide for themselves the essentials of a decent and healthful existence, and it is their perspective which I seek to represent. One attempt, though an imperfect one, to define the scope of this class has been the Poverty Index developed by the Department of Health, Education and Welfare.[2] Another is that of the New York City Human Resources Administration whose subsistence schedule for families receiving welfare is set forth in Table IV.[3] Whatever the precise dimensions of this class, the basic point is that there is a large group of people in this country who lack the means to provide for themselves the most basic essentials of life: food, clothing, shelter, medical assistance, education. Various methods have been suggested for dealing with the needs of the deprived. Some suggestions involve tax innovations which would hopefully induce the channelling of increased economic resources to serve these needs; most involve the establishment of direct expenditure programs of one sort or another. All but a few such suggestions have foundered, the reason most commonly advanced being lack of funds. It is not my purpose to recommend a program for the satisfaction of these needs. Nor am I proposing any particular adaptation of the Code to serve these needs. Rather, I seek only to draw attention to certain aspects of the American system of taxation which have over the years worked grave yet unremarked disservice to the interests of this segment of the population and to suggest certain largely unexplored possibilities for redirecting the financial benefits presently conferred by the Internal Revenue Code.

A. The relevance of tax expenditures

A significant, though by no means exclusive, aspect of this assessment will be an examination of what are sometimes called "tax expenditures"—those provisions of the Code that cause the base to which the federal income tax is applied to be narrower than a comprehensive income tax base including all income from whatever source derived—and an attempt to explore the relevance of these tax expenditures to the poor. Among the most commonly mentioned of these tax expenditures are percentage depletion of gross income from natural resource exploitation, the exclusion of social security benefits from taxable income, and the various capital gains preferences.

The conceptual foundation underlying most discussions of tax expenditures is based upon acceptance of the Haig-Simons concept of income—that is, consumption, plus increase in net worth during any given period (hereinafter referred to as "comprehensive tax base")—as the theoretically proper measure of income for purposes of a system of taxation based on taxpayers' relative abilities to pay.[4] Acceptance of the concept of a comprehensive tax base, then, means acceptance of the proposition that income taxes should be apportioned in accordance with taxpayers' total incomes, defined as consumption plus increase in net worth, from whatever source derived.[5] Acceptance of the concept also entails the recognition that deviations from the comprehensive tax base are departures from a tax system based upon relative abilities to pay, in order to advance other objectives, most commonly, encouraging or discouraging certain kinds of behavior or promoting efficient tax administration.[6] Under this view, departures from the comprehensive tax base by means of exclusions, deductions, credits, lower tax rates, and the like are "tax expenditures" which accrue to the benefit of some more or less limited class of taxpayers and which are to be justified, if at all, not in terms of income tax theory but in terms of the contribution which the tax expenditure makes to the attainments of some other public purpose.[7]

Needless to say, the phrase "consumption plus increase in net worth" falls far short of providing clear resolution of all the innumerable problems that arise in the course of constructing a comprehensive definition of income. Books have been written in the effort to give that concept sufficient content to guide the resolution of those many problems.[8] And some writers have pointed out the many hard definitional problems involved in any attempt to sort out tax expenditures from the basic structural elements of an expenditure-free income tax.[9] The focus of the present effort does not permit joining issue in that debate. Without intending to belittle the significance of those questions, it is necessary for present purposes to assume the validity of the tax-expenditure concept and the distinctions imported thereby.

A convenient summary of the major tax expenditures built into the Code (the tax expenditure budget) is found in the 1968 Annual Report of the Secretary of the Treasury which is set forth, in amended form, in Table I.[10] That budget is an effort to set out "the major respects in which the current income tax bases deviate from widely accepted definitions of income" [11] in order to estimate the revenue loss (or "tax expenditure") arising from such deviations, to categorize tax expenditures in accordance with the functional categories employed in the Federal Budget, and to facilitate comparison of direct expenditures and tax expenditures. The Treasury study does not attempt to identify every variance between taxable income under the Code and what would result from thorough-going application of a comprehensive tax base.[12] It does, however, find its theoretical grounding in that concept and identifies most of the Code's significant departures from that concept.

Of what relevance are these tax expenditures to the poor? Discussion of such expenditures normally concerns the "efficiency" with which they attain their ostensible objectives, the effects of their use on the governmental decision-making process, their revenue cost, or their impact on horizontal equity.[13] There has seldom been public discussion of their relevance to problems of deprivation. This silence is more than a little strange, for it comes in the midst of a cacaphonous conflict over "priorities." Rarely in the history of the country has there been such dissension over the uses to which our national productivity is being or should be put, or over the morality of customs currently prevailing in the distribution of income. The peristence of deprivation in a society that is said to be the world's wealthiest has become to many an increasingly unbearable anomaly. The full force of the storm has gathered over the choice between defense expenditures and social welfare expenditures such as public assistance, housing, health, and education. Despite insistent demands for the satisfaction of these pressing domestic needs, the Administration currently in office, plagued by the most persistent inflation in recent times and constrained by the fiscal requirements of what it perceives to be its international obligations, has been unable to find economic resources commensurate with these demands. In light of this apparent impasse over the satisfaction of public needs, it is more than a little surprising that the tax expenditures built into the Code have not come under renewed scrutiny, for these expenditures are of profound significance in determining the distribution of income and, concomitantly, the condition of the poor.

B. The perceptions of the deprived

Of the many things that could be said of the relevance to the poor of the Code and its structure of tax expenditures, I would like to focus on four principal perceptions.

1. *The Dimensions of the Tax Expenditure Budget.* First, tax expenditures are of importance to the poor because they reflect decisions to commit enormous amounts of revenue to the service of certain public purposes and to the benefit of certain private citizens. The aggregate sgnificance of these expenditures for the distribution of income and the allocation of productive resources is vast. Viewed from the perspective of the deprived, the patterns of purpose and benefit served by these provisions (as, for example, the decision to spend billions to encourage natural resource exploitation rather than to provide universally adequate medical care) stand in need of re-examination. This article is, however, not the proper forum for indulging in quick judgments about the wisdom of prevailing preferences and deprivations. More appropriate is the objective of taking some aggregate measure of the revenues spent through tax expenditures and of assessing the impact of the Reform Act on the amount of such expenditures. One of the principal objectives of the Reform Act was to curtail the long continued erosion of the tax base arising from the increasing significance of tax expenditures.[14] Upon completing these introductory remarks, I turn first to a brief recapitulation of the Reform Act's most significant individual income tax provisions designed to restore comprehensiveness to the tax base.[15] I do so in an attempt to provide a preliminary assessment of the Reform Act's accomplishments and of the opportunities that remain for redirection of the public revenues disbused through tax expenditures.

2. *Subsidization of Private Needs Through the Tax Expenditure Budget.* A second perception is that these tax expenditures commit public revenues to support the satisfaction of certain needs—such as housing, medical care, education—and that such support confers private benefits on those classes of people who are able to benefit from them. Moreover, the needs subsidized are matters of central concern to the well-being of all Americans—both those who have sufficient income to benefit from tax expenditures and those who do not. Yet, despite an increasingly painful awareness of the current inadequacies in the provision of housing, education, medical care, and public assistance to the poor, there has been surprisingly little analysis of the way in which the kindred benefits of these "implicit federal programs" have been distributed among different income classes. If the result of the Code's current structure of tax expenditures is to channel large amounts of revenue to subsidize the satisfaction of some universally experienced human need and to channel that revenue largely to the well-to-do, and if at the same time the poor are unable to satisfy that same need, perhaps more searching scrutiny of the distributive consequences of these tax expenditures is required. Certain provisions of the Code that deal with housing will be analyzed as a means of exploring the relevance of such expenditures to the poor.[16]

3. *Taxing the Poor.* A third perception involves the problem of taxing the poor.[17] Though it is commonly acknowledged that a modern industrial state such as the United States should not tax those who lack the income to provide for themselves the minimum essentials of health and common decency, it is as commonly acknowledged that the federal income tax has in recent years done exactly that. One of the principal purposes of the Reform Act was to end our re-

Footnotes at end of article.

liance on the poor for tax revenues [18] and, to accomplish this purpose, the Low Income Allowance was created.[19] In a later section I shall undertake a brief analysis of the Reform Act's accomplishments in terminating the governmental reliance on the poor for revenue and the effectiveness of current tax expenditure techniques in dealing with this problem.[20]

4. *Income Maintenance and the Code.* Finally, I close with a few words about the Code and the problem of greatest concern to the poor: that is, not being poor any more. Just as the Code contains implicit programs for the support of housing and the amelioration of state and local tax burdens, so also it contains programs directed at income maintenance. Of what significance are these programs? To whose benefit do they redound? What opportunities are there for redirecting these income maintenance programs to benefit the poor? How significant a contribution would such redirection make toward altering the distribution of income in this country so as to assure to all the people the prerequisites of decent living? [21]

II. TAX EXPENDITURES AND THE TAX REFORM ACT OF 1969

A. The aggregate significance of tax expenditures

Table I sets forth, in amended form, the Tax Expenditure Budget contained in the Report of the Secretary of the Treasury for 1968.[22] The Budget has been altered by the addition of categories for the imputed rental value of owner-occupied housing and personal exemptions, and certain other categories necessary to facilitate evaluation of the Reform Act's changes.[23] Even the most cursory perusal of Table I will reveal the significance of the implicit federal programs implemented in the interstices of the Code. The expenditures involved are enormous, totaling approximately 70 billion during fiscal 1968, an amount rivaling the $97.4 billion collected through the federal income tax for that year.[24] Put another way, in the fiscal year 1968 the federal government spent as much public revenue through the federal income tax as it collected from individual income taxes ($68.7 billion).[25] One need hardly go on to point out that the aggregate amount of the revenue involved is of such magnitude as to make critical re-examination of the supported programs essential to any serious search for a way out of the current impasse between public need and fiscal constraint. Turning from aggregate figures to specific items, one finds the following order of significance among the specific items of expenditure which comprise the tax expenditure budget:

(1) personal exemptions, $23 billion;

(2) capital gains preferences, $8.5 billion;

(3) deduction of charitable contributions, $3.2 billion;

(4) exclusion of income earned by employee pension plans, $3 billion;

(5) deduction of medical insurance premiums and medical expenses, $2.6 billion;

(6) exclusion of imputed rental value of owner-occupied housing, $2.6 billion;

(7) credits and exemptions for the aged and exclusion of social security payments, $2.3 billion;

(8) deduction of mortgage interest, $1.9 billion;

(9) deduction of real property taxes, $1.8 billion;

(10) exclusion of state and local bond interest, $1.8 billion;

(11) deduction of individual income taxes, $1.35 billion;

(12) exclusion of the excess of percentage over cost depletion, $1.3 billion;

(13) deduction of consumer credit interest, $1.3 billion.[26]

Footnotes at end of article.

It has long been recognized that the ultimate effect of these various tax expenditures has been to make the reality of federal income taxation far less burdensome than the threatening egalitarian shadow cast by the rate tables.[27] One of the principal announced purposes of the Reform Act was to limit the corrosive influence of tax expenditures on the federal income tax base.[28]

B. Individual income tax provisions of the reform act

1. *The Minimum Income Tax.* Of the many provisions directed at limiting corrosion of the tax base, perhaps the most ingenious is the new minimum tax on tax preferences.[29] Weary of fighting tax expenditures head-on (and losing), the Treasury resolved to limit the impact of tax expenditures by persuading Congress to impose a 10% minimum tax on tax "preferences." For purposes of the minimum tax, "preference" is defined to mean: (1) the untaxed portion of long-term capital gains; (2) the excess of percentage over cost depletion; (3) the excess over option price, of stock subject to qualified or restricted options, of the stock's fair market value at the time the option is exercised; (4) the excess of accelerated depreciation deductions over deductions allowable on a straight-line basis in the case of real property; (5) the excess of accelerated depreciation deductions subject to recapture under Code section 1245 over deductions allowable on a straight-line basis in the case of personal property subject to net lease; (6) excess investment interest (as defined below); [30] (7) depreciation deductions in excess of those otherwise allowable under Code section 167 arising out of depreciation over a 60-month useful life as permitted by section 57 (a) (4) in the case of certified pollution control facilities and by section 57(a) (5) in the case of railroad rolling stock; and (8) the excess of a financial institution's bad debt reserve allowance over its actual bad debt experience.[31]

The minimum tax applies only to the amount by which the sum of these preference items exceeds $30,000 plus the amount of federal income tax otherwise imposed upon the taxpayer.[32] The tax applies even though the preferences do not result in a tax saving (as where the taxpayer is in a net loss position for the year and is unable to avail himself of the net operating loss provisions of section 172), and it applies in addition to possible future recapture of deductions as in the case of accelerated depreciation under Code sections 1245 and 1250.

Though the Reform Act's minimum tax represents an ingenious means of striking at certain extreme tax avoidance situations, and though it may provide a basis for the development of more far-reaching legislation in the future, it is of rather limited efficacy in its present form. Take, for example, a married taxpayer, Mr. *X*, who was fortunate enough during 1970 to realize $64,000 in taxable income and $250,000 in capital gains. The tax on his ordinary income is $24,420. The tax on his capital gains, using 1970 rates, is 25% of the first $50,000 (or $12,500) plus 29½% of the remaining $200,000 (or $59,000), making a total of $71,500. To these taxes must be added a 2½% surtax (or $2,398) making a total tax burden of $98,318. His tax preference is $125,000, the "excluded" portion of his capital gains. From this $125,000 Mr. *X* is entitled to subtract his $30,000 exemption plus his regular tax of $98,318 for a total minimum tax shield of $128,318, more than enough to defeat application of the minimum tax altogether. Had Mr. *X* had no taxable income other than his capital gains of $250,000, his tax situation would be only slightly changed. His regular tax, including surcharge, would be $73,287 which, when added to his exemption of $30,000, would shield from minimum tax all but $21,713 of his tax preference and result in a minimum tax of $2,171; this represents an increase in Mr. *X*'s average effective tax rate of .0087.[33]

2. *Capital Gains Amendments*

a. *The alternative capital gains tax.* The Reform Act also makes a frontal attack on one of the most expensive of the tax expenditures, namely, that group of preferential provisions governing the taxation of capital gains. First, the Act limits significantly the role played by the alternative capital gains tax of 25%. Under the pre-Reform Act provisions of the Code, an individual taxpayer was able either to deduct one-half of capital gains and pay his ordinary income tax on the other half, or to pay a tax of 25% on the entire capital gain, whichever was lower. Under the Reform Act, the deduction of one-half of one's capital gains emerges unscathed. The alternative tax continues to be applicable to capital gains up to $50,000 per year ($25,000 per year for married taxpayers filing separately), but beginning in 1972 it will not be available for capital gains in excess of $50,000 per year.[34] During the intervening years of 1970 and 1971, the alternative tax (on capital gains over $50,000 per year) scales transitionally upwards to 29½% and 32½% respectively. The net effect of this change, coupled with the minimum tax, is that after 1971 capital gains will be taxable at a rate that can be as high as 40%: one-half the capital gain may be taxed at a marginal rate as high as 70% (which is equivalent to 35% of the entire capital gains) while the other half of the capital gain may be subject to the minimum tax at a rate of 10% (representing an additional 5% of the entire capital gain).

b. *Capital losses.* The Reform Act also limits the utility of long-term capital losses. Under the pre-Reform Act Code an individual taxpayer was directed to deduct his long-term capital losses from his long-term capital gains and his short-term capital losses from his short-term gains. Any excess of long-term capital loss was deductible against short-term capital gain, and any excess in short-term capital loss was deductible from long-term capital gain. Any excess capital loss (long-term or short-term) over capital gain was deductible from ordinary income of up to $1,000 per year. There was, in short, precious little difference between long-term and short-term capital loss. Except in the case where a taxpayer had realized both long-term gain and short-term gain and was deciding whether to realize either long-term or short-term loss aggregating less than his total capital gain (in which event he would want to realize the short-term loss), either loss would produce the same result.

The Reform Act has added another difference by making long-term losses deductible against ordinary income on a $2-for-$1 basis.[35] To reduce one's ordinary taxable income by $1, $2 of long-term loss must be deducted. Long-term losses may still be deducted on a dollar-for-dollar basis against long- and short-term capital gains, and short-term losses may still be deducted from long-term gains, short-term gains, and up to $1,000 of ordinary income per year on a dollar-for-dollar basis. Capital losses (long- and short-term) can still be carried forward indefinitely, but long-term losses must be reduced on a two-for-one basis to the extent deducted from ordinary income.[36] Whether long-term capital losses carried forward must be reduced to the extent deductible from ordinary income, whether or not deducted, is unclear. Net long-term capital losses realized prior to January 1, 1970, retain their dollar-for-dollar potency as deductions against ordinary income even though carried forward into 1970 and later years.

c. *Deferred taxation and restricted stock.* The Reform Act also included provisions to limit the use of certain capital-gains-produc-

ing devices as techniques of executive compensation. Prior to the Reform Act, the Code permitted capital gains treatment of certain distributions to employees from qualified pension, profit-sharing, or bonus plans if the distributions were made within a distributee's single taxable year. The Reform Act requires an employee to include as ordinary income that portion of the lump-sum distribution that is contributed to the plan by his employer after December 31, 1969.[37] Pre-1970 employer contributions and income earned by the plan remain entitled to capital gains treatment.

Similarly limited in utility are restricted stock plans. Under such plans, a corporation typically grants an employee stock that is forfeitable to the corporation if the employee leaves its employ within a stated period. Prior to the Reform Act, the employee would include nothing in his income upon receipt of the stock. Upon lapse of the restriction or earlier sale, the employee would include as ordinary income the lower of (i) the value, determined without regard to forfeitability, of the stock when received or (ii) the value of the stock when the restrictions lapsed. The excess over and above this value of any amount realized upon the sale or exchange of the stock was treated as a capital gain. Such plans permitted the taxpayer to defer payment of tax until lapse of the restriction and to obtain capital gains treatment of all increments in value after receipt of the restricted stock.[38] The Reform Act permits the recipient of restricted stock to defer taxation if the stock (or other property) is subject to substantial risk of forfeiture and cannot be transferred free of such risk, but requires that the recipient include as ordinary income the value of the stock at the time the restrictions lapse or the stock becomes transferable free of the restriction.[39] The recipient of restricted stock is thus disabled from obtaining capital gains treatment of increments in value accruing between the receipt of the stock and the lapse of the restrictions. The Reform Act offers the recipient the option of including in ordinary income the value of the stock upon receipt determined without regard to forfeitability but no deduction is allowed should the stock later be forfeited.

d. *Sales of life estates.* Another intriguing possibility for reaping capital gains in order to avoid ordinary income was sanctioned by *McAllister v. Commissioner.*[40] Involved in *McAllister* was the not uncommon situation in which a taxpayer receives, upon the death of his benefactor, a life interest in securities held in trust. Were the taxpayer to retain the life estate, the income received from the securities would typically be taxable as ordinary income. If, however, the taxpayer sold that life estate, he would be entitled both to deduct his basis (here determined with reference to the value of the trust securities upon the benefactor's death) from the sale proceeds and to treat the difference as a capital gain. Furthermore, the purchaser of a life estate would be entitled to amortize his purchase price against the income accruing to him from the life estate [41] and whatever net income remained was often taxable at a lower rate than that which would have been applied to the seller. Such rules could not but whet the imagination for tax-saving possibilities inherent in the creation and sale of life estates.

The Reform Act makes this game decidedly less attractive by disallowing the selling life tenant a deduction for his basis in the property unless his transfer is part of a transaction wherein the entire property of which his life interest is a part is being disposed of.[42] The Reform Act does not, however, challenge the capital gains status of the proceeds received upon sale of a life estate.

Footnotes at end of article.

e. *Earned income.* Coupled with these limitations on capital gains preferences is the Reform Act's limitation on the rate of tax imposed on earned income to 60% for taxable years commencing after December 31, 1970, and before December 31, 1972, and to 50% for taxable years commencing thereafter.[43] The 50% maximum rate on earned income, combined with the minimum tax on preferences and the elimination of the alternative tax on capital gains, will do much to narrow the dispersion of effective tax rates in the upper income brackets and to restore some measure of horizontal equity at those levels. Earned income is defined to include most payments received as compensation for the rendering of personal services, whether in the form of wages and salaries, professional fees, or proceeds from the licensing or disposition of property by the individual who creates the property. It does not, however, include (i) deferred compensation within the meaning of Code section 904, (ii) compensation deferred subject to a risk of substantial forfeiture unless received before the end of the taxable year following the year in which the recipient's right is not subject to substantial risk of forfeiture, or (iii) compensation received in any year in which the taxpayer elects to average his income pursuant to Code sections 1301 and 1302. The earned income tax ceiling is applicable only to earned income and cannot be applied to reduce rates of tax applicable to income derived from other sources where a taxpayer enjoys both earned and unearned income.[45] Moreover, the amount of taxable income subject to the earned income tax ceiling is reduced by the greater of (i) the excess of an individual's tax preferences over $30,000 or (ii) the excess over $30,000 of the average of an individual's tax preferences over the current and past four years.[46]

3. *Limitations on Deductions.*

a. *Excess investment interest.* The Reform Act also limits the use of various deductions to reduce a taxpayer's taxable income. Most closely related to the capital gains problem is the deduction of interest incurred to finance property held to produce capital gains, a practice which produced complicated stratagems such as that frustrated by Justice Brennan, writing for the Supreme Court, in *Knetsch v. United States.*[47] The Reform Act treats excess investment interest—defined as the excess of interest on borrowing to carry investment property over and above net investment income from such property—as a preference subject to minimum tax until December 31, 1971.[48] For all taxable years beginning thereafter, one-half of excess investment interest over and above $25,000 per year will be disallowed.[49] Net investment income is defined as the excess over investment expense of gross income from interest, dividends, rents, royalties, net short-term capital gains from the disposition of investment property, and depreciation recapture.[50] It is interesting to note that in disallowing the deduction for investment interest, the Reform Act makes yet another breach in the alleged administrative inability to distinguish between income-producing and other interest; that alleged inability has long served to justify the general deductibility of interest payments.[51]

b. *Charitable contributions.* The Reform Act also places significant restrictions on the deductibility of charitable contributions. Prior to the Reform Act, donors were generally permitted deductions for the fair market value of contributed property if they gave their entire interest therein to a charity, up to a maximum of 20% of their adjusted gross income for the run-of-the-mill charity and 30% for certain favored charities. As such deductions were allowed even though the contributed property would have produced ordinary income if sold, giving became for some taxpayers both more blessed than receiving and more profitable than selling. For example, a taxpayer with a 70% marginal rate of tax who had an asset with a fair market value of $1,000 and a basis of $200 could realize $700 in tax savings by contributing it, but only $440 after tax by selling it. The relative rewards of charity were even more attractive where the property was more charitably valued by the appraiser than by the market place. For those donors who sought to mix business with generosity, the Code permitted allocation of the entire basis of an asset sold to a charity to the sale proceeds so that one selling an asset worth $1,000 with a basis of $200 to a charity for $200 was permitted to realize no gain while deducting $800 as a charitable contribution.

The Reform Act limits all these possibilities. First of all, deductions for the charitable contribution of property which would produce income taxable at ordinary rates if sold are limited to the taxpayer's basis.[52] Property which can be sold at long-term capital gains rates is still deductible at its fair market value when contributed. The Reform Act limits deductions for property which would produce both ordinary income and capital gains if sold at fair market value to the fair market value of the property less the amount which would have been taxable as ordinary income, in effect applying the pre-1969 rules for recapturable depreciation deductions and the like.[53] To limit the inflation of deductions by extravagant valuations, the Reform Act took the rather draconian step of limiting the deduction for tangible personal property contributed by an individual to its basis plus one-half of its appreciation if such property is unrelated to the charity's exempt purpose (except for governmental donees in which case the property need only be related to any charitable purpose) or if such property is donated to certain nonoperating foundations.[54] Sales to charities now require an allocation of basis between the donative and commercial aspects of the transaction; thus, the taxpayer selling a long-term capital asset worth $1,000 to a charity for its basis of $200 will be permitted to allocate only one-fifth of the basis, or $40, to the sales proceeds.[55] The result is a taxable gain of $160 and a charitable deduction of $800. A taxpayer selling other than a long-term capital asset, having no deduction for his unrealized appreciation, would apparently not be required to allocate his basis.

Also severely limited by the Reform Act are deductions for charitable contributions of less than the donor's entire interest in property. To limit the taking of current deductions for charitable contributions of remainder interests where there is great uncertainty as to the value of the charitable remainder, the Reform Act requires that intervening income interests be explicitly defined. Deduction of charitable remainders is permitted where the income interest is in (i) a "pooled income fund," which is a commingled trust fund controlled by the donee or some party other than the donor in which the donors or other private beneficiaries have life interests in income fixed by reference to the trust's income for the current year, or (ii) a "charitable remainder trust" wherein the income beneficiaries' interests are defined in terms of specified amounts per annum (not less than 5% of the initial market value of the trust corpus) or specified percentages of the net fair market value of the trust assets (which is to be not less than the lower of 5% of the fair market value of the trust assets or the current income of the trust).[56] The deductibility of a charitable contribution of a nontrust remainder interest in a taxpayer's personal residence or farm property is still permitted, but the value of the remainder interest must take into account intervening depreciation and must reflect a 6% discount rate.

Turning to charitable deductions of income interests, contributions of the right to use a taxpayer's property or a part thereof

are no longer allowed.[57] Similarly, the short-term charitable trust, whereby a taxpayer was enabled to remove from his gross income the return of a trust established for two or more years, is destroyed by the Reform Act.[58] To obtain the benefits of exclusion, a taxpayer must comply with the generally applicable ten-year trust period. If the trust is of shorter duration, the taxpayer must include its income in his gross income and take a deduction for the present value of the amount to be contributed. Such deductions are allowable only if the charity's income interest is a fixed annuity or a specified percentage of the current market value of the corpus, computed annually.

Such deductions are of course allowable only if within the annual percentage limitations imposed on the deduction of charitable contributions, but the Reform Act liberalizes these limitations, raising from 30% to 50% of adjusted gross income the contributions to favored charities that may be deducted.[59] However, the unlimited deduction of charitable contributions, formerly available to taxpayers whose charitable contributions and income taxes exceeded 90% of their taxable income in eight of the preceding ten taxable years, has been eliminated. Finally, deductions for contributions of long-term capital assets still may not exceed 30% of adjusted gross income unless the taxpayer elects to subject such contributions to the limitations placed on the contribution of tangible personal property, that is, deduction of only the taxpayer's basis and one-half of his gain.[60]

c. *Repeal or investment tax credit.* The Reform Act also limited the utility of a variety of deductions designed to stimulate commercial investment. Most important was the repeal of the investment tax credit which had permitted the deduction of 7% of the cost of depreciable personal property used to generate income.[61]

d. *Depreciation and recapture.* Also deleted from the Code were most provisions permitting accelerated depreciation of real property. Double-declining-balance and sum-of-the-years-digits methods of depreciation formerly available for all new real property have been limited to new residential real property. All other new real property is limited to methods of depreciation not faster than 150% declining balance, and all used real property is limited to straight-line or comparable ratable methods, except for used residential property with a useful life of at least 20 years which may be depreciated by the use of the 125% declining-balance method.[62]

Coupled with these limitations on accelerated depreciation of real property are stiffened recapture provisions. The recapture method generally applicable to real estate prior to the Reform Act, which treated as ordinary income 100% of the gain on sales less than 1% for each month the property was held in excess of 20 months (up to the total amount of depreciation previously deductible in excess of what would have been deductible on a straight-line basis), is made available only to government-assisted projects constructed or acquired before 1975.[63] Gain reflecting prior accelerated depreciation on the sale of residential property or rehabilitated low-income housing is recapturable as ordinary income at a rate of 100% of the gain less 1% for each month property is held in excess of 100 months. Gain reflecting accelerated depreciation on the sale of all other forms of real property is recapturable in full.

These stiffened recapture rules apply only to depreciation taken after December 31, 1969, and the old depreciation rules continue to apply to buildings acquired or contracted for before July 25, 1969, or begun before July 25, 1969 and acquired by the taxpayer as an original user thereafter.

Footnotes at end of article.

deductions reflected in gains on the sale remain unchanged. However, the Reform Act contains certain provisions setting a 60-month useful life without allowance for salvage to encourage certain specific types of investment, such as the rehabilitation of low income housing, the installation of pollution control facilities certified by the appropriate state and federal authorities, qualified railroad rolling stock, and certified coal mine safety equipment.[64]

e. *Percentage depletion rates.* Also somewhat restricted by the Reform Act are the tax-sheltering potentialities of natural resource exploitation. Most significant is a reduction of percentage depletion rates for oil and gas wells from 27½% to 22% of gross income.[65] Reduced by a percentage point, from 23% to 22% or 15% to 14%, depending on the mineral's classification, are depletion rates for all metal mines and most of the more valuable mineral products,[66] except gold, silver, copper, iron ore, and oil shale, all of which remain depletable at 15%. Also unaffected by the Reform Act are all resources depletable at the lower rates of 10% (*e.g.*, coal, sodium chloride), 7½% (*e.g.*, clay, shale), and 5% (*e.g.*, gravel, sand, stone).

The general rules permitting the accelerated depreciation of personal property and requiring the recapture of all depreciation

f. *Production payments.* Further limiting the utility of percentage depletion deductions are the Reform Act's restrictions in regard to production payments. Pre-Reform Act rules made the sale of production payments (the right to receive a share of production or income from a mineral property) by mineral owners an economically attractive possibility.

Production payments have been widely used by mineral owners to sell partial interests in their properties and as part of a three-cornered method of disposing of an entire mineral interest, known as an ABC transaction. In the former situation, a mineral owner would sell a "carved-out production payment" consisting of the right to receive some fraction of the production, revenue, or income from a mineral deposit until a specified sum had been paid out.[67] Proceeds from the sale of the production payment would be included in the seller's income as depletable income. The purchaser of the production payment would be treated as the acquirer of a depletable economic interest in the minerals with the result that the seller could exclude from his gross income the revenue used to pay out the production payment. One common use of carved-out production payments was to avoid the limitation of percentage depletion deductions to 50% of taxable income. Year-end sales of production payment were used to inflate taxable income so as to enable producers to take full advantage of the 27½% of gross income which they were allowed to deplete.

Under the Reform Act, the sale of a "carved-out" production payment will be treated as a loan to the seller by the purchaser of the production payment with the consequent exclusion of the "loan" proceeds from the seller's gross and taxable income and the inclusion of the revenue servicing the payment of the production payment "loan" in the seller's income.[68] The producer is thus deprived of the power to shift depletable gross income between tax years by the sale of production payments.

In the typical *ABC* transaction, *A*, the owner of a mineral interest, sells the interest to *B*, with *A* retaining a production payment which he sells to *C*.[69] *A* obtains capital gains treatment of his gain on the sale, and *B* and *C* both acquire depletable interests in the mineral property. In the heyday of the ABC transaction, *B*, the new owner of the mineral property, would have been entitled to exclude from his gross income the revenue servicing the production payment, yet he could deduct all operating expenses of the well or, as an alternative, he could claim percentage depletion of the income accruing to him and such other deductions as were consistent with percentage depletion. *C* would normally amortize what he paid for the production payment over its life and report the excess as income. In effect, *B* was empowered to finance part of the cost of acquiring a mineral property by securing *C's* participation, yet he could obtain a current "deduction" of the amounts required to amortize his loan from *C*, rather than add the amount of the loan to his basis and depreciate it as productive property. This result was achieved by virtue of the exclusion from *B's* income of the revenue which paid out *C's* production payment. By treating *C's* participation in the *ABC* transaction as a loan, the Reform Act requires *B* to include in his gross income the entire amount of the revenue produced by the property. Moreover, payments to *C* are deductible only to the extent that they represent interest, since they are treated as loan repayments, not operating expenses. *B* does, of course, get the benefit of a higher basis in the mineral property for amortization purposes; or, as an alternative, he can claim percentage depletion of the income servicing *C's* production payment; however, the economic advantages of these alternatives are obviously much less attractive than pre-Reform Act treatment.

The precise inpact of the Reform Act's changes on the mineral industry is difficult to gauge. The effect of the one significant change in depletion rates, that for oil and gas, depends in part on the provision limiting percentage depletion deductions to 50% of taxable income. In fact, the average effective rate of percentage depletion for producers has always been limited to less than 27½% of gross income by the 50% limitation; and for many producers, the Reform Act's alteration of percentage depletion rates will be of little if any significance. Furthermore, the production payment is but one of many modalities for creating and conveying partial interests in mineral properties. Whether other legal forms can be adapted to serve the purposes formerly served by the production payment and whether these or other forms can avoid the Reform Act's limitations on production payments remains to be seen.

C. The impact of Reform Act measures upon the tax expenditure budget

What impact will these Reform Act measures have upon the tax expenditure budget of approximately $70 billion? As is evident from Table I, the most significant change is the repeal of the investment tax credit which alone is estimated to save some $3.3 billion in tax expenditures. Next in order of significance are the limitations on accelerated depreciation of real property; these limitations will reduce tax expenditures by an estimated $1,005 million. The group of Reform Act provisions affecting capital gains should further reduce tax expenditures by somewhat more than $630 million, consisting of $330 million saved by increases in capital gains rates; $175 million in adjustments to corporate capital gains; $65 million by limitations on the deductibility of capital losses; $50 million by elimination of capital gains treatment of lump-sum distributions from qualified pension and similar plans; $10 million from reforms affecting the taxation of sales of life estates; and an additional amount, for which no estimates are currently available, that will be saved by the reforms affecting compensation by means of restricted stock and certain other aspects of the capital gains/ordinary income distinction.

Also significant are those provisions affecting the exploitation of natural resources which are estimated to involve a $450 million

reduction in tax expenditures and the novel minimum tax scheme which will save an estimated $320 million. Certain provisions of the Reform Act not within the purview of this article, such as the elimination of multiple corporate surtax exemptions ($235 million), and the limitation of bad debt reserve deductions by financial institutions ($410 million), will also entail significant savings. Of lesser significance are the fiscal results of certain changes in the taxation of trusts ($100 million), and the limitation on deductions for investment interest expense, charitable contributions, and farm losses, each of which is estimated to involve savings of $20 million.

Whatever the achievements of the Reform Act, they cannot be said to include a fundamental assault upon the tax expenditure concept. In part, this is due to the limitations imposed upon the Treasury's reformist aspirations by the maelstrom of political force encountered. The reduction of oil and gas depletion by 5½% and of the depletion of other minerals by 1% or nothing, when faithful homage to the comprehensive tax base would have indicated the abolition of percentage depletion altogether, is symptomatic of this dimension of the Reform Act's limitations.

More significant is the fact that the reformist impulses which gave birth to the Reform Act never contemplated a thoroughgoing assault on the tax expenditure citadel. Of the 56 categories of pre-Reform Act tax expenditures listed in Table I, only 10 are directly amended by the Reform Act. And even if the Treasury had succeeded in attaining all its objectives, the bulk of the Code's tax expenditures, and the revenues expended thereby, would have been unaffected. Of the over $70 billion of public revenue annually disbursed through the tax expenditure budget, the Reform Act will eliminate little more than $65 billion, or somewhat under 10%. Looking at the matter another way, Mr. X, the taxpayer whose plight we considered in analyzing the minimum tax[70] and whose income was $314,000, would have paid $88,920 in tax, or 28.3% of his income, prior to the Reform Act; he would pay $106,920, or 34.0% of his income, under the Reform Act. In either case, his tax is a far cry from the $191,180, or 60.9%, which he would pay were current rates of income tax applicable in full to his entire income.

Moreover, the ultimate effect of the Reform Act is not to limit but to enlarge the amount of public revenue disbursed through tax expenditures. For every dollar saved, nearly two new ones were spent. Some $5.75 billion is dedicated to raising the level of personal exemptions from $600 to $750; some $1,373 billion is spent to make the standard deduction more generally available; some $750 million is devoted to liberalizing the Code's income-splitting provisions; some $625 million is spent on the Low Income Allowance (exclusive of the 1970 "phase-out" provisions) and some $2.027 billion on the elimination of that "phase-out."[71]

To be sure, some of the funds are committed to diminishing the exaction of federal revenues from the poor and so reflect a redirection of federal tax expenditures to benefit the deprived. That effort, however, absorbs but a small fraction of the revenues involved. The Low Income Allowance, designed to relieve from taxation the "poor," as perceived and defined by Congress, involves a revenue loss of $625 million compared to new tax expenditures aggregating $9.6 billion and to a total tax-expenditure budget of approximately $75 billion.[72] Even if one takes the view that a somewhat larger fraction of these new tax expenditures insure to the benefit of the poor, the basic point remains unaffected. The amount of public revenue disbursed through the tax expenditure budget prior to the Reform Act was vast, and it remains vast today. Whatever the Reform Act's achievements in limiting certain extreme tax avoidance techniques and restoring equity in the taxing of higher income individuals,[73] it left unexplored and unexploited most of the significant opportunities for the redirection of public revenues to uses benefitting the least privileged members of our society.

Footnotes at end of article.

TABLE I.—THE REFORM ACT AND THE TAX EXPENDITURE BUDGET[74]

Budget function	Pre-Reform Act tax expenditure (millions)	Change effected by Reform Act (millions)
NATIONAL DEFENSE		
1. Exclusion of military benefits	$500	None
2. Exclusion of certain veteran's benefits	550	None
Total	1,050	None
INTERNATIONAL AFFAIRS		
3. Exemption for income earned abroad	40	None
4. Exemption for income earned in U.S. possessions	80	None
5. Western Hemisphere trade corporations	50	None
6. Exclusion of gross-ups on dividends from less developed countries	50	None
7. Exclusion of income of controlled foreign subsidiaries	150	None
Total	370	None
AGRICULTURE		
8. Expensing and capital gains treatment in farming	800	−$20
9. Capital gains treatment of lumber income	130	None
Total	930	−20
NATURAL RESOURCES		
10. Expensing of exploration and development costs	300	None
11. Excess of percentage over cost depletion	1,300	−450
12. Coal and iron capital gains	5	None
Total	1,605	−450
COMMERCE		
13. Investment tax credit	2,300	−3,300
14. Excess depreciation on buildings	500	[75] −1,005
15. Dividend exclusion	225	None
16. Corporate capital gains	500	None
17. Excess bad debt reserves	600	−410
18. Credit union exemption	40	None
19. Deduction for consumer credit interest	1,300	None
20. Expensing R. & D. expenditure	500	None
21. $25,000 surtax exemption	1,800	−235
22. Tax deferral for shipping companies	10	None
Total	7,775	−4,950
COMMUNITY DEVELOPMENT AND HOUSING		
23. Deduction of mortgage interest	1,900	None
24. Deduction of real property tax	1,800	None
25. Exclusion of the imputed net rental value of owner-occupied housing	2,600	None
26. Excess depreciation of rental housing	250	None
Total	6,550	None
HEALTH AND WELFARE		
27. Added exemption for aged, retirement income credit, and OASDHI exclusion	$2,300	None
28. Added exemption for the blind	10	None
29. Exclusion of sick pay	85	None
30. Exclusion of unemployment insurance	300	None
31. Exclusion of workmen's compensation	150	None
32. Exclusion of public assistance	50	None
33. Exclusion of employee pension plan income	3,000	None
34. Self-employed retirement plans	60	None
35. Exclusion of group life insurance	400	None
36. Exclusion of accident and death benefits	25	None
37. Exclusion of employer provided medical insurance premiums and medical care	1,100	None
38. Exclusion of private unemployment insurance	25	None
39. Exclusion of employee meals and lodging	150	None
40. Exclusion of life insurance interest	900	None
41. Deduction of medical expenses	1,500	None
42. Deduction of child care expense	25	None
43. Deduction of casualty losses	70	None
44. Standard deduction	3,200	+$1,373
45. Low income allowance (as reduced by phase out provisions)		+625
46. Elimination of low income allowance phase out		+2,027
47. Personal exemptions	23,000	+5,750
48. Deduction of charitable contributions	3,200	−20
Total	39,550	+9,755
EDUCATION AND MANPOWER		
49. Additional student exemption	500	None
50. Deduction of contributions to educational institutions	170	None
51. Exclusion of scholarships	50	None
52. Earned income preference	—	+100
Total	720	+100
AID TO STATE AND LOCAL GOVERNMENT FINANCING		
53. Exemption of State and local bond interest	1,800	None
54. Deduction of individual income taxes	1,350	None
55. Deduction of general sales taxes	775	None
56. Deduction of gasoline taxes	400	None
57. Deduction of personal property taxes	150	None
58. Deduction of other taxes	125	None
59. Deduction of property taxes on owner-occupied houses[76]	1,800	None
Total (State and local nonbusiness taxes)	4,600	None
Total (including State and local bond interest exclusion)	6,400	None

TABLE I.—THE REFORM ACT AND THE TAX EXPENDITURE BUDGET[74]—Continued

Budget function	Pre-Reform Act tax expenditure (millions)		Change effected by Reform Act (millions)
OTHER			
60. Capital Gains Treatment (Including (1) increased basis at death; (2) Exclusion of one-half of capital gains; and (3) alternative tax.)	$5,500	−$8,500	−650
61. Minimum tax			−320
62. Trust rule changes			−100
Total	5,500	−8,500	−1,070
Total pre-reform act preferences		$68,605	−71,650
Aggregate effects of the Reform Act:			
A. Reduction of preferences	−6,490		
B. Increase in preferences	+9,855		
C. Net change in preferences		+3,365	
Post Reform Act preferences			
Total		72,015	−75,015

III. THE INTERNAL REVENUE CODE'S REGRESSIVE HOUSING PROGRAM: THE DEPRIVED'S PERSPECTIVE

The point is not merely that the Internal Revenue Code conceals in its interstices implicit federal programs involving vast amounts of public expenditure. These programs are designed to subsidize the satisfaction of certain needs. In satisfying these needs, tax expenditure programs confer benefits upon certain classes of persons and not upon other classes—particularly, not upon the poor. At the same time, the unbenefitted classes of persons experience the very same needs. To be sure, the poor may benefit from other programs—most commonly, direct expenditure programs—satisfying these needs, but one must not casually assume that the benefits conferred upon the poor by these other programs bear an equitable relation to the benefits conferred upon other classes of citizens by tax expenditure programs; for the fact of the matter is that the equitable questions implicit in the coexistence of tax expenditure and direct expenditure programs directed at the same end have seldom been subjected to serious scrutiny. The entire notion that the federal government spends money through the Code to satisfy private needs has not been widely appreciated. Indeed, it is only in the recent past that any systematic attempt has been made to categorize these expenditures in a fashion suitable for comparison with direct expenditure.[77]

Take, for example, the problem of housing. One need hardly dwell at length upon the statistics to establish the proposition that this country is experiencing a serious shortage of adequate housing. The 1960 Census of Housing reported that nearly one of four housing units in the country—12.6 million units—was deteriorating, dilapidated, or lacking some plumbing facilities.[78] That substandard housing units are occupied largely by the poor is equally plain. A recent study of substandard housing units in New York City revealed that 22% of the occupant households had incomes of less than $2,000; 44%, less than $3,000; 60%, less than $4,000; and 83%, less than $6,000.[79] Despite the existence of 12.6 million substandard housing units and nearly seven million families who are officially recognized as poor[80] the federal government had succeeded in building only 636,000 housing units during the period from the inception of the federal low-rent public housing program through the end of 1966.[81] The problem, of course, is and has always been lack of funds.

Footnotes at end of article.

Yet at the same time that the federal government has limited its direct housing expenditures to such modest proportions, it has engaged in a massive housing program within the confines of the Code. During fiscal 1968, the federal government spent over $7 billion through the Code to support private housing.[82] Under the Code a home owner is allowed to deduct both the interest paid to carry his mortgage[83] and the real property taxes imposed on his dwelling.[84] During the fiscal year 1968, deductions for interest payments on residential mortgages cost the federal government $2.2 billion in lost taxes and deductions for residential real property taxes cost some $2.3 billion.[85]

In addition, the net rental value of owner-occupied housing is excluded from a homeowner's gross income. By means of such exclusion, the homeowner is enabled to remove from his tax base the return on capital invested in his dwelling. Through the tax loss resulting from the exclusion of such imputed income is difficult to estimate, it is clearly of great significance and is here estimated at not less than $2.6 billion.[86]

Each of these provisions, the deductions for mortgage interest and residential real property taxes and the exclusion of the rental value of the owner-occupied housing, represents a deviation from the comprehensive tax base, a decision to exempt from taxation part of a taxpayer's income devoted to providing housing for himself. In this sense, the Code contributes to the taxpayer's housing expense the amount of tax foregone by virtue of these tax expenditures, and so subsidizes the cost of his housing.

It is true that other purposes served by these provisions can be identified. The deduction for mortgage interest is in part a result of the Treasury's alleged inability to find an equitable way of administratively differentiating mortgage interest from interest which is deductible because of its income-producing character.[87] The deduction for real property taxes is said to be a federal accommodation alleviating the difficulties of raising state and local revenues.[88] The exclusion of the imputed rental value of owner-occupied housing is both the result of administrative difficulties in valuing residential property and the logical consequence of permitting the exclusion of imputed income generally. In all of these assertions there is some truth. However, the fact remains that, whatever other purposes may be ascribed to these provisions, they have the effect of reducing a taxpayer's income tax by reason of his home ownership and so may be properly characterized as housing subsidies, benefitting those persons in a position to take advantage of them.

At the same time that the federal government spent over $7 billion to subsidize housing through the tax expenditure budget contained in the Internal Revenue Code, only $1 billion was spent by means of direct expenditure for all housing and community development purposes.[89] As is evident from this comparison of direct and tax expenditures and from the rather modest achievement of federal housing programs over the years, the truly significant federal housing program is administered not by the Department of Housing and Urban Development but by the Internal Revenue Service.

To whose benefit does this implicit federal housing program accrue? What income classes receive the benefit of this program? Because of the paucity of available information, it is difficult to provide a definitive answer to the question; however, there are a number of ways of arriving at tentative answers. First, there is the obvious fact that the proportion of deductible or excludable housing expense which a taxpayer is able to recoup by means of deduction or exclusion increases with his taxable income. The higher a taxpayer's taxable income and hence the higher his marginal rate of tax, the greater the proportion of his housing expense will be recouped through deduction or exclusion. A taxpayer with a marginal tax rate at the maximum of 70% will enjoy a $700 tax saving for each $1,000 of deduction or exclusion; a taxpayer with a marginal tax rate at the minimum of 14% will enjoy a tax saving of $140 for each $1,000.[90]

Further light is cast on the distribution of the Code's housing subsidies by Table II[91] which sets forth for fiscal 1968, by adjusted gross income class, (i) the amount of real property taxes deducted, (ii) the amount of mortgage interest deducted, (iii) an estimate of the amount of imputed rental of owner-occupied housing excluded, and (iv) estimates of the revenue expended by these deductions and this exclusion. Due to the limited information available, the estimates are necessarily approximate and provide only rough orders of magnitude of the distribution of these benefits among income classes.

Looking from the bottom of the income scale up, less than $188 million, or approximately 2.5% of the $7 billion spent through the Code by reason of the deductions for mortgage interest and real property taxes and the exclusion of net rental value inures to the benefit of taxpayers with adjusted gross incomes under $5,000 per annum. The vast majority of all persons regarded as poor by most governmental agencies concerned with the problem will be found in this category. As is indicated in Table IV,[92] the maximum New York State welfare budget (one of the country's most generous) for a family of six was recently established at $5,228 per annum, so that only those families with seven or more members can have appreciably more than $5,000 per annum and still be officially recognized as deprived.* It is therefore clear that the poor are virtually excluded from participation in the Code's housing program. Turning next to those taxpayers above the level of poverty but with adjusted gross incomes of only $5,000 to $10,000, one finds that class of taxpayers to be receiving about $1.5 billion of the $7 billion of potential tax revenue spent on housing, or approximately 20%. Three-quarters of the funds spent on housing through the Internal Revenue Code inure to the benefit of taxpayers with adjusted gross incomes of more than $10,000 per annum, who, with rare exceptions, can by no stretch of the imagination be deemed needy, with $3.3 billion accruing to those with adjusted gross incomes of $10,000 to $20,000 and $2.1 billion to those with adjusted gross incomes in excess of $20,000 per annum.

Turning from aggregate considerations to the impact of these provisions on individual taxpayers, one finds that the average amount of federal housing subsidy per tax return increases directly and dramatically with a taxpayer's income, ranging from $.88 per return for a taxpayer with an adjusted income of $1,000 to $2,000 to $7,286 per return for a taxpayer with income in excess of $200,000. Taxpayers with adjusted gross incomes (A.G.I.) of $4,000 to $5,000 received federal housing subsidies averaging $19.18 per return; those with an A.G.I. of $9,000–$10,000, the sum of $102.79; those with an A.G.I. of $10,000–$15,000, the sum of $183.28; those with an A.G.I. of $20,000—$25,000, the sum of $430.97; and those with an A.G.I. of $30,000–$50,000, the sum of $827.68.

* This comparison assumes that there is one return per family unit. To the extent that the number of returns exceeds the number of families, the result is that increased numbers of taxpayers showing adjusted gross income of less than $5,000 are in fact nonpoor as they enjoy higher disposable incomes because of their family situations. This would mean that some portion of the 2.5% of housing subsidies accruing to taxpayers with adjusted gross incomes of less than $5,000 accrues to nonpoor families.

TABLE II.—SUBSIDIZATION OF PRIVATE HOUSING THROUGH THE INTERNAL REVENUE CODE [93]

Adjusted gross income class	Real estate taxes deducted (thousands)	Revenue lost (thousands)	Mortgage interest deducted (thousands)	Revenue lost (thousands)	Imputed value of owner-occupied housing (thousands)	Revenue lost (thousands)	Total housing assistance (thousands)	Total housing assistance per return
$1,000 to $2,000	$19,582	$2,741	$5,197	$728	$22,519	$3,152	$6,621	$0.88
$2,000 to $3,000	69,841	9,778	27,038	4,185	80,318	11,244	25,207	4.27
$3,000 to $4,000	137,286	20,693	66,642	9,996	157,872	23,794	54,483	9.80
$4,000 to $5,000	219,864	35,178	153,969	25,635	252,670	40,446	101,259	19.18
$5,000 to $6,000	282,554	48,034	272,924	46,397	324,875	55,236	149,667	29.93
$6,000 to $7,000	338,843	57,603	434,000	73,780	389,620	66,240	197,623	39.72
$7,000 to $8,000	478,973	91,004	571,606	108,605	549,735	104,650	304,259	64.73
$8,000 to $9,000	591,818	112,445	768,368	145,990	680,570	129,160	387,595	82.52
$9,000 to $10,000	628,701	119,453	812,626	154,399	781,405	137,310	411,162	102.79
$10,000 to $15,000	2,831,275	662,880	3,519,578	774,307	3,255,650	762,220	2,199,407	183.28
$15,000 to $20,000	1,353,775	338,444	1,494,237	373,559	1,565,950	389,160	1,101,163	300.86
$20,000 to $25,000	558,575	164,801	565,001	158,200	676,765	189,520	512,521	430.97
$25,000 to $30,000	307,122	98,279	275,770	88,146	333,165	112,010	298,435	573.83
$30,000 to $50,000	550,492	214,692	344,496	134,353	632,960	246,890	595,935	827.68
$50,000 to $100,000	331,910	175,912	126,463	67,025	381,685	202,281	445,218	1,484.06
$100,000 to $200,000	107,930	66,907	21,037	13,043	123,985	76,935	156,885	2,490.02
Over $200,000	65,877	46,835	5,930	4,091	75,750	53,845	104,771	7,286.00
Total	8,874,418	2,265,679	9,464,882	2,182,439	10,285,494	2,604,093	7,052,211	

These figures plainly reveal that the federal housing subsidies contained in the Code are inversely related to need, benefitting most those who are least in need, and so are in a sense "regressively" distributed.‡ Thus the federal government is engaging in regressive subsidization of a need that is universally experienced—by the deprived as well as the affluent—and is doing so at a time when this need remains manifestly unfulfilled for a major segment of our population. What is more, the significant of the Code's subsidies cannot be doubted. During fiscal 1968, over $7 billion was spent in this fashion and over $2 billion was spent to subsidize the housing needs of taxpayers with adjusted gross incomes of more than $20,000 per annum, an amount more than twice the federal government's total direct expenditures on all housing and community development affairs.

The point may be generalized. The structure of the Code is shot through with departures from the comprehensive income tax base—deviations which, whatever their origin, have the effect of reducing a taxpayer's income tax burdens by reason of assorted personal expenditures and exigencies. In affording tax relief, these provisions subsidize those needs. Moreover, the needs subsidized include the most fundamental and universally experienced of human needs. Apart from housing, one can find in the Code provisions that subsidize taxpayer expenditures for needs such as medical care, education, and income maintenance. Though universally experienced, each of these needs is inadequately provided for among the needy. In most cases, the dispersion of benefits accorded by these tax expenditure programs is the simple unanalyzed reflex of the deduction or exclusion mechanism used to effect tax relief—a mechanism which increases the amount of the subsidy with the taxpayer's income. In many cases, the amount of revenue so spent is substantial. In each case, the decision so to distribute public revenues stands in need of re-examination. The amount of public revenue expended for the satisfaction of a particular need through tax expenditures and direct expenditures need to be calculated. The distribution of these funds among the various income classes needs to be determined. The extent and seriousness of unsatisfied needs must be gauged. And finally, the wisdom of currently prevailing practices in distributing public revenues to satisfy these needs should be re-examined in light of the information developed by such inquiries.

‡The term regressive is here used because of the connotations acquired by the term "progressive" over the years of tax usage. Although the term progressive may be mathematically defined as a relation of any variable to income in which the variable increases more rapidly than income, the term has also acquired a broader social significance connoting a certain positive relation to egalitarian income distribution. A "progressive" income tax advances equalitarian income distribution because the burdens of taxation increase more rapidly than taxpayer's incomes. The distribution of the Code's housing benefits is concomitantly "regressive" because access to these benefits increases more rapidly than income and thereby renders the distribution of income less egalitarian.

IV. THE REFORM ACT AND TAXING THE POOR

A. Taxing the poor

Up to this point, we have focused on the Code's function as a source of subsidies supporting the satisfaction of private wants, and we have examined the magnitude of such subsidies and the way in which they are distributed. But from the perspective of the deprived, the problem is not merely that the Code disburses large amounts of public revenue in a regressive fashion; the Code contributes to the further deprivation of the poor by subjecting them to the federal income tax. It is commonly agreed that persons who lack the wherewithal to provide for themselves the basic essentials of a decent living should not be called upon to contribute to the public revenue.[94] Recognition of that principle has always been a part of the federal income tax structure. By providing basic exemption levels below which no tax is imposed, the Code seeks to relieve from taxation those at the bottom of the income spectrum. Until the Second World War, these exemption levels did indeed relieve from taxation not only all those who could be said to be needy, but considerably more as well, with exception levels ranging from $3,000 for a single person (equivalent to $8,982 in 1960 prices) and $4,000 for a married couple ($11,976 in 1960 prices) at the inception of the current income tax system to $1,000 for a single person ($2,128 in 1960 prices) and $2,500 for a married couple ($5,319 in 1960 prices) in 1939.

Despite public adherence to the view that the poor should not be taxed, the fiscal exigencies of the Second World War and ensuing difficulties produced exactly that result. The basic pattern which confronted the draftsmen of the Reform Act was fixed in 1948 when a personal exemption of $600 each for the taxpayer, his spouse, and his dependents was established. However, during the ensuing 21 years inflation eroded the real value of the exemption from $716 in 1948 to $468 in 1969, measured in relation to 1957–59 prices. Availability of the standard deduction of 10% of a taxpayer's adjusted gross income increased the tax-free minimum income for an individual to $667.[95] Introduction of the minimum standard deduction in 1964 enabled taxpayers to shield from tax an additional $200 plus $100 for each personal exemption (up to a maximum of $1,000), thus increasing tax-free income to $900 for a single person, $1,600 for a married couple, and $3,000 for a married couple with two children. [96]

The impact of inflation upon exemption levels eventually forced Treasury recognition that the federal income tax had come to burden the poor. The Treasury Department's Tax Reform Studies and Proposals [97] (hereinafter referred to as the "Treasury Report") acknowledged the "[a] major problem of the individual income tax is that the tax is imposed on some people whose incomes fall below the poverty line," [98] and went on to estimate that more than 20%, or 2,180,000, of the 10,670,000 families living in poverty were subject to federal income tax.[99] Based on standards developed by the Department of Health, Education and Welfare, the Report estimated that, though a single person required a disposable minimum income of $1,735, the Code imposed a tax on all income over $900; though a married couple required $2,240, the tax began at $1,600; though a married couple with two children required $3,535, the tax began at $3,000.[100]

B. The Reform Act's accomplishments

To ameliorate the tax situation of the poor, the Reform Act created the Low Income Allowance, a two-part deduction consisting of a "basic allowance" and an "additional allowance." The basic allowance is simply the old minimum standard deduction; that is, $200 plus $100 for each personal exemption up to a maximum of $1,000. The additional allowance is computed by subtracting the basic allowance from a base figure set at $1,100 in 1970, $1,050 in 1971, and $1,000 in 1972. This reduction of the base figure will be offset by planned increases in personal exemption levels from $650 in 1971 to $700 in 1972 and $750 in 1973. The net effect of the Low Income Allowance is to increase the amount of a taxpayer's income shielded from tax to the amount of his exemptions plus $1,100. The result of adopting the Low Income Allowance, as demonstrated in Table III, will be to exempt from taxation approximately the amount of income which Congress deemed to be minimally sufficient for subsistence. As that table demonstrates, the Reform Act significally reduces the impact of income taxation upon the poor, relieving most poor families of tax by virtue of the approximate equality of poverty thresholds and Taxability Thresholds.

C. The Reform Act's limitations

The Reform Act's accomplishments in limiting the impact of taxation upon the poor, though important, are limited. They are limited both because of the unrealistic definition of poverty adopted by the Congress and be-

Footnotes at end of article.

cause of the limited role played by the federal income tax in the American tax structure.

1. *Failures in Defining the Poor.* In defining the target class to be benefitted by the Low Income Allowance, the Congress adopted the Poverty Index developed by the Department of Health, Education and Welfare and adjusted by 6% the 1966 figures yielded by that Index for family groups of varying size in order to take account of inflation.[101] Passing the congressional failure to equate its new Taxability Thresholds with the Poverty Thresholds thus developed, the first question to be asked is why only a 6% adjustment was made to the H.E.W. 1966 Index. Such an adjustment was clearly inadequate at the time the Reform Act was enacted at year-end 1969, as evidenced by the fact that the consumer price index stood at 113.1 in 1966 and 131.3 in December, 1969.[102] It was even more clearly inadequate as a projection of the probable state of economic affairs at the end of the Allowance's first effective year; by December 1970, the index had in fact reached a level of 138.5. An adjustment of approximately 20%, rather than 6%, was necessary to update the 1966 Poverty Index figures realistically, and Table III shows the effect of such an adjustment.

TABLE III

Family size	Post Reform Act taxability threshold	1966 HEW poverty threshold plus 6 percent	1966 HEW poverty threshold adjusted to December 1970
1	$1,700	$1,735	$2,012
2	2,200	2,240	2,598
3	2,400	2,755	3,196
4	3,500	3,535	4,103
5	4,100	4,165	4,831
6	4,700	4,675	5,433
7	5,300	5,755	6,676

More serious than the failure to make an adequate adjustment for inflation is the dubious judgment involved in basing the Code's Taxability Thresholds on the H.E.W. Poverty Index in the first instance. That Index was developed by the Department of Health, Education, and Welfare in an attempt to refine the benchmarks—$3,000 for a family of two or more and $1,500 for a single individual—which the Council of Economic Advisors adopted in 1964 in connection with the federal government's war on poverty.[104] It is based on work done earlier by the Department of Agriculture. The Department of Agriculture has long prepared a food plan for the purpose of estimating the cost of food needed to satisfy minimal nutritional requirements. This plan, known as the "low cost plan," yielded a minimum food cost estimate of $5.90 per person per week for a four-member family in January, 1964 prices.[105] In the mid-sixties the Department began to issue its "economy" food plan devised for "temporary or emergency use when funds are low."[106] The economy plan yielded a minimum food cost estimate of $4.60 per person per week for January, 1964. It is the latter plan which lies at the core of the H.E.W. Poverty Index.[107] Per-person food costs are translated into aggregate food budgets for families of different sizes, ages, sex compositions, and places of residence (urban or rural). Some indication of the food budget's spartan quality is given by the following description.

For a meal all four of them ate together, she could spend on the average only 95 cents, and to stay within her budget she must allow no more a day than a pound of meat, poultry, or fish altogether, barely enough for one small serving for each family member at one of the three meals. Eggs could fill out her family fare only to a limited degree because the plan allows less than 2 dozen a week for all uses in cooking and at the table, not even one to a person a day . . .[108]

To derive its Poverty Index from these food cost estimates, H.E.W. merely multiplied the estimates by three. The multiplier is based on H.E.W.'s empirical studies which demonstrated that lower income families spend approximately one-third of their budget on food.[109] In effect, the H.E.W. Poverty Index is built on spending habits of the poor existing in the mid-1950's, on assumptions that yielded $1.50 per person per day for persons living in a four-member family to cover all nonfood expenses (in 1966 prices).[110] What is important to note is that the Department made no attempt to develop a list of basic nonfood needs or to determine their cost. However inadequate the provision for such needs by the poor whose expenditure patterns gave rise to the H.E.W. multiple of three, these inadequacies are faithfully reflected in the Poverty Index. The H.E.W. Poverty Index is thus in no sense a comprehensive normative standard of need.[111] Whatever utility the Index may have for H.E.W.'s analytical purposes, it is of doubtful validity as a Taxability Threshold.

This is not the place for an extended discussion of the measure that might properly be used to fix Taxability Thresholds. Suffice it to note that alternatives, specifically designed to determine the income required to survive in a fashion compatible with minimum standards of health and decency, are available. Welfare agencies in most states have long grappled with such problems. By way of example, Table IV shows a comparison of the Reform Act's Taxability Thresholds and a recent welfare estimate of need for the State of New York.

TABLE IV[112]

Family size	Post Reform Act taxability threshold	New York State maximum welfare budget as of June 1, 1970
1	$1,700	$1,908
2	2,200	2,648
3	2,400	3,168
4	3,500	4,032
5	4,100	4,668
6	4,700	5,228
7	5,300	5,988

While the New York welfare budget standards are themselves subject to criticism, they were at least developed in an attempt to estimate comprehensively a family's needs. The fact that they are so significantly higher than the Reform Act's Taxability Thresholds not only further demonstrates the inadequacy of those thresholds, but also creates the awkward situation that a person earning $1,908 receives less than he would were he on welfare because welfare payments are not subject to Social Security or federal income taxes.[113]

2. *The Limited Role of the Federal Income Tax in the American Tax System.* The federal income tax is but one of the ways in which American governments—federal, state, and local—raise revenue. The principles that give rise to the demand that the poor be relieved of taxation provide little, if any, basis for distinguishing among the various taxes used to support the American governmental system. The ultimate significance of the Reform Act in ameliorating the impact of taxation upon the poor can therefore be properly assessed only in the context of the entire tax system and its impact upon the poor.

The federal government collects revenue by means of individual income taxes, corporate income taxes, excise and customs taxes, payroll taxes, and estate and gift taxes, all but the last of which affect the poor. Indeed, not only do these other federal taxes affect the poor, but a recent Tax Foundation study concluded that families having incomes of less than $2,000 paid less of their income through federal income taxes than through any other federal tax save estate and gift taxes.

TABLE V[114]—FEDERAL TAXES AS A PERCENTAGE OF INCOME FOR FAMILIES HAVING ANNUAL INCOMES OF LESS THAN $2,000

Tax	1961	1965
Individual income	2.0	1.9
Corporate income	4.4	4.5
Excise and custom	3.4	3.3
Payroll	3.0	3.2
Total	12.8	12.9

Most significant for the shape of the future is the federal government's increasing reliance on payroll taxes to finance Social Security and other public welfare benefits. During the decade from 1960 to 1970, individual income tax revenues increased by 124% while employment taxes increased by 255%.[115] F.I.C.A. taxes are currently imposed at a rate of 10.40% on all earnings up to $7,800 per year, half payable by the employee and half by the employer. As Table V indicates, in 1965 the federal government collected more than half again as much from payroll taxes imposed on the poor as from individual income taxes.

The significance of the Reform Act's revisions shrinks still further when attention is turned to the impact of state and local taxes upon the poor, for these taxes actually consume more of the poor's income than do all federal taxes. As is shown in Table VI, state and local taxes, particularly state sales and local property taxes, account for approximately 15% of the poor's income.

TABLE VI[116]—STATE AND LOCAL TAXES AS A PERCENTAGE OF INCOME FOR FAMILIES HAVING ANNUAL INCOMES OF LESS THAN $2,000

Tax	1961	1965
Individual and corporate income	0.4	0.6
Sales and excise	5.7	6.1
Property	6.7	6.9
Social insurance	1.6	1.5
Total	14.4	15.1

Moreover, the expansion of state and local expenditures and the consequent reliance on revenue measures bearing on the poor is at the moment outstripping the increase in federal expenditures. Thus, during the decade from 1959 to 1969, total federal expenditures increased from $91 billion to $191.9 billion while state and local expenditures increased from $46.8 billion to $121 billion.[117] And looking further back, one finds state and local governmental receipts steadily increasing as a percentage of gross national product from 5% in 1945, to 6.6% in 1950, to 7.1% in 1955, to 8.6% in 1960, and 9.3% in 1965.[118]

D. Future prospects for taxation of the poor

The Reform Act's accomplishments in ameliorating the impact of taxation upon the poor are thus severely limited. The Act's attempt to eliminate the imposition of federal income taxes is deeply flawed by a niggardly definition of the class to be relieved. Moreover, no matter how successful the Reform Act may be in eliminating the imposition of federal income taxation on the poor, its impact on the overall tax status of the poor is bound to be marginal; for federal income taxes comprise only 2% of the total of 28% paid out in federal, state, and local taxes by taxpayers having incomes of $2,000 or less.[119]

To ameliorate the impact of American taxation on the poor in a truly significant fashion, it will be necessary to ease the burden of state, local, and federal taxes of all kinds. It

Footnotes at end of article.

may be objected that such a suggestion strays beyond the boundaries of federal income tax reform both in terms of moral obligation and technical capacity. However, if one takes seriously the principles that underlay adoption of the Low Income Allowance, continued taxation of the poor through these other avenues remains a problem to be faced—a problem, moreover, which realistically can be dealt with on a comprehensive basis only through the Code. To hope for 50 states and countless local governments to take the necessary ameliorative action is surely futile, particularly in light of their current fiscal exigencies.

Nor is there satisfactory refuge in the notion that it is technically impossible to solve this problem through the Code. Without belittling the many problems inevitable in such an effort, fiscal techniques suitable to such a purpose seem readily identifiable. Refunds of excess taxes paid or withheld have been with us since the inception of the federal income tax, as has the notion of allowing deductions from income or credits against tax for tax payments to other jurisdictions. All that is technically required is to adapt these techniques to repay to taxpayers all tax payments—federal, state or local—that have the result of reducing after-tax incomes to a level below those minimum standards necessary for a decent and healthful existence. One would first determine the amount of all taxes paid by a deprived taxpayer. This could be accomplished through taxpayer declaration, as is the practice with the present deduction of state and local taxes; the taxpayer could rely upon tables similar to those currently used to estimate such taxes for purposes of deduction. One would also establish minimally acceptable standards of living. The federal government would then refund to all taxpayers whose incomes were reduced below such standards by state, local, or federal taxes, the amount of such tax that is necessary to restore the taxpayer's income to the minimum acceptable standard. To provide continuously effective relief from such taxation, refunds should be integrated into the withholding system and paid periodically throughout the year. Through such relatively simple adaptations of existing tax techniques, the federal income tax system could accomplish that abstention from fiscal dependence on the poor which the Reform Act so diffidently approaches.

The cost of such an effort would doubtless be considerable, but the present confrontation between need and fiscal exigency need not inevitably balk efforts to relieve the poor of taxation. At least such efforts should not be abandoned without renewed scrutiny of related programs presently being implemented to relieve the burdens of state and local taxation. Just as the Code contains a program to subsidize private housing needs, so also does it expend considerable amounts of revenue to subsidize state and local financing. During fiscal 1968, deductions allowed for the purpose of ameliorating the impact of state and local taxation cost the federal government $6.2 billion in the aggregate.[120] Some indication of the distribution of these benefits among different income strata has already been considered in connection with Table II.[121] That table indicates that of the $2.266 billion in revenue lost by reason of this deduction some $.068 billion, or 3% inures to the benefit of taxpayers with adjusted gross incomes of less than $5,000; and $.497 billion, or 22% to taxpayers with adjusted gross incomes below $10,000 per year. Another indication of the distribution is provided by Table VII which sets forth the amounts of (i) real estate taxes, (ii) general sales taxes, (iii) state and local income taxes, and (iv) total taxes deducted by taxpayers in various adjusted gross income brackets and the tax revenue lost by such deductions.

As Table VII demonstrates, only $1.06 billion, or 4.5% of the $23.7 billion total amount of taxes deducted is deducted by taxpayers with adjusted gross incomes of less than $5,000; $7.02 billion, or 29.6% is deducted by taxpayers with adjusted gross incomes of $10,000 or less per year. The amount of deductions taken for taxes is thus markedly skewed toward the higher adjusted gross income classes.

TAX REFORM ACT

TABLE VII[122].—DISTRIBUTION OF DEDUCTIONS FOR TAXES PAID

Adjusted gross income class	Real estate taxes (thousands)	General sales taxes (thousands)	State and local income taxes (thousands)	Total taxes (thousands)	Revenue lost (thousands)
$1,000 to $2,000	$19,582	$10,786	$2,615	$42,166	$5,903
$2,000 to $3,000	69,841	38,310	10,795	153,154	21,446
$3,000 to $4,000	137,286	82,153	30,726	327,392	49,109
$4,000 to $5,000	219,864	137,194	60,767	540,041	86,407
$5,000 to $6,000	282,554	196,818	91,279	729,836	124,072
$6,000 to $7,000	338,843	253,534	144,700	1,006,168	171,049
$7,000 to $8,000	478,973	290,182	186,700	1,203,753	228,713
$8,000 to $9,000	591,818	355,480	247,485	1,489,536	283,012
$9,000 to $10,000	628,701	363,284	268,810	1,531,172	290,923
$10,000 to $15,000	2,831,275	1,528,051	1,438,625	6,896,658	,417,265
$15,000 to $20,000	1,353,775	700,927	921,601	3,416,853	853,813
$20,000 to $25,000	$558,575	$282,252	$522,492	$1,544,309	$432,407
$25,000 to $30,000	307,122	144,312	332,433	856,962	274,215
$30,000 to $50,000	550,492	244,253	777,229	1,689,085	658,743
$50,000 to $100,000	331,910	134,574	698,374	1,237,153	655,691
$100,000 to $200,000	107,930	35,640	340,380	515,770	319,777
$200,000 to $500,000	45,570	11,889	206,106	282,922	195,216
$500,000 to $1,000,000	11,555	2,914	76,309	97,555	67,013
$1,000,000 or more	8,752	2,592	80,092	98,677	68,103
Total	8,874,418	4,815,145	6,407,518	23,659,162	6,202,877

Since the tax revenue lost per dollar of deduction increases with the taxpayer's income, tax expenditures subsidizing the burdens of state and local taxation are even more heavily skewed in favor of the upper income classes. Thus, of the $6.2 billion of tax revenue lost by virtue of the Code's efforts to relieve taxpayers of the burdens of state and local taxes, only 2.6% inures to the benefit of taxpayers having adjusted gross incomes of less than $5,000. Similarly, only $1.1 billion or 18% inures to the benefit of taxpayers having adjusted gross incomes of less than $10,000. In short, nearly 80% of the tax revenue lost by virtue of the Code's current program for the amelioration of state and local tax burdens inures to the benefit of taxpayers having adjusted gross incomes of more than $10,000 per year.

The federal government is thus currently spending some $4.6 billion to relieve taxpayers of the burdens of state and local taxation, and, as in the case of its housing subsidies, it is distributing such benefits in a manner that is based on neither need nor per capita equality, but rather is directly related to the taxpayer's income. Put more simply, the federal government is distributing its tax-relief subsidies regressively. It is doing so at a time when all elements of the American governmental system continue to rely heavily upon the poor for tax revenues, taking approximately one out of every four dollars of their meager incomes through taxes of all types. Some measure of relief could be afforded the poor by redirection of the $6.2 billion currently being spent to relieve the burdens of state and local taxation. This amount would doubtless fall far short of the funds necessary to eliminate governmental fiscal dependence on the poor. Such reduction would, however, constitute an ameliorative act of considerable significance, particularly when compared with $.625 billion devoted to that purpose by the Reform Act.[123]

V. TAX EXPENDITURES AND THE AMELIORATION OF POVERTY

Of the many ways in which the tax expenditure budget is relevant to the poor, the one of greatest interest from the perspective of the deprived is the amelioration of poverty itself. The relevancies upon which we earlier focused, such as the Code's implicit housing and tax-subsidy programs, though of importance, are of only limited significance to the poor. More central to their perspective is the basic failure in the distribution of income that has given rise to a population of nearly 30 million who are officially recognized by the federal government as being poor.[124] Measured by the spartan standards of the Health, Education, and Welfare Department's Poverty Index, some 29,650,000 people found themselves poor, including 12,500,000 children and 5,400,000 aged persons.[125] The so-called "poverty gap," the amount by which the aggregate income of the poor falls short of acceptable minimum standards, has been variously estimated at $11 to $12.5 billion.[126] The relevance of the tax expenditure budget to the elimination of this poverty gap and to improving the material condition of this population is of central concern to the deprived.

Certain aspects of the relevance of the tax expenditure budget to the central problem of poverty are foreshadowed by our earlier discussion. We have already touched upon the potentialities for benefitting the poor by departing from the Code's current reliance on exclusions and deductions, and we have noted the possibility of integrating into the Code a system of transfer payments designed to relieve the poor of all tax exactions, state, local, and federal.[127] Similar transfer payment programs designed to extend the Code's housing subsidies to the poor could doubtless be devised.[128] However, such specific purpose transfer programs are in a sense but partial approaches toward the basic problem of income maintenance itself.

Rather than dealing with such specific aspects of deprivation as the exaction of tax revenues or housing inadequacy, the transfer program could be directed at the basic income maintenance problem itself by designing the transfers so as to guarantee each family a level of income commensurate with minimum requirements of health and decency. Just as taxpayers now file income tax returns, they would, under such a system, file declarations of anticipated income. If the declaration showed an anticipated income falling below acceptable minimum standards, the federal government would make periodic payments of the amounts necessary to guarantee a minimum annual income. The suggestion that a guaranteed annual income be integrated into the Code is of course not a novel one. Much has been written on the

Footnotes at end of article.

subject of a guaranteed annual income, or as it is sometimes awkwardly styled, the negative income tax.

This is not the place to reconsider the structure and problems of so ambitious an undertaking. Rather, I limit my present comments to noting that such a transfer program within the structure of the Code, like the more modest programs earlier discussed,[129] is certainly a technical possibility, and to pointing out that the Internal Revenue Code is already deeply involved in income maintenance programs.

A number of the tax expenditure programs implicit in the Code are designed primarily or partially for the purpose of supporting income maintenance. Perhaps the clearest example of the Code's income maintenance policy is the exclusion from income of Social Security payments.[130] This exclusion has long been a part of the Code's policy. Though historically it may have been based in part on constitutional doubts concerning the taxation of gifts, its contemporary justification is clearly based on the desirability of easing the financial condition of persons dependent upon Social Security payments for income. Similarly justified in terms of income maintenance are the additional exemption for aged taxpayers and the retirement income credit.[131] Nor can the monetary significance of these programs be doubted, for the three of them accounted for tax expenditures of $2.3 billion in fiscal 1968.[132] Similarly directed at income maintenance are the Code's exclusions from income of sick pay ($85 million),[133] unemployment insurance $300 million),[134] workmen's compensation ($150 million), [135] public assistance ($50 million),[136] and private unemployment insurance ($25 million).[137] In a somewhat different category, but also closely related to income maintenance, is the exemption from income tax of income earned by employee pension plans ($3 billion)[138] and self-employed retirement plans ($60 million).[139] Such income is exempted from tax for the purpose of aiding the accumulation of funds to support pension payments and so to maintain the income of the group benefitted. Standing on a similar footing is the exemption from tax of interest earned on life insurance savings which cost the Federal Government some $900 million in lost revenue during 1968.[140]

As Table VIII makes clear, these programs involve a substantial commitment of Federal resources to income maintenance, involving expenditures of $6.87 billion.

TABLE VIII.—*Income maintenance programs* [141]

[In millions]

	expenditure Tax
Exclusion of Social Security Payments, Retirement Income Credit and Aged Exemption	$2,300
Exclusion of Sick Pay	85
Exclusion of Unemployment Insurance	300
Exclusion of Workmen's Compensation	150
Exclusion of Public Assistance	50
Exclusion of Private Unemployment Insurance	25
Exclusion of Income from Self-Employed Retirement Plans	60
Exclusion of Income From Employee Pension Plans	3,000
Exclusion of Life Insurance Interest	900
Total	6,870

As in the case of the Code's implicit housing and tax subsidy programs, the wisdom of spending nearly $7 billion to support income maintenance programs through exclusion of certain types of income may be questioned. Approaching income maintenance by such exclusions reflects a judgment that the beneficiaries of these categories of income stand in need of tax relief to support their incomes. Basing an income maintenance program on categories of income necessarily precludes a precise focusing of support on persons who are in financial need. For most categories of income, there is simply no precise correlation between the type of income and the need of the beneficiary. Take, for example, the exclusion of Social Security payments from income. A priori, the assumption that Social Security beneficiaries are as a group in need of income maintenance support would seem eminently reasonable. However, on further reflection, one notes that an individual's right to receive Social Security benefits is not related to need but rather to his work experience. In point of fact, it is estimated that approximately 40% of all Social Security payments go to persons [142] who would not be in financial need had they not received these benefits. The proportion of non-needy persons benefitted by the exclusion of income earned by employee pension plans and life insurance payments is doubtless even greater.

Redirection of these billions to benefit the deprived would make a material contribution to ameliorating their condition. It would not, however, make available the funds necessary for a comprehensive income maintenance system. We have thus far identified approximately $7 billion in tax expenditures directed at income maintenance. Since some significant portion of these funds presently accrues to the benefit of the poor, the amount that could be redirected to their further benefit is necessarily smaller. As noted above, the amount of additional income necessary to close the "poverty gap" has been estimated at $11 to $12.5 billion, and this measure is based on the exceedingly spartan standards of the H.E.W. Poverty Index.[143] Moreover, the cost of actually implementing a program directed at comprehensive amelioration of the income deficiency of the poor would be considerably higher than the $11 to $12.5 billion poverty gap, primarily because of the costs of administering the program and designing it so as to limit the work disincentives created by the guaranteed income.[144] Estimates of the cost of a workable comprehensive income maintenance system have approximated $20 to $25 billion.[145] Redirection of the income maintenance programs identified above can make a significant, but by no means sufficient, contribution toward funding a comprehensive income maintenance program.

There is, however, another possibility. Personal exemptions available to every taxpayer have always been a basic structural element of the federal income tax. The Reform Act's most expensive single change was an increase in personal exemption levels from $600 to $750 per person.[146] The amount of lost revenue attributable to personal exemptions is enormous, approximating some $23 billion prior to the Reform Act and $28.75 billion after taking the Reform Act's changes into account.[147]

On first impression, it may appear somewhat odd to direct attention to personal exemptions as a possible source of revenue to fund a comprehensive income maintenance program. After all, it is the personal exemption, coupled with the Low Income Allowance, which shields the poor from the exactions of the federal income tax. However, although personal exemptions are customarily justified in terms of their effect in shielding the lower income strata from tax, the fact of the matter is that most of the tax forgone by virtue of the personal exemption does not accrue to the benefit of the needy. Personal exemptions are permitted to all taxpayers, not just the poor, and as with deductions, so with personal exemptions: the amount of tax revenue lost per personal exemption varies directly with the taxpayer's taxable income from $14 per $100 of exemption at the bottom of the tax rate schedule to $70 per $100 of exemption at the top. As Table IX indicates, less than a quarter of the revenue loss by virtue of personal exemptions accrues to taxpayers having adjusted gross incomes of less than $5,000 per year. Three quarters of the revenue lost—over $15 billion a year—thus accrues to the benefit of persons other than the needy.

TABLE IX [148].—DISTRIBUTION OF REVENUE LOST BY PERSONAL EXEMPTION

[In thousands]

Adjusted gross income class	Exemptions	Revenue loss
Under $5,000	$35,793,832	$5,370,000
$5,000 to $10,000	44,183,692	8,360,000
$10,000 to $15,000	26,275,178	5,720,000
Over $15,000	14,520,260	4,060,000

Obviously, then, large amounts of revenue currently expended by means of personal exemptions on persons not in need could be redirected to support an income maintenance program directed at the poor. Of course, personal exemptions do not serve merely to shield the poor from tax. They also serve to reduce the tax imposed on larger families vis-a-vis smaller families with like income in recognition of the higher living costs of such larger families and so serve equitable interests apart from shielding the poor from federal income tax. Whether the values to be gained through a comprehensive income maintenance program warrant subordination of such equitable interests may be fairly debated. As matters stand now, we reduce the tax burdens of parents with an income of $10,000 in recognition of their parental burdens, but we do not contribute to the parental burdens of a couple with an income of $2,350.

One finds a similar dispersion of benefits among income classes arising from what the Reform Act somewhat paradoxically calls the Low Income Allowance. Though enacted for the avowed purpose of relieving the poor of taxation, the allowance is structured in such a way that $3.00 is put in the hands of the nonpoor for every dollar put in the hands of the poor, as that class is defined by Congress. Whereas the revenue loss from the Low Income Allowance is estimated at $625 million, the revenue loss estimated from use of the Low Income Allowance by the nonpoor (that is, from elimination of the phase-out) is $2.027 billion.[150] As with personal exemptions, the $1,100 Low Income Allowance is available not only to the poor but to all taxpayers who choose to take advantage of it. To some extent dispersion of the benefits of the Low Income Allowance (and of personal exemptions) beyond the needy is inevitable. One could hardly provide an $1,100 Low Income Allowance to an individual with an income of $1,734 ($1,734 being the Reform Act's Poverty Threshold) and none to an individual with an income of $1,736. It would, however, have been possible to reduce the Low Income Allowance by a dollar (or some fraction thereof) for each dollar the taxpayer's income exceeds $1,735. Congress was not unaware of this possibility. It consciously rejected that possibility and chose, as Table X indicates, to spend $2,027 billion in making the Low Income Allowance available to all taxpayers regardless of their income.

TABLE X

Adjusted gross income class (thousands)	Revenue loss: Low income allowance (millions)	Revenue loss: Elimination of phaseout (millions)
$0 to $3	$552	$202
$3 to $5	72	788
$5 to $7	1	594
$7 to $10		335
$10 to $15		83
$15 to $20		16
$20 to $50		8
$50 to $100		1
Over $100		

Footnotes at end of article.

The Internal Revenue Code thus contains a variety of tax expenditure programs designed in one way or another to maintain income. Many billions of dollars are spent in the implementation of these programs. The aggregate amounts spent rival, if they do not exceed, the estimated requirements of a comprehensive income maintenance system. Though the Code's income maintenance programs contribute significantly to the income of our lowest income strata, by far the greater part of these tax expenditures do not accrue to the benefit of the deprived. Redirection of these tax expenditures would provide the necessary funding for an income maintenance program far more ambitious and more nearly adequate than any of the proposals now receiving serious public consideration.

VI. SUMMARY

The major points may be briefly recapitulated. The basic problem stems from the existence of extensive deprivation in America which results in people who cannot adequately provide for their needs. Though widely deplored, such inadequacies remain unremedied. Financial inability is the reason most commonly advanced to excuse our continued failure to provide for the basic needs of the deprived.

"Not only has it proved impossible to locate funds for such needs; it has proved impossible to forego fiscal dependence on the poor. In recent years, state, local, and federal taxes have taken approximately 28% of the poor's income. Though one of the Reform Act's primary proclaimed purposes was to end fiscal dependence upon the poor, it succeeded in reducing the poor's overall tax burden by less than 10%, from 28% to 26% of their income."

Meaningful amelioration of fiscal dependence upon the poor can be accomplished only by departure from the techniques of deduction and exclusion which have traditionally circumscribed the reach of tax relief measures and channelled their benefits to the privileged. By replacing the network of deductions through which the Code presently channels tax relief with a transfer payment system that restores to each taxpayer who lacks the wherewithal for minimally decent self-support all taxes exacted from him, fiscal dependence on the poor can be eliminated. Such elimination will prove costly, for our present dependence on the deprived is great. However, we do find it possible to spend over $6 million annually on relieving the state and local tax burdens of the more fortunate. Before one resignedly accepts the defense of financial constraint, this program of tax relief for the more fortunate should be re-examined.

The relief of state and local tax burdens is but one example of the ways in which the Internal Revenue Code regressively subsidizes private needs, that is, it is only one of the ways in which the Code distributes benefits not in accordance with need or per capita equality, but in relation to income. Perhaps the clearest example of the Code's regressive subsidization of basic human needs is to be found in the housing area. By means of deductions for residential mortgage interest and real property taxes and the exclusion of the net rental value of owner-occupied housing, the Code spends more than $7 billion annually to support private housing expenditure. Less than 1/6 of that amount is expended directly by the federal government for all housing and community development needs. As with tax relief, so with housing, one finds in the interstices of the Internal Revenue Code expenditure programs that commit vast amounts of public revenues to the service of basic human needs that the deprived also experience but are unable to satisfy.

One could redirect the funds currently tax-spent on housing and tax relief to provide for the same needs among the poor by means of direct or tax expenditures; however, such revisions, though significant, would be but partial approaches to the basic problem of deprivation, that is, the problem of guaranteeing each person an income sufficient to provide the basic essentials of a civilized existence. The Code offers opportunities for escape from the fiscal constraints that have ostensibly blocked a serious attack on the income maintenance problem; for the Code contains a variety of implicit programs directed in one way or another at the maintenance of income. These programs involve annual expenditures well in excess of $25 billion. The amount required to support an adequate income maintenance program of universal coverage is no greater.

Looking beyond the possibilities of redirecting tax expenditures for housing, tax relief, and income maintenance to serve those same purposes in ways that benefit the deprived, one comes finally to the sheer size of the tax expenditure program. That program involved an aggregate revenue loss of over $70 billion in fiscal 1968. Though limiting the efficacy of certain tax avoidance techniques, the Reform Act left the basic structure of the tax expenditure program intact. Indeed, the Reform Act resulted in an increase in the aggregate revenue lost through tax expenditures and its achievments in redirecting these tax expenditures to benefit the deprived are modest indeed. Redirection of a significant proportion of these tax revenues to serve the public and private needs of the deprived would dramatically improve their condition. Whether the interests sacrificed by redirection are of such great relative social value as to warrant their continued support is to my mind highly doubtful. Unhappily, the opportunities afforded by massive redirection of our current tax expenditure program and the moral issues implicated by our current refusal to undertake such redirection have yet to be conscientiously explored by our political leaders.

FOOTNOTES

[1] Act of Dec. 30, 1969, Pub. L. No. 91–172, 83 Stat. 487, codified in various sections of INT. REV. CODE of 1954.

[2] *See* section IV C(1) *infra.*

[3] *See id.*

[4] The concept is normally named for Professors Richard Haig and Henry Simons whose publications—R. HAIG THE FEDERAL INCOME TAX (1921), and H. SIMONS, PERSONAL INCOME TAXATION (1938)—are credited with the early development of the concept. *See also* Schanz, *Der Einkommensbegriff und die Einkommen Steuergesetze,* 13 FINANZ ARCHIV 1 (1896), for an earlier discussion of the concept.

[5] H. SIMONS, *supra* note 4, at 55. *See also* Pechman, *Erosion of the Individual Income Tax,* 10 NAT'L TAX J. 1 (1957).

[6] *See generally* Surrey, *Tax incentives as a Device for Implementing Government Policy: A comparison with Direct Government Expenditures,* 83 HARV. L. REV. 705 (1970).

[7] *See* 1968 SEC'Y OF TREAS. ANN REP 322–41 for official discussion of the tax expenditure concept.

[8] *See, e.g.,* H. SIMONS, *supra* note 4.

[9] Bittker, *Accounting for Federal "Tax Subsidies" in the National Budget,* 22 NAT'L TAX J. 244 (1969); *contra,* Surrey & Telmuth, *The Tax Expenditure Budget—Response to Professor Bittker,* 22 NAT'L TAX —. 528 (1969). *See also* Bittker, *"A Comprehensive Tax Base" as a Goal of Income Tax Reform,* 80 HARV. L. REV. 925 (1967); Musgrave, *In Defense of an Income Concept,* 81 HARV. L. REV. 44 (1967); Pechman, *Comprehensive Income Taxation; A Comment,* 81 HARV. L. REV. 63 (1967).

[10] Table I is set out in section II C *infra.*

[11] 1968 SEC'Y OF TREAS. ANN. REP. 327.

[12] *Id.* at 326–30.

[13] *See, e.g.,* Surrey, *supra* note 6.

[14] H.R. REP. No. 91–413, 91st Cong., 1st Sess., pt. 1, at 8–12 (1969).

[15] *See* section II *infra.*

[16] *See* section III *infra.*

[17] *See* section IV *infra.*

[18] H.R. REP. 91–413, *supra* note 14, pt. 1, at 201–04.

[19] Tax Reform Act of 1969, § 802 [hereinafter cited as Reform Act], INT. REV. CODE of 1954, § 141.

[20] *See* section IV *infra.*

[21] *See* section V *infra.*

[22] Table I is set out at the end of this section II, *infra.*

[23] *See* Table I: item 25, exclusion of the imputed net rental value of owner-occupied housing; item 44, standard deduction; items 45 and 46, low income allowance; item 47, personal exemptions; item 60, capital gains treatment changes; item 61, minimum tax; item 62, trust rule changes.

[24] 1970 COUNCIL OF ECONOMIC ADVISORS ANN. REP. 249.

[25] *Id.*

[26] *See* Table I, *infra.*

[27] *See generally* Pechmann, *supra* note 5.

[28] H.R. REP. No. 91–413, *supra* note 14, pt. 1, at 8–12.

[29] Reform Act § 301, INT. REV. CODE of 1954, §§ 56–58.

[30] *See* section II B(3)(a) *infra.*

[31] Reform Act §301, INT. REV. CODE of 1954, § 57.

[32] Reform Act § 301, INT. REV. CODE of 1954, § 56(a).

[33] The .0087 figure is calculated by dividing total income ($250,000) into the minimum tax ($2,171).

[34] Reform Act § 511, INT. REV. CODE of 1954, § 1201.

[35] Reform Act § 513(a), INT. REV. CODE of 1954, § 1211(b).

[36] Reform Act § 513(b), INT. REV. CODE of 1954, § 1212(b).

[37] Reform Act § 515, INT. REV. CODE of 1954, §§ 72, 402–03.

[38] Treas. Reg. § 1.421–6(d) (1959).

[39] Reform Act § 321, INT. REV. CODE of 1954 § 83.

[40] 157 F.2d 235 (2d Cir. 1946), *cert. denied,* 330 U.S. 826 (1947).

[41] Bell v. Harrison, 212 F.2d 253 (7th Cir. 1954).

[42] Reform Act § 516(a), INT. REV. CODE of 1954, § 1001(e).

[43] Reform Act § 804, INT. REV. CODE of 1954, § 1348.

[44] Reform Act § 804, INT. REV. CODE of 1954, § 1348(b)(1).

[45] Reform Act § 804, INT. REV. CODE of 1954, § 1348(a).

[46] Reform Act § 804, INT. REV. CODE of 1954, § 1348(b)(2)(B)(ii).

[47] 364 U.S. 361 (1960).

[48] Reform Act § 301, INT. REV. CODE of 1954, § 57(b).

[49] Reform Act § 221, INT. REV. CODE of 1954, § 163(d).

[50] Reform Act § 301, INT. REV. CODE of 1954, § 57(b).

[51] *See also* INT. REV. CODE of 1954, §§ 264–65, which limit the deductibility of interest paid on funds borrowed to buy tax exempt securities or to carry life insurance.

[52] Reform Act § 201, INT REV. CODE of 1954, § 170(e)(1)(A).

[53] INT. REV CODE of 1954, § 170(e), as in force prior to the Reform Act.

[54] Reform Act § 201, INT. REV. CODE of 1954, § 170(e)(1)(B).

[55] Reform Act § 201, INT. REV. CODE of 1954, § 170(e)(2).

[56] Reform Act § 201, INT. REV. CODE of 1954, § 170(f)

[57] *Id.*

[58] Reform Act § 201(c), INT. REV. CODE of 1954 § 673(b).

[59] Reform Act § 201, INT. REV. CODE of 1954, § 170(b)(1).

[60] Reform Act § 201, INT. REV. CODE of 1954, § 170(b)(1)(D).

[61] Reform Act of § 703, INT. REV. CODE of 1954 § 49.

[62] Reform Act of § 521(a), INT. REV. CODE of 1954, §§ 167(j)-(k).

[63] Reform Act § 521(b), INT. REV. CODE of 1954, § 1250.

[64] Reform Act §§ 521, 704–07, INT. REV. CODE of 1954, §§ 165(k), 169, 184, 185, 187, and 263.

[65] Reform Act § 501, INT. REV. CODE of 1954, § 613.

[66] *Id.*

[67] A typical transaction would be the sale by an oil well owner of 25% of the proceeds to be received from the sale of oil from his oil well up to $10,000, with the sale price being discounted to take account of both the anticipated timing of the payments and the risk of interruption in production or payment.

[68] Reform Act § 503, INT. REV. CODE of 1954, § 636.

[69] For example, *A* might sell an oil property to *B* for $1,000,000, retaining an interest in 75% of the proceeds subsequently to be received from the sale of oil from that property, up to a maximum of $2,000,000; *A* simultaneously sells this retained interest to *C* for an amount discounted to take account of the anticipated timing of the payments and the risk of interruption in production or payment.

[70] *See* section II B(1) *supra*.

[71] The so-called phase-out of Low Income Allowance is a provision designed to ensure that the benefits of the Allowance accrue only to the poor. As more fully described below (section IV B *infra*), the Low Income Allowance has the effect of shielding from tax $1,100 of a taxpayer's income in excess of his personal exemptions. To limit the benefit of the Low Income Allowance to lower income groups, the Reform Act provided that the amount of the allowance in excess of whatever minimum standard deduction would have been available to the taxpayer prior to the Reform Act should be reduced as a taxpayer's income increased. This excess of the Allowance over the previously available minimum standard deduction was dubbed the Additional Allowance; and for every dollar that a taxpayer's income exceeded the sum of the Low Income Allowance plus applicable personal exemptions (a sum equalling $1,700 in the case of a single individual), this Additional Allowance was reduced by 50 cents. This reduction (dubbed the phase-out), was, however, only a transitional mechanism effective for 1970. For 1971 the phase-out reduction is only 6⅔ cents per dollar, rather than the 50 cents per dollar for 1970. For all years after 1971, the phase-out is eliminated, and the cost of its elimination is estimated at $2.027 billion more than three times the cost of the Low Income Allowance prior to the phase-out elimination. *See* note 151 *infra*.

[72] Due to the difference in base years, the magnitude of changes in tax expenditures resulting from the Reform Act is overstated. *See* note 74 *infra* for further explanation.

[73] These accomplishments should not be overlooked. By limiting the rate of tax applicable to earned income to 50% while eliminating the alternative rate of tax for capital gains over $25,000 and subjecting capital gains to the minimum tax, the Reform Act substantially narrowed the disparity between taxes imposed on capital gains and earned income.

[74] Except as noted below, the amounts shown in Table I for each tax expenditure are taken from the 1968 SEC'Y OF TREAS. ANN. REP. 322–41, and the amounts shown for the change in tax expenditure arising from the Reform Act are taken from H.R. REP. No. 91–413, *supra* note 14, or S. Rep. No. 91–552, 91st Cong., 1st Sess. (1969), or estimated from the foregoing reports and H.R. No. 91–782, 91st Cong., 1st Sess. (1969) as appropriate. Inasmuch as the amounts shown in the 1968 SEC'Y OF TREAS. ANN. REP. refer to the fiscal year 1968 and the amounts shown in the reports pertaining to the Reform Act are longrun estimates, the amount of charge in tax expenditure relative to the absolute amount of tax expenditure shown should be discounted to take account of rising tax revenues and expenditures. The following entries are not based upon the above-mentioned sources but upon the author's estimates: item 47, personal exemptions, and item 25, exclusion of the imputed net rental value of owner-occupied building.

[75] The figure of $1,005 million includes reduction in depreciation allowances with respect to housing depreciation which appears in item 26.

[76] This figure is also shown in item 24 under Community Development and Housing.

[77] *See* 1968 SEC'Y OF TREAS. ANN. REP. 322–41.

[78] *See* Keith, *An Assessment of National Housing Needs*, 32 LAW & CONTEMP. PROB. 209, 209–13 (1967).

[79] *See* C. RAPKIN, THE PRIVATE RENTAL HOUSING MARKET IN NEW YORK CITY (1965).

[80] P. DODYK *et al.*, CASES AND MATERIALS ON LAW AND POVERTY 1–3 (1969).

[81] KEITH, *supra* note 19, at 215–18.

[82] *See* Table I, section II *supra*, items, 23, 24, and 25.

[83] INT. REV. CODE of 1954, § 163.

[84] INT. REV. CODE OF 1954, § 164(a)(1).

[85] *See* Table I, section II *supra*, items 23 and 24. Estimates of tax loss are taken from 1968 SEC'Y OF TREAS. ANN. REP. 337.

[86] No official estimate of the tax loss arising from the exclusion of owner-occupied housing for any relevant period could be located. The author's estimate of $2.6 billion is based on the estimate made by R. GOODE, THE INDIVIDUAL INCOME TAX 120–30 (1964), and adjusted to 1968.

[87] This justification becomes increasingly difficult to maintain as the Treasury makes more and more inroads on the deductibility of interest in other contexts. *See* INT. REV. CODE OF 1954, §§ 163(d), 265.

[88] *See* R. GOODE, *supra* note 86, at 175–79.

[89] 1970 COUNCIL OF ECONOMIC ADVISORS ANN. REP. 251. Including net lending, community development and housing expenditures for 1968 aggregated $4.076 billion.

[90] A taxpayer's marginal rate of tax is, of course, the rate of tax applicable to the last or highest dollar of income he received. Thus, under the rates in effect for 1970, a married taxpayer filing a joint return with a taxable income of $25,000 would pay $5,660 plus 36% of the excess over $24,000. Such a taxpayer's marginal rate of tax is thus 36%. The appropriate measure of the tax benefit to him of a deduction of $1,000 is the $360 in tax saved by reducing his taxable income from $25,000 to $24,000.

[91] Table II is set out at the end of section III.

[92] Table IV is set out in section IV C(1) *infra*.

[93] The amounts shown in Table II for real estate taxes and mortgage interest deducted are taken from INT. REV. SERV., 1968 STATISTICS OF INCOME 68, 71. The amount of the exclusion shown for the imputed rental value of owner-occupied housing was determined as described in note 86 *supra*. The amounts shown are for taxable returns only, the data being insufficient to distribute deductions appearing on nontaxable returns among the adjusted gross income classes. The figures shown accordingly exclude $427,694,000 of real property taxes and $471,136,000 of mortgage interest deducted on nontaxable returns. The amounts of excluded net rental value of owner-occupied housing have been distributed among adjusted gross income classes in the same proportion as real estate tax deductions. The revenue loss for real estate tax deductions, mortgage interest deductions, and exclusion of the imputed rental value of owner-occupied housing for each adjusted gross income class has been computed by calculating the average taxable income per return for each such class and multiplying the rate of tax applicable to such taxable income by the aggregate amount of deduction or exclusion shown for that class. The figures derived by such computations are significantly higher than those shown in the 1968 SEC'Y OF TREAS. ANN. REP. 340 and in Table I. The distribution of housing benefits among adjusted gross income classes is distorted by the above-mentioned exclusion of nontaxable returns and by disregard of the effect of the standard deduction. If one accepts the view that some portion of the revenue lost by virtue of the standard deduction is properly attributable to the real estate tax and mortgage interest deductions in lieu of which, *inter alia*, the standard deduction is taken, some adjustment of Table III would be required, for inclusion of some part of the standard deduction would doubtless increase the relative amounts of housing aid accruing to the lower and the lower-middle adjusted gross income classes.

[94] "It is almost unanimously agreed that some exemption keyed to at least a minimum subsistence standard of living is desirable." Blum & Kalven, *The Uneasy Case for Progressive Taxation*, 19 U. CHI. L. REV. 417, 420 (1952).

[95] A single taxpayer with an adjusted gross income of $667 would be entitled to take a standard deduction of $67 and a personal exemption of $600, thereby reducing his taxable income to zero.

[96] INT. REV. CODE of 1954, § 141.

[97] HOUSE WAYS AND MEANS COMM., 91st Cong., 1st Sess., UNITED STATES TREASURY DEPARTMENT, TAX REFORM STUDIES AND PROPOSALS (Comm. Print 1969).

[98] *Id.*, pt. 1, at 74.

[99] *Id.*

[100] *Id.*

[101] H.R. REP. No. 91–413, *supra* note 14, at 204.

[102] 1970 COUNCIL OF ECONOMIC ADVISORS ANN. REP. 209.

[103] Figures for the "Post Reform Act Taxability Threshold" and the "1966 H.E.W. Poverty Threshold plus 6%" columns are taken from H.R. REP. No. 91–413, *supra* note 14, at 204, 206.

[104] 1964 COUNCIL OF ECONOMIC ADVISORS ANN. REP.

[105] Orshansky, *Counting the Poor: Another Look at the Poverty Profile*, 1965 SOCIAL SECURITY BULL. 3, 6.

[106] *Id.*

[107] *Id.* at 5.

[108] *Id.* at 10.

[109] *Id.* at 7–9.

[110] Orshansky, *Who Was Poor in 1966*, in CHILDREN'S ALLOWANCES AND THE ECONOMIC WELFARE OF CHILDREN 20–21 (E. Burns ed. 1968).

[111] It is, of course, "normative"—that is, an attempt to state the quantity of funds a family should have to meet minimal standards of health and common decency—to the extent that it is based on the Department of Agriculture's nutritional standards.

[112] "Post Reform Act Taxability Threshold" figures are taken from H.R. REP. No. 91–413, *supra* note 14, pt. 1 at 204; "New York State Maximum Welfare Budget" figures were obtained from the New York City Human Resources Administration.

[113] Rev. Rul. 68–38, 1968–1 CUM. BULL. 446; Rev. Rul. 57–102, 1957–1 CUM. BULL. 26; I.T. 3447, 1941–1 CUM. BULL. 191–92.

[114] TAX FOUNDATION, TAX BURDENS AND BENEFITS OF GOVERNMENT EXPENDITURES BY INCOME CLASS, 1961 & 1965, at 14, 24. To compare the relative impact of different federal taxes on the poor, of course, requires certain assumptions concerning the incidence of indirect taxes, and these assumptions may be questioned. Without arguing the point, it

should be noted that the impact of the different taxes shown in Table V assumes that excise, customs, and payroll taxes fall on the consumer and that corporate taxes fall equally on the consumer and the shareholder.

[115] 1970 COUNCIL OF ECONOMIC ADVISORS ANN. REP. 251.

[116] TAX FOUNDATION, *supra* note 114, at 14, 24.

[117] 1970 COUNCIL OF ECONOMIC ADVISORS ANN. REP. 257.

[118] J. PECHMAN, FEDERAL TAX POLICY 275 (1971).

[119] The $6.2 billion figure is taken from Table VII and derived as described in note 93 *supra*. For the reasons there stated, this figure is significantly higher than those shown in the 1968 SEC'Y OF TREAS. ANN. REP.

[120] *See* items 54–59 of Table 1, section II C *supra*.

[121] Table II is set out in section III *supra*.

[122] The amounts shown in Table VII for real estate taxes, general sales taxes, state and local income taxes, and total taxes are taken from INT. REV. SERV., 1968 STATISTICS OF INCOME 68. *See* note 93 *supra*, for explanation of the derivation of the revenue loss by adjusted gross income class. The "Total Taxes" column includes taxes other than those detailed in the previous three columns: the table consequently does not "cross-foot."

[123] This is the amount of revenue loss anticipated to accrue to taxpayers recognized by the Congress as poor by virtue of the Low Income Allowance. *See* item 45 of Table I, set out in section II C *supra*. It should be noted that since the Congress defined the target class to be benefitted by the Low Income Allowance in an excessively restrictive fashion but at the same time allowed all taxpayers to claim the benefit of the Low Income Allowance, some portion of the $2.027 billion in revenue lost due to elimination of the phaseout (item 46 of Table I) will accrue to persons who by any reasonable definition are deprived.

[124] P. DODYK, *supra* note 80, at 1–3.

[125] *Id.*

[126] *Id.* at 2.

[127] *See* section IV D *supra*.

[128] It would be possible to integrate into the Internal Revenue Code a transfer mechanism that would pay over to the poor taxpayer the difference between the amount of his housing expenditure and a certain percentage of his income, subject to whatever limitations might be thought appropriate. For example, the program might be designed to pay to the deprived taxpayer the amount by which his housing costs exceeded 25% of his income up to a limit of $250 per family member per year. A family of four with an income of $3,000 paying $1,200 annually in rent would then receive $450 (*i.e.*, $1,200–[.25 x $3000]).

[129] That is, the tax relief and housing subsidy possibilities mentioned above. *See* section IV D and note 128 *supra*.

[130] *See* note 113 *supra*.

[131] INT. REV. CODE OF 1954, §§ 37, 151 (c).

[132] *See* item 27 of Table II, section II C *supra*.

[133] INT. REV. CODE 1954, §§ 104 and 105; *see* item 29 of Table I, section II C *supra*.

[134] I.T. 3230, 1938–2 CUM. BULL. 136–37; Rev. Rul. 55–652, 1955–2 CUM. BULL. 21; *see* item 30 of Table I, section II C *supra*.

[135] Rev. Rul. 54–19, 1954–1 CUM. BULL. 179; *see* item 31 of Table I, section II C *supra*.

[136] Rev. Rul. 57–102, 1957–1 CUM. BULL. 26; *see* item 32 of Table I, section II C *supra*.

[137] *But see* Rev. Rul. 56–249, 1956–1 CUM. BULL. 488; *see* item 38 of Table I, section II C *supra*.

[138] INT. REV. CODE of 1954, §§ 401–07, 501; *see* item 33 of Table I, section II C *supra*.

[139] INT. REV. CODE of 1954, §§ 401–07; *see* item 34 of Table I, section II C *supra*.

[140] INT. REV. CODE of 1954, §§ 801–20; *see* item 40 of Table I, section II C *supra*.

[141] Tax expenditures taken from 1968 SEC'Y OF TREAS. ANN. REP. 322–41.

[142] Of all transfer payments made in the United States, only about 50% reach the poor. *See generally* C. GREEN, NEGATIVE TAXES AND THE POVERTY PROBLEM (1967). Green's estimates of the proportion of Social Security and other transfer payments accruing to the needy is based on 1961 data.

[143] *See* section IV C(1) and text accompanying notes 124–26 *supra*.

[144] The simplest program of transfer mechanisms designed to assure acceptable minimum standards of income would pay to the needy individual the difference between his income and such minimum standard. However, for all individuals whose employment brought them an income less than or approximating this standard, the prospect of receiving the same income without working might prove an irresistible temptation to lassitude. Consequently, most proposals designed to assure acceptable minimum standards of income also incorporate provisions designed to encourage employment by permitting the taxpayer to retain some portion of the government payment, even though such payment, when added to that person's earnings, would result in his receiving more than the minimum income established by the standard. A typical example of such provision would reduce the government payment by $1 for every $2 received through employment. Such a policy would encourage the retention of employment, but would involve substantial costs in excess of the so-called poverty gap.

[145] *See* P. DODYK, *supra* note 80, at 305–17.

[146] Reform Act § 801, INT. REV. CODE OF 1954, § 151.

[147] *See* item 47 of Table I, section II C *supra*.

[148] Exemptions claimed taken from INT. REV. SERV. 1968 STATISTICS OF INCOME. *See* note 93 *supra* for explanation of the derivation of the revenue lost by adjusted gross income class.

[149] A taxpayer with a family and an income of $10,000 receives a tax reduction equal to his marginal rate of tax multiplied by $625 for each dependent. However, a family with an income of $2,300 would receive no tax benefit because of dependent children, their income being fully shielded from tax by virtue of the husband's and wife's personal exemptions and their Low Income Allowance.

[150] *See* note 71 *supra* for an explanation of the "phase-out" and its relation to the Low Income Allowance. It should be noted that the $2.027 billion is an estimate of the revenue loss arising from elimination of the particular "phase-out" of benefits adopted by Congress as a transitional measure. That phase-out was the reduction of the Low Income Allowance by $1 for every $2 by which the taxpayer's income exceeded the congressionally adopted Taxability Threshold. Different patterns of phase-out would entail greater or lesser revenue losses depending on the degree to which the Allowance is reduced as income rises.

[151] Table X sets forth the distribution among adjusted gross income classes of the benefits of the Low Income Allowance. The revenue loss shown under the caption "Low Income Allowance" represents the loss of tax revenue by virtue of the Allowance being claimed by the poor (as defined by Congress). The revenue loss shown under the caption "Elimination of Phaseout" represents the loss of tax revenue by virtue of the programmed abolition of the reduction of the Allowance by $1 for each $2 by which the taxpayer's income exceeds the Reform Act's Taxability Thresholds. H.R. REP. No. 91–413, *supra* note 14, pt. 1 at 13. *See also* note 71 *supra*.

Mr. HOLLINGS. Mr. President, before directing my remarks specifically to the President's program and the bill at hand and in time my amendments, let me emphasize that I do not come with tears for the hungry poor. I come with economic sense and justice for all America.

Already tax experts steeped in the field have analyzed the pinch.

Already States within this Republic responding to this pinch have enacted specialized tax measures to really give for the first time relief to the needy.

During the past decade the States of Wisconsin, Minnesota, California, Vermont, and Kansas have all enacted the circuit-breaker tax.

These measures recognize the tax overload that has fallen upon aged citizens in the property tax field, that the real estate tax as a percentage of income on these senior citizens is far out of proportion to their ability to pay.

These tax measures are similar in principle to the circuit-breaker that prevents electrical overload.

My measure is not presented as a half-baked gimmick but one going to the heart of the problem, one that is economically sound, fiscally responsible and legal.

It promotes social justice as well.

Mr. President, any economic legislation which wins the imprimatur of the United States Congress should answer in the affirmative two central questions:

First. Is it fair?

Second. Will it work?

I submit today that the economic program put forward by the administration falls short in both respects. It is not the most efficient of the methods available. And in many important respects, it is not equitable. It is laced with intolerable favoritism.

Nobody faults the President for changing course. Lord knows how many of us stood in the well of the Senate and pleaded for new directions in policy. And some of the initiatives taken should command the support of us all. I supported the freeze, and I support the implementation of the Pay and Price Boards. I support the import surcharge. And I support the cut in Government spending, although not the discrimination against Government employees.

But from there on, I find the administration proposals contrary to good economic sense and contrary to elemental fairness toward the average American. I find the President seeking refuge—or escape—in the shopworn theories of the long-dead past. He is the prisoner of that old shibboleth—the percolater theory of economic progress. According to that dismal and long since disproved concept, the way to bring prosperity is to enrich the wealthy few at the top, and then sit back and wait until some of their money trickles slowly through to the rest of the people. When the captains of industry and the leaders of finance prosper, so the percolator has it, everyone will prosper. It is the old idea that "What is good for General Motors is good for the country."

The fact of the matter is that the President's economic proposals are blatantly probusiness. He has come forward with plans to grant tremendous tax concessions to business and industry, on the theory that if big business is stimulated, every other sector of the economy will prosper. That, Mr. President, is economic nonsense.

We all know that the tax bill is going

to contain some kind of investment tax credit. The administration asked for 10 percent; the committee bills of the Congress provide 7 percent. Now, it is all well and good to modernize our industrial plant. If our hoped for prosperity is to be thorough and long-lasting, the American industrial sector is going to have to do more in the way of increasing productivity. The investment tax credit can help business do that.

But it cannot bring prosperity of and by itself.

Today we are utilizing 73 percent of America's productive capacity. Twenty-three percent of our machinery stands idle. Almost 6 percent of the labor force walks the street in joblessness. The economy needs a quick shot in the arm. And it will not get that needed shot by increasing our productive capacity so that instead of 27 percent we can have 40 percent or 50 percent of our industrial capacity going unused.

The advocates of reinstituting the investment tax credit argue that it brought us prosperity in the Sixties. Economists know differently. It was only when the tax credit for business was combined with the tax cuts for individuals that the economy really took off.

Mr. President, I have long advocated a program aimed at stimulating consumer demand. The only thing which can get those factory furnaces fired again is the purchasing power of the consumer. As I heard a distinguished economist say the other day, "The quickest way to profits is through the stomach of the consumer." You can have all the latest machinery, all the fancy technology and push-buttons in the world—but unless Mr. and Mrs. Average American have an incentive to buy, the economy is in deep trouble. The sooner that both Mr. Nixon and big business learn that lesson, the sooner they will have the prosperity they desire.

So, Mr. President, while the investment tax credit can serve a needed purpose in helping the economy toward long-term growth, its immediate effects are inadequate to the task of restoring prosperity. In order to encourage business to take advantage quickly of the investment tax credit, I believe there should be a time limit on its duration. A limitation on the order of 2 to 3 years would add push and impetus to the credit.

Earlier this year, business received a depreciation windfall of $3.9 billion. When combined with the investment credit we are considering today, these two tax breaks provide too much favoritism for business. Most economists believe that the stimulus of the investment tax credit is more direct and speedier than the depreciation write-off. I agree. And I would like to see accelerated depreciation end. The $3.9 billion break could much more effectively be distributed elsewhere in the economy.

When you come right down to it, there is precious little for the average taxpayer in the new proposals. Except for the low-income allowance, the tax reductions provided in the bill before us are simply speedups of changes approved by Congress in 1969. And I would suggest that we look at that $300 increase in the low-income allowance a little more closely. What that does is establish that families living in poverty simply will not have to pay income taxes in 1972 and thereafter. That is all well and good, Mr. President—but as you know, that principle was agreed to 3 years ago. When you clear away all the rhetoric, you can see that for a family of four with an income of $4,300—the poverty level—this bill is only going to save that family $20 this year. As far as meaningful tax relief and an economic incentive to spend go, $20 is a drop in the bucket.

The Senate must consider more direct and more effective individual tax incentives. The case for a postponement in scheduled social security tax increases is overwhelming. The scheduled $7.5 billion increases for 1972 would just about wipe out the gains from all the other tax incentives.

Mr. President, as we tackle the immense problem of putting our economic house in order, it is of paramount importance to guarantee simple justice to all members of American society. We have been witnessing since the mid-sixties an unprecedented erosion of confidence in Government. This loss of faith has already cost us far too much. Should it continue, our institutions will not escape profound, and unwise, change. Confidence in Government is founded on trust. And trust, in turn, depends upon simple equity. Unless every citizen knows that his or her Government is dealing fairly and without favoritism, there will be mistrust in the land. That applies to economic policy as much as to any other realm of decisionmaking.

What the economy needs as much or more than anything else is a return to confidence. The best way to get that kind of confidence is to return to our citizens the fullest possible measure of buying power.

Today I am introducing proposals on behalf of a large segment of Americans completely forgotten in the President's economic package. I am talking about direct financial relief for the poor. For those who reap no benefit from income tax exemptions. For those denied work. For the 15 million hard-core hungry in America. In the halls of government, the compromises and tradeoffs have always been between the haves and have-somes. The have-nots have almost always been overlooked. It is time we do something about them. In doing so, we will also be prodding the economy and moving it forward.

My program focuses on three of man's most basic needs—food, shelter, and education. It would return cash to eligible households for expenditures made on these essential items. This will stimulate more demand for goods and services. And, in turn, the fires of our factory furnaces will be lighted again.

First, I propose a direct payment to each poverty household in the form of sales tax relief based upon the amount of sales taxes paid in the purchase of food. The impact of sales taxes is far greater for those with little income, since a greater percentage of their meager funds must be spent on life's necessities. Indeed, in 1965, sales taxes took a 6.1-percent bite out of family incomes that were under $2,000, whereas a family making above $15,000 pays only about 1 percent in sales taxes. That is economic discrimination of the worst kind. It is unjust. And it makes no economic sense, either. A detailed explanation of the mechanics of this proposal accompanies the text of my amendment, and I ask unanimous consent at this time that both the amendment and the text of the explanation be included at the end of my remarks.

Mr. President, 30 months after the President's promise to end hunger in America, 45 percent of the poor remain unserved by a family feeding program. Two Thanksgivings after the President's promise to provide free or reduced-cost school lunches, nearly 2 million children are left without food. In denying them food, we break their human spirit. And we also wreak untold harm on the American economy.

Second, I will propose property tax relief to every poor household to reimburse it for State and local property taxes paid either as a homeowner or as a renter. The property tax is universal. It is also inequitable, falling hardest upon the poor. Families with incomes in excess of $15,000 require only 1.4 percent of their income to meet property taxes. Families whose income falls under $2,000 are compelled to spend an average 8.5 percent of their scarce dollars on property taxes. And over 3 million low-income homeowners pay over 10 percent of their incomes in property taxes.

Some States have already taken steps to provide property tax relief for the elderly. Five States—California, Minnesota, Wisconsin, Vermont, and Kansas utilize what is called the "circuit breaker" approach. Just as a mechanical circuit breaker prevents electrical overload, so does the circuit breaker I propose prevent a tax overload on the poor.

The property tax rebate would be equal to the State and local amount actually paid by homeowner households. We know also, of course, that persons who rent pay property taxes indirectly. So for those who pay rent, the relief would be calculated as 20 percent of their annual rental payments. A household of four paying $80 a month rent—$960 a year—would receive a $192 payment. I shall include a phase out provision, whereby the relief payment for sales and property taxes would be reduced by 50 cents for every $1 in income over the poverty level.

Third, I will propose tax relief to American families in the form of partial reimbursements for the cost of providing a child's trade school or higher education. A tax credit would be given for part of the expenses incurred for a dependent's schools tuition, books, and equipment. The credit would be calculated on a sliding scale with a $325 maximum. Should the credit exceed the tax liability, a positive payment would be made to the taxpayer.

The sliding scale favors those whose children attend low-tuition schools, because credit is given on a maximum $1,500 as follows: 75 percent of the first $200, 25 percent of the next $300, and only 10 percent of the remainder. To illustrate, a family earning $4,000 and

spending $300 to put a child through trade school or college would receive a $175 credit. Seeing this family has no income tax liability, it would receive a payment in that amount. A family earning $15,000 and paying $1,200 toward a child's higher education would receive a credit of $295.

A similar provision has passed the Senate on two previous occasions. The most recent was in December 1969, when the distinguished Senator from Connecticut (Mr. RIBICOFF) sponsored it as an amendment to the Tax Reform Act. Regrettably, it was deleted in conference.

In the future, Mr. President, I would like to see us go far beyond the programs for education that we now have. I believe nobody should be deprived of an education because of financial inability to pay. I believe that every young man and woman with the desire to learn is entitled to a paid education. It is time to take the dollar sign off the development of the next generation's brains. It is time to guarantee free higher education to all.

The three specific measures which I will introduce would pump something on the order of $3.5 billion back into the economy. They put money into the hands of those who need it most and who are most likely to spend it, thereby giving an immediate shot in the arm to our ailing economy. I should also point out that these programs in no way interfere with State and local tax collections or revenue sources. The tax relief envisioned would come through payments on the Federal level.

My program meets the two crucial tests mentioned at the outset. Will it work? Yes. It is based on our real economic needs, and addresses itself to the critical problems of underconsumption and underutilization of our economic resources. Is it fair? Yes. It gives everyone a break and avoids the shameful favoritism running through the administration tax proposals. It recognizes that the backbone of America is still the little man—just as it has always been the little man.

The promise of America—the promise which uprooted 40 million people and brought them across the oceans to a new land—was liberty and justice for all. That is really what we are discussing today as we confront the parceling out of economic benefits. In the practical world of economics, a society's professed values and ideals are confronted and tested. I hope that in the decisions we take here in Congress, our deeds will match our rhetoric. The American people hope so, too.

Mr. President, the President's recommendations of August 15 almost become a matter of law. When he talks about automobile excise taxes, investment tax credit, accelerated depreciation, increasing the income tax exemptions and everything else, it almost automatically goes to the House Ways and Means Committee without any real chance of debate. All amendments almost automatically are passed by the House of Representatives. Then they are acted upon by the Finance Committee here. And for the first time on the floor do we have a chance to submit amendments to try to get for the poor of America some money which may go as a result immediately into consumerism or into the economic bloodstream.

Let me emphasize the number of poor families that this would immediately have an impact upon, because so often we miss the fact that we have in this country over 3,377,300 families—that is 6.7 percent of all families—who make under $2,500 a year. That is $200 a month. That comprises more than 10 million persons.

Let me emphasize this point. This is not a tax cut. We will hear all of the arguments about the cost of this measure and the deficit, I am sure.

We will say, "How will we balance the budget?"

I do not believe the President, when he spoke on television, was trying to balance the budget. He was trying to find out how to spread around $30 billion in the economy to get it moving. We spread it around.

On the one hand, he said:

> We will have a surcharge tax to help domestic industry. However, to make sure we help the multinational corporation, we will pick up $1 billion and put it in the direct sales thing. Then we have the investment tax credit.

Former Senator Everett Dirksen, the former distinguished minority leader, had something to say to this on July 30, 1969, a little over 2 years ago.

I was sitting in the Chair when former Senator Dirksen said that it was one of the worst things we had on the books, referring to the investment tax credit. He said that the Finance Committee had had extensive hearings and found that this was contributing more than any one thing to inflation.

When we get to the particular proposal of the President, he characterizes it as job development. Business also gets accelerated depreciation because they say they want to keep industry moving and they want to get the economy moving.

I will support the President in his economic mission. I will support the President's surcharge. I will support him in his restriction on salaries. I will support him in his cutting of Government employees. I will support the investment tax credit.

Mr. President, this whole thing is best exemplified by an article published in yesterday's Washington Post written by Walter Heller, Chairman of the President's Economic Advisory Council from 1961 to 1964.

He expresses my feelings on this particular score of investment tax credit and other economic measures taken by the President.

As Mr. Heller said in his article:

> For better balance in the tax bill and to protect the revenues for the longer pull, the Senate should drop the depreciation liberalization (ADR's) completely and limit the 7 percent investment credit to a 2 or 3 year period.

Mr. President, I ask unanimous consent that the entire article by Mr. Heller be printed at this point in the RECORD.

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

[From the Washington Post, Nov. 14, 1971]

HELLER: EXPANSION A MUST

(By Walter Heller)

(NOTE.—Dr. Heller, a former Economic Council chairman under Presidents Kennedy and Johnson, wrote the following article at the request of The Washington Post. He presently is professor of economics at the University of Minnesota).

Conventional economic wisdom associates stimulation of demand with an increase in inflationary pressures. The fear of these pressures has perhaps stayed the hand of the White House in its new economic program. Why else would it have accompanied its bold wage-price and international monetary initiatives on Aug. 15 with such a weak-kneed program of fiscal stimulation?

The wait-and-see attitude at the Federal Reserve Board may also reflefict a fear of rekindled excess demand inflation—wait and see if that $100 billion year really develops without moving from a supportive to an aggressive policy of monetary expansion.

The traditional answer to the "take-it-easy, inflation-is-just-around-the-corner" approach to economic expansion is based on the existing $70 billion GNP gap, 6 per cent unemployment, and 73 per cent operating rates in manufacturing. With this much slack, and no bottlenecks in sight, rising demand will express itself in rising output, more jobs, and higher incomes, not in higher prices.

At a time when excess demand is $70 billion away—a time when it will take three consecutive annual $100 billion advances in GNP just to catch up once more with our economic potential—bold fiscal and monetary expansion carries little risk of inflation.

But to argue that economic slack will keep expansion from being converted into inflation is essentially a passive or negative argument. Less well understood is the positive argument that, given reasonably effective wage-price restraint in Phase II, strong expansion will actually help subdue inflation. Strong expansion will generate the rising productivity that provides the vital grist for the mills of the Price Commission and the Pay Board in grinding out a more moderate price and wage yardsticks as Phase II progresses.

Rising demand and rising output in today's slack economy quickly translate into rising output per man hour. Overhead costs are spread thinner. As more units of output are produced with the same machinery, equipment and plant, and without a carresponding increase in payrolls, average unit costs of output will fall.

Left to themselves, producers would be sorely tempted to capture most of this productivity surge in higher profits and higher wages, sharing little of their gains with consumers. The genius of an effective incomes policy, of successful Phase II wage-price restraints, will be to nudge business and labor into sharing their gains with consumers and thus convert rising output into receding inflation.

Within broad limits, the more rapidly output rises, the larger will be the productivity advance that the Price and Pay boards have to play with, i.e., to use in setting tough standards for prices and wages without unduly squeezing business profits and labor earnings.

For example, if productivity advances at a 4 per cent clip in 1972, the Pay Board's 5½ per cent yardstick for average pay advances would imply an increase in average unit labor costs of 1½ per cent. But if recovery lags and productivity crawls ahead at only a 2 per cent rate, a 5½ per cent wage standard would imply a 3½ per cent increase in unit labor costs, thereby making it far more difficult for the Price Commission to clamp a tight lid on prices.

On the more optimistic assumption of a 4 per cent productivity advance, converted into a tighter price yardstick and a conse-

quent easing of inflation during 1972, the Pay Board would have less cost-of-living catch-up to build into its 1973 yardstick. It could then lower the 1973 pay standard a notch toward the 3 per cent trend growth in productivity.

In short, since productivity is the name of the game, rapid expansion is vital to the success of Phase II. And, in turn, success in Phase II with translate into more consumer and investor confidence and hence a stronger expansion.

Another vital interlock of expansion is with our international monetary and trade negotiations. On one hand, a successful reordering of exchange parities and a relaxing of trade barriers can make an important contribution to sound economic recovery. But again causation runs the other way as well. How can we expect our trading partners to bear the economic brunt of more expensive exports to us and cheaper imports from us unless we soften the blow by vigorous expansion of U.S. demand?

Given the current softness of many foreign economies, negotiations that will cut their exports and boost their imports are generating great unease and trepidation. To create an atmosphere within which our trading partners can come half way or even more, we must be able to assure them that vigorous U.S. economic expansion will offset much of the adverse trade effect of renegotiated parities and lowered trade barriers.

In other words, U.S. negotiators have to be able to hold out the prospect of a strong favorable income effect as a short-run offset to the negative price effects of U.S. initiative.

Give these imperatives, both the Price Commission and the Pay Board, not to mention our international monetary and trade negotiators, should exact a firm "do-all-possible" pledge from the administration and the Federal Reserve System to assure speedy economic recovery in 1972. With much of the economy other than autos and housing still listless, the President should be calling on the Congress to step up the temporary tax relief in the bill which is now before the Senate.

The Senate should sharply enlarge personal income tax relief. Without compromising federal revenues in the longer run—when they will be needed for high-priority social uses and for the renewed battle against demand inflation when we reach full employment—a temporary tax reduction—for example, a "recover tax credit" of perhaps $100 per married couple—should be enacted for 1972.

This would add another $5 billion to disposable income, thus energizing consumer spending and putting some of our grossly underutilized industrial capacity (roughly a quarter of our manufacturing capacity is idle today) back to work.

Side-by-side with this action, the Congress should declare a moratorium on further payroll tax increase. What economic sense does it make to cut income and automobile taxes to stimulate the economy and then let $7½ billion in new payroll tax hikes in 1972 ($3 billion already in the law plus $4½ billion on the way via H.R. 1) to nullify much of the stimulative effect?

For better balance in the tax bill and to protect the revenues for the longer pull, the Senate should drop the depreciation liberalization (ADR's) completely and limit the 7 per cent investment credit to a two- or three-year period.

In short, bolder expansionary policy is not only the fastest way to generate the jobs we desperately need, boost labor earnings and profits, and create incentives to increase capital spending for new capacity—but given reasonable vigilance in our price and wage boards in Phase II, it will also be an effective engine of disinflation.

Mr. HOLLINGS. Mr. President, I would go next to the property tax reimbursement.

PROPERTY TAX REIMBURSEMENT

The property tax reimbursement provides tax relief to every household whose income is at or below the officially defined Census Bureau poverty level.

As with the food sales tax reimbursement, it would take the form of an annual payment through the Internal Revenue Service.

The payment would be equal to the State and local property taxes actually paid by homeowner households.

We all know that persons who rent pay property taxes indirectly.

Therefore, for those who pay rent, the tax relief would be 20 percent of their annual payments. The article published in the Columbia University Law Review that I just had printed in the RECORD speaks very eloquently on this point.

In operation, this proposal would mean that a household of four paying $80 in rent per month—$960 per year—would receive payment of $192.

The property tax is universal.

It accounts for more than one-fourth of all revenues raised by State and local governments from their own sources.

But its impact is inequitable, falling hardest upon the poor.

Families with over $15,000 in total annual income require only 1.4 percent of their income to meet property taxes.

Families whose income is less than $2,000 are compelled to spend an average 8.5 percent of their meager incomes on property taxes, while 3.1 million low-income nonfarm homeowners actually are assessed over 10 percent of their incomes for this purpose.

To offset the regressive nature of the property tax, particularly where the low-income elderly are concerned, five States—California, Kansas, Minnesota, Vermont, and Wisconsin—have adopted so-called "circuit-breaker" statutes.

These statutes provide a variety of income tax credits or rebates for elderly homeowners, and in some instances renters, whose incomes fall below fixed levels.

In no case, however, is full relief granted.

In other attempts to protect impoverished homeowners from property loss due to nonpayment of taxes, seven States have homestead exemptions and 16 States have a modified homestead exemption tailored to veterans, frequently limited to the disabled.

However, none of these methods is free of discriminatory characteristics.

The Advisory Commission of Intergovernmental Relations advocates the "circuit-breaker" approach as introducing "a badly needed element of modern economic realism and social justice into the administration of the property tax."

There is no reason for not extending such relief to a widow with a houseful of children or an unemployed father with a family since they, too, are forced to carry extraordinary residential tax loads in relation to their income.

The 20-percent figure assigned in connection with rent was selected to guarantee all renters relatively complete relief.

At the same time, calculation of the relief would be administratively simple.

The Wisconsin "circuit-breaker" law assumes that 25 percent of the rental payment goes for property taxes, while the other four States apply the 20-percent factor.

Assuming that all eligible households apply, this form of tax relief would total approximately $1.25 billion.

This projects an average rent for a family of four of $80 per month, or slightly over $190 in annual relief per family.

Written into the property tax reimbursement is a phaseout provision. Under it, the relief payment for the property taxes would be reduced by 50 cents for every $1 in income over the poverty level.

Mr. President, our amendment, No. 654, is the first proposal to help the really hardcore poor of America and reimburse them for taxes paid in accordance with the principle of our law, the principle of our economy, and the principle of our tax practice in this country, adopted and practiced over the years, but never applied to the poor.

Only 2 percent of the Federal income tax burden do the poor carry in America. Therefore, at this particular level it is difficult for us to grapple with the 2 percent.

I think the President has a good family assistance program. A number of Senators on both sides of the aisle have cosponsored revenue sharing to the States and localities for the very same reason. What we are doing is initiating revenue sharing for the poor of America on a merit basis without disturbing the tax base of the local community or the States themselves and without any real impact to the Federal Treasury, but with a tremendous impact to President Nixon's economic proposal before Congress at this time, because it really promotes consumerism more directly than any other measure proposed.

Mr. President, I yield the floor.

Mr. BENNETT. Mr. President, will the Senator yield to me for 15 minutes?

Mr. LONG. I yield 15 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, this proposal was presented to the Committee on Finance and we did not accept it for a number of reasons that seemed very convincing to us.

The Committee on Finance has before it H.R. 1, a bill to amend and improve the welfare program. We will take up that bill as soon as this bill is finally passed. This amendment, if agreed to, probably would make it difficult, if not impossible, for significant welfare amendments to be adopted in that bill because this amendment would cost $1.7 billion. If that much is going to be used for the benefit of the poor people of this country through this kind of device, then obviously we must reduce the amount we could give to them through a more orderly welfare program by a similar amount.

I know one of my colleagues apologized this morning for $1 billion, say-

ing that it is only $1 billion but it is better than nothing. This is $1.7 billion, and it could have a very serious effect on our ability to handle the welfare program.

Second, the benefits of the amendment will be applied on a highly inequitable and unfair basis. I suppose my friend, the Senator from South Carolina, did not realize this, but under many State welfare laws every dollar a welfare recipient receives as a result of this program must be deducted from his present welfare payments. So the amendment would not be increasing his income but just shifting the sources of it.

There are 14 States in which if a person received $100 under this program, he would lose a full $100 of welfare payments. Those States are Colorado, Connecticut, Hawaii, Illinois, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, North Dakota, Pennsylvania, Rhode Island, South Dakota, and Vermont. In the other States he would lose somewhat less than the full $100. The people who live in Mississippi would come off better than anyone else. They would be able to keep 70 percent of their $100 and would only lose $30. But everybody who receives money under this program would lose part of it immediately because under the law it would cause reductions in the person's welfare payments.

Another thing that bothers me about the proposal, and is evident to me that it is unfair, is that it proposes to reimburse the individual for the amount of money paid for State sales taxes on food. If I remember what the Senator said, there are 20 States that have no sales taxes on food. So, in these cases, the Federal Government would be giving these people money they never paid out, a pure windfall, while people who live in States that have paid sales taxes on food would only be reimbursed for all or part of what they have actually paid out.

The Senator assumes, in figuring the tax in those States where there is no sales tax that it should have been 4 percent, so he would "reimburse" the nonexistent tax at a 4-percent rate for food purchases. But what about a man who lives in a State where the tax is 3 percent? He actually paid that out but he would not get back as much as his neighbor in the next State who paid out nothing.

Then the Senator proposes to reimburse a person's property taxes, or if a family lives in rented property, they will be reimbursed for 20 percent of the rent they pay, excluding charges in the rent for facilities and services.

Mr. President, can you imagine the problems of a person who has to sit down and figure how much of his rental charge is for heat, how much is for water, how much is for electricity. He must figure this out because he is not going to be reimbursed for those expenses.

This is a problem that the ordinary taxpayer is going to have a great deal of difficulty figuring out. Moreover, for the first time many of these people will have to file what, in effect, is a tax return in order to get the payment. They do not now file Federal income tax returns. They have not had experience in filing returns. In fact, in recent years, and in this bill, we have eliminated the necessity for many, many low-income people to file tax returns. Now, the Senator, in effect, proposes to undo all this and require all those low-income people to, once again, have to file returns.

We have heard a lot said about the people who make a living making out tax returns and that sometimes their charges are unreasonable. This amendment would create an interesting new field in which they can operate and probably would have to operate because of the competition problems involved for the person on welfare who has never filed an income tax return and is now supposed to figure out how much of his rent is for services which are apart from the actual privilege of living in the building, such as heat, water, and electricity.

It also would seem to me that if this proposal were agreed to then, since local property taxes paid directly or indirectly by low-income taxpayers will be reimbursed by the Federal Government municipalities are going to say: "Let us double these property taxes. We will get twice as much money, but it won't cost our low-income taxpayers anything.

Mr. President, it seems to me that it is amply clear that there is no equity in this kind of proposal. Admittedly these low income people need help. Our committee expects to try to figure out the best way to provide them with help, but this is not the best way; it is arbitrary, it will produce different effects between people earning the same amount of money in different States and it will be a terrible thing to administer.

Imagine the job of checking all these statements of all these poor people with respect to how much of their rent is for water and heat or any other service. Think how much of a job it will be to find out whether the figure they present as 20 percent of their rent is in fact 20 percent of their rent not counting the types of items I mentioned.

These were the reasons, among others, why the committee decided not to add this provision to the tax bill when it was presented to us earlier. I hope the Senate will see it as we have been forced to see it, and not foreclose us from efforts to make proper improvements in the welfare program. Let us not kid these people into believing they are going to get a net increase in their income when actually what is paid to them must be offset against the welfare check they are now getting to the extent of between 30 and 100 percent.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD of West Virginia. Mr. President, will the Senator yield me 1 minute?

Mr. HOLLINGS. Mr. President, I yield 1 minute to the Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENTS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately following the disposition of the pending amendment by Mr. BAYH this afternoon, the amendment by Mr. MILLER dealing with a tax credit be called up; that time on that amendment be limited to 30 minutes, to be equally divided between the mover of the amendment and the manager of the bill; provided further that debate on any amendment thereto be limited to 10 minutes, and that debate on any motion or appeal, with the exception of nondebatable motions, be limited to 10 minutes, to be equally divided between the mover of such and the manager of the bill.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the disposition of the amendment by Mr. MILLER, the amendment by Mr. HARRIS be called up, and that time for debate thereon be limited to 30 minutes to the side, to be controlled equally by the mover of the amendment and the manager of the bill; provided further, that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill. By way of identification of that amendment, it would extend the most-favored-nation status to all countries with which we have diplomatic relations.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at such time as the amendment by Mr. ROTH is called up and made the pending business, there be a limitation of 2½ hours on that amendment, to be equally divided between the mover of the amendment and the manager of the bill; provided further, that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill.

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

Mr. BENNETT. Mr. President, may I have 1 minute to address a question to the Senator from West Virginia?

Mr. BYRD of West Virginia. Yes.

Mr. BENNETT. In adding these additional amendments to the list of the Senator from West Virginia and then talking about how we would start in the morning, the Senator did not mean to assume that we would be handling all these amendments tonight, did he?

Mr. BYRD of West Virginia. It is the intention of the leadership to continue until a reasonably late hour tonight and, hopefully, to act on all the amendments I have enumerated, with the exception of the amendment by Mr. ROTH.

Mr. BENNETT. Has the acting leader timed that out?

Mr. BYRD of West Virginia. Yes; it would be in the neighborhood of 8:30 or 9 o'clock if all time is used on the amendments. I do not think all time will be used on the second amendment to be offered by the distinguished Senator from South Carolina.

I ask unanimous consent that on the amendment to be offered by Mr. PERCY,

cosponsored by Mr. WEICKER, there be a limitation of 3 hours, to be equally divided between the mover of the amendment—either of the two Senators—and the manager of the bill; provided, further, that time on amendments thereto be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill; and the same request with regard to motions or appeals, except nondebatable motions. When I say "the same," I mean the same request as with respect to amendment in the second degree.

Mr. PERCY. Mr. President, reserving the right to object—and I do not intend to object—for the purpose of clarification, would it be the intention of the leadership that the amendment be laid before the Senate tonight?

Mr. BYRD of West Virginia. Yes.

Mr. President, I ask unanimous consent that the amendment by Mr. Percy be laid before the Senate tonight at the close of business.

Mr. BENNETT. Mr. President, would that put the Percy amendment ahead of the Roth amendment?

Mr. BYRD of West Virginia. It would.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I want to congratulate the majority whip for the assiduous way in which he has been expediting the consideration of the amendments, but I was wondering if he could tell us when we might be able to get to third reading of this bill, the way we are going.

Mr. BYRD of West Virginia. Mr. President, I think the manager of the bill would be in a better position to answer that question. I would only hope that we could finish the bill tomorrow, or no later than Wednesday.

Mr. President, I ask unanimous consent that the last 2 minutes not be charged to the Senator from South Carolina.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECOGNITION FOR SENATOR PROXMIRE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the recognition of the two leaders on tomorrow, the distinguished Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

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

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. HOLLINGS. Mr. President, I would like to ask my distinguished colleague from Utah if it is the Senator's position that he supports the President's proposal on the family assistance plan? Is that the Senator's position? Does he oppose this proposal so we can go to work on the family assistance plan?

Mr. BENNETT. The Senator from Utah supports the objective of the family assistance plan and states that the committee should be able to work out a practical program to accomplish that purpose. The Senator from Utah is not particularly wedded to the details of the President's family assistance plan

Mr. HOLLINGS. How could this amendment interfere with the objectives of the President's family assistance plan? How would it interfere with that program in any way?

Mr. BENNETT. It would take away and commit $1.7 billion we might consider using for an orderly and equitable program of welfare reform.

Mr. HOLLINGS. Is it not the President's position, "Mr. Congress, you delay on welfare reform for 18 months. That is the way to get me by the election next year. Then bring it up"? Then when it comes up, I believe the Senator from Nebraska (Mr. CURTIS) asked in the Finance Committee how long it would take to get this razzmatazz program going, this really ominous program, which would take 80,000 employees, and it would be 18 months before they could pay the first check?

Is it the Senator's position that we ought to hold it up until that program is put into operation before we would have tax reform for the hungry and poor of America?

Mr. BENNETT. The reason for my opposition is that the suggestion made by the Senator from South Carolina is inequitable and uneven; in many cases it would not deliver the benefits it was thought to deliver. The Senator from Utah is opposed to it on the ground that it is not a satisfactory solution to the problem.

Mr. HOLLINGS. Well, I listened with interest to the Senator from Utah and went down as close as I could. I heard the Senator say it was unfair, inequitable, and that it would make it difficult to get something for the welfare recipient and the hungry and poor of America 2 years from now. The property tax, by the way, he said, was very, very difficult to understand. In fact, they were too dumb to figure it out. In fact, they would never get it figured out. When you thought of it, it would be the first time they would have to file a return. The Senator from Utah said it would be a terrible burden for the husband and wife to fill out the form showing what they paid on sales taxes on food. All they would have to do would be to give the income level and what the family size was, but he said it would be a terrible thing to fill out and a terrible thing to administer. They have these computers to figure out these involved tax returns, but when it comes to the hungry and the poor, with a very simplified problem, he says it is too complex.

Let me comment on how it works, because I have placed on each Senator's desk how I tried to work it out just as simply as I could.

I will be glad to yield to the Senator from Utah. Did he have a question?

Mr. BENNETT. No, I am just listening.

Mr. HOLLINGS. All right. Assuming that a family of four, two parents and two schoolchildren, live in a 4-percent sales tax area, pay a rent of $90 a month, $1,080 a year. The 1970 poverty level is $3,970; in 1971 it will be approximately $4,050. Under the low-cost food plan given by the Department of Agriculture, their food allowance would be $137.60 a month, or $1,651.20 a year.

You would be amazed how the hungry poor can learn that pretty quick. They have got a lot of friends around, all over, welfare recipients and otherwise, Government employees, assistants, and volunteers, that would help them figure that out right quick like in January. The food sales tax reimbursement would then be 4 percent of $1,651.20, or $66.04.

The property tax would depend essentially on the rent, without all the utilities—heat, light, water, and the other payments. We can take the rental payment at a 20-percent level, which would be 20 percent of the rent paid by the hungry poor; I do not know of any of them that do not own or rent, at least a little shack of some kind. All they would have to do is state how much they paid in tax on a home they own, or how much rent they paid. The IRS would take 20 percent of their rental payment, $1,080 in my example, and the property tax reimbursement would be $216. The total payment that this poor family would receive would be $282.04.

Mr. BENNETT. Maybe I misunderstand the Senator.

Mr. HOLLINGS. Yes.

Mr. BENNETT. But when I pay rent, I also receive for that rent electricity, heat, and water.

M. HOLLINGS. And, of course, in the slums they do not get any of it.

Mr. BENNETT. The Senator says, as I understand it, that the 20 percent of rent reimbursement must be minus those things.

Mr. HOLLINGS. Right.

Mr. BENNETT. So you cannot just say arbitrarily that you take their rent and reimburse 20 percent of it. From the rent they have to deduct the figure representing the value of the heat, the electricity, the water, or whatever else they get for their rental payment in addition to the lodging.

Mr. HOLLINGS. My distinguished friend from Utah and I met early this morning in Cleveland Park. These people we are talking about do not live in Cleveland Park. They are down in the slums. They have got to pay that man the rent. They know what the rental payment is, and they have got to pay him that rent.

It is not really too difficult to subtract the heat bill or the water bill, if you have to figure that, particularly when you are filling out a form to be reimbursed. That gives them a credit with the Government. It gives them a payment based in fairness and equity, and that is the reason I cannot understand my friend's opposition.

Mr. BENNETT. The reason I am so stupid and obtuse is that I do not know what my landlord's water bill or his heat bill is. I do not have access to that information. We rent our apartment, and the water, the electricity, and the heat are furnished, and the bill goes to the landlord. As a tenant, I cannot go to him

and say, "I need to know what the share of your electricity, heat, and water bills for my apartment are, so I can deduct it from my return when I make out my request for a refund." The amounts are just not allocated that way and the information is not available to the tenants.

Mr. HOLLINGS. Well, if the Senator please, Mr. President, is it the case in America that we are going to say if you are a big corporation, if your are a big businessman, if you can hire a lawyer, if you can hire a tax auditor and a lawyer, then you are going to get some help out of this U.S. Senate, because they can understand it, but for the hungry poor, things are going to become obtuse, they are just not going to be able to figure this thing, and we do not want to bother our minds; is that the position the Senator takes?

Mr. BENNETT. No; my position is that they will not have the information on which to base the figures. That is in the possession of the landlord.

I live in an apartment project with 804 apartments, and I would hate to be the landlord, having to prorate the electric or water costs of 804 apartments in order to take care of the needs of a person on welfare—and there are some living in the apartments in which I live. So it seems to me it is an impossible calculation.

Mr. HOLLINGS. An impossible calculation. How do you help the poor? Here he is; he is paying his sales tax. We know how to calculate that. He is paying his property tax. The Government knows how to calculate that. Here he is; he is paying his payroll taxes and social security tax. We know how to figure out how that can be calculated. So he pays it. But there is one little consideration to be given on a basis of equity—not any wild-eyed giveaway of the money. Here he is, on a basis where he has a 28-percent tax burden, and we can compute it and say, "All right on the sales tax paid on food, but on the property tax represented in your rental payments we are not going to try to reimburse you."

Five States in America did not find it obtuse. California does it, and not just for citizens below the poverty level. Wisconsin does it for the senior citizens. Kansas is a good all-American State; they did not find it obtuse out there.

Mr. BENNETT. Does the State of Kansas ask the taxpayers to calculate that portion of their rent represented by the value of the water?

Mr. HOLLINGS. Yes; that is right. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a publication of the Advisory Commission on Inter-Governmental Relations, an article entitled "A Circuit Breaker on Property Tax Overload," describing the system and how it works for the States of Wisconsin, Minnesota, California, Vermont, and Kansas. It is all right here in four neat pages, in black and white, not obtuse at all, and it has been working, and the senior citizens appreciate it.

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

A CIRCUIT-BREAKER ON PROPERTY TAX OVERLOAD

Property taxation, as it is administered in communities across the Nation, often forces the elderly into real privation to finance the education of the young. The Advisory Commission on Intergovernmental Relations recommends an approach to relieve individuals of excessive tax burdens while not heaping new fiscal burdens on localities. The idea has been translated into model legislation which is available on request from the Commission.

The INTERGOV proposal is similar in principle to the circuit-breaker that prevents electrical overload. By means of tax credits and rebates, it protects the poor from tax overload without disrupting the flow of revenue from those able to pay. It is State financed to maintain the fiscal solvency of local governments and State administered to promote the greatest efficiency, provide the widest base, and maintain the dignity of the recipients. Four States have adopted it since 1963 and a fifth uses a variant of the same principle. Several other States have the circuit-breaker under serious consideration.

The average urban household pays about 4 percent of its income for the local residential property tax. But there are more than 3 million households that pay 10 percent or more, 2.5 times the average. And low-income families in substantial numbers turn over as much as 50 percent of their meager incomes for the local tax on shelter (see Table 1).

The property tax had its roots in a rural society where the value of a family's physical holdings, land and buildings, served as the single best measure of taxable capacity. Urbanization has changed the gauge—the most precise measure now of ability to pay taxes is annual flow of money income—but not the character of the property tax, and it is still the single most important revenue source for local government.

The four States that use the circuit-breaker approach are Wisconsin (adopted in 1963), Minnesota (1967), Vermont (1969) and Kansas (1970). California, in 1967, provided for a similar type of relief (see Table 2). These States all administer their programs in generally the same manner, but the principle of the circuit-breaker permits wide flexibility and adaptation to individual tax systems and State-by-State tax relief needs.

HOW IT WORKS

This is a generalized picture of the program. Each State might have exceptions to many of the particulars. The circuit-breaker program is administered by the income tax division of the State tax department and funded entirely out of State money. The State determines the amount of property tax burden it deems excessive. The excessive amount—with certain restrictions to avoid abuse—is then rebated.

To obtain the relief, the applicant files a statement as a supplement to his income tax return. He lists all forms of money income, including all social security and veterans benefits and railroad retirement payments. After audit, he is allowed a credit against his State income tax liability—if he has sufficient income to pay an income tax—or he receives back in the mail a direct cash refund, the case with 98 percent of the recipients.

Although the circuit-breaker is part of the income tax process, the Wisconsin applicant does not have to pay his property tax bill and then wait until income tax filing time to get his refund. As soon as the property tax bill comes, he may file the statement and receive the cash when he needs it. Because the program is administered by the State tax department and the refund sent through the mails, there is no more stigma than when a Federal income taxpayer receives a tax reduction because he incurred extraordinary medical expenses. Local social welfare workers and county courthouse clerks are bypassed. If a State did not have an income tax, the circuit-breaker could be administered in the form of direct cash rebates to all eligible property taxpayers.

DETERMINING OVERLOAD SITUATIONS

The property tax takes a different bite out of householders in different parts of the Nation. Because the average burden varies, what varies, what is excessive would also vary. The Minnesota circuit-breaker comes into play when the property tax burden exceeds 6 percent of household income; Vermont's cuts in at 7 percent; and under the 1969 Wisconsin formula, the circuit-breaker begins to work when the property tax reaches more than 11 percent of family income.

To avoid providing property tax relief to the little old lady who lives in the mansion on the hill, several of the States have written into the law income ceilings or limits on the amount of rebate. They also have progressive rates to provide the most relief to the most needy cases. California has a $3,350 income limit; Minnesota, a $3,500 limit; Wisconsin and Kansas a $3,700 limit. The ceiling in Vermont is not explicit.

WHO SHOULD BE ELIGIBLE?

The flexibility of the circuit-breaker extends to the type of recipients as well as the amount of need. At present, all the States using the procedure grant relief only to persons age 65 or older. But death of the breadwinner, physical disability or severe unemployment would make the property tax just as devastating to a younger family as to the elderly.

Minnesota, Vermont and Wisconsin at present grant circuit-breaker relief to renters as well as homeowners, on the theory that most landlords pass on most of the property tax burden to their tenants. Wisconsin assumes that 25 percent of the rental payment goes for property taxes while Minnesota and Vermont use a 20 percent figure.

The possibilities don't stop here. A State wanting to provide relief for small farms or businesses could write circuit-breakers into their property taxes as well. The circuit-breaker would assure that the neediest taxpayers in any class would receive the most help. A circuit-breaker for corporations is now under consideration in Ohio, for instance.

This type of relief is objective, impartial, and legal. Property tax relief of the non-legal, non-objective variety is going on in many communities right now, especially where assessors are elected. Compassionate assessors may have a tendency not only to look at property merely as an object of value but also to take into account the circumstances of the owner. The harsh burdens that an objective assessment might bring can sway the valuation of the property. This might be humane, but it is not legal. The circuit-breaker promotes tax equity in a way that is legal and does not interfere with the orderly and impartial valuation process that is necessary if property is to be assessed fairly.

HOW MUCH DOES IT COST?

One of the great advantages of the circuit-breaker is that it is a State-financed relief program. Too often State legislators grant relief in the form of partial tax exemptions but force the local governments and the school districts to pick up the tab. Local governments and local property owners should not be forced to underwrite property tax relief because it erodes their already precarious fiscal position and aggravates tax inequities. This is especially true in metropolitan areas where the poor tend to cluster together within the same jurisdiction. In sharp contrast, State-financed property tax relief in an indirect way tends to reduce intergovernmental fiscal disparities between high- and low-income communities within the same metropolitan area.

What is even better, the circuit-breaker is relatively inexpensive to the State. Take Wisconsin, for example. In 1968, the Wisconsin circuit-breaker program cost the State about $6.1 million—about $1.50 a person. Yet, this modest outlay enabled the State to extend aid to 66,000 elderly householders. About 7,000 of them had an income of less than $1,000 and would otherwise have had to pay

out in residential taxes about 30 percent on the average of their total subsistence income.

The inexpensiveness of the Wisconsin program can be illustrated further by these comparisons. In 1968, relief cost was—

2 percent of the local residential real estate levies in the State;

1.5 percent of State personal income tax collections;

0.6 percent of total State tax collections;

0.4 percent of State-local tax collections; and

2.5 percent of State-local public welfare expenditures.

ANSWERING THE OBJECTIONS

Like any innovative program, the circuit-breaker has opponents who raise various objections. Most of them can be answered quite simply.

Some complain that the circuit-breaker does not cure the real disease, poverty. True, but something must be done now, while the Federal Government is working out a broad program to eradicate poverty. The circuit-breaker makes sure that the government does not impose extraordinary burdens on the poor while poverty remains among us.

Others complain that the circuit-breaker approach makes welfare operators out of State tax collectors. This over-simplified worry is nullified by recent experience which indicates that this approach represents the most efficient and dignified way to administer a local property tax relief program.

There are some who claim that State-financed property tax relief might encourage local officials to adopt reckless spending policies. The small amount of relief to local governments that the circuit-breaker provides is not enough to make local officials spendthrifts. Besides, the majority of citizens paying property taxes without relief will continue to exert a powerful restraint on local budget expansion.

Those who wish to recover the relief after the death of the homeowner object that the circuit-breaker provides unwarranted aid to the children who will inherit the property. A man's home must be viewed as a rough yardstick of his—not his children's—ability to pay taxes out of current income. When this is demonstrably not the case, the homeowner should be entitled to unconditional relief. It is becoming increasingly repugnant to the public to force the liquidation of an estate in order to pay property taxes, even if the liquidation is held off until the death of the benefited homeowner.

Finally, some complain that tax relief for the elderly can enable a homeowner to hold his property off the market thereby working against the highest and best use of land. This cut-off-the-nose-to-spite-the-face logic would deny relief to a substantial body of taxpayers carrying extraordinary burdens in order to take care of a very few exceptional situations. Moreover, this objection vastly overstates the effect that a tax rebate of a couple hundred dollars can have on a person's decision either to sell or to hold the homestead.

SUMMARY

The circuit breaker approach to property tax relief introduces a badly needed element of modern economic realism and social justice into the administration of the property tax. By extending relief to those who need it the most, it turns a highly regressive tax into an essentially proportional levy. In effect, the adoption of this plan can insure that the ancient property tax will no longer be allowed to do gross violence to our contemporary concept of ability to pay as determined by the taxpayer's annual income.

The circuit-breaker thus provides significant local property tax relief at modest State cost, to those who really need it without disrupting the regular property tax system. This distinguishes it from the more common kind of "homestead exemption" which may reduce the official tax base considerably, provide a benefit to high-income homeowners as well as others, and afford no relief to householders living in rented homes.

For more information about the circuit-breaker, and a copy of the ACIR model State law to enable it, write to John Shannon, Assistant Director (Taxation and Finance), Advisory Commission on Intergovernmental Relations, 726 Jackson Place, N.W., Washington, D.C. 20575.

TABLE 1.—REAL ESTATE TAX RELATED TO INCOME FOR NONFARM HOMEOWNER PROPERTIES, 1960 AND 1968

Real estate tax as a percent of income [1]	1968 (estimate) Number	1968 (estimate) Percent distribution	1960 Number	1960 Percent distribution
Total	26,500,000	100.0	22,485,146	100.0
Less than 1	3,066,000	11.6	3,573,291	15.9
1 to 1.9	3,940,000	14.9	4,592,195	20.4
2 to 2.9	3,633,000	13.7	4,239,356	18.9
3 to 3.9	2,611,000	9.8	3,043,484	13.5
4 to 4.9	3,818,000	14.4	2,028,333	9.0
5 to 7.4	4,641,000	17.5	2,465,970	11.0
7.5 to 9.9	1,721,000	6.5	913,631	4.1
10 or more	3,070,000	11.6	1,628,886	7.2
Median (percent)	4.0		2.7	

[1] Income of owner and relatives living with him.

Source: U.S. Bureau of the Census, U.S. Census of Housing 1960, vol. V, and unpublished data. 1968 data estimated by ACIR staff.

TABLE 2.—STATE FINANCED AND ADMINISTERED RESIDENTIAL PROPERTY TAX RELIEF FOR PROTECTING LOW-INCOME HOUSEHOLDS FROM PROPERTY TAX OVERLOADS (THE "CIRCUIT-BREAKER")

State	Beneficiaries description	Income ceiling	Tax relief formula	Form of abatement and estimated per capita cost	Date of adoption	Statutory citation
Wisconsin	Homeowners and renters age 65 and older.	$3,700	(1)	State income tax credit or rebate—Cost, $1.50 (1968).	1963	Ch. 71, sec. 71.09(7).
Minnesota	do	3,500	Relief ranges from 75 percent of taxpayment if household income is under $500 to 10 percent if family income is between $3,000 and $3,499.	State income tax credit or rebate—Cost, $0.50 (1968). (This aid is in addition to a general State-financed property tax relief that approximates 35 percent of the homeowners' tax bill.)	1967	Ch. 290, sec. 290.0601 et seq.
California	Homeowners age 65 and older; no relief for renters.	3,350	Relief ranges from 95 percent of tax payment if household income is less than $1,000 to 1 percent of tax payment if household income is $3,350.	State rebate only—Cost, $0.40 (1969)	1967	Revenue and taxation code division E., sec. 19501 et seq.
Vermont	Homeowners and renters age 65 and older.	(2)	Relief limited to that part of tax payment in excess of 7 percent of household income times a local rate factor that varies by tax rate of local community.[3]	State income tax credit or rebate—Cost, $1.25 (1969).	1969	H.B. 222.
Kansas	Homeowners age 65 and older; no relief for renters.	3,700	Same as Wisconsin tax relief formula	State income tax credit or rebate	1970	H.B. 1253.

[1] Household income—$1,000 or less—relief ranges from 75 percent of amount by which property tax exceeds 3 percent of household income between $500 and $1,000; household income—ovet $1,000—60 percent of amount by which property tax exceeds 3 percent of household income between $500 and $1,000, 6 percent of income between $1,000 and $1,500, 9 percent of income between $1,500 and $2,000, 12 percent of income between $2,000 and $2,500, and 15 percent of all income over $2,500. The maximum property tax to be used for this credit is limited to $330.

[2] Not explicit.

[3] The commissioner shall annually prepare and make available the local rate factors by arraying all municipalities according to their effective tax rate and dividing the population of the State into quintiles from such array with those having the lowest effective tax rates being in the first quintile. The local rate factors shall be as follows: 1 quintile, 0.6; 2 quintile, 0.8; 3 quintile, 1; 4th quintile, 1.2; 5 quintile, 1.4. The amount of property taxes or rent constituting property taxes used in computing the credit are limited to $300 per taxable year.

Mr. BENNETT. Will the Senator take an example in Kansas, and tell me what proportion of a tenant's rent is calculated for a service, for example supplying water?

Mr. HOLLINGS. Well, in Kansas they have it for homeowners age 65 or older; there is no relief for renters in that particular State. The income ceiling is $3,700, and they figure it on a credit basis, a State income tax credit or rebate. They have a point down in here where they break down the quintiles, and I have assimilated just exactly what they have done here in this particular proposal. Does the Senator have a copy of this mimeographed sheet on his desk?

Mr. BENNETT. I have not seen it.

Mr. HOLLINGS. Well, we will get the Senator another copy of it. But that is the way the tax credit is worked out, and they subtract. I never have seen the basis on which they subtract the water bill and the electric light bill.

Mr. BENNETT. In other words, Kansas is probably not the right example. Since they do not provide relief for renters. Let us take another State. Can the Senator show me, in any State, under this circuit-breaker philosophy, how they separate out these ineligible costs, costs you must deduct from the gross rent that you cannot be reimbursed for?

Mr. HOLLINGS. Let me ask, so that I can bring this into perspective, does the distinguished Senator from Utah have any bills relative to the present income tax law? I have here one of these 1040 tax return forms and the answer, of course, is very simple. The poor would just subtract the heat and the lights and the water, just as simple as that. On the other hand, this particular 1040 form we have now in America, has more forms and lines and fine print, that, I maintain, it truly is obtuse. But all the Senator wants to talk about is light and water and heat, and how that becomes obtuse.

Mr. President, I ask unanimous consent to have printed in the RECORD form 1040, the U.S. form for individual income tax returns.

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

Form **1040** **US** Department of the Treasury / Internal Revenue Service

Individual Income Tax Return

1970

For the year January 1–December 31, 1970, or other taxable year beginning ____, 1970, ending ____, 19____

Please print or type

Please use this form. Correct name, etc., if necessary. Enter social security number(s) at right only if incorrect or not shown on label.

Transfer address label from cover and place it here

Your social security number

Spouse's social security number

Occupation: Yours / Spouse's

Please attach Copy B of Form W-2 to back

Filing Status—check only one:

1 ☐ Single; 2 ☐ Married filing jointly (even if only one had income)

3 ☐ Married filing separately and spouse is also filing. If this item checked give spouse's social security number in space above and enter first name here ▶

4 ☐ Unmarried Head of Household

5 ☐ Surviving widow(er) with dependent child

6 ☐ Married filing separately and spouse is not filing

Exemptions — Regular / 65 or over / Blind — Enter number of boxes checked ▶

7 Yourself . . . . . ☐ ☐ ☐

8 Spouse (applies only if item 2 or 6 is checked) ☐ ☐ ☐

9 First names of your dependent children who lived with you ____ Enter number ▶

10 Number of other dependents (from line 34) . . . ▶

11 Total exemptions claimed . . . . . ▶

Income

12 Wages, salaries, tips, etc. (Attach Forms W-2 to back. If unavailable, attach explanation) .	12	
13a Dividends (see pages 5 and 9 of instr.) $ ____ 13b Less exclusion $ ____ Balance . ▶	13c	
(Also list in Part I of Schedule B, if gross dividends and other distributions are over $100)		
14 Interest. Enter total here (also list in Part II of Schedule B, if total is over $100) . . .	14	
15 Income other than wages, dividends, and interest (from line 40)	15	
16 Total (add lines 12, 13c, 14 and 15)	16	
17 Adjustments to income (such as "sick pay," moving expense, etc. from line 45) . . .	17	
18 Adjusted gross income (subtract line 17 from line 16)	18	

See page 2 of instructions for rules under which the IRS will figure your tax and surcharge.
If you do not itemize deductions and line 18 is under $10,000, find tax in Tables. Enter tax on line 19.
If you itemize deductions or line 18 is $10,000 or more, go to line 46 to figure tax.

Tax and Surcharge

19 Tax (Check if from: Tax Tables 1–15 ☐, Tax Rate Schedule X, Y, or Z ☐, Schedule D ☐, or Schedule G ☐)	19	
20 Tax surcharge. See Tax Surcharge Tables A, B and C in instructions. (If you claim retirement income credit, use Schedule R to figure surcharge.)	20	
21 Total (add lines 19 and 20)	21	

Please attach Check or Money Order here

Payments and Credits

22 Total credits (from line 55)		22	
23 Income tax (subtract line 22 from line 21)		23	
24 Other taxes (from line 61)		24	
25 Total (add lines 23 and 24)		25	
26 Total Federal income tax withheld (attach Forms W-2 to back) .	26		
27 1970 Estimated tax payments (include 1969 overpayment allowed as a credit)	27		
28 Other payments (from line 65)	28		
29 Total (add lines 26, 27, and 28)		29	

Make check or money order payable to Internal Revenue Service.

Bal. Due or Refund

30 If line 25 is larger than line 29, enter BALANCE DUE. Pay in full with return . . . ▶	30	
31 If line 29 is larger than line 25, enter OVERPAYMENT . . . . . ▶	31	
32 Line 31 to be: (a) Credited on 1971 estimated tax ▶ $; (b) Refunded ▶	$	

Sign here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

▶ Your signature — Date

▶ Spouse's signature (if filing jointly, BOTH must sign even if only one had income)

▶ Signature of preparer other than taxpayer, based on all information of which he has any knowledge. — Date

Address

Page 2 Form 1040 (1970) Attach Copy B of Form W–2 here. ▶

Foreign Accounts (check appropriate box) ▶ Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution)? . . . . . ☐ Yes ☐ No
If "Yes," attach Form 4683. (For definitions, see Form 4683.)

PART I.—Additional Exemptions (Complete only for other dependents claimed on line 10)

33 (a) NAME	(b) Relationship	(c) Months lived in your home. If born or died during year write "B" or "D"	(d) Did dependent have income of $625 or more?	(e) Amount YOU furnished for dependent's support, if 100% write "ALL" $	(f) Amount furnished by OTHERS including dependent. $

34 **Total number of dependents listed above.** Enter here and on line 10 . . . . . ▶

PART II.—Income other than Wages, Dividends, and Interest

35 Business income (or loss) (attach Schedule C)	35		
36 Sale or exchange of property (attach Schedule D)	36		
37 Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Schedule E) .	37		
38 Farm income (or loss) (attach Schedule F).	38		
39 Miscellaneous income (state nature and source)_____	39		
40 **Total** (add lines 35, 36, 37, 38, and 39). Enter here and on line 15 . . . . . ▶	40		

PART III.—Adjustments to Income

41 "Sick pay" if included in line 12 (attach Form 2440 or other required statement)	41		
42 Moving expense (attach Form 3903).	42		
43 Employee business expense (attach Form 2106 or other statement)	43		
44 Payments as a self-employed person to a retirement plan, etc. (attach Form 2950SE)	44		
45 **Total adjustments** (add lines 41, 42, 43, and 44). Enter here and on line 17 . . . . . ▶	45		

PART IV.—Tax Computation

46 Adjusted gross income (from line 18)	46		
47 (a) If you itemize deductions, enter total from Schedule A, line 22 (b) If you do not itemize deductions, and line 46 is $10,000 or more, enter $1,000 ($500 if married and filing separately)	47		
48 Subtract line 47 from line 46	48		
49 Multiply total number of exemptions claimed on line 11, by $625.	49		
50 Taxable income. Subtract line 49 from line 48. (Figure your tax on this amount by using Tax Rate Schedule X, Y, or Z unless the alternative tax or income averaging is applicable.) Enter tax on line 51	50		
51 **Tax.** Enter here and on line 19 . . . . . ▶	51		

PART V.—Credits

52 Retirement income credit (attach Schedule R)	52		
53 Investment credit (attach Form 3468)	53		
54 Foreign tax credit (attach Form 1116).	54		
55 **Total credits** (add lines 52, 53, and 54). Enter here and on line 22 . . . . . ▶	55		

PART VI.—Other Taxes

56 Self-employment tax (attach Schedule SE).	56		
57 Tax from recomputing prior-year investment credit (attach Form 4255)	57		
58 Minimum tax. See instructions on page 7. Check here ☐, if Form 4625 is attached	58		
59 Social security tax on unreported tip income (attach Form 4137)	59		
60 Uncollected employee social security tax on tips (from Forms W–2).	60		
61 **Total** (add lines 56, 57, 58, 59, and 60). Enter here and on line 24 . . . . . ▶	61		

PART VII.—Other Payments

62 Excess F.I.C.A. tax withheld (two or more employers—see instructions on page 7)	62		
63 Credit for Federal tax on gasoline, special fuels, and lubricating oil (attach Form 4136).	63		
64 Regulated Investment Company Credit (attach Form 2439).	64		
65 **Total** (add lines 62, 63, and 64). Enter here and on line 28 . . . . . ▶	65		

Mr. HOLLINGS. I want the Senator to look at this particular form, and see if this is not obtuse. Perhaps, we ought to both cosponsor a bill to do away with it.

Mr. BENNETT. The Senator from Utah has seen and looked at that form every year, unfortunately.

Mr. HOLLINGS. And that is not obtuse?

Mr. BENNETT. Mr. President, that is not the point. The Senator is evading my question. The Senator says, in his amendment:

> In the case of a residence which is rented by the family, an amount equal to 20 percent of the total rent paid by the family during the preceding calendar year, exclusive of any charges for utilities, services, furnishings, or appliances furnished by the landlord as part of the rental agreement.

I am saying that for the ordinary renter, even a man who is not at the poverty level, the job of finding out how much of his total rent is represented by what the landlord paid for water or for electricity or for heat or other services, or for the appliances which he furnished, is almost impossible to do. Yet he must do it so he can figure it into his request for a reimbursement payment.

Mr. HOLLINGS. Mr. President, if my distinguished colleague finds that obtuse or impossible to compute or determine from his landlord, I would be glad to take either his case or his landlord's case, because we are both paying it.

I will put it in the RECORD. With all the complex tax laws we have in America on income rebate, depreciation allowance, investment credit, direct investment sales credit, exemptions, deductions, and everything else, for someone to all of a sudden come along and tell a poor family it cannot receive some help in paying property taxes because the family is presumed to be unable to deduct his light, his water, his electricity, or any appliances furnished him. I think he is pulling my leg. I think that it can be computed easily. I am not evading the question. The answer is patent.

Mr. BENNETT. My answer is that the answer to that question does not exist. A landlord does not break down the cost of water and divide it among every apartment in his building. The tenants in our building have their electricity furnished, and I do not think it is possible to determine how much of the light bill the Bennett apartment actually created. Some of the tenants burn their lights 24 hours a day. We do not.

It seems to me that the Senator is putting an impossible condition into this amendment. It is not a question of being smart. It is just the fact that the information does not exist and the tenant can neither obtain it nor supply it to the Government.

Mr. HOLLINGS. Mr. President, I think I am taking up too much time on an obtuse point. Perhaps that is the strategy.

I will reserve the remainder of my time for the moment.

Mr. HANSEN. Mr. President, I wonder whether the distinguished chairman of the committee will yield me about 3 minutes to establish a little legislative history, in order to clear up a point that I think is important.

Mr. LONG. I yield to the Senator such time as he requires for that purpose.

Mr. HANSEN. Under the bill, is it intended that the 7-percent job development credit be allowed on the investment of U.S. international telegraph companies in submarine cable systems which originate within the United States and end without the United States when used predominantly for the transmission and receiving of messages in the United States?

Mr. LONG. Yes. For example, a cable system from the United States to Europe would receive the 7-percent investment tax credit to the midpoint of the Atlantic—that is, in the case of a submarine cable.

Mr. HANSEN. If the chairman would be kind enough to yield further, I should like to put the same question to the distinguished Senator from Utah, the ranking Republican member of the committee.

Mr. BENNETT. My answer would be the same as that of the chairman of the committee. This was thoroughly discussed during the committee's consideration of the bill, and I think we all understand it as the chairman has explained it.

Mr. HANSEN. I thank the chairman and the ranking minority member of the committee.

Mr. LONG. I yield myself 2 minutes.

Mr. President, when the Senator appeared before the committee, he inspired some of us to believe that we should do something in this direction. For one, I was inspired to think that it would be desirable to reimburse low-income earners for the amount of taxes generated by their efforts and paid into the Social Security fund. I had in mind that it would be well to make them a payment equal to both the employee as well as the employer part of the tax, which would increase their income by about 10 percent. That would cost more than $2 billion, and that would be a payment to offset a Federal tax that is collected.

The Senator is directing his amendment toward State taxes—both those that are paid and those that are not. It has considerable merit, but it does require further study and further sophistication to make it work out right.

For example, it is my impression that the Senator intends to rebate 4 percent for sales tax collections of a State that has no sales tax. That would seem appropriate, in view of the fact that one would not want to encourage a State to levy a sales tax on food just so that the Federal Government would reimburse it to the State; but if someone had a 2-percent sales tax, the people would be worse off, compared with what they would get if there were no sales tax on food in that State.

These types of things, I suppose, could be worked out if we had time to study them and to seek to perfect them, but we do not have that opportunity at this moment.

The proposal of the Senator should, in my judgment, be considered as an alternative to some of the proposals in H.R. 1, the so-called family assistance plan. I am very much convinced that it is a far better approach to pay back to the poor and the working people taxes that have been collected from them than if you just put them on welfare as a result of taxes that you collected from them.

So it would seem to this Senator that it would be better to wait and consider this in connection with the welfare bill when we have that matter before us. Something that would give poor people a rebate, or some payment, to offset their Federal and State taxes, social security, or other taxes that may be collected, would have much appeal when considered against the estimated first-year cost of $5 billion when that welfare program is in effect.

But I hardly think it would be appropriate to get into it at this time, in this bill. It seems to me that we would do better to wait and consider this, as well as well as some other suggestions which will be made—including one of my own which would cost, I believe, even more money than the Senator is asking for here for the poor—when we get around to H.R. 1. As far as the committee is concerned, that bill is scheduled to be the next item of business after we dispose of this major bill.

I think it would be best to reserve judgment on this matter until we do have the opportunity to look at the welfare bill. In connection with that, I think it would be appropriate to take a look at this suggestion of the Senator.

Mr. HOLLINGS. Mr. President, seemingly, the only point they can really make is the difference between a 3-percent and a 4-percent State.

Would there be any objection to amending the amendment? Mr. President, I ask unanimous consent to delete the language on lines 8 to 10, page 2, beginning with "There is no" and ending with "purchases of food" by just inserting in lieu thereof the words "the combined State and local sales tax rate is less than 4 percent on purchases of food, it shall for the purposes of this provision be considered to be 4 percent." That would equalize it, and there would not be any differentiation between a 3-percent and a 4-percent State. Is there objection?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Will the Senator send the modification to the desk?

Mr. HOLLINGS. I just did it verbally, under the rules.

The PRESIDING OFFICER. Under the rules, the Senator must submit the modification in writing.

Mr. BYRD of West Virginia. He must do so only if there is a demand to submit it in writing.

The PRESIDING OFFICER. The Senator is correct.

Mr. HOLLINGS. I will be delighted to send it to the desk.

The assistant legislative clerk read as follows:

On page 2, change lines 1 to 13 to read as follows:

> (c) The amount payable to any family under subsection (a) as reimbursement for sales tax on food shall be determined by multiplying the combined State and local sales tax rate in effect for that calendar year in the locality in which such family lived by

the cost of the low-cost food plan established by the Department of Agriculture for that calendar year for a family of that size and composition. For the purpose of this subsection, any locality in which the combined State and local sales tax rate is less than 4 percent on purchases of food, it shall for the purposes of this provision be considered to be 4 percent.

(d) The amount payable to any family under subsection (a) as reimbursement for property tax imposed on that family's residence shall be:

Mr. HOLLINGS. Now, Mr. President, we have corrected the inequity part of the difference between a 3 percent and a 4 percent State. What would further study give us? We come back to the most equitable thing I know of. The trouble with the family assistance is that it is a misnomer and really it is a guaranteed annual income.

I advocate to all my colleagues a speech delivered on August 6, I believe, by the Senator from Louisiana, the distinguished chairman of the Finance Committee. Is this really welfare reform or not? I agree with the Senator from Louisiana (Mr. LONG) that it is not welfare reform but a tremendous departure and a fanciful guaranteed annual income.

The whole hang up is not how you get the money to the poor but how to get the poor to work. That is where it has been hung for the past several years. I hope it stays hung up there. As it stands now, it would be one of the worst things that ever passed.

The President says that we have to jazz up the economy, that we have to get the American industrial machine going, and that in addition to investment credit, you need consumer spending. What do you do, in the main, if you just have nothing but investment credit? You will buy what Senators were arguing about with respect to textiles and all the other industries—new machines, which will displace labor, which will displace jobs.

Now, what is going to really get it going is money in the hands of the consumers and particularly those in the lower end of the spectrum. The Senator from Utah, if he were here, and other Senators—because I have been listening to the debate—have said that purchasing power was needed. Every time one of our colleagues on this side would recommend some increased exemptions or a liberalization of credit, they say, "Oh, that gives the low man only $20 but the man in the $20,000 bracket, that gives him $185. What we need is a little bit of help where it does the most good for purchasing power down at the lower end of the spectrum." But when we propose to give it to the hungry poor of America, then they say, "Let us study it. This thing is impossible. Look out—wait a minute—that fellow is going to fill out that form for the first time. This is one of those things that cannot be worked out at all."

In order to get more food to them, in order to help this particular group, I would agree with the suggestion of the Senator from Utah if he had a more equitable way. He and I, and every other Senator knows, that every landlord in Washington—which he was using as an example—allocates his water, his light, and his heat per tenant. That is how he knows how much to charge that particular tenant. He allocates it around and he considers the person responsive to it. That is the reason we designed the second paragraph on page 2, line 11, subparagraph (d), reading:

(d) The amount payable to any family under subsection (a) as reimbursement for property tax imposed on that family's residence shall be:

(1) in the case of a residence owned by a family an amount equal to the property taxes paid by the family during the preceding calendar year;

(2) in the case of a residence which is rented by the family, an amount equal to 20 percent of the total rent paid by the family during the preceding calendar year, exclusive of any charges for utilities, services, furnishings, or appliances furnished by the landlord as part of the rental agreement.

That is why it was written that way. If that is bothering my friend, I would say, let us knock it out. But I was trying to do this in an equitable, fair, and businesslike fashion. When we get businesslike, for the poor, or equitable or fair, they say, "stop it. We have got to study it. Remember that this will be the first time the fellow will be filling out the form. It is a terrible thing to administer with all these different forms coming in."

I want to make one part of the RECORD clear: I was disturbed about these things because I knew the charges that would be made here. I talked to—you call him now the Commissioner—and he says that it can work. He can work it. He does not want it. I would agree with him. That is one of the real charges I thought they would have, that I do not like to burden the IRS with additional programs and paying money out on this particular basis, because it becomes controversial in our society. Our tax system functions because it is paid on a voluntary basis, and I do not want anything to be done to the particular office that would really go against their credibility and cause public controversy. So if we could get it enacted now, later on we might find that the Department of HEW could better handle this particular payment, and we could transfer it out of the IRS. We do not want to bring any controversy upon them.

The bill has got to go through the Ways and Means Committee and all the way through the House, then all the way through the Senate Finance Committee, and then when we finally get it up, they say, "We have got to study it. We are going to give a man a form to fill out that he never had before. It is a terrible thing to administer. They are too dumb to figure it. They make it difficult to pass the welfare program that we have in mind 2 years hence."

It is unfair and inequitable. They use nothing but adjectives. They cannot point to a single thing because by unanimous consent, when my distinguished colleague was on the floor, we got a 4-percent rate rather than a 3-percent level, because that could be considered inequitable, but I was trying to let it relate to the actual situation.

Mr. President, I reserve the remainder of my time. The Senator from Wisconsin will be on the floor shortly.

Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. LONG. Mr. President, I am ready to yield back the remainder of my time in opposition, if the Senator from South Carolina is ready to yield back his time.

Mr. HOLLINGS. Mr. President, I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BROCK). All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina.

On this question the yeas and nays—

The Chair would inquire of the Senator from South Carolina, have the yeas and nays been ordered?

Mr. HOLLINGS. Yes, Mr. President, the yeas and nays have already been ordered. I asked for the yeas and nays.

Mr. PASTORE. Yes, the Senator from South Carolina did.

The PRESIDING OFFICER (Mr. BROCK). It is the memory of the Chair that the distinguished Senator from South Carolina is correct.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

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

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 26, nays 58, as follows:

[No. 335 Leg.]

YEAS—26

Bayh	Hollings	Mondale
Brooke	Inouye	Nelson
Case	Javits	Ribicoff
Chiles	Kennedy	Sparkman
Cranston	Magnuson	Stafford
Fulbright	Mansfield	Symington
Gambrell	McGee	Tunney
Gravel	McIntyre	Williams
Harris	Metcalf	

NAYS—58

Aiken	Dole	Muskie
Allen	Dominick	Packwood
Anderson	Eagleton	Pastore
Baker	Eastland	Pearson
Beall	Ellender	Pell
Bellmon	Ervin	Percy
Bennett	Fannin	Proxmire
Bentsen	Fong	Randolph
Bible	Goldwater	Roth
Boggs	Griffin	Schweiker
Brock	Gurney	Scott
Buckley	Hansen	Smith
Burdick	Hart	Spong
Byrd, Va.	Hatfield	Stennis
Byrd, W. Va.	Hruska	Stevenson
Cannon	Jordan, N.C.	Taft
Church	Long	Weicker
Cook	Mathias	Young
Cooper	Miller	
Cotton	Moss	

NOT VOTING—16

Allott	Jordan, Idaho	Stevens
Curtis	McClellan	Talmadge
Hartke	McGovern	Thurmond
Hughes	Montoya	Tower
Humphrey	Mundt	
Jackson	Saxbe	

So Mr. HOLLINGS' amendment (No. 654) was rejected.

The PRESIDING OFFICER. Under the previous order the Chair lays before the Senate amendment No. 653 of the Senator from South Carolina. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the appropriate place, insert the following:

Sec.—HIGHER EDUCATION EXPENSES CREDIT.

(a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 39 as 40, and by inserting after section 38 the following new section:

"Sec. 39. EXPENSES OF HIGHER EDUCATION.

"(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, determined under subsection (b), of the expenses of higher education paid by him during the taxable year to one or more institutions of higher education in providing an education above the twelfth grade for himself or for any other individual.

"(b) LIMITATIONS.—

"(1) AMOUNT PER INDIVIDUAL.—The credit under subsection (a) for expenses of higher education of any individual paid during the taxable year shall be an amount equal to the sum of—

"(A) 75 percent of so much of such expenses as does not exceed $200.

"(B) 25 percent of so much of such expenses as exceeds $200 but does not exceed $500, and

"(C) 10 percent of so much of such expenses as exceeds $500 but does not exceed $1,500.

"(2) PRORATION OF CREDIT WHERE MORE THAN ONE TAXPAYER PAYS EXPENSES.—If expenses of higher education of an individual are paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) shall be the same portion of the credit determined under paragraph (1) which the amount of expenses of higher education of such individual paid by the taxpayer during the taxable year is of the total amount of expenses of higher education of such individual paid by all taxpayers during the taxable year.

"(3) REDUCTION OF CREDIT.—The credit under subsection (a) for expenses of higher education of any individual paid during the taxable year, as determined under paragraphs (1) and (2) of this subsection, shall be reduced by an amount equal to 1 percent of the amount by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000.

"(c) DEFINITIONS.—For the purposes of this section—

"(1) EXPENSES OF HIGHER EDUCATION.—The term 'expenses of higher education' means—

"(A) tuition and fees required for the enrollment or attendance of a student at a level above the twelfth grade at an institution of higher education and

"(B) fees, books, supplies, and equipment required for courses of instruction above the twelfth grade at an institution of higher education.

Such term does not include any amount paid, directly or indirectly, for meals, lodging, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, or similar expenses shall be determined under regulations prescribed by the Secretary or his delegate.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means—

"(A) an educational institution (as defined in section 151(3)(4))—

"(i) which regularly offers education at a level above the twelfth grade; and

"(ii) contributions to or for the use of which constitute charitable contributions within the meaning of section 170(c); or

"(B) a business or trade school, or technical institution or other technical or vocational school in any State, which (i) is legally authorized to provide, and provides within the State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; and (ii) is accredited by a nationally recognized accrediting agency or association listed by the United States Commissioner of Education; and (iii) has been in existence for 2 years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subparagraph.

"(3) STATE.—The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands.

"(d) SPECIAL RULES.—

"(1) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS' BENEFITS.—The amounts otherwise taken into account under subsection (a) as expenses of higher education of any individual during any period shall be reduced (before the application of subsection (b)) by any amounts received by such individual during such period as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includable in gross income, and

"(B) education and training allowance under chapter 33 of title 38 of the United States Code or educational assistance allowance under chapter 35 of such title.

"(2) NONCREDIT AND RECREATIONAL, ETC., COURSES.—Amounts paid for expenses of higher education of any individual shall be taken into account under subsection (a)—

"(A) in the case of an individual who is a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction for which credit is allowed toward a baccalaureate or higher degree, and

"(B) in the case of an individual who is not a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

"(3) PAYMENT OF EXCESS CREDIT TO TAXPAYER.—If the amount of the credit allowable under subsection (a) to a taxpayer for the taxable year exceeds the amount of the tax imposed on the taxpayer for that taxable year by this chapter, reduced by the sum of any credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property), then such excess shall be held and considered an overpayment and shall be paid to the taxpayer by the Secretary of the Treasury or his delegate as a refund for that taxable year. If no tax is imposed on the taxpayer for that taxable year, the total amount of the credit allowable under subsection (a) shall be paid to the taxpayer by the Secretary or his delegate.

"(e) DISALLOWANCE OF EXPENSES AS DEDUCTION.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any expense of higher education which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to the expenses of higher education of any taxpayer who, under regulations prescribed by the Secretary or his delegate, elects not to apply the provisions of this section with respect to such expenses for the taxable year.

"(f) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such subpart A, is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 39. Expenses of higher education.
"Sec. 40. Overpayments of tax."

(c) The amendments made by this section shall apply beginning with taxable year 1972.

The PRESIDING OFFICER. On this amendment there is 1 hour to be equally divided.

Mr. HOLLINGS. Mr. President, I yield at this time to the principal author of this amendment, which provides a tuition tax credit and which has been favorably acted on by this Senate on two occasions, most recently as a part of the Tax Reform Act of 1969.

Mr. COTTON. Mr. President, a point of order. We cannot hear the Senator.

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order.

The Senator may proceed.

Mr. HOLLINGS. Mr. President, at this time I yield to the principal sponsor of the amendment, the senior Senator from Connecticut (Mr. RIBICOFF).

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. COTTON. Mr. President, in view of the fact that the amendment was not read, would the Senator please enlighten us as to the number of the amendment? We cannot hear.

Mr. HOLLINGS. The amendment is No. 653.

Mr. COTTON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. RIBICOFF. Mr. President, I am pleased to cosponsor the amendment being offered by the distinguished Senator from South Carolina.

Over 7 years ago, I first introduced legislation to provide tax relief for those families burdened with the rising costs of higher education. The Senate has passed this legislation two times, most recently as the Ribicoff-Dominick tuition tax credit amendment to the 1969 Tax Reform Act. A majority of Republicans as well as Democrats joined in passing the measure, only to see it deleted by the House in conference.

The need for this legislation is greater than ever before. Increasing tuition costs and Federal, State, and local taxation make it impossible for many low- and middle-income families to send a child to college without considerable financial assistance.

In the last 5 years, tuition costs of public institutions have risen by 50 percent. At private colleges and universities tuition has increased by 70 percent. The result is that today, it costs between $10,000 and $20,000 to obtain a bachelor's degree. Moreover, estimates by the Office of Education show that tuition alone will increase by 25 percent at public institutions of higher learning and by 38 percent at private institutions in the next 10 years.

The college scholarship service of the College Entrance Examination Board assists over 2,000 colleges and universities in setting guidelines for financial assistance. The service has made an authoritative study of what colleges must expect from students and their families toward covering the cost of education.

A family with one child in college and a pretax income of $10,000 is expected to pay $1,570 toward a year's college expenses.

Under the Federal tax laws, this family in 1972 would be expected to pay about $1,400 in income taxes. An additional $300 would generally be paid for State and local taxes. This leaves only $6,730 for all other living expenses for the entire family.

As we face the necessity of finding solutions to the complex social problems facing this Nation, we must recognize the essential role that education plays in our society. Our children's education is an investment in the future. A better educated population is the strongest tool for the continued growth and development of our Nation.

I know of no other amendment that would be of such help to the lower- and middle-income groups in our country, to those who are so sorely beset with expenses on all sides and at the same time find means to educate their children, knowing that the most important factor in their children's future is education.

I commend the Senator from South Carolina for offering this amendment.

Mr. DOMINICK. Mr. President, will the Senator yield me a couple of minutes?

Mr. HOLLINGS. I yield to the Senator from Colorado.

Mr. DOMINICK. I appreciate very much the Senator's yielding. I was somewhat surprised, but certainly not upset, by the offering of this amendment, because the Senator from Connecticut and I and the Senator from South Carolina have been working on this kind of proposal for a long time.

Not being on the Finance Committee—unfortunately I was not present when the Senator made his remarks—I do not know whether this amendment was discussed in the Finance Committee this year. It has, of course, been discussed at length on the floor on many other occasions, and we have not only lost by a very close vote, but we have also won by a very close vote.

The difference between the Ribicoff-Dominick amendment and the Hollings amendment is that this gives a little more edge to the lower income people who are educating their children. Heaven knows that with the costs of education going up and up it has been a difficult burden for many people. There are scholarships for people with low income, and there are fellowships and foundations for those with higher income. There is very little anywhere for the middle-income people. I shall support the amendment.

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

Mr. HOLLINGS. I yield.

Mr. PASTORE. Mr. President, the time has come when we must do something about this matter. It is an old chestnut; we have had it before us many times. There are many parents who, at great sacrifice, and with pride, want to pay for their children's education. They do not want a handout or a grant or a scholarship. They want to feel they are paying for their children's education. For that reason, we ought to give them a concession so they can do it. It costs anywhere from $3,000 to $7,000 to send a student to college. We ought to do something about it. This is a modest concession for those people who have pride and want to pay for their children's education.

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

Mr. HOLLINGS. I yield.

Mr. RANDOLPH. The amendment that is offered by the able Senator from South Carolina, or its essence, as the Senator from Colorado (Mr. DOMINICK) has said, has had the attention of many Senators, including that of the Senator from Connecticut (Mr. RIBICOFF).

In the Subcommittee on Education of the Committee on Labor and Public Welfare, we have given attention to the general subject matter in terms of grant and loan programs. Of course, the approach under discussion rests with the Finance Committee.

Is it not, then, a subject which has been thoroughly considered by many Senators in several committees?

Mr. HOLLINGS. It very definitely has been. That is true.

Mr. RANDOLPH. I wish to associate myself with my colleagues, including the Senator from Rhode Island (Mr. PASTORE), who have risen to say that this is not a handout, but a helping hand to parents who need funds to pay for the costs of educating their children. This is a proposal which has had my support in the past.

Mr. HOLLINGS. I thank my distinguished colleague from West Virginia, who, for the last several years, has been primarily interested in this particular field, for his cooperation and support.

Mr. McGEE. Mr. President, will the Senator yield me some time?

Mr. HOLLINGS. I yield.

Mr. McGEE. What I would, frankly, ask for is a little clarification. In general in the past when we have had this issue, it has been suggested that the land-grant colleges are penalized by the proposal. This proposal used to be referred to as the Ivy League bill. Coming from a State that has only one land-grant university, we are not interested in penalizing our present status.

I would be grateful if the Senator from South Carolina could comment on the consequences of his proposal to those colleges and universities in the land-grant States.

Mr. HOLLINGS. I shall be delighted to answer. The amendment provides a tax credit for expenses paid not only for public but private institutions of higher learning. It applies not only to institutions of higher learning, but specifically to technical or trade schools for the poorer families who have to pay $100 to $200 to take specific courses in technical arts in order to obtain a technical training. So the amendment, rather than penalizing, would put them on an equal basis with other colleges and universities, as well as technical schools.

Mr. McGEE. I think the misgiving was not that they were not equal, but that right now they have an advantageous position in the income question. It was less a fear that we would not get as much but that, in effect, the others would be getting more than they now get and that that amount would have to come out of what now goes to land-grant colleges

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

Mr. HOLLINGS. I yield.

Mr. RIBICOFF. Is it not true that the amount paid for tuition and books, whether in land-grant colleges or otherwise, today certainly exceeds the total amount that the credit would be allocated against? In other words, the Senator's proposal provides 75 percent or so much of the expenses that do not exceed $200. Therefore, there would be a credit of 75 percent to the student or family for the first $200 paid. I do not know of any college in the country where the fees do not exceed $200.

The next provision says 25 percent of so much of the expenses that exceeds $200 but does not exceed $500.

So the bulk of the credit being proposed by the Senator from South Carolina goes to those paying under $500 in tuition and fees. Therefore, the young

man going to the University of Wyoming benefits in his tax payments as a result of this credit for his school expenses up to $500, and the parents are receiving as much of a tax credit as those of the boy who goes to Harvard, and who pays perhaps $3,000 for tuition and books a year.

Mr. McGEE. I think the point was that a higher percentage of young people in the land grant institutions would generally come from lower-income families; that we would find a larger percentage of lower-income groups sending their children, for the advantages of tuition and the like, to land-grant schools in their particular State.

Mr. RIBICOFF. Looking at my own State of Connecticut we have the University of Connecticut and our community colleges. Although we have many private institutions in my State, I would say that the overwhelming majority of the families today are sending their children either to the University of Connecticut or to the community colleges. If all my colleagues will examine the enrollments at their own State universities, I think they will find the overwhelming number of students are attending them, because of the much higher cost of private institutions. So, basically, every young man or woman at a State university or his parents would be able to take full advantage of the proposal put forth by the Senator from South Carolina.

Mr. McGEE. I thank the Senator from South Carolina for his courtesy.

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

Mr. HOLLINGS. I yield.

Mr. CANNON. Does that include also the community colleges, of which the Senator from Connecticut spoke?

Mr. HOLLINGS. yes.

Mr. CANNON. Because here is a 2-year college, not necessarily directed toward a degree, but directed toward training students to assume a proper productive role in the community.

Mr. HOLLINGS. That is exactly right. Under the definition, it would include higher education above the 12th grade level. It applies to junior colleges.

Mr. RIBICOFF. The Senator was very careful to define it as education above the 12th grade, so someone going to a junior college or to a technical school could take advantage of this credit, too.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. JORDAN of North Carolina. What has been the reaction, if any, of the universities and private institutions and technical schools to this proposal?

Mr. HOLLINGS. They are very much in favor if it. They are badly in need of help.

Mr. JORDAN of North Carolina. I know they are badly in need. Does the Senator think this provision will help those institutions get scholars?

Mr. HOLLINGS. Oh, yes.

Let me give an exact explanation of this.

Fifteen years ago there were 2.5 million students enrolled in college. Last year that figure reached 7.9 million, and it is estimated that by 1972 there will be an additional 1 million students enrolled.

The pressures of this influx of students has terrifically inflated educational costs, and a quality education is rapidly becoming prohibitively expensive. In 1958, colleges and universities spent $5.2 billion. Ten years later, this had increased to $17 billion, in 1970 it went to $28 billion, and the 1971 estimate is $31 billion. At the same time, the expenses borne by the students and their parents have been increased. Tuition costs at public institutions have more than doubled in the past 7 years, and at private institutions they have increased by over 70 percent. The cost of tuition alone averages $360 in public universities and $1,741 in private ones. The average minimum cost of a year of college is $2,844 at a private college, an increase of $500 in 2 years, and $1,324 at public institutions, an increase of over $300 in the past 2 years.

Because of the continued increase in student enrollment projected for the future, about one-half million per year, these educational costs are certain to continue to increase. In a country which places a premium on education, we are rapidly pricing the average family out of the market.

It is time to confront this problem head on. Individual families cannot do the job alone. Well educated and trained young people are an essential asset to this country. The tax credit which I propose is a form of assistance from which we will derive more value than the approximately $2 billion we would lose in tax revenues.

The amendment which I propose today would permit a tax credit for part of the expenses paid by a taxpayer to provide for his own, or another person, tuition, books, and equipment. Room and board expenses are excluded, and scholarship assistance can be deducted. Should the credit exceed the tax liability, a positive payment would be received by the taxpayer.

The credit would be calculated on a sliding scale which favors those who are attending low tuition schools. The maximum credit would be $325. The credit is given against allowable expenses of up to $1,500 as follows:

First, 75 percent of the first $200 of allowable expenses.

Second, 25 percent of the next $300 of allowable expenses.

Third, 10 percent of the remaining $1,000 of allowable expenses.

These expenses must be incurred at a qualified educational institution which includes recognized colleges, universities, vocational, business, and trade schools.

The credit favors those in lower-tax brackets by providing for reduction in the credit of $1 for each $100 in income over $25,000

To illustrate, a family earning $4,000 and spending $300 to put a child through a trade school or a public institution, would receive a $175 credit. Since this family probably would not pay income tax, it would receive a payment in this amount. A family which earns $15,000 and pays $1,200 toward a child's higher education, would receive a credit of $295.

Mr. President, visit Sweden. Go to Brazil. Go to Russia. In all those places, there is free tuition. Here is great America, premised on free public education, the most developed of all the nations on the face of this globe, and we are still turning down these proposals, and yet, come around to the 15th of August, when they are wanting to stir up the industrial machine, you have got to buy a $3,000 car to get a $200 credit. What kind of equity and justice is that?

Here is the Senate. The other body of Congress has passed this twice, and here, come August 15, we have a proposal to buy a $3,000 car to get a $300 credit, when we are paying for two wars.

I ask unanimous consent that the names of the Senator from Connecticut (Mr. RIBICOFF), the Senator from Nevada (Mr. CANNON), the Senator from South Dakota (Mr. McGOVERN) the Senator from West Virginia (Mr. RANDOLPH), the Senator from Rhode Island (Mr. PASTORE) the Senator from Nevada (Mr. BIBLE), the Senator from West Virginia (Mr. BYRD) and the Senator from Washington (Mr. MAGNUSON) be added as cosponsors.

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

Mr. HOLLINGS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. RANDOLPH. Could I ask the Senator one question?

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. As I understand it, and I think the Senate understands it—but I want the record to show it again because I missed parts of the Senator's excellent presentation—the money is not given to any institution. It is given to the family or the young person who is to go to college?

Mr. HOLLINGS. That is exactly right. This is a bill to make this credit directly available to aid in all post-secondary education.

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

Mr. HOLLINGS. I yield.

Mr. MAGNUSON. Some years ago, a few of us tried to get a deduction——

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. HOLLINGS. I shall be happy to in due course, but right now I am yielding to the Senator from Washington.

Mr. MAGNUSON. I merely wanted to say that some years ago, five or six Senators, I forget their names now, tried to get a deduction. So we have come a long way, and I am happy to support this amendment.

Mr. HOLLINGS. I thank the Senator, and I yield to the Senator from Iowa.

Mr. MILLER. Mr. President, do I understand the amendment correctly in this respect, that the maximum amount of the credit for one student would be $350?

Mr. HOLLINGS. It is $325.

Mr. MILLER. It is $325?

Mr. HOLLINGS. Yes.

Mr. MILLER. Now, Mr. President, in all deference to my friend from South Carolina, I am concerned about two aspects of this matter. The first aspect is that unless one is in a tax bracket, unless one is paying taxes, they get no benefit under this proposal.

Mr. HOLLINGS. No, sir.

Mr. MILLER. There is no income tax payable, and they derive no benefit from the measure, as I see it.

The second is that the Senate, by an overwhelming majority, voted to pass the Higher Educational Amendments Act of 1971 back before the August recess, in which I think we really did a job in this area by providing for a basic educational grant of up to $1,500, which would be scaled down, depending upon the income position of the parents, depending upon the number of children in the family who are going to college, and providing, in addition to that, a supplemental education allowance which could be used for those who needed more income or more of a stipend, and also covered those who would not be eligible for the basic education allowance, but would have to have some stipend in order to go through college.

This is a very expensive proposition, but it seemed to me that for the first time Congress really met the issue head on, at least the Senate did, and the Senate did a good job. As I recall, that measure passed practically unanimously.

If we are going to try to do something for people going to college, and cannot afford it, it is far better to give them $1,500 in a basic educational allowance than to give the parents $325. I wonder why we should not pursue the work the Senate did in the Higher Education Amendments Act, rather than try to do this on a tax bill, which at best will be woefully inadequate.

Mr. HOLLINGS. Mr. President, responding to my friend from Iowa, on page 6, line 11, we have included in the amendment a section on payment of excess credit to the taxpayer, which provides that if the amount of the credit allowable to the taxpayer exceeds the amount of the tax imposed on the taxpayer, then such excess shall be held and considered an overpayment, and be paid directly to the taxpayer by the Secretary of the Treasury. If no tax is imposed on the taxpayer for that taxable year, the total amount of the credit allowable under subsection (a) shall be paid to the taxpayer by the Secretary or his delegate.

So we do help the low income people. We have supplanted that particular vision.

Mr. MILLER. Mr. President——

The PRESIDING OFFICER. The Senate is not in order, and it is difficult to hear. The Senate will be in order.

The Senator from Iowa may proceed.

Mr. MILLER. Mr. President, I appreciate the Senator from South Carolina clearing that point up, but I would get back to the second point, which is the major one I had. What the Senator has just pointed out is that in a low-income family, where there are no income taxes due, that they can get a $325 refund, so to speak, with respect to a boy or girl that they have got going to college.

But what the Senate did before the August recess, in the Higher Education Amendments Act, was to provide that that boy or girl can get $1,500, and, if necessary, even an amount above that, I would guess that a $350 refund to a family like that probably would not make the difference between that boy's or that girl's receiving an education. But it would certainly make all the difference in the world if they could get a $1,500 basic grant, such as we provided in the Basic Education Act of 1971.

Mr. COOK. Mr. President, will the Senator from South Carolina yield me 2 minutes?

Mr. HOLLINGS. I yield.

Mr. COOK. Mr. President, I think the Senator from South Carolina should be commended. Frankly, I find myself in a position where I would love very much to vote for this amendment, but I have quite a conflict of interest. I have three children in college this year, and I listened with interest to what the distinguished Senator from Iowa (Mr. MILLER) said relative to the fact that someone would get a grant or a stipend. But there are many, many people in the country today who have two or three or more in college at the same time, who would not be entitled, nor would their students be entitled, to this.

I might suggest to the Members of the Senate that if they think inflation has run rampant in some fields of cost in the United States over the last few years, if they have not had any children in college, they have not seen anything, because inflation in the cost of education has been really rather remarkable. As a matter of fact, every year that I have received tuition bills, they are higher every year; and you hardly get a letter any more telling you that they are going to be higher, so you cannot even be prepared for it.

So I would say that there are many people in this country who followed the suggestion of their Government right after World War II when they were told, "if there is anything you do, remember to educate your children; remember to get them a college education." We picked up this challenge, and we saw our universities grow and grow and grow, and then we watched the cost grow and grow and grow.

So I merely say that there are many, many people in the United States who do not fall within the category set forth by the Senator from Iowa, who, even if they have exceptionally fine children, find themselves just at that category of income where there is no aid or assistance that the university could give them, because their child would not be eligible for it, anyway, and who find themselves in the position in which this Senator finds himself, with a senior, a sophomore, and a freshman in college.

Because I feel so strongly about it, I would implore Senators to vote in favor. But when it comes to me, I must confess that I have a little conflict of interest, and I will announce "present."

Mr. DOMINICK. Mr. President, will the Senator yield me 2 minutes?

Mr. HOLLINGS. I yield to the Senator.

Mr. DOMINICK. I thank the Senator.

Mr. President, I commend the Senator from Kentucky. I must say in all candor that I have a son in graduate school, I have a daughter in college, and I have another son coming up, and I have no intention of voting "present." I am going to vote according to what I think is right, because I have introduced this bill ever since 1961 and have been fighting for it all the way through.

With regard to what the Senator from Iowa said, I think this comment should be made. First of all, the higher education bill, as we all know, is in a great deal of trouble. We have a definite disagreement with the House. We have not yet gotten to conference, and we probably will not until next year. What will happen at that point, nobody knows.

Second, no matter what we did under the Higher Education Amendments of 1971, the fact remains that what this would tend to do would be to entice more people out of the private school area and into the public school area so they could get the benefit of this stipend. This is going to overload the universities more than they are now, and it could create a real problem in the educational field for the rest of the country.

I would prefer to see us go this way on the tax route. I am not naive enough to think that this is going to go swimmingly through. So far as the House is concerned, it is going to be a long, tough battle. I think we ought to put it up and say that this is the will of the Senate and try to get the House to consider this type of approach to these interminable costs of higher education.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Tennessee (Mr. BROCK) be added as a cosponsor of the amendment.

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

Mr. DOMINICK. Mr. President, will the Senator also add my name?

Mr. HOLLINGS. Mr. President, the Senator from Colorado sponsored this measure long before I came here, and I am delighted to ask unanimous consent that his name be added.

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

Mr. HOLLINGS. I ask unanimous consent that the name of the Senator from Indiana (Mr. BAYH) also be added as a cosponsor.

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

The time of the Senator has expired.

The Senator from Louisiana has 30 minutes.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield me 1 minute?

Mr. LONG. I yield 1 minute to the Senator.

Mr. JORDAN of North Carolina. This does not preclude a private college at all, does it? It is the same for any institution?

Mr. HOLLINGS. The same for any institution. It takes care of the private instituton.

Mr. JORDAN of North Carolina. I thought that was correct.

Mr. HOLLINGS. Yes.

Mr PERCY. Mr. President, will the Senator from Louisiana yield me 2 minutes?

Mr. LONG. I yield 2 minutes to the Senator.

Mr. PERCY. Mr. President, I will have to oppose this amendment, and I am

sorry that I must, because I am a cosponsor of the bill.

I think we have to do much more to help middle-income people educate their children, particularly those who have two or three children in institutions of higher education at one time. But I feel that the cost—$2.2 billion—simply cannot be afforded at this time. I feel that hearings should be held.

I think that a proposal as worthy as this one does deserve full hearings. But I believe there are alternative possibilities. One is the possibility of creating a tax deferral program to relieve the costs of higher education, and I am preparing legislation along this line.

It is not because I do not recognize the problem that the distinguished Senator is trying to solve. It is a very real and pressing problem, but I do not think we can afford so much money for it at this time. Particularly, I am not prepared to vote on this amendment because I think the subject matter is deserving of the fullest possible hearings and these have not been held.

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

Mr. LONG. How much time does the Senator desire?

Mr. HANSEN. Three minutes.

Mr. LONG. I yield 3 minutes to the Senator.

Mr. HANSEN. Mr. President, I find myself in the unique position of having to oppose a measure in which I have found much merit over the past several years. As the distinguished Senator from Colorado knows, I was a cosponsor with him of his amendment which would have afforded some much-needed relief for the parents of youngsters going to colleges and universities. I still think this is a good bill, but it is a good bill at the wrong time, at a bad time.

The whole thrust of this effort that has resulted in the tax proposal package before the Senate has had several ideas in mind: No. 1, to try to stimulate the kind of business activity from which would develop jobs. I think it is going to be pretty difficult for anyone to relate the direct relationship that this kind of tax relief can have to the development of jobs.

I point out to my colleagues, as has already been done, that this is not an inexpensive measure. It will cost $2.2 billion, according to the latest Treasury estimates.

I would further remind my colleagues that, according to the running account that has been kept by the senior Senator from Utah, we have already added to the Treasury costs, in amendments that have been approved by the Senate, $2.6 billion. So that if this amendment were adopted, we would have a combined additional Treasury obligation of $4.8 billion.

This is a good bill. It is a good bill, but this is not the time for it. It is not the time for it for a number of reasons. The benefits of this proposal will not flow to all taxpayers with income below $25,000 but only to those who have children attending a college, university, or training school. To provide $2.2 billion of specific tax relief for a limited group of individual taxpayers will do nothing to provide needed support for colleges, universities, and vocational training schools. If funds were available, this same amount of direct aid could go a long way toward alleviating many of the problems facing our educational institutions and under the aid approach, no specific group of taxpayers would receive a disproportionate benefit.

Furthermore, the proposed credit will not be of much assistance to low-income families. In order to receive the maximum credit of $325 a family would have to expend $1,500 in addition to any scholarships or veterans' benefits available to the child and, obviously, few low-income families are in a position to expend this amount.

On the other hand, families whose incomes approach the $25,000 limit will no doubt incur tuition expenses in excess of $1,500 in any event and a credit of $325 will have no bearing on whether their children attend college.

In view of the high revenue cost of this proposal and the fact that it provides tax relief principally benefiting taxpayers with children in college and whose incomes approach $25,000, while doing nothing to expand opportunities for higher education in general, the amendment should not be accepted.

I would point out that we have made available for this year $7.5 billion in support of higher education. As has been stated, Congress now has before it a proposal to make grants to students who want to attend colleges and universities in this country. It seems to me that this is not the way to extend further aid for an additional number of objectives, so as to enable young people to continue their education beyond the high school level.

I regret that I shall be obliged to vote "nay" on a proposal that I think would have much merit at some other time.

Mr. LONG. Mr. President, I yield myself 2 minutes.

It would seem to me that it would be far more equitable to provide a tax deferral for persons who go to college rather than to provide a special tax benefit. The reason I say that is that colleges are very heavily subsidized both by the States making direct contributions to them and by Congress providing deductions for anyone who makes a contribution to a university by making charitable or educational gifts.

There are all sorts of laws that subsidize universities, directly or indirectly. The result of this amendment would be to further subsidize universities.

As I understand, we start by giving a 75-percent tax credit on the first $200 of expenses, then 25 percent on the next $300, and finally 10 percent on the next $1,000, making a total credit of $325.

My recollection is that Louisiana State University, which I attended, does not have tuition as high as $200. So the university would immediately raise the tuition to $200, at little cost to the student or his parents because of the 75-percent tax credit. In many instances, it is not the student who gets the benefit, so it is not a sensible way to use the money to assist education. It makes no difference to the youngsters anyway, if their families are able to put up the money for them to go to college.

After we get through subsidizing, we tax the benefits that already exist. For the most part, it is the sons and daughters of the affluent who go to college. After they have finished college, they become professional people—doctors, lawyers, and the like—and they have a better income in later life than others. This makes one ask, Why should the working people, whose sons and daughters will never go to college, have to pay taxes all their lives so that others can obtain a better advantage?

Then, as usually is the case with those who enjoy a tax benefit and are subsidized in order to go to college, when they graduate, they usually take advantage of the H.R. 10 benefits, the self-employment provision, which allows them to defer paying taxes on money set aside for retirement, even though they are making as large amounts as $50,000 or $75,000 a year. We just finished one amendment which I could not vote for because it had not been thoroughly considered and that was to subsidize the poor. In general terms, insofar as we look at classes of people, that is the effect of what it will do and who would get the advantage. So that first we hit from the left and then we hit from the right. First, we have the case of the poor and then someone proposes to take care of the sons of the affluent. I would think that if we want to load this thing on the bill, we should go back and reconsider the first Hollings amendment where he wanted to give things to the poor rather than where we now want to give it to those who are better off.

I would say to my friends who voted against the first Hollings amendment that we voted not to help the poor but now we turn around and are asked to vote for the welfare of sons of the affluent.

Now, of course, I know that is not the entire case but, generally speaking, to benefit from this, the money has to be available to the parents to send their child to school. If they do not have the money to send their youngster to a school, then the tax benefit is not going to do much good. A private school costs about $3,000 a year for one child, and if the parents do not have the money to send him, a $325 tax credit is not going to do very much good anyway.

So, Mr. President, I would think that there are better ways of doing this, ways that would have more justice and tax equity. I believe that a deferral proposal would be more fair. Those who benefit from all sorts of tax subsidies to give their children an education would be making more money in later life and therefore, better able to pay than those who cannot go to college.

This amendment should have a lower priority than those that would benefit all the taxpayers or those that would benefit the poor. So I hope, Mr. President, that this amendment will not be added to the bill.

The committee was given no opportunity at all to consider this proposition, even though the original sponsor, Senator RIBICOFF, is a member of the committee.

We had no chance to consider this proposition, or the alternatives to it. It was not even offered in committee. So there was no opportunity to conduct hearings, to consider the alternatives, or anything along that line.

I hope that the amendment will not be agreed to.

Mr. BUCKLEY. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. (Mr. EAGLETON). The Senator from New York is recognized for 2 minutes.

Mr. BUCKLEY. Mr. President, I believe that this approach to relief from the heavy cost of higher education is undoubtedly a most correct one and a most balanced one, but I cannot see how the Senate, in good conscience, at this time, can suggest further ways to increase our deficit by $2.2 billion without, at the same time, pointing to areas where we can cut back existing costs by an equivalent amount.

So, although I am wholeheartedly in sympathy with the approach of the amendment, and although I hope that it will be pursued with adequate hearings, I trust that it will be pursued in the context of the educational package where we can shift some of the Federal grants under current programs and chain them down; so that we can give this type of relief to people who, especially in the middle-income brackets, are hardest hit to educate their children; so that we can continue to help parents help their children without, at the same time, having a Federal budget get so topheavy that we will spur the present inflationary pressures to a point where all these deductions and additions will prove meaningless in the long run.

Mr. President, because there is no indication that we will be saving somewhere in the neighborhood of $2.2 billion, I must, at this time, state that I will vote against the pending amendment.

Mr. GRIFFIN. Mr. President, I wish to associate myself with the remarks just made by the distinguished junior Senator from New York. I have been a cosponsor of this tax credit proposal for a number of years. I favor the objective of the amendment now before us. But how can I responsibly vote for it under the circumstances which now confront us?

Two of the young people in my own family are now in college. So, I am very conscious of what the proposal means. But this is the wrong way and the wrong time to legislate with respect to a measure that will cost the Treasury so much. The question at the moment is one of priorities. We should confine our consideration as closely as possible to the tax package that was considered and reported by the Finance Committee.

Then I would hope and urge that the Finance Committee would proceed to hold hearings on this college tax credit proposal—of which I am a cosponsor—and try to find a responsible way to report it favorably, taking into account its impact upon the Treasury.

Mr. BENNETT. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield 3 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 3 minutes.

Mr. BENNETT. Mr. President, this matter has had careful study by a number of prestigious panels which have been studying the problem of higher education. President Nixon's task force on education, President Johnson's task force on education, the Carnegie Commission on Higher Education, the Association of American Universities, and the American Council on Education, have all recommended, if not recommended against this, have all indicated that they think this is not the right way to solve the problem.

I would be inclined to agree with them. This is a scatter gun approach. It would provide tax relief for the man who has $1 million to send his child to college. It provides no tax relief for the man who cannot raise the $1,500 to send his child to college. It is one of these things that, to me, seems worthy on the surface. No one can quarrel with its objective. But it really does not provide a fair and equitable solution to the problem.

As has been pointed out, it will help those in the middle brackets and provide no help at all for those with lower incomes that cannot spend enough money to justify the tax credit.

In view of the fact that there is a bill waiting to go to conference, a bill that this committee passed last August, a bill that had very extensive hearings and that has been studied very carefully, I think we would do well to have a chance to look at the results of that conference rather than to try to take this quick and not thought-through solution to the problem.

Therefore, I hope the Senate will stand with the committee and not add his amendment to the bill.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I say to the Senator from Utah that I cosponsored and voted for a measure similar to this several times in years gone by. The situation is somewhat different now. As a matter of fact, the Senator from Washington and others who serve with me on the Appropriations Subcommittee on HEW are well aware that we are now, with authorization from Congress, giving more and more money every year in the form of scholarships to aid needy students and students from poor families. So, at the present time, we have spent a great deal of money. Perhaps in time to come we can do this again.

Although I agree that it is a scatter shot approach and helps the rich as well as the poor, at this time I am constrained to vote against it, even though I have sponsored such legislation in the past.

Mr. HOLLINGS. Mr. President, would the chairman of the committee yield me 2 minutes?

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I did not realize that there would be so much interest from my colleagues in this matter. I have a difficult enough time following this group that wants to help those who want to go to college and say they try to do that when they voted against the amendment. Now they say that this would help the millionaires.

That is quite inaccurate, for the total amount of credit allowed under subsection (a) which shall be granted to the taxpayer, is reduced by 1 percent of the amount his income exceeds $25,000.

Second, this measure has been studied and has passed the Senate twice. When we talk about the fact that now is not the time, that no one on the Finance Committee proposed any of these things, I must ask when any Members of the Senate get a chance to propose anything. I am not a Member of the House. I am not on the House Ways and Means Committee. I am a Member of the Senate. I am not on the Senate Finance Committee.

The measure has been heard and considered and found to be a very fine and salutary approach to the matter of education.

It is not the automobile excise tax. It is not the accelerated depreciation. It is not a matter of machinery. It is not something that goes to the corporations that go overseas. It is something that is going to the average American, the man who is making this country work.

That is what it means. The measure has passed the Senate before. Now is the time to do this. We are two times late. The Senate has acted on this matter two times already.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from South Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOK (when his name was called). Present.

The legislative clerk resumed and concluded the call of the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from South Dakota (Mr. MCGOVERN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from Oregon (Mr. PACK-

WOOD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

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

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Nebraska (Mr. CURTIS).

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea" and the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 56, nays 27, as follows:

[No. 336 Leg.]

YEAS—56

Allen	Ellender	Nelson
Baker	Fong	Pastore
Bayh	Fulbright	Pearson
Beall	Gambrell	Proxmire
Bentsen	Goldwater	Randolph
Bible	Gravel	Ribicoff
Boggs	Harris	Schweiker
Brock	Hart	Sparkman
Brooke	Hatfield	Spong
Burdick	Hollings	Stafford
Byrd, W. Va.	Inouye	Stennis
Cannon	Jordan, N.C.	Stevenson
Case	Magnuson	Symington
Chiles	Mansfield	Taft
Church	Mathias	Thurmond
Cranston	McIntyre	Tunney
Dominick	Metcalf	Weicker
Eagleton	Mondale	Williams
Eastland	Moss	

NAYS—27

Aiken	Ervin	McGee
Anderson	Fannin	Miller
Bellmon	Griffin	Muskie
Bennett	Gurney	Pell
Buckley	Hansen	Percy
Byrd, Va.	Hruska	Roth
Cooper	Javits	Scott
Cotton	Kennedy	Smith
Dole	Long	Young

ANSWERED PRESENT—1

Cook

NOT VOTING—16

Allott	Jordan, Idaho	Saxbe
Curtis	McClellan	Stevens
Hartke	McGovern	Talmadge
Hughes	Montoya	Tower
Humphrey	Mundt	
Jackson	Packwood	

So Mr. HOLLINGS' amendment (No. 653) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMINICK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the amendment of the Senator from Indiana (Mr. BAYH) for himself and other Senators, which the clerk will read.

The legislative clerk read the amendment, as follows:

On page 36, lines 11 and 12, strike out the words "not more than 20 percent (rounded to the nearest half year) of such life." and in lieu thereof insert the following: "not more than 5 percent (rounded to the nearest half year) of such life. There shall be allowed a credit of $25 to an individual ($50 in the case of a married couple filing a joint return) against the tax imposed by this chapter for the taxable year ending before January 1, 1972, and beginning after December 31, 1970, except that such credit shall not exceed the amount of the tax imposed by this chapter for such taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property)."

The PRESIDING OFFICER. The time is controlled. Who yields time?

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

PRIVILEGE OF THE FLOOR

Mr. BAYH. Mr. President, I ask unanimous consent that my staff assistant, Mr. J. Berman, may stay with me on the floor through the vote.

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

May we have order? Will Senators who have conversations that are not on the present subject please take them elsewhere? Will Senators please take their seats? Will all staff employees not connected with the pending business please leave the Chamber?

Until that happens, the Senator will suspend.

May we have order in the Chamber, please?

The Senator from Indiana may proceed.

Mr. BAYH. Mr. President, pursuant to the unanimous consent agreement, there is a half-hour's limit on each side on the amendment offered by myself and the Senator from South Carolina (Mr. HOLLINGS). I do not know whether it will be necessary to take that much of the Senate's time in view of the similarities between this amendment and the one which was offered on Friday and failed by two votes.

Specifically, our amendment would provide a $25 tax credit for each taxpayer, retroactive to January of this year, and thus applicable to this year's taxes. It would permit a $50 credit for a joint return.

It should be pointed out that this is a 1-year revenue loss only.

I have discussed this measure at some length with the chairman of the committee. He has been very patient. I apologize for taking so much of his time the last 3 or 4 days, when he has been involved in a number of matters.

A number of persons have asked, "Why don't you propose only the credit?"

Why did you bring in the second part of your amendment, which involves decreasing ADR?

This is an effort to be fiscally responsible. If we are going to give our taxpayers a break of $25 per individual and $50 per joint return, we have to have something to pay for it. I suppose we would have a better chance of passing the tax credit alone without tying it to ADR, because I know of Senators, on the other side particularly, who will vote against this amendment because it is tied to the ADR.

The amendment of the Senator from Indiana and the Senator from South Carolina that failed by 2 votes on Friday would have abolished ADR completely. I must admit that I feel this is the wisest approach. However, in an effort to accommodate those who feel there is a place for the accelerated depreciation, we have cut the range from 20 percent under the present bill to 5 percent. Thus, this matter will be thrashed out in the conference committee between the House and the Senate.

I feel we have to pay, in the long run, for the little goodies we are passing on to our constituents. Cutting ADR from 20 percent to 5 percent would provide a $500 million saving the first year, a $1.2 billion saving the second year, a $1.6 billion saving the third year, a $2 billion saving the fourth year, and a $2.5 billion saving the fifth year.

Thus, with reference to the tax credit that we propose be applicable to this year's tax return, which costs about $2.4 billion, cutting ADR would save a $7.8 billion drain on the economy in tax revenues. So we have a net revenue gain.

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

Mr. BAYH. I yield.

Mr. LONG. As I understand it, if we were to assume that the investment tax credit together with the other measures being put into this bill are successful in getting this country moving again and, after about a year, we have full employment and we do not need any more stimulus in terms of additional accelerated depreciation or additional spending power to be passed through, is it true that this proposal would be a big revenue saver and that over a 10-year period we would save about $8 billion?

Assume for the sake of argument that, with the investment tax credit, the realinement of currencies for trade purposes, the various tax benefits that are elsewhere in the bill, plus the stabilization program, we are going to get the country moving again and that we are then able to achieve full employment. In that event, it would be a big revenue saver in the long run.

Is that correct?

Mr. BAYH. That is right, plus the fact that we would provide the stimulus when we need it. We know we have problems right now, and it seems to me the proposal of the Senator from North Carolina, the Senator from Indiana, and some of our other colleagues, has two or three things to recommend it. First of all, it tends to redress the balance of the President's tax plan, which is a bit heavy in giving tax breaks to industry and corporations. This would give a $2.4 billion tax break to the consumer.

Second to recommend it is the timing. As the Senator from Louisiana points out, now is when we need the stimulus. We had the $800 exemption adopted by the Senate, but it does not take effect until the following year. We need help now, and the 1-year benefit provided in our amendment would apply to this year's tax and would be available next year to spend and help stimulate the economy.

Next year, if we need some stimulus, we can make that determination then.

Mr. LONG. If we do not need it, then it helps balance the budget.

Mr. BAYH. That is right. It helps balance the budget and probably it will help pay for more of the goodies we have put in this bill.

Mr. LONG. Meanwhile, if we want to go ahead with the construction of roads

and public projects and pollution control programs and others we would like to spend some money for, and do it a year from now, the money would be available for that. Is that correct?

Mr. BAYH. That is right. We would make that determination then.

Mr. HOLLINGS. Mr. President, I yield myself 2 minutes.

Mr. President, I think the RECORD should show, in trying to find the clue to President Nixon's budget message here, that he has sought the counsel of Democratic economists as well as Republicans. I put in the RECORD, during the debate earlier today on the other amendment, the article by Walter Heller in the Washington Post of yesterday. I know Dr. Heller, of the University of Minnesota, has been called in by President Nixon and his advisers, and all have had differing views to express.

We need to get the economy moving and still not waste tax moneys down the line, because this country is in need of tax revenue. We need to get back to the environment, the highways, the housing, the urban areas, the rural areas, and everything else. What this article pointed up in my mind was that he said:

> Yes, do away with the accelerated depreciation, but go ahead with the investment credit, and then spur it on by an increase in consumerism.

My distinguished colleague has been opposing amendments as fiscally irresponsible, including one we have now passed to provide for $2.2 billion in tax credits for tuition.

We can balance that off by the $8 billion saved. After all, this is not a budget balancing bill. The President, on August 15, did not come by and say, "Look, fellows, we have got a $23 billion deficit, and we are going to start balancing the budget." He said:

> We have got a stagnant economy, and we are about to devalue the dollar, and the American industrial machine is going down the drain. It must be saved. The question is how to do it as quickly, as promptly, and as fiscally soundly as we can.

This can be distinguished from the amendment lost by a vote of two on Friday by the fact that there we did away with the entire depreciation allowance. This one has an allowance of only 5 percent, which is considered fiscally sound by all the economists, and it meets a dual need: It puts $25 or $50 credit back to a couple and helps bring about consumerism, which is the best way to profits in America, and at the same time, over a 10-year period, saves some $8 billion in revenue.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I intend to vote for the amendment, so I yield the time in opposition to the distinguished Senator from Utah (Mr. BENNETT).

Mr. BENNETT. Mr. President, here we go again. The blow is not quite so heavy as it was on the last go around, but we are again being asked to believe something that is not true, in order to make this particular approach seem reasonable.

The thing we are being asked to believe is that the tax situation today, and in the bill as it came from the committee, is heavily loaded in favor of corporations and against the individual, and that it is necessary to redress that imbalance.

Taking the 1969 Tax Act and this bill, as it came from the committee, and projecting forward for 10 years, over that 10-year period, cumulatively, individual taxes would be reduced $157 billion, an average of about $16 billion a year.

The tax on corporations, leaving ADR at 20 percent over that 10-year period, would be cut by only $10 billion. So the tax cuts for individuals, under existing law and the bill as it came from the committee, are 15 times the tax cuts for corporations.

Under the Senator's amendment the $10 billion tax relief that would be provided for business over 10 years would be turned into a tax increase. Instead of receiving relief of $10 billion, corporations would have an increase in tax of $15 billion. How anyone can say that it is necessary to make this kind of a change in order to equalize cuts between business and individuals is more than I can understand, in the face of these figures.

I can understand the real argument of my friends who are the sponsors of this amendment. They do not like business to have any tax relief. They say, "Give it to the individual, and he will get out and spend it, and then, by a kind of trickle-up theory, suddenly business will be good."

On this, let me first say that already we have added, over the next 10 years, by actions on the floor of the Senate, an additional $41 billion of tax relief to individuals. So we are now up to $198 billion relief for individuals. This has been done in the name of equalizing the benefits to individuals with those provided to corporations. As I have shown, if this amendment passes, we will in fact have taken away the small tax benefits that corporations would have had under present law and the bill and turned it into an additional tax burden.

Second, I realize that many of my colleagues in the Senate have never been a part of the business system. They do not recognize what it takes to provide a job. It is easy to understand how they can think that business should somehow take care of itself and jobs should grow on trees. But that is not the way it is done. You can tax American business to the point where, facing the competition that comes from overseas, the companies will not be able to keep themselves operating, and the number of jobs will continue to shrink.

This whole bill started with the idea that we had to rearrange our tax priorities so that we could make American business more competitive, so that it could employ Americans. The ADR is one of the devices designed to do this. As I showed in the debate last Friday, even with the full ADR, American business is still in a worse position than its competitors in other countries when it comes to acquiring the new equipment which is needed to increase productivity and the competitive position of American business. Without the ADR, and with the 7-percent credit, the cost of capital in the United States in effect would be reduced by tax benefits from 100 down to 90.15. This amendment would further reduce it a tiny bit, perhaps from 90 down to 89.5.

But this must be compared with the effect the tax benefits provided by other countries have on the cost of capital there. In Great Britain, tax benefits reduce the cost of capital from $100 to $79; in Japan it is $81, in Italy $18, and West Germany $82. In other words, in all these countries, there are substantially more attractive climates for investment than exist in the United States. The ADR is a device by which we can make investment in American industry and American jobs more attractive. It has a very substantial long-range value in making U.S. industry more competitive in world markets.

And it has a long term, permanent effect upon the job producing capacity of American industry. If ADR is largely eliminated, as the Senator proposes, there will be a serious decline in that capacity and in the ability of American industry to provide the level of jobs to Americans that is desirable.

I yield to the Senator from Virginia.

Mr. BYRD of Virginia. Could the Senator from Utah inform the Senate as to what the net reduction of the revenue would be for fiscal 1972 if the amendment of the Senator from Indiana is adopted?

Mr. BENNETT. It is my understanding that the amendment of the Senator from Indiana does not affect 1972. It is a one-shot deal. It would cost about $2.4 billion for calendar 1971, and it would give relief to taxpayers, many of whom have already paid most of their taxes.

Mr. BYRD of Virginia. Not fiscal 1971.

Mr. BENNETT. Calendar 1971.

Mr. BYRD of Virginia. That brings me to fiscal 1972. It would have an effect on fiscal 1972?

Mr. BENNETT. The net loss from the amendment in fiscal 1972 would be approximately $1.7 billion.

Mr. BYRD of Virginia. $1.7 billion in fiscal 1972.

Mr. BENNETT. That is correct.

Mr. BYRD of Virginia. What would the loss be in fiscal 1973?

Mr. BENNETT. Since this is a one-shot deal, it would not produce a loss in fiscal 1973.

Mr. BYRD of Virginia. But for fiscal 1972, it would be $1.7 billion?

Mr. BENNETT. That is my understanding.

Mr. BYRD of Virginia. I thank the Senator.

Mr. BAYH. The whole purpose of this is to be just a one-shot deal—if all these things work, and the economy is supposed to be booming a year from now we will not need more stimulus. We need this now, and that is why we confine it to 1 year.

Mr. BENNETT. I would point out that as a stimulus it probably will not be felt until the middle of 1972, because the people will not get the effect of the savings in their tax until they file their tax returns and the Government processes their returns and then sends out the refunds. It will not put any more money into anybody's pocket in calendar year 1971.

Mr. BAYH. I am advised by the committee staff that anybody who claims a refund can get this money beginning in January and can start spending it right away, and that is when we need it. Nobody knows what the future holds, but we know the present, and the present is is not as good as we would like it nor as good as the President would like it. That is why we feel this additional buying power is needed. Nobody can guarantee that it is going to be spent. But we are taking out of the pocket of the taxpayer an additional social security tax, and this $25 and $50 will help fill that gap, so that buying power will stay about where it is.

Mr. BENNETT. As was pointed out this morning, there is already a substantial upturn in retail sales. The program that has been aimed at that goal is beginning to operate.

I cannot believe that it is sound to provide another $2.5 billion worth of relief in amounts which would mean very little to each individual taxpayer but which, added together, would mean approximately a $2.5 billion revenue loss to the Federal Government.

I cannot see that as a successful stimulus, and certainly not if it is provided at the cost of taking away from American business in the future its opportunity to increase its capacity to provide jobs for the American people.

Mr. LONG. Mr. President, will the Senator yield me 3 minutes?

Mr. BAYH. I yield.

Mr. LONG. Mr. President, a study has been made by the Brookings Institution to show what income tax as a percentage of full employment Gross National Product would be, and this relates to the changes that have been made in the tax law. The Brookings study takes into account something that the Senator from Utah has not considered, and that is the fact that as incomes rise, individuals pay a higher proportion of their income in taxes because they move into steeper income tax brackets, while the same is not true of corporations, because corporations are confronted with a flat tax which is not a graduated tax.

Therefore, if you look at what happens when we have a full employment Gross National Product—and that is what the administration wants to base its budget on, and does—you find that, based on the laws we had in 1961, individuals were paying 8.6 percent of Gross National Product in taxes, and corporations were paying 4.6 percent.

If you look at how it will be in 1972 under the House bill, individuals will be paying 8.6 percent, and corporations will be paying 3.6 percent. In other words, individuals will be paying about the same, while corporations will have had a cut of about 20 percent, if you look at what their taxes would be as a percentage of a full employment gross national product.

Mr. President, I ask unanimous consent that this chart, prepared for me by the staff, be printed at this point in the RECORD.

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

INCOME TAX AS A PERCENT OF FULL EMPLOYMENT GNP

	Individual	Corporate	Total
1961	8.7	4.6	20.4
1970	9.2	4.3	20.5
1972 (House bill)	8.6	3.6	20.0

Source: Compiled from data supplied by Brookings Institution.

Mr. LONG. So, as a practical matter, if you want to take into account what has happened since 1969—and that is going back a bit before the point the Senator had in mind—you include the Tax Reform Act and include the items that happened since that time; and by far the best benefit has gone to the corporations, because individuals, because of higher money incomes due in part to inflation have had higher taxes imposed, by virtue of the graduated income tax, which causes them to pay more tax as their dollar earnings increase.

So, taking that into account, one would find that the bill is loaded in favor of corporations, as against individuals, and the Senator's amendment would move in the direction of correcting some of that differential.

Furthermore—I should like the attention of the Senator from Indiana—the Senator from Utah makes an argument that assumes that everything was just hunkydory and just exactly the way it was supposed to be before we passed the Tax Reform Act of 1969. Some people do not think that. Some people think that there are altogether too many loopholes in the tax laws and that there was a prospect of a taxpayers' revolt, because it was possible for a man to make a million dollars and pay no taxes. Many people felt that after we passed the 1969 Tax Act, the tax burden was the way it should be, rather than before. You can pay your money and take your choice.

Congress did not seem to think that individuals were getting altogether too much the better of it and that corporations altogether too much the worse when Congress passed that Act; because if that had been the thought of Congress, they would not have passed it to begin with.

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

Mr. LONG. I yield.

Mr. BAYH. Would not one be hard pressed to explain his vote for the tax reform bill of 1969 unless he thought provisions need to be changed?

Mr. LONG. Fundamental to the argument of the Senator from Utah is that the Tax Reform Act of 1969 should never have been passed, because the fundamental of his argument is that we did altogether too much for individuals and not enough for corporations in that law—that is, so far as the overall sharing of the burden is concerned. So that if one assumes that was a good bill and should have been passed, the entire argument falls.

Even if that is taken into account, look at what has happened and what does happen as people move up the income tax scale. The fact is that since 1961, the burden on individuals at a percentage of gross national product is just about what it was 10 years ago; and for corporations, by the same comparative standard, the burden is about 20-percent less.

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

Mr. LONG. I yield.

Mr. BAYH. I should like to read one paragraph from page 709 of this document studying this particular act as it was deliberated on in the Senate under the leadership of the distinguished Senator from Louisiana. I think it pretty well sums up his argument about why the type of amendment the Senator from Indiana, the Senator from South Carolina, and the Senator from Oklahoma, and the rest of us are proposing is not extreme—the Senator from Louisiana will recall this, but let me read it to the Senate:

> * * * if account is taken of the progressivity of individual income tax rates and the need to reduce personal taxes as nominal incomes rise—due to real growth or inflation, or both—then the tax cut for individuals under the combination of the 1969 Reform Act and the Ways and Means Committee action is negligible. For individuals, the combined actions return the 1972 relationship between taxes and income to that which held in 1967—before the 1968–70 surtax.

So we are about where we were when we started, despite the concern expressed by the Senator from Utah.

Mr. LONG. Mr. President, the fact is, every time we have put the investment tax credit on, to encourage business to buy more equipment, it has accelerated the economy to the extent that we had to take it off again. That has happened twice. So, against that background, what conceivable basis can there be to say that the investment tax credit is not enough; that we have to provide that much more in accelerated depreciation which actually exceeds the normal depreciation. Look what has happened with the investment tax credit at 7 percent. It has been enough to accelerate the economy and so denude the money markets for the purchase of new plants and equipment not necessarily needed, that we had to repeal it so that somebody else might be able to build a house or an office building. The past experience has been that the investment tax credit has accelerated the economy; so why put the accelerated depreciation into permanent law, since it would lose money on and on into the future, when we already have enough incentive to accelerate the economy based on the experience we have had every time we put the investment credit into operation.

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

Mr. BAYH. I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER (Mr. MCINTYRE). The Senator from Oklahoma is recognized for 5 minutes.

Mr. HARRIS. Mr. President, I want to commend the distinguished Senator from Indiana (Mr. BAYH) for the excellent leadership he has given on this whole question of the asset depreciation range plan of the Nixon administration. I am very much pleased that he

has not quit with one or two efforts, and that he is still back here in the Senate trying to do something about repealing the inordinate windfall for business while the average taxpayer is paying more than his fair share of taxes.

May I say also, Mr. President, that since I was a student in college I have been a student of the history of Huey P. Long, late a member of this body. I think that what the distinguished chairman of the Finance Committee has said just now in regard to this whole ADR question is exactly in furtherance of what the late Huey P. Long had to say, that corporations and big business in Louisiana, in his day—and in my day in Oklahoma—around the country, have had too much of a preference in regard to taxes.

The average taxpayer in this country has been educated very well. He knows now, particularly in regard to what is called the Tax Reform Act we passed lately, that he pays much too much tax while a lot of rich people do not pay enough and corporations do not pay enough.

I am pleased to join with the chairman of the committee to redress that. Many Members of the Senate and a lot of politicians generally have not awakened to what is happening in this country.

Henry Howell was just elected Lieutenant Governor of Virginia on a populist government, on his idea that the average working man and woman in this country and the average taxpayer are being treated unfairly.

Rubin Askew, Governor of Florida, had overwhelming approval of a tax plan to tax corporations that he presented to the people of Florida. That would have been considered political suicide, I suppose, in a lot of other States—perhaps even in Florida, 5 or 10 years ago—but Governor Askew found overwhelming approval at the polls for his plan.

In my State of Oklahoma, Governor David Hall, an old classmate of mine in college, was elected Governor of Oklahome as the first Governor of Oklahoma to say that oil companies were not paying their fair share of taxes and also that they were not doing what they should do in regard to pollution.

Many people thought that was political suicide but it was not. As a matter of fact, Governor Hall was elected Governor of our State.

The truth is that the people of this country know that the average working man and woman are paying too much tax. They know that a lot of big corporations and others are not paying their fair share of taxes. Now the Nixon administration comes along and instead of giving relief to the average taxpayer, wants to give relief to the big corporations.

Mr. President, the asset depreciation range plan should be completely eliminated. It is nothing but a windfall on top of another windfall.

The average taxpayer should get a tax reduction. The pending amendment—of which I am pleased to be a cosponsor—would cut down on the ADR windfall to big business and give a much-needed tax break to the working people of this country. There does not seem to be any credible authority that will tell us that the ADR will help to stimulate the economy. What we do hear, however, are many economists telling us that the ADR plan will only result in a gross resource misallocation, will have very little stimulative effect on investment in the short run, will reward firms who have deliberately avoided meeting the existing reserve ratio test, and will remove pressure on inefficient producers to modernize. Since it applies to both old and new equipment, it is a windfall to a considerable extent, and the cost to the Treasury will be over $27 billion by 1980.

There are numerous programs needed in this country in these next years to increase the quality of life, reduce the tax burden on individuals, assure every able-bodied man a job, and improve our environment. Those programs could well use the $27 billion being given to big business by the ADR giveaway. Additionally, those necessary programs will be a direct stimulus to the economy and will directly affect the people who most need a stimulus—the lower and middle income persons who make up the bulk of our population.

The main argument given by the Treasury for the ADR is that it will stimulate investment and thus jobs. I can find absolutely no foundation for this claim. American industry is now using about 73 percent of its plant and equipment. Under such circumstances, businesses will have little reason to increase their purchases of equipment. The uselessness of the ADR as a stimulus is even admitted by those who will be taking full advantage of its benefits. John Roche, chairman of the board of General Motors—a man with whom I am not generally in agreement—said recently:

> It should be understood that most companies of any size determine their purchases of equipment by the needs of the business and not by any short-term tax advantages.

In other words, until business picks up and consumers start buying again, investment is unlikely to make major gains—even with both the investment credit and ADR.

Another administration story has been that we need to adopt the ADR as a means of lowering corporate income taxes, because they are "too high as compared with other industrialized countries." The facts just do not support that contention. U.S. corporate taxes are very much in line with those of our major international competitors—lower, in fact, than Canada, Germany, and France. In addition, most European countries impose a value added tax in addition to a corporate tax.

The Treasury has attempted to get around those facts by presenting a table that purported to show that the cost of capital in the United States is above other countries. But no one tells us how that table was computed, and in fact, reputable economists feel that the table must be based on a wrong conception.

The fact is that we do not know the facts. And since we do not, it seems incongruous to me that we should approve a $27.5 billion tax bonanza to big business. We agonize over every tax reduction to the individual to assure ourselves that we know the exact amount of revenue loss, expected stimulus, and a myriad of other considerations, before we give the little man a break. However, it seems easy and natural for this administration to send us proposals to make the rich richer and expect us to approve them without so much as a professional hearing and examination of valid facts. Well, I will not vote for this giveaway or for any other giveaway. I consider the ADR and the Investment Tax Credit as two proposals that do the same thing—provide more tax breaks to big business at the expense of the workingman. I do not see how any man in this Senate can go home and tell his constituents that he voted a $27.5 billion tax break to big business without knowing what he was voting for or why.

I intend, therefore, to support the Bayh amendment as our best chance to stop, at least in part, what the administration wants to do.

Mr. BENNETT. Mr. President, I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER (Mr. McINTYRE). The Senator from Arizona is recognized for 5 minutes.

Mr. FANNIN. Mr. President, as the Senator from Utah has brought out, we are behind the industrial nations of the world in encouraging job-producing investments if we take all tax benefits into consideration.

We know that when incomes rise, people have jobs. That is what we are trying to do, to get legislation through that will help us compete with the other nations of the world so that we will be in a position to hold jobs in the United States which at present we are not able to do.

Since 1965 we have gone downward so far as the other countries are concerned. Consider for a moment just what has happened to U.S. industry principally as a consequence of the lowest capital recovery tax allowances of any of the principal nations:

First. The United States has the lowest rate of investment in new plant and equipment in relation to GNP of any of the leading industrial nations.

Second. The United States has the highest percentage of overage, obsolete production facilities of any of the leading industrial nations. Sixty percent of all machine tools are obsolete.

Third. The United States in 1970 had a smaller percentage increase in investment in production facilities than Japan or West Germany, our principal competitors in world trade.

Fourth. The United States now ranks 20th—Japan is first—in productivity growth, with less than a 3-percent average annual growth rate of gross domestic product per employee for the period 1959–69. Japan's growth rate was 10 percent, over three times as much.

Our basic tax problem is, of course, that we rely more than any of these other industrial nations on the income tax which puts a premium on inefficiency—on high-cost production. The higher the costs, the lower the tax. Inefficient, marginal companies, losing money with obsolete facilities, are rewarded. They pay no income tax at all.

Foreign nations have been wise enough to discard outworn depreciation accounting concepts and procedures that chain taxpayers to their "historical replacement practices," and to the tax collector's arbitrary guesses about "anticipated useful life." These nations have been well aware for a long time of the unpredictable impact of technological change; and they have been entirely realistic about the absolute necessity of providing tax allowances that will insure the installation of all the industrial facilities they require. Accordingly, nearly all of them adopted some years ago the same kind of conventionalized capital recovery tax system that the President's task force recommended in 1970.

For some time now foreign nations have been giving us a tax lesson in just how capital cost allowances can stimulate productivity at home and exports abroad. In 1970, the President's task force made a diligent effort to get the Government to heed the lesson, but to no avail. Not until the ADR proposal, and the President finally took emergency action in August was there any indication that anyone in Government really understood the tax lesson and the reason we were losing out in world markets. Just 20 months earlier in December 1969, Congress had repealed the 7-percent credit upon its expressed conviction and the prior Treasury Secretary's quite ridiculous representation that inflation could be slowed by discouraging investment in the very facilities that would have reduced costs, increased productivity, and fought inflation in 1970 and 1971.

Understanding this tax lesson has seemed to be completely beyond the competence of those who so bitterly fought the ADR system tooth and nail on every conceivable political and legal ground, no matter how flimsy. They seem to have the mistaken notion that somehow or other U.S. industry will be resourceful and ingenious enough to work miracles of competition even in a straightjacket of inequitable taxation. They simply do not realize that the age of such miracles is over, that we can no longer be complacent and that industry, to a very considerable extent, has run out of capital and the investment momentum provided by the 7-percent credit in the 1960's.

The necessity for economic growth, and even survival, has taught our foreign competitors another lesson—that they can no longer afford to play politics with their tax structures by pitting individuals against business. Even the more Socialist nations have learned that in a ruthlessly competitive world, individuals and business, labor, and management, have a common interest in evolving a tax structure that will assure the requisite private investment for full employment and maximum productivity.

We have a great need for change in this situation so that we can become competitive with other countries. Let us look at what America can do. This has been brought out quite a few times during our debate in the Senate. Look at where our Nation is now. Nine out of 10 home radios are imported. One out of every six new cars sold is a foreign car. That is rapidly increasing. It is now about one out of four. Two out of every five pairs of shoes are imported and one out of every two black and white TV sets.

Hundreds of other import inroads could be cited: 96 percent of our motorcycles, 30 percent of ceramic tile, 90 percent of baseball gloves, 30 percent of bicycles, and 70 percent of tennis racquets are imported

Where are we going? We have seen figures that indicate what is happening. We can talk about textile plants, automobile plants, and other plants. Electronic equipment is a good example. The impact of these imports on our employment has been equally severe in many areas of the country.

Admitting that his statistics were only rough guesses, Andrew J. Biemiller, director of the AFL–CIO's Department of Legislation, estimates that approximately 700,000 American jobs were lost directly as a result of foreign competition between 1966 and 1969 alone.

What is going to correct this? Certainly we know that we must be competitive with the other countries in many other ways. As far as wage rates are concerned, that has not been accomplished even with some of the strides we have made. In fact, we are going the other way, the gap is widening. However, we have an opportunity in this bill to give an opportunity to business and industry to become more competitive, to have at least a chance to make the investments that are so necessary to help them to modernize and be able to provide jobs to American workers.

The countries of Europe and Japan have revealed what they do. The benefits they provide account for the many American companies which are now building companies abroad.

Thus without ADR we were behind every other industrialized nation. Thus without ADR—as modified by the House bill—and the level 7-percent credit proposed by the House, the U.S. figures would be 87.1, placing it behind six nations and ahead of only France, the Netherlands, and Canada. If ADR were not modified, the U.S. figure with a 7-percent credit would be 86.2 which is still higher than six major nations.

Other countries have many tax benefits that far more than offset what would be involved here if we had all the provisions we are talking about in the pending bill. If we take ADR out, we will weaken our position that much more.

We have this opportunity to go forward, if we will do so, and provide American industry with what is needed if it is to even begin to become competitive with foreign industry and to modernize our productive facilities and provide jobs for American workers.

Mr. BENNETT. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized for 2 minutes.

Mr. BENNETT. Mr. President, I am sorry the chairman of the committee left the room, because he made a statement that intrigued me. He indicated that in discussing the anticipated revenue losses from this bill and the 1969 act, I had not told the whole story because I did not go back of the 1969 act.

From 1962 to 1969, when the other party was in control, there were tax reductions every year both for individuals and for corporations.

The tax reductions between 1962 and 1969, inclusive, for individuals were $107 billion. The tax reductions for corporations were $28 billion.

As a result of the 1969 act in 1970, the tax reductions for individuals were seven times greater than the tax reductions for corporations. And for 1971 and 1972 were five times greater.

At no point does the record show that tax reductions for corporations have come anywhere near equal the tax reductions for individuals.

Mr. President, I now yield 7 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 7 minutes.

Mr. PERCY. Mr. President, I thank the distinguished Senator from Utah.

I would like to emphasize that the depreciation provision of this bill is one of the most important to be considered here. It goes back to the basic theory of how we want this country to grow and the fundamental difference between those who believe that all we have to do is to pump in consumer purchasing power, and those who feel that we have to do it systematically, as all other industrialized nations have, by taking into account that adequate incentives must be provided to keep industries efficient by purchasing modern capital equipment.

The very fact that we pump money into the consumer spending stream does not mean that it will benefit American industry. Consumers are quite ready to buy foreign imports. As, relatively, our tax laws do not take into account the need to provide incentives for capital investment, and other countries have provided those incentives year after year, American industry has been getting older. Our equipment is becoming outdated. Our steel industry has been grinding down and becoming obsolete. The industries of other countries have been becoming much more efficient.

Consumers in the American economy are free to buy where they want. And they have increasingly been buying from abroad.

That is why we had to take action to impose a surcharge on imports to temporarily restrain imports.

We know that other countries are going to retaliate. They are veterans at finding ways to exclude our products. If we lose this fight, the whole foreign economic policy of our country will have to change. It was a bipartisan policy. We have depended on our trade surplus to carry the cost of our military commitment abroad, and to carry our foreign humanitarian, cultural, and economic assistance programs. If we lose this competitive fight, as we are losing it now, we place our position in the world in danger.

I know it is very popular to be able to say, "I have given the consumer a tax cut or a credit or benefit." But I argue that we are in fact hypocritical if we do not go the next step and say, "I took it

away from the very industry that is going to create the jobs for which you will be hired."

We had better find out why we are not creating jobs in America; why steel plants are leaving Indiana, and are being built all over the world, and why we are trimming down steel production in Illinois, Ohio, Pennsylvania, and other States. It is because other governments have provided incentives for capital investment.

We systematically are paying our labor much more. How can we afford to pay our labor so highly, put less and less into capital equipment, and then expect to be able to compete in the world market?

The key to our world economic position has to be our inventiveness; our products have to be better than the products of others. We know that technology is so available that we can get an idea on Monday, and in Japan they are starting to produce that idea on Friday.

I would like to direct the attention of my colleagues to the chart in the back of the Chamber. Since it is rather small we have placed on the desk of each Senator an identical copy of the chart showing the comparative capital costs of manufacturing machinery and equipment as influenced by income tax policies, corporate income tax rates, depreciation allowances, and investment credit, for major industrial countries in 1971. The chart shows the United States in 1970 as 100. What is the capital cost to manufacturing plants in other countries? I suggest that, as businessmen, my colleagues would wonder why they should invest in the United States with its high capital cost of 100, when they can go to the United Kingdom and have a relative cost of 78, or to France with a relative cost of 90, to Japan with a relative cost of 81, Italy 82, Sweden 83, West Germany 83, Belgium 85. Only when we get the Netherlands and Canada do we get to 94 and 97, which approach the cost of capital in the United States.

We well know, as pointed out by Dr. Henry Wallich, when he testified before the Joint Economic Committee on September 21, 1971:

> Prior at least to the introduction of the new depreciation rules, business was underdepreciating its capital investment at a rate of perhaps 15 percent below replacement requirements.

The U.S. schedules, outdated by economic change, had fallen well behind those of our foreign competitors prior to the Treasury's action. The President's Task Force on Business Taxation reported that U.S. rules permitted a cost recovery allowance of only 7.7 percent in the first year, against a first year write-off of 16.5 percent for West Germany, 20 percent for Italy, 21.5 percent for France, 34.5 percent for Japan, and 57.8 percent for the United Kingdom in the period 1967–68. It seemed to me, therefore, that the Treasury's proposed change in the "first year convention" to permit fuller depreciation of assets in the first year was necessary to make U.S. practice more comparable to foreign practice. And, the Treasury's action in shortening guideline lives by 20 percent was a necessary modernization of the schedules to reflect the many economic changes that have occurred during the past decade. I believe, as I testified at Treasury hearings, that these changes are necessary to increase our rate of reinvestment, which was 16.5 percent of GNP in 1967–68, compared with 23 percent in West Germany and 34 percent in Japan in the same period.

As the distinguished Senator from Indiana knows, when I appeared at the U.S. Treasury Department hearings to testify for the Asset Depreciation Range (ADR), the room was very crowded.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PERCY. Mr. President, will the Senator yield to me for 2 additional minutes?

Mr. FANNIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. FANNIN. I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I thank the Senator.

As the Senator from Indiana will recall, because he also testified at the hearings, that room was crowded. I know organized labor has taken the position ADR is a windfall to American industry. But it is not looked upon as a gift by most other industrial nations in the world. It is taken into account that the cost of capital equipment is a very major factor in investment, productivity, economic growth, and jobs.

One reason other countries are attracting so much industry is that their laws are more reflective of the productive lines of capital equipment.

I challenged every labor union representative—and every major union was represented—to send their economists to my office and exchange ideas. I have no interest other than to create jobs and make our productive ability the greatest in the world so that we can continue to serve world markets, not just U.S. markets. I have repeated this offer several times to labor leaders and none of them has sent an economist to my office to express their position against ADR. It is called a giveaway, but I think the facts demonstrate that it is the best investment we can make in the American economy.

John F. Kennedy recognized this in 1962 when he offered a revised schedule which at that point helped generate one of the best stimulants we have had to create jobs and better products in America, sold in America and abroad. These are the reasons why I believe this amendment should be rejected.

Mr. HANSEN. Mr. President, will the Senator yield to me for 1 minute?

Mr. FANNIN. I yield.

Mr. HANSEN. Mr. President, I commend the distinguished Senator from Illinois for a very able presentation. I am sorry that the Chamber is not filled so that we might all have had the benefit of his observations.

As a member of the Committee on Finance I have listened to testimony from the chiefs in industry in this country. We had before us the chairman of the board of Zenith, Joseph Wright, the chairman of the board of General Electric, and the chairman of the board of Burlington. Each of them told us what the Senator from Illinois (Mr. PERCY) has said today, as he summarized the flight of industry from this country abroad. It is just that simple.

We can talk about trying to pass out a few crumbs, which this proposal would do, to make people feel good this year. If we want to do that, that is our choice. A far wiser course would be to see that we create jobs that could make it possible for people to work in this country.

Mr. HOLLINGS. Mr. President, will the Senator yield to me for 2 minutes?

Mr. BAYH. I yield 2 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, in response to the Senator from Illinois, yes, John F. Kennedy did institute the investment tax credit in 1962, but the former Chairman of the Council of Economic Advisers, Walter Heller, stated only yesterday and prior to that at a hearing with Senators last week that it did not have any effect until the tax cut of 1964 went into effect.

What are the facts? We had an investment tax credit for 7 of 9 years. That is the first fact.

What is the second fact? The second fact is that we have had an accelerated depreciation since January, when the President on January 2 at San Clemente gave a 20-percent depreciation allowance.

What is the third fact? The third fact is that just 3 days ago the New York Times, in an article entitled "Company Profits Up from One Year Ago," reported that third quarter profits of 1,267 nonfinancial corporations rose 11 percent to $7,010,800,000. That is 11 percent higher than the $6 billion and some odd million of the similar 3-month period last year, according to a tabulation by the First National City Bank.

What does the Wall Street Journal say? It says the corporations managed to rebuild cash. That is what they have, a cash problem.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. Mr. President, will the Senator yield to me for 1 additional minute.

Mr. BAYH. I yield 1 minute to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the contest is not between the corporations and labor or who is going to get the most, the corporations or the individual. I would be in favor of giving it to anybody if we can get the economy moving.

I have been there with United States Steel. They had a tax investment credit for the last 10 years, I wish to say to the Senator from Wyoming—$206 million in the last 10 years, and yet they are operating at 73 percent capacity because it has not brought jobs. They do not need increased consumerism. That is what they need, and the very gentleman who put in the investment tax credit says, "Do away with ADR," and this amendment only puts it down to 5 percent, and lets us get some consumerism.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAYH. Mr. President, a few of my colleagues requested time, but they are not here.

Let me take this time to reemphasize what my distinguished colleague from South Carolina has said. I ask unanimous consent to put in the RECORD excerpts from the committee hearings, particularly the testimony of Mr. Charles Davenport, at page 745 of the hearings, a former member of the Tax Legislative Council in the U.S. Treasury Department, when he pointed out that the business of the cost of capital that was mentioned by our friend from Illinois really has little relevance to the problem before us.

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

It is sometimes argued that our depreciation system does not allow adequate capital cost recoveries. In support of this argument the proponents turn to the capital cost allowances of foreign nations. Let me point out that the Western European nation generally considered to have the most vigorous economy, Western Germany, allows somewhat slower recovery than is allowed in this country. On the other hand, the United Kingdom permits the speediest recovery. If we assume some connection between cost recoveries and economic vigor, these data support a constriction of depreciation rather than a liberalization. Or put another way, should we attempt to solve our present economic miseries by emulating the British?

Mr. BAYH. I would take the words of the Senator from Illinois as he quoted them. He talked about how fortunate Great Britain was. He said until we got down to the Netherlands and Canada——

The PRESIDING OFFICER. The time of the Senator has expired. He has 3 minutes more.

Mr. BAYH. I yield myself some time.

Not until we get to them does the cost of capital become comparable.

Interestingly, if we take the cost of capital in Great Britain, it is better than that of any of the other nations on the chart, but none of them would change their rate of growth with Great Britain, which also is the lowest. None of them would change their per capita gross national product.

The two nations on that chart that are closest to the United States in the cost of capital and closest to the United States in gross national product are the Netherlands and Canada.

So to suggest that the figures on that chart relate to productivity and business health is not borne out by the facts.

Our friend from Utah said some of us do not want to help business. I want to help business. That is why I want to see the investment tax credit. I also want to give some help to those who need to spend money next year. Hopefully, the other parts of the program will help the economy and we will not have to continue with the ADR, which is a permanent revenue loser.

The PRESIDING OFFICER. All time has now expired. The question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. RIBICOFF. Mr. President, on this vote I have a live pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. PASTORE. Mr. President, on this vote I have a live pair with the Senator from Indiana (Mr. HARTKE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN), are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

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

Also the Senator from Massachusetts (Mr. BROOKE) and the Senator from New York (Mr. JAVITS) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from South Dakota (Mr. MUNDT), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 39, nays 40, as follows:

[No. 337 Leg.]

YEAS—39

Bayh	Gravel	Moss
Bentsen	Harris	Muskie
Bible	Hart	Nelson
Burdick	Hollings	Pell
Byrd, W. Va.	Inouye	Proxmire
Cannon	Kennedy	Randolph
Case	Long	Sparkman
Chiles	Magnuson	Spong
Church	Mansfield	Stennis
Cranston	McGee	Stevenson
Eagleton	McIntyre	Symington
Fulbright	Metcalf	Tunney
Gambrell	Mondale	Williams

NAYS—40

Aiken	Dole	Miller
Allen	Dominick	Pearson
Anderson	Eastland	Percy
Baker	Ervin	Roth
Beall	Fannin	Schweiker
Bellmon	Fong	Scott
Bennett	Goldwater	Smith
Boggs	Griffin	Stafford
Brock	Gurney	Taft
Buckley	Hansen	Thurmond
Byrd, Va.	Hatfield	Weicker
Cook	Hruska	Young
Cooper	Jordan, N.C.	
Cotton	Mathias	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Pastore, against.
Ribicoff, against.

NOT VOTING—19

Allott	Jackson	Packwood
Brooke	Javits	Saxbe
Curtis	Jordan, Idaho	Stevens
Ellender	McClellan	Talmadge
Hartke	McGovern	Tower
Hughes	Montoya	
Humphrey	Mundt	

So Mr. BAYH's amendment was rejected.

Mr. BENNETT. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HANSEN. I move to lay that motion on the table.

Mr. BAYH. I ask for the yeas and nays.

Mr. BENNETT. Mr. President, I withdraw my motion.

Mr. FULBRIGHT. Mr. President, I object. It requires unanimous consent to withdraw his motion.

The PRESIDING OFFICER. It takes unanimous consent to withdraw the motion.

The yeas and nays were not ordered.

Mr. BAYH. Mr. President, I ask for the yeas and nays. It is a matter that is very critical. There is a one-vote difference.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. Are we voting on the motion to table or the motion to reconsider?

The PRESIDING OFFICER. The motion to table the motion to reconsider.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. No inquiries are in order while the quorum call is in progress.

The second assistant legislative clerk resumed the call of the roll.

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

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

Mr. BAYH. Mr. President, I ask unanimous consent that my request for a rollcall vote be retracted.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on the motion to table (putting the question).

The motion was agreed to.

Mr. MILLER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 41, line 11, insert the following:

(d) CREDITS AGAINST TAX.—

(1) Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable against tax) is amended by inserting after section 41 the following new section:

"SEC. 42. CREDIT FOR PERSONAL EXEMPTION.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter the amount of $25 for each personal exemption for which a deduction is allowable under section 151.

"(b) LIMITATION ON AMOUNT OF CREDIT.—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 32(2) (relating to tax withheld at source on tax-free covenant bonds), section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and 40 (relating to credit for expenses of work incentive programs).

"(c) LIMITATION ON DEDUCTIONS.—For years to which this section applies, the amount of the deduction allowable under section 151 shall not exceed $675 for each personal exemption."

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 42. Credit for personal exemption."

(3) Section 46(a)(3) (relating to definition of liability for tax) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) section 42 (relating to personal exemptions)."

(4) Section 56(a)(2)(A) (relating to minimum tax for tax preferences) is amended by striking out "and" at the end of clause (ii), by striking out "; and" at the end of clause (iii) and inserting in lieu thereof ", and", and by adding after clause (iii) the following new clause:

"(iv) section 42 (relating to personal exemptions); and".

(5) Section 154 (relating to cross references) is amended by adding after paragraph (4) the following new paragraph:

"(5) For credit against tax for personal exemptions, see section 42."

(6) Section 443(c) (relating to adjustment in deduction for personal exemption) is amended—

(A) by striking out "Deduction" in the heading and inserting in lieu thereof "Deduction or Credit"; and

(B) by striking out "deduction in lieu thereof)" and inserting in lieu thereof "deduction in lieu thereof) or credit under section 42".

(7) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1971.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. BYRD of West Virginia. Mr. President, following the disposition of the pending amendment by Mr. MILLER, there will be one more amendment—to be offered by the Senator from Oklahoma (Mr. HARRIS)—to be acted on tonight. I have discussed the two amendments with the authors thereof and the able manager of the bill.

I, therefore, ask unanimous consent that the time on the amendment by the Senator from Iowa (Mr. MILLER) be reduced; that there be a limitation on the amendment of 20 minutes, to be equally divided between the mover of the amendment and the manager of the bill; that the time on the amendment by the Senator from Oklahoma (Mr. HARRIS) be likewise reduced to a total of 20 minutes, to be equally divided between the mover of the amendment and the manager of the bill; that, regarding both the Miller and Harris amendments, the time on any amendments in the second degree, motions, or appeals—with the exception of nondebatable motions—be limited to not to exceed 10 minutes on any such, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MILLER. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MILLER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, can we find out what the amendment is about?

Mr. MILLER. Mr. President, if the Senator from Rhode Island will indulge me, I will be happy to try to give him a quick explanation.

The PRESIDING OFFICER. Who yields time?

Mr. MILLER. I yield such time as I may require.

Mr. President, this amendment would do this: We have already gone on record as favoring an increase in the personal exemption to $800. What that means, as a practical matter, is that this year the exemption is $675 under present law. For 1972, we propose to make it $800. That is a $125 increase in the personal exemption. That is going to cost approximately $1.8 billion. But the tragedy of this $800 exemption is that the large income taxpayers get the lion's share, because all you have to do is to take the $125 increase in the personal exemption and multiply it by a 70-percent tax rate, and you come out with $87.50. But the low-income taxpayer, in the 14-percent tax bracket, would get only $17.50.

What I propose is to leave the $675 personal exemption alone for everyone, but anything above that will be in the form of a uniform credit of $25 for every exemption. If it is a single taxpayer, no matter what his tax bracket will be, he will get a $25 credit in addition to his $675 exemption. If it is a husband and wife and two children, the normal size family, they will have $100 in credits—four $25 credits.

I suggest to Senators that if they really are concerned about the low-income taxpayer—and I think most of us are—they would like this approach; because under the $800 exemption approach, they will only receive $17.50. I am talking about a $25 uniform credit. To give the 70 percent tax bracket taxpayer his $675 exemption and then, on top of that, the $87.50 tax bracket, I suggest, will not be putting the purchasing power in the hands of the people who really need it.

Mr. PASTORE. Mr. President, will the Senator from Iowa yield?

Mr. MILLER. I yield.

Mr. PASTORE. Is the Senator's amendment a substitute for the Bayh amendment?

Mr. MILLER. Not quite, may I say to my colleague from Rhode Island. There is a parliamentary problem, so that I cannot offer it as a substitute. It adds another section and is worded so as not to interfere.

Mr. PASTORE. The Senator's amendment does not affect the Bayh amendment then?

Mr. MILLER. It can, because it provides that for the years that this particular credit would be in effect, namely 1972, and thereafter, for those years, the $675 personal exemption would stay

Mr. PASTORE. I realize that it affects it, insofar as its substantive effect is on what the Bayh amendment would do or would not do; but on the other hand, it still leaves the Bayh amendment alive; is that not correct?

Mr. MILLER. It would still leave the Bayh amendment alive; yes. The Senator is correct.

My point is that I believe, as my colleagues know, that the Bayh amendment was adopted by a very narrow vote——

Mr. PASTORE. It was not adopted.

Mr. MILLER. I am sorry. The Hartke amendment was. But this does not interfere with the Bayh amendment, may I say to my friend from Rhode Island. This applies to 1972, not to 1971. I suggest that it is the equitable approach to do something about the regressive box we are in. Every time we start raising the personal exemptions, there are some who say that we should abolish personal exemptions altogether and replace it by a tax credit.

After checking into this, I do not think it is timely to do that. Too many people would be affected who are now in the middle and larger income tax brackets, and they would have their taxes increased as a result. So what this amendment does is not to increase anyone's taxes but to preserve the $675 personal exemption, and anything over and above that is a $25 credit for every personal exemption, regardless of whether it is a high income or a low income taxpayer.

Mr. PASTORE. I am very much amenable to the logic——

Mr. MILLER. Mr. President, we do not have order in the Chamber.

The PRESIDING OFFICER (Mr. HART). Will the Senate please be in order? There is very little anyone can do about it, except by those who are distracting us.

The Senator may proceed.

Mr. PASTORE. I am very much amenable to the logic which is expressed by my good friend from Iowa, but what puzzles me is what he says about 1971 and 1972. When we file the tax return by April 15 of 1972, will we be able to make this deduction?

Mr. MILLER. No.

Mr. PASTORE. We have to wait until 1973?

Mr. MILLER. We will, because it is too

late, from a practical standpoint, to affect 1971. The tax returns have already been printed, and everything else, so that it does not take effect in 1972.

Mr. PASTORE. Will that not be too late? What we are trying to do is to put money in the hands of the consumer to do something about it now. I do not see why we have to wait until 1973. The picture may be a little different then, and then I might agree with the Senator, but I would hope that we could do this by April 15, 1972.

Mr. MILLER. May I say to my friend from Rhode Island that we are going to start on the first day of January 1972, because this will show up in the withholding tables.

Mr. PASTORE. That may be soon but the fact is, the money in hand will not be in until next year.

Mr. MILLER. Well, Mr. President, may I say to my good friend from Rhode Island that it is not going to be there until next year with respect to the $800 exemption, either.

Mr. PASTORE. That may be so, but——

Mr. MILLER. All I am trying to do is to have the same impact in 1972 as the $800 exemption. The effective date of January 1, 1972, will show up in the withholding tables, too. They are not going to save very much withholding by giving the low-income taxpayer a $17.50 tax break over 12 months.

Mr. PASTORE. Will it show up in the witholding tables? Is the Senator sure of that?

Mr. MILLER. Yes, indeed. The $800 exemption will show up, or my tax credit will show up.

Mr. PASTORE. All right.

Mr. MILLER. So I realize what the Senator is getting at and I want to assure him that this will help the purchasing power beginning early next year.

Mr. CASE. Mr. President, will the Senator from Iowa yield?

Mr. MILLER. I yield.

Mr. CASE. If the Senator's amendment is adopted, there will be one exemption for every person on his own account? Is that how it works?

Mr. MILLER. One exemption of $675 plus one credit of $25 for each person, for each dependent, and for each exemption. Everywhere we find an exemption on the tax return, whether it be one exemption or 10 exemptions, that exemption will be $675 as it is now and then, in addition, there will be a $25 tax cut or credit for each one of the exemptions.

Mr. CASE. I see. So this takes the place of the increase, in other words?

Mr. MILLER. That is correct.

Mr. CASE. Would the Senator allow one further question?

Mr. MILLER. Yes.

Mr. CASE. What would the effect of this be on the tax of the person earning $10,000, married, and with two children? That is the person we are talking about here and not the person in the 14-percent bracket.

Mr. MILLER. With a husband and wife and two children in the $10,000 bracket, we have got $2,400—$2,450—and we have roughly a $6,000 taxable base. I would say that would, probably, be about a 20-percent tax rate, showing the extra $125 at a 20-percent tax rate, which would be $25. So it probably would not make much difference.

Mr. CASE. Then the Senator says, at the $10,000 rate, that this would be washed out?

Mr. MILLER. I think it would or it would come pretty close to that. It might be a little better, depending on the size of the personal exemptions. It could be down to $20 in tax benefits.

Mr. CASE. What would the cost to the Treasury Department in each case be?

Mr. MILLER. I am glad the Senator asked that question——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MILLER. I ask unanimous consent that I may proceed for 3 additional minutes on my side because the Senate took that much time in trying to come to order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MILLER. The Senator from New Jersey asked about the revenue impact on this, with the $25 credit. The way the amendment is set up—and I would particularly like to have the attention of my colleague from Utah, Mr. BENNETT, on this—I am pointing out that if we adopt the amendment there will be a $300 million in principal savings over the $800 exemption approach.

Mr. BENNETT. I am glad the Senator has that in the RECORD. I shall not take any of his time further.

Mr. MILLER. Mr. President, I reserve the remainder of my time.

Mr. COOPER. Mr. President, will the Senator from Iowa illustrate again regarding a husband and wife, with two children, earning $10,000 in income, as to what would be the impact on the $800 exemption as compared to the Senator's amendment. What would be the amount which would accrue to the family under the two plans?

Mr. MILLER. That would depend on the tax bracket they found themselves in——

Mr. COOPER. I know that.

Mr. MILLER. My guess would be they would be in a 20 percent bracket and with an $800 exemption, that is a $25 present exemption increase under present law, so that with the increase of 20 percent or $125, you have got a $25 in tax savings. My credit is $25. So I would say it would be a wash, although they would do better under the credit in that tax bracket because of their page 2 itemized deductions. But to be on the safe side, I do not want to mislead my colleague and I suggest that it will not be anything more than a wash.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, this adds another complexity to the tax system. Under this proposal, we first have to figure our personal exemption and then on top of that we have to figure the $25 credit. It is obvious that this is difficult to understand because during the debate here we have had Senators ask for an explanation.

I think the present system is simple. It is understandable. My own feeling is that we should leave it the way it is without adding this new feature. If in the future we should decide to substitute tax credits for personal exemptions, I think this matter should be carefully studied by both tax writing committees on its merits. However, to take this kind of hybrid approach at this late time does not make any sense to me.

Mr. LONG. Mr. President, in the committee the distinguished Senator from Iowa proposed that we simply change the whole system and eliminate all personal deductions so that we have tax credits. The committee thought about it and found that a great number of people would have to pay more taxes. They would have a difficult time understanding why they have to pay more taxes when others get a tax cut.

The committee thought we had better not go into this at this time but that in the future we might consider it in an overhaul of the tax structure. But as it stands now, the people will have read all across the country that we voted to give this $800 exemption.

As far as I am concerned, when the people in Louisiana have read that Senator LONG voted to give them an $800 exemption, I do not want to see them read in the papers that I voted to take it away.

Some people might benefit more and some might benefit less. I do not see why we should change it. If we are to change it, we should not have done it to begin with. We voted to give them the $800 exemption and we ought to leave it that way.

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

Mr. LONG. I yield.

Mr. MILLER. Mr. President, does not the Senator think it is more equitable to give a $25 tax break to a taxpayer in the 14 percent bracket than to give him $17.50 and give the 70 percent taxpayer an $82.50 tax cut.

Mr. LONG. Mr. President, it all depends on the point of view. The reason they get less by reason of a single exemption is because they pay less.

If they were to pay zero tax income, we could not do anything except to take something off of their income tax. That would be considered a welfare package. That could perhaps be done later, if we want to go beyond that. However, as a tax bill, it will be popular with the people to vote as we did vote the day before yesterday for a $800 tax exemption. That has been popular with the rank and file.

After having sent the word across the Nation that we have done this, I do not see why we should do something different. We should leave it that way.

Mr. MILLER. Mr. President, will the Senator from Utah yield to me for a question?

Mr. BENNETT. The time belongs to the Senator from Louisiana.

Mr. MILLER. Will the Senator from Louisiana yield me 1 minute in which to ask the Senator from Utah a question?

Mr. LONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. LONG. I yield 1 minute to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 minute.

Mr. MILLER. Mr. President, the Senator from Utah is troubled about what he calls the complexity of the amendment. Actually, I hope the Senator understands that all this would entail would be just adding the $25 credit or if it is a husband and wife and two children, four times that amount to what we already have.

Since this would save the revenue $300 million a year, does the Senator not think that would be worth that complexity to save that amount for the revenue while at the same time giving all income-tax payers a much fairer shake?

Mr. BENNETT. Mr. President, as I said earlier, I think we should make comparisons between the two approaches. But I do not think we should mix them up at this time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Iowa. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA) and the Senator from Washington (Mr. JACKSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

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

Also, the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

If present and voting the Senator from Texas (Mr. TOWER), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Nebraska (Mr. CURTIS) would each vote "nay."

The result was announced—yeas 20, nays 59, as follows:

[No. 338 Leg.]

YEAS—20

Baker	Gurney	Pastore
Boggs	Hansen	Pell
Chiles	Harris	Ribicoff
Cooper	Kennedy	Stevenson
Dominick	Miller	Thurmond
Fannin	Mondale	Tunney
Gravel	Nelson	

NAYS—59

Aiken	Eagleton	Metcalf
Allen	Eastland	Moss
Anderson	Ellender	Pearson
Beall	Ervin	Percy
Bellmon	Fong	Proxmire
Bennett	Fulbright	Randolph
Bentsen	Gambrell	Roth
Bible	Griffin	Scott
Brock	Hart	Smith
Buckley	Hatfield	Sparkman
Burdick	Hollings	Spong
Byrd, Va.	Hruska	Stafford
Byrd, W. Va.	Inouye	Stennis
Cannon	Jordan, N.C.	Symington
Case	Long	Taft
Church	Magnuson	Talmadge
Cook	Mansfield	Weicker
Cotton	Mathias	Williams
Cranston	McGee	Young
Dole	McIntyre	

NOT VOTING—21

Allott	Humphrey	Mundt
Bayh	Jackson	Muskie
Brooke	Javits	Packwood
Curtis	Jordan, Idaho	Saxbe
Goldwater	McClellan	Schweiker
Hartke	McGovern	Stevens
Hughes	Montoya	Tower

So Mr. MILLER's amendment was rejected.

The PRESIDING OFFICER (Mr. BENTSEN). Under the previous order, the Senator from Oklahoma (Mr. HARRIS) is recognized.

Mr. HARRIS. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The amendment of the Senator from Oklahoma will be read.

The legislative clerk proceeded to read the amendment.

Mr. HARRIS. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in full in the RECORD.

The amendment is as follows:

In the Table of Contents after section 702, insert the following:

TITLE VIII—COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES

Sec. 801. Authority To Enter into Commercial Agreements.
Sec. 802. Benefit To Be Provided by Commercial Agreements.
Sec. 803. Provisions To Be Included in Commercial Agreements.
Sec. 804. Extension of Benefits of Most-Favored-Nation Treatment.
Sec. 805. Requirements for Negotiations.
Sec. 806. Transmission of Reports to Congress.
Sec. 807. Relation to Other Laws.

On page 210, line 1, insert the following:

TITLE VIII—COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES

AUTHORITY TO ENTER INTO COMMERCIAL AGREEMENTS

SEC. 801. In the case of a country with which the United States has diplomatic relations, but to the products of which it denies most-favored-nation treatment, the President may make a commercial agreeement with such country providing such treatment to one or more products of that country whenever he determines that such agreement is in the national interest and is likely to result in commercial benefits to the United States equivalent to those provided by the agreement to the other party.

BENEFITS TO BE PROVIDED BY COMMERCIAL AGREEMENTS

SEC. 802. The commercial benefits to the United States to be obtained in a commercial agreement may be of the following kind, but need not be restricted thereto:

(a) arrangements for the protection of industrial rights and processes;

(b) arrangements for the settlement of commercial differences and disputes;

(c) arrangements for participation in trade fairs and exhibits, for sending of trade missions, and for facilitation of entry and travel of commercial representatives; or

(d) most-favored-nation treatment with respect to duties or other restrictions on the imports of the products of the United States, and other arrangements that may secure market access and assure fair treatment for products of the United States.

PROVISIONS TO BE INCLUDED IN COMMERCIAL AGREEMENTS

SEC. 803. A commercial agreement shall—

(a) be limited to an initial period specified in the agreement which shall be no more than 3 years from the time the agreement becomes effective;

(b) be subject to suspension or termination in whole or in part at any time upon reasonable notice;

(c) provide for consultations at regular intervals for the purpose of reviewing the operation of the agreement and relevant aspects of relations between the United States and the other party; and

(d) be renewable for additional periods, each not to exceed 3 years.

EXTENSION OF BENEFITS OF MOST-FAVORED-NATION TREATMENT

SEC. 804. (a) In order to carry out a commercial agreement and notwithstanding the provisions of any other law, the President may by proclamation extend, for the period of effectiveness of the agreement, most-favored-nation treatment to one or more products of the other party.

(b) The President may at any time suspend or terminate in whole or in part any proclamation issued under subsection (a). The President shall suspend or terminate such proclamation whenever he determines that—

(1) the other party is no longer fulfilling its obligations under the agreement; or

(2) the suspension or termination of the agreement is in the national interest.

REQUIREMENTS FOR NEGOTIATIONS

SEC. 805. Before the negotiation of a commercial agreement under this title, the President—

(1) shall seek information and advice with respect to such agreement from the interested departments and agencies of the United States Government, from interested persons, and from such other sources as he may deem appropriate; and

(2) shall, upon the recommendation of the Speaker of the House of Representatives, select two members (not of the same political party) of the Committee on Ways and Means, and shall, upon the recommendation of the President of the Senate, select two members (not of the same political party) of the Committee on Finance, who shall be accredited as members of the United States delegation to such negotiation.

TRANSMISSION OF REPORTS TO CONGRESS

SEC. 806. The President shall submit to the Congress an annual report on the commercial agreements program instituted under this title. Such report shall include information regarding negotiations, benefits obtained as

a result of commercial agreements, the texts of any such agreements, and other information relating to the program.

RELATION TO OTHER LAWS

SEC. 807. (a) This title shall not apply to any agreement made with a country whose products are receiving, when such agreement is made, the benefits of trade agreement concessions extended pursuant to section 231(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1861(b)).

(b) Headnote 4 to part 5B of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) is repealed.

The Senator has 20 minutes.

Mr. HARRIS. Mr. President, I yield myself 5 minutes.

Mr. President, this amendment gives discretion to the President of the United States, if he sees fit, to negotiate the most-favored-nation status with any country with which we have diplomatic relations.

During the latter part of this past April, I visited the Soviet Union, Rumania, Hungary, Czechoslovakia, and Poland. I went as a member of the Senate Finance Committee to discuss improved trade relations between the United States and these countries.

I learned our trade policy with the East penalizes ourselves most of all. It deprives our businessmen of needed sales. It exports precious American jobs and capital by forcing the location of plants abroad to serve these presently proscribed markets. It deprives us of foreign earnings to help offset our worsening balance of payments. It prevents us from getting to know better—and becoming better known by—millions of our fellow occupants of this globe.

While total annual exports to the Soviet Union and Eastern Europe, between 1948 and 1968, from the United States, Canada, Japan, and our NATO allies were increasing from $810 million a year to $4.5 billion a year, annual U.S. exports to these countries only increased from $123 million to $215 million.

Some liberalization in the laws caused our exports to these countries to go up to $353 million in 1970, but that still means that we account for only 1 percent of total Western nation exports to the Soviet Union and Eastern Europe.

In 1968, these Socialist countries bought $1.5 billion worth of capital equipment from the West. This is a field in which American business and labor excel, but you would not know it from the sales figures. That year, our total sales of machinery to the East was only $35 million. We simply gave the jobs and sales receipts and balance-of-payment earnings to others.

I visited the Soviet Union immediately following the 24th Party Congress and the announcement of a new 5-year plan. All of the countries of Eastern Europe plan large increases in Western purchases in the next half decade. In the Soviet Union the planned increase is 35 to 40 percent. These countries will never constitute our most important market. But they do represent what can become a significant market, and one we should begin now systematically to develop.

We need not fear that by selling the Eastern countries capital goods we will seriously undercut U.S. exports to third countries. We and the Eastern countries are at entirely different stages of economic development. Our fields of specialization—items of high technology and the products of a highly capitalized agricultural system—are not areas where the Eastern countries can compete with us effectively in international markets in the foreseeable future.

Now is the time for new action to normalize trade with the East—and to move toward better relations generally.

It cannot be said with a certainty that improved political relations will result from improved trade. But improved trade is a goal worth seeking for its own sake for commercial and economic reasons. And, if accompanied by wider citizen contact, broadened trade can result in less likelihood of mutual miscalculation. And any widening of contacts is worthwhile especially, as in the case of trade, when there are other good reasons.

Congress should free the President of the United States of unreasonable restrictions on his powers to broaden trade with the East.

The present law barring most-favored-nation status for the Soviet Union, China, and Eastern European countries should be repealed. This amendment, however, deals only with countries with which we have diplomatic relations. The President should have the power to negotiate such status for these countries—permitting them, if the President in his discretion so decides, to sell in our market on the same basis as others of our trading partners.

It would be particularly appropriate for the Congress to take action now. The President is planning a trip to Moscow where he will confer with top Soviet leaders. One of the principal areas for discussion will lie in the field of trade. We should give the President the authority he will need to carry on fruitful discussions with Soviet officials.

There are other steps besides MFN which I believe the administration should take. The President should seek to dramatize in several ways our new determination to normalize relations with the East in a way that would tend to draw affirmative reaction from each of the other countries. We should begin simultaneous negotiations in each country.

We should issue an Executive order agreeing to stretch out Poland's repayments to us for commodities we furnished them under Public Law 480. Poland is one of the few nations repaying us in cash and on time for these commodities. The new Government there has serious financial problems, but one way or another, they intend to maintain their good international credit rating by paying their debts when due. However, they would be willing to make a corresponding increase in purchases from us if the payments on this particular debt could be stretched out.

We should agree to return to Czechoslovakia their $20 million in gold bullion which we captured from the Germans at the end of World War II, and we should make a response, now, to their pending offer to settle the war claims and expropriation claims still in dispute between us.

We should return to the people of Hungary the Holy Crown of St. Stephen. This Hungarian national treasure is symbolic to the people of Hungary of their rich heritage. It belongs to them, and it is doing no one any good wherever it is now being kept.

By this and other means we should have our Nation make the first moves. And we should follow these moves with serious negotiations.

We should make clear that, as much as possible, trade and commercial matters are going to be separated from political matters. I believe that President Nixon has been wrong in tying them all together. We should make progress on better relations with these countries wherever we can and wherever it is in our mutual interests to do so.

We should immediately expand the commercial sections in our embassies in the Soviet Union and in the Eastern European countries. Basically, our Government needs to get out of the way of American businessmen; they can compete and take care of themselves pretty well. But we could be helpful in furnishing market information and getting them in touch with the right people.

The Soviet Union after the 24th party congress has embarked upon a great expansion of trade with the West. They realize they must make major improvements in their technology, and they are determined to do so. I think they recognize a dilemma which is for them as old as the czars: Improved technology requires increased contacts with the West; increased contacts with the West could mean greater internal political and economic dissatisfaction and ferment.

They need and seek greater trade with the West in general and with the United States in particular. They will not, however, in my judgment, submit to humiliation to secure it; neither will we. They will make no major political concessions to gain it; neither will we.

I believe they will agree to a settlement of our lend-lease claims against them as a part of negotiations for increased trade. There is also reason to believe, I think, that they may agree to a minimum amount of annual purchases from us in return for our relaxation of trade restrictions.

We should insist upon better treatment of our nationals in the Soviet Union and freer travel by them, particularly the right of our businessmen to visit plants and plant managers to develop markets—and for wider citizen contact generally.

The socialist group countries of Europe also need and seek increased western technology and trade. We should respond at once.

None of these countries are going to discard its basically socialist economic system nor break its ties with the Soviet Union in the foreseeable future. None can be expected to go past whatever line might bring on Soviet invasion.

A policy based solely on hope of dividing Eastern Europe countries from the Soviet Union will not work; negotiations should commence with the Soviet Union at the same time. Further, it is not wise to attempt to make progress on trade relations with Rumania alone or with any other single country, spotlighting it and perhaps causing reactive pressures on it.

Within these limits, progress can and should be made. Negotiations should begin in each Eastern European country simultaneously, though, obviously, for a variety of reasons, negotiations may not proceed at the same pace nor may agreements be reached at the same time. But we should begin now seriously to negotiate with each country concerning what might be expected in return for a relaxation of trade barriers on our part, including the settlement of pending war claims and expropriation claims.

There is growing fear in Eastern Europe of protectionism in the European Economic Community. There is a growing desire to become less fully dependent upon Western Europe—particularly the Federal Republic of Germany—for non-socialist country trade. Maintaining our essential ties with Western Europe, we can, nevertheless, follow their own lead in expanded trade with the East, responding to the real desire for such trade which exists in the Eastern European countries.

There is no reason why American-based companies and workers should not have the benefit of sales in these countries, now already being heavily served by American-owned subsidiaries and foreign workers located in Western European countries.

The Federal Republic of Germany, for example, enjoys a tremendous amount of trade with these countries, even without diplomatic relations. We have diplomatic relations with them but deny ourselves and our workers most of the benefits of these markets.

We should move to take advantage of the opportunities in Hungary and Rumania, particularly, for joint ventures, encouraged by new laws there. They need technology which they hope to secure through internal enterprises jointly financed by the Government and American private businesses, with both sharing in the profits. All of these countries will, increasingly, view joint ventures as an acceptable means of gaining needed technology and management expertise to produce goods for internal consumption and for earning foreign credits, which are badly needed by most of these countries. Rumania and Hungary have changed their laws to allow within the framework of the socialist system, agreements to be entered into on an ad hoc basis with individual American companies to guarantee against brankruptcy and for shared ownership and assured repatriation of profits and capital.

Such joint ventures entered into under acceptable terms by American businesses would provide foreign earnings for us and develop continuing future markets for sales to the joint enterprises themselves.

But before any of these steps can be truly fruitful, we must clear away the trade disputes of the past and give the President the authority to restore MFN to nations in Europe not now enjoying this advantage.

I urge support for my amendment from all who wish to see the President's trip to Moscow take place in the most advantageous circumstances.

Mr. President, this amendment would free the Yankee merchant from unreasonable restrictions. Let us give the President the power, in his discretion, to negotiate for most favored nations status for all countries with which we have diplomatic relations.

I hope the amendment may be adopted.

Mr. LONG. Mr. President, I yield myself 4 minutes.

The administration is not asking for authority to make these concessions to various Communist countries to whom the Senator from Oklahoma would give the most favored nation treatment. As a matter of fact, the administration came before the committee and asked them authority to get rid of some protection for companies who are faced with competition from free-world countries. The committee turned them down. We said we would be willing to consider that as part of a trade package at a later date. We would be willing to consider it, but right now it appeared to us that, with our balance of payments in such bad shape, it would be better to take back some of the protections we had given away to protect our own businesses and protect our own people before we gave any more away. That is the position the administration took when it imposed the 10-percent surtax.

The Communist countries do not keep books anywhere near the same way we do. They will sell their products at any price they please, without any relation to their cost of production, whenever there is a market they want to penetrate.

Let me describe what some of the Communist countries such as Russia, Bulgaria, Czechoslovakia, and others are selling: steel, oil, manganese ore, machinery, aircraft.

Incidentally, I do not think they are more efficient than we are in the production of aircraft, but they are offering planes for sale at one-third the price of similar American planes.

If Senators would like to displace more American aircraft workers, there is no place we will displace them in a greater hurry.

In Czechoslovakia, they are big producers of machine tools, aircraft, textiles, shoes, and glassware, and I point out that under their way of doing business, they can sell all these articles for any price their fancy dictates. Those people do business on a state trading basis, so that they would have a life or death right of decision over every industry in the United States, unless someone took some care to protect American industry.

Who is going to protect it? If you have any manufacturing industry in your State, including textiles and shoes, who will protect you? You are not going to get any protection under this proposal, because when we pass it, we will have surrendered away all our rights to protect American industry. We will have to count on President Nixon to do it for us. Maybe he will.

However, we on the Finance Committee were not all that confident. We have looked at some of the things he wants to give away now. So we said:

If it is all right with you, we suggest that you come in and tell us what you want to give away, and what we are going to get in return, and then we will talk to you about it.

We felt that was the least we could ask with regard to this proposal to trade with these Communist powers.

I would point out that we just got through getting the Japanese to enter into a voluntary agreement to permit our textile industry to exist at all. Now the President is headed for China, and the Senator wants to say, "Mr. President, before you get on your way, we want to give you some authority to give Red China, the power to liquidate our textile industry and our shoe industry and some others."

Mr. HARRIS. Mr. President, that does not apply to Red China.

Mr. LONG. It does not apply to Red China; I am glad to know that. But the day we extend diplomatic recognition to them it does, does it not?

Mr. HARRIS. It does and it should; yes.

Mr. LONG. I am glad the Senator corrected me. That will give us a little solace, until the President gets back from Red China, that he cannot yet put us out of the shoe and textile business.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. LONG. I yield myself 2 more minutes.

It seems to me the least thing we can do before we give the President any more power to liquidate American industry is wait until he asks for it, and then say, "Let us see what you want to do, have a hearing, and see what the proposed impact is, what industries are likely to be displaced, and see what the American industries themselves have to say about it."

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

Mr. LONG. I yield.

Mr. SCOTT. The Senator is making the point I would like to have made myself. Moreover, suppose there are two countries which would like to have most-favored-nation treatment, and the President would like to do it for one and not the other. Would he not be better off to leave the decision to Congress, and have the protection of letting Congress decide?

I do not know why we would want to invest in the President more power in foreign policy than he asks for, when we spend most of our time talking about his having more power than we would like for him to have.

Mr. LONG. Mr. President, Senators may recall that we gave the President, under the Kennedy round of tariff ne-

gotiations, the right to cut tariffs. But we expressly did not give him the power, under that act, to dispense with the American selling price, and we did not give him the power to do anything about the anti-dumping statute situation, because we thought American industries were being injured too badly by dumping already. We did not want that. They went on and sought to negotiate it away at Geneva, but we passed resolutions by almost a unanimous vote saying, "If you try to give this away, we point out you do not have that authority."

They said, "We understand that, but notwithstanding that, we are still going to negotiate it away and present you with a fait accompli."

That is what they did. I was assistant Democratic leader of the Senate myself at that time, and I practically had to fight my own President to keep him from giving away things we told him we would not go along with if he did give them away.

This is the kind of thing the State Department people want to get their teeth in anyhow, to get the President to commit himself to something like that, and then trying to get all of us, under a spirit of loyalty, to go along with him.

I have fought my own President on this issue, and I say the least we can do is ask him, "What do you want to give away, what jobs and where?" before we give him all this authority. The least we can do is wait until the President asks for the authority.

Mr. FANNIN. Mr. President, I agree with the chairman of our committee that we have given the President sufficient authority already.

We do have a special subcommittee, under the chairmanship of the distinguished Senator from Connecticut (Mr. RIBICOFF), with jurisdiction in this area, and I would like to have his thoughts on this question, because I think it is very important; he has perhaps studied this subject more than anyone else in this body, and if he would like to respond on this subject, I would like to hear him.

Mr. RIBICOFF. Mr. President, I had not intended to make any comments at this time, but I do intend to support the amendment of the Senator from Oklahoma.

The Secretary of Commerce will soon be in Moscow to discuss trade questions with the Soviet Union. The President of the United States will soon go to China to discuss the problems that separate our two nations. Great changes are taking place in the entire trade picture throughout the world.

One of the great ironies of the current American position on East-West trade is that the nations that we are allied with and whom we have most-favored-nation treaties are doing some $18 billion worth of business a year with the East. But the United States does only $600 million worth of business with the Eastern countries.

The best remaining markets for the high technology content products in which the United States excels are in Eastern Europe, the Soviet Union, and mainland China. When you look at our balance of trade today, you will find that the only favorable balance we still have is in capital goods and high technology items. It is sad to state that the United States is no longer competitive——

Mr. LONG. Mr. President, has my time expired?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. HARRIS. Mr. President, I yield 1 minute to the Senator from Connecticut.

Mr. RIBICOFF. The United States, unfortunately, is no longer as competitive in producing many consumer goods as Germany, Japan and the Common Market nations. But the level of United States technology is still higher than that of any other nation in the world, and the eastern countries need, and need desperately, the goods the United States can produce. Here we have a great potential market for the United States. It is my feeling——

Mr. FANNIN. Mr. President, before the Senator continues, will he yield for a question?

Mr. RIBICOFF. I yield.

Mr. FANNIN. Is the Subcommittee On International Trade inclined to hold hearings?

Mr. RIBICOFF. The Senator asked for my position on this amendment, and I am giving my opinion. It is my intention to have full hearings on the subject of American trade with the East. I am expressing my personal opinions now, not that of the subcommittee. I have arrived at these conclusions from my own study and observations; and I had not intended to debate the issue at this time.

Mr. FANNIN. I would think the Senator would desire to have these hearings before we enter into any transactions of this nature, so that we would be better prepared.

Mr. RIBICOFF. As I stated, I would hope to have lengthy hearings on the entire subject of East-West trade and its implications for this Nation. But the Senator from Arizona asked for my position, and I am in all candor expressing my personal opinion.

Mr. FANNIN. I understand the Senator holds that position, but at the same time, I think he will agree that these hearings are highly essential before we get too far along.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. RIBICOFF. I would say they are absolutely necessary. This country should be aware of all the implications of our East-West trade policies. My prediction would be that within a year or two, whoever is President of the United States will ask for the authority to grant most-favored-nation treatment to Eastern countries.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Oklahoma has 2 minutes remaining.

Mr. HARRIS. Has time on the other side expired?

The PRESIDING OFFICER. Time on the other side has expired.

Mr. HARRIS. Let me say these three quick things, Mr. President:

First of all, the restrictions in this bill and under present law in regard to tariffs, the 15-percent surcharge, and so forth, would apply to any of these countries, so we are not just opening the door to imports.

Second, Mr. President, we are penalizing ourselves. As the distinguished Senator from Connecticut has said, we are denying ourselves this market. That is all we are doing. Even American-owned subsidiaries with foreign workers, located in Germany—a country which does not even have diplomatic relations with these countries—and elsewhere are selling in these markets, and we cannot, with American workers. I want to open up these markets to American workers.

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

Mr. HARRIS. I yield.

Mr. PASTORE. On the very day at the United Nations when they voted to seat Red China, Belgium entered into an agreement with Red China on trade, and 3 days later Italy did the same thing. That is what is happening to us.

Mr. HARRIS. The Senator is correct.

Mr. PASTORE. It is about time we got wise to ourselves.

Mr. HARRIS. We are denying the market to Rhode Island, Connecticut, and every American worker. We are sticking our head in the sand.

Second, we are not granting most-favored-nation status. We are saying that the President of the United States, in his discretion, can negotiate for it.

Third, this amendment says that the President must get commercial advantages in return.

The PRESIDING OFFICER. The Senator's time has expired.

There was a miscalculation as to the time. The Senator from Louisiana has 1 minute remaining.

Mr. LONG. Mr. President, so far as I am concerned, anyone who wants to can give away all the industry and jobs in his State, provided it does not affect Louisiana. I think that over a period of time they will come to see that that is not the thing to do.

So far as I am concerned, representing the State of Louisiana and speaking in that capacity, I am not willing to give anybody a blank check to give away the jobs we have left in my State until I see what we are supposed to get out of that deal. If Senators want to vote a blank check to give away their industries, that is their privilege. Go ahead.

Mr. HARRIS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from Arizona (Mr. PACKWOOD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

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

Also, the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 22, nays 55, as follows:

[No. 339 Leg.]

YEAS—22

Case	Inouye	Pastore
Church	Kennedy	Pell
Cranston	Magnuson	Ribicoff
Gravel	McGee	Stevenson
Harris	McIntyre	Tunney
Hart	Metcalf	Weicker
Hatfield	Mondale	
Hollings	Nelson	

NAYS—55

Aiken	Cotton	Moss
Allen	Dole	Pearson
Anderson	Dominick	Percy
Baker	Eagleton	Proxmire
Beall	Eastland	Randolph
Bellmon	Ellender	Roth
Bennett	Ervin	Scott
Bentsen	Fannin	Smith
Bible	Fong	Sparkman
Boggs	Gambrell	Spong
Brock	Griffin	Stafford
Buckley	Gurney	Stennis
Burdick	Hansen	Taft
Byrd, Va.	Hruska	Talmadge
Byrd, W. Va.	Jordan, N.C.	Thurmond
Cannon	Long	Williams
Chiles	Mansfield	Young
Cook	Mathias	
Cooper	Miller	

NOT VOTING—23

Allott	Humphrey	Muskie
Bayh	Jackson	Packwood
Brooke	Javits	Saxbe
Curtis	Jordan, Idaho	Schweiker
Fulbright	McClellan	Stevens
Goldwater	McGovern	Symington
Hartke	Montoya	Tower
Hughes	Mundt	

So Mr. HARRIS' amendment was rejected.

Mr. MANSFIELD. Mr. President, I understand that there are two more amendments coming up which will be acceptable.

MILITARY CONSTRUCTION APPROPRIATIONS, 1972—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11418) entitled "An Act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes."

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. WEICKER). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of November 10, 1971, at pp. 40425–40427.)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived, inasmuch as under the rules of the House of Representatives it has been printed as a report of the House.

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

Mr. GRIFFIN. Mr. President, may I just state for the RECORD that I have conferred with the distinguished ranking minority member of the committee, the Senator from North Dakota (Mr. YOUNG) and, of course, the conference report is agreeable with him and also with the distinguished Senator from Massachusetts (Mr. BROOKE), who cannot be here at this time and asked that his remarks on this subject be printed in the RECORD; and I ask unanimous consent that that be done.

There being no objection, the remarks of Senator BROOKE were ordered to be printed in the RECORD, as follows:

Mr. President, the conference report on appropriations for military construction, now pending before the Senate, contains a total of $2,037,097,000 for the Army, Navy, Air Force, military housing, and related agencies.

The bill which passed the Senate contained appropriations totalling $2,002,312,000 and the Senate conferees tried hard to maintain that level. On certain items, the House conferees were adamant and a compromise had to be reached. But in other areas the Senate succeeded in having its position approved. Two items of particular importance will, in fact, lead to longer-run cost savings.

Section 111 of the bill now includes a provision which will reduce the cost of construction by requiring a thorough and immediate investigation of charges by construction agencies for supervision, inspection and overhead. For far too long, the charges entered by agencies of the armed services have greatly exceeded comparable charges paid by private industry. The GAO must submit an interim report of its findings within six months, with a final report to be filed within 10 months. The Congress will thus have these figures to work with in preparing next year's legislation.

The conferees also agreed to strike the Army's request for $5,835,000 for conversion of heating plants from coal to oil in more than 16,000 housing units in West Germany now used to house American military personnel. These units are owned by the West German government, and any improvements will in the long run benefit the West Germans. It was consequently felt that *that* government should bear the costs of any improvements required in the Army family housing program.

Mr. President, I commend my distinguished chairman, Senator Mansfield, my fellow committee members, and the diligent and helpful committee staff, for a thorough investigation of the construction needs of our armed forces. I believe the bill before us represents a carefully pruned and responsible appropriations request, and I urge its adoption.

Mr. MANSFIELD. Mr. President, the conference committee agreed on an overall figure of $2,037,097,000 in new obligational authority for the military construction bill for fiscal year 1972. This is $34,785,000 over the amount allowed by the Senate, $24,651,000 over the figure approved by the House, and $92,708,000 under the budget estimate of $2,129,805,000, and, as an added note, I must say that the foregoing figures do not contain $183,570,000 for the Safeguard System construction and Safeguard family housing. This appropriation will appear as a line item in the defense appropriation bill.

The conference committee agreed on the following amounts for military construction and defense family housing:

Military construction—Army	$438,316,000
Military construction—Navy	355,500,000
Military construction—Air Force	289,189,000
Military construction—Air Force Reserve	6,581,000
Defense family housing	933,955,000
Army	55,776,000
Navy and Marine Corps	135,717,000
Air Force	109,045,000

Mr. President, I wish to emphasize that the military construction bill this year is indeed an austere bill. Quite a few projects were deleted from this bill which were considered nonessential to the operation of the military services. I can state categorically that there are no moneys in this bill for plush accommodations for the military services.

I do not intend to make a long and involved statement of the action of the conference committee. The conference report explains in a succinct manner the complete actions of the conference committee.

Mr. President, this completes my statement. I shall be glad to answer any questions which individual Senators may have regarding construction projects in their States.

I ask unanimous consent that a tabulation containing a summary of the conference action on the military construction appropriation bill for fiscal year 1972 be printed in the RECORD.

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

MILITARY CONSTRUCTION APPROPRIATION BILL FISCAL YEAR 1972—H.R. 11418

Item	New budget (obligational) authority, fiscal year 1971	Budget estimates of new (obligational) authority, fiscal year 1972	New budget (obligational) authority recommended in the House bill	Amount recommended by Senate committee	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
Military construction, Army	$646,958,000	$642,200,000	$437,274,000	$432,946,000	$438,316,000
Military construction, Navy	302,483,000	405,500,000	343,766,000	357,536,000	355,500,000
Military construction, Air Force	284,147,000	316,600,000	273,031,000	291,954,000	289,189,000
Military construction, Defense Agencies	46,300,000	25,400,000	14,801,000	14,801,000	14,801,000
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)
Military construction, Army National Guard	15,000,000	29,000,000	29,000,000	29,000,000	29,000,000
Military construction, Air National Guard	8,000,000	10,600,000	10,600,000	10,600,000	10,600,000
Military construction, Army Reserve	10,000,000	33,500,000	33,500,000	33,500,000	33,500,000
Military construction, Naval Reserve	5,000,000	10,900,000	10,900,000	10,900,000	10,900,000
Military construction, Air Force Reserve	4,000,000	5,700,000	6,581,000	5,700,000	6,581,000
Family housing, defense	806,464,000	919,220,000	938,238,000	900,620,000	933,955,000
Portion applied to debt reduction	−90,278,000	−92,820,000	−92,820,000	−92,820,000	−92,820,000
Homeowners assistance fund, defense		+7,575,000	+7,575,000	+7,575,000	+7,575,000
Subtotal, family housing	716,186,000	833,975,000	852,993,000	815,375,000	848,710,000
Grand total, new budget (obligational) authority	2,038,074,000	[1] 2,313,375,000	[2] 2,012,446,000	2,002,312,000	2,037,097,000

[1] Includes $334,000,000 for safeguard regular program and safeguard family housing.

[2] Includes $183,570,000 for safeguard regular program and safeguard family Housing.

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

Mr. MANSFIELD. I yield to the Senator from Louisiana.

Mr. ELLENDER. Mr. President, as a member of the conference committee, I reluctantly signed the report. Because of one item. The House provided $15 million of the $20 million budget request. The Senate had reduced this amount to $10 million. The conference agreed on $14 million.

Mr. President, my reason for objecting to this amount is that it strikes me that our erstwhile allies should bear a greater share of the costs of these infrastructure construction costs. It should be remembered that we spent hundreds of millions of dollars in France not too long ago, for which we received in settlement $96 million.

I tried to get the conferees to accept as part of this amount $26 million which we will receive from the NATO countries.

To prove my point I would like to quote from the NATO statement made by Mr. Loveland, who testified before the Appropriations Military Construction subcommittee in our hearing this year for fiscal year 1972 construction.

We now expect to receive the $96 million payments from NATO as follows: the first $28 million from reimbursements (already received) for projects constructed under authority of FY 1969 and prior year military Construction programs; the remainder, or approximately $68 million, by direct NATO funding of US relocation projects. Included in the $68 million is the $26 million of US relocation projects approved by the Congress in the FY 1970 US Military Construction programs. In the March 10th letter from SecDef, you were advised that the $26 million would be prefinanced and later recouped from NATO. Since it is more advantageous for the US to use direct NATO funding, and since NATO has approved this procedure, we intend to use NATO direct funding to the maximum of $68 million, including FY 70 approved Military Construction projects. Approximately $26 million in US Military Construction funds which may be released subsequently will not revert to the Infrastructure account, but will become available under regular reprogramming procedures to US Military Construction appropriations.

It is my contention that this $26 million we are receiving from NATO in the form of recoupements, because of the move from France, should be used to finance infrastructure construction rather than come to the Congress for $15 million in appropriations.

However, I was informed by the House Members that we had no right to follow this procedure because the army intended to use this money for other purposes. The $26 million that I wanted to use in order to pay for these infrastructure construction will become available under the regular reprograming procedures of the U.S. military construction appropriations.

For that reason, Mr. President, I opposed that part of the conference, although I signed it. I want it to be known also that we are still paying for the expense of all our soldiers in Western Europe. We are still paying for all the bombers we have there and for all the airplanes we have there. We are still paying for the 6th Fleet in the Mediterranean. We are paying for the Atlantic Fleet in the eastern part of the ocean. All of that is at our expense. And in addition, we are being asked to put up more funds in order to construct more NATO construction.

I think we are paying more than our fair share. As far as that is concerned, if I had the chance to strike the $15 million from the bill, I would do it. However, the conferees outvoted me, and I presume we have to abide by it.

So we are putting up cash money from the Treasury which could be obtained from the NATO countries to finance NATO construction. I do not think we are in a financial position to continue spending this money in order to continue building structures for NATO. There must be a stopping point. I will continue my efforts in the future to try to get the NATO countries to shoulder a great share of their own defense burden.

Mr. MANSFIELD. Mr. President, I move the adoption of the conference report.

The conference report was agreed to.

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11418.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate numbered 1 with the following amendment:

In lieu of the sum stricken and inserted by said amendment, insert "$438,316,000."

Mr. MANSFIELD. I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 1.

The motion was agreed to.

REVENUE ACT OF 1971

The Senate resumed the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. BENNETT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. BENNETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

On page 5, before line 14, insert:

(c) Accounting for Investment Credit in Financial Reports.—It was the intent of the Congress in enacting, in the Revenue Act of 1962, the investment credit allowed by section 38 of the Internal Revenue Code of 1954, and it is the intent of the Congress in restoring that credit in this Act, to provide an incentive for modernization and growth of private industry. Accordingly—

(1) no taxpayer shall be required, without his consent, to use, for purposes of his financial reports, any particular method of accounting for the credit allowed by section 38, and

(2) a taxpayer shall disclose, in any financial report made by him, the method of accounting for the credit allowed by section 38 used for purposes of such report.

Mr. BENNETT. Mr. President, the purpose of this amendment is to codify and put into the bill language which was put into the report for the purpose of making it clear that the committee "considers it undesirable to preclude the use of flow-through in the financial reporting of net income."

In a way it is a technical amendment because if the 7-percent investment credit remains in the bill it may either be considered as being available in the

year in which it is allowed or spread over the life of the asset to which it is applied.

It was the committee's decision to give the taxpayer the right to make a choice. That was put in the report. This language gives that right in the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a copy of a letter addressed to the chairman of the committee from Charls E. Walker, Acting Secretary of the Treasury, indicating the Treasury's support for the proposal.

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

THE SECRETARY OF THE TREASURY,
Washington, November 12, 1971.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Questions have been raised about the position of the Treasury Department concerning the financial accounting treatment of the 7 percent Job Development Credit.

The Treasury Department's overriding interest in seeking the credit is to create jobs both in the short run and the long run by stimulating the purchase of new machinery and equipment. This will improve the productivity of our workers on a permanent basis and thereby will increase the output and competitiveness of U.S. industry.

For financial accounting purposes, companies previously have had the option of either—(1) treating the credit as an immediate reduction in tax liability in the year the assets are acquired, when the credit is allowed; or (2) spreading the benefit of the credit over the service life of the asset as if the credit, in effect, was a reduction in the cost of the asset.

The vast majority of the companies have followed the former alternative—reflecting the benefit of the credit immediately in earnings. It seems self-evident that these businessmen will have less motivation to purchase new equipment if the benefits of the credit are not reflected in operating results when realized, as they have been in the past in their case.

Accordingly, since any change in the pre-existing well-established financial accounting practice might operate to diminish the job-creating effect of the credit, the Treasury Department strongly supports a continuation of the optional treatment.

The Treasury would prefer that the accounting profession on its own motion recognize the importance of continuing the prior practice so as not to interfere with the function of the credit to stimulate new capital investment. The Senate Finance Committee has expressed a similar view in its report.

If it is concluded that the desired objective—optional treatment for accounting purposes—cannot be achieved by committee report language, then the Treasury Department will support a legislative resolution of this matter.

Sincerely yours,

CHARLS E. WALKER,
Acting Secretary.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. MATHIAS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows.

At the end of the bill insert: That (a) subchapter B of chapter 61 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions relating to information and returns) is amended by renumbering section 6110 as 6111, and by inserting after section 6109 the following new section:

"SEC. 6110. CONSENT TO USE OR DISCLOSURE OF INFORMATION BY PERSONS PREPARING RETURNS.

"(a) ADDITIONAL DECLARATION.—In addition to the requirements of part IV of subchapter A, any return of the tax imposed by chapter 1, and any declaration of estimated tax required by section 6015, which is prepared by a person other than the taxpayer, shall contain a written declaration, under the penalties of perjury, by the person preparing the return or declaration that, either—

"(1) he has not used and will not use any information furnished by the taxpayer for any purpose other than the preparation of the return or declaration, and has not made and will not make any such information available to any other person for any such purpose, or

"(2) he has obtained a valid consent of the taxpayer to use such information for purposes other than the preparation of the return or declaration, or to make such information available to another person or persons for such purposes.

"(b) FORM AND CONTENTS OF CONSENT.—For purposes of subsection (a) (2), a consent of a taxpayer shall be valid only if it—

"(1) is set forth in a separate document signed by the taxpayer,

"(2) is printed in eight point or larger type (or is typed or written in letters of comparable size), and

"(3) specifies the information which may be used by the preparer, or made available by him to another person or persons, and the purpose or purposes for which such information may be used or made available."

(b) The table of sections for such subchapter B is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6110. Consent to use or disclosure of information by persons preparing returns.

"Sec. 6111. Cross references."

SEC. 2. Section 7213 of the Internal Revenue Code of 1954 (relating to unauthorized disclosure of information) is amended by redesigning subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) PERSONS PREPARING RETURNS.—Any person who receives any information furnished by a taxpayer to enable such person to prepare or have prepared for such taxpayer a return of the tax imposed by chapter 1 or a declaration of estimated tax required by section 6015 and who—

"(1) uses any such information for any purpose other than the preparation of the return or declaration, or makes any such information available to any other person for any such purpose, unless a valid consent (as described in section 6110(b)) to so use such information, or to so make such information available, has been obtained, or

"(2) uses any such information, or makes any such information available, for a purpose not specified in such valid consent.

shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution."

SEC. 3. The amendments made by this Act shall take effect on the first day of the first month which begins more than 20 days after the date of the enactment of this Act.

Mr. MATHIAS. Mr. President, this is a very simple amendment. It will not require any time to explain.

It simply preserves the confidentiality of information provided by the taxpayer to the one who prepares the returns as a professional act. It requires the one who prepares the tax return for another to certify that he will not disclose that information to any third party without the consent of the taxpayer. It provides a penalty of $1,000 and a year in prison for anyone who violates this provision. It is just as simple as that.

Mr. President, I understand that the Treasury Department has no objection. I believe the distinguished chairman of the committee is familiar with the amendment. I respectfully ask that the Senate approve the amendment and add it to the bill.

Mr. LONG. Mr. President, I have looked over the amendment. It seems that it is in order. The Treasury Department finds no objection to it, as the Senator has stated. In addition, I have no objection to it.

I would point out that the distinguished Senator from Connecticut (Mr. RIBICOFF) raised a number of questions dealing with the preparers of returns. The committee agreed that we would conduct hearings on that subject either during the remainder of this year or next year. We expect to act in greater detail in this area. However, for the time being we think it will be a forward step to agree to the amendment offered by the Senator from Maryland. I know of no objection.

Mr. MATHIAS. Mr. President, I thank the Senator from Louisiana.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Maryland.

The amendment was agreed to.

AMENDMENT NO. 657

Mr. PERCY. Mr. President, I call up my amendment No. 657.

THE PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, in the table of contents, strike the item relating to section 402.

On page 122, beginning with line 4, strike out through line 2 on page 123.

Mr. PERCY. Mr. President, it shall be my intention to speak briefly this evening. Then, as I understand it, under the unanimous consent agreement, we have 3 hours on this amendment in the morning and it is to be the pending business.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous consent request?

Mr. PERCY. I yield.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time on the pending amendment not start running until tomorrow.

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

Mr. BYRD of West Virginia. Now, will the distinguished Senator indicate how long he will be speaking?

Mr. PERCY. At the most 5 minutes.

Mr. BYRD of West Virginia. I thank the Senator.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I should like first of all to make perfectly clear

that this amendment, intended to prevent funds from the alcohol excise tax being diverted to the Highway Trust Fund, is supported by the administration.

I have talked with representatives of the Treasury Department; and I talked to George Shultz, the Director of the Executive Office of the President, Office of Management and Budget, and I have his assurance that the administration supports my amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter from Donald B. Rice, Assistant Director, Office of Management and Budget, dated November 15, 1971.

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

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 15, 1971.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: The Administration strongly supports your proposal to amend the pending tax bill to delete the provision which diverts alcohol tax revenues into the highway trust fund.

We believe that taxes paid by the user should bear a relationship to the benefits he receives and total user taxes levied should bear a relationship to the total level of services provided. Using alcohol taxes to fund highway programs does not meet these tests. Furthermore, reducing general revenues by diverting them to the highway trust fund further restricts the already limited funds available for other high priority national needs.

Sincerely,

DONALD B. RICE,
Assistant Director.

Mr. PERCY. Mr. President, the Committee on Finance approved an amendment to the Revenue Act which calls for the transfer of 7 percent of the receipts from the Federal excise tax on alcohol from the general revenues into the highway trust fund. This transfer represents a gain of approximately $350 million to the highway trust fund, and a loss of the same amount to the Treasury.

The committee justified its action on the grounds that repeal of the manufacturers' excise tax on light-duty trucks and trailers, as provided in the bill, would result in a net revenue loss of approximately $340 million to the trust fund; and because these additional funds will be necessary for the completion of the Interstate Highway System, the revenue loss should be recovered.

The committee suggested that, because alcohol abuse accounts for many highway accidents, it is appropriate to transfer alcohol tax receipts into a trust fund whose outlays go partially for highway safety programs. The $350 million allocated for the trust fund was not, however, specifically earmarked for highway safety programs.

THE QUESTION OF THE NEED FOR ADDITIONAL TRUST FUND REVENUES

The Finance Committee maintains that the additional $350 million, and money accruing from the alcohol excise tax in the future, is necessary in order not to impair the completion of the Interstate Highway System. This assertion disregards that, at the end of fiscal year 1971, the highway trust fund had an accumulated balance of $3.648 billion. Even with the loss of the funds from the excise tax on light trucks and trailers, the trust fund would have a net increase in its balance of $796 million by the end of fiscal year 1972. This unspent balance is projected to rise to $10.7 billion by fiscal year 1977, when the authority for the fund expires.

Mr. President, I ask unanimous consent to insert at this point in the RECORD a table showing the fiscal status of the highway trust fund, fiscal year 1957—fiscal year 1970, and estimates for fiscal year 1971—fiscal year 1978.

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

STATEMENT NO. 2.—STATUS OF HIGHWAY TRUST FUND, ACTUAL FISCAL YEARS 1957–70, AND ESTIMATES 1971–78, UNDER EXISTING LEGISLATION

[In millions of dollars]

	Receipts									Expenditures				
Fiscal year	Gross excise Taxes	Deductions: Transfers [1]	Deductions: Refunds	Net excise taxes	Interest (net)	General fund advances	Repayment of advances (deduct)	Reimbursements from general fund [2]	Total	Interstate highways	Primary, secondary, urban, rural, TOPICS, and urban system [3]	Other [4]	Total	Balance in the fund
Actual:														
1957	1,479			1,479	3				1,482	208	743	15	966	516
1958	2,116		90	2,026	18				2,044	675	809	27	1,511	1,049
1959	2,171		97	2,074	[5] 13				2,087	1,501	839	273	2,613	523
1960	2,642		103	2,539	—3	359	359		2,536	1,861	879	200	2,940	119
1961	2,924		126	2,798	[5] 1	60	60		2,799	1,719	877	23	2,619	299
1962	3,080		131	2,949	7				2,956	1,914	860	10	2,784	471
1963	3,405		216	3,279	14				3,293	2,109	906	2	3,017	747
1964	3,646		127	3,519	20				3,539	2,635	1,004	6	3,645	641
1965	3,786	4	123	3,659	11				3,670	3,016	990	20	4,026	285
1966	4,065	28	120	3,917	[5] 7	70	70		3,924	2,978	937	50	3,965	244
1967	4,684	31	212	4,441	14				4,455	2,976	954	44	3,974	725
1968	4,523	30	114	4,379	34			15	4,428	3,207	947	17	4,171	982
1969	4,889	28	224	4,637	53				9,690	3,149	984	18	4,151	1,521
1970	5,414	28	32	5,354	115				5,469	3,289	1,043	46	4,378	2,612
Estimate:														
1971	5,717	28	119	5,570	180				5,750	3,481	1,147	86	4,714	3,648
1972	5,803	28	116	5,659	245				5,904	3,304	1,301	163	4,768	4,784
1973	6,070	30	116	5,924	285			61	6,270	3,478	1,318	429	5,225	5,829
1974	6,302	31	116	6,155	330			27	6,512	3,802	1,364	582	5,748	6,593
1975	6,520	32	115	6,373	380			24	6,777	3,921	1,383	467	5,771	7,599
1976	6,722	33	114	6,575	440			23	7,038	3,941	1,398	469	5,808	8,829
1977	6,926	34	114	6,778	525			21	7,324	3,535	1,410	491	5,436	10,717
1978 [6]	[7] 2,114	11	84	2,019				103	2,122	3,815	3,713	1,219	[8] 8,747	[9] 4,092
Total	94,998	376	2,519	92,103	2,692	489	489	274	95,069	60,514	25,806	4,657	90,977	4,092

[1] Transfers to the land and water conservation fund in accordance with Public Law 88–578, approved Sept. 3, 1964 (78 Stat. 897).

[2] Reimbursements to the fund for emergency fund expenditures authorized by the 1964 amendments to the Alaska Omnibus Act, the Pacific Northwest Disaster Relief Act of 1965, and the Federal-aid Highway Act of 1966. Expenditures related to these reimbursements are included in "Other" expenditures (see footnote 4).

[3] Assuming authorizations will be extended for fiscal years 1974–78 at the annual rate of $1,100 million for the primary, secondary and urban program; $125 million for the rural program; $100 million for the TOPICS program and $100 million for the urban system program.

[4] Includes emergency relief funds; bridge and dam design and construction funds; advances to States; special $400 million of primary, secondary and urban funds; and $300 million transfer to the right-of-way revolving fund authorized by the Federal-aid Highway Act of 1968. Also includes programs designated for Trust Fund financing by the Federal-aid Highway Act of 1970—forest highways; public lands highways; economic growth center development highways; bridge replacement; Alaskan assistance; rail crossing demonstration projects; Baltimore-Washington Parkway; highway safety programs (23 U.S.C. 402) and highway safety research and development.

[5] Receipts of interest on investments netted by payments of interest on general fund advances of $5 million in 1960, $1 million in 1961, and $1,000 million in 1966.

[6] Through Sept. 30, 1977.

[7] Includes receipts on tax liabilities accrued prior to Oct. 1, 1977, but collected thereafter.

[8] Provides for complete disbursement of all funds authorized for fiscal year 1978 and prior fiscal years including expenditures estimated to occur after Sept. 30, 1977.

[9] Available for additional authorizations including $1,986 million Interstate system cost identified by 1970 Interstate cost estimate for which authorizations have not yet been provided.

Source: 15th Annual Report of the Secretary on the highway trust fund.

Mr. PERCY. Mr. President, I would like to make another point. I have been a great admirer of what has been done by the highway trust fund and by those Members of this body who have done so much to insure an interstate highway system. I want the Federal Government to fulfill its responsibility to help our States and counties with secondary roads. The role of the Federal Government in this matter has made possible the transportation on the roads we now have in this country.

Mr. President, I wish to commend the distinguished Senator from West Virginia (Mr. RANDOLPH), the chairman of the Committee on Public Works, and my distinguished colleague, the ranking minority member of the Committee on Public Works, the Senator from Kentucky (Mr. COOPER), for the work they have done.

Mr. President, I regret that this amendment necessarily has had to come up at a time when, because of other official business, the dinstinguished Senator from Tennessee (Mr. BAKER) will not be in the Chamber tomorrow, but he also has contributed greatly as a member of the Committee on Public Works to our highway system. It is not to detract from the magnificient job that has been done, but I feel we have a responsibility to other modes of transportation, and we have a moral commitment to not in any way rob general revenues, which are needed for such programs as education, health, and welfare, and other areas of vital interest to the Senate and to the national interest.

Mr. President, it is worth noting that the Ways and Means Committee reportedly discussed in executive session the question of replacing the money lost to the highway trust fund by removal of the excise tax on light trucks, and chose not to replace this loss with funds from another source.

I understand the concern of the distinguished chairman of the Public Works Committee that the removal of the 10-percent excise tax on light trucks might erode revenues accruing to the trust fund, and eventually impair its capacity to fund highway programs. But I suggest that the device of taking a percentage of the alcohol excise tax receipts, which now go into general revenues, and diverting them to the trust fund, is inappropriate and an unnecessary precaution. If the trust fund proves unable to fund highway programs deemed necessary in the future, then it would be more appropriate for Congress to increase revenues from remaining highway user taxes: For example, the tax on gasoline. This would retain the underlying principle that the trust fund should be financed by taxes on highway users—a concept in which fund supporters have taken great pride.

ISSUE OF ALTERNATIVE USES OF THE DIVERTED $350 MILLION

While the highway trust fund maintains an accumulated balance of close to $4 billion, the Federal budget—Federal funds basis—now has an estimated deficit of $34 billion for this fiscal year—according to the most recent report of the Joint Committee on Reduction of Federal Expenditures.

The Finance Committee's view that a revenue loss to the trust fund should be recovered is double edged. It is equally fair and appropriate to ask: What will replace the $350 million lost in general revenues?

Many worthwhile programs financed partially from Federal dollars are suffering acutely from funding shortages and cutbacks. An example is our mass transit programs, which are facing severe funding shortages.

On the same day that the Finance Committee decided to divert $350 million to the highway trust fund, the Transportation Committee of the National Conference on Mayors called for an emergency appropriation of the same amount for urban mass transit systems.

There is presently a backlog of $2.6 billion in grant applications filed with the Urban Mass Transportation Administration, and bus systems across the country are having to raise fares as high as 40 and 50 cents or face bankruptcy.

We all know of other programs which are in trouble because of lack of funds from general revenues. Several weeks ago in the Senate, we were discussing the exclusion of thousands of schoolchildren from the school lunch program, and 5 months ago, we were battling to keep alive a very valuable program offering low-cost meals to the elderly poor.

OPPORTUNITY FOR CONGRESSIONAL SCRUTINY OF EXPENDITURES OF PUBLIC FUNDS

With the exception of highways, virtually all Federal programs must come to Congress each year to prove their worth and obtain appropriations. Housing, health, school lunches, nutrition for the elderly, education, and not least of all, mass transit—all of these programs must compete annually for scarce Federal dollars.

By contrast, our interstate highway program has enjoyed relative insulation for 15 years from any real congressional examination through the annual appropriations and authorization process. In one sense, I am pleased that the Finance Committee injected this issue into the Revenue Act, as it gives this body a rare opportunity to discuss publicly the merits of the highway program and its trust fund financing.

HIGHWAY "NEEDS"

One aspect of this discussion in which I am particularly interested is the manner in which highway "needs" are assessed. The 1970 national highway needs report—prepared every 2 years by the Federal Highway Administration—estimated that there is a "need" to allocate $320 billion to road construction over the next 15 years. But as a Joint Economic Committee report—dated August 17, 1970, by the Subcommittee on Economy in Government—points out, this estimate is based on the misleading concept of equating "need" with travel forecast. The "need" here refers to "capacity adequate to accommodate the highway travel forecast for the given target year."

The JEC report further explains that:

Since funds are apportioned to the States in accordance with their estimated "needs," the finnacing system contains a considerable incentive to produce inflated travel forecasts. Furthermore, there is persuasive evidence that the "demand" for highways, as measured by traffic volume, is partly a function of highway availability. Increasing the highway mileage may merely stimulate more automobile travel.

IMBALANCE IN PRESENT TRANSPORTATION OUTLAYS

There are serious imbalances in our Federal expenditures for various modes of transportation. According to the counter budget proposed by the Urban Coalition Federal Aid to Transportation was as follows in fiscal year 1971:

FEDERAL AID TO TRANSPORTATION

[In millions of dollars]

	Outlays	Percent of transportation outlays
Mass transit	215	2.8
Highways	4,880	62.9
Aviation	1,620	20.9
Railroads	48	.6
Water	1,000	12.8
Total	7,763	100.0

It has been estimated that as much as 60 to 70 percent of our total population lives on less than 10 percent of the land—in crowded, metropolitan areas where mass transit is the most practical and efficient mode of transportation, and where highways are the least efficient and least economical. According to the 1969 copy of "America's Lifelines," a publication of the Department of Transportation, the average cost per mile of highways in rural areas is $887,000, whereas the average cost per mile of highways in urban areas is $4 million. It would seem more logical were the percentages of Federal funds going for mass transit and highways reversed; that is, were 62.9 percent of Federal outlays for transportation spent for mass transit and 2.8 percent spent for highways.

I should think that the highway interests themselves would be quite alarmed at the proposed change in the method of highway trust fund financing, for it will no doubt accelerate the movement for a more balanced and flexible national transportation system.

As a final note, I wish to reiterate my strongly held opinion that, at a time when we face a Federal deficit of over $30 billion and are witnessing critical budget cuts in numerous worthwhile programs, it is not appropriate to transfer $350 million from the deficit-ridden Federal budget into the oversubscribed highway trust fund.

Mr. LONG. Mr. President, I hope that tomorrow members of the Committee on Public Works will be present to discuss this amendment. The Committee on Finance agreed to maintain the amount of funds that would have been flowing into the highway trust fund under present law. This matter was brought to our attention by members of the Committee on Public Works who are more conversant with the need for going ahead with

highway funds than those of us who are not on that committee.

Mr. President, the reason we have the surplus in the highway trust fund is because recent administrations have not done what Congress intended in connection with getting on with the program. There have been slow down orders and various administrative decrees not to do what Congress intended with the highway program.

We have lost tens of thousands of lives because the program has not been completed. Right now I challenge anyone to try to come from Virginia to the District of Columbia or from Maryland to the District of Columbia at working time in the morning, and try to get home at quitting time, if one has to travel beyond the circumferential highway. Highways and roads are jammed to capacity with the result that on magnificent roads designed for travel at 65 miles an hour, one has to stand still sometimes for 4 or 5 minutes waiting for a chance to move just a few feet.

We are far behind what we should have done. Frankly, it has always been my thought that we should build for tomorrow; that we should build a road system which at the time of its completion is adequate to fulfill the need for years in the future. Roads should be projected ahead so we would have what is needed in advance rather than making people spend their lives tied up for hours in bumper-to-bumper traffic fussing and perspiring with their cars burning out, with their automobile hoods lifted up because their cars are generating so much heat they will not operate any longer. This is a typical scene on the interstate highways of America today because of their inadequacy. The slowdowns that are imposed cause the construction of roads to take so long that no President expects to see some of these roads completed during his term. That is a sad commentary on the status of the highway program.

The idea of a separate fund for the construction of roads has actually resulted in a slowdown of the program. When we have a slack economy and cannot get things moving ahead, as we have now, because of a limitation on the use of funds, roads seem to be the first thing to be slowed down even though it was intended that money should be made available and spent.

So I do not want to participate in the deliberate decisions of the Executive during the last 10 years to postpone construction of much-needed highways, and which run up the death toll on those highways, by further postponing completion of this program.

Maybe we cannot get the executive to spend the money anyway, but if we do not put it there we cannot have it spent because that would provide one more excuse not to get on with the program. I believe most people think highways are one of the most pressing matters in this country.

THE RETIREMENT OF PAUL G. HOFFMAN

Mr. PERCY. Mr. President, this January marks the retirement of Mr. Paul G. Hoffman, who will step down from his post as administrator of the United Nations development program. I am honored to salute Mr. Hoffman's distinguished record of service and proud to be able to call him my friend.

Paul Hoffman, who is 80 years of age, has had a long career in industry and international affairs. He was president of the Studebaker Corp. for 13 years before being appointed by President Truman in 1948 as the first Administrator of the Marshall plan for the economic recovery of war-torn Europe. Later, he was president of the Ford Foundation for 2 years before joining the world organization in 1959 as managing director of the United Nations Special Fund, created to stimulate investment opportunities in developing countries. In 1965, the special fund was merged with the expanded program of technical assistance into the United Nations development program, and in 1966 Mr. Hoffman took the reins as Administrator of this vitally important undertaking.

The U.N. development program assists low-income countries in making more fully productive the vastly underutilized, potential wealth of their human and natural resources. At the request of the governments of these developing countries, it works in carrying out preinvestment and technical assistance projects, with the aim of uncovering sound opportunities for capital investment and creating conditions under which such development financing and other growth resources can be used with maximum effectiveness.

I think that Mr. Hoffman has best stated the mission of the U.N. development program:

> It cannot be said too often that the poverty which dreadfully oppresses hundreds of millions of the world's people is unnecessary, simply and truly unnecessary. All the human, natural and technological resources needed to eradicate poverty from the low-income lands are available now, and a great deal is known about how to use these resources effectively.
>
> But the job can only be done if the richer and the poorer countries build a strong, dynamic partnership for development.

In his farewell address, Mr. Hoffman stated that he regards development "as one of the greatest causes to which mankind has ever devoted itself in all its long history—a cause which the future may reveal as the seedbed for a flowering of human well-being that could cover the face of this planet."

U.N. Secretary General U Thant calls Mr. Hoffman's contribution to the work of the United Nations in the economic and social field, and his services to the cause of multilateral ecnomic and social development, beyond praise. He said:

> His efforts have helped improve the lives of hundreds of millions of people throughout the world, and strengthened the cause of international cooperation.

Mr. President, the United Nations will be losing a gifted leader and a distinguished humanitarian. The world community is thankful for the work of Paul Hoffman, and I wish him well in his retirement years.

THE "GOLD" AMENDMENT

Mr. MATHIAS. Mr. President, we frequently hear, the desirability of constructive alternatives to legislative proposals, and I should like to acknowledge one to my amendment to put income tax forms in simple American English. This alternative is the "Gold" amendment, proposed by the distinguished author of the District Line in today's Washington Post.

My only hestitation in calling the Senate's attention to it is that it may be considered coercive. At the very least, it may be unconstitutional as a violation of the eighth amendment. In any event, the "Gold" amendment speaks for itself. 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:

MAC'S TAX REFORM

Sen. Charles McC. Mathias of Maryland has proposed that "common every-day American English" be made the official language of the Internal Revenue Service. Additionally, he wants tax return forms revised so that ordinary citizens can understand them.

Sen. Mathias is to be commended, and I wish him a lot of luck. I have no pride of authorship in my own tax reform proposal, and would be happy to settle for his.

However, if the Senate turns down the Mathias version of tax reform, I reserve the right to go back to plugging for my own idea: Just forbid any Congressman to use professional help in filling out his own tax return.

If the men who pass our tax laws had to make them simple enough for Congressmen themselves to understand, the rest of us wouldn't have much trouble, either. Our problem right now is that the average Congressman can't make any more sense out of the tax laws he passes than the average citizen can, with the result that most returns that involve anything more than a standard deduction require professional assistance. And on returns of even minor complexity, even the professionals disagree among themselves. Ask six of them about your return and you'll get six different answers.

H.R. 9961 RELATING TO FEDERAL CREDIT UNIONS—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at such time as the so-called credit union bill is called up—and that bill is numbered H.R. 9961—time on that bill be limited to 30 minutes, to be equally divided and controlled between the distinguished Senator from Alabama (Mr. SPARKMAN) and the distinguished ranking minority member of the committee (Mr. BENNETT); that time on any amendment thereto be limited to 30 minutes, to be equally divided between the mover of such amendment and the distinguished manager of the bill, with the exception of an amendment by the distinguished Senator from Wisconsin (Mr. PROXMIRE), on which there be a time limitation of 2 hours, to be equally divided between the mover of the amendment and the manager of the bill; provided further, that time on any amendment in the second degree, motion, and appeal, with the exception of nondebatable motions, be limited to 10 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President——

The PRESIDING OFFICER. The Senator from Michigan.

Mr. BYRD of West Virginia. Mr. President, may I say, in explanation of this request, it has been discussed with the distinguished manager of the bill (Mr. SPARKMAN), the distinguished ranking Republican Member (Mr. BENNETT), and the distinguished Senator from Wisconsin (Mr. PROXMIRE), and with the minority leadership.

Mr. GRIFFIN. Mr. President, it has been discussed with the distinguished ranking Republican Member, the Senator from Utah (Mr. BENNETT), and is agreeable. I wanted to indicate one concern that I had, however. The distinguished Senator from Tennessee (Mr. BAKER) is not on the floor, but the distinguished majority whip is limiting amendments here to 30 minutes with no requirement that amendments be germane. It bothers me a great deal to think we might be limiting the Senate, in the consideration of some extraneous amendment, the proportions of which we have no way of knowing, to 30 minutes. I wonder if we should do that.

Mr. BYRD of West Virginia. I thank the distinguished assistant Republican leader. He has certainly made reference to something that could become an eventuality here.

Could we agree that, in the event a nongermane amendment should be offered on which additional time over and above 30 minutes was desired, that amendment would not be under the restriction of the agreement?

Mr. GRIFFIN. I would accept that.

The PRESIDING OFFICER. Without objection——

Mr. SPARKMAN. Mr. President, reserving the right to object—and, of course, I shall not object—let me say that the bill itself is noncontroversial.

Mr. BYRD of West Virginia. Mr. President, the Senate is still in session. Would the Senate clerks take their seats or leave the Chamber?

The PRESIDING OFFICER. The point of the Senator from West Virginia is well made.

Mr. SPARKMAN. Controversy comes on one amendment that has been referred to. I have discussed with the Senator from Wisconsin (Mr. PROXMIRE) the idea of cutting that time down to 1 hour and a half. That can be taken up in the morning. I feel very strongly that the whole matter can be disposed of in not more than 2 hours. We will certainly cooperate.

Mr. BYRD of West Virginia. Yes. I share that hope.

Mr. President, was the request agreed to?

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia, as modified by the request of the Senator from Michigan?

The Chair hears none, and it is so ordered.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

UNANIMOUS-CONSENT AGREEMENTS

Mr. BYRD of West Virginia. Mr. President, I have a number of requests which I shall propose. They have been cleared with the distinguished manager of the bill, with the distinguished ranking minority member of the committee and they have also been discussed with the distinguished assistant Republican leader, and have of course, been authorized and approved by the distinguished majority leader, and I make the requests at his direction.

Mr. President, I ask unanimous consent that upon the disposition of the pending amendment, the amendment by Mr. PERCY and Mr. WEICKER, the Senate then proceed to take up the amendment by Mr. ROTH, amendment No. 642.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, upon the disposition of the amendment by Mr. ROTH, amendment No. 642, the Senate proceed to consider an amendment by Mr. CRANSTON, amendment No. 640. That amendment, as I understand, would delete title VI of the bill. It would knock out the President's authority to impose import quotas.

I ask unanimous consent that the time hours, to be equally divided between the mover of the amendment and the manager of the bill; that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, upon the disposition of amendment No. 640 by Mr. CRANSTON, the Senate proceed to consider an amendment by Mr. HARRIS. By way of identification, it would prohibit corporate tax deductions as business expenses for advertising on public questions.

I further ask unanimous consent that time on that amendment be limited to 30 minutes, to be equally divided between the mover of the amendment and the manager of the bill; that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 5 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at such time on tomorrow as the Senate shall complete its business, a second amendment by Mr. CRANSTON, amendment No. 685, be laid before the Senate and made the pending question; that time on that amendment, which may be identified as dealing with the excise tax on autos, be limited to 2 hours, the time to be equally divided and controlled between the distinguished mover of the amendment (Mr. CRANSTON) and the distinguished manager of the bill (Mr. LONG); that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill.

Mr. GRIFFIN. Mr. President, reserving the right to object, I came to attention because that amendment deals with the auto excise tax. Can we lengthen the time for amendments to the amendment, if there are such offered, a little, from 20 to 30 minutes?

Mr. BYRD of West Virginia. Yes. I modify my request accordingly.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon disposition of amendment No. 685 by Mr. CRANSTON on Wednesday next, the Senate proceed to consider an amendment by Mr. HARRIS, which may be referred to as the combined DISC and foreign corporation tax amendment; that time on that amendment be limited to 1 hour, to be equally divided between the mover of the amendment and the manager of the bill; that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I am conscious of the fact that this is a rather controversial matter—has this been cleared with the ranking minority Member?

Mr. BYRD of West Virginia. Yes. All of the requests have been so cleared.

Mr. GRIFFIN. Once again I think that I would like to suggest that perhaps amendments might be allotted 30 minutes.

Mr. BYRD of West Virginia. Very well. I so amend my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I think the distinguished assistant Republican leader would include with and amendment in the second degree, any motion, or appeal, with the exception of nondebatable motions, so that it would be clearly understood that they have the same time limitation as amendments in the second degree.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. President, I ask unanimous consent that on an amendment which may be identified as the tax deduction for political contributions amendment—to be offered by Mr. CRANSTON for himself and others, or by others—the time be limited to 6 hours, to be equally divided between and controlled by the mover of such amendment and the manager of the bill; and that time on any amend-

ment in the second degree, motion, or appeal with the exception of nondebatable motions be limited to 1 hour, to be equally divided between the mover of such and the manager of the bill.

Mr. GRIFFIN. Is this the last amendment as to which the distinguished majority whip is going to ask unanimous consent?

Mr. BYRD of West Virginia. Yes.

Mr. GRIFFIN. And this has to do, not with the business for tomorrow, but for the day after tomorrow?

Mr. BYRD of West Virginia. This would be for the day after tomorrow, and I would hope that it could follow the second Harris amendment, but I hesitate to attempt to clock it in at this point.

Mr. HUMPHREY. Mr. President, will the distinguished majority whip yield?

Mr. BYRD of West Virginia. I yield.

Mr. HUMPHREY. I have an amendment, No. 693, relating to a low-income allowance, and I may want to call that up tomorrow. If I do, I would like to have the majority whip include that in his unanimous-consent request. I do not think I would need over 30 minutes. It seems to me that is a maximum amount of time, 30 minutes on a side, or a maximum of an hour to the two sides. I imagine I would be able to cut that down substantially, as we did on Saturday.

Mr. BYRD of West Virginia. Will the distinguished Senator hold that until we get the other requests cleared?

Mr. HUMPHREY. Yes. I understood the Senator was finishing his unanimous-consent requests, and I wanted to be sure to get it under the umbrella.

Mr. BYRD of West Virginia. Yes.

Mr. GRIFFIN. Mr. President, may I ask whether this amendment and the number of hours was cleared with the distinguished ranking Republican member of the committee (Mr. BENNETT)?

Mr. BYRD of West Virginia. Yes, the request for 6 hours was.

Mr. GRIFFIN. I have no objection.

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

Mr. BYRD of West Virginia. I am sorry, Mr. President, that I cannot be more definite with respect to the identification of the author of that amendment. I discussed it with Mr. CRANSTON, and he gave me assurance that if he did not offer the amendment, he would be a cosponsor of it, and that the amendment, by whomsoever offered, would still come within the time limitation that has been agreed to.

Mr. GRIFFIN. Now, with respect to the request the distinguished Senator from Minnesota wants to make, here is the situation, and it is very awkward for the minority whip: Because the amendment, I take it, is one that the people on my side are not yet familiar with, particularly Senator BENNETT, the ranking minority Member, I do not know how I can agree to it, although I am sure the Senator will be reasonable about it tomorrow.

Mr. HUMPHREY. Yes; I was perfectly willing to wait until tomorrow. I understood that the majority whip was trying to complete a total roundup of the number of amendments pending with unanimous consent requests. But I shall raise this issue tomorrow.

Mr. GRIFFIN. Yes; the Senator can see the problem.

Mr. HUMPHREY. Yes.

Mr. GRIFFIN. These others have all been studied, and they are familiar with them and realize how much time they are willing to agree to.

Mr. BYRD of West Virginia. Mr. President, may I address this question to the able assistant Republican leader and the distinguished Senator from Minnesota (Mr. HUMPHREY)?

Could we agree to a time limitation on the amendment by Mr. HUMPHREY, so that the Senator from Minnesota would know where he stood with respect to a time limitation and with respect to the sequence?

Mr. GRIFFIN. May I suggest that he make it an hour and then, if he wants to reduce it, that would be fine?

Mr. HUMPHREY. Yes; an hour equally divided.

Mr. GRIFFIN. That would give adequate protection, I think.

Mr. BYRD of West Virginia. I was going to make this suggestion, which the Senators may or may not prefer: That the time be limited in accordance with the suggestion of the distinguished Senator from Minnesota, and conditioned on objection by the ranking Republican member of the committee or the chairman. In other words, if in the morning, Mr. BENNETT or Mr. LONG wishes to object, we will change the time to 2 hours to be equally divided.

Mr. HUMPHREY. Yes.

Mr. GRIFFIN. Fine.

Mr. BYRD of West Virginia. But unless Senator BENNETT or Senator LONG objects, then the time limitation would be understood; it would be 1 hour, to be equally divided, on the amendment, with 30 minutes allotted to any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions.

Further, Mr. President, I ask unanimous consent that the amendment by Mr. HUMPHREY follow the amendment by Senator HARRIS on tomorrow.

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

Mr. HUMPHREY. Mr. President, will the assistant majority leader yield for just one other observation?

Mr. BYRD of West Virginia. Yes.

Mr. HUMPHREY. It was necessary for the Senator from Minnesota to be absent today, on what I would call official business, to participate in the General Forum of the National League of Cities and Municipalities as one of the participants, together with former Governor Scranton of Pennsylvania and others, on the whole subject of revenue sharing—by the way, in support thereof—and of the Rural Development Bank proposal, at a conference that was held in Atlanta.

I make note of this because of the very important business that is before the Senate, and I deeply regret not having been able to be here today, but I had to either completely disappoint, because of the responsibility I have in that conference, an entire conference, or be absent from some votes here today.

As the majority whip knows, I was concerned about that on the weekend, and spoke to him about it.

Mr. BYRD of West Virginia. Yes, the able Senator did indeed, and the situation was such, as he has explained it, that it necessitated our having to move ahead with votes here, and we appreciate the explanation for the record by the distinguished Senator from Minnesota, of which I was already aware. It is regretted that the circumstances were such that the able Senator from Minnesota could not be present throughout the day, but it should be noted that, even at this late hour—and it will soon be 9 o'clock in the evening—he has returned to the Senate floor to help complete the business here.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, at the conclusion of the remarks by the distinguished Senator from Wisconsin (Mr. PROXMIRE), there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the pending question, which is the amendment by Mr. PERCY and Mr. WEICKER.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 a.m.

After the two leaders have been recognized under the standing order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 15 minutes, following which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

At the conclusion of morning business, the Senate will resume its consideration of the amendment by Mr. PERCY and Mr. WEICKER, on which there is a time limitation of 3 hours.

Upon the disposition of that amendment, the Senate will proceed to the consideration of the amendment (No. 642) by Mr. ROTH, on which there is a time limitation of 2½ hours.

On the disposition of the amendment by Mr. ROTH, the Senate will proceed to the consideration of amendment No. 640 by Mr. CRANSTON, on which there is a time limitation of 2 hours.

When the Cranston amendment (No. 640) has been disposed of, the Senate will take up the first of the two Harris amendments, the amendment to prohibit the corporation tax deduction as a business expense, on which there is a time limitation of 30 minutes.

Following that, the Senate will consider the amendment by Mr. HUMPHREY on which there is a limitation of 1 hour.

At the close of business tomorrow, the Chair will lay before the Senate the sec-

ond amendment by Mr. CRANSTON, amendment No. 685, the excise-tax-on-automobiles amendment. It will be made the pending question. A time limitation of 2 hours has been agreed to with respect to that amendment.

Following the disposition of the Cranston amendment—No. 685—on Wednesday, the Senate will proceed to consider the second amendment by Mr. HARRIS, the combined DISC and foreign corporation tax amendment—in other words, the old Gore amendment—on which there is a time limitation of 1 hour.

An agreement has been entered into with respect to the so-called political contributions amendment, with a limitation of 6 hours on the amendment. That amendment will be called up on Wednesday at some point.

Mr. President, there will be rollcall votes tomorrow. It is certainly hoped that the Senate will complete its consideration of the unfinished business on Wednesday. Of course, there will be rollcall votes on Wednesday as well. There will be a long day tomorrow and a long day on Wednesday.

Mr. GRIFFIN. Mr. President, will the majority whip yield for one further observation?

Mr. BYRD of West Virginia. I yield.

Mr. GRIFFIN. In the cases where reference has been made to numbered printed amendments, the Senators are on notice and can understand what is going to be taken up and can prepare themselves for the debate. In several instances, as the majority whip has indicated the reference has not been to a printed numbered amendment but has been identified with a description, which is helpful. But I would hope that perhaps tomorrow—I am thinking now of the so-called political contribution amendment, whatever that is—we could have something more definite as to what the amendment is, so that Senators could have notice and be able to prepare themselves.

Mr. BYRD of West Virginia. Mr. President, the point that has been made by the distinguished assistant Republican leader is well taken. Certainly, Mr. President, we are operating a little in the dark by virtue of the fact that we are unable to identify all amendments by number.

I think it can be explained by the fact that we are up against somewhat of a deadline, and that we hope to complete our work here on "must" legislation by December 1. In order to expedite the action on the unfinished business as early as possible, we are attempting to get time limitations on the various amendments.

Some amendments to which I have referred are printed, I am positive. For example, the amendment by the Senator from Oklahoma (Mr. HARRIS), the combined DISC and foreign corporation tax amendment, is a printed amendment, I am informed by the Senator. I do not have the number.

Mr. GRIFFIN. Perhaps tomorrow we will be better able to identify them.

Mr. BYRD of West Virginia. Perhaps tomorrow we can do so. I hope we can. I join in the remarks of the distinguished assistant Republican leader with respect to the importance of identifying the amendments by number where possible.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 8 o'clock and 52 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, November 16, 1971, at 9 a.m.

NOMINATION

Executive nomination received by the Senate November 15, 1971:

NATIONAL SCIENCE FOUNDATION

H. Guyford Stever, of Pennsylvania, to be Director of the National Science Foundation for a term of 6 years, vice William David McElroy.

EXTENSIONS OF REMARKS

PRESS ANGRY OVER U.N. ACTIONS

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. HAGAN. Mr. Speaker, the press in the First Georgia District, as well as over the Nation, is fighting mad over the recent failures of the United Nations and the declining influence of the United States.

In strong editorials the papers denounce the U.N.'s ousting of Nationalist China, the joyous face-slapping of the United States, the failure of 15 nations to have the fortitude to vote, the dumping of the U.N.'s major expenses on the United States, and the general ineptness of the United States in foreign matters.

The value of the following three editorials in giving a cross section of the mood of the people in my area, is most evident.

The Savannah Press of October 27, 1971, in an editorial entitled "Appalling Decision" said:

The appalling decision of the United Nations to cast out Taiwan should lead the United States to reconsider its role in that organization.

What good can the U.S. accomplish if its members are going to defy the very principles on which the body was founded?

The General Assembly's action was nothing more than capitulation to the Communist Chinese regime which demanded Taiwan's ouster as a price for acceptance of membership in the U.N.

This action was taken despite the fact that Taiwan has observed the U.N.'s rules and Peking has observed none of them.

Is Communist Chinese membership really all that important to the other nations of the world?

At the present time, the United States pays 35 per cent of the expense of maintaining the U.N., an expense hardly justified when the organization bows and scrapes to a Communist nation that has engaged in war against the United Nations and is behind most of the conflict under way in the world.

If Red China is so very important to the U.N., then Red China and those governments which believe in its being essential to the UN should begin to pay the freight now borne by American taxpayers.

Some may argue that because Communist China has a tremendous population, Peking should be in the U.N. Well, what about Taiwan, which has a population larger than that of many U.N. members? Why shouldn't the people of Taiwan be represented?

The outcome in the General Assembly, which was a crushing defeat for the so-called Two-China Policy, smacks suspiciously of a contrived deal by the United States, and it is only fair to ask if the Nixon Administration has provided the proper support for an ally who supported us in vote after vote.

We will get none of that support from Peking. Quite the opposite. With the entrance of Peking as a replacement for a staunch ally, the influence of the United States in the U.N. is now but a wan echo of what it was at the U.N.'s birth.

Other allies of the U.S. may well wonder if the day is coming when Washington will pull the carpet from under them as well. We have done ourselves no honor, and the U.N. has done itself even less.

The Dublin Courier-Herald of October 28, 1971, carried an editorial entitled "Take a New Look at the Sun," as follows:

Almost since its inception, this country has underwritten the operation of the UN as far as finances are concerned. There are many of the larger nations who take active parts in the UN but refuse to contribute anything but a mere token contribution to the expenses of the world body.

In the past this country has picked up the tab in the naive belief that the UN served as a place for the exchange of ideas and was thus a valuable organization to have around.

But we are a bit weary of being "used" by the nations who make up the United Nations. There are far too many who are active, voting members who do not have as many people as most of the states in this nation.

The two votes this week, one expelling Taiwan and the other admitting Red China to UN membership, demonstrated beyond any shadow of doubt that most UN nations no longer look to us for leadership. To them all we have become is a big, bumbling, simpleminded giant who can be bandied from pillar to post and stripped of its wealth to support every scheme they can conceive.

For our part, we are ready to support the UN in the exact ratio of our vote to every other country's vote. After all, this nation through Supreme Court decisions is committed to the idea of one-man-one-vote. Why not in the United Nations when it comes to financially supporting the operations of that body?

We must admit that our foreign policies have been amateurish and ineffective. Our efforts to buy friends with foreign aid and non-repayment loans have made us persona non grata to many nations, even those whose very existence today was made possible by sacrifices of American lives and millions of dollars in aid for reconstruction, all in one debt.