Why was PMCC started? The original idea by Charles Strobel was to have a group of postmark collectors who could exchange items and enjoy the hobby together. It hasn't changed. His groundwork was the start of the PMCC we have today. Rev. Smith then furthered the ideals and growth of PMCC.

He introduced us to the fellowship, friendship, helpfulness and Golden Rule basis of the club. His inspiration and knowledge made PMCC a better club as we grew. The original members voted to continue PMCC on the following basis: 1) Membership open to anyone collecting postmarks or other postal cancellations; 2) Objectives: correspondence with other members, exchange of ideas, postmarks and friendship; 3) Walter Smith to be Director of the Club.

The Bulletin was started because PMCC had to have a "mouthpiece", a way of reaching our scattered membership, create interest and to enjoy reading about the members and their ideas. This was the turning point of a successful and thriving PMCC.

PMCC grew steadily through the years, not only in a larger membership, but in its ideals and objectives of maintaining a non profit basis and its status as an informal group of postmark collectors.

What has made PMCC so successful? What did it have to offer? The hobby itself is inexpensive, a hobby for everyday people. It will never attain the value of a lifetime stamp collection which may sell for one hundred thousand dollars, but you may get one thousand dollars for a lifetime postmark collection plus ninety-nine thousand nine hundred and ninety dollars worth of fun, relaxation and pleasure.

It offers the chance for a person to travel. It is educational and a relaxer after a hard day. It gives a collector satisfaction, as well as being therapy for those who are shut-in or convalescing. It is a source of peace and quiet to thumb through these little cancels.

You have the opportunity to write and exchange with the best people in the world. Members can make everlasting friendships, share their joys and sorrows, their milestones, sorrows, birthdays, etc. Widows and widowers, shut-ins, veterans, young and old, married couples and entire families all enjoy this hobby. Rev. Smith and Charles Strobel both believed that to attain such a club, PMCC would have to be informal and unique. This they did by making it a non-profit club with one Director. One head to make all the decisions, advised by an Assistant Director, Advisory Council, and the helpful letters of the active members.

The Director, along with the Bulletin staff and the hobby department heads, bear the brunt of the work. When Bob Francis became Director he strived to uphold this form of leadership. He couldn't do it alone, but had the help of many; Margie Pfund, Herb Harrington, George Boyle, Pop Schallis, Marian Kirkman to name a few. When Bob had to give up the Directorship recently, he passed the leadership to his trusted Assistant Director, friend and advisor, Herbert H. Harrington, Sr. Herb is carrying on in the same tradition as his predecessors by making decisions for the club as a whole. The results achieved speak for themselves; growth, a better Bulletin than ever, successful annual conventions, a home for our Museum, and a financially sound club.

Where has PMCC gone through the years? PMCC has gone from an initial active membership of 17 in 1946 to well over one thousand today. It has a thriving and interesting Bulletin, never missing a scheduled issue. A complete membership list, including collecting preferences, keeps members up to date every year. PMCC is also financially sound and does not require dues from those who can't afford it or are shut-in. Over the past 25 years, over 3200 people have enjoyed the club.

We now have annual conventions, the tenth of which was held last August to honor our 25th year as a club. We have a museum, started by Margie Pfund, now housed in a bus. It is taken care of by our Curator, Bernice Mittower. PMCC has local chapters in New Jersey, Ohio, Nebraska, New England and Washington, D.C. Wherever PMCC has gone, it has brought friendship, fellowship, helpfulness and fair play.

PMCC is still an up and coming club, respected in the hobby world, and universally recognized by the large Philatelic Clubs and Stamp Houses. Mr. Strobel and Rev. Smith laid a solid foundation and built wisely through the years. PMCC has a certain spirit, a down-to-earth friendliness among members. We should never, never lose it. With the continued cooperation of all, we won't . . . we'll thrive and bring pleasure to even more people.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 2, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

SENATE—*Friday, December 3, 1971*

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

O God by whose mercy we have been sustained and brought to this new day, we turn to Thee once more for refreshment in weariness, for release amid tensions, and for strength in all our weakness. As Thy Word has taught us that if "in all our ways we acknowledge Thee, Thou wilt direct our paths" so we lift high the banner of faith as did our fathers of old. In this Chamber where so much can be accomplished by so few, invest Thy servants with a solemn stewardship of power, that nothing may diminish their zeal for righteousness nor break their fellowship with Thee. Let Thy presence be pervasive in this room to give wisdom and grace for every hour.

In the name of the Great Burden Bearer, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, December 2, 1971, be approved.

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

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with the Office of Economic Opportunity.

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

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with Office of Economic Opportunity, will be stated.

OFFICE OF ECONOMIC OPPORTUNITY

The second assistant legislative clerk read the nomination of Roy E. Batchelor, of Tennessee, to be an Assistant Director of the Office of Economic Opportunity.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL ENDOWMENT FOR THE HUMANITIES

The second assistant legislative clerk read the nomination of Ronald S. Berman, of California, to be Chairman of the National Endowment for the Humanities for a term of 4 years.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL SCIENCE FOUNDATION

The second assistant legislative clerk read the nomination of H. Guyford Stever, of Pennsylvania, to be Director of the National Science Foundation for a term of 6 years.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

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

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

LEGISLATIVE SESSION

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

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar to which there is no objection, beginning with No. 509, and that the remaining measures, up to and including No. 516, be considered in sequence.

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

PROCEEDING AGAINST ROBERT F. WILLIAMS FOR CONTEMPT OF THE SENATE

The resolution (S. Res. 204) authorizing the President of the Senate to certify the report of the Committee on the Judiciary regarding the refusal of Robert F. Williams to appear and testify before the Subcommittee To Investigate the Administration of the Internal Security Act, was considered and agreed to, as follows:

S. RES. 204

Resolved, That the President of the Senate certify to the United States Attorney for the District of Columbia the report of the Committee on the Judiciary on this resolution (respecting the refusal of Robert F. Williams, though duly summoned, to appear and testify before the Subcommittee To Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Committee on the Judiciary of the United States Senate): to the end that the said Robert F. Williams may be proceeded against in the manner and form provided by law.

NATIONAL COASTAL AND ESTUARINE ZONE MANAGEMENT ACT OF 1971—BILL PASSED OVER

The bill, S. 582, to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones, and for other purposes, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

HOME MORTGAGE LOAN BY FEDERALLY INSURED BANK TO A BANK EXAMINER

The Senate proceeded to consider the bill (S. 2262) to permit a home mortgage loan by a federally insured bank to a bank examiner, which had been reported from the Committee on the Judiciary with an amendment, on page 1, line 11, after the word "examiner", where it appears the second time, strike out "but" and insert a colon and "*Provided*, That such examiner or assistant examiner does not participate in the last prior examination of the institution by which the loan is made: *And provided further*, That"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 212 of title 18, United States Code, is amended by adding at the end thereof the following paragraph:

"Nothing contained herein or in section 213 of this title shall prohibit any such officer, director, or employee from making, or an examiner or assistant examiner from accepting, from any such bank, corporation, member, institution, association, or organization, a loan that is secured by a first lien on a home owned and occupied or to be owned and occupied by such examiner or assistant examiner: *Provided*, That such examiner or assistant examiner does not participate in the last prior examination of the institution by which the loan is made: *And provided further*, That no examiner or assistant examiner to whom such a loan is made shall, as long as the loan remains outstanding, participate in an examination of the institution by which the loan was made."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–532), explaining the purposes of the measure.

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

AMENDMENT

On page 1, line 11, strike the word "but" and insert in lieu thereof the following:

Provided, That such examiner or assistant examiner does not participate in the last prior examination of the institution by which the loan is made: *And provided further*, That

PURPOSE OF THE AMENDMENT

The purpose of the amendment is to insure that the last examination of the institution before such a loan is made be made by independent examiners so as to eliminate an opportunity for collusion that might otherwise present itself.

PURPOSE OF THE BILL AS AMENDED

The purpose of the bill, as amended, is to provide a narrow exclusion from the general prohibition of current law against any dealings between Federal bank examiners and federally insured institutions that they either examine or have power to examine so as to permit the making and accepting of a home mortgage loan between these parties, subject to certain restrictions.

STATEMENT

Section 212 of title 18, United States Code, makes it a crime for various lending institutions to offer any loan or gratuity to a Federal examiner; complementarily, section 231 of title 18, United States Code, makes it a crime for a Federal examiner to accept a loan or gratuity from any such institution. S. 2262 was introduced at the request of the Federal Reserve System as an attempt to ameliorate the undue hardship these provisions work in hampering Federal bank examiners in securing home mortgage loans.

The bill would permit a narrow exception to the general conflict-of-interest prohibitions of sections 212 and 213 for the purpose of home loans. If, however, an examiner had in fact participated in the last prior examination of the institution making the loan or, at any time during the pendency of the that institution, he and the lending institution would fall from under the umbrella of the exception and be again subject to the criminal sanctions of the general provisions. The amendment to the bill would, in effect, require that at least one examination by totally independent examiners intervene between the time of any examination involving the examiner to whom the loan is made and the time of the making of the loan itself, thereby minimizing the likelihood of collusion.

AGENCY REPORT

Attached hereto and made a part of this report is a letter of April 29, 1971, from Mr. Arthur Burns, Chairman of the Board of Governors of the Federal Reserve System, to the Chairman of the Committee on the Judiciary, requesting the introduction of this legislation.

FEDERAL RESERVE SYSTEM,
Washington, D.C., April 29, 1971.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Section 212 of title 18 of the United States Code, "Crimes and Criminal Procedure," prohibits a federally insured bank from making any loan to any person who examines or has authority to examine such bank. Conversely, section 213 of title 18 prohibits any examiner from obtaining any loan from any federally insured bank examined by him.

While these provisions of law, designed to prevent conflicts of interest, are based upon sound principles, the Board believes that they unduly and unfairly place bank examiners at a serious disadvantage in the obtaining of financing for the purchase or construction of homes. Modification of the law to permit insured banks to make home mortgage loans to examiners up to some maximum amount prescribed by statute would not, in the Board's opinion, defeat or impair the accomplishment of the purposes of these provisions, particularly if the examiner is precluded from examining the lending bank during the life of the loan.

Accordingly, the Board recommends the introduction and enactment of appropriate amendments to title 18 that would authorize an insured bank to make a home mortgage loan to an examiner under appropriate statutory safeguards.

A draft of a bill for this purpose is enclosed.

Sincerely yours,

ARTHUR F. BURNS,
Chairman of the Board of Governors.

CONCLUSION

The committee finds sufficient justification for creating this exception to the general conflict-of-interest provisions and recommends that the bill as amended be passed.

CIVIL SERVICE RETIREMENT ANNUITIES

The bill (S. 2896) to amend chapter 83 of title 5, United States Code, relating to adopted child was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8341(a)(3)(A) of title 5, United States Code, is amended by inserting before the semicolon the following: ", and (iii) a child who lived with and for whom a petition of adoption was filed by an employee or Member, and who is adopted by the surviving spouse of the employee or Member after his death".

SEC. 2. The amendment made by the first section of this Act is effective upon enactment. Upon application to the Civil Service Commission, it also applies to a child of an employee or Member who died or retired before such date of enactment but no annuity shall be paid by reason of the amendment for any period prior to the date of enactment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–527), explaining the purposes of the measure.

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

STATEMENT

This legislation is an official recommendation of the Civil Service Commission.

Under the civil service retirement provisions of title 5, United States Code, the term "child" for the purposes of a survivor annuity of surviving children of a Federal employee or annuitant includes (1) an unmarried child less than 18 years of age; (2) a stepchild or recognized natural child living with the employee or annuitant in a regular parent-child relationship; (3) an unmarried child regardless of age who is incapable of self-support because of mental or physical disability; and (4) an unmarried child more than 18 years of age but less than 22 years of age who is a full time student in a recognized educational institution.

An undetermined, but undoubtedly quite small group left out of this definition, and thereof not eligible for survivor benefits, is those children living with an adoptive parent in cases where final legal action to complete adoption has not been taken.

The purpose of S. 2896 is to include such children within the definition of "child" and make them eligible for a survivor benefit if the child is in the process of being adopted at the time of the death of the employee or annuitant, and the adoption process is completed by the surviving spouse of the employee or annuitant.

Similar treatment is now accorded such children under the Social Security Act, the Railroad Retirement Act, and for the purposes of veteran's benefits.

COST

Because it is not possible to ascertain the number of children who might become entitled to the benefits resulting from the enactment of this legislation, it is not possible to estimate the cost.

Under current law, children of a deceased employee or annuitant are entitled to the lesser of $900 per year per child; 60 percent of the high-three average pay of the employee divided by the number of children; or $2,700 divided by the number of children. The amounts actually paid have been increased since the enactment of the cost-of-living adjustment provisions of the civil service retirement amendments included in Public Law 91–93, enacted October 20, 1969.

DISCRIMINATION IN FEDERAL EMPLOYMENT

The bill (H.R. 3628) to amend title 5, United States Code, to provide equality of treatment for married women Federal employees with respect to preference eligible employment benefits, cost-of-living allowances in foreign areas, and regulations concerning marital status generally, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–528), explaining the purposes of the measure.

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

PURPOSE

H.R. 3628 is designed to eliminate discrimination against women under certain Federal statutes which now grant preferences or benefits to males but do not clearly grant similar benefits to females.

STATEMENT

The provisions of title 5, United States Code, relating to preference for appointment and retention in the competitive service, and relating to certain cost-of-living allowances for Federal employees appear to discriminate against female employees or applicants for employment by use of the term "his", "wife", and "widow", excluding by inference as well as the letter of the law "her", "husband", and "widower". This goes beyond the point of generally referring to an individual in statutory language as "him" or to a battleship as "her".

For instance, under the provisions of title 5 relating to preference eligibility for certain former members of the Armed Forces of the United States, the unmarried *widow* of a male veteran entitled to appointment and retention preference, and the *wife* of a service-connected disabled male veteran (who is not able to qualify for employment) is entitled to appointment and retention preference in the competitive service. But the *widower* of a female veteran entitled to such preference, or the *husband* of such a service-connected disabled female veteran is not entitled to preference.

Similarly, the provisions of title 5 relating to cost-of-living differentials for employees stationed in foreign areas do not clearly stipulate that such benefits are available to female employees as well as male employees In practice, the Department of State deos pay such differentials, but the law is not clear, and should be amended.

The general policy of antidiscrimination in employment on account of sex should be amended to clarify the policy of the Government of the United States that discrimination, suggested or implied by the use of "his" or any other such male-designatory word, means that such benefits are available to any qualified employee, regardless of sex.

COST

There would be no additional cost to the Government to be incurred because of the enactment of this legislation.

MAIL ADVERTISING

The bill (H.R. 8548) to curtail the mailing of certain articles which present a hazard to postal employees or mail processing machines by imposing restrictions on certain advertising and promotional matter in the mails, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–529), explaining the purposes of the measure.

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

PURPOSE

The purpose of the legislation is to impose restrictions on certain advertising and promotional matter in the mails to curtail the mailing of articles which present a hazard to postal employees, mail processing machines and other equipment by adding a new subsection to section 1716 of title 18, United States Code. Jurisdiction will also be conferred on U.S. District Courts, including the District Courts of the Virgin Islands and Guam, for actions to enjoin violations of this legislation.

STATEMENT

Sales promotion techniques, such as contests and premium offers, can result in the mailing of envelopes containing undetected metal and plastic articles such as bottle caps, jar lids, opening strips, and similar items, which find their way into the mail processing machines of the Postal Service, causing serious damage to this expensive equipment. These articles present a physical danger to employees because of flying pieces of metal or plastic.

Under section 1716 of title 18, United States Code, articles which may injure a person or damage the mails or other property are declared nonmailable. Bottle caps and similar articles have the potential for this kind of injury and damage and are therefore nonmailable. However, there is no proscription in the present law against advertising which solicits the mailing by others of articles, such as bottle caps and similar articles, declared nonmailable by law.

The amendment proposed in this bill to section 1716 of title 18 would declare nonmailable any advertising, promotional, or sales matter which solicits or induces the mailing of anything declared nonmailable by section 1716 unless such literature contains wrapping or packaging instructions in accord with regulations issued by the Postal Service.

The Postal Service believes that injunctive relief should be available to the Government in proper cases, in order to stop quickly the introduction into the mails of the matter described above, as well as other articles proscribed by that section. This is provided in section 2 of the bill, which would enable the Postal Service, through the Attorney General, to bring suit against persons or organizations to enjoin mailings in violation of the statute.

COST

Enactment of this legislation will not result in any additional cost.

OVERTIME PAY

The bill (H.R. 8689) to provide overtime pay for intermittent and part-time General Schedule employees who work in excess of 40 hours in a workweek was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–530), explaining the purposes of the measure.

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

PURPOSE

The purpose of this legislation is to provide overtime pay for intermittent and part-time general schedule employees who work in excess of 40 hours a week. This legislation will place these employees on the same basis with respect to premium pay for overtime work as wage board and full-time classified employees.

STATEMENT

The legislation was passed by the House of Representatives on August 2, 1971, and is a result of an official recommendation to the Congress by the Chairman of the Civil Service Commission.

Under existing law, part-time and intermittent employees are paid overtime compensation only if they work more than 8 hours a day. They do not receive overtime pay for work in excess of 40 hours a week. (5 U.S.C. 5542.)

A part-time general schedule employee who works five 8-hour days, Monday through Friday, and then works a full day on Saturday will receive only his regular rate of pay for his work on Saturday. However, under

these same conditions, a full-time general schedule employee or full-time wage board employee receives overtime pay for working on Saturday. The committee believes there is no reasonable justification for depriving part-time and intermittent salaried employees of premuim pay for work in excess of 40 hours in a workweek when all other employees receive overtime pay for such work.

SECTION ANALYSIS

The bill amends section 5542(a) of title 5, United States Code, by inserting at the beginning of that section the words, "For full-time, part-time, and intermittent tours of duty,". This language will provide the specific authority to include employees having part-time and intermittent tours of duty within the language of the law authorizing pay at overtime rates of pay for work in excess of 40 hours in an administrative workweek.

The legislation will extend the overtime benefits to part-time and intermittent employees of the same classes of employees covered by the existing provisions of section 5542. The classes of employees are defined by section 5541 of title 5, and, generally speaking, cover employees who are subject to the General Schedule, including General Schedule employees in the Judicial Branch, the Library of Congress, the Botanic Garden, and the Office of the Architect of the Capitol.

COST

The cost of this legislation for 6 months for the fiscal year 1972, will not be in excess of $500,000. The annual cost for each of the next 5 fiscal years will not exceed $1 million during each year.

GENERAL ACCOUNTING OFFICE POSITIONS

The bill (H.R. 9442) to authorize compensation for five General Accounting Office positions at rates not to exceed the rate for Executive Schedule Level IV, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–531), explaining the purposes of the measure.

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

PURPOSE

This bill authorizes the Comptroller General to fix the compensation for five positions in General Accounting Office at rates not to exceed the rate prescribed by law for level IV of the executive schedule under section 5315 of title 5, United States Code, when he considers such action necessary because of changes in the organization, management responsibilities, or workload of the General Accounting Office. The positions authorized would not have titles and responsibilities prescribed by law. But the Comptroller General could make appointments to as many as five level IV positions when he found it necessary to do so because of the workload and the responsibilities of the Office. The current annual salary for a level IV position is $38,000, but the Comptroller General, under the authority of this bill, would not necessarily set the salaries of the five positions authorized at that rate. The bill only stipulates that the salary level not exceed the level IV rate.

BACKGROUND

H.R. 9442 was introduced in response to an official request of the Comptroller General. Hearings were held July 8, 1971, by the Manpower and Civil Service Subcommittee of the House of Representatives Post Office and Civil Service Committee. The bill passed the House of Representatives August 2, 1971.

Under present law the incumbents of only three positions in the General Accounting Office may be compensated at rates higher than those for grade GS–18. Authorization to pay the Comptroller General and the Assistant Comptroller General at salaries higher than general schedule rates was contained in the 1921 legislation establishing the GAO. In 1964, Congress authorized level IV compensation for GAO's general counsel.

The General Accounting Office, an agency reporting directly to the Congress, employs more than 3,000 professionals. Over the past 10 years, the professional staff has been increased by 1,200 as the responsibilities of the Office have increased. Comptroller General Elmer Statts recently testified: "The work of the General Accounting Office has greatly expanded and changed since 1921. As the Federal Government has become increasingly engaged in new and complex programs, the Office has changed in its method of operation, the scope of its work, and the makeup of its staff." The Comptroller General cited the Legislative Reorganization Act of 1970 as an example of legislation giving additional responsibilities to GAO. The act provides for even greater use of the GAO as an arm of Congress in examining and analyzing the management of existing Federal programs and increasing GAO's staff assistance to congressional committees.

The committee believes that because of the size and expanding responsibilities of the GAO, the request for additional executive-level appointment authority is justified. Enactment of H.R. 9442 will provide authority for a total of eight positions in the executive schedule—six in level V, one in level III, and one in level II. The Comptroller General has testified that he is contemplating organizational changes which include three positions and possibly four in level IV.

COST

If the Comptroller General makes four appointments under the authority of this measure, the cost will be $8,000 per annum. This reflects the difference between the compensation for grade GS–18 ($36,000) and the pay for a level IV position ($38,000). If executive salary schedule or the general schedule is adjusted upward in the future by legislation, the cost will vary according to the pay differential between a level IV position and a grade GS–18 position.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar.

HAZARDOUS MAILING MATERIAL

Mr. SCOTT. Mr. President, I notice that one of the bills just passed prohibits the sending of hazardous mail. I note it does not include the typical postcard which we, working so hard in the Senate, are accustomed to receiving from our absent and pleasuring friends, which says, "Having a wonderful time. Wish you were here."

I regard that as hazardous mail if any such person gets within reach of me these days. [Laughter.]

DISTRICT OF COLUMBIA APPROPRIATIONS, 1972

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of calendar No. 532, H.R. 11932, which the clerk will state.

The legislative clerk read as follows:

H.R. 11932, an act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1972, and for other purposes.

Mr. INOUYE. Mr President, the Senate Subcommittee on Appropriations for the District of Columbia began timely hearings on the District of Columbia budget March 15, 1971, and completed them on April 20, 1971, thereby being both the first subcommittee to start and the first to complete hearings on the regular 1972 appropriations bills. On the opening day of our hearings I stated that they would be an educational process for me. That they have been.

I said that the District would have its day in court—and it has.

I said that we would probably spend more time on the District of Columbia budget than would be spent on the Department of the Army budget—and we did.

Mr. President, for your information, on the District of Columbia budget we spent a total of 55 hours and 51 minutes of hearing time. On the Department of the Army we spent 17 hours and 20 minutes.

The hearings, carefully pared of extraneous matter to conserve printing costs, ran to 1,745 pages. I sincerely believe it was a good hearing—an informative one—and most important, a productive one for the cause of better government for the citizens of the District of Columbia.

It goes without saying that the tortuous procedure—to which I might add the District of Columbia is a party—has been frustrating to me, but that is of no consequence. What is important, and vitally so, is that schoolchildren and homeowners and businessmen and taxpayers—and indeed, all of the citizens of our Nation's Capital—have been denied well ordered programs initiated and executed in a timely manner. No administrator, no matter how gifted, can plan and execute in an orderly way the myriad and complex programs of this vast city without knowing the level of resources that will be available to him.

Surely there is a better way—and I am committed to finding it—in fiscal year 1973.

So I say to my fellow Members of the Senate that here is the bill committed to my stewardship with the very best judgment and recommendations—many of them justifiably and necessarily harsh—of which the subcommittee is capable. Let us not, however, delude ourselves into thinking that it is an adequate or even an acceptable substitute for the democratic processes and institutions accepted as inalienable by our own constituents. These have altogether been too long denied to those among whom we live and work.

Unquestionably, the most important issue in this year's bill is the matter of the District's share of appropriations for the Washington Metropolitan Area Transit Authority, and Senators are aware of the House action in this matter. In addition, I should like to mention the

most significant items in the bill as reported by the committee. These are set forth in the following table:

ITEMS OF MAJOR INTEREST

Operating expenses	
Reduction of travel outside District of Columbia, Virginia, and Maryland	−$487,700
Reduction of 43 personal driver positions	−347,000
Transfer of 49 driver positions to Department of Highways and Traffic	
Reduction of Departmental Public Information Officers	−200,000
Increase in Mayor's Public Information Office	+115,000
Staffing increase in Corporation Counsel's Office	+315,000
Authorization of 57 positions previously funded in Narcotics Treatment Administration	
Staffing of Board of Labor Relations	+89,000
Increase in Department of Corrections narcotics program	+265,900
Judges and staffing increase for courts	+757,900
Increase for special education	+3,009,000
Increase in Federal City College	+4,018,400
Increase in Washington Technical Institute	+1,747,900
Increase in welfare quality control	+203,800
Elimination of telephone allocations to highways and traffic	−581,500
Capital outlay	
Washington Metropolitan Area Transit Authority	$72,486,000
Water pollution and sewage treatment	59,800,000
Public schools	35,495,000

Substantial reductions in other capital outlay categories.

LIMITATIONS

Travel outside of District of Columbia, Maryland, and Virginia limited to $300,000.

Personal drivers only for Mayor, Deputy Mayor, City Council Chairman, Chief of Police and Fire Chief with total $30,000 annual limitation for the first three of these.

In view of House action limiting "official duty vehicles" for the Deputy Mayor and the Chairman of the City Council, the bill recommended to the Senate also reduces certain language authorizing the leasing of limousines from the present three to one. This will put the entire matter of chauffers and limousines in conference where we can deal with it as a total package.

Limitation on temporary positions and overtime combined to 5 percent of District-wide total appropriated for personnel compensation.

Eliminated limitation imposed by House on study of taxicab rates and meters by District Public Service Commission.

The committee has reduced travel outside the District of Columbia, Virginia, and Maryland by $487,700. In the hearings, we have noted that some of the visitations on trips taken by District of Columbia officials were, in our minds, not justified.

For example, we could not justify an official of this city taking a trip to Addis Ababa to discuss highways.

We have reduced the District personnel roster by 43 personnel driving positions, or chauffeurs, a saving of $347,000.

Many departments at this time have a public information officer or officials. We have taken away many of these positions and increased the positions and public information resources in the office of our Mayor. By doing this, we have saved $85,000.

Mr. President, because of the increase in crime, thereby bringing about an increase in the level of work for our attorneys, the committee recommends an additional $315,000 for the Corporation Counsel's office.

Mr. President, this city has been rather fortunate. Unlike other major cities, we have been able to maintain our cool. We have not had government management and government labor problems. We have not had government employee strikes in this city. In order to maintain this city's freedom from labor strikes, the committee recommends an additional $89,000 to fund the Board of Labor Relations.

The committee also recommended an increase of some $265,900 in the Department of Corrections for a narcotics program. We find that this program is a positive attempt to cut down on the dangerous drug use in this city.

At the request of the Department of Justice and also of the District of Columbia government, we have added $357,900 to aid shortages of staffing for our committee.

The next item is a very important one. As a result of our hearings, we know that in this city literally thousands of children have been totally neglected for decades and decades. They are, unfortunately, the retarded, the emotionally disturbed, and the other disabled children. They have no political sex appeal. It appeared that all of our city fathers have set them aside for a long time. We are adding $3.9 million for their care.

Mr. President, this will not cover the problem. It will not accommodate even one-half of those who are qualified under this special education program. But we feel this is a positive step forward.

The next significant item relates to the Federal City College. Congress, and rightfully so, mandated that this college shall be a 4-year college which requires an additional appropriation of $4.18 million.

We will not be able to carry out this mandate without adequate funding. I may say that I was vastly impressed by the great work done by the president of this institution. In recognition of this great work, the committee has decided to go along with the mandate of the Congress and recommend $4 million.

We are also recommending an increase in the appropriation for the Washington Technical Institute to $6,188,500. This institution is doing an outstanding job in training the young men and women of this city to be gainfully employed.

The next item should be of much interest to all of us. The committee has sadly had to go along with the House action on welfare, which means a reduction of $8 million in payments and two reductions in income supplement programs, amounting to a total of approximately $12 million. But these reductions had to be made in light of the revenue restrictions.

Mr. President, as we are aware, at this moment we do not have a revenue bill. At the time the subcommittee acted, it had to act upon the measure that was passed by the House, which indicated that a Federal payment in the amount of $170 million would be available for the use of the District of Columbia.

On that basis, the subcommittee acted. And while we were acting, the Senate responded and came forward with a formula which would raise the Federal payments for this city in the amount of approximately $181 million. But we felt that our responsibility would require us to bring to the Senate an appropriations bill which would be a balanced bill, one balanced in terms of revenue which could be assured.

I have been advised that there will be a conference between the Senate and the House on the revenue on next Wednesday. Therefore, we will not be able to take final action on this matter until the following day. This is a horrible way to run the shop, Mr. President, but under the circumstances it is the best we can do.

Under those circumstances, as I have said, we very sadly had to make various cuts. But I would like to explain to the Senate why we decided to make the cut in welfare and not in other items.

I have challenged the members of my subcommittee to come forward and slash off $12 million from this budget and put it into welfare. Mr. President, that would be a rather unfair challenge, because it just cannot be done. It is not fair to equate hungry children with disabled children. Whom do we favor? Someone had to take a stand. Our subcommittee did. However, in doing so, we took into consideration matters which were brought to our attention during the hearings.

First, from House hearings we learned that a top welfare official in this city stated that $6 to $8 million was being paid out illegally. We felt, as responsible Members of Congress, that we could not close our eyes to this fact. Therefore, we appropriated a sum, in addition to the House figure, of $203,800 to beef up the quality of the program of the welfare department.

This is a program that would investigate applicants as they come forward to make requests. However, I regret to advise the Senate that the program is not so effective as the program which was initiated when our distinguished assistant majority leader was in charge of the subcommittee. We had an inspection program at that time.

To be more precise, Mr. President, under the quality control program, if I were an applicant, my claim would be investigated. However, once my claim had been approved and I began to receive a subsistance allowance, there would be little chance of a followup check. And if I were one of the few ambitious and skillful ones in the city and decided to get a job

and still receive my welfare payments, there would be almost no control or inspection organization to check on me. This is one of the areas in which illegal payments are being made.

The committee has urged the city to make every effort to weed out the people who are making it very difficult for the legitimate recipients of welfare payments.

Second, when we started our hearings in March of this year, the city officials came forward and said that their monthly workload would amount to 36,000 cases. On November 30 of this year, just a few days ago, the city once again reported back and said their estimate of March was wrong; that it is now going to average 40,000 cases for fiscal year 1972.

Mr. President, on the matter of estimates I may be naive but I do get a bit confused about these firm estimates that are coming from the city. I can give the Senate some weird examples, such as the firm estimates for the construction of a receiving home. As a result of court action, the city has decided we should have a special receiving home for children. It would house 126 children. The first estimate came in March of this year and it was $4 million. In April, a month later, it went up to $8 million. In June, 2 months later, it went to $14 million. Several weeks ago it came down to $9 million. These are the firm estimates that brilliant statisticians have been presenting to the subcommittee. Therefore, I must say I have some question as to some of the estimates that have been presented to this committee.

Third, on the matter of welfare, I have assured the Mayor and all responsible officials that if these funds which are now going to be appropriated are insufficient to meet the needs of the welfare program, I will, in my capacity as chairman of the subcommittee, immediately call a hearing to consider any supplemental request that may be submitted and act upon it as expeditiously as possible.

Fourth, I have also advised my colleague, the ranking minority member of the committee, the distinguished Senator from Illinois (Mr. PERCY), that if he wishes to present an amendment to add on funds to this I will take it to conference, but naturally the outcome will depend on what happens in the conference on the revenue bill. But at this moment we do not have authority to add on a single penny.

Mr. President, one final difference between the Senate and the House relates to telephones. We are reducing funds for this item. We have noted that in the city of Washington just about everyone has a telephone.

I felt that several could share one telephone and by so doing, we have saved $666,000.

We have not been as generous as the House on the matter of capital outlays. We have been rather restrictive. We have given everything requested for the Metro, we have honored the requests for water pollution and sewage treatment, and we have honored the essential requests of the public schools; but we have not included some of those items that are not ready for obligation at this time.

There are many items in the budget request that was submitted that are still not ready for construction and, therefore, I did not feel, as chairman of the subcommittee, that we should saddle the city with added and extra interest costs. When the time comes and the city feels it is ready to carry on construction of some of these requests the committee will be ready to act on them.

We have placed limitations in the bill which I think should receive favorable consideration. We have limited travel outside the metropolitan area to $300,000.

We have also set a limitation on chauffeurs. If this measure is approved by Congress and signed by the President only five officials will be permitted to have personal chauffeurs: The Mayor, Deputy Mayor, Chairman of the City Council, the Police Chief and the Fire Chief. In the case of the Mayor, the Deputy Mayor, and the City Council Chairman no more than $30,000 may be used for the payment of these three chauffeurs.

May I say this is in no way an attempt to deny any of the officials cars that will be driven by others. We have a motor pool and I feel that these officials can pick up the telephone and call the motor pool and say, "Will you send up a car and a driver for me," instead of having the driver sitting there in the corner reading the daily papers.

Because of the strange system we have had in the city, just about every department has operated as a "dukedom" where as members of the royalty, all of them, have to have chauffeur-driven cars. The Civil Defense Director had to have a car, the Recorder of Deeds had to have a car and driver, the Director of Vocational Education had to have a car and driver.

At times it used to be a bit dismaying when the chairman of this subcommittee would have to go to a meeting to meet District officials and see all these official cars lined up, and then I would come in with my car, and guess who the driver was—the chairman of the subcommittee. I think this limitation is a reasonable one.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. BYRD of West Virginia. How many chauffeurs have been eliminated?

Mr. INOUYE. Forty-three.

Mr. BYRD of West Virginia. Forty-three. I compliment the distinguished chairman. I think this is an action that is long delayed. It should have been taken long ago when I was chairman of the subcommittee, if it existed at that time.

I remember the words of Strafford—adviser to Charles I of England—who was given the name of Black Tom Tyrant. He was condemned to death by a bill of attainder and, although Charles had promised him protection, when the mob threatened the life of the Queen, Charles consented. His action wrung from Strafford the bitter exclamation, "Put not your trust in princes."

I commend the chairman of the subcommittee for relieving some of the would-be princes, dukes, and so forth of their fancy trappings which should not have been allowed to develop in the first place .

Mr. INOUYE. I thank the Senator very much.

Mr. President, there are two other limitations. We would like to place a limitation of 5 percent on the District side to the appropriated personnel compensation for use of temporary positions and overtime. For the last fiscal year the city expended approximately 6.7 percent of its total appropriations for personnel for overtime personnel and temporary personnel. We feel that is too much. Five percent should be more than reasonable and I think with this sort of restriction it would provide a better guide for the personnel office.

Finally, and this is a perennial matter, the House bill always has language restricting the Public Service Commission of the city from acting on any sort of study involving meters and cab drivers. As a result, this major city has the strange zone type situation which is confusing everyone. It may lead to some of the drivers not being quite honest with some of our visitors because how many visitors would know whether two zones or three zones were involved?

As a result of the zone system, it does not pay any honest cab driver to drive during the rush period. Therefore, we do not find cabs during the rush period. This amendment would permit the Public Utilities Commission to make a study to see if this city should catch up with the other cities and have meters in the taxicabs. It is that simple. I hope the Senate will approve this provision also.

Mr. President, I am just about finished with my opening remarks.

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

Mr. INOUYE. I yield.

Mr. GRIFFIN. Mr. President, I commend the Senator from Hawaii for the presentation he has made and also the diligent way in which he has handled his responsibility as chairman of the subcommittee.

In many ways, and I am sure it is true of the distinguished Senator from West Virginia and he knows—I imagine that the Senator from Hawaii has a thankless job that does not get him many votes in Hawaii.

It takes a great amount of his time, because there are so many problems and they are so complex. But, as a Member of the Senate, I have been following, in the newspapers, on television, and in other ways, the activities of the chairman of the subcommittee, and I want him to know that I think he has done an outstanding job. We appreciate the work he is doing.

I would like to be educated a little, if the chairman has the answers to a few questions. I noticed in reading U.S. News & World Report not very long ago that it had a chart ranking the States as to per capita income, which were listed on the basis of the States with highest per capita income, and going on down. I was interested to observe that the place which had the highest per capita in-

come of all was not a State, but was the District of Columbia. Is that correct?

Mr. INOUYE. The Senator is correct. This points up what I consider to be a very dangerous potential in this city. We have the sharpest and most dramatic division of haves and have-nots in this city, as compared with any other city. The District of Columbia has the highest per capita income because the major employer is the Federal Government, and we pay well. At the same time we have a large number of those who are either unable to find jobs, or even if willing to work, are unable physically or for some other limitation. If one looks further, he will find that, on a per capita basis, we have the highest incidence of welfare recipients.

Mr. GRIFFIN. What about the percentage of unemployment in the District of Columbia?

Mr. INOUYE. It is about the lowest.

Mr. GRIFFIN. It would be about what?

Mr. INOUYE. It would be less than 5.8 percent, the national average. I think it is about 5 percent.

Mr. GRIFFIN. In New York State and California an effort is being made by Governor Rockefeller and Governor Reagan to get permission to put into effect a program which would encourage—and I guess require—welfare recipients who do not have young, preschool children to take jobs that are available.

Has any consideration at all been given to a study of that possibility with respect to the District of Columbia?

I ask the question because many of us have the impression, perhaps erroneously, that there is a lot of work available in and around the District of Columbia and it is very difficult to find people to take jobs that are available. I do not know whether that is unfair as an observation or not. And yet we have a very high welfare load.

Mr. INOUYE. We have a program called the work-incentive program, but I regret to advise my colleague that it is not working too well. We also have another program called the income supplement program, which I am certain the Senator from Illinois (Mr. PERCY) will speak on in a few minutes, and I anticipate an amendment from the Senator from Illinois, which I shall be very happy to accept. The income supplement program is one which would encourage men and women to work, and if the income that they produce from their work is not sufficient to meet what is considered to be a decent level, the welfare program makes up the difference. We feel this type of program is much more practical than having a man sitting at home. But, like all other major cities, welfare is a major problem here.

Mr. GRIFFIN. I am glad to know that the committee is working on that. I want to commend the committee for that effort and also to compliment the chairman for his excellent job.

Mr. INOUYE. I thank the Senator.

Mr. BYRD of Virginia. Mr. President, will the Senator yield?

Mr. INOUYE. I am glad to yield.

Mr. BYRD of Virginia. I know the Senator from Hawaii took this assignment with reluctance and misgivings, as he states in his individual views. I think he has rendered the Senate and Congress and the people of the District of Columbia a great service by undertaking this very difficult assignment.

The PRESIDING OFFICER (Mr. CHILES). All time of the Senator from Hawaii has expired.

Who yields time?

Mr. BYRD of Virginia. Mr. President, I send to the desk an amendment, and ask that it be stated, for the purpose of getting additional time.

The PRESIDING OFFICER. An amendment would not be in order until the committee amendments were disposed of.

Mr. PERCY. Mr. President, I yield 2 minutes to the Senator from Virginia.

Mr. BYRD of Virginia. I thank the Senator from Illinois. Two minutes is not going to give me an opportunity to get started on what I want to say.

Mr. PERCY. I yield 5 minutes to the Senator.

Mr. BYRD of Virginia. Mr. President, I want to compliment the distinguished Senator from Hawaii for the excellent and unselfish work he has done with regard to the District of Columbia.

I join the distinguished Senator from West Virginia in commending the distinguished Senator from Hawaii for going so deeply and carefully into the budget, in eliminating from it 43 chauffeurs for officials of the District of Columbia, for eliminating public information officers who previously had been in every department of government, as I understand it. I think the Senator from Hawaii has done an excellent job in handling the budgetary requests for the District of Columbia.

I would like to ask the Senator from Hawaii if the understanding of the Senator from Virginia is correct in regard to the total cost of the government of the District of Columbia. From Federal funds, as I read the summary of the bill on page 2 of the committee report, the Federal Government is putting up $276 million.

Mr. INOUYE. That is in loans and Federal payment.

Mr. BYRD of Virginia. In loans and Federal payment, and the District of Columbia funds total $873 million?

Mr. INOUYE. That is correct.

Mr. BYRD of Virginia. So the total cost for the government of the District of Columbia is the total of those two figures, I would assume, nearly $1.149 billion.

Mr. INOUYE. That is including loans, sir.

Mr. BYRD of Virginia. That would be the total cost of government, including loans.

Mr. INOUYE. That is correct.

Mr. BYRD of Virginia. I have been concerned about the total cost of the government of the District of Columbia, because it affects all the citizens, not only the citizens of the District of Columbia——

Mr. INOUYE. May I correct the Senator? The amount he has cited is the budgetary request. The amount we have recommended in this bill is slightly less than that. It is about $873 million.

Mr. BYRD of Virginia. If I am reading this correctly, it says here, total District of Columbia funds, $873 million, but total Federal funds to the District of Columbia are another $276 million.

Mr. INOUYE. No. That is included in that amount.

Mr. BYRD of Virginia. That is included?

Mr. INOUYE. Yes.

Mr. BYRD of Virginia. District of Columbia funds. I assume that to mean the funds that came from local taxation. Would not that be correct?

Mr. INOUYE. No. The total District of Columbia funds would be made up of District of Columbia taxes, real property taxes, fees, and other taxes, plus Federal payments and loans.

Mr. BYRD of Virginia. All right. The Federal payments and loans total $267 million?

Mr. INOUYE. $276 million.

Mr. BYRD of Virginia. How much?

Mr. INOUYE. $276 million.

Mr. BYRD of Virginia. $276 million. So, then, would I be correct in assuming that the District of Columbia's share, that is, the share put up by fees and local taxes, would be $873 million minus $276 million?

Mr. INOUYE. The Senator is correct.

Mr. BYRD of Virginia. The reason I wanted to be certain of those figures is that my staff has prepared an analysis of the comparative cost of government in the District of Columbia with the comparative costs in three major cities in Virginia; namely, Norfolk, Richmond, and Roanoke.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. INOUYE. Mr. President, I ask unanimous consent that notwithstanding the previous order, the Senator from Virginia be permitted to speak for an additional 5 minutes.

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

Mr. BYRD of Virginia. The analysis shows that the per capita cost of government operations in Norfolk, the largest city in our State, is $453. In Richmond it is $510 per capita cost. In Roanoke, it is $474 per capita.

Those are three widely scattered cities, one in western Virginia, one in central Virginia, and one in Tidewater. Those per capita costs vary from a low of $453 in Norfolk to $510 in Richmond.

Now we come to the District of Columbia, and at $873 million, which is the total cost of government including the Federal share, that means a per capita cost of $1,160—more than twice the cost of government per capita in these Virginia cities; almost three times as much, as a matter of fact, but well over twice the cost per capita of any of these three large Virginia cities.

It seems to me something is fundamentally wrong here. The Senator from Hawaii is beginning to tackle this problem. He just started it last January. This is the first budget he has presented, and he has made great headway, it seems to me.

But something is fundamentally wrong when the per capita cost of government of the District of Columbia is more than double that of the large cities of the State of Virginia, and I would rather imagine it is substantially higher, although I do not have the figures and I may be in error, than perhaps in most of the larger cities of the United States.

The Senator from Hawaii has just pointed out that the per capita income for the District of Columbia is higher than the per capita income of any State in the Union; is that correct?

Mr. INOUYE. The Senator is correct.

Mr. BYRD of Virginia. The Washington Post reported this morning that 101,500 persons are drawing public assistance. I wonder if the Senator could confirm the accuracy of that statement.

Mr. INOUYE. The Senator is correct.

Mr. BYRD of Virginia. So, out of a population of 750,000, roughly, 101,500 are drawing public assistance.

In the State of Virginia, with almost 5 million persons—just a shade under 5 million persons—the number drawing public assistance, the last time I checked, was 139,000 to 140,000; say 140,000 persons.

Mr. INOUYE. But these figures may be misleading. If we are speaking of welfare, it is not that high. When we speak of public assistance, it also includes young men going to school under the GI bill. So what we are talking about is something in the neighborhood of about 40,000.

Mr. BYRD of Virginia. About 40,000 what?

Mr. INOUYE. Cases where one or more persons are recipients of welfare.

Mr. BYRD of Virginia. About 40,000 on welfare?

Mr. INOUYE. No; welfare cases.

Mr. BYRD of Virginia. Meaning there are some 60,000 in other categories, such as going to school at public cost?

Mr. INOUYE. They involve families; one caseload, but that family may include five children. So these figures by themselves may be very misleading.

Mr. BYRD of Virginia. But the same would probably apply to the State figures I just quoted.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. INOUYE. Mr. President, I make the same request for another 5 minutes.

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

Mr. BYRD of Virginia. At any rate, the number drawing——

Mr. INOUYE. If the Senator will look at page 46 of the report, it sets forth that at the present time it is estimated at a 40,000 monthly caseload, on the basis of full welfare, in this city, which involves 101,000 people.

Mr. BYRD of Virginia. Well, that is what I am getting at. So, in other words, 101,500 persons, roughly, are drawing public assistance, and in Virginia, as I say, I think the comparable figure is 140,000 for 5 million persons.

Mr. INOUYE. Mr. President, I ask unanimous consent that the chart appearing on page 46 of the report, entitled "Public Assistance Caseload and Expenditures, Regular Categories," appear in the RECORD at this point.

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

PUBLIC ASSISTANCE CASELOAD AND EXPENDITURES, REGULAR CATEGORIES

[Amounts in thousands]

Fiscal year	Average monthly caseload	Average monthly recipients	Total expenditures	Local expenditures	Federal expenditures	Fiscal year	Average monthly caseload	Average monthly recipients	Total expenditures	Local expenditures	Federal expenditures
1962	12,706	32,864	$15,809.3	$6,834.8	$8,974.5	1968	13,086	33,294	$19,432.6	$8,794.0	$10,638.6
1963	11,067	27,597	13,562.3	5,387.6	8,174.7	1969	14,880	38,447	23,055.8	10,957.1	12,098.7
1964	10,134	25,202	12,511.6	4,799.7	7,711.9	1970	19,603	49,983	34,814.4	17,932.3	16,882.1
1965	10,647	26,862	13,350.8	5,216.6	8,134.2	1971	29,615	75,034	56,801.8	29,749.4	27,052.4
1966	11,375	29,368	14,614.5	5,526.8	9,087.7	1972 budgeted	36,000	99,158	86,094.4	44,680.3	41,414.1
1967	11,998	30,563	16,479.4	6,897.6	9,581.8	1972 estimate	40,000	101,500	78,377.0	40,600.0	37,729.2

Note: Estimate by District of Columbia Office of Budget and Program Analysis, Nov. 30, 1971.

Mr. BYRD of Virginia. Mr. President, we get to the number of persons employed by the city government. I note that page 10 of the report says:

It is also noted, however, that 3,873 new positions are requested, which would bring the authorized full-time work force of the District of Columbia Government to a grand total of 44,855.

It is interesting to note that this constitutes a ratio of one District of Columbia government employee to every seven employed District of Columbia citizens. That is, almost 15 percent of the employees, of the employable persons or persons employed in the District of Columbia, are employed by the District of Columbia government.

In Virginia, approximately 10 percent of the total work force is employed by both the State government and all the local governments combined. So I say again, Mr. President, that something is fundamentally wrong with the District of Columbia, with its handling and administration of the affairs of government and with the cost involved; and every citizen of the District of Columbia ought to be interested in this problem. They are the ones who pay two-thirds of the taxes—I am taking round figures now—to support it. The people of all the 50 States pay the other one-third; so all of us ought to be interested in getting to the bottom of this problem of what is the matter with the District of Columbia, and why it is so expensive to operate government in this city.

The cost is going up all the time, and if it were not for the tenacity and the dedication of the Senator from Hawaii, it would be much higher than it is.

I think the people of Washington, D.C., themselves should be vitally concerned, and more concerned than they appear to be, about this problem. It affects their rents; as taxes go up on the apartment houses—and many people here rent apartments—as the taxes go up for the property owners of these apartment houses, they in turn pass the increase on to the tenants, to those renting the property. So when you come right down to it, the cost of the District of Columbia government affects every single citizen of the District of Columbia.

I feel that something is very, very wrong about the cost of government in the District of Columbia, and I am very glad that the able and distinguished Senator from Hawaii is taking hold of this problem and trying to bring some order out of what I consider chaos.

Mr. INOUYE. Mr. President, I appreciate very much the contribution of my able colleague from Virginia, but I would like to comment by setting forth the following:

It would not be fair to compare the city of Washington with any other city in these United States. The city of Washington is the Capital City of the United States, and, as such, Mr. President, first, it has been the focal point of major demonstrations in this Nation. Nearly all demonstrations of any significance have been held in this city—not in Richmond, not in Miami, not in Pocatello, not in Honolulu, but in Washington, D.C. This is where demonstrators numbering in the hundreds of thousands have arrived.

Mr. BYRD of Virginia. Mr. President, will the Senator yield?

Mr. INOUYE. I am happy to yield.

Mr. BYRD of Virginia. As a practical matter of the budget, which is $873 million, how much in dollars and cents does the cost of the demonstrations amount to? It amounts to very little.

Mr. INOUYE. We have, on a per capita basis, the largest city police force in these United States. The Metropolitan Police force numbers, at present, in round figures, 5,000.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. INOUYE. I yield myself 5 additional minutes.

In the city of Honolulu, a very busy city of the same size—it is a port city—we play host to great dignitaries traveling to and from Hawaii, and we have a police force of less than 2,000. The city of Washington has in excess of 5,000.

As a capital city, like all other capital cities, we give priority to two elements—beauty and appearance. We want the city of Washington to be the most beautiful city in the world, because we want this city to be the most beautiful capital in the world. So Congress, rightfully, has set restrictions. We have said that buildings will not be higher than so many stories, and we have said that certain

types of industries may not be established here. Therefore, these industries have gone outside the city limits. We have set a limitation on the type of industrial development that may occur in this city. By so doing, we have limited income.

Third, as the capital of the United States, we are host to more than a hundred embassies and legations. We have to provide security for these embassies and their personnel. All these properties are tax exempt, with respect to real property.

The major property owner here is the Federal Government. It owns approximately 50 percent of the land area of Washington. Nearly 54 percent of the land area of this city is tax exempt. There is no other city with this type of situation.

Fourth, with respect to the matter of welfare, if we compare Virginia and the city of Washington, the facts show that the benefits provided in the welfare programs of the District are a bit more generous than those provided across the Potomac. Therefore, it is no surprise to me that some of the people in Virginia might decide to cross the river and receive the more bountiful benefits of this city.

These are some of the problems we have tried our best to solve. It is a responsive, responsible, sane type of administration, and it is not easy.

Mr. BYRD of Virginia. I understand that.

If the Senator will yield me just 2 minutes, I want to say that I fully understand the problems involved.

I fully realize that the Capital of the United States, Washington, D.C., cannot be compared precisely with cities elsewhere in our Nation. But I think that the difference between the cost of government here and the cost of government in other cities is much too great.

The distinguished Senator from Hawaii mentioned the lack of industry to tax and the lack of revenue sources. That, of course, has nothing to do with increasing the cost of government. It is a means of getting funds to operate the government, but it does not increase the cost of government.

I am not in any way expressing criticism of the distinguished Senator from Hawaii, as he well knows. He is tackling a difficult job. I think it is a problem that has grown up over the years, and it has gotten out of hand. It occurs to the Senator from Virginia that something drastic—perhaps drastic is not the right word—but something a little more severe than has happened in the past must take place if the cost of government in the District of Columbia is to be brought down to the point where, in my judgment, it should be.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. BYRD of West Virginia. Mr. President, I want to express commendation with regard to the work that has been done by the distinguished Senator from Hawaii as chairman of the Subcommittee on Appropriations for the District of Columbia. His presentation today has been a masterly presentation, one which could only be the result of diligence, dedication to duty, and mastery of detail. It requires a tremendous amount of work to be able to present the budget for the District of Columbia as he has presented it today. I have noted through the media—newspapers, radio, television, and so forth—the day-to-day and week-to-week work that has been performed by the distinguished chairman of the subcommittee, and I know that he has practically lived with this budget since it was first presented many months ago.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. INOUYE. I yield myself 5 additional minutes.

Mr. BYRD of West Virginia. Mr. President, the work is not easy for the chairman of the District of Columbia Appropriations Subcommittee. The distinguished assistant Republican leader referred to it a moment ago as a thankless task. It is a thankless task, but it is a responsibility that is incumbent upon us by virtue of the Constitution of the United States. We perform many thankless tasks in this Chamber. So far as I am concerned, the time that is spent on the foreign aid bill is a thankless task; and I could name other measures. But it is a responsibility; and the distinguished chairman not only has been responsible in his dedication to this chore but also has been responsive to the budget requests and, more important, to the justifiable needs of the District of Columbia.

I compliment him on his paring down of the number of chauffeurs. I compliment the Senator on his other efforts to be realistic in dealing with the budgetary requests of the city government. I salute him. I think the Senate owes him the thanks of all Members. The city owes thanks to him and his distinguished committee, and the Nation is in his debt. I support the recommendations of the distinguished chairman fully and without reservation.

Mr. INOUYE. Mr. President, I am thankful for and I am overwhelmed by the very generous remarks of my distinguished and able colleague, the Senator from West Virginia, the deputy majority leader. I thank him very much.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as amended be treated as original text for purpose of further amendment.

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

The amendments agreed to en bloc are as follows:

On page 1, line 9, after "1972", strike out "$162,000,000" and insert "$170,000,000".

On page 2, after line 8, strike out:

For loans to the District of Columbia, as authorized by the Act of May 18, 1954 (68 Stat. 110, 105), the Act of June 2, 1950 (64 Stat. 196), and the Act of December 9, 1969 (83 Stat. 320), $102,086,000, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Commissioner, as follows: To the general funds, $72,486,000, to the highway fund, $8,000,000, to the water fund, $6,000,000, and to the sanitary sewage works fund, $15,600,000.

And, in lieu thereof, insert:

For loans to the District of Columbia, as authorized by the Act of December 9, 1969 (83 Stat. 320), the Act of May 18, 1954 (68 Stat. 105, 110), and the Act of June 2, 1950 (64 Stat. 195), $102,086,000, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Commissioner, as follows: To the highway fund, $8,000,000, to the water fund, $6,000,000, to the general fund, $72,486,000, and to the sanitary sewage works fund, $15,600,000.

On page 3, line 18, after the word "expenses", strike out "$58,860,000" and insert "$58,967,000".

On page 5, line 6, after the word "limitation", strike out "$169,167,000" and insert "169,033,000".

On page 5, line 19, after the word "programs", strike out "166,970,000" and insert "$175,890,000".

On page 6, line 9, after the word "Recreation", strike out "$12,658,000" and insert "$12,611,000".

On page 6, at the beginning of line 16, strike out "$181,378,000" and insert "$181,139,000".

On page 8, line 8, after the word "of", strike out "three" and insert "one"; in line 9, after "passenger-carrying", strike out "vehicles" and insert "vehicle"; in the same line, after the word "Commissioner", strike out the comma and "Deputy Commissioner, and Chairman of the City Council;"; in line 12, after the word "only", strike out "$20,500,000" and insert "$20,202,000"; in line 13, after the word "which", strike out "$13,850,200" and insert "$13,833,000"; and, in line 14, after the word "including", strike out "$728,200" and insert "$728,000".

On page 8, line 20, after the word "only", strike out "$39,505,000" and insert "$39,274,000"; and, in line 21, after the word "which", strike out "$11,446,300" and insert "$11,445,500".

On page 10, line 4, after "(72 Stat. 183)", strike out "and August 20, 1958 (72 Stat. 686)" and insert "August 20, 1958 (72 Stat. 686), and the Act of December 9, 1969 (83 Stat. 320)"; in line 10, after the word "expended", strike out "$301,328,000" and insert "$192,328,000"; in the same line, after the word "which", strike out "$7,723,000" and insert "$1,786,000"; at the beginning of line 12, strike out "$9,565,000 from the water fund, $64,510,000" and insert "and $63,400,000"; in line 13, after the word "fund", strike out "and $10,200,000 from the metropolitan area sanitary sewage works fund"; and, in line 15, after the word "That", strike out "$10,607,100" and insert "$5.807.800".

On page 12, line 19, after the word "Commissioner", strike out the colon and "*Provided*, That the total expenditures for this purpose shall not exceed $137,000".

On page 13, after line 2, strike out:

SEC. 7. Appropriations in this Act shall not be used for or in connection with the preparation, issuance, publication, or enforcement of any regulation or order of the Public Service Commission requiring the installation of meters in taxicabs, or for or in connection with the licensing of any vehicle

to be operated as a taxicab except for operation in accordance with such system of uniform zones and rates and regulations applicable thereto as shall have been prescribed by the Public Service Commission.

On page 13, at the beginning of line 12, change the section number from "8" to "7".

On page 13, at the beginning of line 16, change the section number from "9" to "8".

On page 14, at the beginning of line 4, change the section number from "10" to "9".

On page 14, at the beginning of line 8, change the section number from "11" to "10".

On page 14, at the beginning of line 11, change the section number from "12" to "11".

On page 14, at the beginning of line 22, change the section number from "13" to "12".

On page 15, at the beginning of line 10, change the section number from "14" to "13".

On page 15, at the beginning of line 17, change the section number from "15" to "14".

On page 15, after line 19, strike out:

SEC. 16. None of the appropriations in this Act shall be available for the payment of compensation to any employee assigned as chauffeur except for the Commissioner, the Deputy Commissioner, and the Chairman of the City Council: *Provided*, That none of the appropriations in this Act shall be available for the payment of premium pay to any employee assigned as a chauffeur for the Commissioner, the Deputy Commissioner, and the Chairman of the City Council which exceeds in the aggregate 25 per centum of the annual rate of basic pay applicable to such employee.

And, in lieu thereof, insert:

SEC. 15. No part of any funds appropriated by this Act shall be used to pay the compensation (whether by contract or otherwise) of any individual for performing services as a chauffeur or driver for any designated officer or employee of the District of Columbia government (other than the Commissioner of the District of Columbia, Assistant to the Commissioner of the District of Columbia, Chairman of the District of Columbia Council, Chief of Police, and Fire Chief), or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use of any such officer or employee (other than the Commissioner of the District of Columbia, Assistant to the Commissioner of the District of Columbia, Chairman of the District of Columbia Council, Chief of Police, and Fire Chief). No part of any funds appropriated by this Act, in excess of $30,000 in the aggregate, shall, in any fiscal year, be used to pay the compensation (whether by contract or otherwise) of individuals for performing services as a chauffeur or driver for the Commissioner of the District of Columbia, Assistant to the Commissioner of the District of Columbia, and the Chairman of the District of Columbia Council, or for performing services as a chauffeur or driver of a motor vehicle assigned for the personal or individual use of the Commissioner of the District of Columbia, the Assistant to the Commissioner of the District of Columbia, and the Chairman of the District of Columbia Council.

On page 17, after line 5, insert a new section, as follows:

SEC. 16. Not to exceed 5 per centum of the total of all funds appropriated by this Act for personnel compensation (budget classification 01) may be used to pay the cost of overtime or temporary positions.

On page 17, after line 9, insert a new section, as follows:

SEC. 17. The total expenditure of funds appropriated by this Act for authorized travel and per diem costs outside the District of Columbia, Maryland, and Virginia shall not exceed $300,000.

And, on page 17, after line 13, insert a new section, as follows:

SEC. 18. This Act may be cited as the "District of Columbia Appropriation Act, 1972".

Mr. PERCY. Mr. President, first, I should like to express my deep appreciation to the chairman of the subcommittee for going ahead at 9 o'clock this morning so that I might have a breakfast engagement with the Prime Minister of Israel and a few of our colleagues and engage in an intimate discussion with her of some matters of great importance to this country and to the security and peace of the Middle East.

I would not, by my absence during the comments of my distinguished colleague, in any way wish to imply that I was not only not appreciative of all he has done but did not want to be here to listen to his words. I will certainly read and study very carefully what he has said. I have had great pleasure in working with him this past year. It has been my first experience as a member of the Appropriations Committee.

I was not drafted, necessarily, to take the assignment to the District of Columbia Appropriations Committee. Actually, by a flip of the coin, I outranked one other Member. I therefore could have avoided this assignment, but I was pleased indeed to take it because I live in the District of Columbia.

This is my second residence in Washington. I hope that it will be a longer one than I had during World War II. I will do everything I can to stay in Washington as long as I remain in the Senate. But I also wanted very much to have the opportunity to study the workings of a great city, to get as close as I could to some of its problems, because many of the problems here are similar to those that are faced by other cities in the country. If we cannot solve some of those problems right here in the National Capital, then how can we expect them to be solved in many other areas? After all, the solution depends—in all cities now—on the support, cooperation, assistance, and help of the Federal Government.

During the course of our conversations over the past many months in handling matters that have come before the committee, I have had the opportunity at first hand to observe the very careful work done by our subcommittee chairman. His own remarks indicate the careful and exhaustive hearings that have been conducted. I have been privileged to sit through most of them. I believe, just as the distinguished assistant majority leader stated, and as my esteemed colleague from Virginia (Mr. BYRD) just stated, that the Senate owes a great debt of gratitude to the distinguished Senator from Hawaii (Mr. INOUYE).

The leadership of the chairman deserves commendation. He has applied his studied judgment to each item and has made every effort to ferret out and understand the complexities of this city's government. It has been personally gratifying to me to have had this opportunity to serve with him. I look forward to continued service on the committee. The Senator from Hawaii has been a great friend of the city. He has been an articulate spokesman for its legitimate needs. He has helped several times to provide funds for its legitimate needs by cutting out items of lesser priority that should not have been put in the budget in the first place.

As a District resident myself, I know the high regard in which Senator INOUYE is held by all the citizens, here; he is both a friend and an articulate spokesman.

I would be less than candid, Mr. President, if I did not attempt to express the great frustration I have felt as I have waited with the other members of this subcommittee for an appropriations bill to be sent to us from the other body. I am all too familiar with the time-consuming process of developing an authorization bill, but at the same time cannot help believing that something could and should have been done to hasten this legislation along to avoid this inconvenient delay. This subcommittee completed its hearings and was prepared to mark up a bill last April. The inconvenience caused this subcommittee, indeed this Congress, is unimportant compared to the manner in which it has literally tied the hands of those directly responsible for managing the city. So long as I am a member of this subcommittee, I can promise that I will be working toward the more efficient conduct of the city's business.

Here we are in the month of December reporting a budget that goes back to July 1. I do not see how we can possibly expect a city government to conduct its affairs efficiently when half the year is over and we still have not approved a budget for the city.

Having now virtually completed my first term on the District of Columbia Appropriations Subcommittee, I can say with some feeling that I have a new appreciation for Mayor Washington and Deputy Mayor Watt. I have been a longtime admirer of both men, and my work on this subcommittee has borne out the fact that my admiration has been well-founded. I have been consistently impressed by the insight and devotion both men bring to their work. Their personal assistance to me on this legislation has been deeply appreciated.

Again, I commend the distinguished chairman for his leadership, and, with a few amendments I will offer, urge the passage of this appropriation.

The PRESIDING OFFICER (Mr. CHILES). The bill is open to further amendment. Who yields time?

Mr. PERCY. I yield 5 minutes to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I wish to thank my distinguished colleague for this time. I am also thankful to him for his generous remarks.

I would like to advise my able colleagues—and the Senate as a whole—

that I will recommend to the Appropriations Committee for the next fiscal year a step which I feel is long overdue.

For a long time, for some reason—tradition or otherwise—it has been felt that this body, the Senate, must wait upon the House before we can act on appropriation measures.

If I am still the chairman of the subcommittee for the next fiscal year, we will once again begin timely hearings in March. Upon the completion of the hearings, which will possibly be in April, I intend to call a subcommittee meeting in executive session to mark up the bill, and immediately after that to present it to the full committee and request a markup of the bill.

If the Senate will permit, I should like to have the procedure changed a little: Have the Senate consider the bill first; then send it over to the House and see what happens.

It is about time the Senate made known to the House of Representatives that we are coequal in the matter of appropriations.

Mr. President, the Constitution does not say that we must wait upon the House of Representatives on appropriation measures. I may be criticized for speaking out of turn. As a junior member of the committee, it has been frustrating, not for me but for the people of this city, to have to wait almost until Christmas Eve to find out whether the amounts the District government has spent this past summer have been legal.

Thus, Mr. President, I am now advising my fellow Senators that next year, as soon as the subcommittee hearings are finished, I will call the subcommittee into a meeting for a markup; next, present the bill to the full committee with a request for immediate consideration of a markup; and then request the Senate to pass on it, and to see what will happen.

Before I forget, Mr. President, I should like to join my colleague in giving special thanks—I do not know how to find adequate words for this—to the man who has been most helpful to me. Without him, this job would have been impossible.

I am speaking of the appropriation counsel, Mr. William Jordan. The minority counsel, Mr. Robert Clark, has also been of special assistance.

Another member of my staff who has been extremely helpful is Mr. William Milks. The untiring efforts of Miss Helen Dackis are also deeply appreciated.

These three men have worked literally day and night. I am certain that my able colleague from Illinois will agree with me that without these three men, we would still be groping in the dark.

Mr. PERCY. Mr. President, I find myself without adequate words to express appreciation for the staff assistants on the Appropriations Committee. Unlike on certain other committees, I have found on this committee a nonpartisan approach to the problems of the District. There is no partisanship. As Mayor LaGuardia said so aptly years ago, "There is no Democratic or Republican way to collect the garbage."

So, in a sense, that is what we are doing here. We are trying to figure out how to "collect the garbage" more efficiently, at less cost-wise and are trying to devise better ways to move automobiles and people. Here we are dealing with the nitty-gritty problems of how we live in an urban society safely, and with comfort and decency.

I should like to commend every member of the Appropriations Committee staff that I have worked with. Of course, the two most directly involved are Mr. William Jordan and Mr. Robert Clark.

PRIVILEGE OF THE FLOOR

Mr. PERCY. Mr. President, at this time I ask unanimous consent that Miss Sarah Evans and Miss Dwain Kinsland be allowed the privilege of the floor during consideration of the District of Columbia appropriations bill, including during rollcall votes. They are members of the staff who, in addition to those on the Appropriations Committee, have worked with me out of my office to assist me in this work doing a great deal of research and followup.

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

Mr. PERCY. Mr. President, having dealt with the bill in general, as I have indicated, I fully support the bill as a whole with a few amendments which I would like to send to the desk that I have previously discussed with our chairman.

I am totally and completely in sympathy with his desire and his feeling that we must stay within the revenue limitation. We do have $11.5 million, roughly, that might be available for expenditure. If we can find high-priority items—and indeed I would only say high-priority items—they should be entertained. The amendments that I anticipate presenting fall within that limitation, taking into account that one of them is capital and does not have that limitation on it.

I send to the desk an amendment, and I ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 1, delete "$170,000,000" and insert "$179,000,000", and

On page 6, line 16, delete $181,139,000" and insert "$190,139,000".

Mr. PERCY. Mr. President, I yield myself such time as I may need to fully explain this amendment which I have discussed with our committee staff and with our distinguished chairman.

Certainly there is no difference of opinion in objectives here. I have applauded and I fully support everything that the chairman has done to eliminate waste, to eliminate fraud, to eliminate cheating. We know that in every human endeavor, no matter what it is, there is some waste; there is some slippage; there is some duplication and overlapping, and some fraud and cheating. Certainly welfare is no exception. I deplore any condition of sloppiness in an administration that permits a person to receive duplicate payments, that permits a person to receive welfare when he has a hidden income. I deplore those residents who pay domestic help in cash, and domestic help who many times insist on getting paid in cash; so there is no social security payment by either party. There is probably no income tax paid either, and such employees may be drawing welfare but getting income.

I think the accomplice to such act is the participant, the household employer who might pay such payments. So that on both sides one must plug the loopholes and do what is necessary. And I hope all people who employ household help, and smaller employers, recognize they are cheating themselves and breaking the law by not filing social security reports and by not filing withholding. So it is not just a problem on one side; it is many times a problem on the other side. Whatever funds are required to police adequately our welfare system to be certain that those who do not deserve or who are ineligible to receive it, do not receive it, I will fully support and back. The chairman has done a fine job in this area.

It is essential that the Senate restore $9 million in public assistance program funds cut from the District of Columbia budget by the Appropriations Committee. The District's request for funds to meet the fiscal year 1972 welfare caseload must be fully satisfied; if the $8 million eliminated by the committee is not restored, the city will have to cut welfare payments almost in half. We must also appropriate $1 million to support the city's worthwhile income supplementation program for fiscal year 1972.

EFFECT OF PROPOSED REDUCTION

The actual impact of the $8 million cut in mandatory requirements voted by the committee will be twice as great as the amount of the reduction. Like all other jurisdictions, the District receives $1 of Federal public assistance funds for every dollar of local moneys allotted to that program. Thus, the District will lose $16 million as a result of the $8 million cut from its budget by the Congress.

When the loss of funds is translated into dollars and cents for the average welfare recipient, the shocking consequences of the committee's action become clear.

If the proposed cut is not overturned, the District government will be forced to drop benefits to 40 percent of an already outdated standard based on the cost of living in February 1970. This means:

Families with dependent children will get an average of $108.20 a month instead of $202.88.

We have just finished a White House Conference on the Aged, and we have talked about what more we can do to help the problems of many of the 20 million people over 65 who live in poverty in this country. Before they leave the city of Washington, D.C., we are going to cut the aged down to $49.36 a month totally, instead of giving them $92.56 a month.

I should like to see anyone go out and live on $92.56 a month, much less $49.36 a month. And what a tale the thousands of delegates who have left the Conference on the Aged at the White House this week are going to go back and tell their people back home, when they see the same Federal Government day after day on the floor of the Senate—and in the White House—promise how much more we are going to do for the inequities of the greatest poverty minority in America

today, the only minority group where poverty is increasing severely every single year.

They are going to say what hypocrisy, when the Senate of the United States votes a cut of almost 50 percent in the funds for the aging, and expects an old, infirm person, in need of medical attention and care, to live on $49.36 a month.

The blind will get an average of $58.35 a month instead of $109.42.

It is perfectly all right to say these are shiftless, lazy people, if one does not look at the facts. I should like to take any Member of this body out to a blind person who is receiving aid, and pick the cards at random, not select the case—do as I have done many times in Illinois—pick the cases, a dozen of them at random, and see what those conditions are.

It is possible to give jobs to the blind. I have done it in my own business. We have darkrooms in the photographic business, and blind people happen to be very good in performing work in darkrooms. But how many darkrooms are there? How many jobs in normal industry can the average blind person fill?

I defy anyone to say how a blind person can live on $58.35 a month—and that is the figure the Senate of the United States by this vote would be cutting it down to, and that is the figure the House would cut it back down to.

If we vote for this as it now stands—it does not even go to conference—we agree with the House. I cannot believe that the House really looked at what they were doing on this, any more than the committee over there for years has been looking at what they are doing, digging holes all over Washington to put a subway in, and then coming right up to the brink and trying to deprive the city of the very funds with which to fill those holes and build the subway that is to make this a modern, up-to-date city.

The permanently and totally disabled will get an average of $56.75 a month instead of $106.67 a month. I could not leave this body tonight if that is the action that this Senate will take.

People receiving general assistance will get an average of $58.96 a month instead of $110.56 a month. The general feeling, of course, on general assistance for the children is that, well these are all just illegitimate children. If one just looks at the facts, he will find that is not true at all. Let us keep in mind that most of the people who would suffer under the general public assistance cutback would be children. Children make up about 70 percent of the people who receive services from the District's Department of Human Resources, and young children will be highly vulnerable. About three-fourths of the children receiving public assistance are under 13 years of age.

But we are not talking about illegitimate children, although I firmly believe we must care for the young regardless of the circumstances of their birth. What control did they have over whether they were born in or out of wedlock?

I certainly believe that the majority of children receiving benefits under aid to families with dependent children were born in wedlock. The majority under the age of 13 were born in wedlock. But they made the mistake of being born to parents who did not have a skill, or an education, or who had some problem that did not permit them to earn enough to support the children they had.

Maybe they had too many children; maybe we did not do something about it. But it is not the fault of the children who are under 13 years of age. We cannot cut them from $110 to $58.96 as the bill before us would have us do.

It is true that some people will be removed from the public assistance rolls by a reduction in total program funding. The aged and the blind, who now usually receive a small income from social security benefits, will probably be dropped from the caseload in the greatest numbers. Some persons who have inadequate incomes from jobs or other sources will also become ineligible for public assistance under a lowered benefits ceiling. These people are now eligible to receive additional support from the District government because their current incomes are clearly inadequate to provide a tolerable standard of living. Depriving these people of public assistance will mean severe hardship.

Payments at only 40 percent of a 2-year-old standard, thousands of children left without adequate support, the aged and the blind deprived of needed income—these will be the effects of the proposed cut in the District's request for public assistance funds. I do not believe we can in conscience allow these possible effects to materialize.

These are the figures the House would impose on us. I would like to make clear once again that in my judgment there is no one in the Senate who has greater compassion, understanding, and appreciation for the needy than the chairman of the subcommittee. His record through the years has demonstrated and proved this. It is his desire to cut out waste and he has solid, concrete evidence that there may be $5, $6, or maybe $7 million of waste in the total welfare budget right here in Washington, D.C.

The evidence was really offered in expert testimony we received. But it is like advertising. We know that in every one of our political campaigns 50 percent is waste. The question is: What 50 percent, and how can it be cut out?

If we were to cut out $7, $8, $9 million, it would not suddenly give us the omnipotence and the presence of mind to immediately go to the areas of waste and cut them out overnight. That will take the diligence, the staff and funds the chairman is provided to reform our welfare system and eliminate abuse, overlapping, waste and fraud. I support those efforts.

I understand the chairman has made his point and I think his point is very well made, indeed.

Much has been said about possible fraud in the District's public assistance program. These statements must be put in perspective because they do a great disservice to the vast majority of welfare recipients and foster misconceptions about the best way to deal with the growing welfare caseload.

Fraud is definitely not the chief contributor to misuse of public assistance funds. Administrative error and client mistakes made out of ignorance or confusion are the major causes.

The director of the District's social services administration, which is in charge of public assistance, has been quoted as saying that $6 million to $8 million is paid each year to persons ineligible for any assistance or for the amount of benefits they receive. The District's most recent figure for total misspent funds is under $5 million—only half of which comes from the local appropriation.

Only a very small percentage of the total $5 million can be attributed to fraud. In fact, about 20 percent of error-related expenditures is apparently due to errors made by the government itself. For example, the District will overpay a recipient because its administrative machinery does not move quickly enough in recording changes in recipient status and adjusting benefits accordingly.

These administrative errors will not necessarily be eliminated by cutting recipients' benefits. I am pleased to note that Mayor Washington is aware of this problem and has charged the new director of the Department of Human Resources with tightening administrative procedures as part of a broad reform program.

What about the remaining 80 percent of error-related costs found by the District government? For the most part, the mistakes involved were made by recipients unwittingly and without intent to defraud. The laws and regulations governing the welfare program can confuse almost anyone—but especially the people to be served by the program, many of whom are undereducated or elderly.

There are problems in the District's public assistance system, but we cannot solve those problems by cutting funds or by making harsh speeches about "cheaters" and "frauds. The problems are too complex for such a simplistic approach, and they are too firmly rooted in basic economic and social conditions to permit easy answers.

INCOME SUPPLEMENTATION

The Appropriations Committee has also denied funds for the city's income supplementation program. The 1967 Social Security amendments require a program to supplement the income of mothers who are working full time but who are earning less than they would receive if on welfare. The District recently initiated this income supplementation program. As of October 30, 1971, 349 working mothers and their more than 1,000 children were receiving benefits. The District estimates that $1 million will be needed for this program in the current fiscal year.

Many of the women who are eligible for income supplementation are employed as domestics, a class of workers not covered by existing minimum wage legislation. Because they cannot support their families on the low wages they earn, these working mothers may receive income supplementation payments from the District. These women could quit their jobs and receive total support from

the public assistance program. Yet they continue to work and to try to gain some measure of independence. Income supplementation allows them to avoid complete dependence on the welfare system.

In addition, some women earning minimum wage are eligible for income supplementation benefits if they have very large families. Again, these women could quit work and receive full support from public assistance.

By denying funds to continue this income supplementation program, the Congress will be penalizing persons who do want to work even though they cannot earn enough to support their families at a barely acceptable level. The Congress will thus be encouraging people to quit working entirely so that they can receive more money from public assistance.

We must approve $1 million to fund income supplementation. To do otherwise would be to contradict congressional intentions to make employment a viable alternative to public assistance.

INCREASE IN BENEFITS LEVEL

The District government requested additional funding to raise benefits from 75 percent to 85 percent of the February 1970 standard. That request has been denied by the Appropriations Committee. While I believe that an adjustment in the level of payments is necessary, sufficient funds for higher benefits are not now available.

The cuts in public assistance and income supplementation voted by the Appropriations Committee cannot be allowed to stand. Thousands of needy men, women, and children will be deprived of help for which they are fully eligible if the funds are not restored.

If we want welfare reform, let us enact programs of reform. But we must not allow innocent people to suffer while we find viable solutions to the problems we face.

I urge the Senate to vote for restoring the $8 million of the District's mandatory funding requirement for the public assistance program and the $1 million required for income supplementation in fiscal year 1972.

Mr. President, I am happy to yield to my distinguished colleague for his comments. We have had the opportunity to talk over this matter and I have some appreciation for his point of view and his feelings.

Mr. INOUYE. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I believe I speak for all Members of this distinguished body when I say none of us would like to see children starving; none of us would like to deny the blind; none of us would like to set aside the needs of the crippled. But, Mr. President, as chairman of the subcommittee, I was faced with a dilemma of granting the limitations, as I indicated in my presentation earlier.

When the subcommittee acted it acted upon the only available revenue limitation, which was $170 million passed by the House. On that basis we acted and for reasons which I presented earlier, I decided I should recommend to my subcommittee a cut similar to that proposed in the House, as far as the subject of those payments was concerned.

This amendment would add $9 million to the Federal payments. The conference committee on the revenue bill will be held next Wednesday. The Senate bill provides for a Federal payment by formula amounting to $181.5 million and the House bill provides $170 million.

I pray that the conference will come out with something like $179 million, but I do not think my prayers will be answered. As much as we pray for this large amount, experience has taught us that it will be much less than that, unfortunately.

I would be willing to accept the amendment as presented by my able colleague. We have discussed this in the full committee.

But it will be taken into conference and in the event the conferees on the revenue bill approve the higher Federal payment amounting to this full amount, then this full amount will be sought in our conference, but whatever it is, the limitations will have to be based on whatever the conferees come out with in the revenue bill.

I would like to make it perfectly clear that in the unhappy event all of the funds that both he and I desire are not approved, it will be necessary—and I repeat, it will be necessary—to cut our appropriation bill to equal the resources available. Since my able colleague from Illinois will be on the conference committee I trust he will be at the conference to recommend the specific cuts that I feel will be necessary.

With that in mind, as chairman of the subcommittee, I would be very happy to accept the Senator's amendment and suggest that the Senate agree to it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PERCY. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. PERCY. Will the Senator from Hawaii yield me 3 minutes of his time?

Mr. INOUYE. Yes.

Mr. PERCY. Mr. President, in these 5 minutes I feel it is quite essential to explain why I ask for the $9 million. Of that $9 million the sum of $1 million is earmarked for income supplementation. I would like to point out, because I think it is very important for the conferees to realize, that the $1 million is the best money we can possibly invest because we will actually get money back from that as a result of that investment.

As I said, the Committee on Appropriations denied funds for this income supplementation program. The 1967 Social Security Amendments require a program to supplement income maintenance of mothers working full time but earning less than they would receive on welfare. The District recently initiated this program. As of October 31, 1971, 349 working mothers and more than 1,000 children were receiving benefits.

I would like to make perfectly clear that these same women who are earning money could stop work and get more from welfare than if they worked.

The reason why we supplement their income is that most of them are domestics and they do not earn enough to support themselves and their children. Therefore, the District supplements their income. But if the supplement program is not available, it pays these women more to not work than to work, and for that reason I think it is an exceedingly good investment.

I have discussed with the distinguished chairman my scheduling problems next week. If we can work out a time for the conference when it is possible for me to fly back here, I will certainly do so. If it is impossible for me to return because of long-standing engagements—because I thought we would adjourn sine die on the 4th—then I will certainly depend upon my distinguished chairman to be able to effectively carry forward the message on this subject, because we will be making a very necessary investment in these people. I appreciate the chairman's accepting the amendment.

I ask unanimous consent that a letter I received from Mayor Washington concerning the welfare situation in the District of Columbia be inserted in the RECORD.

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

THE DISTRICT OF COLUMBIA,
Washington, D.C., December 3, 1971.

Hon. CHARLES H. PERCY,
United States Senate,
Washington, D.C.

DEAR SENATOR PERCY: This is in response to your request for information relative to the cut in the public assistance budget.

The Senate Appropriations Committee's action to reduce the District's budget request for public assistance will result in great hardship for many of the city's residents. I wish you to consider the consequences of the reduction. I also wish to inform you of my commitment to a positive program of welfare reform in the District of Columbia.

If approved in the city's final appropriations bill, the $8 million reduction voted by the House will mean a drastic cut in the already inadequate level of benefits we provide to public assistance recipients. An average family of four, with no other income, now receives $238.00 a month in public assistance payments under the Aid to Families with Dependent Children program. After the $8 million cut, that same family will receive only $127.00 a month. This sum is only 40 percent of the authorized standard.

Benefits in all assistance categories will be reduced to 40 percent of standard as a result of the cut. Average monthly payments will be lowered from $92.56 to $49.36 for the aged; from $109.42 to $58.35 for the blind; from $106.67 to $56.75 for the permanently and totally disabled; and from $110.56 to $58.96 for persons receiving general public assistance.

Most of the recipients to be hurt are children. Children represent about 70 percent of persons receiving services. About three-fourths of the children receiving assistance are under 13 years of age. It should be noted that the majority of children receiving benefits under the Aid to Families with Dependent Children program were born in wedlock.

While I must strongly object to the action, I do concur with the need to improve the city's public assistance system. In recently appointing a new director of the Department of Human Resources, I announced that his

highest priority assignment will be to reform and revitalize the welfare system. He has been charged with developing a program that will emphasize helping the individual recipient realize his full potential and breaking the cycle of dependency so often associated with public assistance.

The improvement program will be aimed at attaining three objectives: (1) increasing the employability of public assistance recipients and maximizing their opportunities for worthwhile employment; (2) reshaping our service delivery system in the human resources area so that the needs of the whole person can be effectively met; and (3) strengthening our administrative and legal procedures so that abuse of the public assistance system can be almost entirely eliminated.

The new director of the Department of Human Resources has been instructed to develop concrete and viable programs for meeting the objectives we have established. I anticipate that he will be ready to announce the details of the improvement program in January 1972. In short, the District Government is fully committed to improving the city's public assistance system.

I want to thank you for giving this problem your most serious attention.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor-Commissioner.

Mr. INOUYE. Mr. President, before we vote, I wish to advise the Senate of an action which I anticipate, but which is not covered in the bill. We are now speaking of spending the maximum amount in Federal payments. In a few days a supplemental request will be coming to Congress for additional Federal funds to cover costs in all those authorized activities.

A few days ago the Senate adopted an amendment, which if signed into law—and very likely it will be signed—will give white-collar workers of this city a 5-percent pay increase from January 1. That is just for white-collar workers. Then the schoolteachers, firemen, and policemen will get their increases, and then the blue-collar workers, increases amounting to anywhere from $12 to $15 million. I also wish to advise the Senate that we will be coming back early next year requesting more money for this city. We are not going to end here.

This is pointed out to the Senate merely to get a taste of the type of dilemma I have had as chairman of this subcommittee.

The PRESIDING OFFICER. Does the Senator from Hawaii yield back the remainder of his time?

Mr. INOUYE. I do so.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. PERCY. Mr. President, on behalf of myself and the Senator from Maryland (Mr. MATHIAS), I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be read.

The second assistant legislative clerk read the amendment, as follows:

On page 10, line 10, it is proposed to delete "192,328,000" and insert "195,328,000"; and on page 10, line 15, delete "5,807,800" and insert "8,807,800"

Mr. PERCY. Mr. President, I yield myself such time as I may need to explain the amendment. I would also like to advise the chairman that the Senator from Nebraska (Mr. HRUSKA) desires to speak on the amendment and is on his way to the Chamber. The Senator from Maryland (Mr. MATHIAS), the ranking Republican member of the District of Columbia Committee, is in the Chamber and also has indicated an interest in speaking on the amendment.

Mr. President, I have sent to the desk an amendment which will provide $3 million under capital outlays for the 1972 fiscal year District of Columbia budget. The request, submitted by the District government, will make available design funds for a new judicial complex on Pennsylvania Avenue. The complex is to house all judicial offices of the District and Federal courts and is to be located on Pennsylvania Avenue between Fifth and Sixth Streets NW.

Evidence as to the desirability of a new, unified court system and facility is ample. During consideration of the D.C. Court Reform and Criminal Procedure Act of 1970, both the House and Senate Committees expressed the hope for a District "court system comparable to those of the States." The Act created a total local court system by combining the general sessions, D.C. tax, and juvenile courts into the Superior Court of the District of Columbia, which is to have exclusive jurisdiction over local matters.

Passage of the Court Reform Act implemented some necessary and desirable improvements in the District's judiciary system. However, it also placed a heavy burden on the courts, the District government, and Congress in terms of the financial resources needed to effect these modernizations. A modern court system cannot, however, be, as the House District Committee said, "a bewildering maze of activities." The finances required to fulfill the intent of the reform bill will be sizable. At present, seven different buildings house the Superior Court. This is confusing, inefficient, and insecure in terms of transporting prisoners. There is a clear need for the District to have one central court facility, and it is precisely this kind of facility that the Westinghouse study, commissioned in fiscal year 1971, recommends.

The $3 million which my amendment provides will begin the important task of designing and planning for a new facility. In appropriating this amount, I know that some Senators have reservations about the matter since current plans are that the relatively new Employment Security Building located at the proposed construction site be torn down. To this I would have to point out two things: the Employment Security Building would not, by any stretch of the imagination, conform or blend in with a modern, well-designed courthouse. The building is simply ugly, and if not torn down would require that the new facility be built around it. In addition, the District government reports that the cost of acquiring and demolishing the employment building would be at a minimum. Moreover, the Employment Security Building detracts from the Pennsylvania Avenue plan for the restoration of that street. Since the Commission on Fine Arts and the National Capital Planning Commission have the authority to disapprove construction of any new building, it is reasonable to say that if the new court complex, with the Employment Security Building left standing, did not meet the design specifications of the Pennsylvania Avenue plan, the proposal could be turned down.

We must, of course, also realize that building a new complex such as this will be expensive. Estimates are that the new courthouse will cost between $50 and $60 million.

I should like to say at this point that I share some of the skepticism of our chairman about those figures. Yesterday, once again, I questioned GSA as to whether the job can be done for the $50 million or $60 million estimate I have heard, and they have assured me it can be. That assurance I, once again, take with some of the skepticism I have been led through the years to take on any building estimate. Some of it, of course, is beyond their control. If we are successful—and I hope we will be—in putting the lid on the escalating cost of construction, and if we can get productivity increases and wages increased as a result of that productivity increase, it is possible this estimate will be correct. If the project is delayed 5 or 10 years, we certainly cannot get the same prices that we can get in 1972. So the delay factor has to be taken into effect. If we do it 20 years from now, it is going to cost at least $120 million. There is no question about that. The question is, Do we need it? We have demonstrated the need time and again.

The Senator from Maryland (Mr. MATHIAS) and I went over yesterday morning, at the suggestion of the chairman—and I think it was a fine suggestion—that we physically meet with officials and walk over the facilities. The term to describe it is the intolerable conditions faced by the court, with its facilities scattered through seven buildings, prisoners in handcuffs walking through them, jurors marching from one building to another. As the Attorney General said yesterday, the $4.5 million investment in that Employment Security Building will be made up in short order through the improved efficiency and the saving of the time of 44 judges. They must now move through a maze of buildings and corridors in the actual mess that we have as our court system.

I would not want anyone to see the court system of Washington, D.C., looked upon as the best we can do in the Nation's Capital. It is an utter disgrace. Locating the Employment Security Building there was a mistake. The Department of Labor made the mistake of putting the building on that site. They do not need it. It should not have been built there. They did not get an appropriation. They took the funds out of their revolving fund, so they did not have to get permission to put the building there. But I do not think the city should have to live with the mistake for the next 100 years just because it was made 7½ years ago, particularly when the mistake is a relatively low-cost one

compared to the high value of land, the strategic location of that particular building, and the fact that it can be razed for about $150,000, although it is money down the rathole. Someone will have to pay the cost of making that mistake. But we made it.

Otherwise, are we going to have to live with it, build a court complex all the way around it, have in that strategic location a building we do not need, and deprive the court system of the facilities that they need, when the No. 1 problem in this city is crime and law enforcement?

I simply feel that when we have made a mistake, we should admit it, then go about correcting it, and not try to live with it for another 100 years, because that would simply compound the same mistake over and over again, and we would continue to pay the cost.

We can pay the cost of acquisition and demolition of that building in a very short time in the improved operating efficiencies that will be reflected in the budget for the court system, if they do not have to lose 20 to 25 percent of their time in coping with the impossible security system that exists there right now, where they are dealing with dangerous criminals, right out in the open where anyone can see them, and have to have armed guards on both sides, handcuffed to the prisoners to take them through the maze of corridors, and the shuttling system that goes from building to building in the most inefficient, ineffective, and abortive law enforcement process I have ever seen in the United States, just six blocks from the Capital.

The Attorney General assures me that this is a matter of the highest priority from the standpoint of law and order. An expenditure of this proportion would be a real investment for the District government to make. It is more than an investment in property, however. It is an investment in a more efficient court system, better able to execute the principles of justice under which our courts should operate.

I do not believe that we can talk about expanding our police forces or building better prisons and leave out the all-important middle process of the courts. The reforms that we implement must be comprehensive and they must result in a more efficient, equitable judicial system. The most logical place with which to begin judicial reforms is in the District of Columbia.

I ask unanimous consent to have printed in the RECORD at this point reports and letters giving further background detail on this building, quotations from Judge Green, with whom Senator MATHIAS and I met yesterday, who spent a couple of hours with us going through this plan, and letters from the National Capital Planning Commission and the Commission on Fine Arts.

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

BRIEFING PAPER CONCERNING DESIGN MONEY FOR DISTRICT OF COLUMBIA COURTHOUSE

In fiscal 1971, the District Government secured an appropriation of $300,000 to finance a "Study For A New District of Columbia Court Facility." This study will be completed shortly. The District Government is prepared to go forward with a design of the new courthouse. For this purpose they have requested $3,000,000 in the fiscal 1972 budget now pending in Congress.

This $3,000,000 figure is not an excessive amount for design money. District officials estimate that design money runs about six percent of construction cost on almost every project. The estimated cost of the new courthouse is between $50–60 million.

1. Current plans do envision the demolition of the Employment Security Building, in order to make room for the new courthouse.

The Employment Security Building was first occupied in August 1962. The cost to the District Government of obtaining full title to this building will be $4.4 million. Demolition costs and relocation expenses will be additional.

The reason why this building, although relatively new, should be demolished is that it is an ugly building which detracts from and is contrary to the Pennsylvania Avenue Plan, and it occupies the natural, logical, and necessary location for a new courthouse.

Failure to demolish the Employment Security Building will have several important effects:

A. The present building will stand and will detract from the rejuvenation of Pennsylvania Avenue. This building projects some 30 feet beyond the setback line established for the Pennsylvania Avenue Plan.

B. The new courthouse, *if built*, regardless of its beauty or cost, will be blocked from view and will therefore be unable to contribute to the success of the Pennsylvania Avenue Plan.

C. More important than these considerations is the fact that space limitations will make it very difficult, if not impossible, to build a *model* courthouse *or* a single court building. Space limitations may require several buildings instead of one, making permanent the inefficiency of the present operation and thereby forfeiting the opportunity to build a prototype courthouse that will serve as a model of innovative design and construction for the nation. Because the $300,000 Westinghouse study envisioned a single courthouse, the inability to proceed with a single building will mean that the Westinghouse money was largely wasted.

D. Most important, unless the Employment Security Building is demolished, the Commission on Fine Arts and the National Capital Planning Commission may disapprove the building of any new courthouse because, as NCPC put it, "demolition of all of the existing buildings on the North Side of Pennsylvania Avenue between Fifth and Sixth Streets is required to permit development of the Pennsylvania Avenue Plan." The Commission on Fine Arts has statutory authority to disapprove the erection of new buildings that face Pennsylvania Avenue D.C. Code, Section 5–410.

2. The second and third arguments against the design money are closely related. The new courthouse will, of course, be an expensive building—all new buildings of any magnitude are expensive. But there is an urgent need for a new courthouse, and delay will contribute to a very substantial increase in the ultimate cost. Because of this cost, the Congress cannot afford to delay.

The District of Columbia Court Reform and Criminal Procedure Act of 1970 immediately increased the number of judges in the new Superior Court from 27 to 37. On February 1, 1972, an additional seven judges will be appointed pursuant to the Act, bringing the total to 44. This increase in the number of judges has created serious logistical problems for the court.

In his report to the Attorney General last July, Chief Judge Harold Greene of the Superiod Court wrote:

"This legislative enactment [the Court Reform Act] imposed upon the Court very great organizational and logistical responsibilities, exemplified by the absorption of ten additional judges and their staffs . . . and the physical expansion of the Court into an office building actually totally unsuited for court use. . . .

"The other major problem is the physical one of operating one Court out of six different buildings, some of them widely separated from the others. While many measures have been taken to alleviate the difficulties and discomforts arising from this situation, the problem cannot be fully solved until the Court is housed in a single structure on the Pennsylvania Avenue site allocated to it by the National Capital Planning Commission."

When seven new judges are appointed in February, 1972, they will be housed in the so-called Pension Building. This means that the Superior Court will be operating out of seven different buildings, some separated by considerable distance.

Until a single courthouse is built, Superior Court offices, courtrooms, and functions will be widely scattered. The present situation is confusing to attorneys and other court-affiliated personnel; and, of course, the public has problems keeping straight Buildings A, B, C, D, E, F, and in February, G.

The proliferation of buildings leads to gross inefficiency and many problems. For example, the problem of security in transporting prisoners is obvious. The problem of trying to maintain an adequate library for 37 judges in six buildings has already brought repeated cries of concern from the court.

It is imperative that a new courthouse eventually be constructed, because current operations are not acceptable.

Failure to provide the design money *now* would set back plans for a new courthouse at least a year and perhaps longer. *And it would increase the cost of the facility that must eventually be built. Experts contend that the construction cost of a new courthouse increases about one percent per month*—so that delay is very expensive.

There is widespread, bi-partisan support to have a new courthouse completed in time for the bi-centennial celebration in 1976. Delay at this juncture could destroy that timetable.

NEW DISTRICT COURT BUILDING

Funds in the amount of $3 million are required for fiscal year 1972 in order to design the New District Court Building. Without design funds this urgent project will be substantially delayed. A Westinghouse study relating to the Court Building will be completed in March 1972 and will provide the necessary scope of work for the final plans of the court building. The $3 million request precedes the Westinghouse study in anticipation of funds that will be needed immediately following the release of the report. The denial of the 1972 request would necessitate a year delay in the design of the building.

The construction costs of the District Court Building will be kept at a minimum and will reflect only the essential functions to allow the courts to carry out its responsibilities. The District Government is acutely aware of the desire of the Congress concerning high construction costs and the site location problems for this building. Therefore we can safely anticipate a realistic estimate for the final cost of this project.

THE COMMISSION OF FINE ARTS,
Washington, D.C., May 25, 1971.

Lt. Col. SAM D. STAROBIN,
Director, Department of General Services, Washington, D.C.

DEAR COLONEL STAROBIN: I understand plans for the construction of the new Su-

perior Court to be located on the corner of John Marshall Place and Pennsylvania Avenue may be in jeopardy, the reason being that these plans would require removal of the Employment Security Building. This building, which was erected some ten years ago, but is of no particular architectural distinction, projects some 40 feet beyond the building setback line established for the Pennsylvania Avenue Plan. As the line is an essential part of the plan it would indeed be unfortunate if this building were to remain and spoil a major feature of the plan. I should also point out that in addition to establishing an orderly design for the north side of Pennsylvania Avenue the site is in itself particularly critical as it forms the pivotal point for the whole plan in that it is the first building abutting Pennsylvania Avenue west of the Capitol. I therefore hope that every effort can be made to adhere to the present scheme for the new court.

Sincerely yours,

CHARLES H. ATHERTON,
Secretary.

NATIONAL CAPITAL
PLANNING COMMISSION,
Washington, D.C., June 1, 1971.

Mr. SAM D. STAROBIN,
Director, District of Columbia Department of General Services, Washington, D.C.

DEAR SAM: You have requested a statement of the relationship of the proposal for the new Superior Court Building for the District of Columbia to the existing Employment Security Building at Sixth Street and Pennsylvania Avenue, N.W.

The Commission has been vitally interested in the planning for the new Court Building because of the prominence of this site and the impact this project will have on the accomplishment of the goals and objectives of the Pennsylvania Avenue Plan. The demolition of all of the existing buildings on the north side of Pennsylvania Avenue between Fifth and Sixth Streets is required to permit the development of the Pennsylvania Avenue Plan.

The Commission endorsed the objectives and underlying principles of the Pennsylvania Avenue Plan, as contained in the Report of the President's Council on Pennsylvania Avenue, on September 11, 1964. All subsequent projects in the area affected by this report, such as the new FBI Building, the Labor Building, the Addition to the National Gallery, and the completion of the Federal Triangle and the privately built Presidential Building have been reviewed to insure their conformity with the Pennsylvania Avenue Plan.

The Commission, on February 6, 1969, reviewed and approved the area north of Pennsylvania Avenue, between John Marshall Place and Sixth Street, N.W., for the development of the District of Columbia court facilities, provided that plans for such development conform to the planning criteria and standards for the Pennsylvania Avenue Plan. On March 6, 1969, the Commission approved a preliminary master plan for the Municipal Center-Judiciary Square area, which included the site proposed for the new Court Building, as well as the surrounding municipal facilities. The Commission's approval of the preliminary master plan was also based upon the provision that the court facilities fronting on Pennsylvania Avenue be developed in accordance with the objectives and principles of the Pennsylvania Avenue Plan. These objectives and principles, as they apply to the new Court Building, may be summarized as follows:

1. That a single building, stretching from Sixth Street to John Marshall Place, be planned;

2. That the building, along the Avenue frontage, be a uniform 120 feet in elevation, D.C. Datum, at its cornice line (or 111 feet in height from the curb line), exclusive of penthouses;

3. That the structure be set back 50 feet from the north right-of-way line of the Avenue;

4. That the main building facade be parallel to the Avenue;

5. That an arcaded pedestrian walkway be provided along the Avenue, also, a pedestrian platform or concourse be provided at an elevation approximately one-story above the Avenue level to provide an open public courtyard; and

6. That there be no curb cuts along the Avenue or along side streets within 100 feet north of the new building line on Pennsylvania Avenue.

If these principles are adhered to, the development of the Court Building would be consistent with the objectives and principles embodied in the reports and recommendations on Pennsylvania Avenue, as endorsed by the Planning Commission and others.

Several of these principles, as outlined above, would require the clearance of the north side of Pennsylvania Avenue. The existing District-owned building on the northwest corner of Fifth and Pennsylvania Avenue was built in 1916. The eastern original portion of the so-called Employment Security Building was erected in 1942. The western part of this structure was built in 1962 as an addition to the Employment Security Building. All of these structures should be removed in order to allow:

(1) The logical extension of the Municipal Center in accordance with the approved preliminary master plan for the Municipal Center-Judiciary Square area,

(2) The proper siting and design of the new court complex, and

(3) The completion of the Pennsylvania Avenue Plan on the north side of Pennsylvania Avenue between Fifth and Sixth Streets, N.W.

We hope that this information regarding the positions taken by the Commission on the Pennsylvania Avenue Plan and the Court Building will be helpful to you in your presentation of the Court Building project. We believe this project, including the removal of the Employment Security Building, will be a vital element in carrying out the Pennsylvania Plan.

Sincerely yours,

CHARLES H. CONRAD,
Executive Director.

Mr. PERCY. I am very happy to yield to my colleague from Maryland.

Mr. MATHIAS. Mr. President, I appreciate the distinguished Senator from Illinois yielding to me, and I am very happy to associate myself with him, both in the sponsorship of the amendment and in the remarks he has already made. As he pointed out to the Senate, he and I have visited the site which has been proposed for the new court center for the District of Columbia.

Let me say in passing, Mr. President, that it is a mark of the very personal and sincere interest that the chairman of the committee has taken that there were signs, not necessarily on the walls but in the landscape, that INOUYE had been there ahead of us, and that he has shown a remarkable degree of personal interest in the affairs of the District. I think it is a tribute to him that he has taken so much personal trouble to find out the facts. It is very encouraging to me, as a member of the Senate District Committee, to know that this kind of deep study is taking place.

But I want to say that I agree with the Senator from Illinois that this is an amendment that is necessary. As he has stated candidly, frankly, and honestly, I think we have to admit a mistake was made some 7½ years ago when the Employment Security Building was construced on that site. It is a mistake, because it has made difficult if not impossible the most economic use of publicly owned land which completely surrounds it; and the only way to rectify that mistake is to admit it and face up to it, and pay the cost of it.

If there is one thing that seems abundantly clear from the experience of both public and private business in this country, it is that the cheapest part of an important capital investment is getting the right land. If the location is right, if the project is adequately and properly situated, then the right land is the first and most basic ingredient.

The right land here appears to be the land which now is owned by the District of Columbia, with the exception of one corner now occupied by the Employment Security Building.

We went into this problem in depth. We saw that alternative quarters for Employment Security could be made available in the same neighborhood. We looked, incidentally, into the planning which has gone on in this area since Major L'Enfant was operating in the District of Columbia, and I cannot see why the mistake was made, in view of the fact that this was an area which has been the subject of continual city planning; but nonetheless it has happened, and we have to deal with it as it is.

Why is this necessary? Why is it necessary to contemplate a major project of this sort?

Under the new court reorganization plan, the District of Columbia will have some 44 judges, in addition to the appellate court, with all the supporting administration that is required to administer justice in modern courts of law. If there is one thing that I think we can readily observe as we look around the country, it is that simply appointing new judges alone is not going to provide for more speedy justice or a more efficient administration of the courts. Simply to add new judges does not do it. You have to provide for an efficient administration of court business; and, as the Senator from Illinois has said, you cannot do it under the conditions that now prevail in the District of Columbia courts.

The new center will provide the kind of modern setting by which a modern system of justice can be administered, and I hope that the amendment will be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I yield myself 5 minutes.

The District of Columbia Superior Court has 35 existing courtrooms, of which 29 are permanent, and an additional 17 courtrooms are presently under construction, and should be ready for completion and for occupancy on or about the first of February, 1972, just a couple of months from now.

As my colleagues have indicated, I am aware of the shortcomings of the pres-

ent court setup for the District of Columbia. I am aware that jurors have to walk from one building to another. I am aware that handcuffed criminals have to walk down corridors. I am aware of these shortcomings, Mr. President, but I must, as chairman of this subcommittee, regretfully disagree with the amendment, and I object to it for the following reasons:

First, Mr. President, 2 years ago Congress appropriated the sum of $3,315,000 to make a study of the needs of and the designs for the proposed District of Columbia Courthouse. This phrase "make a study" is becoming nauseating. We have been spending money making studies upon studies. But this amount was requested by the District of Columbia, and we appropriated it, and it has been obligated, Mr. President. We hired the Westinghouse group, a most prestigious organization in the United States, to study the court setup for the District of Columbia. We are still waiting for its report, and we have been advised that the report will be forthcoming about February or March of 1972.

I have been asking my colleagues, "Let us wait until the report comes in. Are we to tell our colleagues that we just threw away that $3 million?"

Speaking of mistakes, we ought to admit, Mr. President, that would be mistake No. 1.

Second, while my colleagues do not mention this and the Attorney General does not mention it, what is really back of this proposal is not the court system, it is the bicentennial. It is the Fine Arts Commission. Mr. President, if it were possible, I would like to see the Fine Arts Commission sitting right here debating this issue with us. Seven years ago, they approved the Employment Security Building. It cost us nearly $5 million. And, Mr. President, if my colleagues would visit that building, they would notice it is one of the very few Federal buildings in this city with escalators. It is a very modern plant.

The Employment Security Building houses more than 300 people. If we demolish that building, we will have to spend about $10 million more building another building to house those 300 workers. That is another thing involved here.

Mr. President, I have been driving along Pennsylvania Avenue now for 12 years, and it was only recently, when I became chairman of the subcommittee, that I realized that this Employment Security Building was offensive to my eyes. It was not offensive until the Fine Arts Commission told me it was offensive.

The PRESIDING OFFICER. The 5 minutes of the Senator have expired.

Mr. INOUYE. I yield myself 2 additional minutes.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield so that I may request the yeas and nays on final passage?

Mr. INOUYE. I yield.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, I hope that my friends will withdraw the amendment, because, as I have promised them, as soon as the Westinghouse report is made available, this subcommittee will take appropriate action. I should advise the subcommittee that the advance information coming out of the Westinghouse group indicates that the cost of this building—here, again, the firm estimates come into the picture—is not the firm estimate of $58 million. It is going to be in excess of $100 million.

This court complex could have been built a block back; but, no, it had to be part of this magnificent Pennsylvania Avenue. I am all for a magnificent Pennsylvania Avenue. But why can we not wait until the report comes in 3 months from now, and let us find out if this is the path we should follow?

So, I am going to object to this amendment.

Mr. EAGLETON. Mr. President, will the Senator yield for a question?

Mr. INOUYE. I yield.

Mr. EAGLETON. Does the Senator have any idea when the Fine Arts Commission came into being in the District of Columbia?

Mr. INOUYE. If I recall correctly, approximately 30 years ago.

Mr. EAGLETON. Certainly long before 7½ years ago.

Mr. INOUYE. Incidentally, the Fine Arts Commission acted upon the Employment Security Building. Then it was beautiful, 7½ years ago.

Mr. EAGLETON. The Senator will agree with me that beauty is an imprecise science. But do we not have to assume that when a Fine Arts Commission certifies, with the Good Housekeeping Seal of eye-appealing beauty, that a building will be satisfactory on Pennsylvania Avenue, a building 7 years old, it ought to have a slightly more enduring quality than less than a decade? Would that not be a basically rational assumption?

Mr. INOUYE. It would be rational and reasonable.

Mr. EAGLETON. Are there not buildings in the District of Columbia that go back to the 19th century and, I guess, to the 18th century—centuries long past the instant decade? We are asked now to veto the finding of the Fine Arts Commission back in 1964 that this was a beautiful and appropriate building to go on Pennsylvania Avenue, and to demolish it, escalators and all. Is that right?

Mr. INOUYE. That is right.

Mr. EAGLETON. What is to be contained in this $300,000 Westinghouse study? Is that the Westinghouse that used to have Betty Furness—the same group?

Mr. INOUYE. The same group.

Mr. EAGLETON. What are they studying for $300,000?

Mr. INOUYE. They are studying the needs of the court, the location of the court, whether it should be a magnificent edifice or a small edifice.

Incidentally, I would like to see the courts maintain the dignity that is required and, like the Supreme Court, have the high ceiling. I am all for that. But we are speaking of the courts of the city of Washington. If the people of the United States would go back to their villages and their cities and inspect their traffic courts and their lower courts, I doubt that they would see marble columns, high ceilings, and chandeliers. But since this is going to be along Pennsylvania Avenue, somebody has to pay the price. I would prefer to see a park there.

Mr. EAGLETON. The total study is $3 million—are they just to study the buildings, how the court buildings ought to look, how big the rooms ought to be?

Mr. INOUYE. How functional it should be.

Mr. EAGLETON. They are getting paid $3 million?

Mr. INOUYE. $3.3 million. We appropriated the amount 2 years ago.

Mr. EAGLETON. And that study will come in—I think I heard the Senator say—next February or March?

Mr. INOUYE. Three months from now.

Mr. EAGLETON. If—and that is a very subjective "if"—if that were deemed to be a prudent appropriation and, hence, an investment 2 years ago, to cause the Westinghouse people to do $3 million worth of analytical research for us, should we not find out what $3 million is going to bring us in terms of recommendations?

Mr. INOUYE. If they give it the priority it deserves——

Mr. PERCY. Mr. President, will the Senator yield on a point of fact?

It is my understanding that the appropriation for the study was $300,000 and that that was all that was appropriated, and that report is nearing completion now. The $3 million figure would be the figure that would be required to complete the design of a single court complex that we know or have reason to believe that the study has already concluded is necessary.

Mr. EAGLETON. The $3 million is to complete a design on a study that we do not have yet and that we are so anxious to go ahead on, even without having it.

Mr. INOUYE. We have already appropriated that amount.

Mr. EAGLETON. On a sort of "if" basis.

Mr. INOUYE. That is right.

Mr. EAGLETON. On a sort of "if" $300,000 study is sufficiently meritorious for the $3 million study we have already appropriated. It is a curious way to do things. We do not do things that way in Missouri.

The senior Senator from Maryland (Mr. MATHIAS) made this statement, and I asked a question of the Senator from Hawaii based on it. The Senator from Maryland said:

> The right land appears to be the Pennsylvania Avenue site.

The one that now contains the Employment Security Building. Who anointed this hunk of land to be the court complex? Why, with lots of acreage in the District of Columbia—some improved, some unimproved, some that was devastated in the riot of 1968 that is somewhere between unimproved and improved—why this piece of land and this piece of land only, on Pennsylvania Avenue, for the court complex? Who made that decision?

Mr. INOUYE. I gather that it was the Attorney General and the Fine Arts Commission.

Mr. MATHIAS. Mr. President, will the Senator yield and let me comment on that?

There are some objective standards here that make this appropriate. No. 1, all the land that is involved, which is by far the majority of the land that would be involved, is already owned by the District of Columbia. So that that is a factor. But it is adjacent to the U.S. District Court Building. It is adjacent to the other buildings which are devoted to legal procedures. It is close to not one but two subway stations which will be of great importance to the public, to members of the bar, and to everyone who has business with the courts. It is the traditional location where courts have done business in the District of Columbia. It is near the FBI Criminal Information Center, the Justice Department itself.

I suppose it is not the only place in the District that could be used, but it is an appropriate place which is available with the exception of the one small corner occupied by Employment Security.

Mr. INOUYE. May I ask a question? My question is very simple. On the basis of responsible legislation and scheduling, why cannot we wait until March of 1972, when we anticipate receiving the report of the Westinghouse group?

Mr. MATHIAS. May I ask the distinguished chairman if he is giving us the assurance that when that report is received in or about March of 1972, the committee will give it immediate attention? The problem of the administration of justice will not permit delay.

Mr. INOUYE. I will promise the Senator, for the record, that exactly 1 week after this committee receives a copy of the Westinghouse report, we will hold hearings; and act on it no later than the 1972 second supplemental appropriations bill.

I realize the shortcomings of the present court complex, and I am all for it. But I do not see how we can act with the limited information we now have. That is my concern.

Mr. MATHIAS. I am very much impressed with the chairman's sincerity in this matter. I would have absolute reliance, so far as I am concerned, on what he has made here as a promise to the Senate to proceed.

I should like to consult with the distinguished Senator from Illinois (Mr. PERCY) now for one moment.

Mr. EAGLETON. While the Senator from Maryland and the Senator from Illinois are in the process of consultation, I should like to ask a final question or two of the Senator from Hawaii.

Based on the exchange the Senator has just had with the Senator from Maryland (Mr. MATHIAS), would the Senator from Hawaii be good enough to inquire at those hearings next spring as to whatever the experts may take up, either from Westinghouse or from the District of Columbia government—question 1, assuming the positive factors the Senator from Maryland has indicated, as to this being a propitious site for a court complex, the Senator from Maryland, I think, articulated very rightly——

The PRESIDING OFFICER. The time of the Senator from Hawaii has expired.

Mr. INOUYE. Mr. President, I ask unanimous consent, notwithstanding the prior, that the Senator from Missouri be permitted to speak for 3 minutes.

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

Mr. EAGLETON. Assuming there is some merit to the contention of the Senator from Maryland, are there not at least, for purposes of intelligent, comparable consideration, other alternate sites within the District of Columbia that might be suitable for a court complex, to see which ones are good, very good, fair, poor, or useless?

Mr. INOUYE. There are alternative sites within close proximity of the Federal District Court but, as of this moment, I gather that some of our officials are adamant, that they want this place and no other place.

Mr. EAGLETON. But the Senator will inquire into other sites and their feasibility?

Mr. INOUYE. I have requested that the study include alternate sites, yes.

Mr. MATHIAS. Mr. President, will the Senator from Missouri yield?

Mr. EAGLETON. No, I cannot—my time is too limited.

I should like to ask another question of the Senator from Hawaii. Ancillary to and in addition to the alternate sites, would the Senator from Hawaii inquire whether there is some feasible, satisfactory, non-ugly way of accommodating to that site a court complex retaining the Employment Security building as well?

Mr. INOUYE. It will be done, sir.

Mr. EAGLETON. I thank the Senator from Hawaii.

Mr. MATHIAS. If I could have 1 second to add to that, because I was interested, if there were other sites, knowing about them as anyone else would, that the distinguished Senator make these inquiries prior to receipt of the report in March.

Mr. INOUYE. I have done so.

Mr. MATHIAS. So that we will have that information available before, in order to have this matter of an ongoing study——

Mr. INOUYE. I have had a meeting with the chief presiding judge and have made a specific request.

Mr. PERCY. Mr. President, how much time remaining do I have?

The PRESIDING OFFICER. The Senator from Illinois has 3 minutes remaining.

Mr. PERCY. Mr. President, I yield 2 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I should like to make a few observations. This is not a new item. This item was not born yesterday, or the day before, or 3 months ago. It has been in contemplation for over 2 years. There have been various studies made. I shall refer to them in a little bit, and include in the RECORD at the conclusion of my remarks a memorandum which has been prepared, and which I have gone over, which shows pretty clearly that this is part of a continuing policy, an extension of policy of Congress and the administration.

Let us get into our minds that this is a part of the favorite subject of the day, that is, that this complex is a part of the program to implement a law enforcement program.

Law enforcement is not just a policeman with a billy club, or on a motorcycle. A law enforcement program consists of arrest, apprehension, investigation, trial, then probation, parole, and so forth.

Without a unified, modern courthouse to house a court system, we will not have a complete law enforcement program. Congress knows that, because we passed in the last Congress a very heavy, complicated, and extensive revision of the judicial system of the District of Columbia. At that time, the debate clearly showed that we wanted something that would be modern, and that would be comparable to other State systems on this sort of thing.

Mr. President, I ask unanimous consent, at the conclusion of my remarks, to have printed in the RECORD the memorandum referred to.

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

(See exhibit 1.)

Mr. HRUSKA. Mr. President, with reference to the cost, it is going to be an expensive building, a very expensive building, but by delaying—time is of the essence——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. INOUYE. Mr. President, I ask unanimous consent, notwithstanding the prior order, that the Senator from Nebraska be permitted to speak for 2 additional minutes.

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

Mr. HRUSKA. Mr. President, it is said that here is a building that has not been used and, therefore, it will be wasteful to demolish it and build a new one there. We have to have a new building. It will be expensive. The location is of some consequence in the matter of cost, in the functioning of a court in a convenient and in an economical location.

By delay, what will we incur? How long will it take at the rate of 2 percent or 3 percent or 4 percent in building costs before we wipe out the value of a $4 million building? It will not take long. Here we are with a judicial system functioning in seven different buildings. Does that cost anything? It certainly does, in terms of lost efficiency, in the loss of proper and effective treatment of cases that come before the court system. I am gratified that the chairman of the subcommittee promises prompt action when the report of the commission is at hand. Perhaps that would be an alternative that would be very acceptable. If the ranking members of the District of Columbia Appropriations Committee would concur, I would certainly agree with him that that is the way to go about it, but we should get into our heads the fact that this is going to be an expensive proposition. Without it, we cannot round

out the program of law enforcement which all of us subscribe to so heartily and so vocally.

So I hope that we take some of these factors into consideration, particularly the items that are raised in the memorandum which I have placed in the RECORD.

EXHIBIT 1

MEMORANDUM ON PROPOSED DISTRICT OF COLUMBIA COURT COMPLEX BUILDING AND FISCAL 1972 APPROPRIATION REQUEST, $3 MILLION—PLANNING FUNDS

One of the President's 12 points in his District of Columbia Criminal Justice Improvement Program (announced January 1969) was this Administration's commitment to the construction of a new Court House facility to house the newly reorganized and upgraded courts of the District of Columbia.

All of the planning for this facility has envisioned that it would be the most modern and innovative structure of its kind in the country. It is to be a model. To this end we have engaged the Westinghouse Corporation to prepare a preliminary design study to utilize in this building all of the latest modern technologies such as computers and other modern technical developments.

Any delay at this time would push the final date of completion and occupancy off into the uncertain future and substantially increase ultimate costs.

Senator Inouye, Chairman of the Senate District of Columbia Appropriations Subcommittee, has opposed inclusion of the $3 million in this bill for reasons relating to the ultimate cost of the building (figures varying from $60 million to $100 million) and because of a disagreement as to the site location. It is most important that the present appropriation be made so as not to delay this project any further.

DESIGN MONEY FOR DISTRICT OF COLUMBIA COURTHOUSE

In fiscal 1971, the District Government secured an appropriation of $300,000 to finance a "Study for a New District of Columbia Court Facility." Upon completion of that report, the District Government should be prepared to go forward with a design of the new courthouse. For this purpose they have requested $3,000,000 in the fiscal 1972 budget now pending in Congress. The report is expected early in 1972 calendar year.

This $3,000,000 figure is not an excessive amount for design money. District officials estimate that design money runs about six percent of construction cost on almost every project. The estimated cost of the new courthouse is between $50–60 million.

There has been opposition to the planning money on two grounds: (1) current plans to demolish the Employment Security Building, in the block immediately west of the U.S. Courthouse on Pennsylvania Avenue, to make way for the new courthouse, are unjustified because they require the demolition of a relatively new building; and (2) plans for the ultimate construction of a new courthouse are too expensive, inasmuch as present operating conditions for the Court are acceptable.

Another objection advanced is on the ground that no money exists for the funding of "new" programs.

These three arguments require answer.

1. Current plans do envision the demolition of the Employment Security Building, in order to make room for the new courthouse.

The Employment Security Building was first occupied in August 1962. The cost to the District Government of obtaining full title to this building will be $4.4 million. Demolition costs and relocation expenses will be additional.

The reason why this building, although relatively new, should be demolished is that it is an ugly building which detracts from and is contrary to the Pennsylvania Avenue Plan, and it occupies the natural, logical, and necessary location for a new courthouse.

Failure to demolish the Employment Security Building will have several important effects:

A. The present building will stand and will detract from the rejuvenation of Pennsylvania Avenue. This building projects some 30 feet beyond the setback line established for the Pennsylvania Avenue Plan.

B. The new courthouse, if built, regardless of its beauty or cost, will be blocked from view and will therefore be unable to contribute to the success of the Pennsylvania Avenue Plan.

C. More important than these considerations is the fact that space limitations will make it very difficult, if not impossible, to build a model courthouse or a single court building. Space limitations may require several buildings instead of one, making permanent the inefficiency of the present operation and thereby forfeiting the opportunity to build a prototype courthouse that will serve as a model of innovative design and construction for the nation. Because the $300,000 Westinghouse study envisioned a single courthouse, the inability to proceed with a single building will mean that the Westinghouse money was largely wasted.

D. Most important, unless the Employment Security Building is demolished, the Commission on Fine Arts and the National Capital Planning Commission may disapprove the building of any new courthouse because, as NCPC put it, "demolition of all the existing buildings on the North Side of Pennsylvania Avenue between Fifth and Sixth Streets is required to permit development of the Pennsylvania Avenue Plan." The Commission on Fine Arts has statutory authority to disapprove the erection of new buildings that face Pennsylvania Avenue D.C. Code, Section 5–410.

2. The second and third arguments against the design money are closely related. The new courthouse will, of course, be an expensive building—all new buildings of any magnitude are expensive. But there is an urgent need for a new courthouse, and delay will contribute to a very substantial increase in the ultimate cost. Because of this cost, the Congress cannot afford to delay.

The District of Columbia Court Reform and Criminal Procedure Act of 1970 immediately increased the number of judges in the new Superior Court from 27 to 37. On February 1, 1972, an additional seven judges will be appointed pursuant to the Act, bringing the total to 44. This increase in the number of judges has created serious logistical problems for the court.

In his report to the Attorney General last July, Chief Judge Harold Greene of the Superior Court wrote:

"This legislative enactment [the Court Reform Act] imposed upon the Court very great organizational and logistical responsibilities, exemplified by the absorption of ten additional judges and their staffs . . . and the physical expansion of the Court into an office building actually totally unsuited for court use. . . .

"The other major problem is the physical one of operating one Court out of six different buildings, some of them widely separated from the others. While many measures have been taken to alleviate the difficulties and discomforts arising from this situation, the problem cannot be fully solved until the Court is housed in a single structure on the Pennsylvania Avenue site allocated to it by the National Capitol Planning Commission."

When seven new judges are appointed in February, 1972, they will be housed in the so-called Pension Building. This means that the Superior Court will be operating out of seven different buildings, some separated by considerable distance.

Until a single courthouse is built, Superior Court offices, courtrooms, and functions will be widely scattered. The present situation is confusing to attorneys and other court-affiliated personnel; and, of course, the public has problems keeping straight Buildings A, B, C, D, E, F, and, in February, G.

The proliferation of buildings leads to gross inefficiency and many problems. For example, the problem of security in transporting prisoners is obvious. The problem of trying to maintain an adequate library for 37 judges in six buildings has already brought repeated cries of concern from the court.

It is imperative that a new courthouse eventually be constructed, because current operations are not acceptable.

Failure to provide the design money now would set back plans for a new courthouse at least a year and perhaps longer. And it would increase the cost of the facility that must eventually be built. Experts contend that the construction cost of a new courthouse increases about one percent per month—so that delay is very expensive.

There is widespread, bi-partisan support to have a new courthouse completed in time for the bi-centennial celebration in 1976. Delay at this juncture could destroy that timetable.

NEW DISTRICT COURT BUILDING—JUSTIFICATION IN FISCAL YEAR 1972 BUDGET REQUEST

The project justification as submitted to the Congress as part of the Fiscal Year 1972 request follows:

The following is extracted from a *Westinghouse Study for a New District of Columbia Court Facility*, September 1970: "The Congressional intent in the District of Columbia Court Reform and Criminal Procedure Act of 1970 is clear '. . . to create a true local court system which will become the principal agency for the resolution of the legal problems of the citizens of the District of Columbia.' As the Senate Managers of this legislation stated in their report to the Congress: '. . . the three trial benches of the District of Columbia (the general sessions, D.C. tax, and juvenile courts) are to be merged into a single local court, the Superior Court of the District of Columbia. The Superior Court is to have exclusive, general jurisdiction over all local matters, civil and criminal—consistent with the move toward home rule in the District as well as for purposes of efficiency and expedition. Likewise, the local appellate court, the District of Columbia Court of Appeals, is to be the highest court of this jurisdiction, the final authority on purely local matters and for purposes of appeal to the Supreme Court of the United States.'[1]

The House District Committee stated in its report:

'Thus, the District will have a court system comparable to those of the states and other large municipalities . . . The bill provides for a detailed and comprehensive scheme for the creation of a local, unified, modern court system for the District of Columbia.'[2]

The legislation responds to the recommendations of several study commissions. The D.C. Crime Commission concluded that, 'The District of Columbia needs a unified court system for the effective administration of criminal justice.' Elaborating on this conclusion, the Judicial Council's Committee on the Administration of Justice recommended that 'The Court of General Sessions should be strengthened in many ways and become the local court of general jurisdiction to

[1] Senate Managers' statement regarding conference action on S. 2601, July 15, 1970, 91st Congress, 2d Session, p. 5.

[2] House of Representatives 71–907, 91st Congress, 2d Session, p. 23.

which ultimately most, if not all, of the local business of the U.S. District Court can be transferred.' (Policy Statement of the Committee on the Administration of Justice, March 1969, p. 3) It is recommended further that the Juvenile Court be transferred to the Court of General Sessions as a division thereof, and that the functionally autonomous Domestic Relations Branch be made a division in order to unify and coordinate the handling of all problems involving family relations within the same court. In addition, it recommended the appointment of a Court Executive, trained in high level management, who would be responsible for organizing and administering all the non-judicial activities of the court, provide centralized administrative control, and manage the day-to-day court operations.

This new court system will replace the present fragmented court structure, which contains four local courts of limited jurisdiction and two federal courts with jurisdiction over more important cases. The existing fragmentation has been compounded by the fact that the courts of local jurisdiction have been physically housed in six different locations, causing coextensive logistical difficulties. Moreover, space and facility allocations have become seriously inadequate. A survey of judges and court related personnel prepared in April 1970, by the Georgetown Institute of Criminal Law and Procedure indicated that one of the top priorities mentioned by those surveyed was for more adequate space and facilities.

Congress clearly envisions a modern, up-to-date facility, incorporating the best features of current technology and thought on the subject of court construction.

Since all local jurisdiction is to be brought under the new court system and the new Superior Court itself is to be an amalgamation of several existing courts, it is essential that all judicial and court-related functions be centralized in a single facility. Dispersion of functions or personnel in separate facilities is undesirable since this tends to breed separatism within the court system.

Congress is greatly concerned with delays in the decision of both civil and criminal cases. Prompt disposition of cases is a major goal of the legislation, and physical facilities should be designed to facilitate the performance of the various steps in the judicial process.

Both Houses expressed the purpose of enhancing the quality of justice to be administered by the new court system. An aspect of the quality of justice and respect for law sought to be engendered is the dignity of the courts' physical surroundings.

The House Committee stated that a principal aim of the legislation is to bring, '. . . the administration of justice closer to the people who are most personally affected thereby.' [2] Due accommodation must be made in the new facility for the comfort of the citizenry in the various roles which citizens play in the judicial system, as witnesses, jurors, litigants, and even as spectators. In addition, the citizen's need for information within the court system should be recognized—the courthouse should not be a bewildering maze of activities."

The PRESIDING OFFICER. The Senator from Illinois has 1 minute remaining.

Mr. PERCY. Mr. President, I shall only need 1 minute more to make this quick conclusion. I would not want the Senate to feel that I offered this amendment without some previous knowledge. The Westinghouse report, when it is submitted in February or March, will include the words that they recommend that the court complex—the Federal District of Columbia court complex building—be grouped in a complex. They have already reached that conclusion. This amendment would implement it.

Second, the Attorney General is desirous of having this, but I think he would concur that the best way to proceed now would be with the commitment the chairman has made for hearings 1 week after completion of that report, so as to proceed with that hearing and then expedite our plans as rapidly as possible on that basis. I concur and support the very important conclusions reached by the chairman.

Therefore, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment. If there is no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. PERCY. Mr. President, I send to the desk a final amendment and I trust that it can be disposed of rapidly.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the votes by which the amendments were ordered to be engrossed and the bill to be read the third time be reconsidered and that the Senator from Illinois be allowed to offer his amendment.

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

Mr. PERCY. Mr. President, I thank the distinguished assistant majority leader.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 5, line 6, delete "$169,033,000." and insert instead "$170,633,000."

Mr. PERCY. Mr. President, I yield myself such time as I need to explain the amendment.

I have sent to the desk an amendment to increase by $1.63 million the public safety appropriation to overcome cuts in the Department of Corrections budget.

I ask that we give very serious consideration to this amendment. It falls within the revenues available to us. It is an additional $1.63 million. It is my understanding that the cutbacks of some $3 million in the Department of Corrections budget fell most heavily on the community corrections program. I consider this one of the most important programs in concept and in implementation. My amendment would provide $1.5 million for the program and $130,000 for personnel requirements.

Mr. President, the present community corrections program in Washington, D.C., serves about 300 people. It was planned that it be increased to reach 400 or 500 people. I think that the House proposed reduction in the program means that we will have to cut it back to 200 people. In other words, with all of the attention that has been devoted to prison reform, and finding better ways to house people, we are having them live as animals in overcrowded cells and just finish a school that for the most part, leads them to more advanced crime when they go out.

We want to find a way to select from among those prisoners who would be most susceptible to correctional activity. The $1.5 million cut will eliminate the contract houses, that is, the halfway houses.

Mr. President, if we have learned anything about penal reform, we have learned the value of having more halfway houses so that people can be rehabilitated from a life of crime and will be able to lead useful lives in their community under close surveillance.

Eight of the halfway houses operated by the District of Columbia are operated through contracts to private agencies and other branches of the District government. These contracts are generally entered into on a 3-year basis. The $1.6 million proposed in my amendment would fulfill contract obligations already underway.

In other words, by this act, if not amended, we would be putting the District of Columbia government in a position of being forced to break those contracts. If that is the way to have law and order in the District of Columbia, I simply do not understand what the fulfillment of a contract by the city government is.

There is no expansion of the program to be allowed. They will only be able to hold the line on the programs or, in fact, even have to cut back on those programs.

This is going to cut very heavily into the rehabilitation program. They are going to have to shift gears and instead of trying to create rehabilitation programs they will simply go about doing as they have done in the past. Men in overcrowded facilities are simply a breeding ground for more crime when they leave.

The Youth Center is presently 100-percent over capacity. The Women's Detention Center is 200-percent over capacity.

The District of Columbia Jail is 120 percent. Lorton is 30 percent.

By July 1973, our prison population will be 200 more than before July, 1971.

New facilities are needed. No budgeted program has been advanced for these additional needed facilities.

In every riot, overcrowding has been one of the primary factors. No serious disturbances in District correctional facilities have been experienced in the past several years, however.

This budget gives the District of Columbia a very shaky foundation on which to build.

I must say that the community corrections program has been working. It has been proven and it is in effect now. In fact, it has been working so well, that the District of Columbia wants to extend the program.

I can only ask, is it sensible to keep a couple of hundred more men in jail that the penal authorities have found are qualified to go in the halfway houses, to go into work situations, to get back on their own feet and see if they cannot rehabilitate themselves?

[2] House of Representatives 91-907, *supra*, p. 34.

For the lack of money for this facility, they will be kept in jail. Is it cheaper to keep them in jail, or is it cheaper to have them outside providing there is a reasonable assurance that these men or women can be rehabilitated and will not go again into a life of crime?

The fact is that today we have many of them who will continue their advanced course in crime that they get in the institutions and prisons.

If we have a riot in the prisons of the District of Columbia, we take a chance that by depriving the District of Columbia government of these funds we would be substantially contributing to it by forcing overcrowded, unbearable conditions, the very kind of conditions that have caused men to throw all caution to the wind and say, "We will take the government of this prison in our own hands."

Then the riot ensues. We would be reversing every single thing that the penal authorities have been telling us from time to time over the years.

Mr. President, in conclusion I would say that it is clear that these cuts will be the most regressive type of action, from all that is known about prisons and prison reforms.

The Capital has a bad reputation for crime. It is watched more closely than almost any other single jurisdiction in the country. It is almost impossible of management and political control because of the backward relationships and the special relationship that we have had in Congress in trying to work closely with the District of Columbia government and encourage their forward steps in programs. Rather than every time they take a forward step to catch up with the times and have an advancement, which in the end can reduce their budgets, we say, "Oh, no. Do not try anything, because we will not give you the money for the new program. Just stay with the old programs which, in the end, are far more costly to society and to the District of Columbia budget."

I ask that very serious consideration be given by my chairman of the subcommittee to what I consider to be a modest amount to indicate that we hope we can go forward and that we do not agree or concur with the House in the decision they made in this particular area.

I would ask that we would take a forward step and back up the District of Columbia government. This amount will be to our advantage, and a larger program carried out by the Government will be an encouragement and not a stifling or a cutting off of the forward steps we have made.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. BYRD of West Virginia. Mr. President, what evidence can the Senator present that the program is working?

Mr. PERCY. Mr. President, only the statements made by the authorities in our correctional system in Washington. We are considered to have an able and progressive man heading this program. It is his considered judgment that the program that we have had now, that has embraced some 300 people, has worked.

He now feels that it is of considerable significance. And he feels that this program can be now conscientiously and carefully extended to accommodate a total of 400 or 500 people.

He sees no answer other than to simply come back to Congress and ask for more money for more institutions to house more men and women if a program that he has proposed himself and that is good in his judgment is not adopted.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield further?

Mr. PERCY. Mr. President, actually I can also say that the figures that have been published as to the District of Columbia crime rates show that it has been effectively carried out. The crime rate has been reduced during the period of experimentation with this particular program.

I have not specifically asked as to how many of those 300 people were women, or how many have had a recourse to crime or a return to prison.

I should have gotten that information. I will certainly get it.

I can only say that the District of Columbia government feels strongly that this program is a fine investment by Congress.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield further?

Mr. PERCY. I yield.

Mr. BYRD of West Virginia. Mr. President, I do not presume to speak for the distinguished manager of the bill. He will speak for himself. And I am sure that when he speaks whatever he says will be based on a thorough knowledge of the situation and of the revenue problem.

May I say before I ask a question that the request for more money is the total answer to all problems, where in some situations it is probably the best solution. But I should think that the Senator ought to have asked more questions and to have assured himself beyond any degree of doubt that the program is working.

I am not so convinced by the evidence that the Senator has presented, and I am even less impressed by the statement of the District of Columbia officials as I have heard the Senator refer to them. I have heard those statements too many times to put much stock in them. What will this amendment cost? How much money is involved in the Senator's amendment?

Mr. PERCY. The money would be $1.63 million. This would be $1.5 million for the community corrections program, and $130,000 which would be to restore part of the personnel. They have asked for 78 people; they have only 26. These are correctional officers, parole officers, and others, who would supervise closely those men and women who have been rehabilitated out of the halfway houses.

Mr. BYRD of West Virginia. Where will the money come from?

Mr. PERCY. They will make absolutely certain that a close check is kept on them.

Mr. BYRD of West Virginia. I understand that, but where will the money come from? Will the Federal payment cover it? Will the District of Columbia revenues cover it? Or are we going to have an unbalanced bill here?

Mr. PERCY. No, there is no unbalanced bill by this additional amount. I have probably cut out certain other items that I feel can be justified, to stay well within the limitations of the revenue available to us in our budget.

As I understand it, there is no unbalanced budget by this additional amount. We have added roughly $11.5 million. We have used $9 million of it in the amendment that has been accepted on welfare. This would simply be then a total of $10,630,000—roughly $1 million under the revenue that is available.

Mr. INOUYE. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I must once again oppose the amendment submitted by my able colleague for the following reasons: No. 1: this amendment calls for added expenditures of $1.63 million—$1,630,000. No other provision is made to increase the revenue.

Mr. President, if you recall, by earlier action we amended the bill before us so that Federal payments will amount to $179 million. All of us know here that the conferees, much as we would like them to do so, will not come out with this high figure. Now we are adding on $1,630,000 with no addition at all for increasing the Federal payment. It will mean if this amendment is passed that we will be presented for the first time with an unbalanced budget into conference. As manager of this bill I do not desire to set this precedent.

May I once again bring up this matter of estimates. The Department of Corrections early this year submitted a firm estimate as to their needs, and after we scrutinized these estimates, it was found that, for example, they underestimated the Federal reimbursement.

The Federal Government reimburses the District government whenever it houses Federal prisoners. The underestimation approximated $1.2 million, but we gave them the benefit of the doubt, and we just took away a half million dollars. More importantly, Mr. President, there are many of us, much as we favor prison reform, who question at this time the success of the work release program. Under this work release program, these prisoners are supposed to be in their homes at night and are not supposed to be running around the streets. After all, these men have been convicted by courts for the commission of crimes, and they are supposed to be at home at night. Police officers have found that a significant percentage of those under the jurisdiction of the Corrections Department are in violation of the regulations.

Mr. President, when we speak of the reduction in crime, we are playing the numbers game here, because if one studies the reduction in crime, he will find, for example, that rapes and murders have gone up. I do not see any reduction there.

If we are talking about reducing crimes involving less than $100 in value, one of our very enterprising newspapers in

this District made a study not long ago where some of our reports have been slightly exaggerated or unexaggerated, so that reports would seem favorable so far as the reduction in crime is concerned.

Mr. President, I should hope that the Senate would go along with me. I wish to impress upon my colleagues that this committee has done whatever is possible. We have had our limitation on funds, and I think it is important that we not spend money that we do not have, and with this amendment we will be spending money that we just do not have. So I hope we will vote it down.

Finally, Mr. President, I desire to point out that this Congress has appropriated moneys to build what we hope will be the most modern prison complex in the United States. The District of Columbia will have its new prison. Money has been set aside for this, and the prison should be completed in about 4 years. Unfortunately, it will not be ready tomorrow.

For these reasons I hope the Senate will vote against the amendment.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I yield myself 2 minutes.

As I have reiterated many times, I do not wish to have an unbalanced budget. I have never had one in private life. I have never had one in business. I have never had one in any institution with which I have been engaged, except the Federal Government when I came here. We have had nothing but that, except 1 year, since I arrived. I do not desire to have that precedent ever established in a District of Columbia budget, and I thoroughly concur with our chairman in that respect.

I wish to ask the distinguished chairman if he would consider amending the amendment that I have offered to add $1.63 million to the Federal payments.

Mr. INOUYE. Mr. President, this would be a very simple thing to do, but in so doing we will not be honest with ourselves.

We will not be honest with the citizens of the city of Washington, and we will not be honest with the taxpayers of this Nation.

The House of Representatives reported a bill providing for $170 million in Federal payments—which, incidentally, was about $40 million more than was appropriated in a prior year. The Senate much more generously came forth with a bill providing for $181 million. They are in conference; it should be concluded by next Wednesday.

Mr. President, you know as well as I do that the conferees will not accept the Senate recommendation, as much as we would like them to. Knowing this, we would be less than honest by amending our bill so that we would add on $1,630,000 to the present $179 million that we have in the bill. I do not think that this is the way to do business.

Mr. PERCY. Mr. President, I yield myself 2 minutes.

Mr. INOUYE. If the Senator will permit me, I will make a proposal. This chairman is ready to have meetings and hearings, and I am certain that at the appropriate time the District officials, as they have always done, to my knowledge, will submit their supplemental requests. As I have said, we are going to be faced with a whopping one, which if pay raises are included will amount, in my estimation, to a minimum of $10 million. At that time I shall be very happy to listen to their request, listen to their full report as to the success of the work relief program, and consider it accordingly. But at this moment, from what I know and from what the facts are, I cannot in good conscience support the amendment.

Mr. PERCY. Mr. President, I think the suggestion of our chairman is a very reasonable one, and I concur with the comments made by our distinguished acting majority leader, who has an intimate, detailed knowledge of Washington, D.C. affairs, far beyond my own. I will defer to his general feeling that certain additional justification should be provided.

If we can have very early and full hearings and have the gentleman come before us and have him justify the proposal on a dollar and cents basis and on the basis of what it will do to crime in the District, I would feel that the justification would be warranted, and I hope the Mayor would find some way so he would not have to break contracts and interrupt the program in the meantime. I would think in a budget of this size he could give that assurance if he knew that very shortly we would have hearings and that there is a possibility for this item to be restored in a second supplemental.

On that basis I withdraw the amendment.

The PRESIDING OFFICER. The Senator withdraws the amendment.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Does the Senator from Hawaii yield back his time?

Do Senators yield back their time on the bill?

Mr. INOUYE. Mr. President, I yield back my time.

Mr. PERCY. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the bill has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and the 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 Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Idaho (Mr. CHURCH), are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Hampshire (Mr. COTTON), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from North Dakota (Mr. YOUNG) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE) and the Senator from Ohio (Mr. TAFT) would each vote "yea."

The result was announced—yeas 85, nays 0, as follows:

[No. 433 Leg.]

YEAS—85

Aiken	Goldwater	Muskie
Allen	Gravel	Nelson
Allott	Griffin	Packwood
Anderson	Gurney	Pastore
Bayh	Hansen	Pearson
Beall	Harris	Pell
Bellmon	Hart	Percy
Bentsen	Hatfield	Proxmire
Bible	Hollings	Randolph
Buckley	Hruska	Ribicoff
Burdick	Hughes	Roth
Byrd, Va.	Humphrey	Schweiker
Byrd, W. Va.	Inouye	Scott
Cannon	Jackson	Smith
Case	Javits	Sparkman
Chiles	Jordan, N.C.	Spong
Cook	Jordan, Idaho	Stafford
Cooper	Kennedy	Stennis
Cranston	Long	Stevens
Curtis	Magnuson	Stevenson
Dole	Mansfield	Symington
Dominick	Mathias	Talmadge
Eagleton	McGee	Thurmond
Eastland	McIntyre	Tower
Ellender	Metcalf	Tunney
Ervin	Miller	Weicker
Fannin	Mondale	Williams
Fong	Montoya	
Fulbright	Moss	

NAYS—0

NOT VOTING—15

Baker	Church	McGovern
Bennett	Cotton	Mundt
Boggs	Gambrell	Saxbe
Brock	Hartke	Taft
Brooke	McClellan	Young

So the bill (H.R. 11932) was passed.

Mr. INOUYE. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. INOUYE, Mr. MONTOYA, Mr. HOLLINGS, Mr. ELLENDER, Mr. EAGLETON, Mr. PERCY, Mr. BOGGS, and Mr. YOUNG conferees on the part of the Senate.

TRIBUTE TO SENATOR INOUYE AND OTHERS ON PASSAGE OF THE DISTRICT OF COLUMBIA APPROPRIATIONS

Mr. MANSFIELD. Mr. President, I wish to pay tribute to the distinguished Senator from Hawaii (Mr. INOUYE) for the exemplary manner in which he has chaired the Appropriation's Subcommittee on the District of Columbia. Today's outstanding achievement—the passage

of the funding measure for the District—tells only a part of the story.

DAN INOUYE greeted the task of overseeing the funding of the District with an enormous degree of energy. To it, of course, he brought those talents and skills that have made him the truly outstanding public servant that he is. I commend Senator INOUYE. I commend him first of all for already contributing immensely to the betterment of the District; for trimming away a great deal of fat in its budget and all in all for assisting in making the District a better place in which to live, a better place in which to work.

Today on the floor, DAN INOUYE demonstrated just how thoroughly he has become familiar with the District, with its problems and with its needs. The Senate and the Nation and particularly the people of the District of Columbia owe him a deep debt of gratitude.

Joining Senator INOUYE to assure the expeditious disposition of this important measure was the distinguished Senator from Illinois (Mr. PERCY). His splendid cooperation and support assured the efficient and overwhelmingly favorable disposition of the measure. We are grateful.

Finally, the Senate is grateful to all those who joined the discussion. It should be amply clear from the consideration of this bill that the District can count many friends in the Senate; friends willing to devote great energy in behalf of the people who happen to work or reside in the Nation's Capital.

NATIONAL VOTER REGISTRATION ACT

The PRESIDING OFFICER (Mr. CHILES). Pursuant to the previous order, the Chair now lays before the Senate S. 2574, with a time limitation of 2 hours. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2574) to amend title 13, United States Code, to establish within the Bureau of the Census a National Voter Registration Administration for the purpose of administering a voter registration program through the mail.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Who yields time?

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. How is the time divided?

The PRESIDING OFFICER. The time is 2 hours, divided, 1 hour to each side, between the Senator from Wyoming (Mr. MCGEE) and the minority leader.

Mr. GRIFFIN. I thank the Chair.

Mr. MCGEE. Mr. President, I am glad to yield at this point to the majority whip.

Mr. BYRD of West Virginia. I thank the distinguished Senator.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

THE SUPPLEMENTAL APPROPRIATIONS—A UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, if I may have the attention of the distinguished assistant Republican leader, at the direction of the majority leader, permit me to say that the effort has been made to bring up the supplemental appropriation bill at this time under a unanimous-consent agreement, so as to accommodate Senators with respect to voting during the afternoon.

The matter was cleared with the distinguished Senator from Wyoming (Mr. MCGEE), but the chairman of the Appropriations Committee cannot have the supplemental appropriation bill ready before an additional 2 hours, so we will have to proceed as was ordered last night.

However, I ask unanimous consent, with respect to the supplemental appropriation bill, that immediately upon the expiration of the 2 hours which have been ordered for a discussion on the voter registration bill, the Senate proceed to the consideration of H.R. 1195, the bill making supplemental appropriations for the fiscal year ending June 30, 1972; that there be a time limitation thereon of 30 minutes, to be equally divided between the distinguished ranking Republican member of the committee and the distinguished manager of the bill; that the time on any amendment thereto be limited to 1 hour, to be equally divided between the mover of such and the distinguished manager of the bill, with the exception of one amendment by the distinguished Senator from Massachusetts (Mr. KENNEDY) and one amendment by the distinguished Senator from California (Mr. TUNNEY), on each of which there be 30 minutes, to be equally divided in the same fashion; that any amendment in the second degree, motion, appeal, or point of order, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided in the same fashion.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. BYRD of West Virginia. I yield.

Mr. GOLDWATER. What is this going to do to the timetable relative to the Supreme Court nominations?

Mr. BYRD of West Virginia. Mr. President, it would depend, of course, on how many amendments are offered to the supplemental appropriation bill. But with the time limitation thereon, I think we can be assured beyond reasonable doubt that the Senate will begin its debate on a Supreme Court nomination during the afternoon, possibly the late afternoon.

Mr. GOLDWATER. Mr. President, will the Senator yield further?

Mr. BYRD of West Virginia. I yield.

Mr. GOLDWATER. On the same subject—because many of us returned early this morning thinking that the nominations would be brought up—does the leadership see any possibility of ending the debate and having a vote on the two nominations sometime tomorrow?

Mr. BYRD of West Virginia. I see no possibility of having the vote on the nominations tomorrow.

Mr. GOLDWATER. Would the Senator be willing to make a guess as to when there might be a vote?

Mr. BYRD of West Virginia. No, I would not. May I say to the distinguished Senator, with the utmost respect, that I cannot answer the question; and those Senators who do have to present a case in opposition to the nomination or nominations would be in the best position to respond to the question. I am not sure that they would know, either, at this time. It will not be today, and it will not be tomorrow.

Mr. GOLDWATER. Will Senators be taking a risk in being absent tomorrow?

Mr. BYRD of West Virginia. The Senator might risk missing a vote on a conference report, but I do not think there is the danger of his missing a vote on a nomination tomorrow.

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

Mr. BYRD of West Virginia. I yield.

Mr. BAYH. The Senator from West Virginia is absolutely honest in saying that he is not certain and suggesting that some of us who are deeply concerned about one of these nominations really could not give a specific date.

I think there could be no question—I can speak only for myself, of course—that so far as the Powell nomination is concerned, there would be little opposition. I know of no opposition, but there may be some. I think several of us would want to have a chance to explain our support in terms of some concern that has been expressed.

The Rehnquist nomination I think is going to take a bit longer—how much longer, I do not know. But as one person who is concerned, I would not want to have the vote set at a time without Senators having sufficient notice. In other words, there should be plenty of leeway so that Senators who have gone could get back.

Mr. GOLDWATER. Could the Senator give us any indication, from the knowledge he has of those opposed to Mr. Rehnquist, as to whether that might be Monday, Tuesday, Wednesday, Thursday, or someday?

Mr. BAYH. I think the latter—"someday" would be the best way to describe it. [Laughter.]

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Visitors in the galleries will keep in mind that they are guests of the Senate.

Mr. BAYH. I do not want anyone to misinterpret that. I do not intend to participate in any filibuster. We have a rather important decision to make. The arguments that some of us feel can be made persuasively against the nominee cannot be made in one-paragraph statements. It takes a rather well thought-out and well-presented argument, and we feel that we have an obligation to make this presentation. I am sure the other Members of the Senate will respect this feeling of obligation.

Mr. BYRD of West Virginia. Mr. President, I discussed this matter yesterday with the distinguished Senator from Indiana (Mr. BAYH), and I asked him at

that time if it might be possible at some point to determine a date and an hour at which a vote could be had on a confirmation or on the two confirmations, so that all Senators would be on notice; because I am sure that all Senators will want to vote on these nominations.

The distinguished Senator indicated that he would hope that that could be done, but that he was not in a position as of yesterday to suggest it. Whereupon I asked whether or not we would be likely to have a vote today, and he said he did not think so; I asked whether or not we would be likely to have a vote tomorrow, and he said he did not think so. I did not press the matter beyond that point.

The Senator indicated to me that he had no intention of unduly delaying the Senate, but he did want to present his case. He has a right to do that, and to take whatever time he thinks is justified in doing it.

I feel that the Senator and others who oppose the nominations will at some appropriate point cooperate with the leadership, as they always have, in attempting to determine a date and an hour, so that all Senators can be notified at least 24 hours in advance of such votes.

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

Mr. BYRD of West Virginia. I yield.

Mr. PASTORE. We have been here for a long, long time, with arduous sessions day and night. Now we are almost within the octave of Christmas. I hope we are going to be able to go home for Christmas. I do not yet know how I am going to vote on the nomination of Mr. Rehnquist, and I desire to hear an adequate debate. But I have been here long enough to know that the complete story can be recorded either the short way or the long way. I trust we are told the whole story the short way, so that, hopefully, perhaps by next Saturday we can return to our families. I think that would help us all. I think it would help the case of the proponents and of the opponents as well, if there would be a little consideration for the convenience, accommodation and comfort of all Members of the Senate.

I am not being critical of anyone. I am not asking anybody to rush his case. But I have been here long enough to know that it can take a long time to say the same thing that could be covered in a short time. I hope we use the shortcut rather than the long way. Brevity is the soul of worth as well as wit.

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

Mr. BYRD of West Virginia. I yield.

Mr. GRIFFIN. I want to focus on the pending request, which goes to the supplemental appropriation bill. As I understand, the Senator asked for a limitation of 1 hour on all amendments except two. Is that right?

Mr. BYRD of West Virginia. Except two. The distinguished Senator from California has two amendments, but on one he would be willing to cut the time in half, and so would the distinguished Senator from Massachusetts (Mr. KENNEDY).

Mr. GRIFFIN. Yesterday, when I was checking this out, the senior Senator from New York (Mr. JAVITS) indicated that he thought an hour ought to be allocated, particularly when we did not know what the amendments might be about. I wonder whether we could have some indication of what the amendments are about.

Mr. BYRD of West Virginia. Mr. President, I revise my request to allow 1 hour on all amendments in the first degree. The Senators, of course, can yield time back.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

My BYRD of West Virginia. I yield.

Mr. ERVIN. As I understand, the bill S. 2574 is to be debated for 2 hours.

Mr. BYRD of West Virginia. Yes.

Mr. ERVIN. I understand that there is no limitation on the time for voting and no limitation upon any amendments to that bill, and no limitation upon the time which could be devoted to a motion to commit it to some committee having jurisdiction.

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

Mr. ERVIN. I thank the Senator.

Mr. SPARKMAN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. McGEE. I yield, on the "company's" time.

SUBSTITUTION OF SENATOR ROTH FOR SENATOR BENNETT AS A CONFEREE ON H.R. 9961

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the junior Senator from Delaware (Mr. ROTH) be substituted for the Senator from Utah (Mr. BENNETT) as a conferee on the bill H.R. 9961, to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes.

The distinguished Senator from Utah (Mr. BENNETT), as we all know, is in the hospital recovering from surgery.

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

NATIONAL VOTER REGISTRATION ACT

The Senate continued with the consideration of the bill (S. 2574) to amend title 13, United States Code, to establish within the Bureau of the Census a National Voter Registration Administration for the purpose of administering a voter registration program through the mail.

Mr. BAYH. Mr. President, will the distinguished Senator from Wyoming yield to me briefly?

Mr. McGEE. I yield, on the "company's" time.

Mr. BYRD of West Virginia. Mr. President, would it not be a reasonable request to ask that this time being taken be equally divided between both sides?

Mr. McGEE. I would object to that. We have an agreement of 2 hours on this. I thought the Senator was referring to the yielding that we are doing here, but we are not talking about the subject matter we are here to discuss.

Mr. BYRD of West Virginia. All I am trying to do is to keep it all from coming out of the Senator's time.

Mr. McGEE. I do not want even half of it to come out of my time. I am objecting to the yielding on my time. That is the point. We tried to accommodate everybody on this. We tried to shift our position and advanced it to a later time of the day in order to move another bill. Now that that has been reversed by other decisions, I would like not to yield on our time.

The PRESIDING OFFICER (Mr. KENNEDY). Is it the position of the Senator from Wyoming that the 7 minutes which have transpired have been charged to the Senator from Wyoming? The Chair understands, from the request of the Senator from West Virginia that the 7 minutes would be divided equally between both sides. That would be 3½ minutes to each side. That was the unanimous consent request of the Senator from West Virginia. The Chair wants to know if objection has been filed by the Senator from Wyoming to that unanimous-consent request.

Mr. McGEE. In trying to be more than fair, I have yielded time in the interest of facilitating the business of the Senate and not in debating this particular issue on which we have an agreement. I want to record my objection to the deduction of 7 minutes from the time in which we were to be discussing another matter. It is customary in this body for that to be done.

The PRESIDING OFFICER. Is the Senator from Wyoming requesting that this 7 minutes not be charged to either side?

Mr. McGEE. In the spirit of expediting the business of the Senate and hoping we could get some kind of reciprocal——

The PRESIDING OFFICER. Is the Senator from Wyoming requesting that the 7 minutes not be charged to either side?

Mr. GRIFFIN. Mr. President, I object to the request but I ask unanimous consent that the 7 minutes be taken out of the time allotted to this side.

Mr. GOLDWATER. Mr. President, reserving the right to object, I should like to ask a question. There are six amendments being proposed by the distinguished Senator from North Carolina. I have two amendments. That is eight amendments. How much time are we allowed on each amendment?

The PRESIDING OFFICER. There is no specific time on amendments. Two hours total.

Mr. GOLDWATER. Two hours total, with no time limitation on amendments?

The PRESIDING OFFICER. There is no time limitation on amendments. Two hours total.

Mr. SCOTT. Mr. President, will someone yield me 1 minute——

Mr. BAYH. Mr. President, has the unanimous-consent request been objected to?

The PRESIDING OFFICER (Mr. KENNEDY). Is there objection to the re-

quest of the Senator from Michigan (Mr. GRIFFIN) that the time be charged to the minority leader?

Mr. BAYH. Mr. President, reserving the right to object, and I shall not object, I do not want to impose upon my good friend from Wyoming. The reason the Senator from Indiana rose earlier was not to take time away from his friend from Wyoming, but rather to try to put in perspective where we are going on future business. The very matter, the very issue which confronts us now, it seems to me, points up the inequities of the situation which existed. The measure being sponsored by the Senator from Wyoming and other Members of this body is an important piece of legislation. We have been allotted on this matter 2 hours of time and then we are no longer going to be able to consider it.

I hope that when the time comes to discuss the Supreme Court nominations perhaps we will also look to a time limitation. That will be controversial, and perhaps it can be treated in the same way, so that we can put it off and follow the leadership of the Senator from Rhode Island and go home with our families.

The PRESIDING OFFICER. Is there objection to the request of the minority leader? The Chair hears none, and it is so ordered.

Mr. SCOTT. Mr. President, will someone yield me 1 minute?

Mr. McGEE. May I ask on whose time?

Mr. SCOTT. On my time.

Mr. McGEE. Yes, I yield 1 minute to the Senator on his time.

Mr. SCOTT. Mr. President, we have had so much controversy about 7 minutes that I suggest further controversy be deferred and that Senators read the book on that subject.

Mr. PASTORE. I do not get it. [Laughter.]

Mr. McGEE. I would be content if Senators would take 7 minutes to read the report from the committee on S. 2524 because it says almost everything on this matter that we are deliberating now.

The committee addressed itself to the simple problem of trying——

The PRESIDING OFFICER. The Senate will please be in order.

Mr. McGEE. Mr. President, on whose time?

The PRESIDING OFFICER. On the time of the Senator from Wyoming.

Mr. McGEE. We are being called to order on my time?

The PRESIDING OFFICER. That is correct, so that the Senator can be heard.

Mr. McGEE. I thank the Chair. Now, if I may proceed, hopefully, with a minimum of delay—we address ourselves to this task for the purpose of removing the obstacles, the inequities and the contradictions in the registering of voters. We are following through from the effects of the Voting Rights Act of 1970 which said in regard to Federal elections, involving the President of the United States and the Vice President, that the limitations of any State on residence would be placed at 30 days. We observe that limitation and merely suggest in the pending legislation that it apply to Federal elections, to the Senate and Members of the House of Representatives. We do this for the simple reason, after very lengthy testimony from all segments involved in our society, that there are still almost 50 million Americans who otherwise would have been eligible to vote and did not vote. Of that 50 million, some, perhaps, never would vote. There are always people like that.

Among those, there were those, however, several millions, who were disqualified from voting because of complicated or involved registration requirements among the different States. With the mobility of our people, with the changing of residences, with the unquestioned importance of all people wherever they may be living in the United States being able to vote on Federal office holders, we have sought some formula for achieving this end, and that formula we have drafted in the form of the pending legislation.

This bill would simply permit the Census Bureau which in its testimony it agreed it can handle, to absorb a national voter registration operation in which, through the facilities of the Bureau, they would mail out the necessary registration information and material to all households in the United States, and the householder in examining that material with its options and its instructions on it would send in a postcard to his local authority, the county clerk in most cases, or whatever other local registration authority prevails in the several States.

We do not tamper with the local responsibility. That card, when received by the local authority and the signature of the individual would be examined by the county clerk who will determine whether, in his judgment, this is indeed a legitimate person and, at that point, he returns the accompanying post card, the first one, to the prospective registrant, affirming that he is, indeed, registered for Federal elections only—President, Vice President, Senator and Member of Congress. If the local county clerk makes his own determination that this may be a phony, or there is reason to suspect some kind of illegal operation, he is entitled so to inform the would-be registrant.

There are two courses open. Either the local authorities can deny the registration, and the name does not appear on their own rolls, or if there is larger evidence of some massive tampering with the process, they can request that the Federal agency involved assist them in verifying or disallowing the charge.

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

Mr. McGEE. I yield.

Mr. PASTORE. In my State, in order to guarantee the sanctity of the ballot, there has to be identification of the voter. As a matter of fact, when one goes to the polls in my State, after having registered at the proper place, whether it be the city hall, the town hall, or whatever the place might be, he signs his name and gives his address. When he goes to the polls, the officials have that information on hand, and the voter signs another form with his name and address, and that is compared with the previous information. How would the Senator provide for that in the particular case he is describing?

Mr. McGEE. The same voter information is supplied on the postcard, and that is mailed to the polling place.

Mr. PASTORE. I understand; but if the person is obliged only to send in a postcard to the registrar, how will his signature get on the record? Will the postcard precede him to the polling place? That is what I want to know.

Mr. McGEE. The local official has an option in handling that. The State's procedures are not changed.

Mr. PASTORE. I would assume that in the particular case which the Senator is describing the card would have to be on hand at the polling place.

Mr. McGEE. That is correct.

Mr. PASTORE. Once it is certified.

Mr. McGEE. Yes. We do not propose to change any of the State's procedures.

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

Mr. McGEE. I would prefer not to yield until I have finished my presentation.

Mr. ERVIN. I should like to ask the Senator how he would reconcile——

Mr. McGEE. May I reply to the Senator on the opposition's time? Would that be helpful? A number of Senators want to say something on this subject, and I am trying to protect their right to have something to say.

Mr. GRIFFIN. Mr. President, how much time would the Senator from North Carolina desire?

Mr. ERVIN. One minute.

Mr. GRIFFIN. Mr. President, I yield 1 minute to the Senator from North Carolina.

Mr. ERVIN. I refer to page 19, section 407, which provides as follows:

§ 407. Prevention of fraudulent registration

(a) Whenever a State or local official has reason to believe that individuals who are not qualified electors are attempting to register to vote under the provisions of this chapter, he may notify the Administration and request its assistance to prevent fraudulent registration. The Administration shall give such reasonable and expeditious assistance as it deems appropriate in such cases, and shall issue a report on its findings.

Under that, the local officials would have no authority whatever to check on that situation. They would have nothing but the self-serving declaration of the person who wanted to register and vote by mail.

Mr. McGEE. The State procedures would prevail only if some particular aspect developed to which the State did not feel it could address itself to. Then it may appeal to the agency for assistance in that regard, but only then. It would be anticipated that this would occur only in extreme cases, and the action would be initiated by the State itself, not by the agency.

The ultimate cooperative formula for setting up the process would be to have the U.S. Government agree to pay the costs of processing the volume of cards that would be returned. In the initial effort the United States would pay up to 15 percent if a State adopted a card system for registration instead of whatever system prevailed at the particular time in the State.

Finally, the United States would agree to pay up to 30 percent of the costs if the State adopted these standards for voter qualifications.

There is a simple proposal that residence be limited to 30 days and that the polls for registration may not be closed earlier than 30 days before the election. Those are the simple attributes of the mailing.

The real substance is we believe very strongly that we ought to remove the technical or contradictory barriers for people to vote.

The opportunity to vote, in terms of residence, is a key to our survival as a free society, and this is a system which can be held up to the rest of the world to examine.

This proposal would not inquire how one is going to vote. I gather from the dialog I have heard earlier that there are those who are afraid that others will learn how they voted. We do not concern ourselves about that.

We are concerned only with providing the opportunity to register to vote. Whether the person will vote or not is something we cannot determine.

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

Mr. McGEE. I yield.

Mr. PASTORE. I regret very much that I am interrupting the Senator from Wyoming, but I hope he will believe that I am trying to be constructive.

My State has voting machines which contain the names of all the candidates. The election for Governor occurs every 2 years. Naturally, every time we have a Federal election, we have a State election. Some cities have off year elections, and the candidates are nonpartisan, so there is no difficulty about that. But the election for Governor occurs every 2 years. Elections for State offices are held every 2 years. Elections for the general assembly are every 2 years; for the U.S. House of Representatives, every 2 years; for President and Vice President, every 4 years; and for U.S. Senator every 6 years.

Ordinarily—and I think it is the general rule—all the names appear on the face of the voting machine.

The question I raise is, Will this act become effective on its passage? In other words, is it intended by the bill to affect the 1972 election?

Mr. McGEE. If the provisions of the act say it becomes effective upon enactment.

Mr. PASTORE. They become effective upon enactment?

Mr. McGEE. The Senator is correct.

Mr. PASTORE. Therefore, if this legislation is enacted some time in the early part of next year, is it fair for me to assume that the State can look forward to some sort of subsidy to adjust to it?

Mr. McGEE. If they choose that route, yes.

Mr. PASTORE. Does the Senator feel that by the middle of 1972 the States can achieve uniformity so that a person who goes to the polls to vote for a Federal office can also vote for a State office? Otherwise, we will have an absurd situation if a person is qualified to vote for the President, but not for the Governor, since he is not registered under State law.

Mr. McGEE. The Senator is correct. We had a secretary of state testify before us. We also had Census Bureau officials and they agreed it might impose a burden the first time around, they still could handle it, and that it would not ground the system. Many were fearful that if they wanted it, manpowerwise the Federal Government would have to help supply assistance to prevent an inundation.

Mr. PASTORE. Mr. President, there is a National Association of Secretaries of State. Were the representatives of that organization before the committee?

Mr. McGEE. The secretary of state of Oregon testified. All the others were informed of it, and the opportunity was extended in the announcement of the hearings.

The secretary of state of Oregon volunteered to accept the notification of hearing and responded.

Mr. PASTORE. Mr. President, did the Senator hear from the secretary of state of Rhode Island?

Mr. McGEE. I do not recall that we did.

Mr. PASTORE. I would like to know that fact at some juncture, because I would like to go into the matter. The prospect disturbs me quite frankly. I agree with the objective, because we ought to facilitate as far as possible the opportunity for people to vote. Our Government operates by a democratic process—a government of the people, by the people, and for the people—and people ought to have every opportunity to vote.

We have one policy for the Federal Government and one for the State government. I wonder how the mechanisms will mesh so that we will have uniformity. Otherwise, very frankly, this will be a mess on election day if someone qualifies to vote for a Federal office, but does not qualify to vote for a State office.

Mr. McGEE. We already have a statute on the books, and this bill would simply add these two Federal offices to it.

Mr. KENNEDY. Mr. President, I am pleased to give my strong support to S. 2574, the National Voter Registration Act of 1971, which is designed to bring comprehensive and far-reaching reform to the crisis in voter registration we have known for so long.

The bill before the Senate contains five principal provisions:

First, it will establish a simple post card system for voter registration in all Federal elections throughout the Nation. Any qualified applicant would be able to register to vote in Federal elections merely by filling out a post card form that would be returned to the local registration office. At a single stroke, this provision will eliminate much of the complexity and inconvenience that currently plague the voter registration procedures in virtually every State.

Second, the bill will establish a period of 30-day residence prior to an election as the maximum residence qualification that may be imposed for voting in Federal elections. The bill would thus extend to voters in elections for Senators and Representatives the same residency requirement which title II of the Voting Rights Act of 1970 applies to voters in presidential elections. If adopted, this provision would reduce the impact of burdensome residence requirements, which operate now to disfranchise millions of mobile Americans who change their residence every year.

Third, the bill will require State and local registration officials to permit a qualified applicant to register to vote in all Federal elections up to 30 days prior to such elections, thereby maximizing the opportunities for eligible voters to participate in the election process.

Fourth, the bill will establish a National Voter Registration Administration within the Census Bureau, whose functions will be to administer the new Federal program, to assist State and local officials in carrying out the program, and to compile and publish voting information and statistics.

Fifth, the bill will provide specific financial incentives to encourage the State and local governments to accept the post card form for registration in non-Federal elections, and to reduce residence requirements for voting in such elections.

In recent years significant strides have been made in extending the franchise to those who have been denied the most fundamental right of all in a democratic society—the right to vote. The adoption of the 26th amendment to the Constitution, which lowered the voting age to 18 for all Federal, State, and local elections, is the most recent milestone in this respect. The decades of the fifties and sixties witnessed landmark legislation enacted by Congress to protect the franchise against the burden of racial discrimination. The Voting Rights Acts of 1965 and 1970 are the high watermark of these efforts to bring equal justice to the exercise of the franchise by all our citizens.

Although these achievements have done much to improve the quality of elections in the Nation, we cannot afford to rest on our laurels. The next great barrier we must overcome is the pervasive and insidious effect of existing voter registration systems that silence millions of eligible voters in State after State across the country. Indeed, the impact of recent legislation to expand and protect the right to vote has often been diluted by registration systems that present unfair and unnecessary hurdles to the exercise of the franchise in every election—Federal, State, or local.

It was in this context that the Senate Post Office and Civil Service Committee conducted hearings to consider a number of alternative legislative proposals, including a bill of my own, to reform voter registration in Federal elections. The pending legislation is the product of the committee's exhaustive and comprehensive hearings. It presents a sound and thoroughly reasonable approach to the reform we need. It deserves the unqualified support of every Member of Congress concerned about this contemporary blight on our democracy.

The need for this legislation has been generously documented by numerous studies on the discriminatory effects of

present voter registration systems, by statements made in this Chamber over many years, and by the eloquent testimony presented before the Post Office and Civil Service Committee. The hearing of these analyses is the finding that existing voter registration systems present an enormous and anachronistic impediment to the citizen's exercise of the franchise. It is clear beyond any reasonable doubt that the benefits of continued reliance on the present registration systems do not warrant the costs imposed by the resulting limitations on the citizen's right to vote. The message is clear: Reform is essential if our elections are to truly reflect the voice and the will of the people.

The historical explanations of our present plight in no way justify our failure to act. The origin of most voter registration systems came near the end of the 19th century. In large part, the development of such systems represented legitimate concerns of the State, such as a desire to prevent fraudulent and multiple voting. To some extent, however, the origin and perpetration of voter registration systems reflected more sinister purposes, such as the guarantee of political power in major cities of the Nation at the turn of the century, and the disfranchisement of black voters or other minorities. Indeed, the hearings on the 1965 and 1970 Voting Rights Acts, for instance, demonstrated that registration was often a guise to perpetrate and perpetuate racial discrimination by State officials.

Regardless of the reasons which motivated the adoption of these registration systems, their impact in reducing voter participation today is indisputable. It is no coincidence that in 1896, when States first began to adopt voter registration systems, approximately 80 percent of the Nation's eligible voters cast a ballot in the presidential election, whereas in 1924, after the last State had adopted a restrictive registration system, only 48 percent of the Nation's voters went to the polls. Nor is it any coincidence that between 1840 and 1900, when there were virtually no registration requirements, an average of 77 percent of the electorate participated in presidential elections, whereas the average participation since 1900, after the adoption of registration systems, has been approximately 60 percent.

In light of these depressing figures, it is fair to say that voter registration is perhaps the only area of American life in which the Nation was better off in the 19th century than it is today.

The persistence of these trends throughout the 20th century demonstrates that they are not a passing aberration but a deep-seated cancer in our existing political system. In 1960, for example, only 64 percent of the Nation's eligible voters cast ballots in the presidential election. Contrary to the views of many at the time—views that are echoed even today—the absence of millions of voters from the polls in that election did not reflect basic indifference by the people toward the exercise of the franchise. An extensive study of voting behavior in 104 cities in that election concluded, instead, that registration requirements are a more effective deterrent to voting than anything that normally operates to deter citizens from voting once they have registered. According to the study, 80 percent of those who failed to vote in 1960 were disfranchised by the burden of existing registration requirements.

In 1968, the pattern was no different. Only 61 percent of the Nation's eligible voters cast their ballots in the presidential election. Of the 120 million citizens of voting age, only 73 million went to the polls. Forty-seven million stayed home, at a time when President Nixon was winning the election with only 31 million votes. The significance of these lost voters is enormous. The impact can be appreciated most clearly when it is realized that for every vote separating the two major candidates in 1968, 150 citizens did not vote.

On the other hand, the discrepancy also underscored the obvious burden of registration systems: 72 percent of the 47 million who did not vote were not registered. But, of the 82 million voters who were registered, 89 percent cast ballots. The significance of this point is also clear. Americans who are registered are Americans who vote, and the way to improve the record of political participation in the Nation is to improve the methods by which we enable citizens to vote.

In this context, it is no surprise that subsequent studies have concluded that the most significant deterrent to the exercise of the franchise in 1968 was the registration requirement. On the basis of a survey conducted in December 1969, for example, Dr. George Gallup found that registration requirements, rather than lack of interest, explained the minimal voter turnout. Similarly, the Freedom to Vote Task Force, established by the Democratic National Committee in 1969 and chaired by former Attorney General Ramsey Clark, found that registration systems posed the most serious single impediment to full participation in the Nation's elections.

As in many other situations, the burdens of these complex and capricious registration systems weigh especially heavily on the disadvantaged groups within our society.

Only 66 percent of the Nation's black citizens were registered in 1968, for example, while the figure was 76 percent for the white population.

Only 53 percent of those in families with incomes of less than $3,000 were registered in 1968, while 82 percent of those in families with incomes between $10,000 and $15,000 were registered.

Only 69 percent of the Nation's manual workers were registered to vote, while 83 percent of the Nation's white-collar workers weer registered.

Only 49 percent of those with a formal education of 1 to 4 years were registered in 1968, while 87 percent of those with a college degree were registered.

Clearly, on the basis of these statistics, the burden of our present registration system falls most unfairly on the poor, the black, the less educated, and the blue-collar workers.

But these are not the only citizens in our society who bear the burden of existing registration requirements. Those in more privileged positions are not immune from the systems' defects. The inconvenience of traveling to the country courthouse during business hours to register in person often proves too time consuming for the busy doctor, lawyer, or business leader. Time and again, successful young executives in our mobile society are disenfranchised by residence requirements designed to meet the needs of another era. Similarly, the complexity of many registration forms is often sufficient to discourage even those who have both the determination and the intelligence required to fill out the form.

Many other circumstances often operate to preclude a citizen from exercising his right to vote. It is noteworthy, for example, that 12 States require reregistration if a citizen fails to vote at least once in 4 years, while 23 other States require reregistration if a citizen fails to vote once in 2 years. The plight of the absentee voter is no better. Forty-eight States disenfranchise or effectively impair the ability of citizens to vote by absentee ballot.

In the last analysis, the webs spun by existing voter registration systems ensnare not only the poor, the uneducated and the racial minorities. They trap us all. Rarely, I think, has a movement for reform so clearly cut across social and economic lines. The reform we seek will benefit us all, of whatever political affiliation or geographic region.

Thus, the defects of the present system are not confined to any one region within the country. Although the scope of a registration system's adverse effects may be shaped to some extent by the circumstances and practices prevailing in a particular State, the effects are largely the same throughout the East, West, North, and South. Even the most cursory examination of the evidence received in the hearings conducted by the Post Office Committee amply testifies to the quirks and obstacles that plague our voter registration system:

In a calculated attempt to discourage registration, local registrars in Cambridge, in my own State of Massachusetts, asked young citizens enfranchised by the 26th amendment, but not other applicants, if they were employed locally.

In Missouri, rural counties of less than 50,000 population have no registration requirements and, as a result, the voter turnout in elections in those counties is consistently 10–15 percent higher than the voter turnout in urban counties, which do have registration requirements.

In Mississippi, newspaper reports and other studies have consistently documented the fears of black citizens that registering to vote will result in reprisals from whites within the State and local governments. Racial discrimination is not the only defect that characterizes Mississippi's voter registration system. That State also closes its registration books 120 days prior to elections. Consequently, this year, registration closed on July 2—2 days after the 26th amendment was adopted and before thousands of young people could register to take advantage of their new right.

In Nashville, Tenn., in 1970, eligible voters had to travel to distant county court houses or to a limited number of

supplemental registration sites between the hours of 9 a.m. and 4 p.m. Such restrictions were a severe handicap to many businessmen, housewives, and others who schedules did not allow them the time to make the necessary trip, especially during those hours.

In New York City, a major effort to register voters prior to the 1969 mayoral race succeeded in adding only 70,000 voters to the rolls, or 3 percent of the total voting age population. In the end, only 35 percent of New York City's voters were registered. Today more than 2 million of New York City's eligible voters remain unregistered.

In Boulder, Colo., individuals seeking to apprise young citizens of their rights under the 26th amendment were ejected from registration lines even though those individuals dispensing information were not engaging in partisan campaign activities.

In Oregon, which has the third most lenient registration requirement in the country, the bureaucratic hurdles were still sufficiently large to preclude approximately 20 percent of the voting age population from registering. On this basis, Mr. Clay Myers, a Republican who has served as Oregon's Secretary of State for more than 6 years and who has the responsibility for supervising Oregon's voter registration system, testified in the hearings that most State election laws are so complex that they defy both good administration and fair enforcement. The laws, he said, are so overburdened with protection that, in effect, they no longer serve the electorate. Mr. Myers also emphasized that existing voter registration systems discriminate against our rural electorate nationally, because of the inaccessibility of registration facilities in many States.

In Inverness, Fla., a city attorney refused to register young voters because he believed the 26th amendment was invalid. A witness at the committee hearings testified that the attorney then added, "Besides, nobody told me I had to register them."

In Wyoming, the inaccessibility of registration facilities substantially accounted for the fact that 37 percent of that State's largely rural population did not register in 1968, although 89.1 percent of those who did register cast ballots.

Until this year, the voter registration books in Texas closed 9 months prior to the election. This system effectively disenfranchised more than a million otherwise eligible voters, and helps to explain the fact that only 44 percent of Texas voting age population cast ballots in the 1968 Presidential election. Earlier this year, a Federal district court held that the requirement was unconstitutional, as a denial of the equal protection of the laws. In its decision, the District Court noted a study which determined that for every additional month the registration books remained open, an additional 2.7 percent of Texas voting age population would be registered.

In Chicago, the inconveniences of registering are made manifest by a requirement that, except for 2 days, a voter must register in person in a county courthouse downtown. A labor union official testified that this requirement disenfranchised thousands of workers who could not leave their jobs. The defects of Illinois' voter registration systems are not confined to Chicago, however. In McLean County, Ill., for example, a student must be married and employed locally before he can register. In other parts of the State, young people enfranchised by the 26th amendment are asked if they own property, as a means of determining an intent to reside in the particular locale.

In South Dakota, a citizen must be a resident of the county for 5 years before he can register.

During different periods in the last century, Idaho refused to register persons who fell into one or another category of bad moral character—as well as citizens who taught that State laws are not supreme, or those of Chinese or Mongolian descent. More recently, Idaho has instituted reforms in its registration system and the results are instructive. In 1968, for example, Idaho closed its registration books only 2 days prior to the election; as a result, 72 percent of the voting age population cast their ballots. The significance of this reform is suggested by a comparison with other States with more severe restrictions. In Mississippi, for instance, where registration closed 4 months prior to the election, 50 percent of the population turned out in the 1968 presidential election, and only 33 percent in 1964. In Arizona, where registration closes 7 weeks prior to elections, only 51 percent of the electorate voted in the 1968 presidential election and only 55 percent voted in the 1964 presidential election.

These few examples merely touch the periphery of the problem that confronts us. But they do demonstrate the inequities and injustices which pervade our existing voter registration system. The problem is nationwide, and the most appropriate remedy is national legislation such as S. 2574.

Nor should there be any concern that adoption of S. 2574 will result in the electoral frauds which in part inspired the first voter registration laws. The bill contains ample antifraud provisions to prevent abuse of the postcard system. It preserves the virtue of the theory of registration, but it eliminates many of the worst features in its present practice.

Although no one suggests that we simply abolish all requirements of voter registration for the Nation, the experience of North Dakota is enlightening with respect to the reality of the danger of modern fraud. In 1951, North Dakota abolished its statewide voter registration system. Although towns with a population of more than 1,500 were permitted to adopt local registration systems, none has yet accepted this invitation from the State. Since 1951, approximately 70 percent of North Dakota's electorate has voted in presidential elections. There is no evidence of any fraud being perpetrated because of the absence of a voter registration system. Indeed, the Post Office Committee received specific testimony on a detailed study of North Dakota elections, which concluded that the extent of electoral fraud in North Dakota since 1951 has been negligible. The same conclusion was drawn on the experience of other States, such as California, Idaho and South Carolina, which have experimented with universal enrollment programs. Indeed, there was testimony in the hearings that the incidence of election fraud is greatest in those States which have the most complicated registration systems.

The import of these comparisons is clear. Whatever the circumstances at the turn of the century when voter registration systems were first adopted, these systems no longer protect the public from the dangers of fraudulent election returns today. Instead, existing voter registration systems now serve mainly to exclude millions of otherwise eligible and interested voters from expressing their political preferences at the polls.

The fraud we have to fear today is not the sort of individual fraud that registration itself can prevent. The real fraud we have to fear is the so-called "institutional fraud"—fraud carried out with connivance or acquiescence of local officials at the polling places on election day. That is a problem that will exist whether or not we enact S. 2574, and no serious contention can be made that the pending bill will contribute in any substantial way to that or any other kind of fraud.

It should also be emphasized that adoption of S. 2574 will not impinge upon the States' constitutional power to determine voter qualifications. Apart from the modest changes in residence requirements which is well within the constitutional power of Congress, the States will continue to decide whether a citizen is a resident of the particular State. No Federal official will be authorized to interfere with State registration procedures, unless the State explicitly requests the assistance of the National Voter Registration Administration. In the end, the State will remain the master of its own house, and the political process in America will be the richer.

For decades we have tolerated voter registration systems that unduly encumber and restrict the right to vote. Ostensibly designed to protect the integrity of elections, their primary impact has been to undermine the ability of citizens to exercise the franchise. Since the right to vote is at the core of all other rights in our society, the harm these registration requirements have done to our democracy is incalculable. Their prolongation in modern American life is an insult to our democracy and, in a very real sense, a national tragedy that extends beyond any possible politics of the moment.

The tragedies of the past are lessons to learn from, rather than standards to to live by. We have the opportunity to achieve real reform in this long neglected area of our political life. Perhaps in the wake of the bitter partisan passions unleashed by the debate over the campaign fund amendment, it is asking too much for the Senate now to lay aside narrow considerations of partisan political advantage. But I hope we can rise to the occasion, and enact this legislation in the bipartisan spirit we ought to share as we extend the right to vote to millions of our fellow citizens.

Mr. President, I ask unanimous consent to have printed in the RECORD at

this point two earlier statements I have made on this subject—the testimony I presented on October 5, 1971, at the hearings by the Post Office Committee, and my Senate floor statement when I introduced my registration bill, S. 2457, on August 5, 1971.

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

TESTIMONY OF SENATOR EDWARD M. KENNEDY ON HEARING ON VOTER REGISTRATION BEFORE SENATE COMMITTEE ON POST OFFICE AND CIVIL SERVICE, OCTOBER 5, 1971

Mr. Chairman, I am pleased to have the opportunity to appear this morning before your distinguished Committee to testify at these important hearings on the subject of voter registration. Although I am here primarily on behalf of S. 2457, the registration bill that I introduced last month, I am pleased to note, Mr. Chairman, that a wide variety of other proposals are also pending before the committee, including your own significant legislation. The wealth of proposals before you is strong evidence of the urgent need for action at the federal level, and I commend you, Mr. Chairman, for the skill and attention you are bringing to this long-neglected area.

For a nation that likes to call itself the greatest democracy in the history of the world, the present system of voter registration in America is a national scandal. Incredible as it may seem, of all the basic rights that Americans hold dear, the way we exercise the right to vote is the one we have neglected most.

For generations, universal suffrage has been our goal. Time and again, we have fought to extend the franchise, in order to insure that every citizen has the right to share in the political life of the nation through participation at the polls. The route we have travelled since the Civil War is marked with milestones testifying to the steady progress that we and those who came before us have made to broaden our democracy.

You know the steps as well as I—the many historic amendments to the Constitution, culminating most recently in the reduction of the voting age of 18, thereby opening up the franchise to millions of new voters; the dramatic reapportionment and other decisions of the Supreme Court; and the landmark legislation passed by Congress in the area of civil rights and voting rights in the decade of the fifties and the decade of the sixties.

But after every milestone, we always rested on our laurels. We left the job half done. We failed to take any steps at all to insure that the rights we wrote into the Constitution and the statute book could be exercised in fact, instead of just celebrated in theory. For millions of Americans, the right to vote they had newly won was a thing they could admire, but never use. And registration was the villain. For generations—indeed, throughout the twentieth century—every American who sought to exercise his right to vote has had to run the gauntlet of arbitrary, unfair and obsolete requirements of voter registration. Confronted by such requirements, millions of potential voters fell by the wayside at each election, and millions more refused to even try.

And when I say millions, I mean millions. Take the figures for Presidential elections, the elections in which Americans traditionally have the strongest incentive to participate. In the election of 1960, 39 million Americans failed to vote. In 1964, the figure rose to 43 million. In 1968, it rose to 47 million. By 1972, if the trend continues, there will be 56 million Americans who do not vote.

If any single figure has come to symbolize the crisis of voter turnout in America, it is the figure for 1968. Of the 120 million potential votes in the presidential election that year, only 73 million—or 61%—actually went to the polls. Forty-seven million people stayed home, at a time when President Nixon was winning with only 31 million votes. Forty-seven million people stayed home, and yet the margin that separated Mr. Nixon from Mr. Humphrey was less than a million votes.

Just as a few years ago, the 155 wealthy citizens who paid no taxes became the symbol of the taxpayers' revolt and launched the movement that led to the Tax Reform Act of 1969, so I believe the 47 million lost voters who stayed home in 1968 have become the symbol of a voters' revolt that will demand an end to the unconscionable practices of voter registration that operate today to keep so many citizens from the polls.

The voting record of America becomes even more dismal when we compare it to the record of other Western democracies. A year ago in Britain, 72% of the eligible voters went to the polls, and yet they called it one of the lowest turnouts in British history. In the most recent elections in other European nations, the turnout has been even higher—75% in Ireland, 76% in Canada, 80% in France, 87% in West Germany, and 89% in Sweden and Denmark.

We know that the situation has not always been this way in the United States. Consistently throughout the latter half of the 19th century, voter turnout in our presidential elections ranged in the neighborhood of 70% to 80%. Twice, it exceeded 80%, and only once did it drop as "low" as 70%.

Since 1900, however, we have not seen even the 70% level again. Seven times in this century the turnout fell below 60%. Twice it fell below 50%. Clearly, in spite of the enormous progress that the twentieth century has brought us in so many other areas, we have moved backward in the crucial area of voter participation.

The cause is not far to seek. Study after study in recent years has demonstrated that the heart of the problem is our archaic system of voter registration. It is no accident that the sharp decline in voter turnout at the beginning of the twentieth century coincided precisely with the advent of voter registration. As historians have shown, the present pattern of voter registration in literally every state is a legacy of the wave of election reform that swept America at the turn of the century. In part, registration was adopted as a means to end the widespread voting frauds and other abuses that mar elections in city after city across the nation. In part, registration was also adopted for the darker purpose of discouraging minority groups and other classes from going to the polls, especially black citizens in the South.

Today, in spite of the enormous progress we have made in so many other areas of public life, we are still using voter registration methods which were, perhaps, sophisticated in the days of President McKinley and William Jennings Bryan, but which are generations out of date today. In almost every other sphere in which governments now operate—at the federal, state, or local level—they use the tools of the modern world, especially in the area of communications and computers. If governments collected taxes the way they register voters today, they'd be so bankrupt that even revenue sharing could not bail them out. Why is it that Americans pay their taxes by computer, when they still have to register to vote by methods as obsolete as the Pony Express or the Model T?

Today, long after the nineteenth century registration methods have outlived their rationale, they continue on as burdens on our democracy. Oliver Wendell Holmes put the issue well nearly a century ago in his famous address, "The Path of the Law," when he said:

"It is revolting to have no better reason for a rule of law than that so it was laid down at the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past."

There is ample evidence that registration is the key to improvement of voter turnout. Of the 82 million Americans who were registered to vote in 1968, fully 73 million—or 89%—went to the polls and cast their ballots on election day.

This is the real lesson for the future. Americans who register are Americans who vote. If our goal is to bring America to the polls, the place to start is with voter registration.

In state after state throughout the country, we see the chaos and confusion in our present registration system. Wherever we look, we find that registration is an obstacle course for the voter instead of the open path to the polls it ought to be. The defects of the present system are not confined to any state or geographic region. They go by names like early closing deadlines, unreasonable purges and re-registration requirements, inaccessible registration offices, and lack of absentee registration. The obstacles are endless:

In one state, registration closed last Saturday for the presidential primary eight months away next spring. And that state is not alone. A recent study cited fifteen states in which the registration books close more than a month before the election.

In many of the nation's cities and counties, there is no local registration. The only place a citizen can register to vote is at City Hall or at the central downtown office of the Board of Elections.

In other places, the problem is even worse. The only place to register may be the county courthouse outside the city limits.

For millions of residents in communities like these, the inconvenience of a trip downtown or out of town is an overwhelming deterrent to registration. Often, the expense of the trip itself is sufficient to inhibit registration—in effect, a poll tax that denies the right to vote as surely as the outlawed poll taxes used to do.

For those who find their way to the registration office they often learn that the problems have often only just begun. Frequently, the office is open only a few hours a day, or a day or two a week. Sometimes it may be necessary to make an appointment in advance. Sometimes the registrar simply shuts the office that day if no applicants arrive. In other cases, all but the most determined voters give up on the face of the endless lines and waiting periods inside the local office door.

The examples I have cited are just the tip of the iceberg. But they are enough, I think, to identify the problem and to demonstrate the need for early and effective action by Congress. Without legislation at the federal level, I fear that the inertia of nearly a century of past and present practice will prevail, and that we shall lose this timely and fertile opportunity to make government more responsive to the people.

Thanks in large part to the growing national outcry in recent months by registration groups across the country, the momentum for reform is building. Although much of the new momentum comes from the adoption of the constitutional amendment that lowered the voting age to 18, the current movement for reform is not just a youth movement. The frustrations and inequities of our present registration system cut across all age and economic lines.

Nor is the movement for reform a partisan affair. Indeed, it is a tribute to the growing bipartisan interest in the problem that the

man so far who has done the most in this area is Senator Barry Goldwater, who sponsored Title II of the Voting Rights Act Amendments of 1970, which accomplishes three important purposes:

It eliminates residence requirements for voting in presidential elections.

It requires every local election district to keep its registration offices open until 30 days before such elections.

And, it requires the states to establish procedures for absentee registration in such elections.

The 1970 statute is one of the rare laws of nationwide application ever passed by Congress in the area of voter registration. As such, it is a major landmark in our efforts for reform, and it lays a solid foundation for the legislation we seek today.

There are a number of possible approaches that Congress can take in dealing with the problem. As I shall describe at the conclusion of my testimony, I believe the time has come for Congress to enact a comprehensive program of universal voter registration.

Fortunately, however, we now find ourselves in the happy circumstance that a variety of measures we could enact will ease the problem. And so I urge the Committee, in the well-known words of Louis Brandeis, that if we are to guide by the light of reason, we must let our minds be bold. We have the opportunity to enact a far-reaching program of reform that can truly be a beacon in years to come for full citizen participation in our democracy. Or, we can accept half-way measures, secure in the knowledge that they will do some good and reflect themselves in future election statistics, even though they do not accomplish all we are capable of doing.

At the outset, let me say that I think we could accomplish a great deal if we simply applied Title II of the Voting Rights Act Amendments of 1970 to all Federal elections, not just to presidential elections. By the addition of a handful of words to Section 202 (d) of the Act, for example, we could eliminate at a single stroke the enormous obstacle that early registration deadlines now present in many states.

Such a change would impose only a small additional burden on the states. Since Title II is already on the statute books, it is clear that every State is now obliged to maintain dual registration procedures—one for presidential elections, and another for all other elections. The question we face, therefore, is not whether a dual registration system should be used in the States. That has already been decided. Rather, the question is what the content of the dual registration system should be.

We could also make substantial progress simply by providing federal financial assistance to encourage states and local governments to streamline their voter registration systems. Already, for example, South Carolina has initiated a state-wide computerized registration system, and the State of Washington is now in the process of launching a similar system of its own.

To encourage State and local initiative in this area, the Federal Government could adopt a variety of possible financial incentives, including subsidies for computer programs and special additional incentives based on either the percentage of eligible voters registered or the number of new registrants.

In addition, Congress could provide financial assistance to encourage the States to adopt a variety of other progressive registration methods, many of which were recommended by President Kennedy's Commission on Registration and Voting Participation in 1963, but most of which are far too seldom used today. Such assistance might include, for example, incentives for door-to-door canvassing, along the lines proposed in Senator Inouye's bill and now used in Idaho, Canada, and many European nations, the generous use of deputy registrars in peak registration periods, the use of mobile registration units, precinct registration, neighborhood registration, and the use of temporary registration desks in public office buildings, shopping centers, fire houses, state fairs, schools, churches, college campuses, and other convenient locations.

I believe, however, that we should not stop with such half-way measures. The proposal I favor is contained in S. 2457, the University Voter Registration Act I introduced last August in the Senate to establish a comprehensive program of voter registration for Federal elections. The bill contains the following principle provisions:

First, it would provide a single post card form by which any citizen could register to vote in Federal elections simply by filling out a post card application that establishes his voting residence.

Second, the post card forms would be processed by a new bipartisan agency, Voter Registration Administration, created in the Census Bureau. Through its computer system, regional and local offices of the Agency would compile voting lists by precinct for each State throughout the country, and would make the lists available to state and local officials at appropriate times before each election.

Third, in accord with existing law applicable to presidential elections, registration under the new program would close 30 days before each election.

Each of these provisions would accomplish major reforms. Taken together, they would eliminate essentially all the arbitrary, unfair, and confusing requirements of our present registration system, and they would save millions of dollars for state and local governments in the bargain.

Equally important, the system would do nothing to impair state and local control over elections. In a sense, the Federal Government would simply be carrying out the ministerial function of registering voters. State and local officials would retain full control over the registration lists, but they would be spared the enormous financial and administrative burden of compiling them.

Finally, let me speak briefly about the constitutional basis for this legislation. Article I, Section 4 of the Constitution gives Congress the power to regulate the "Times, Places and Manner" of holding Federal elections. And that authority alone is ample enough to justify action to reform voter registration proceedures. As long ago as 1932, the Supreme Court held in Smiley v. Holm, 285 U.S. 355 (1932) that:

"It cannot be doubted that these comprehensive words (those of Article I, Section 4) embrace authority to provide for a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices.. ." Id., at 366.

In addition, it is clear from a long line of Supreme Court decisions, culminating in Oregon v. Mitchell, 400 U.S. 112 (1970), decided last December, that Congress has broad authority to legislate in the area of substantive voting qualifications as well. In the Mitchell case, the Court specifically upheld the constitutionality of the 1970 statute reducing residence requirements for voting in presidential elections. The decision was by an overwhelming 8-1 majority. As such, it is a strong precedent for the reduction by statute of residence requirements in other Federal elections, and the modification of registration procedures.

In sum, Congress now has the opportunity to breathe new life into the political process in America. There is perhaps no more important step we could now take to make our democracy more responsive to the people. If we act now to end the morass of voter registration, we can revitalize all our public institutions and build a stronger nation for tomorrow.

Mr. Chairman, let me say again that I appreciate this opportunity to appear here this morning. I would like to submit for the record of these hearings a copy of the statement I made introducing S. 2457, which contains a more detailed explanation of the bill and its constitutional justification.

[From the Congressional Record, Aug. 5, 1971]

UNIVERSAL VOTER REGISTRATION FOR FEDERAL ELECTIONS

Mr. KENNEDY. Mr. President, on behalf of myself and Senators BAYH, EAGLETON, HART, HARTKE, HUGHES, MAGNUSON, MCGOVERN, MONDALE, MUSKIE, PELL, RIBICOFF, and WILLIAMS, I send to the desk a bill to establish a Universal Voter Registration Administration in the Bureau of the Census, and I ask that it be referred to the Committee on Post Office and Civil Service.

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

Mr. KENNEDY. Mr. President, the bill would contain the following principal provisions:

First, it would provide a simple post card system of voter registration, in which any citizen could register to vote merely by filling out a post card application form.

Second, burdensome residence requirements under existing laws would be abolished. Simply by filling out the address of his residence on the post card form, a citizen would establish his voting residence.

Third, a new computerized agency created within the Census Bureau—the Universal Voter Registration Administration—would process the post card forms, compile voting lists by precinct throughout the country, and make the lists available to State and local election officials at appropriate times before any election.

Fourth, use of the new system would be mandatory for all Federal elections, and optional for all Federal elections, and optional for State and local elections. Where the system is used for State and local elections, however, the Federal list must be accepted intact. No person entitled to vote in Federal elections can be deleted from the list for failure to meet other qualifications.

The time has come to take another major step forward in our national quest for universal suffrage. To be sure, we have made great strides in recent years. But always in the past, our efforts have ignored one of the most burdensome qualifications for voting—the requirement of registration, a requirement that operates to disfranchise tens of millions of Americans in every Federal election.

One of the brightest chapters in the history of America is the progress we have made toward our goal of universal suffrage and full participation by every citizen in the political life of our Nation. The route we have traveled in the past 100 years since the Civil War is marked with the major milestones of the efforts we have made to broaden our democracy. Indeed, six of the last 12 amendments to the Constitution have been concerned with extending the right to vote.

The 15th amendment, adopted in 1870, guaranteed the vote to citizens regardless of their race or color.

The 17th amendment, adopted in 1913, provided for the direct popular election of Senators.

The 19th amendment, adopted in 1920, extended the franchise to women.

The 23d amendment, adopted in 1961, extended the franchise to citizens of the District of Columbia in presidential elections.

The 24th amendment, adopted in 1964, abolished the poll tax as a condition of voting in Federal elections.

Most recently, the 26th amendment, adopted last June, extended the franchise to 18-year-olds in all elections.

Hand in hand with these great constitutional amendments have come a series of

landmark decisions by the Supreme Court and historic laws by Congress, all concerned with insuring the broadest possible exercise of the right to vote. Within our recent memory, legislation like the Civil Rights Acts of the fifties and sixties and the Voting Rights Acts of 1965 and 1970, and the one-man, one-vote decisions of the Supreme Court, stand as eloquent tributes to the Nation's continuing commitment to extend and secure the right to vote.

Now the time has to come to take another great step, by ending the arbitary and unfair practices of voting registration that operate in so many States to deny the right to vote. Having stripped away so many other blatant impediments to the right to vote, the existing practices of voters registration in America can be seen all the more clearly for what they are—an arbitrary, obsolete, and unfair system by which vast numbers of Americans are silenced at the polls. In spite of the progress we have made in extending the franchise, the voting record of America ranks among the worst of all the great democracies of the Western World.

Of the 120 million potential voters in the presidential election of 1968, only 73 million or 61 percent—actually went to the polls. Forty-seven million people stayed home, at a time when the winner—President Nixon—was receiving only 31 million votes. Incredible as it may seem, half again as many people stayed away from the polls as voted for the man who is our President.

In 1970, in Britain, by contrast, 72 percent of the eligible voters went to the polls, and yet they called it one of the lowest turnouts in history, the lowest since 1935. In the most recent elections in other democratic nations, the turnout has been even higher—75 percent in Ireland, 76 percent in Canada, 80 percent in France, 87-percent in West Germany, 89 percent in Sweden and Denmark.

The low turnout of American voters has been a consistent flaw in the political life of our Nation for many years. In the presidential election of 1900, the turnout was 73 percent. Not once since then has our voter turnout exceeded 66 percent. Seven times it fell below 60 percent. Twice, in 1920 and 1924, it fell below 50 percent.

And yet, it has not always been this way. Throughout the greater part of the 19th century, voter turnout in our presidential elections ranged in the neighborhood of 70 percent to 80 percent. The highest turnout was in 1876, when 82 percent of the potential voters went to the polls. The lowest was in 1852, when "only" 70 percent did so.

It is no coincidence, therefore, that the turn of the century, which saw the advent of voter registration, also saw a sharp decline in voter turnout. According to a recent study, registration was adopted at the turn of the century partly for the worthy purpose of prohibiting the abuses of machine politics in the growing cities of the North, and partly for the darker purpose of disfranchising black citizens in the South. Today, as this history strongly implies, the requirements of voter registration is the largest single obstacle to the right to vote in America.

The figures in 1968 tell the story. Of the 120 million potential voters in the presidential election of 1968, only 82 million—or 68 percent—were registered to vote and therefore eligible to go to the polls on election day. But of that number, fully 73 million, or 89 percent, actually went to the polls and cast their ballots.

The lesson is clear. Americans who are registered are Americans who vote. Of the 47 million citizens who stayed home on election day, the overwhelming majority—38 million, or 81 percent—were not registered to vote. Only 19 percent of those who stayed home were citizens who were registered to vote.

THE PRESENT SYSTEM OF VOTER REGISTRATION

Clearly, the paramount cause of America's dismal record of voter participation today is our inadequate nonsystem of voter registration. Virtually without exception, the registration laws of the 50 States and the District of Columbia are a nightmare of confusing, conflicting, and overlapping requirements, ranging from Missouri, which has six different registration systems for cities, depending on their size, and a seventh system available to counties at their option, to North Dakota, which has no statewide laws requiring voter registration, although local jurisdictions may do so at their option.

The defects of the present system are well known. They are not confined to any particular State or region of the country. They are as current as today's headlines:

With the exception of 3 days of precinct registration 30 days before an election, the only place that a person can register to vote in the Nation's laregst city is at the downtown central office of the Board of Elections. For thousands of the city's residents, the expense and inconvenience of a trip downtown are overwhelming deterrents to voting.

The situation is the same in a large midwestern city. With the exception of 3 days of registration in local precincts a month before an election, the only place that anyone can register is at City Hall. Year round, with the exception of these 3 days, there is one central place for voter registration in the entire city. For thousands of citizens, the path to the polls is made unnecessarily difficult by the requirement of central registration.

In another midwestern city, shortly before a primary election last spring, approximately 2,500 black citizens were purged from the voter lists. They were not notified of the action until less than a week before the primary, when they were told that if they wished to be reinstated on the lists, they would have to go in person to the county courthouse, which is outside the city limits.

A much more extensive purge took place in a large eastern city in connection with a primary election last spring. Before the primary, somewhere between 80,000 and 90,000 citizens were purged from the lists of eligible voters.

And, in a major Southern State, large numbers of potentially eligible citizens will be denied the vote in the coming fall elections because of the State's requirement that voter registration books must close 4 months before an election. The burden of this early closing requirement falls most heavily on young citizens newly enfranchised by the 26th amendment to the Constitution, which lowered the voting age to 18 in State and local elections. The amendment was ratified on June 30. Less than 48 hours later—at 5 p.m. on July 2—registration closed, thereby effectively depriving tens of thousands of young residents of their newly won right to vote. Yet, we know their strong desire to vote. In the 2 short days of registration, there was a rush to join the voter rolls. According to press reports, large numbers of eager 18- to 20-year-olds formed long lines outside courthouses throughout the State, hoping to register on the 2 available days. But many were turned away, still standing in line, at the close of business on July 2.

These examples are only the tip of the iceberg. Comparable problems and obstacles can be found in every community throughout America. Wherever we look, we find citizens disfranchised by our archaic registration system.

Typically, State and local registration rolls are unwieldy, inaccurate, and obsolete. A large percentage of the names are persons no longer qualified to vote because of death, conviction of a crime, change of residence, or other reasons. In order to keep the lists at least reasonably current, the States are driven to the use of arbitrary rules, such as the disqualification of voters who fail to vote in a previous election, or requirements of annual or periodic re-registration.

The burden of our present system of voter registration are multiple. Frequently, they are a thin disguise for blatant racial discrimination against the right to vote. The hearing records of Congress during the debates of the Voting Rights Act of 1965 and its extension in 1970 are replete with examples of such discrimination.

For some citizens, registration means loss of income through loss of time on the job or time away from business. Many individuals simply cannot take time off to register during working hours, and are thereby relegated to the status of second-class citizens.

For others, the most important burden is the sheer difficulty and inconvenience of the registration process. Too often, registration is an obstacle course for the voter instead of the incentive to total participation it ought to be. The obstacles are enormous. Many citizens find it difficult to determine where and when they can register. They refuse to endure the long lines and waiting periods. They are baffled by the inaccessibility of registration offices. In some States, registration offices may be open only a few hours a day or week. Other States prohibit precinct, neighborhood, or mobile registration. They allow registration only in the county courthouse, which may require a trip downtown or even out of town. Frequently, the expense of the trip itself is sufficient to inhibit registration—a de facto poll tax that frustrates the right to vote.

For still others, there is the problem of early registration deadlines. In a number of States, the registration books close weeks or months before the election, and there is no opportunity whatever to register in the period immediately preceding the election. In Mississippi, the registration offices close 4 months before the election—the rolls are routinely purged after the deadline, so that a citizen erroneously removed from the list has no opportunity to register again. In 14 other States with early registration deadlines—Arizona, California, Colorado, Georgia, Hawaii, Kentucky, Michigan, Montana, Nevada, New Jersey, New Mexico, Ohio, Pennsylvania, and Rhode Island—the registration books close more than a month before the election.

For yet another group of citizens, especially those who travel frequently, who are away from home for extended periods, or who are ill or disabled, the problem is the lack of any procedure for absentee registration. Although virtually every State has established absentee voting procedures, few have taken the additional step of establishing absentee registration procedures as an alternative to the traditional requirement that registration must be in person.

And finally, for another substantial group of citizens, the burden is one of unreasonable re-registration requirements. In Texas, for example, annual re-registration is required, a procedure declared unconstitutional by a Federal district court earlier this year and now the subject of an appeal. Other States require voters to renew their registration so frequently that many citizens simply find themselves unable to keep up with the requirements. Often a citizen arrives at the polls to vote, only to be told that his registration has been canceled because he failed to vote in the previous election, even though he was never given notice of the cancellation.

An especially insidious aspect of the problem of registration is the evidence that the burden of State and local registration requirements falls most heavily on the poor,

the black, the uneducated, and manual and service workers. For example, according to a census study of the 1968 election, 87 percent of those with a college degree are registered to vote, whereas only 49 percent of those with 1 to 4 years education are registered. And, two decades of hearings in Congress on Civil Rights Acts and Voting Rights Acts have overwhelmingly demonstrated the ease with which voter registration requirements lend themselves to discriminately application.

THE BURDEN OF RESIDENCE REQUIREMENTS

Impediments to the right to vote of a different sort, but no less burdensome for millions of citizens, are the hundreds of different State and local residence requirements that now exist throughout the Nation. Typically, under present voting laws, a potential voter must fulfill three different residence requirements before he is entitled to vote—he must have resided in his State for periods ranging from 6 months to a year; he must have resided in his county for periods from 30 days to 6 months; and, he must have resided in his precinct for periods from 10 to 30 days. In some jurisdictions, the minimum residence requirements is lower, many, it is substantially higher.

In the quieter and less mobile era of our history when these residence requirements were imposed, the burden was not as huge as it is today. The Census Bureau estimates that every year, 20 million Americans, or 10 percent of the population move their residence from one State to another. On the average, each family in the Nation moves its residence once every 4 years.

The plight of the disfranchised mobile voter in America is well known, and no extended discussion is needed here. As many experts have noted, the right of a citizen to travel freely from State to State is one of our fundamental rights protected by the Constitution, and the exercise of that right should never trigger the loss of an even more basic constitutional right, the right to vote.

Last year, as part of the statute lowering the voting age to 18, Congress took a significant step to alleviate the burden of so-called durational residents requirements by reducing such requirements to 30 days for voting in Presidential elections.

Now the time is ripe for Congress to go further, and there is growing sentiment in the Senate to make the same 30 day requirement applicable to all Federal elections. Indeed, a bill to this effect has recently been introduced in the Senate by Senator JOHN TUNNEY of California, with strong bipartisan support, and similar legislation has already been introduced by Senator HAROLD HUGHES.

BACKGROUND OF EFFORTS TOWARD UNIVERSAL VOTER REGISTRATION

In recent years, discussions of various proposals to establish a system of universal voter registration for the United States have dwelled essentially exclusively on what may be called local action methods—that is, door-to-door canvassing at the local level, at the initiative of local jurisdictions. Each of two major studies of the decade of the sixties has recommended this approach, partly because it is the approach apparently responsible for the higher voter turnouts in foreign democracies, and partly because of philosophical and constitutional objections to methods relying on the initiative of the Federal Government.

The first study was made by the President's Commission on Registration and Voting Participation, established by President Kennedy in March of 1963, chaired by Richard Scammon, the Director of the Census Bureau at that time, and charged with the task of determining the reasons for low voter turnout in America and recommending solutions. The Commission's report in November of 1963 was a major milestone in the analysis of the complex psychological and legal factors that lie at the heart of the problem.

The Commission made more than 20 major recommendations to end restrictive legal and administrative procedures inhibiting the right to vote. In the area of voter registration, the Commission urged the State to adopt procedures to make registration easily accessible to every citizen. As patterns to be followed, the Commission pointed to the example of Canada and noted a number of States and communities in America that had successfully used registration procedures involving door-to-door canvassing, deputy registrars, and mobile registration units.

The second major study was prepared by the freedom to vote task force, established by the Democratic National Committee in 1969 and chaired by Ramsey Clark, the former Attorney General of the United States. Notwithstanding its partisan sponsorship, the report of the task force, entitled "That All May Vote," is a persuasive nonpartisan document challenging the Nation to end the abuses we have endured for so long and to act to increase the strength of our democracy. As the report states:

People who vote—believe in the system. They participate. They have a stake in government. But, to the nonparticipants their stake in government is not so apparent. Their alienation from the system is harmful not only in their own lives, but it threatens the survival of democracy itself.

Registration efforts must not be concerned with how people vote. The important consideration is that they vote. We can live with decisions made by a full electorate, but those who do not participate may be unwilling to live with decisions they had no voice in making. We must do everything within our power to encourage them to vote. Let the people choose.

The report of the task force made clear that voter registration is the real villain, the principal barrier that stands between the citizen and the ballot box. As in the case of the 1963 commission study, the report pointed to the success of "local action" for voter registration in South Dakota, Idaho, and in parts of California and Washington, and urged a similar program for America. The proposal was introduced in legislative form in the 91st Congress by Senator INOUYE, a member of the task force, and it has been reintroduced as S. 1199 in the present Congress.

Because of doubts that have been raised about the feasibility of the "local action" approach to voter registration, progress has been slow in efforts to implement such proposals. More and more, attention has turned to the alternative of a "Federal" system of voter registration to achieve the universal system we need.

The Senate look a major step in this direction last June, when it approved by the vote of 47 to 31 an amendment to the draft bill, authorizing selective service offices to register 18-year-olds to vote at the time they register for the draft. And, Senator HUMPHREY is offering a similar proposal to use the facilities of the Internal Revenue Service to promote voter registration.

In large measure, recent Supreme Court decisions have eliminated possible constitutional objections to a Federal system of universal voter registration. Now and for the foreseeable future, I believe that such a system is the only hope we have for pulling ourselves out of the present morass of registration requirements.

THE SOUTH CAROLINA EXPERIENCE

In the face of growing demands imposed on outdated voter registration procedures, a number of cities and counties throughout the Nation have begun to use computers to modernize their procedures. In 1967, South Carolina became the first and only State to centralize its voter registration procedure through a computer system on a State-wide basis. Although registration in South Carolina continues to be initiated through the county registration boards in the State, and citizens must still appear in person to register at the local boards, their applications are now forwarded to the State data processing office, where the information is stored and processed.

The familiar but cumbersome ledger books that used to form the registration record in South Carolina have now been replaced by magnetic tapes in a computer system. The records are continuously kept current through data provided to the State agency from various sources—for example, the bureau of vital statistics provides monthly reports on persons who have died, and the State and Federal courts provide data on persons convicted of crimes. Prior to the new system, the registration records were rarely cleaned for any reason.

On the basis of the data in the computer files, official lists of registered voters for each county and precinct are printed and made available to local officials 10 days before each State, county, municipal, or other election. Thus, it is no longer necessary to use the entire county ledger for a municipal election, or to copy manually from the county rolls the names of persons eligible to vote in elections held in smaller jurisdictions. Since the computer lists contain all the information provided by the voter when he registered, election officials are able to identify registrants easily at the polls. Under the previous system, only the voter's name and address were on the rolls.

As a result of the vastly increased efficiency of the new system, the county registration boards in South Carolina that used to be open only a few days a month are now open on a daily basis during normal courthouse hours. During the first year of the new system, 850,000 South Carolina voters were registered, the highest figure in the history of the State. The total cost of the computer portion of the system is approximately $170,000 a year, and the entire store of registration information is contained on five reels of computer tape.

A SYSTEM OF UNIVERSAL VOTER REGISTRATION FOR THE NATION

At a single stroke, the system of universal voter registration I favor would eliminate the arbitrary and unfair requirements of residence and registration that now operate to disfranchise so many of our citizens. Durational residence requirements would be abolished for Federal elections, and registration would involve a procedure no more complicated than filling out a post card form and placing it in the mail. Local control of the actual election process would remain unchanged, but virtually the entire financial cost and administrative burden of voter registration would be lifted from the States and transferred to the Federal Government.

The program would be administered by a new bipartisan agency to be established in the Census Bureau. Citizens would register to vote simply by filling out the post card form and mailing it to the new agency. Merely by specifying the address of his residence on the form, the citizen would determine his voting residence. There would be no requirement of residence for a specific period of time. The system would thus do away not only with burdensome registration requirements, but also with unfair residence requirements that operate to bar voters in almost every State.

With the assistance of computers, the information would be stored and divided according to election districts, and made available by the census agency to appropriate State and local election officials, as the official list of eligible voters.

Use of the new voter registration list would be mandatory in Federal elections, and optional for State and local elections. I believe, however, that the simplicity, efficiency, and cost savings of the system would lead to its rapid acceptance for State and local elections as well, so that within a brief period of time, the Nation would have a truly universal voter registration system for all elections. Our system of democracy deserves no less.

In its details, the system would function as follows:

First, a new bipartisan agency—the Universal Voter Registration Administration (UVRA)—will be established in the Bureau of the Census to organize and administer a program of universal voter registration for all Federal elections, and to assist States in their registration for State and local elections. The UVRA will be authorized to establish State and regional data processing centers to carry out its functions. The agency will be under the direction of an administrator and two associate administrators, no more than two of whom can be members of the same political party. The new agency is created in the Bureau of the Census because that agency has established a long-standing reputation of efficiency and confidentiality, and has already developed the computer programs and technology essential to the implementation of a successful universal voter registration system.

Second, individuals will register to vote through post card voter registration forms, to be mailed free of charge to UVRA. The post card forms will be of the type which allows visual scanning by computers to read the information. They will be widely available in post offices and other Federal agencies, and will also be available to private voter registration groups. Where appropriate, bilingual forms will also be available. In addition, any State or local jurisdiction will be authorized to send its current registration records to UVRA for assimilation into the new Federal system.

Third, the information on the post card forms will include only the name, address, ZIP code, and date of birth of the individual, together with a statement that the individual is not disqualified from voting under State or local law by reason of conviction of a crime or adjudication of mental incompetence. In addition, the individual may specify his party affiliation if he wishes to register for primary elections. UVRA registration will remain valid for 4 years, or for longer periods according to State law.

Fourth, the post card form will also include a line for the signature or mark of the individual, and a statement of the penalty for fraudulent registration. The penalty will be a fine of not more than $10,000, imprisonment for not more than 5 years, or both. The form will also include a statement that the signature or mark of the individual attests to the accuracy of the information he provides on the form.

Fifth, UVRA registration will close 30 days before primary, general or other elections. UVRA will compile lists of registered voters by local precincts, and forward the lists to the appropriate State or local election officials. Simply by having his name on the list, any person will thereby be authorized to vote in Federal elections. States will be able to supplement and update the lists in advance of the Federal election. However, in cases where a State removes a name from the list, notice of the removal must be given promptly to UVRA and to the individual, together with the reason for the removal.

Sixth, use of the UVRA list will be mandatory for all Federal elections and optional for State and local elections. If State and local officials decide to use the UVRA lists for State and local elections, they may not delete anyone from the list for failure to meet other qualifications.

Seventh, UVRA will be authorized to establish appropriate procedures for individuals to verify their registration. It will also inform each voter of the location of his polling place, so that on election day, every citizen will know where he must vote.

Eighth, to protect the right of privacy, UVRA information and voting lists will not be available to any other Federal agency and will not be made available by UVRA to any private source. In addition, UVRA will not draw on information collected for other purposes by other Federal data centers, such as the Internal Revenue Service or the Social Security Administration. The UVRA system will be used for voter registration and no other purpose. However, to the extent that State or local law requires voting lists to be publicized, UVRA information may become public at that level, although the information still may not be used by any Federal agency.

CONSTITUTIONAL JUSTIFICATION

In light of a long line of Supreme Court decisions in the area of voting rights in the decade of the Sixties, and especially the decision by the Court in *Oregon* v. *Mitchell*, 400 U.S. 112 (1970)—the 18-year-old voting case decided last December—there is solid constitutional support for the establishment of a nationwide system of Universal Voter Registration in the United States. Indeed, although the issue may be somewhat less clear-cut, there would also be ample constitutional justification for the extension of the Federal registration system to State and local elections as well.

As in the issues surrounding the Voting Rights Act Amendments of 1970, which Congress passed last year, the issue in the current context concerns the power of Congress to legislate by statute in the area of State and local election requirements.

There can be no question, of course, that the Constitution grants to the States the primary authority to establish qualifications for voting. Article I, section 2 of the Constitution and the 17th amendment specifically provide that the voting qualifications established by a State for members of the most numerous branch of the State legislature shall also determine who may vote for U.S. Senators and Representatives. Although the Constitution contains no specific reference to qualifications for voting in Presidential elections or State elections, it has traditionally been accepted that the States also have primary authority to set the qualifications in these areas as well.

At the same time, however, these constitutional provisions are only the beginning, not the end of the analysis. They must be read in the light of all the other specific provisions of the Constitution, including the great amendments that have been adopted at various periods throughout the Nation's history. Most recently, a month ago, the 26th amendment, lowering the voting age to 18, became part of the Constitution, and conferred power on Congress to enforce the new amendment by appropriate legislation.

The constitutional issues must also be interpreted in the light of the basic Supreme Court decisions interpreting the provisions in question. Although a State may have primary authority under article I of the Constitution to set voting qualifications, it has long been clear that it has no power to condition the right to vote on qualifications prohibited by other provisions of the Constitution, including the various amendments to the Constitution. No one believes, for example, that a State could deny the right to vote to a person because of his race or his religion.

Thus, the Supreme Court has specifically held that the equal protection clause of the 14th amendment itself prohibits certain unreasonable State restrictions on the franchise:

In *Carrington* v. *Rash*, 380 U.S. 89 (1965) the Court held that a State could not withhold the franchise from residents merely because they were members of the Armed Forces. Obviously, the rationale of this decision is directly applicable to the present national controversy over the voting residence of students.

In *Harper* v. *Virginia Board of Elections*, 383 U.S. 663 (1966), the Court held that a State could not impose a poll tax as a condition of voting.

In *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966), the Court upheld the constitutionality of a statute passed by Congress overriding State literacy requirements in English and conferring the franchise on voters literate in Spanish.

But the key Supreme Court precedent supporting a universal voter registration system for Federal elections is Oregon against Mitchell. In that important decision, the Court not only sustained the constitutionality of a Federal statute lowering the voting age to 18 for Federal elections, but also upheld the constitutionality of two other provisions in the 1970 statute, provisions that were applicable not only to Federal elections, but also to State and local elections:

A provision abolishing State literacy requirements altogether;

And, a provision reducing the residence requirements for voting in presidential elections to 30 days, and requiring the States to make available appropriate absentee registration and absentee voting procedures for such elections.

The Mitchell decision is especially significant because of the substantial majority by which the Supreme Court upheld the constitutionality of the literacy and residence provisions of the 1970 statute passed by Congress.

To be sure, the provision lowering the voting age to 18 in Federal elections was sustained by the narrow margin of 5 to 4, with Justice Black casting the deciding vote on the basis of the power of Congress under Article I, Section 4 of the Constitution to regulate the time, place, and manner of conducting Federal elections.

At the same time, however, in spite of the narrow vote on the 18-year-old issue, the Court upheld the validity of the literacy and residence provisions by overwhelming majorities—9 to 0 in the case of the literacy provision, and 8 to 1 in the case of the residence provision, with only Justice Harlan dissenting on the latter issue.

The crucial link in the reasoning of the Justices leading to the strong majority in favor of the residence aspect of the case was their view that the provision was a valid exercise of the power of Congress under the necessary and proper clause of the Constitution to protect the constitutional right to change one's residence and to travel freely from State to State, a right that had been clearly reaffirmed by the Supreme Court as recently as 1966, in its decision in *United States* v. *Guest*, 383 U.S. 745 (1966).

Similarly, the crucial link in the reasoning of the Justices leading to the unanimous decision upholding the literacy provision in the statute was their view that the provision was a valid exercise of the power of Congress to enforce the 15th amendment of the Constitution, which bars racial discrimination in voting.

The present proposal for a system of universal voter registration for Federal elections, involving action by Congress in the areas of both residence and registration as qualifications for voting, is easily supported under the literacy and residence rationales of Oregon against Mitchell, since it would be action by Congress to promote the right to travel and to end racial discrimination in voting. No substantial distinction can be drawn on the basis that the residence provisions in the Mitchell case applied only to presidential elections, whereas the proposed

universal registration system would apply to all Federal elections. As Justice Stewart stated in discussing the residence provision in the Mitchell case, in an opinion joined by Chief Justice Burger and Justice Blackmun.

I have concluded that, while section 202 applies only to presidential elections, nothing in the Constitution prevents Congress from protecting those who have moved from one State to another from disenfranchisement in any Federal election, whether congressional or presidential (400 U.S. 112, 287).

Further, as I have indicated, the constitutional rationales supporting the literacy and residence provisions in the Mitchell case might easily support the extension of the universal voter registration proposal of State and local elections as well. A fortiori, however, the proposal is clearly valid for Federal elections as an exercise by Congress of its power under article I of the Constitution to regulate such elections, and I urge the Senate to adopt it.

Mr. President, I ask unanimous consent that the text of the bill may be printed at this point in the RECORD. I also ask unanimous consent that a table of existing State residence requirements for voting, prepared by the youth citizenship fund, and a series of tables on voter turnout, contained in the reports of the freedom to vote task force of the Democratic National Committee, may also be printed in the RECORD.

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

S. 2457

A bill to establish a system of universal voter registration for Federal elections, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United Staes of America in Congress assembled, That this Act may be cited as the "Universal Voter Registration Act of 1971."

DECLARATION AND FINDINGS

SEC. 2. (a) The Congress hereby finds and declares that the administration of voter registration procedures by the various States as a precondition to voting in Federal elections—

(1) denies or abridges the constitutional right of citizens to vote in Federal elections;

(2) denies or abridges the constitutional right of citizens to enjoy free movement across State lines;

(3) denies or abridges the privileges of immunities of citizens of the United States, deprives them of due process of law, and denies them the equal protection of the laws, in violation of the fourteenth amendment;

(4) denies or abridges the right to vote on account of race or color in violation of the fifteenth amendment;

(5) denies or abridges the right to vote on account of sex in violation of the nineteenth amendment;

(6) denies or abridges the right to vote on account of age in violation of the twenty-sixth amendment;

(7) in some instances has the impermissible effect of denying citizens the right to vote because of the way they may vote; and

(8) does not bear a reasonable relationship to any compelling State interest in the conduct of Federal elections.

(b) Upon the basis of these findings, Congress hereby exercises its authority under section 4 and section 8 of article I of the Constitution, and the fourteenth, fifteenth, nineteenth, and twenty-sixth amendments thereto.

ESTABLISHMENT OF OFFICE

SEC. 3. (a) There is hereby established in the Bureau of the Census a Universal Voter Registration Administration (hereafter referred to in this title as "Administration"). The Administration shall be composed of an Administrator and two Associate Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate. No more than two members of the Administration shall be of the same political party.

(b) The Administration shall establish and administer a program of voter registration for voting in Federal elections and shall, upon request, assist States in conducting registration for voting in State and local elections.

(c) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(131) Administrator and Associate Administrators, Universal Voter Registration Administration."

USE OF DATA PROCESSING

SEC. 4. The Administration shall establish one or more data processing centers in order to carry out its functions. Voter lists shall be compiled and maintained through the use of electronic data processing equipment in such a manner that a list of persons registered under this Act in each of the units in which persons are registered to vote under State and local laws shall be readily available. The lists shall contain the name, address, ZIP code, party affiliation (if supplied), date of birth, and voting unit of each individual registered to vote under this Act and such additional information as the Administration determines to be essential to the efficient operation of this Act.

REGISTRATION

SEC. 5. (a) The Administration shall prepare and distribute registration forms for use by individuals who wish to register to vote under the provisions of this Act, or who wish to change a previous registration. Such forms shall be of a type which permits visual scanning by electronic data processing equipment, shall contain appropriate places for the designation of the registrant's name, address, ZIP code, date of birth, and party affiliation; and may be in languages other than English in such cases as the Administration deems appropriate.

(b) Such forms shall contain a statement that such individual is not disqualified from voting under State law by reason of conviction of a crime or mental incompetence, and such other information as the Administration determines to be essential to the efficient operation of this Act. Such forms shall also require the signature of the individual seeking to register through the use of such forms and a statement of the penalty for fraudulent use of such forms. The signature of an individual on his form shall attest to the accuracy of the information contained thereon.

(c) The Administration shall enter into arrangements with the Postmaster General so that supplies of such forms shall be reasonably available free of charge in each post office, and shall make such other arrangements as it deems appropriate for the distribution of such forms, including their availability to groups engaged in voter registration. Such forms shall be mailed free of all postage including airmail to the Administration upon completion, and the Administration shall reimburse the Postal Service for the cost of such mail.

(d) Any individual who is a citizen, who is eighteen years of age or older (or will attain such age on or before the date of the next Federal election held in the congressional district or State in which he registers), who is not disqualified from voting under State law by reason of conviction of a crime or mental incompetence, and who is registered under this Act shall be eligible to vote in Federal elections held in the congressional district or State in which he is registered under this Act. No other requirement or qualification shall be imposed by any State or political subdivision thereof on the right of such individual to vote in such election.

(e) The Administration is authorized to receive registration lists and other information with respect to eligible voters from State or local jurisdictions for inclusion in the registration lists prepared by the Administration under this Act.

(f) Unless the Administration or a State or local jurisdiction removes a person's name from the list of registered voters because of his death or his disqualification from voting under State law by reason of conviction of a crime or mental incompetence, registration under this Act in any State shall remain in effect for a period of time not less than four years, or such longer period as registration under State law in such State remains in effect.

(g) The Administration shall remove from its list of registered voters the name of any person who is found to be fraudulently or otherwise improperly registered or who, after registration, becomes disqualified to vote in the State or congressional district in which he is registered. If the Administration removes the name of any person from such list, it shall notify such person of such action by certified mail within one week of such action and the reason therefor.

(h) Any State or local jurisdiction which removes the name of any person from such list shall notify such person and the Administration of such action by certified mail within one week of such action. Such notice shall include the name and address of such person, and a statement of the reason for such action. The Attorney General is authorized and directed to institute in the name of the United States such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the purposes of this subsection, and it shall be the duty of a judge designated to hear any such case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

REGISTRATION DATE

SEC. 6. An individual may register to vote in a Federal election under this Act at any time until thirty days before the date of such election, or at such later date before such election as the Administration may determine.

LIST OF REGISTERED VOTERS

SEC. 7. (a) Not later than thirty days prior to the date of any Federal election, the Administration shall furnish to the appropriate election officials of the State or local jurisdiction in which an election is to be held a list of individuals, by precinct or other similar voting unit, registered under this Act to vote in such election within the congressional district or State in which the election is to be held. No person whose name appears on such list shall be denied the right to vote in such election, unless such name is removed from such list in accordance with the provisions of this Act. The Administration is authorized to establish appropriate procedures to supplement the lists made available to States and local jurisdiction under this subsection.

(b) The Administration is authorized to establish appropriate procedures for individuals to verify their registration under this Act.

(c) Prior to the date of any such election, the Administration shall inform individuals registered with it of the precinct or other voting unit in which they are registered to vote.

(d) The provisions of this Act shall not apply in the case of any election in which registration is not a condition of voting in such election.

STATE REGISTRATION

SEC. 8. (a) Nothing in this Act shall interfere with any voter registration procedure conducted by any State with respect to voting in State or local elections.

(b) Any individual registered to vote under any State voter registration procedure, who is a citizen of the United States, who is eighteen years of age or older (or who will attain such age on or before the date of the next Federal election to be held in the congressional district or State in which he registers), and who is not disqualified from voting under State law by reason of conviction of a crime or mental incompetence, shall also be eligible to vote in any Federal election held in such district or State, whether registered under this Act or not.

(c) Any State which determines by law that it wishes to use voting registration lists compiled under this Act as evidence of registration to vote in State or local elections shall be furnished such lists no later than thirty days prior to any such election. Any State which so determines may not remove the name of any individual from such lists with respect to any such election nor deny to any individual whose name appears on such lists the right to vote in any such election, except in accordance with the provisions of this title.

REPORTS FROM STATES

SEC. 9. The Administration is authorized to request from each State periodic reports of the names and addresses of individuals eighteen years of age or older who have died in such State. The Administration is also authorized to request from appropriate State or Federal agencies periodic reports of the names and addresses of persons disqualified from voting under State law by reason of conviction of a crime or mental incompetence.

REGISTRATION INFORMATION

SEC. 10. The Administration shall undertake, through the use of broadcast and nonbroadcast communications media and such other means as the Administration deems appropriate, to inform potential voters of their eligibility to register to vote in Federal elections under the provisions of this Act.

PENALTIES

SEC. 11. (a) Whoever knowingly or willfully gives false information as to his name, address, residence, age, or other information for the purpose of establishing his eligibility to register or vote under this Act, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts or offers to accept payment either for registration to vote or for voting shall be fined not more than $10,000, or imprisoned not more than five years, or both.

(b) Any person who deprives, or attempts to deprive, any other person of any right under this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) The provisions of section 1001 of title 18, United States Code, are made applicable to the registration form promulgated under section 5.

RIGHT OF PRIVACY

SEC. 12. (a) No information provided by or in connection with any person under this Act shall be made available by the Administration to any other Federal agency or for any commercial activity. No such information shall be made available by the Administration to any agency of any State or local jurisdiction except for the purpose of carrying out functions directly related to the provisions of this Act.

(b) The Administration is authorized to adopt regulations for the enforcement of this section.

(c) Any person who violates this section or regulations adopted thereunder shall be fined not more than $5,000 or imprisoned not more than five years or both.

OTHER FEDERAL VOTER REGISTRATION

SEC. 13. This Act shall not affect the provisions of the Federal Voting Assistance Act of 1955. Persons eligible to use the form and procedures provided under such Act may register under this Act.

DEFINITIONS

SEC. 14. As used in this Act the term—

(a) "Federal election" means any primary, general, or special election held for the election of a Federal officer, including an election held for the selection of delegates to a national nominating convention or to a caucus for such selection, and a primary election held for the expression of a preference for the nomination of persons for election to the Office of President.

(b) "Federal officer" means President, Vice President, Senator, Representative, Delegate to the Congress, or delegate to a national nominating convention or caucus thereto.

(c) "State" means each of the United States and the District of Columbia.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

YOUTH CITIZENSHIP FUND INC., 2100 M STREET NW., SUITE 306, WASHINGTON, D.C. 20037, (202) 833-2090

STATE RESIDENCE REQUIREMENTS

State	State	County	Precinct
Alabama	1 year	6 months	3 months.
Alaska	do		30 days.
Arizona	do		Do.
Arkansas	12 months	6 months	1 month.
California	90 days	90 days	54 days.
Colorado	3 months		32 days.
Connecticut	(city or town: 6 months)		
Delaware	1 year	3 months	30 days.
District of Columbia	(bona fide resident)		
Florida	1 year	6 months	
Georgia	do	do	(City: 90 days [municipal election only])
Hawaii	do		
Idaho	6 months	30 days	
Illinois	do		
Indiana	do	60 days (township)	30 days.
Iowa	do	60 days	
Kansas	do	30 days (township or ward).	
Kentucky	1 year	6 months	60 days.
Louisiana	do	do (municipality: for municipal election, 4 months).	3 months.
Maine	6 months	3 months	
Maryland	do	28 days	
Massachusetts	(6 months city or town [formerly 1 year]).		
Michigan	6 months	(4 weeks, township, city of village).	
Minnesota	(6 months struck down Dec, 14, 1970).		30 days.
Mississippi	1 year	1 year	6 months.
Missouri	do	60 days	10 days (in some counties).
Montana	do	30 days (6 months, city).	30 days.
Nebraska	6 months	40 days	10 days.
Nevada	do	30 days	Do.
New Hampshire	do		
New Jersey	do	40 days	(30 or 15 days, some cities for municipal election).
New Mexico	12 months	90 days	30 days.
New York	3 months	3 months (3 months in city or village.)	10 days.
North Carolina	1 year	30 days	
North Dakota	do	90 days	30 days.
Ohio	6 months	40 days	40 days.
Oklahoma	do	2 months	20 days.
Oregon	do		
Pennsylvania	90 days	60 days	60 days.
Rhode Island	1 year (6 months, town or city).		
South Carolina	1 year	6 months	3 months.
South Dakota	180 days (5 years in United States).	90 days	30 days.
Tennessee	1 year	3 months	
Texas	do	(6 months, county, city or town).	
Vermont	do	(90 days town)	(180 days in town for municipal election).
Virginia	1 year (6 months, city, town or county).		30 days.
Washington	1 year	90 days	Do.
West Virginia	do	60 days	(60 days in municipality for municipal election).
Wisconsin	6 months		10 days.
Wyoming	1 year	60 days	Do.

REGISTRATION AND TURNOUT IN THE 1968 PRESIDENTIAL ELECTION, BY STATE[1]

State	1968 voting age population	Total registration	Actual turnout	Percent turnout of registered voters	Percent turnout of voting age population
Alabama	2,037,000	1,389,198	1,044,177	75.2	51.3
Alaska[2]	151,000	NA	83,035	NA	55.0
Arizona	1,003,000	614,718	486,936	79.2	48.5
Arkansas	1,188,000	845,759	609,590	72.1	51.3
California	12,052,000	8,587,673	7,251,587	84.4	60.2
Colorado	1,211,000	966,700	806,983	83.5	66.6
Connecticut	1,813,000	1,341,519	1,256,232	93.6	69.3
Delaware	306,000	248,915	214,367	86.1	70.1
District of Columbia	515,000	201,937	170,578	84.5	33.1
Florida	3,924,000	2,765,316	2,187,805	79.1	55.8
Georgia	2,824,000	1,850,000	1,250,100	67.6	44.1
Hawaii	421,000	274,104	236,218	86.2	56.1
Idaho	708,000	366,532	291,183	79.4	41.1
Illinois	6,580,000	5,676,131	4,619,749	81.4	70.2
Indiana	2,947,000	2,653,219	2,123,597	80.0	72.1
Iowa[2]	1,653,000	NA	1,167,931	NA	70.7
Kansas[2]	1,339,000	NA	872,783	NA	65.2
Kentucky	2,062,000	1,471,343	1,055,893	71.8	51.2
Louisiana	2,032,000	1,449,231	1,097,450	75.7	54.0
Maine	596,000	509,888	392,936	77.1	65.9
Maryland	2,168,000	1,595,779	1,235,039	77.4	57.0
Massachusetts	3,379,000	2,591,051	2,331,752	90.0	69.0
Michigan	4,853,000	3,950,000	3,306,250	83.7	68.1
Minnesota[2]	2,097,000	NA	1,588,510	NA	75.8
Mississippi[2]	1,308,000	775,000	654,509	84.5	50.0
Missouri[2]	2,770,000	NA	1,809,502	NA	6.53
Montana	412,000	331,078	274,404	82.9	66.6
Nebraska	891,000	637,719	536,851	84.2	60.3
Nevada	285,000	188,811	154,218	81.7	54.1
New Hampshire	418,000	387,660	297,190	78.5	71.1
New Jersey	4,402,000	3,319,752	2,875,395	86.6	65.3
New Mexico	562,000	445,304	327,281	73.5	58.2
New York	11,773,000	8,113,216	6,691,690	85.5	59.1
North Carolina	2,919,000	1,858,987	1,587,493	85.4	54.4
North Dakota[2]	370,000	NA	247,882	NA	67.0
Ohio[4]	6,235,000	3,907,000	3,959,698	101.3	63.5
Oklahoma	1,546,000	1,163,328	943,086	81.1	61.0
Oregon	1,193,000	971,851	819,622	84.3	68.7
Pennsylvania	7,234,000	5,599,364	4,747,928	84.8	65.6
Rhode Island	561,000	471,112	384,938	81.7	68.6
South Carolina	1,455,000	853,014	666,978	78.2	45.8
South Dakota	408,000	348,254	281,264	80.0	68.9
Tennessee	2,361,000	1,840,077	1,248,617	67.9	52.9
Texas	6,289,000	4,073,576	3,079,576	75.6	49.0
Utah[3]	562,000	475,000	422,568	89.0	75.2
Vermont	244,000	208,221	161,403	77.5	66.1
Virginia	2,690,000	1,510,592	1,359,928	90.0	50.6
Washington	1,838,000	1,649,734	1,304,281	79.1	71.0
West Virginia	1,073,000	993,024	754,206	76.0	70.3
Wisconsin[2]	2,484,000	2,425,000	1,691,538	69.8	68.1
Wyoming	202,000	142,739	127,205	89.1	63.0
Totals	120,353,000	82,029,426	73,359,762	89.4	60.9

[1] These figures are from State and U.S. Census sources. The Task Force figures and those compiled by the Republican National Committee are in substantial agreement. The figures used are the same as those in the Republican National Committee's report on the 1968 election.
[2] States which have no Statewide registration, or where registration is not required.
[3] Approximate figures, furnished by Secretary of State.
[4] Ohio does not require total registration, therefore the voter turnout figure exceeds the registration figure. Figure not included in total percentage.
NA—Not available.

TURNOUT IN PRESIDENTIAL ELECTIONS, 1824–1968, BY STATE

State	1824	1828	1832	1836	1840	1844	1848	1852	1856	1860
Alabama	49.1	54.6	(1)	64.9	89.7	80.3	69.7	45.3	71.0	76.7
Alaska										
Arkansas				28.9	67.6	63.5	55.9	48.6	60.2	79.5
California								75.7	81.6	71.2
Connecticut	14.9	27.2	46.0	52.3	75.7	80.0	72.3	72.3	81.8	73.3
Delaware	(1)	(1)	67.1	69.5	82.8	85.8	80.4	75.0	78.5	79.5
Florida							64.0	56.9	77.6	79.5
Georgia	(1)	31.8	29.0	61.8	88.8	92.6	86.0	54.8	82.8	85.1
Hawaii										
Illinois	24.3	52.4	46.0	43.5	86.0	76.0	70.5	64.7	72.4	80.5
Indiana	37.1	68.7	71.9	69.2	84.4	84.7	78.5	80.3	88.3	89.4
Iowa							90.7	80.2	87.0	94.8
Kentucky	25.4	70.7	74.0	61.1	74.3	80.7	73.9	64.2	76.7	74.1
Louisiana	(1)	36.2	22.3	19.2	39.4	47.1	51.1	48.7	53.6	58.6
Maine	19.1	42.7	66.2	37.7	83.7	71.3	68.4	61.2	78.1	68.9
Maryland	53.7	70.3	55.7	67.6	84.5	81.4	76.0	72.8	80.0	81..
Massachusetts	29.0	25.7	39.4	43.4	66.7	65.8	64.6	57.8	69.8	6519
Michigan				35.0	84.9	79.8	74.5	71.3	81.1	80.2
Minnesota										74.5
Mississippi	41.3	56.6	28.0	64.4	88.2	86.1	80.7	61.7	78.3	89.0
Missouri	19.8	54.0	41.0	36.1	75.1	77.8	62.5	46.3	54.7	69.4
New Mexico	18.0	74.3	70.1	38.2	86.3	68.9	67.4	65.7	87.9	80.7
New Jersey	35.6	71.0	68.8	69.2	80.4	87.2	82.7	79.8	83.1	89.4
New York	(1)	80.2	84.2	70.5	91.9	92.1	79.6	84.7	89.9	95.5
North Carolina	41.8	56.9	31.3	53.0	82.4	78.8	71.4	65.8	66.7	70.9
Ohio	34.8	75.9	73.9	75.5	84.5	83.6	77.5	80.6	82.3	88.3
Oregon										97.8
Pennsylvania	18.8	56.5	52.3	53.1	77.5	77.3	76.3	72.6	80.8	78.4
Rhode Island	12.0	17.1	26.3	23.8	33.2	45.1	41.1	57.8	62.9	59.4
South Carolina	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Tennessee	28.3	55.0	31.3	57.3	89.7	89.8	83.4	72.9	82.9	80.9
Texas							69.6	42.6	58.1	67.4
Vermont	(1)	54.5	50.0	52.5	73.8	70.8	70.5	63.5	72.5	63.0
Virginia	11.6	27.7	31.1	35.2	54.7	54.2	47.3	63.3	67.8	71.5
Wisconsin							58.3	39.6	80.8	79.0
U.S.A.	26.9	57.6	55.4	57.8	80.2	78.9	72.7	69.6	78.9	81.2

[1] Not available.

State	1864	1868	1872	1876	1880	1884	1888	1892	1896	1900
Alabama	(1)	77.9	79.6	72.8	58.8	54.2	56.6	68.5	51.9	38.9
Arkansas	(1)	49.0	67.6	64.7	59.5	59.1	68.9	55.0	48.2	40.8
California	64.6	72.3	57.9	75.9	67.1	68.8	76.5	73.8	75.0	69.9
Colorado				(1)	57.4	52.4	57.4	54.6	65.2	71.2
Connecticut	76.3	80.1	71.3	82.0	81.4	79.9	85.5	85.4	83.3	79.7
Delaware	79.8	84.3	73.3	73.4	81.9	76.0	68.8	80.4	64.6	81.9
Florida	(1)	(1)	77.0	93.5	85.9	83.1	85.0	35.3	40.0	29.9
Do	(1)	(1)	77.0	93.5	85.9	83.1	85.0	35.3	40.0	29.9
Georgia	(1)	73.2	55.2	63.5	49.4	41.0	37.6	53.1	34.3	24.4
Idaho								63.1	76.1	77.8
Illinois	69.2	76.7	75.0	87.5	89.9	84.4	82.9	86.0	95.7	89.9
Indiana	82.9	92.5	85.3	94.6	94.4	92.2	93.3	89.0	95.1	92.1
Iowa	95.4	97.7	79.0	99.1	93.7	90.0	87.9	88.5	96.1	91.0
Kansas	31.8	51.3	77.8	65.7	80.8	85.1	88.2	80.7	85.5	91.2
Kentucky	44.0	69.9	66.2	80.9	75.5	70.8	81.1	73.8	89.2	87.0
Louisiana	(1)	75.9	76.4	77.9	50.3	49.8	50.0	45.1	35.8	21.7
Maine	73.2	74.4	57.9	71.5	85.0	75.0	71.7	63.5	63.0	56.0
Maryland	57.7	72.6	75.0	82.7	79.8	79.9	84.8	79.9	87.3	85.9
Massachusetts	63.8	66.9	62.0	72.3	71.2	69.3	71.7	74.6	70.6	67.4
Michigan	66.2	77.4	64.0	78.0	75.5	76.0	80.9	73.2	95.3	89.0
Minnesota	57.6	71.1	67.5	71.3	68.9	68.2	76.3	66.6	75.2	76.7
Mississippi	(1)	(1)	71.1	79.7	50.1	49.2	43.8	18.8	22.1	16.9
Missouri	36.3	43.0	66.6	76.6	78.0	77.0	81.8	77.4	88.5	83.1
Montana								74.2	73.8	75.3
Nebraska		46.1	43.7	53.0	67.7	67.8	75.9	66.2	74.1	80.2
Nevada	57.5	73.7	74.4	90.0	76.5	61.6	71.4	70.1	69.2	71.4
New Hampshire	84.3	82.3	80.9	92.0	93.3	87.4	90.2	85.8	78.1	83.9
New Jersey	81.0	89.5	81.4	94.8	95.4	88.6	91.9	90.3	88.4	85.9
New Jersey	89.3	91.7	80.5	89.6	89.3	87.5	92.3	86.3	84.3	84.6
North Carolina	(1)	91.2	71.9	90.1	83.0	86.3	85.2	78.0	85.3	70.2
North Dakota								56.6	63.1	65.2
Ohio	87.6	90.4	84.4	94.4	94.4	93.4	91.9	86.2	95.5	91.5
Oregon	91.8	85.8	60.5	70.4	79.1	65.0	93.5	58.4	69.9	58.3
Pennsylvania	85.0	88.3	68.6	83.5	88.8	82.3	83.0	75.7	81.8	75.0
Rhode Island	58.8	46.6	40.2	49.4	48.7	48.1	53.4	63.0	59.2	56.2
South Carolina	(1)	79.6	60.4	101.0	83.9	43.0	35.0	29.1	25.2	18.0
South Dakota								70.7	78.0	85.4
Tennessee	(1)	39.7	66.2	74.6	75.1	73.1	77.6	64.0	70.8	56.6
Texas	(1)	(1)	56.3	54.6	68.8	80.2	78.3	79.4	88.3	61.4
Utah									79.4	84.5
Vermont	77.0	75.9	69.1	83.3	81.6	70.5	71.4	60.4	67.5	57.9
Virginia	(1)	(1)	66.2	77.6	64.1	81.7	83.2	75.3	71.0	59.6
Washington								67.3	63.1	64.9
West Virginia	51.6	58.0	61.2	83.6	82.6	86.7	94.5	90.3	93.6	91.3
Wisconsin	66.8	79.8	70.6	83.9	82.4	82.2	81.1	76.8	84.9	77.5
Wyoming								47.7	50.7	51.1
U.S.A.	73.8	78.1	71.3	81.8	79.4	77.5	79.3	74.7	79.3	73.2

[1] Not available.

TURNOUT IN PRESIDENTIAL ELECTIONS, 1824–1968, BY STATE—Continued

State	1904	1908	1912	1916	1920	1924	1928	1932	1936	1940
Alabama	24.2	21.5	22.6	24.3	20.6	13.5	19.1	17.5	18.8	18.9
Arizona			38.6	48.7	46.8	44.4	47.9	55.1	52.0	57.0
Arkansas	33.8	40.2	30.7	40.0	20.9	15.3	21.4	22.1	17.3	18.2
California	61.7	60.2	46.9	58.0	47.2	50.8	59.0	64.0	66.0	73.4
Colorado	71.0	65.4	59.1	66.5	56.0	62.5	68.4	75.3	75.7	79.7
Connecticut	80.5	76.3	71.5	73.8	58.7	57.9	72.6	70.8	74.6	77.2
Delaware	82.0	86.2	84.1	86.1	75.1	68.1	75.3	76.3	79.8	79.4
Florida	24.4	26.2	24.2	33.8	30.3	17.0	33.0	30.5	31.3	40.9
Georgia	23.8	22.0	18.9	23.7	10.5	11.5	15.7	16.5	17.7	17.7
Idaho	65.3	65.8	59.8	67.4	61.1	65.2	66.0	74.4	71.8	77.0
Illinois	80.5	81.6	74.7	66.8	60.5	64.1	73.4	74.6	18.6	28.2
Indiana	89.7	89.9	77.8	81.9	71.0	70.7	74.9	78.9	78.7	81.1
Iowa	79.7	77.6	74.2	75.0	64.5	68.4	68.9	69.1	73.6	75.5
Kansas	78.1	82.5	76.3	65.8	58.0	64.1	65.9	71.1	76.6	75.1
Kentucky	77.7	84.0	74.6	82.8	71.8	61.0	67.7	67.4	59.9	59.5
Louisiana	15.6	19.8	19.3	21.6	14.1	12.4	20.1	23.4	27.3	29.4
Maine	49.5	53.2	63.4	65.1	46.9	44.9	60.2	66.3	64.4	6.50
Maryland	69.6	70.9	64.8	68.1	52.3	41.0	56.8	51.2	58.1	57.2
Massachusetts	67.6	65.1	63.4	62.8	53.3	65.6	74.0	69.5	75.9	78.7
Michigan	78.9	75.9	69.8	72.9	55.1	53.7	56.3	62.0	62.1	66.6
Minnesota	64.3	66.1	61.2	65.0	59.5	62.0	68.5	66.2	69.7	72.3
Mississippi	15.6	16.5	15.1	20.0	9.4	12.0	15.2	13.8	14.4	14.7
Missouri	74.9	79.7	74.9	81.5	67.6	63.3	69.1	70.9	77.3	74.4
Montana	65.8	61.9	63.3	68.0	61.4	59.2	65.3	70.3	70.8	72.2
Nebraska	70.1	77.8	77.1	84.5	55.7	63.8	71.5	72.1	75.6	75.4
Nevada	59.2	92.1	68.1	73.6	61.0	56.1	63.0	73.2	69.1	75.7
New Hampshire	81.6	80.8	78.2	77.3	67.5	67.4	77.8	77.5	77.8	79.6
New Jersey	83.6	82.4	69.1	70.7	59.1	60.7	75.6	72.0	75.0	76.1
New Mexico			59.6	77.8	62.3	61.8	60.3	69.7	68.7	66.6
New York	83.3	79.7	72.1	71.6	56.4	56.3	68.3	66.1	72.6	75.7
North Carolina	46.1	52.0	46.1	49.8	44.6	35.9	43.1	44.0	47.4	42.7
North Dakota	61.4	73.2	60.8	77.7	67.4	63.8	72.4	74.5	78.0	78.4
Ohio	83.1	87.5	74.8	76.5	62.6	57.8	66.9	65.5	71.8	75.4
Oklahoma		71.5	57.4	60.4	48.6	47.4	50.5	54.4	56.4	60.5
Oregon	47.6	47.3	51.8	54.2	52.3	55.3	57.7	60.7	62.5	67.1
Pennsylvania	74.3	71.8	64.4	63.4	42.8	45.8	62.7	53.1	72.5	67.6
Rhode Island	63.4	62.4	62.7	65.8	57.9	66.3	68.9	71.7	78.0	75.6
South Carolina	18.4	20.6	14.6	17.5	8.6	6.4	8.5	12.3	12.5	10.1
South Dakota	73.0	69.5	61.9	60.9	56.6	59.4	72.0	76.5	77.5	79.5
Tennessee	47.7	48.0	45.1	46.6	35.4	23.3	25.7	26.5	30.0	30.6
Texas	29.6	33.6	30.8	35.0	21.7	25.8	24.8	27.2	24.8	30.1
Utah	78.4	73.0	66.4	79.5	69.6	69.7	73.4	80.0	77.9	83.1
Vermont	50.7	48.9	56.8	58.2	45.3	51.3	66.8	66.6	68.5	22.1
Washington	60.9	59.0	50.8	54.7	52.4	51.2	56.6	64.2	66.6	70.6
West Virginia	89.2	86.9	81.9	83.6	71.7	75.2	76.4	81.9	84.9	83.0
Wisconsin	72.0	68.7	68.7	70.7	52.3	57.3	65.9	65.1	68.9	72.4
Wyoming	50.8	49.2	50.3	54.9	52.3	71.0	68.7	74.9	74.0	74.8
U.S.A.	65.2	65.4	58.8	61.6	49.2	48.9	56.9	56.9	61.0	62.5

State	1944	1948	1952	1956	1960	1964	1968
Alabama	15.0	12.6	24.2	27.6	31.2	36.0	51.5
Alaska					49.1	48.7	56.4
Arizona	42.2	45.4	53.9	47.8	53.8	54.7	43.6
Arkansas	19.3	21.9	36.9	38.0	41.1	49.9	52.5
California	65.1	63.2	69.4	64.0	67.9	64.7	61.0
Colorado	67.9	64.5	76.2	69.2	71.4	68.0	70.2
Connecticut	73.9	71.2	80.9	75.8	76.8	71.8	68.5
Delaware	66.9	68.5	78.4	72.7	73.6	71.1	71.7
Florida	33.5	34.1	47.6	43.6	50.0	52.7	58.2
Georgia	17.6	21.4	31.9	29.6	31.2	44.9	41.6
Hawaii					53.0	52.5	62.7
Idaho	64.5	63.1	78.2	75.2	80.7	75.8	72.8
Illinois	74.8	70.3	76.0	72.4	75.7	74.0	69.3
Indiana	71.7	67.2	75.7	73.7	76.9	74.0	71.5
Iowa	64.3	62.4	75.8	74.0	76.5	72.3	71.6
Kansas	62.2	65.0	71.7	67.4	70.3	74.8	63.5
Kentucky	51.9	49.6	58.9	58.6	60.5	52.9	46.8
Louisiana	25.1	27.5	40.2	36.0	44.8	47.3	55.6
Maine	57.3	49.0	63.1	61.8	72.6	65.6	67.5
Maryland	46.7	41.7	57.5	54.6	57.2	56.0	57.7
Massachusetts	71.0	71.5	75.0	72.0	73.8	71.3	67.8
Michigan	63.7	55.6	68.5	71.1	72.4	68.9	64.9
Minnesota	63.0	65.7	72.6	68.7	77.0	76.8	71.8
Mississippi	15.0	16.0	23.8	21.0	25.5	32.9	51.6
Missouri	62.2	61.0	71.8	68.8	71.8	67.4	63.1
Montana	59.0	62.3	71.8	71.6	61.4	69.8	65.0
Nebraska	67.9	58.2	71.9	67.6	71.4	66.6	59.9
Nevada	64.8	64.0	69.7	65.9	61.2	55.5	54.2
New Hampshire	73.5	70.3	79.2	74.4	79.4	72.3	70.9
New Jersey	69.1	63.0	72.3	68.9	71.8	68.6	65.1
New Mexico	48.8	53.4	60.5	56.8	62.1	63.9	63.3
New York	70.9	65.0	71.2	67.9	67.0	63.2	57.3
North Carolina	38.0	35.4	51.3	47.4	53.5	51.8	54.7
North Dakota	61.5	61.6	75.5	71.3	78.5	72.2	65.5
Ohio	66.9	58.4	69.7	66.4	71.3	66.6	63.6
Oklahoma	52.8	52.5	68.6	61.4	63.8	62.5	62.9
Oregon	58.4	56.5	69.6	71.1	72.3	69.6	64.4
Pennsylvania	59.8	56.0	66.5	65.5	70.5	68.1	63.2
Rhode Island	65.0	66.0	79.8	73.2	75.1	68.7	68.2
South Carolina	9.8	12.8	29.1	24.7	30.5	38.0	48.0
South Dakota	59.3	63.3	74.4	74.7	78.3	72.6	70.8
Tennessee	28.2	28.7	44.7	45.9	50.3	51.1	53.0
Texas	28.2	26.0	43.5	37.9	41.8	44.4	51.6
Utah	75.0	76.0	82.9	77.2	80.1	76.9	76.9
Vermont	56.9	54.5	66.8	66.5	72.5	68.0	65.5
Virginia	22.3	21.6	29.9	31.8	33.3	41.0	53.1
Washington	67.0	63.2	71.2	70.4	72.3	71.5	65.0
West Virginia	65.5	65.8	76.3	74.6	77.2	75.2	70.0
Wisconsin	65.7	59.8	72.5	67.8	73.4	70.8	68.0
Wyoming	63.3	59.6	72.5	67.4	74.0	73.2	69.3
District of Columbia						40.2	33.5
U.S.A.	55.9	53.0	63.3	60.6	64.0	61.8	60.6

Source: Compiled by Prof. Walter Dean Burnham, Department of Political Science, Washington University, St. Louis, Mo.

TURNOUT IN U.S. SENATE ELECTIONS, 1946–68

State	1946	1948	1950	1952	1954	1956	1958	1960	1962	1964	1966	1968
Alabama		(1)	(1)		(1)	(1)		(1)	21.5		40.5	44.4
Alaska							75.6	72.2	51.5		44.8	
Arizona	31.7		43.9	52.0		47.7	48.5		43.8	53.3		50.6
Arkansas		(1)		(1)	(1)	(1)		(1)	(1)		(1)	50.3
California	39.7		51.1	61.9	49.0	63.7	58.7		55.9	65.3		59.7
Colorado		70.8	53.3		56.0	66.8		71.6	57.2		55.8	66.5
Connecticut	49.9		62.0	75.7		76.4	66.2		63.3	71.1		66.1
Delaware	59.9	72.1		77.6	62.7		57.4	73.9		70.7	56.3	
Florida	(1)		(1)	(1)		(1)	(1)		28.3	45.2		52.7
Georgia	(2)	(2)	(2)	(2)	(1)	(1)		(1)	31.7		(1)	(1)
Hawaii								[3] 51.0	59.1	52.9	52.0	
Idaho	56.9	67.4	57.7		64.3	75.2		78.5	67.7		65.1	71.8
Illinois		66.0	60.7		56.1	70.0		74.9	59.5		59.4	67.4
Indiana	53.9		62.9	74.1		72.0	62.4		64.8	73.7		69.4
Iowa		58.2	50.6		51.3	70.7		74.2	48.8		52.4	69.3
Kansas		55.4	41.8		49.1	64.5		67.6	48.4		51.8	59.6
Kentucky	38.6	49.1	35.4	58.0	46.9	54.4		58.0	43.7		37.0	45.7
Louisiana	(1)	(1)			(1)	(1)		(1)	28.1		(1)	(1)
Maine	31.0	39.3		43.5	43.3		50.2	72.6		66.1	55.6	
Maryland	33.7		40.3	56.1		52.5	43.3		38.7	54.3		54.3
Massachusetts	53.8	63.7		73.3	57.5		58.7	74.9	64.7	71.2	60.9	
Michigan	40.9	51.7		66.2	49.2		48.8	71.4		66.5	51.1	
Minnesota	47.2	64.0		73.1	58.5		47.0	76.7		76.5	62.2	
Mississippi	(1)	(1)	16.8	(1)	(1)		(1)	(1)		(1)	31.5	
Missouri	42.8		48.3	70.3		66.3	44.0	70.9	45.9	65.3		61.2
Montana	64.0	69.2		72.5	60.2		57.5	71.5		70.9	65.8	
Nebraska	45.8	55.7	66.0	67.1	48.9		46.7	69.9		64.8	56.6	
Nevada	55.8		57.6	70.5	57.4	64.3	55.2		50.6	54.7		54.1
New Hampshire		61.1	53.7		48.4	71.0		78.4	59.5			67.7
New Jersey	45.4	57.0		66.7	50.6		51.5	69.6		65.7	49.7	
New Mexico	48.9	63.9		63.8	49.1		49.1	61.2		63.8	49.8	

State	1946	1948	1950	1952	1954	1956	1958	1960	1962	1964	1966	1968
New York	51.7		52.7	66.6		64.5	53.1		51.8	63.5		56.1
North Carolina		(1)	(1)	(1)	(1)	(1)		(1)	31.5		31.7	48.8
North Dakota	(2)		50.9	68.0		64.4	54.0		64.3	71.9		65.3
Ohio	43.9		51.2	64.3	45.9	61.8	55.4		50.5	64.4		60.0
Oklahoma		49.3	45.7		43.9	62.9		61.8	46.1	61.6	42.9	59.3
Oregon		44.9	50.2		54.4	68.1		69.4	57.5		58.2	65.6
Pennsylvania	46.6		50.7	64.2		64.3	56.8		61.6	67.8		63.7
Rhode Island	53.1	60.5	55.4	77.1	62.2		63.6	75.0		70.8	59.0	
South Carolina		(1)	(1)		(1)			(1)	25.0		31.1	44.9
South Dakota	64.6	62.6		60.4	60.4	71.4		78.8	63.9		59.3	72.5
Tennessee	(1)	(1)		(1)	(1)		(1)	(1)		47.8	38.0	
Texas	(1)	(1)		(1)	(1)		(1)	(1)	15.8	44.2	24.6	
Utah	55.4		67.8	79.0		75.3	63.6		63.7	78.2		75.5
Vermont	32.2		37.5	66.7		69.6	56.6		52.3	70.2		(1)
Virginia	(1)	(1)		(1)			20.9	27.8		36.8	28.2	
Washington	45.2		47.7	68.6		69.7	54.1		54.8	69.4		67.3
West Virginia	52.2	68.2		77.7	53.1	70.2	55.6	76.3		71.5	46.4	
Wisconsin	48.8		50.2	71.3		65.4	50.1		52.8	70.4		67.0
Wyoming	49.5	60.0		72.3	62.4		62.7	74.5	59.4	74.2	66.0	

[1] Ran unopposed.
[2] Not available.
[3] 1959.
Source: COPE Research Department, Washington, D.C.

TURNOUT IN U.S. HOUSE OF REPRESENTATIVES-ELECTIONS
1920-68

[Vote as a percentage of the civilian population of voting age]

Year:	
1920	41.4
1922	32.4
1924	41.0
1926	30.1
1928	48.2
1930	34.1
1932	50.2
1934	41.8
1936	54.0
1938	44.5
1940	56.2
1942	32.7
1944	53.0
1946	37.6
1948	48.6
1950	41.6
1952	58.2
1954	42.2
1956	56.6
1958	43.4
1960	59.4
1962	48.9
1964	57.8
1966	45.6
1968	54.8

Source: U.S. Bureau of the Census, Statistical Abstract of the United States: 1962, 83d edition, Washington, D.C., 1962; Congressional Quarterly, Washington, D.C.

TURNOUT IN GUBERNATORIAL ELECTIONS, 1946-68

State	1946	1948	1950	1952	1954	1956	1958	1960	1962	1964	1966	1968
Alabama											42.8	
Alaska							75.3		50.2		44.8	
Arizona	33.4	47.0	46.3	52.6	43.3	49.5	48.0	58.4	44.2	52.9	42.6	51.1
Arkansas									31.7	52.9	49.7	52.3
California			52.6		50.3		60.1		57.9		57.7	
Colorado	47.6	68.6	53.4	69.7	56.6	67.7	55.3		57.5		58.1	
Connecticut	48.0	63.6	63.4	75.7	63.1		66.6		63.4		57.8	
Delaware		71.6		77.6		70.9		73.8		70.5		67.6
Florida										47.4	41.2	
Georgia	(1)	(1)	(1)	(1)					35.4		34.6	
Hawaii								[2] 52.4	59.0		52.0	
Idaho	57.3		58.1		65.0		63.6		66.9		65.1	
Illinois		66.0		74.0		70.8		74.2		73.2		68.2
Indiana		63.8		73.6		71.6		76.5		73.6		69.2
Iowa	37.5	57.6	50.0	72.9	51.5	72.3	49.7	74.1	49.5	71.3	54.9	68.9
Kansas	47.1	58.7	49.8	67.0	49.5	67.6	58.3	70.2	49.7	64.0	50.1	62.9
Kentucky			33.5	[3]	45.8	54.2	45.2		47.2		43.7	
Louisiana										49.8		50.1
Maine	31.9	37.4	43.7	45.6	43.8	55.9	49.5	72.7	50.6		56.3	
Maryland	35.0		42.2		44.2		43.9		42.0		44.2	
Massachusetts	52.8	65.0	59.6	73.2	57.9	75.0	59.8	74.8	65.1	72.0	62.1	
Michigan	42.1	53.0	45.7	67.2	50.2	66.4	49.7	72.1	60.0	67.7	51.5	
Minnesota	47.4	63.5	60.7	74.7	59.8	71.9	57.5	77.4	62.1		63.4	
Mississippi												[4] 34.7
Missouri		59.7		70.4		66.6		71.2		65.7		62.2
Montana		69.8		72.9		72.1		72.3		71.1		68.7
Nebraska	45.5	55.2	54.9	67.5	48.4	64.8	47.2	69.9	53.7	66.5	56.8	
Nevada	55.3		56.1	58.1			55.5		50.5		52.5	
New Hampshire	46.6	61.0	54.2	75.7	57.1	72.9	57.3	79.2	61.0	72.1	57.4	67.3
New Jersey						56.9			56.2		52.7	
New Mexico	48.7	64.4	47.9	63.9	49.0	61.6	49.5	62.2	48.4	62.2	50.2	59.7
New York	50.8		50.9		49.3		54.9		52.7		54.0	
North Carolina										51.0		52.9
North Dakota	(1)	62.1	50.1	72.6	52.7	66.6	56.5	78.7	65.7	73.0		67.8
Ohio	45.2	50.1	54.2	67.4	47.5	62.1	57.7		52.5		47.9	
Oklahoma	36.5		46.6		44.5		39.1		49.2		45.5	
Oregon	34.3		49.7		54.2	68.0	55.4		57.5		58.0	
Pennsylvania	46.5		50.1		53.0		56.8		61.6		56.9	
Rhode Island	53.5	61.1	55.2	75.4	62.4	73.8	64.0	75.3	63.1	71.7	60.5	68.4
South Carolina											31.4	
South Dakota	65.3	63.2	72.7	60.6	60.6	71.7	64.6	78.5	64.4	73.9	59.6	71.7
Tennessee											28.7	
Texas									28.0	43.2	23.5	46.0
Utah		74.3		79.2		75.8		79.2		78.4		75.9
Vermont	31.6	51.2	36.9	59.9	48.2	69.0	56.2	71.6	52.3	70.2	57.7	65.5
Virginia											[5] 20.9	
Washington		53.1		69.9		70.1		71.4		71.5		68.9
West Virginia		68.6		78.2		71.3	54.4	76.3		74.1		68.9
Wisconsin	50.0	58.9	50.5	71.7	51.8	66.9	50.4	72.8	53.1	71.3	48.6	68.4
Wyoming	49.4		54.2		61.9		61.8		59.3		65.0	

[1] Not available.
[2] 1959.
[3] Incomplete.
[4] 1967.
[5] 1965.
Source: COPE Research Department, Washington, D.C.

TURNOUT IN SELECTED LOCAL & SPECIAL DISTRICT ELECTIONS, 1969

City	Type of Election	Percentage of turnout
Akron, Ohio	2, 3	39.9
Atlanta, Ga	1, 4, 5, 6, 7	36.4
Austin, Texas	2	27.8
Boise, Idaho	1, 2	43.6
Boston, Mass	2, 8	33.0
Buffalo, N.Y	1	55.7
Birmingham, Ala	2	6.8
Charlotte, N.C	1, 2	25.5
Cincinnati, Ohio	2	37.7
Cleveland, Ohio	1	53.2
Columbus, Ohio	2, 3, 9, 10, 11	53.2
Dallas, Texas	1, 2	9.1
Dayton, Ohio	1, 3, 12	27.1
Des Moines, Iowa	2	33.2
Detroit, Mich	1, 2, 13, 14	58.6
El Paso, Texas	1, 3, 5, 15	17.7
Fort Worth, Texas	1, 2	14.7
Hartford, Conn	1	39.8
Houston, Texas	1, 2, 16	28.4
Los Angeles, Calif	1, 2, 6, 10, 16	48.8
Louisville, Ky	1	26.8
Miami, Fla	1, 2	11.1
Minneapolis, Minn	1, 5, 14, 16, 17, 18, 19, 20.	48.5
New Haven, Conn	1, 5, 13, 14, 15, 21, 22, 23, 24, 25.	45.1
New York, N.Y	1	45.2
Oklahoma City, Okla	2	4.4
Omaha, Neb	1, 2	35.4
Philadelphia, Pa	1, 16, 26, 27, 28	49.7
Phoenix, Arizona	1, 2	28.4
Pittsburgh, Pa	1, 2	56.9
Richmond, Va	11, 14, 21, 29	32.8
Rochester, N.Y	2, 6	47.1
San Antonio, Texas	2	16.9
San Diego, Calif	2, 10	26.6
Seattle, Wash	1, 2, 30	51.2
St. Louis, Mo	1, 5, 16	27.3
St. Petersburg, Fla	1, 2	19.9
Syracuse, N.Y	1, 2, 6	47.9

Key: 1. Mayoral
2. City Council
3. Municipal Judge
4. Pres., Bd. of Aldermen
5. Bd. of Aldermen
6. Bd. of Education
7. City Exec. Committee
8. School Committee
9. City Auditor
10. City Attorney
11. Clerk of Courts
12. City Commissioners
13. City Clerk
14. City Treasurer
15. Tax Collector
16. City Controller
17. Park Commissioners
18. Library Bd. Directors
19. School Directors
20. Bd. of Estimate & Taxation
21. City Sheriff
22. Town Clerk
23. Registrar of Vital Statistics
24. Selectman
25. Constable
26. District Attorney
27. Magistrates
28. Inspectors of Elections
29. Commissioner of Revenue
30. Corporation Council

Source: Rand McNally, Commercial Atlas & Marketing Guide, Washington, D.C., 1969; Congressional Quarterly, Washington, D.C.; Local election officials

Turnout in Selected Democratic Nations, 1920–1968

UNITED STATES

Year:	Turnout
1920	49.2
1924	48.9
1928	56.9
1932	56.9
1936	61.0
1940	62.5
1944	55.9
1948	53.0
1952	63.6
1956	60.6
1960	64.0
1964	61.8
1968	60.6

Year:	Turnout
GREAT BRITAIN	
1922	71.3
1923	70.8
1924	76.6
1929	76.1
1931	76.3
1935	71.2
1945	72.7
1950	84.0
1951	82.5
1955	76.7
1959	78.8
1964	77.1
1966	75.9
CANADA	
1921	70.3
1925	68.7
1926	70.2
1930	76.1
1935	76.2
1940	70.9
1945	76.3
1949	74.8
1953	67.9
1957	75.0
1958	80.6
1962	80.1
1963	80.3
1965	75.9
1968	75.7

Source: Compiled by Professor Walter Dean Burnham, Department of Political Science, Washington University, St. Louis, Missouri.

TURNOUT IN THE MOST RECENT ELECTIONS IN OTHER SELECTED DEMOCRACIES

Country	Election year	Turnout
Denmark	1968	89.3
Finland	1966	84.9
France	1968	80.0
Germany	1969	86.8
Ireland	1965	75.1
New Zealand	1966	86.6
Norway	1969	82.5
Sweden	1968	89.3

Source: Compiled by Richard M. Scammon, Governmental Affairs Institute Washington D.C.

NBC EDITORIAL ON UNIVERSAL VOTER REGISTRATION

Mr. KENNEDY. Mr. President, in an NBC radio editorial last Friday, Mr. Sander Vanocur emphasized the burden and the difficulty of the present system of voter registration in the Nation. He urges the adoption of simplified procedures, of the sort I have proposed in the Universal Voter Registration Act, which I had originally offered as an amendment to the pending election reform bill, and which I am today introducing as a separate bill.

As Mr. Vanocur's editorial makes clear, the ratification of the 26th amendment, lowering the voting age to 18 in all elections, has generated broad new interest for comprehensive reform in our voter registration procedures. The momentum for reform is building, and it is time for Congress to respond.

Mr. President, I believe that Mr. Vanocur's editorial will be of interest to all of us concerned with the cause of such reform, and I ask unanimous consent that it may be printed in the RECORD.

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

NBC RADIO EDITORIAL

(By Mr. Sander Vanocur)

Now that the 18–21 year olds have been given the vote and now that the 18–21 year olds are finding out how cumbersome and difficult it is to register so that they can vote, attention is being turned to just how complicated our voter registration laws are.

With the advent of voter registration at the turn of the century there was a sharp decline in voter turnout. In the Presidential election of 1900, the voter turnout was 73%. Not since that time has it exceeded 66%, and seven times it fell below 60%. On two occasions in 1920 and 1924, it fell below 50%. But throughout the greater part of the 19th century, voter turnout in our presidential elections ranged in the neighborhood of 70% to 80%.

These facts have been cited by Senator Edward M. Kennedy this week, as he prepares to attach an amendment to the Election Reform Act, an amendment that would establish a system of universal voter registration for the nation. The election of 1968 shows how badly such as measure is needed—for in that election, with the potential of 120 million voters, only 82 million, or 68% were registered to vote and therefore eligible to go to the polls on election day. But of that number, 89% went to the polls, proving the obvious: That people who register are people who vote.

Kennedy's amendment would provide a simple postcard system of voter registration. Simply by filling out the address of his residence on the postcard form, a citizen would establish his voting residence. A new computerized agency within the Census Bureau would process the cards, compile voting lists by precincts throughout the country, and make the list available to state and local election officials at appropriate times before any election.

Use of the new system would be mandatory for all federal elections and optional for state and local elections. Kennedy hopes to get action by the Congress when it returns from its August recess. Whether his amendment, or similar reform, is enacted this year, is problematical. But there is a rising demand, especially from the young, for someone to do something about simplifying our complicated voter registration procedures.

Mr. McGEE. Mr. President, I yield 4 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. MOSS. Mr. President, I thank the chairman of the committee for yielding.

Mr. President, I rise in support of S. 2574, a bill to establish a national voter registration program through the mail.

The history and tradition of this great Nation is one of ever-expanding extension of the principles of democracy. Step by step, ever since the founding of our Republic, we have tried to reduce or to eliminate the barriers to voting—to allow full participation in the essentials of our political way of life.

Indeed, six of the last 12 amendments to the Constitution have been concerned with extending the right to vote. The 15th amendment, adopted in 1870, guaranteed the vote to citizens regardless of their race or color. The 17th amendment, adopted in 1913, provided for the direct popular election of Senators. The 19th amendment, adopted in 1920, extended the franchise to women. The 23d amendment, adopted in 1961, extended the franchise to citizens of the District of Columbia in presidential elections. The 24th amendment, adopted in 1964, abolished the poll tax as a condition of voting in Federal elections. Most recently, the 26th amendment, adopted last June, extended the franchise to 18-year-olds in all elections. Moreover, hand in hand with these great constitutional amendments have come a series of landmark decisions by the Supreme Court as well as historic laws by Congress, all concerned with insuring the broadest possible exercise of the right to vote.

There is a great difference, however, between a legal right and a political reality. The legal right to vote without the means for an effective exercise of that vote is no right at all. Despite our history and democratic traditions, less than 60 percent of the qualified voters in the United States actually register and vote. In 1968, more adult Americans failed to vote than did vote. Forty-seven million Americans did not vote in the presidential election, and between 27 and 35 million of these were not registered.

The Democratic National Committee's Freedom To Vote Task Force study of voter registration has found that residency and other registration qualifications—not disinterest on the part of the voter—provide the greatest barriers to full access in the voting process. And the primary cause of nonregistration is our archaic State system of voter registration. This system constitutes a major national disgrace and the greatest obstacle toward achieving the American goal of universal suffrage.

The great paradox of our times, therefore, is that while millions of citizens at odds with basic national policies are struggling for a more active role in public decisionmaking, participation in the electoral process continues to wane. There can be little hope for success in the more difficult roles of self-determination when so many citizens are not even involved to the extent that they can participate in the election of a President. The presidency is more important to the people of this country now than ever before in our history. If Americans are to make effective use of their political power, they must begin with voting for the President.

As the Washington Post notes, however, in an editorial today, "It is a stark fact that in 1968 more than 27 million Americans 21 years of age or older were not registered and were therefore unable to take part in the presidential election." Next year, with 18-year-old citizens eligible to vote, the number of nonregistered and therefore disenfranchised citizens can be expected to be even greater.

The registration requirements of voting were imposed to prevent fraud and to insure the integrity of the ballot. But they have been more successful in disenfranchising citizens. There is a great need for a simple, expeditious means for qualified citizens to register. There is a remedy to the barriers of registration. It is S. 2574, which will be debated in this Chamber today. As a cosponsor, along with 14 of my colleagues, and as member of the Committee on Post Office and Civil Service, which held lengthy and probing hearings prior to reporting this measure, I want to second the words of the Post on this measure introduced by my colleague from Wyoming (Mr. McGEE). In calling for support of S. 2574 in order to promote voter registration, the Post editorial observes that it amounts to a vote of confidence in the democratic process.

Mr. President, I believe that the Senate of the United States has confidence in the democratic process. I urge, therefore, passage of this legislation which will eliminate registration as a major barrier to true universal suffrage. I also ask unanimous consent that the Washington Post editorial be printed in the RECORD.

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

HELPING PEOPLE TO VOTE

For a long time political scientists have lamented the fact that large numbers of American citizens qualified to vote have failed to do so when Election Day rolled around. In other self-governing countries a much higher percentage of citizens go to the polls. The explanation of this contrast is really a very simple one. Other countries make it easy for their citizens to vote; the United States, with its complicated system of voter registration requirements controlled by the states, makes it extremely difficult.

Registration has become a high hurdle on the road to elections. It is a stark fact that in 1968 more than 27 million Americans 21 years of age or older were not registered and were therefore unable to take part in the presidential election. In the presidential election of 1972, with the voting age lowered to 18, the number of nonregistered citizens may run much higher.

Sen. Gale McGee has proposed a simple remedy for this situation—a remedy which would make it relatively easy to register. Under his proposal the Bureau of the Census would send a postcard to every householder recorded in the Census of 1970. Simply returning that postcard within 30 days prior to Election Day, with requisite information to be checked by local registrars, would qualify eligible citizens to come to the polls and vote for federal offices. States could still fix their own requirements for state and local elections; but if they chose to conform to federal practice, the McGee proposal would assure them a federal subsidy to help them meet the cost of putting it into effect.

The McGee bill comes up in the Senate today. We think it ought to have the support of every senator who believes in government by the people. In 1968, only about three-fifths of the country's potential vote was cast in the presidential election. By contrast, more than four-fifths of the people who were registered cast their ballots. The need, obviously, is to promote registration. A vote to do so will be a vote of confidence in the democratic process.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, I yield 4 minutes to the Senator from Oklahoma.

Mr. BELLMON. Will the Senator make it 5 minutes?

Mr. McGEE. I yield 4 minutes and we will see how the time goes.

Mr. BELLMON. We have a very stern chairman. I thank the distinguished chairman for yielding.

Mr. President, probably nothing in our Republic is a greater threat to its survival than the haphazard, fraud-ridden, discriminatory system of voter registration which exists in many parts of the country.

If we are to agree with our Founding Fathers that a well-informed majority is seldom wrong, then it is obvious we need to perfect the system whereby this majority expresses its views on election day.

At the present time, there are many obstacles which a citizen must overcome on his way to the polls and this bill is intended to remove one of those.

Mr. President, I first became concerned about the voter registration system at the time I served as Republican State chairman in Oklahoma. Traditionally our State had been a one-party Democratic State. I am sure the conditions I found there are common in one-party States regardless of whether the dominant party is Republican or Democrat.

On the surface the Oklahoma registration laws may appear to be fair or at least innocuous, but in practice the law was administered in such a way it made registration for minorities, whether racial or political, difficult and in some cases almost impossible.

As I mentioned during committee debate on the bill, there were many reports of cases where voter registration offices were used as a recruiting service for the major party. It was not at all uncommon to have a situation arise where the registrar would attempt to persuade a prospective voter to register in the majority party and if the effort was unsuccessful to have the registrar announce the office was closed for further business.

Under Oklahoma law the entire election and voter registration machinery is under the direct and total control of the Oklahoma State Senate. Membership of the Senate is almost 5 to 1 Democratic.

In some cases the State senators take great pains to provide for fair election procedures but in other cases the election machinery is operated as a campaign mechanism which seems to have as its purpose not the registration of all eligible voters but rather the continuation of the incumbent senator.

Further, Mr. President, in our State the costs of voter registration are largely borne by county commissioners. Some county commissioners put forth considerable effort and spend sizable amounts of county funds to provide adequate and impartial voter registration opportunities. But in other instances, either because local funds are inadequate or because it serves selfish interests of the incumbent officials, the voter registration office is kept open only briefly and then only during the times when most voters are at work. This makes it difficult if not impossible for large numbers of individuals to become qualified to cast their votes on election day.

Mr. President, let me give some credit to election officials of our State. Oklahoma has shortened its residency requirements, many counties are providing roving registrars, registration books are being kept open in some areas during nonworking hours, and incidents of coercion by registration officials are apparently declining. But the fact remains that in Oklahoma as well as throughout the Nation there are many areas where the process of becoming a legally registered voter is so difficult that it effectively disenfranchises a large number of citizens.

Some Republicans, and this includes the national administration, are opposed to this bill. While I respect their view-

point, I am of the opinion they have not been close enough to the precincts to realize the weaknesses and the shabbiness of the present system. I do not believe any responsible public official consciously wishes to deprive any citizen of the right to vote.

In my judgment S. 2574 would help make this right a reality.

Mr. President, while S. 2574 may not be a perfect bill, I strongly feel that it is a long step in the direction of making majority rule a reality in this country and I urge its passage.

Mr. GRIFFIN. Mr. President, I yield time on this side to the ranking member of the Committee on Post Office and Civil Service, the Senator from Hawaii.

Mr. FONG. Mr. President, I allow myself whatever time I need.

Mr. President. I am at a loss as to why the Senate today is discussing the provisions of S. 2574, the national voter registration bill, when there is no possibility of arriving at a vote on it.

I am more at a loss because we have been called into session for weeks now very early in the morning—even as early as 8:30 a.m.—and are adjourning night after night at 8 or 9 p.m., trying to complete action on all the important bills which must be completed so we can adjourn in this last month of 1971.

A similar bill was not introduced in the House of Representatives until yesterday, so even if the Senate were to vote on S. 2574 this year, most probably it would not be taken up by the House and therefore there is no possibility of its enactment into law this year.

This bill will entail very lengthy debate and, as there is very strong opposition to it, many amendments are expected to be proposed to it.

The measure, as reported out by the committee, contains a very strong minority report against its enactment. Since the report was filed, I have received a number of inquiries from persons interested in the bill. All have voiced strong opposition to the enactment of this measure. Many wanted to be heard and feel that they were not given the opportunity to voice their disapproval because they were not apprised of the limited number of hearings we would have on the bill.

Mr. President, if this bill were enacted:

First, it would change drastically the manner of voter registration in the whole United States;

Second, it would impose Federal controls and guidance on the States;

Third, it would impose Federal controls and guidance on State and local political party organizations;

Fourth, it could create an overpowering Federal voter registration bureaucracy to influence elections;

Fifth, it would change radically our traditional and well-established voter registration systems;

Sixth, it would multiply the opportunities for fraud in elections;

Seventh, it would impose Federal registration costs in excess of a hundred million dollars per presidential election year; and

Eighth, it would have serious, adverse implications on our entire system of elections and our system of government.

The main thrust of S. 2754 is to establish a national voter registration system operated by a Federal agency, the National Voter Registration Administration. The NVRA would be a new Federal agency located within the Bureau of the Census, Department of Commerce.

It would utilize the services of the U.S. Postal Service to distribute Federal voter registration cards to every postal address in the United States no earlier than 45 days nor later than 30 days before every Federal election. Assumedly, such cards would be addressed to "householder" or "resident."

These mail voter registration cards would be returned by the prospective registrant to the State or local government voter registration office. The State office would process the cards, registering the applicant as a voter in the next Federal election, and billing the Federal Government for processing of the cards.

The bill sets a 30-day durational residency requirement in a State for voting in Federal elections in that State.

The NVRA would also, on request, assist the State or local governments in putting the national voter registration system into effect in their States and in processing the registration cards.

Federal payments would also be made to a State if the State establishes a registration system for State and local elections similar to that instituted by the provisions of this bill for Federal elections. Payments would be 15 percent of the amount paid to the State for processing the registration cards. This amount would be increased to 30 percent if, in addition to instituting a State and local voter registration system similar to that contained in the bill for Federal elections, the State adopted a 30-day durational residency requirement for its own elections.

The bill authorizes State officials to call in the Federal Government should they suspect fraud in voter registration applications and also establishes criminal penalties for convictions of fraud.

Mr. President, there are important policy and constitutional questions involved in this bill.

Control of voter registration qualifications have traditionally been left to the States. In the past, the Congress has legislated in the field of voter rights only when it believed that voting rights were being violated by noncompliance with the due process or equal protection clauses of the Constitution.

In the absence of consistent and overwhelming evidence that such was the case, the Congress has refrained from acting in the field of voting rights. It must be pointed out that the Federal Government shares many powers with the States in this field. However, it has left control of most voting rights entirely up to the States and even to the political parties. These include regulations on voting supervision, protection of voters, duties of inspectors and canvassers, publication of election returns, tallying of election returns and election of delegates to national political party conventions.

The legislation would inject the Federal Government into an area traditionally left to the States—that of voter registration. This would be done for what can only be typified as convenience reasons and not because a constitutional right was being violated. It is my opinion that, in the absence of consistent and overwhelming evidence that constitutional rights are being violated in the application of voter registration laws and practices by the States, the Congress should not act in this area.

Another serious policy consideration arises out of the bill's definition of "Federal election" and the qualifications it sets for voting in such elections.

The bill defines a Federal election as—

Any primary, special, general or other election held for the purpose of nominating or electing candidates for any Federal Office, including any election for the purpose of expressing voter preference for the nomination of individuals for election to the Office of President and Vice President and any election held for the purpose of selecting delegates to a national political party nominating convention or to a caucus held for the purpose of selecting delegates for such a convention.

The impact of this definition when considered together with the voter qualification provisions of this bill is staggering, unprecedented, and highly questionable.

Under the bill any individual meeting the State voter qualification laws except as to durational residency—under the bill he must be a resident of the State on and after the 30th day before a Federal election—may vote in a Federal election.

This means that any such individual can vote not only in the primary and general elections but also in elections held for the selection of State delegates to a political party's national convention regardless of political party affiliation or lack of affiliation. This would also apply to the selection of local delegates to State political conventions if the party's nominees for congressional offices would be selected by such State political party conventions.

The Congress has traditionally left such areas to State supervision and to State political party regulations. It should not overturn this longstanding tradition at this time. To do so would be to strike a critical blow to our present strong two-party political system and even destroy third parties.

A real constitutional question arises concerning the election of presidential electors. It appears from the definition of a "Federal election" under this bill that the election of presidential electors is a "Federal election," however, no mention is made of presidential electors in the bill itself. It only refers to the election of President and Vice President as a "Federal election." The question here is whether the election of presidential electors is an election of a Federal or a State official. If it is the election of a State official, then the Federal voter registration requirements contained in this bill do not apply.

In reference to presidential electors, article II, section 1, clause 2 of the Constitution provides:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Num-

ber of Electors, equal to the Whole Number of Senators and Representatives to which the State may be entitled in the Congress . . .

The sole authority of Congress respecting presidential electors under the Constitution is to "determine the time of choosing the Electors, and the Day on which they shall give their Votes . . ."—article II, section 1, clause 4—and not the manner of appointing electors.

The Supreme Court has held that presidential electors act by authority of the States and are not Federal officials—*In re Green*, 134 U.S. 377, 379 (1890); *Ray* v. *Blair*, 343 U.S. 214, 224–225 (1952). These were cited by Justice Harlan in his dissenting opinion in the case of *Oregon* v. *Mitchell*, 400 U.S. 112 (1970). Therefore, this bill, although aimed particularly at voter registration for presidential elections may not accomplish its purpose at all.

Now on the subject of mailings, mailing costs and mailing list, under the provisions of this bill, the NVRA would be required to mail out Federal voter registration forms before each Federal election. This means that there would have to be at least three national mailings of such forms during presidential election years and in some States the possibility exists that even four or more mailings would have to be made. These mailings would precede elections of: first, delegates to State political party conventions; second, delegates to national political party conventions; third, candidates for Federal offices in primary elections; fourth, candidates for Federal offices in general elections. In those years when only congressional seats were being decided the number of mailings would be less.

The costs of printing, distributing, delivering, and providing postage-free return for Federal voter registration forms have been estimated by the Census Bureau to be easily in the neighborhood of $15 to $20 million per mailing. The cost for establishing an address system for these mailings is estimated at from $5 to $10 million.

Because mailings would have to be made for State political party conventions, primary elections, general elections, and possibly others, the cost per presidential election year may run in the neighborhood of $120 million. Off-year elections may cost a bit less.

These cost estimates do not include payments to the States for processing the returned registration cards; nor payments to the States for bringing State and local election registration laws into line with the Federal mail voter registration systems; nor payments to the States for adopting a 30-day durational residency requirement; nor for staffing and other administrative costs necessitated by the establishment and operation of the National Voter Registration Administration.

It is obvious that the costs of operating this Federal voter registration system are very high. However, the system and its attendant costs must also be judged on the basis of how many additional qualified voters it will bring into the polling booths.

The proponents of this measure contend that approximately 47 million potential voters are being barred from voting in Federal elections because of overly stringent State voter registration requirements and procedures.

The Bureau of the Census took a survey of 50,000 households in November 1968 to determine the extent of voter participation and the reasons for such participation or nonparticipation in that year's presidential elections.

Of the 50,000 households surveyed, 26,942 households reported they did not register to vote. The question asked on voter nonregistration was, "What was the main reason—this person—was not registered to vote?"

The answers were recorded in one of the following categories:

Not a citizen of the United States. (10.6%.)
Had not lived here long enough to be qualified to vote. (11.2%.)
Not interested, just never got around to it, dislikes politics, etc. (53.3%.)
Unable to register because of illness, no transportation, couldn't take time off from work, etc. (13.5%.)
Other reason. (9.5%.)
Don't know. (2.2%.)

About 53.3 percent of those not registered said they did not register because they were not interested, never got around to registering, or disliked politics; 11.2 percent said they did not meet the residence requirements; 13.5 percent said they were ill, did not have transportation, or could not get off from work; 10.6 percent were not citizens; 9.5 percent gave other reasons; and 2.2 percent did not know.

The 53.3-percent figure is most revealing and flies in the face of the reasons given by the proponents of this bill for its enactment. To put the blame for the majority of nonregistrants on State registration requirements or procedures is not substantiated by this comprehensive Census Bureau survey.

In addition, even if this bill were enacted, it is highly questionable that it alone would persuade the 53.3 percent and possibly some of the others to actually register to vote in Federal elections.

Certainly there must be some other less expensive and less bureaucratic way to register the 10 to 25 percent who gave indication that they would have registered had it not been illness, lack of transportation, or inability to get off work or other reasons.

Another very serious policy consideration is the question whether a Federal agency should be established and involved in national voter registration efforts.

The NVRA would be empowered to establish and administer a national voter registration program for Federal elections in all their ramifications. Its duties would also include collecting, analyzing and arranging for publication of voting data; assisting State and local officials in operating the Federal voter registration system; assisting State and local officials in establishing such a system in their local elections, if requested; and, also, assisting State and local officials in solving election problems generally.

The breeding of an overpowering Federal bureaucracy involving itself in a number of aspects of not only Federal, but State and local elections as well, is entirely possible under the provisions of this bill. It becomes an even greater possibility when consideration is given to the possible collusion of national and State or local political party organizations or State and local government officials and Federal officials, should the national administration be of the same political faith as a State or local administration.

The free passage of voter registration and party affiliation information between State and local officials on one hand and the national administration on the other becomes an awesome tool for controlling elections and amassing great political power in our country.

Marshaling the great manpower and technical resources of the Federal Government with the information on voter registration and participation gathered by State and local government sources in this voter registration system presents a picture that the Congress should consider very carefully.

As to registration by mail and the opportunities it presents for fraud, this bill multiplies the opportunities for fraud.

At present, except in very unusual circumstances voter registration procedures by most States require the individual desiring to register to appear in person before a registrar at the time of registration. This bill allows prospective voters to register by mail for Federal elections. No personal appearances before any government official are necessary until the time of voting.

In view of the fact that the residency requirement under the bill is only 30 days before election day and registration is accomplished by mail, the opportunities for fraud are increased tremendously. The time allowed for checking registration rolls is cut to a minimum, especially if a precinct or voting district has a large voter population.

The bill has no cutoff date as to when registration cards must be received by the registration office in order for the voter to be put on the registration rolls. The bill only cites that the cards are to be mailed out to addressees no earlier than 45 days or later than 30 days before election day.

It is entirely possible that only a few days will be available for registration list inspectors to have the opportunity to inspect such lists before election day. It is entirely possible cards would not be returned until election day.

It is obvious that the opportunities for fraud under the provisions of this bill are many, and the safeguards for prevention of such fraud as the bill is written are few. These reasons alone are sufficient for defeat of this measure.

The present Federal law which imposes no durational residency requirement would also be changed. The bill reinstates a durational residency requirement for presidential and other Federal elections despite the abolition of such a requirement in the Voter Rights Act of 1970. This would appear to be the case because section 404(a) of S. 2574 states that—

An individual who is a qualified elector under State law except as to duration of residency but who is a resident of a State on or after the thirtieth day before a Federal election, shall be entitled to register and vote in a Federal election in that State.

We doubt that Congress intends to undo such a fundamental aspect of the 1970 law as this for presidential elections.

Other sections of the bill also raise serious problems.

First, section 305(b)(4)(B) appears to establish an absolute requirement of bona fide residency, whereas present Federal law—42 United States Code 1973aa–1(3)—permits a certain class of nonresidents— that is, those who have left a State less than 30 days before a presidential election—to vote in the State of their former residence. A liberal reading of this provision would disenfranchise such persons before they have ever had the opportunity to exercise the franchise extended in 1970.

Second, section 308 imposes a penalty of not more than $10,000 or imprisonment of not more than 5 years, or both, for falsifying information given on the registration forms or for conspiring with others for the purpose of encouraging such fraud. It also imposes a fine of not more than $5,000 or imprisonment of not more than 5 years or both for depriving or attempting to deprive anyone of his rights to register under the provisions of this bill. It then imposes the criminal penalty provisions of section 1001 of title 18, United States Code, to additionally enforce the provisions of this bill.

There are two problems raised by this penalty section. One, section 1001 of title 18, United States Code, imposes these penalties for false representations in "any matter within the jurisdiction of any department or agency of the United States." The question arises whether because the registration forms are filed with State or local officials and not Federal officials, they fall within the coverage of section 1001.

The Federal Government under the provisions of this bill appears to be a mailing institution. Once the registration cards are delivered, the responsibility of the National Voter Registration Administration ceases. The cards are not to be returned to the NVRA or any other Federal agency. Instead, they are to be returned to the State or other local official charged with registering voters.

Therefore, because section 1001 mandates its criminal penalties only on matters "within the jurisdiction of any department or agency of the United States," and the forms once delivered to the addresses are no longer the responsibility of the NVRA, it appears not to fall within NVRA's jurisdiction, and the penalties cited in section 1001 cannot be levied on registrants who submit false information on the cards.

Third, it is interesting to note that only a State official may request Federal assistance to prevent fraud. As the bill reads, this precludes any type of Federal investigations for fraud except when a State official requests it. Because Federal investigations in such instances are dependent upon a State request, for practical purposes there would be no remedy where the State official is himself involved in fraud, since it is highly unlikely he would request the investigation on himself.

Fourth, with respect to the same section, any suit filed by the Federal Government after an investigation requested by a State official would be filed in the District of Columbia or any other U.S. court of competent jurisdiction. However, the ability to subpena witnesses to appear in person is in serious doubt as rule 4(f), Federal Rules of Civil Procedure, allows a witness to be subpenaed only within 100 miles of the court. In some cases the location of the fraud may well be beyond 100 miles from where the appropriate U.S. court sits.

The difficulties imposed by this section in such cases is a very real one and should not be handled as lightly as it is in this bill.

A severe indictment can be made of this bill on the basis of committee jurisdiction and expertise.

Rule 25–1 states that matters relating to civil liberties shall be referred to the Committee on the Judiciary. Bills dealing with voting rights and registration for Federal elections have in the past been referred to and considered by the Committee on the Judiciary.

The Senate Committee on Post Office and Civil Service received this bill on voter registration because contained in it were references to the U.S. Postal Service and Bureau of the Census. These two Federal agencies were to produce, distribute, monitor, and deliver Federal voter registration cards. However, the primary thrust of the bill was to establish a national voter registration system.

The discussions in the Committee on Post Office and Civil Service on this measure centered not around the participation of the U.S. Postal Service or the Bureau of the Census in the national voter registration system but, rather, whether or not such a national voter registration system should be established.

It is essential in considering legislation of this importance that the Judiciary Committee, which has the expertise arising out of many years of experience in the field, consider such legislation. Constitutional questions, impact on State laws, imposition of criminal penalities and a multitude of other questions attending the establishment of a national voter registration system should be given much greater consideration in the Judiciary Committee than the Post Office and Civil Service Committee gave S. 2574. The Post Office and Civil Service Committee had one executive session of less than 1 hour's duration on the bill.

The Civil Rights Act amendments of the 1960's, the Voting Rights Act of 1965, the Voting Rights Act of 1970—all of these were considered by the Senate Judiciary Committee. The Federal agency charged with overseeing voting rights is the Justice Department. Here the bill seeks to establish a National Voting Rights Administration in the Bureau of the Census, Commerce Department. This appears to be setting up a system without coordination between Federal agencies and is inviting problems that can and must be avoided.

The committee staff has drafted five or more different versions of this bill. Even after the committee had acted, substantive changes were being made in the bill. We understand that very substantive floor amendments will also be made by the majority of the committee during debate on this bill in order to correct deficiencies that have been raised after the committee voted on the bill.

There may be very many more pitfalls contained in the bill even after adding floor amendments.

With all due respect to the expertise of the committee members and staff of the Post Office and Civil Service Committee in attempting to write legislation on voter rights and registration, the bill continues to have many deficiencies and should be re-referred to the Judiciary Committee for hearings and careful examination.

In conclusion, Mr. President, I wish to repeat what I said at the outset: If this bill were enacted—

First. It would change drastically the manner of voter registration in the whole United States;

Second. It would impose Federal controls and guidance on the States;

Third. It would impose Federal controls and guidance on State and local political party organizations;

Fourth. It could create an overpowering Federal voter registration bureaucracy to influence elections;

Fifth. It would change radically our traditional and well-established voter registration systems;

Sixth. It would multiply the opportunities for fraud in elections;

Seventh. It could impose Federal registration costs in excess of a hundred million dollars per presidential election year; and

Eighth. It would have serious, adverse implications on our entire system of elections and our system of government.

Mr. McGEE. Mr. President, I yield myself 3 minutes. I want to refer to my colleague, the ranking minority member of the committee, in the context of his opening statement. He is amazed and flabbergasted that we are discussing this matter this late in the session. He and I share the same view. I am amazed and flabbergasted that whatever the reasons are for those who have delayed, dawdled, and procrastinated on this bill, the committee had hearings in October. We reported it to the calendar on November 9 and it has been languishing there ever since.

Only because of the charitable conditions under which we would guarantee not to vote this afternoon were we suffered to bring it up at all. It is that circumstance which I think should be examined by every citizen in this country.

Someone does not want us to vote on this proposal.

Someone does not want people to cast a vote or be eligible to cast a vote.

It is as elementary as that.

So I remain flabbergasted that near the end of this term we are still trying to get this measure to a vote. If it really is of so much genuine concern that this has run so long, I would ask unanimous consent, right now, to proceed to a vote on the bill.

The PRESIDING OFFICER (Mr. TUNNEY). Is there objection?

Mr. FONG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McGEE. I hear an objection——

Mr. FONG. We had agreed that we would have 2 hours on the bill and that the bill would go over. That has been agreed upon.

Mr. McGEE. Yes. I wonder whether we could agree to a unanimous-consent request to vote on this perhaps tomorrow——

Mr. FONG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McGEE. I hear an objection again. I wonder whether we could have a unanimous agreement to vote on this measure at any evening, any morning, any eventide, or just before adjournment of this session.

The PRESIDING OFFICER. Is there objection?

Mr. FONG. Mr. President, reserving the right to object——

Mr. ERVIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McGEE. There has been an objection again. I withdraw the request, Mr. President, but would make the point that someone does not want us to vote on this.

I yield myself 1 more minute to say that the distinguished Senator from Oklahoma, a member of the committee who supports this proposal, had an excellent recitation of his experience as Republican State chairman in Oklahoma on the sheer problem of trying to achieve equity for voters who otherwise would vote.

I believe that the Members of this body would do well to examine his testimony as submitted in this debate.

The question of fraud continually crops up here. No one wants a system that will incite or invite fraud. We have sought to minimize the prospects of its occurring here, but we should remember one thing: Most of the fraud has been in the casting of the vote and not in the registering of the vote.

Let us not misapply the public image about fraud and fraudulent practices at election time.

We are trying to say to the housewife, to the laboring man, to the individual who is moving, to the individual whose job keeps him on the road that, nonetheless, he will still be preserved in his right to vote in a Federal election and not suffer the penalty as a consequence.

I think the only fraud that remains in balance in our system now, a glaring fraud, is that so many millions of people cannot vote even if they wanted to, because of the complicated registration procedures that still prevail. This bill is simply designed to remove a much larger fraud than any that can be intimated or suspected, or feared, or blown up out of proportion that might arise under the circumstances.

Mr. President, I would like to respond to the distinguished Senator from Hawaii on the points raised in his speech.

The Senator from Hawaii raised the issue that Congress should not legislate in the field of voter registration "in the absence of consistent and overwhelming evidence that constitutional rights are being violated in the application of voter registration laws and practices by the States." That view advocates a requirement for Congress to meet far beyond the ordinary meaning of the necessary and proper clause, or any of the many decisions of the Supreme Court interpreting the power of the Congress to act. Chief Justice Marshall stated it, and stated it famously, in his edict in the McCulloch against Maryland case—1819—the rule laid down for all time:

> Let the end be legitimate, within the scope of the Constitution, and not prohibited by the Constitution, then it is constitutional.

Mr. President, if "consistent and overwhelming" evidence of deprivation of constitutional rights was necessary for Congress to act, there simply would not be action in any field.

Mr. President, the facts are that multiple State requirements for registering to vote disenfranchises millions of Americans in a mobile society; that 25 percent of the population moves every year, and that the election of Federal officials is a most precious constitutional right which is the right to be represented.

The distinguished senior Senator from Hawaii also states that Senate bill S. 2574 imposes Federal requirements for participating in the purely State political convention processes, and would not require a voter to be a member of the party to vote in that party's elections or conventions. I would agree that this is true to a limited extent. But nothing in this legislation would prohibit a State from enacting legislation requiring party membership to vote for delegates.

Mr. President, there is a clear relationship between voting for Federal officials and voting for candidates to conventions who elect national delegates or nominate Federal candidates. If the right to vote in those elections or for those delegates is not insured, the States could effectively avoid the intent of this legislation by adopting convention systems, just as South Carolina and Texas did with the White primary.

The Senator from Hawaii asks whether this registration system applies to the selection of presidential electors. The answer to this question is a definite no. The 1970 Voting Rights Act Amendments clearly establishes that voting rights for presidential candidates or electors are within the scope of the statute.

The Senator from Hawaii has many times during the hearings, in his report and now in a statement on the floor today pointed with pride to his 1969 census survey of 50,000 voters which indicated that there was a lack of interest; people did not get around to it or just did not care on a certain percentage of those interviewed. He then asks, why set up a whole bureaucracy to handle a few who would not vote anyway? My answer to this is that a survey of 50,000 is small potatoes for denying a simple, uniform system of registering all voters for Federal elections. For the housewives out there in the trailer parks who have no means of getting to the courthouse, it will mean a lot. For the construction laborer working out on the project who has no way of getting to the courthouse, it will mean much.

Besides, the real issue is not what 50,000 people said in a poll, but is whether the Nation's electoral system is serving the people by removing artificial barriers to participatory democracy.

The Senator from Hawaii has also alluded to the fact that there might be a logjam resulting from postal cards being returned to the county clerk. To set the record straight, the answer to this is a definite no. Although there is no deadline for return, the State is permitted to close registration 30 days before an election. The county clerk could tell any applicant that sent in his card late that he would not be allowed to register. This is if the clerk desired to do this. Hopefully, clerks would not act in this manner.

Another question posed by the minority in their report and on the floor today is why are only State officials permitted to file action for fraud, and what about State officials themselves who commit fraud? My suggestion is to read this bill closer. Indeed, one would clearly see that a State official may complain if he suspects fraud; but either the State or the National Voter Registration Administration may investigate patterns of fraud, conspiracy, and so forth. We are not having the Government jump in for isolated cases that can easily be handled on the local level. The same holds true for State officials themselves who commit fraud. If one has reason to believe that a fraud is being committed by a State official, he may bring this to the attention of the proper officials, and if there is enough evidence to indicate a pattern of fraud by an official, an investigation may be undertaken.

The Senator from Hawaii has also raised the issue that under S. 2574, venue for suits can only be assigned to the U.S. District Court for the District of Columbia. This is an incorrect assumption by my colleague. Let me point out that the language of the bill states that that court or any appropriate district court. There is a small venue problem, because the Federal rules limit subpena power to witnesses within 100 miles of the court; but that is no greater problem in this case than in any other, and protects the rights of citizens who do not want to be dragged off to faraway Federal courthouses.

The Senator from Hawaii has stated that reestablishment of residency requirements for voting for President and Vice President is required by the bill because of the 30-day clause. With that statement we agree wholeheartedly with the Senator. However, I am prepared to introduce onto the floor an amendment which will clearly stipulate that S. 2574 will not interfere with the 1970 act, and that a State may enact legislation more liberal than the requirements of S. 2574 if it wants to, which will supersede the Federal requirements. I thank the Senator from Hawaii for raising this very valid point. It is checks like these that make our system work effectively.

Finally, the Senator from Hawaii states that jurisdiction of the Post Office and Civil Service Committee does not

extend to this legislation. He states that the bill should be referred to the Judiciary Committee. Hopefully, this is the final summation of a long and tedious argument. The Judiciary Committee should not have jurisdiction over this matter. As I have stated before, this committee of which I am chairman did not usurp the powers of the Judiciary Committee. It was referred to us and we accepted the challenge. The Senator from Massachusetts plans to discuss the judiciary question again, so I will not elaborate any further upon it. Our position was stated once before on the colloquy between Senator HRUSKA and myself on November 9, 1971. We feel this issue is now moot and we should proceed upon the merit of S. 2574.

Mr. McGEE. Mr. President, I am now glad to yield to the distinguished Senator from Minnesota (Mr. HUMPHREY) 7½ minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 7½ minutes.

Mr. HUMPHREY. Mr. President, I thank the Senator from Wyoming very much.

I am very proud to be a cosponsor of this National Voter Registration Act. I had the privilege of testifying before the committee chaired by the Senator from Wyoming (Mr. McGEE). I believe that the work of that committee in bringing forth this particular bill is one of the most important developments at this session of Congress—indeed, of many sessions of Congress.

The issue before the Senate is whether we are really going to maximize voter participation in the decisions of this Government.

I have listened with keen interest to the objections raised by the distinguished Senator from Hawaii (Mr. FONG) and the response of the Senator from Wyoming (Mr. McGEE).

One of the charges made, and just alluded to, was the possibility of fraud under this particular universal voter registration bill. I believe that the comments of the Senator from Wyoming are on target, that fraud in this country is the manner in which, by antiquated registration procedures, we deny millions of people their opportunity to vote.

I know that the answer will come back, "If they want to register, they can."

I suppose it is possible, if one wants to stand in line long enough, if he wants to go down to city hall, and in many places those voter registration booths or tables are open for only a few hours a day, or at least over a limited period of time, but if he is willing to take all that time, it is possible that he can be registered.

But I invite the attention of the Senate to the fact that the battle cry at the beginning of this Republic was, "No taxation without representation."

There are millions of Americans today who because of voter registration procedures have no opportunity to be registered, so have no chance to participate. It is estimated that over 40 million American citizens were eligible to register but were unregistered in 1968. That figure will be well over 50 million in 1972. In fact, there were more people unregistered in 1968 than voted for any candidate for President in 1968.

Someone can say, maybe with seriousness or with facetiousness, "Well, they didn't see much to vote for."

I submit that many registrants were unable to vote in local elections, were unable to vote in State elections, and were unable to vote for Senators or Congressmen or Governors. So it was not as if it was just related to a national election.

The Government does not ask us to register to pay our taxes. The same Government that can tax us can register us. The Government of the United States does not say, "Will you please send in your name to the Internal Revenue Service? Give us your address, and your zip code and we will send you an income tax blank."

No; the Government of the United States finds us and sends us the income tax blank, and if we do not fill it out right, they send someone out to help us fill it out right. And if one does not take the help, why they will send him to jail.

What we are saying here is that under this bill we will use the mail that takes the income tax blank to the people, the same mail service, to help the voter registration. I know of no county or State in the United States that says to an individual, "You own some property. Be sure to come down and register so that we can tax you."

I have never consulted my county about my property tax. They send me a tax bill. They hardly ever call me. I have never had to call up the Internal Revenue Service and say, "I changed my address. Would you like to know where I am living now?" They find a person. They find out how much money he has and how much property he has. And they tax it.

The same Government that can do that can also help one to register. They determine what kind of decision will be made about one's taxes.

I see something here that is very disturbing. I see a fear on the part of some people in this Government of the people. I see, for example, attempts from the White House to kill off the checkoff system on the Federal income tax form that would be provided so that we could have decency in politics and the financing of politics so that the citizens would have an opportunity voluntarily to exercise their right to say that they want $1 of their taxes to go into a fund to pay the financing of the expenses of persons who seek the highest office in the land.

I hear that the President of the United States says he will veto that bill, even though that bill includes in it the economic stabilization program which stimulates the economy of this Government and makes it possible to have more jobs for the unemployed.

I see an administration that is afraid of the people. I see an administration that is afraid of voter registration.

I think I know why. I think it is because the Census Bureau reports:

> The highest portion of those not registering or not voting fall among the blacks, those who do not finish high school, in the main the service workers, and those of low income.

There you have the reason for it. Those who have a fear of their Government are the ones who get little or nothing from the Government, or if they get anything, it is welfare, which is demeaning to them.

I submit that the bill presented by the Senator from Wyoming is a major landmark in the extension of democratic government, in the improvement of principles and institutions of our democracy. I want to commend him. I think it is nothing short of a national tragedy that we are not going to have the opportunity to make this the law of the land at this particular session of Congress. It is needed.

There is great disenchantment in this Republic. There is great disenchantment about the Government. And one of the reasons is that it is very difficult to get answers out of the Government. It is very difficult to get service out of Government. It is very difficult to reach the processes of the Government.

We ought to make it so easy to vote that no one has an excuse not to vote. Let me tell the Senator that other countries do it.

Mr. President, in the Scandinavian countries, they pride themselves on having 90-percent voter registration of the eligible electorate. They do not have to go through this monkey business of registering.

In Australia, 80 percent of the population that is eligible to vote, votes. They do not have to go through this confusion and this maze and all these sandbags and traps.

There is a voter registration in Great Britain. Great Britain is one of the oldest democracies in the world. People just go and vote. They have their voting places and they go to vote.

In France, over 80 percent of the eligible electorate votes.

Why do they vote? Are we going to say that the French are better educated or that the people of India are better educated? A vast number of their people vote.

I think the answer is that they make it easy to vote. Voting ought to be as convenient as breathing.

Yet, we make it as difficult, I submit, as getting out of a sandtrap on a golf course.

I would suggest that we ought not to relax our rules, but ought to change our rules. The pending bill protects us from fraud. It protects the State, because each State decides whether to adopt the Federal system for its own. The Federal Government will reimburse a State for 15 percent of the process involved. If a State decides to adopt the Federal system, the Federal Government will reimburse the State for 30 percent of its cost. Thirty percent of the cost will be upon the Federal Government.

This legislation has a strict provision to prevent fraud. I would hope that somewhere along the line we would recognize the importance of its passage.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. FONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Hawaii has 19 minutes remaining.

Mr. FONG. Mr. President, I yield 4 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 4 minutes.

Mr. ERVIN. Mr. President, the committee that has acted on this bill has about as much jurisdiction over this subject as I have to select underwear for the Queen of Sheba. For that reason, I move that the bill be committed to the Senate Committee on the Judiciary.

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit.

Mr. ERVIN. Mr. President, I want to speak on the motion.

Mr. McGEE. Mr. President, I would like to have a ruling made on that matter.

The PRESIDING OFFICER. The Senator from North Carolina has been recognized for 4 minutes. The motion to recommit would be the pending question.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ERVIN. Is a motion to recommit debatable?

The PRESIDING OFFICER. It certainly is.

Mr. ERVIN. Mr. President, let us see what the jurisdiction of the Committee on Post Office and Civil Service is.

The rules of the Senate provide as follows:

(n) Committee on Post Office and Civil Service, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. The Federal civil service generally.

This bill has nothing to do with the civil service. It provides further:

2. The status of officers and employees of the United States, including their compensation, classification, and retirement.

This bill does not have the remotest connection with that subject within the jurisdiction of the committee.

The Senate rules provide further:

3. The Postal Service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service, but excluding post roads.

This bill has as much to do with the subject of that committee as the flowers that bloom in the spring, tra-la, have to do with the committee.

The Senate rules provide further:

4. Postal-savings banks.

5. Census and the collection of statistics generally.

6. The National Archives.

So, we have a bill that has been heard by a committee that had no jurisdiction at all. The bill has been reported by a committee that had no jurisdiction over this question.

Despite my good relations with my good friend, the Senator from Wyoming, I am going to say that he is the mildest mannered man that ever scuttled a ship or cut a throat or usurped a power that he did not possess.

The rules of the Senate establish a Committee on Rules and Administration, and it says that that committee has jurisdiction of all——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FONG. Mr. President, I yield an additional 3 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for another 3 minutes.

Mr. ERVIN. Mr. President, the rules of the Senate provide that the Committee on Rules and Administration has jurisdiction of:

Matters relating to the election of the President, matters relating to the election of the President, Vice President, or members of Congress; corrupt practices; contested elections; credentials and qualifications; federal elections generally; presidential succession.

It is clear that this bill in its present form is within the jurisdiction of the Committee on Rules. But there is a provision that the Judiciary Committee has jurisdiction of problems that relate to civil liberties.

Mr. President, this bill should go to the Committee on the Judiciary because we already have pending in the Committee on the Judiciary three bills. We have S. 2349, which was introduced by the distinguished Senator from California (Mr. TUNNEY), who now occupies the chair. We have S. 2240, which was introduced by his distinguished colleague from California (Mr. CRANSTON). We have a bill introduced by the Senator from Alabama (Mr. ALLEN), S. 1553. All of those bills deal with the same general subject as the pending measure.

It should go to the Committee on the Judiciary because I have four or five amendments pending here which relate to civil liberties. A little over 100 years ago my State attempted to leave the Union, and the Union said:

You cannot do that; you cannot get out of the Union.

We found we could not get out of the Union. But we have also been over 100 years trying to get back into the Union and we cannot get back into the Union.

I have some amendments to the pending measure which provide that North Carolina, Virginia, South Carolina, Georgia, Alabama, Louisiana, and Mississippi be readmitted to the United States on the equality with the other 43 States.

Since my amendments are necessarily efforts to amend the Voting Rights Act of 1965, of which the Judiciary Committee undoubtedly has jurisdiction, the pending measure and my amendments ought to be considered by that committee.

I have some amendments to get North Carolina back into the Union and to get these other States back into the Union. I think these amendments need to be considered by the Committee on the Judiciary which deals with legislation of this kind. I intend to press the amendments. I think that the regulatory procedures of the Senate are of prime importance and I do not think, despite my high admiration for the members of the Committee on Post Office and Civil Service, that they should set a bad example to other committees to take jurisdiction of matters over which they have no jurisdiction.

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

Mr. ERVIN. I thank the Senator from Hawaii for yielding me time and I suggest that if he has any time remaining he give parts of it to the Senator from Nebraska and the Senator from Alabama.

Mr. McGEE. Mr. President, I would like to speak briefly. I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. McGEE. Mr. President, as I review our recent history I recall very fondly that my warm personal friend from North Carolina has established himself as the arch protector of the Bill of Rights of Federal employees. Practically every bill which comes up before this body is made up of many parts and, Mr. President, you cannot just decide cleanly if it goes to this committee or that committee. But the Senator's bill was not referred to the Committee on the Judiciary. He asked unanimous consent that it might be because the rules of the Senate had to be waived. The Senator from Wyoming made no such request on this bill now pending. This bill was sent to the Committee on Post Office and Civil Service by the will of the Presiding Officer and the Parliamentarian of this body. We asked for no help; we asked for no biased judgment. We did not seek to grasp someone else's jurisdiction.

The matter was assigned to us and we have lived up to that assignment by holding hearings and drafting a bill that is obviously not establishing new voters. It is administering a registration process already laid out through the Bureau of the Census, which is our jurisdiction in this body, and through the mails, which is our jurisdiction in this body.

So once again I say to my friend that we are not seeking to annihilate anyone's jurisdiction.

Mr. FONG. Mr. President, I yield 5 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I thank the distinguished Senator from Hawaii for yielding to me.

Mr. President, I agree that this bill should go to the Committee on the Judiciary for further study and for possible amendments.

Much has been said about the plight of adult citizens of the United States who have not registered to vote and, therefore, are ineligible to vote in presidential elections. But very little has been said about the 20 to 30 million qualified electors who have so little interest in the election that they fail to go to the polls and vote, even though they are qualified. They are the ones we should be concentrating on and urging them to go to the polls and vote.

The requirement that this might be handled by mail need not have been made, actually. These forms really should not be sent out through the mails because they will have to send out some 80 to 100 million of these forms each

time they have a Federal election, each time they have a presidential preference primary, and each time they choose delegates to a convention. They would have to send out 80 to 100 million of these forms for each such election. Why not just make the forms available at drug stores or grocery stores or the like?

Mr. President, we already receive enough mail that we do not need. What about the qualified voters, the 75 million to 100 million qualified voters, who would continue to get these forms each time there is an election? Think of the confusion that would cause for qualified electors to get these forms indicating they are not qualified to vote. Think of the hundreds of thousands of people who would fill in the forms and mail them in, even though they are qualified. Look at the overkill of sending out these forms to every postal patron in the country. It is absolutely ridiculous.

Talk about voting tombstones, Mr. President, you are going to be voting postcards if this bill is allowed to pass.

There is a little bit of legalized bribery in this bill, as well, because it provides payment to the States—nothing was said about how that would trickle down to the county level offices. But it provides paying the State an amount estimated by the committee at 50 cents per form that is processed. Then, they would pay an extra bonus of 15 percent if the State adopts the same system in its registration procedure, and another 15 percent if they passed the same residence requirements that are provided by the bill in their State elections. So if the State will get under this law there is a subsidy to be paid to the State.

There is nothing mandatory in the bill as to action by State voting registrars. Mr. President, you might find one State implementing these provisions and another State would not do it.

From time to time in this body we have had up the matter of the direct election of the President. If we should have a State that would register 1 million post card registrants and another State that did not chose to implement this law, we would have a concentration of voters in the large areas because they would be the areas that would be likely to implement this law.

In my judgment this bill needs a careful going over and I believe we can count on the Committee on the Judiciary to give long and serious consideration to this bill.

I support the motion of the distinguished Senator from North Carolina that the bill be recommitted to the Committee on the Judiciary.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. KENNEDY. Mr. President, will the Senator yield to me for 7 minutes?

Mr. McGEE. I am glad to yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, it is always of interest to me to hear the arguments that are made over jurisdiction by those opposing a measure. If there is one observation I would make about the Senate in the years I have been here, it is that arguments are constantly made about jurisdiction, but they are arguments of convenience. It all depends on whose ox is being gored.

I remember that recently, in the Committee on the Judiciary, we had a bill to relax the strict requirements we imposed on ammunition. The supporters of the bill could see it was not going to be approved by the committee. And so those who wanted to relax the law simply withdrew the bill from the Judiciary Committee. They did a little redrafting. They dotted the i's and crossed the t's and they introduced it again. And lo and behold, this time they sent it to the Committee on Finance, where it was promptly approved by the committee and sent to the Senate floor.

I also remember coming on the floor of the Senate and making the request that the bill be referred to the Judiciary Committee, to no avail. I do not recall the Senator from North Carolina championing the jurisdiction of the Judiciary Committee on that occasion.

That is the way it always is. We hear time and time again, that this matter should be sent to this committee and that matter to that committee. As chairman of the Health Subcommittee, I am aware that the Finance Committee deals with the financing of health care, and our subcommittee deals with the delivery of health care. Likewise, we know that several different committees have jurisdiction in the area of election reform.

The only time the argument over jurisdiction is made is when no other good argument can be made. If there are any complaints to be made over jurisdiction, they ought to be made against the Senate rules, which determine the jurisdiction of the committees. The Parliamentarian has clearly ruled that the Post Office Committee had proper jurisdiction over this registration bill and I hope that jurisdictional objections will be used no further to frustrate the right of the people of this country to participate in elections.

Mr. President, it is a fact that 6 out of the last 12 constitutional amendments have been enacted to broaden the franchise for our people.

If we were on the Senate floor 100 years ago, we would have heard the debate over the 15th amendment, extending the right to vote to blacks. In this country, we would have heard debate on the 19th amendment, providing the right of women to vote. Or the 23d amendment, for participation in presidential elections by the citizens of the District of Columbia. Or the 24th amendment, prohibiting a poll tax in Federal elections. Or the 26th amendment, lowering the voting age to 18.

We heard the same argument on the poll tax—"Let us send it to the Judiciary Committee"—which would have killed it.

I listened to the same arguments with respect to the 1970 act enabling 18-year-olds to vote. "Let us send it to the Judiciary Committee," it was said. "We have not had time to study it." But, the Senate acted responsibly. It recognized those arguments for what they were—delaying tactics—and refused to avert them. I submit that we should do the same today.

This bill is not complex or complicated.

As I said before, six out of the last 12 constitutional amendments have been enacted to expand the franchise. We know that Congress has been active in this area in approving statements as well. In the 1950's and 1960's, we had the Civil Rights Act. We had the Voting Right Acts of 1965 and 1970. We had the 18-year-old vote. We had the broadcast spending bill. We had the Election Reform Act of 1971, with spending ceilings and reporting provisions. We had the campaign fund amendment last week. The whole trend has been for reform and for expanding the participation of people within the election system.

That is all this bill is trying to do. We all know what this bill would accomplish and achieve. We know quite clearly from the statistics that before we had the inhibition of voter registration, we had higher voter participation. In 1896, 87 percent of the eligible voters participated. Then when we reached 1924, when all the States had enacted registration laws, only 44 percent of the American people went to the polls. So we can see the direct relationship there.

Perhaps the most sinister aspect of interpreting the statistics comes from looking at the groups in our society with the lowest record of participation in our election process.

Only 66 percent of United States black citizens were registered, while 76 percent of the whites were registered.

Fifty-three percent of citizens in families with incomes less than $3,000 were registered in 1968, but 82 percent of those in families with $10,000 to $15,000 incomes were registered.

Only 69 percent of the Nation's manual workers were registered in 1968, but 83 percent of the white collar employees were registered.

Only 49 percent of those with a formal education of 1 to 4 years were registered in 1968, but 87 percent of those with college degrees were registered.

So we have an election system which at its very roots works against the disadvantaged people, the less educated, the blacks, the poor, and the blue collar workers.

The debate we have had so far demonstrates already that there are those in this body, as there are around the country, who do not want to change the system. The way to improve our democracy is to bring people into the system. One of the best ways to do that is to provide the people with a reasonable means of voter registration, so that they may have the opportunity on election day to participate in the political life of our free society.

I would hope we could get some kind of final action, or at least some agreement in terms of time for a vote. As has been pointed out by the chairman of the committee, this is not a complex issue. It is not very complicated. There are States like the State of North Dakota which do not have any kind of registration law at all. We do not find abuses in North Dakota as a result of that supposed gap in the law. Surely, we are not going to say that the people of the other States are

more corrupt than the people in North Dakota.

In any event, we have adequate kinds of safeguards against fraud in this bill. There are strong enforcement procedures. This bill is fair. It is constitutional. It will be upheld by the Supreme Court of the United States. Time and time again, when this question has been raised, the Supreme Court has said that the Constitution gives broad power to Congress to enact laws in this field. All we want to do is exercise some leadership and to have Members of the Senate express their views. I hope they will and I hope the outcome will be favorable.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FONG. Mr. President, I yield 3 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, it has been suggested by other speakers that some Senators do not want to vote on this bill. I agree with that statement. I think that no one should want to vote on this bill today, and I have good reasons for that view.

We have a system of qualifications for electors in this Nation that has grown up for almost 200 years pursuant to the requirements of the Constitution, custom, and logic. In a short space of time, with less than 2 hours' debate, it is here suggested that there are people who do not want to change the system that has grown up over that long a period; that we do not want to vote on this proposal today. That is correct.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. HRUSKA. Mr. President, the fact is that there has not been a sufficient canvass of the impact of this bill, and I will give a specific example. We have in this Nation 50 secretaries of state or their equivalent who are in charge of the several States' election processes. Only one secretary of the State of Oregon testified concerning this bill, one who was for the bill. He opened his statement by saying, "I appear here not only as secretary of state but also as a representative of Common Cause"—not a truly unbiased witness who would be able to present both sides of an issue as complex and complicated as this. Only one. I have had indications from other State officials, and from many other quarters, that there are a significant number of people who would like to have had an opportunity to oppose the bill. They were not afforded this opportunity nor even notified of the hearings or content of the bill now before us.

Let me give my colleagues an idea of what is involved. Under this bill it would be inevitable that every State would have dual election rolls. There would be an election roll existing for voters who would register under this bill for national elections and there would be a roll of voters who would register under the regular processes of the State for other elections. The cumbersome procedures and increased costs would be substantial.

A year and a half ago we had testimony before the Judiciary Committee, when we were considering the Electoral College reform bill, that the system of having dual registration rolls of voters would be completely impracticable and unworkable. In those States that have election machines, it would make necessary two sets of election machines. In those States that do not have machines, it would be necessary to have two sets of ballots, and there would be two sets of qualifications for voters.

As an example of the lack of need for this bill, let me point to one simple proposition which appears on page 15 of the bill, subsection (4), which provides that the postal card must have a printed statement that the individual is a qualified elector under the laws of the State except as to duration of residency.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FONG. I yield 2 minutes to the Senator.

Mr. HRUSKA. No voter would be able to truthfully sign that statement and assert that he was a qualified elector of the State in which he lives unless he had already complied with the registration laws of that State. That is what makes him a qualified voter. And if he is so qualified, there is no necessity for the postcard to be sent for registration purposes. All States presently have adequate provisions to take care of citizens who meet these standards.

That is only one of many examples why this bill should be referred to the proper committee for supplemental action and for thorough inquiry and study.

A long list of Federal statutes for reform of the election laws presently in effect has been cited as an argument for passing this law; but in each of those instances, Mr. President, there has been some element in the electoral processes of the individual States that has prevented people from voting who should be voting pursuant to Federal requirements such as a poll tax, or literacy test, or discrimination on account of race, creed, or color, or whatever it has been.

That is not the case in this bill. This bill says the State system is all right for the State, but it is not all right for a Federal election. It would seem to me that if there were something wrong with the State electoral system, that would require revision in all regards so as not to impede the ability of people to vote in any election. If such be the case we ought to attack that, but not to superimpose on a present viable and practicable and workable system something which will render it immobile, in an effort to get people to vote.

Mr. President, the bill now under consideration raises in my mind a number of problems, both substantive and procedural. This Senator regrets very much that S. 2574, the voter registration bill, has been called up for consideration at this time. With but a few days left in this session it is inevitable that in the rush for adjournment a bill as complex and far-reaching as this one will not get the attention that it deserves. I would much have preferred that if the bill is to be debated in its present form at all, and I would wish that it not be, that consideration be postponed until the start of the second session. Then the Senate would have ample time to consider S. 2574 fully. I hope that on the expiration of these 2 hours, this bill will be returned to the calendar.

With regard to procedure, it is my firm belief that this bill should not have come to the floor until the Committee on the Judiciary had an opportunity to examine it. While the Committee on the Post Office and Civil Service under the able leadership of the Senator from Wyoming (Mr. McGEE) has a great deal of expertise in many fields, particularly the workings of the U.S. Postal Service, I submit that that expertise does not extend to voting rights and voter registration. To send this bill to the Post Office Committee and to ignore the long history proposals of this type have had before the Judiciary Committee seems to me to be a brilliant example of the exhaltation of form over substance.

As I understand the history of this legislation, when the proposal was first introduced, the Parliamentarian determined that the bill should be under the primary jurisdiction of the Post Office Committee because the mails were to be the means by which massive registration was to be carried out. A quick look at rule XXV of the Standing Rules of the Senate will reveal however that the Committee on Post Office and Civil Service has no jurisdiction over election matters.

The Senator from Michigan (Mr. GRIFFIN), I believe, indicated on the floor at that time by way of a unanimous consent agreement that following any reporting of that bill from the Post Office Committee it was to be referred to the Judiciary Committee for its consideration.

Now I am informed that because the Post Office Committee has reported a clean bill, rather than the one originally introduced which the unanimous consent agreement covered, that agreement has no validity. It seems to this Senator that the true intention of the assistant minority leader was clear from his agreement: this type of bill rightly falls within the jurisdiction of the Judiciary Committee and the Senate should not be called to act without first having the views of the primary committee involved.

To sidestep that agreement by reporting a clean bill, on the identical subject, seems as I indicated a moment ago to be an unjustified elevation of form over instance. By use of a technicality the legitimate aims of Senator GRIFFIN and those who feel as he does have been trammeled.

The Committee on the Judiciary, and most particularly the Subcommittee on Constitutional Rights chaired by the very distinguished senior Senator from North Carolina (Mr. ERVIN), has for a number of years held hearings, listened to witnesses and considered a large number of proposals relating to the subject of voting rights. The question has always been how to secure for all of the governed the constitutionally guaranteed right to vote for those who govern. Just last year the Voting Rights Act of 1970 was considered and processed by the Judiciary Committee as is the case with all similar measures within the memory of this Senator.

Without fear of contradiction, I feel that it is fair to say that no member of this body reveres the Constitution and the Bill of Rights more than Senator

ERVIN. No one of us has spent more time studying the work of the framers, the history of this Nation and this Government under the Constitution, and the many decisions of the Supreme Court wherein that document is analyzed and interpreted. To deprive the Senate of the views of this Senator, his colleagues on the Judiciary Committee, and the witnesses who would be called to testify on this measure, is indeed a disservice—both to the Senate and to the Nation.

In looking over the hearings conducted by the Post Office Committee on S. 2574 and related bills, it appears that a number of interested parties were never notified of these hearings and never given an opportunity to testify. Among others who have a deep interest and knowledge in the subject of elections are State and local election officials. This Senator feels that testimony from representatives of these groups concerning, for instance, current practices, problems with registration, fraud, voter turnouts, costs and related matters would have been most helpful in our analysis of this bill. I am even informed that the secretary of State of Wyoming, the home State of the chairman of the reporting committee, would like to have had an opportunity to comment on the problems raised by this bill.

To ask the Committee on the Judiciary to now take a look at the bill would, in my judgment, greatly strengthen and solidify opinion on this matter. A different viewpoint could be brought to bear on this proposal which I think would be all to the good. This Senator is certainly not in a position to know what action the Judiciary Committee would take on the bill, but I am certain its views would be most helpful regardless of the outcome. To do otherwise will be to force the Senate to commit itself on this very important question with only half a brief before it. Courts do not decide cases this way, neither should the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. KENNEDY. Mr. President, will the Senator from Wyoming yield me 3 minutes?

Mr. McGEE. I yield 3 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, if there is an argument that does not have any relevancy to the issue before us, it is the argument by the Senator from Nebraska about the burden of a dual system.

We have already got a dual system. We have it since we adopted the amendment of the Senator from Arizona (Mr. GOLDWATER) in the 1970 Voting Rights Act. That amendment provides that any new resident of a State must be allowed to vote in a presidential election so long as he registers at least 30 days prior to the election. So we already have a dual system. All the Senator from Wyoming is asking in this measure is that the dual system be extended for two more names. The States must already provide a separate ballot with only the name of the presidential candidate. Why should not they also add the names of the Senate and House candidates to that ballot?

The Senator from Nebraska knows as well as I do that the death knell for every voting rights measure is sounded in the Judiciary Committee. Otherwise, why do we find, time and time again, that as such measures come over from the House of Representatives, they are held at the desk? Sometimes they are sent to the Judiciary Committee, but always with the requirement that the bill be reported back by a time certain. That was true in the case of the poll tax, the 18-year-old vote, and congressional redistricting. We know what will happen to this amendment in the Judiciary Committee.

All this bill will do is enable the American people to participate in the system. That is the best way to keep this country strong, and that is why I support the amendment, and hope we will be able to act on it.

The Senator from Nebraska says we ought not to talk about a time limitation agreement, that there ought to be more opportunity to discuss the matter and to exercise our will.

Then why will he not suggest some alternative agreement in terms of time? All we hear is, "When are we going to take up Rehnquist? When are we going to take up Powell?" That is what we hear, three or four times a day. "When will we vote on the Supreme Court nomination?" Yet when it comes to talking about something that can really reform the system, the Senator is not so ready to vote on it.

It is always a question of whose ox is being gored. Unfortunately, in this case it will be the American people's. They will be the ones who are denied the opportunity to vote, unless we pass this bill. That is why I hope the Senator from Wyoming will, in good faith and conscience——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McGEE. I yield 1 more minute.

Mr. KENNEDY. Offer at least some unanimous-consent request to test the good faith of our friends on the other side of the aisle, and even some on this side of the aisle, to see if we cannot get some kind of a time limitation.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I would like to ask the Senator from Wyoming, if he has the time, if I may ask him some further questions. How much time is there available?

The PRESIDING OFFICER. The Senator from Wyoming has 8 minutes left.

Mr. McGEE. I yield the Senator 3 minutes.

Mr. KENNEDY. Of course, we talked about the issue of jurisdiction, which I think has certainly been adequately answered and resolved by the comments of the Senator from Wyoming. At other times there has been a question as to the constitutionality of this legislation. I know this was an area explored by the Senator from Wyoming, and that he has considered it.

In regard to the question of the constitutionality of the statute lowering the voting age to 18 last year, there were legitimate constitutional differences among us and in the academic community. Dean Pollak at Yale and Professor Freund at Harvard, for example, were on opposite sides of that issue. It is my understanding, however, that they are both in agreement that the present voter registration legislation is constitutional. I would appreciate hearing the views of the committee chairman on this matter.

Mr. McGEE. Yes, I can say the committee examined the issue, because it was constructively raised. The committee was satisfied, as were all others who were consulted, that in the decision of Smiley against Holm, in which Chief Justice Hughes wrote the opinion, they reached the conclusion, on that occasion, in 1932—a very conservative court, I might add—that jurisdiction in this area was without question vested in the Congress of the United States; that State legislatures could legislate in this field, but that they could be superseded if, in the judgment of Congress, such action were required. And the vote in that case was unanimous; it was 9 to 0. Therefore, there seemed to be no real question in terms of that phase of the constitutionality.

In regard to the issues in the more recent case of Oregon against Mitchell, which was 7 to 1, or 8 to 1, on the residence provisions, the Court held that this, too, was legitimate under the Constitution of the United States.

So I do not think there is any relevance in the constitutional category.

Mr. KENNEDY. The Senator cited Smiley against Holm in 1932 and Oregon against Mitchell in 1970 as strong support for the constitutionality of this bill. In Oregon against Mitchell, the 18-year-old vote case, the Court also considered the question of the authority of Congress to reduce residence requirements for voting, as I understand it.

Mr. McGEE. That is correct.

Mr. KENNEDY. In that case, the Supreme Court held, by an 8-to-1 vote, that Congress did have authority to reach this constitutional question, as I understand it. And Justice Stewart, Justice Blackmun, and Chief Justice Burger were among the members of the Court who endorse this power most explicitly. Is that correct?

Mr. McGEE. Yes.

Mr. KENNEDY. I could not agree more with the Senator from Wyoming as to the two relevant Supreme Court decisions. Would the Senator not agree with me that the constitutionality of this bill is really a nonissue?

Mr. McGEE. It is really a total nonissue in terms of this piece of legislation, in the way that it has been drafted and its effect.

Mr. MILLER. Will the Senator from Hawaii yield me 3 minutes?

Mr. FONG. I am sorry; I have only 3 minutes remaining. Is that correct?

The PRESIDING OFFICER. That is correct. The Senator from Wyoming has 5 minutes.

Mr. FONG. I will reserve 2 minutes. I will yield 1 minute to the Senator.

Mr. MILLER. I thank my colleague. Mr. President, we never get a proposal before the Senate of this magnitude but

what it comes in under the order of being good for the American people, and is virtuous. We just went through this the other night on this campaign check-off proposal, which most of the Members on the other side of the aisle supported, and, of course, it was all clothed in virtue.

During the meeting of the conference committee on this measure we found some terrible defects in it. I said on the floor that there was a loophole in it large enough to drive a truck through.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Who yields time?

Mr. MILLER. I thank my colleague from Hawaii.

Mr. McGEE. Mr. President, I again shall try to achieve a meeting of the minds. I yield myself 2 minutes for that purpose. Inasmuch as there has been a very persuasive case made here today that we should not vote on this today—I think the Senator from Nebraska (Mr. HRUSKA) has made that as part of his thrust—I should like to ask, when?

I ask unanimous consent that the Senate agree to vote on this measure on Wednesday.

The PRESIDING OFFICER. Is there objection?

Mr. FONG. I object.

Mr. McGEE. I shall try once more, Mr. President. I ask unanimous consent that this body agree to vote on this matter next Thursday.

Mr. ERVIN. I object.

Mr. FONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McGEE. One last effort: Again, the issues have been spelled out, the substance has been explained, the jurisdiction has been established by the Parliamentarian of this body, and its authenticity under the Constitution has been clearly drawn. So I ask unanimous consent that we might agree at any convenient time to the opposition, before adjournment, for a final rollcall vote on this measure.

The PRESIDING OFFICER. Is there objection?

Mr. ERVIN. I object.

Mr. FONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McGEE. I hear an objection again from our friends who have been wondering why we have waited so long. Now I think we are entitled to ask, "Why are we waiting still longer?" Everybody knows what it says. It is not ambiguous. We have had the testimony from every conceivable group that has an interest in it or an interest opposed to it.

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

Mr. McGEE. I yield.

Mr. KENNEDY. Would the Senator be willing to propose a unanimous-consent agreement to send this matter to the Judiciary Committee, for a period of 30 days or 45 days, and at a time certain report back, with a time agreement for a fiscal vote?

Mr. McGEE. I would not agree to that, for the reason that we have not raised any issue on that because of the ruling of the Parliamentarian.

I would say again, Mr. President, that here we are establishing a process for removing roadblocks. We are not tampering with the rules of the States. The whole operation would remain in their jurisdiction.

So I say to Senators that we dare not, as Senators, with all the wisdom we can command, raise questions as to the motivations of people, as to why they do not vote. What we can do is to remove the technical, legalistic, and statutory roadblocks that keep them from voting. We cannot inquire into how they are going to vote. It is none of our business. Yet, one gets the feeling that there is a sense of uneasiness about how these new voters might vote, and this is not our business.

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

Mr. McGEE. I yield.

Mr. MANSFIELD. Mr. President, one of the reasons why the leadership was so anxious to bring up the pending business before the Senate at this late date was to see if it would be possible to work out a procedure by means of which it could be taken up at some definite time and then voted on. I do not think there is any doubt as to the jurisdiction of the pending measure, because the rules clearly state that the mails and the Census Bureau are directly under the Committee on Post Office and Civil Service. Other proposals have been brought up in similar circumstances. And there has been some criticism of the joint leadership because of these procedures. One had to do with higher education, for example, and after a short discussion, agreement was reached and it was then turned aside. The point is, we did obtain a commitment that it would be brought up in late January under a time limitation.

Similar circumstances prevailed with respect to the equal rights for women constitutional amendment. There was a commitment obtained that this measure could be available to be brought up early in February. H.R. 1 was not reported this year because of the time consumed working on the economic tax bill. But we do have a commitment that that measure will be available to be taken up sometime in late February or March.

By the same token, I was wondering if it would be possible for both the opponents and the proponents on the pending measure to agree that after this measure is set aside today, a date certain next year—say, sometime in February or March—could be agreed upon so that this proposal could be called up, made the pending business, and debated then in earnest.

Mr. McGEE. I would be glad to consult with the opponents to see if we could arrive at that agreement.

The PRESIDING OFFICER. The Senator from Hawaii has 1 minute remaining. All time on the other side has expired.

Mr. MANSFIELD. Would the Senator consent?

Mr. HRUSKA. What is the request?

Mr. FONG. I ask unanimous consent that this time not be taken from my minute.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the majority leader be given 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. What is the request, Mr. President?

The PRESIDING OFFICER. To give the majority leader 2 minutes to discuss whatever proposals he wants to discuss.

Mr. HRUSKA. I thought the majority leader had a unanimous-consent request.

Mr. GRIFFIN. Mr. President, reserving the right to object, would the granting of this request in any way affect the previous request?

The PRESIDING OFFICER. It would not.

Mr. GRIFFIN. Which would make it clear that the matter goes back on the calendar at the expiration of the time.

The PRESIDING OFFICER. It would not.

Mr. MANSFIELD. No.

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

Mr. MANSFIELD. As in the case of other proposals which have been debated on the floor of the Senate during the late days of this long and tiring session, I would try to see if it would be possible, around the end of February or the first of March or thereabouts, to have assurance that the pending business could then be taken up and carried through to a conclusion.

Mr. ERVIN. I would say to the majority leader that this is an effort to change the electoral system of the United States in a drastic manner. We had a similar bill before the Committee on the Judiciary a year or so ago, and the secretaries of state and the election officials of the 50 States of the United States sent two of their representatives, the secretary of State of Louisiana and the secretary of State of New York, as I recall——

Mr. HRUSKA. Nebraska.

Mr. ERVIN. Yes, the secretary of State of Nebraska. They testified before the committee that to have a dual registration system would introduce chaos into the elections in this country. They insisted—and I think rightly—that having one registration for Federal elections and another for State elections would occasion endless confusion.

I think this is a matter that deserves serious consideration. The bill would alter the entire system we have had in this country since its foundation. We have only experienced Federal control of elections one time, and it resulted in so much fraud in our chief cities that it was repealed after a very short time.

I believe this is such a serious question that it requires consideration; it requires that the States have an opportunity to be heard. Frankly, I do not think we can reach an agreement.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business, once it is laid aside in this session, be laid before the Senate and made the pending business on March 1, 1972.

Mr. ERVIN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Hawaii is recognized for 1 minute.

Mr. FONG. Mr. President, listening to the proponents of this bill, one would think that all the laws of the United

States prevented our citizens from registering. Every citizen who wants to register can go down and register and become a voter. There are no legal obstacles to his registration.

If this bill is passed, we will be registering cemetery lists, we will be registering tombstones, we will be registering vacant places, we will be registering fictitious people.

Present laws require a man to be present before he can register. But with this bill, he need not be present. Any man can sign the name of any fictitious person and send it to the registrar's office, and that name will be registered. This bill would bring a tremendous amount of fraud into the election process.

Mr. DOLE. Mr. President, I assume no Member of this body disagrees with the underlying purpose of the proposed National Voter Registration Act reported by the Committee on Post Office and Civil Service. All of us deplore the lack of participation in the voting process—the disgraceful percentage of our citizens who do not vote. The question posed by this bill, however, is not whether the Congress of the United States regrets the lack of voter participation, rather it is whether the Congress intends to foist a new Federal bureaucracy on States which are already frantically attempting to cope with electoral confusion with no assurance that it will improve voter participation.

With the recent ratification of the 26th amendment the States must undertake to register hundreds of thousands of new young voters. This alone is a tremendous task but it is one which the States, by their ratification, have signified their desire to undertake. Since this registration began, however, complex problems have arisen concerning the definition of residency to be applied to these young persons and a number of States are now in court seeking judicial resolution of this vexing problem. If left alone, hopefully they will be able to resolve it before the next general election.

In addition to this problem, Congress, last year, imposed on the States additional requirements with respect to presidential elections: The abolition of durational residency requirements, a maximum 30-day cutoff of registration, absentee registration, and voting, and voting by nonresidents who have recently moved from the State. Candor compels us to admit that these provisions are not models of legislative clarity. Yet, while the States are struggling to understand and comply with last year's congressional mandate in time for the 1972 presidential election, we are asked to impose even more burdens upon them and a new Federal bureaucracy as well. Such action may kill the electoral process in its attempts to cure it.

On its face, this bill appears to help the States with a new source of Federal money and free postal service. On closer inspection, however, it becomes apparent that this "help" is a very mixed blessing. State residency requirements for congressional elections would be superseded by a Federal 30-day provision. This same 30-day requirement would also apply to presidential elections and, if I read it correctly, conflict with the provision enacted last year which permits a nonresident to vote in the presidential election in his former State if he is unable to register in the State to which he has recently moved.

The new bureaucracy to be established in the Census Bureau would prepare postcard voter registration forms summarizing all State voter qualification requirements except residency. Assuming all this will fit on a postcard, I question the qualifications of the Census Bureau to interpret and summarize State voter laws. If they err, as well they might, I find no provision authorizing a State to challenge their interpretation. Yet, this postcard is prima facie evidence of entitlement to vote. States would be required to accept this form for registration for Federal elections and encouraged to do so for State elections. The form would contain space for an individual to certify that he has resided in a State long enough to qualify in a State election. The form may not, however, contain the information as to what the length of residency requirement is for such elections. Thus, the prospective voter, despite the supposed convenience of the postcard, must still take the initiative to find out what the State residency requirement is.

This brings me to my final point. This bill is premised on the assumption that the reason people do not register to vote is that State registration procedures pose an obstacle. The facts indicate otherwise. A study of the 1968 election, published by the Census Bureau on December 2, 1969, indicates that 53 percent of those surveyed did not register because they lacked the interest or had a distaste for the political process. Of the remaining 47 percent, approximately 10 percent indicated they were not citizens, 11 percent did not meet residency requirements, 3 percent could not register because of illness, transportation, or the inability to take time off, 10 percent gave a variety of other reasons, and 3 percent gave no reason. It seems clear to me that apathy, not State registration law, is the primary reason for lack of participation and that this bill, with its new bureaucracy and Federal grant program, will not cure that apathy. I believe the bill will add new problems and solve none, and I urge its rejection.

Mr. INOUYE. Mr. President, on August 13, 1970, I, with some 13 cosponsors, introduced a universal voter enrollment measure. On March 11 of this year, I reintroduced that measure with the cosponsorship of some 16 colleagues.

While that measure was not identical to the one we have before us today, it did spring from the same motivation. It was indeed the forerunner of this and other measures upon which hearings were held by the Post Office and Civil Service Committee. The measure before us today, S. 2574, is the outcome of those hearings. I believe it is a very good bill. It attacks the primary problem toward which these measures have all been directed; the enfranchisement of the vast proportion of the electorate which has been excluded to date because of difficult and inadequate registration laws.

Mr. President, I support the measure authored by the distinguished senior Senator from Wyoming, Senator McGEE. As chairman of the Post Office and Civil Service Committee he conducted lengthy and detailed hearings on this and other measures which were before his committee. These hearings not only demonstrated the need for such legislation but the feasibility and practicality, as well, of this approach.

When 47 milion Americans fail to vote in our presidential elections, as occurred in 1968, then it is time that we ask ourselves why. With the number of nonvoters increasing by a million a year, it is time we take a good hard look—and then act. With the enfranchisement of the 18- to 21-year-olds the number of qualified Americans who will fail to participate in this most basic act of democracy will increase even further. The evidence clearly demonstrates that the primary barrier to voting is the cumbersome registration process to which many Americans are subjected.

In 1968, more Americans failed to vote than voted for any one candidate. Forty percent of the electorate did not participate.

In 1968, there were 150 people who did not vote for every vote which separated the two leading contenders. In 1960, 330 people failed to vote for every vote separating John F. Kennedy and Richard Nixon. The number of nonvoters in the United States exceeds the total electorate in countries such as France, West Germany, Great Britain, and Italy.

We give the American people time off from work to vote in most jurisdictions but no one gives them time off to register. And in State after State, and in individual jurisdictions within States, we find registration offices open only during the normal working hours when many, many working people are unable to take time off to make that trip to the registrar's office and enroll as a qualified voter.

I think it is a shame, and I think it is time we did something to correct this situation. I believe the measure before us today provides that opportunity.

We hear a lot of talk about participatory democracy and citizen involvement. A government which "derives its just powers from the consent of the governed" must be able to hear the voice of the people, at least on election day.

The historical reasons for many registration requirements are no longer valid. These were adopted at the turn of the century, in some cases to disenfranchise certain races, in others to attempt to prevent certain abuses of machine politics. Some were intentionally designed to limit the franchise and others have been so administered.

The opposition to this measure has raised the issue of increased fraud if registration is made easier. I wish to take issue with that assumption. First, I believe it is perfectly possible to register by mail and to have such registrations accurately checked for fraud. There is nothing about going to a county court house or city clerk's office which prevents fraud which cannot be equally prevented if registration is performed by mail. Few

voters in urban America are recognized personally by the registrar. We can pay taxes, register births, and take numerous other actions without such personal appearance.

I would, in fact, maintain that the motivation for fraud and the possibilities of fraud affecting an election outcome is reduced as we expand the electorate. The greater the number who cast their ballots the more difficult it becomes for a small group of fraudulent votes to affect the results. Rather than lead to fraud, it would therefore discourage any fraud, for in addition to the above reason it would provide specific penalty for fraud as well as a National Voter Registration Administration responsible for assisting in the conduct of elections and reporting to the President and the Congress its findings.

Mr. President, we engage in a lot of rhetoric about democracy, about the importance of citizen participation. We spend many hours in the classrooms of America addressing our young people about their citizenship responsibilities. Here in one simple act we have the opportunity to provide them, and all our citizens, with a meaningful opportunity to exercise that responsibility in a simple straightforward manner.

This is not a partisan measure. A Gallop poll last weekend demonstrated this clearly. It pointed out that some 26 percent of those who classify themselves as Democrats are unregistered. Twenty-four percent of those who classify themselves as Republicans are unregistered. This 2-percent difference is not statistically significant.

But even if it were, I do not believe any Member of this body would deliberately stand here in the year 1971 and try to prevent any American from exercising his fundamental right to vote because he might cast his ballot for a candidate of the opposite party. I think he will want to do everything in his power to make it possible, indeed convenient, for the eligible voters to participate. I urge your support.

Mr. HANSEN. Mr. President, I rise today to express my deep concern over S. 2574, the national voter registration bill, which is the pending business. My concern lies not only in the substance of the bill but in the procedure by which it has reached the floor of the Senate.

U.S. Senators and other elected officials should above all others recognize the importance of valid election procedures. The strength of our Nation lies in the fact that our elections are basically free of scandal and the taint of fraud, and that the citizens of this Nation therefore accept the results of elections and there is a smooth transfer of power.

It is important for these reasons that any attempt to change the system we now have and which we know works well be made only in the most orderly manner after public hearings, thorough analysis by experts, and thoughtful consideration by this body. I do not believe that such action has accompanied the pending legislation.

To my knowledge every election bill considered by this body, with the exception of one, was first sent to the Committee on the Judiciary. One bill was considered by the Rules Committee. But I am not aware of any previous election legislation which was sent to the Post Office and Civil Service Committee and then considered by this body.

I do not criticize the Post Office and Civil Service Committee or its members for their deep interest in this subject. The author of S. 2574 and distinguished chairman of the Post Office and Civil Service Committee, the senior Senator from my home State of Wyoming, is a most knowledgeable man who does not limit his leadership to one or two committees and who indeed has made great legislative contributions in many jurisdictional areas. This interest is healthy and can lead to great improvements in our laws.

However, I can see no point in the committee system which permits individual Senators to become experts in specific subjects and which gives the Senate the benefit of high quality advice, not only from our colleagues but from a well trained knowledgeable staff, if this body circumvents the committee that has traditionally exercised jurisdiction over election issues and ignores the expertise which it has at its fingertips.

We must not fool ourselves into believing that the bill before us today is not controversial. Indeed the chief elections officer of the author's home State of Wyoming has expressed publicly her concern that the legislation as written invites "monumental fraud." I ask unanimous consent that an article on this subject from the Wyoming State Tribune of November 16, 1971, be printed in the RECORD at the close of my remarks. Mrs. Thomson in this interview makes the very good point that State and local election officials will find it very difficult to determine a voter's eligibility if the official charged with the responsibility never sees the registrant and never has the opportunity to question him.

Mr. President, I earnestly hope that the Senate will refer S. 2574 to the Committee on the Judiciary where it might be considered and analyzed by those in whom the Senate has traditionally placed its trust to advise it on matters relating to elections. This subject is at the very heart of our democratic system of government. I would never want it said that the Senate tried to cut corners on such an important piece of legislation.

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

[From the Wyoming State Tribune, Nov. 16, 1971]

VOTER REGISTRATION PLAN RISKS FRAUD, THYRA SAYS

Secretary of State Thyra Thomson charged today that a national voter registration system as proposed in a bill introduced by Sen. Gale McGee, D-Wyo., could "invite monumental fraud" especially in a section which allows registration by postcard.

The bill, which has been reported out by McGee's Post Office and Civil Service Committee onto the Senate floor with a favorable recommendation, would establish a National Voter Registration Administration which would be carried out by mail.

Mrs. Thomson pointed out today individuals could fill out the cards and mail them to county clerks who conduct voter registration procedures who then would be required to place the names of the registrants on the eligibility rolls to cast ballots in federal elections.

Mrs. Thomson noted McGee had stated that county clerks would retain the authority to determine whether such postcard registrants met a state's eligibility tests.

But, she said, "since the county clerk would never see such registrants or have an opportunity to question them, he would have no way to determine their eligibility."

She pointed out that under present registration procedures, an applicant makes a sworn statement that he meets the eligibility requirements.

"That's why he appears before an oath-taking officer to register," she said, adding that also was the reason why absentee registrants were required to give sworn statements.

"Post card registration invited monumental fraud," Mrs. Thomson said.

She said that at an earlier time in U.S. history when the federal government was given supervision over certain elections, the result was "fraud and scandal almost throughout the nation."

"Elections are best administered at the local level where there is personal contact and supervision," she said.

Mrs. Thomson quoted Sen. Sam Ervin, D., N.C., one of the Senate's outstanding constitutionalists, as arguing that a national post card registration would result in "general resurrection of the dead every election day."

Mrs. Thomson also cast some doubt on McGee's claims that his bill is aimed only at federal elections. She said that because federal, state and local elections usually are held on the same machines or set of ballots at the same time, "it's practically impossible to separate them procedurally."

"Moreover, the whole tone of the McGee bill is for federal election authority," she said. "To insure federal clout in all elections, the bill provides for payments on a sliding scale of monies to bribe the states into compliance."

She pointed out that while one section of the McGee national voter registration bill says that nothing shall alter the states' residency requirements, another section also provides that larger federal grants will be allowed for "any state which reduces its residency requirement for voting in state and local elections to a period of not more than 30 days."

"I find such methods abhorrent," Mrs. Thomson said.

Mr. TUNNEY. Mr. President, I leave my place in the chair for a moment to express my very strong support for this measure. I believe very strongly that it is long past time to put an end to the kinds of antiquated registration systems of this country which have kept the poor, the black, the Chicano and for that matter anyone who moved his residence from voting.

We have 700,000 people unemployed in California—many of them are being forced to move their homes because of the economic policies of this administration. Are we now to tell these people they must lost their vote as well as their job?

I think we should be able to vote on this measure today. I introduced legislation myself with 11 cosponsors to do much the same thing. But we have before us an even better bill which I support fully. As a matter of fact, I would like to ask the Senator from Wyoming to add me as a cosponsor.

And I would repeat—I think we can and we should act favorably on this leg-

islation now—before the end of this session and bring all our citizens all the way home into our political system.

VOTER REGISTRATION

Mr. HUMPHREY. Mr. President, the Senate has before it a voter registration bill that would remove once and for all the barrier that registration procedures and practices pose to voting in Federal elections.

The McGee National Voter Registration Act of which I am a cosponsor is a carefully formulated piece of legislation. I had the privilege of testifying before Senator McGEE's distinguished committee on the subject of voter registration. It was clear to me at that time that the McGee Post Office and Civil Service Committee was doing its utmost to insure that it would report out a bill that could efficiently and fairly establish a new system of voter registration that would significantly broaden citizen participation in the American political process.

At a time when great numbers of Americans question the political and governmental institutions which affect their everyday lives, the numbers of Americans abstaining from casting a vote is growing.

In the presidential election of 1968, over 40 million Americans did not register to vote, and thus could not enter a polling booth.

Today there are at least 50 million unregistered voters in America.

Mr. President, the device intended to protect the election process from fraud and misrepresentation has become a serious obstacle to widened suffrage.

Registration serves to limit suffrage in many ways. Racial prejudice, age, ignorance and confusing, and complicated State registration procedures are all crucial factors in what must be called the registration barrier.

And my colleagues may be interested to know that once the registration barrier is surmounted and the eligible voter does register he does vote. Statistics demonstrate that in 1968, 80.8 percent of those who registered cast their ballots.

Many persons seem to think that disinterest on the part of the voter is the primary reason for rising rates of voter absenteeism in America today. However, the Democratic National Committee's "Freedom To Vote Task" Force cited a Gallup poll study that residency and other registration qualifications—not disinterest on the part of the voter—provide the greatest barriers to voting.

And the Census Bureau in 1968 reported that—

> The highest proportion of those not registered and/or not voting fall among blacks, those who did not finish high school, manual and service workers and those of lower incomes.

Mr. President, registration procedures now in effect deny millions of poor Americans of all races the opportunity to share in governing the land in which they live. These procedures must be changed if this fundamental flaw in our democratic process of government is to be corrected.

Mr. President, we are in danger of becoming a government of the minority for the majority.

The voter registration bill before the Senate today provides what is needed to reverse these dangerous trends toward the narrowing of participation in our electoral process.

The National Voter Registration Act establishes a 30-day residency requirement for all Federal elections. Residency is a major barrier to registration. The bill also will allow States to utilize the Federal System for their own. If a State adopts the Federal System and leaves its residency requirements in effect, the National Voter Registration Administration will reimburse the State for 15 percent of the registration processing costs. If a State adopts the Federal System and does away with residency regulations and adopts the 30-day Federal standard, 30 percent of the State's costs will be borne by the Federal Government.

These are important inducements, Mr. President. They go along way to encourage States to streamline and reform their registration procedures.

I also want to point out that the McGee bill contains very adequate protections against fraud.

The 30-day residency requirement in the legislation as well as the inducements for States to adopt the Federal System for their own offer us the first chance to reform a system that must be opened and reformed.

Mr. President, I believe that adoption of the National Voter Registration Act is the next logical and important step for the Congress to take in expanding the American electorate. This process started with the 19th amendment 50 years ago, continued with the 24th amendment and the Voting Rights Acts, and recently with the 26th amendment lowering the voting age to 18. The Senate has a unique opportunity to continue this necessary and vital tradition.

I urge my colleagues to seriously consider the implications this vital legislation has for changing the nature of the American political system. It is needed now to make the promises of a democracy come true.

Mr. President, I ask unanimous consent that a news article concerning the Nixon Administration's opposition to the National Voter Registration Act, published in the New York Times of October 29, be printed in the RECORD.

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

NIXON MAN SCORES U.S. VOTING BILLS—HE OPPOSES FEDERAL ROLE IN UNIVERSAL REGISTRATION

WASHINGTON, October 28.—The Justice Department representing the Nixon Administration, came out strongly today against a series of Democratic bills to facilitate registration in 1972 for millions of eligible Americans.

Deputy Assistant Attorney General Ralph E. Erickson told the Senate Post Office Committee that the universal registration measures "inject the Federal Government deeper into the election process than ever before, and they involve the Federal Government in the collection of data on voters throughout the United States."

This did not deter the chairman, Senator Gale W. McGee of Wyoming, from scheduling a committee executive session next week, at which one of the bills is expected to be approved for Senate floor action next month.

Senator McGee accused the Justice Department official of "using 19th century arguments" against legislation designed to open up the franchise for 50 million men and women who failed to vote in 1968.

Mr. Erickson maintained that under the Constitution and enabling legislation "voter qualifications and procedures are the prerogatives of the states, not the Federal Government."

But Senator McGee's registration measure, he continued, "suggests that the administration of voting registration procedures by the states, in itself, denies various constitutional rights, bears no relationship to state interest and is apparently "evil per se."

The Justice Department official said that the registration bills "raise the spectre of a new source of data about our citizens collected by and . . . retained by the Federal Government."

"Surely, few things would be as frightening to many citizens, he said, "as the Census Bureau or the Internal Revenue Service inquiring into their political affiliations. Yet this is precisely the effect of these bills."

Mr. McGee replied that under his proposal a central office would mail out registration cards but that the rolls of eligible voters would continue to be maintained locally, as now.

The registration bills are being presented by their Democratic sponsors as a nonpartisan effort to promote more participation in elections, but in fact they offer large potential dividends to their party.

Many of the eligibles who do not vote are poor, black or undereducated or all three, and these groups tend to vote Democratic when they register and get to the polls.

SECURING THE VOTING RIGHTS OF SERVICEMEN AND CITIZENS ABROAD

Mr. GOLDWATER. Mr. President, in view of the unusual time limitation covering S. 2574, the voter registration legislation, I was not able to call up my two amendments, numbered 607 and 608, today, although I was present and ready on the Senate floor to do so if the opportunity allowed.

Mr. President, these are two important amendments, ones which affect the voting rights of our servicemen, their dependents, and U.S. citizens who are abroad. For this reason, I am announcing here and now that at some appropriate time in the future, when S. 2574 may again be considered by the Senate, I fully intend to bring up these proposals for our consideration.

Mr. President, to give us a little background on my purpose, let me mention that in March of last year, I offered an amendment to the Voting Rights Act on behalf of myself and 29 other Senators which made a clean sweep of outmoded legal technicalities that had deprived nearly 10 million American citizens of their right to vote for President and Vice President. This amendment, which was accepted on the Senate floor and subsequently became enacted into law as section 202 of the Voting Rights Act, completely abolished the durational residence requirements as a precondition to voting for President and Vice President, and it also secured the right to vote for these officers to every citizen of the United States regardless of where he may be in the world on election day.

Since then, Mr. President, there has been much progress in having this new right implemented on behalf of our citi-

zens. The Supreme Court of the United States upheld the constitutionality of the provision by a strong 8-to-1 vote in its decision of *Oregon* v. *Mitchell* announced on December 21, 1970. In the meantime, I have been consulting with several Federal departments and agencies who assure me they will be rendering a uniform broad interpretation of the new statute, and, starting in January, will commence a large information campaign so that American citizens at home and abroad can know about this new right.

Mr. President, you will notice that I have qualified my description of the amendment approved last year by mentioning that it applies only to the right to vote for the offices of President and Vice President. Today we are considering legislation which would build upon the progress made last year by seeking to make it easier for citizens to register for voting in all Federal elections, which includes balloting for the offices of U.S. Senator and Congressman as well as for the Presidency. Now, I am well aware there is a reasonable difference of opinion over the best and most practical method of expanding the right which Congress secured just last year; but, Mr. President, as I read the purpose of S. 2574, it is to further strip away the outmoded technical barriers which isolate many of our citizens from the polls. In other words, I see the ultimate purpose of the pending measure as being designed to further insure that the maximum number of citizens will be eligible to vote. I daresay that there is not one of us in this Chamber who would oppose this goal, even though he may have reservations about the specific means undertaken to reach that end.

Accordingly, Mr. President, I have introduced two series of amendments which are designed to guarantee that, should the pending bill be enacted, it will assist the widest range of citizens possible. Mr. President, the first amendment would extend the reach of the committee bill so as to enable citizens who are outside this country to register for voting in the same simplified manner that the bill provides in the case of citizens at home.

Mr. President, we are here talking about Federal offices; and, regardless of where they may be in the world, I believe national citizens should be permitted to vote for national offices. But there are upwards of a half million voting age residents and domiciliaries of States who are outside the Nation and who would not be able to register under the postcard form provided for in the committee bill as it now stands. These citizens include Americans who are traveling abroad as tourists. They include students who are attending foreign colleges. They include Americans who are working for U.S. businesses overseas, perhaps for several years at a stretch. And they include a large number of U.S. Government employees, including foreign service officers, who are serving outside the United States.

Mr. President, it is my impression the Senator from Wyoming (Mr. McGEE) did not intend to omit this sizable and important group of Americans from the benefits of his legislation, but simply did not use the technical language necessary to specifically guarantee that overseas citizens shall enjoy the same expanded voting opportunities as those at home. Thus, I would like to consider my amendment as assisting the committee in more fully enhancing the right to vote, which is its major purpose.

Mr. President, my amendment would do this by providing that the simplified registration forms adopted by States under the committee bill shall be made available for easy distribution to citizens abroad at every U.S. embassy, consulate, and legation outside the United States, at all U.S. foreign military installations, at U.S. Information Agency offices, and at any other appropriate Federal office located outside the United States. In this manner, a resident or domiciliary of a State who is physically present abroad shall nevertheless be entitled to register for voting in all Federal elections in that State by merely mailing the postcard to the proper State official.

Mr. President, turning to the second amendment which I have offered, I also suggest adding to the bill a three-pronged section protecting existing voting rights under Federal or State statutes already on the books. Mr. President, I want to remind us there is a large group of 6 million servicemen and civilians who today enjoy broad voting opportunities under the Federal Voting Assistance Act of 1955. Every one of our 50 States and the District of Columbia now permit servicemen on active duty to use the Federal postcard application recommended by this act both in order to request registration for voting and to obtain an absentee ballot for use in all elections in these jurisdictions, State as well as Federal. In fact, 10 States waive registration entirely for servicemen who fill out this form, 19 States accept the form itself as the registration document, and 22 States allow servicemen to register at the same time they cast the absentee ballots they obtain by using this form.

In addition, each of the above jurisdictions give to the wives and voting-age children of these servicemen the same improved voting opportunities that are given to their spouses or parents. What is more, 19 States plus the District of Columbia permit civilians generally who are overseas to register and vote absentee in all elections by reason of using this same Federal postcard application.

Mr. President, I ask unanimous consent that a complete list of these States shall be printed in the RECORD at the conclusion of my remarks.

Thus, Mr. President, I want here and now to make it absolutely certain that nothing in the committee bill shall be construed to override or take away from these 6 million citizens the rights they already possess. I want the legislative history and the text of the bill to leave no doubt that the present voting opportunities of these citizens shall be fully protected. Accordingly, my amendment would add to the bill language that specifically preserves the right of any State to adopt the Federal assistance postcard recommended by the Federal Voting Assistance Act of 1955. Also, the amendment spells out the right of all States to receive payments of financial assistance from the new National Voter Registration Administration on account of the enlarged voting opportunities they may now or later grant to their electors under the 1955 law.

Mr. President, I am certain the members of the committee would not intend to take away from any citizen a voting right which he now enjoys. Nor would they want to penalize any State which has adopted or might adopt the Federal assistance postcard by failing to make those States eligible to receive the financial incentives established in the bill. Therefore, in order to remove any ambiguity from the bill and to make doubly certain that this question is specifically answered in the text of the bill, I am proposing this amendment.

At the same time, I provide in the amendment that nothing in S. 2574 shall be construed as preventing any State from granting more extensive registration or voting practices than those which are contained in the bill. For example, there are several States that now permit a person to register to vote only 15 days or, in some cases 5 days, before an election, instead of 30 days as the committee bill provides. It is my purpose that we spell out our intent in the bill itself not to prevent any State from choosing to loosen up its voting practices even further, if it wishes.

Finally, the amendment provides that nothing in the bill shall be construed to limit or repeal any provision of the new voting law on presidential elections or of the Federal Voting Assistance Act of 1955.

In summary, Mr. President, these amendments might be considered as technical changes. For I do not want it to be possible in the slightest way for any bureaucratic official or court judge to be able to distort the true purposes of this voting measure. Further, with the adoption of these amendments, I believe the committee bill can be said to enhance the right of citizens at home or abroad, without any fear of pulling back from the progress that already has been made by virtue of State and Federal laws approved in the past.

Mr. President, I hope the manager of the bill, my good friend from Wyoming, will find it possible to accept these amendments at such time as the bill may be before us again.

ABSENTEE REGISTRATION AND VOTING RIGHTS GRANTED BY STATES TO CITIZENS USING THE FEDERAL POST CARD APPLICATION (FPCA) AS OF NOVEMBER 1971

PART A

All 50 States and the District of Columbia allow servicemen on active duty (approximately 2.8 million eligible voters) to use the FPCA in order to register and vote absentee, as follows:

1. Ten States waive registration by servicemen and accept the FPCA as a request and qualification for absentee balloting:

Arkansas, Illinois, Kansas, Missouri, New Jersey, North Dakota, Ohio, Oklahoma, Rhode Island, Wisconsin.

2. Fifteen States accept the completed FPCA as the official registration document and as simultaneous qualification for absentee voting by military personnel:

Alaska, Colorado, District of Columbia, Hawaii, Indiana, Massachusetts, Minnesota,

Montana, New Hampshire, New Mexico, New York, North Carolina, South Dakota, Tennessee, Texas.

3. Fourteen States accept the FPCA as qualification for absentee ballots and include special State registration forms to be returned simultaneously with such ballots:

Arizona, California, Connecticut, Delaware, Florida, Georgia, Kentucky, Michigan, Nebraska, Nevada, Pennsylvania, South Carolina, Virginia, West Virginia.

4. Eight States accept the FPCA as qualification for absentee ballots and permit registration by means of an affidavit printed on the ballot-return envelope:

Idaho, Iowa, Maryland, Oregon, Utah, Vermont, Washington, Wyoming.

5. Four States accept the FPCA as qualifications for absentee registration and balloting by servicemen, but require the sending of separate cards for each purpose: Alabama, Louisiana, Maine, and Mississippi.

PART B

All 50 States and the District of Columbia allow the spouses (about 1.5 million voters) and the dependents (approximately 200,000 voters) of servicemen on active duty to register and vote absentee in the same manner described in categories 1–5 of part A; except that:

1. Three States, Alabama, Kansas, and Rhode Island, allow spouses and children, but no other dependents of servicemen, to register by absentee processes.

2. Twenty-one States allow spouses or dependents of servicemen to register and vote by absentee process only if they reside with or accompany the servicemen:

Alabama, Arizona, Delaware, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Mississippi, Missouri, Nevada, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and Wisconsin.

PART C

All of the 50 States and the District of Columbia allow up to 100,000 U.S. citizens in the Merchant Marine and their spouses and dependents to the same extent described in Part B, to qualify for absentee registration and voting as a result of using the FPCA; except:

Alabama, Michigan, New York, Ohio, and Virginia.

PART D

Nineteen States permit civilian citizens generally, who are temporarily residing or traveling abroad, and their spouses and dependents when residing with or accompanying them, (about 500,000 voters) to qualify for absentee registration and to obtain absentee ballots by using the FPCA:

Arkansas, Alaska, California, Colorado, District of Columbia, Georgia, Hawaii, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, Texas, Washington.

The PRESIDING OFFICER. All time has expired.

Under the unanimous-consent agreement, S. 2574 is now returned to the calendar.

PROTECTION OF WILD HORSES AND BURROS—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1116) to require the protection, management, and control of wild free-roaming horses and burros on public lands.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. BEALL). Is there objection to the present consideration of the report?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I am sure I will not—this request has been cleared, has it?

Mr. JACKSON. Yes. It was unanimous.

Mr. GRIFFIN. I thank the Senator.

Mr. JACKSON. It was reported unanimously by the committee. There was no problem.

The PRESIDING OFFICER. Is there objection?

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 29, 1971, at pages 43116–43117.

Mr. JACKSON. This is the bill to require the protection, management, and control of wild free-roaming horses and burros on public lands and it was agreed to unanimously by the Senator from Colorado, who, I see, is now in the Chamber. I shall yield to him in a moment because I know he concurs in it.

Mr. President, the conferees were able to work out the differences between the House and Senate, which were not major. There is tremendous interest in this bill especially on the part of the little children all over America who have written in inquiring about the fate of wild horses and burros on the public lands of America. We have worked out legislation which will resolve the problem.

I hope that it meets with the unanimous approval of the Senate, as it did with all the conferees.

Mr. ALLOTT. Mr. President, what the Senator from Washington says is correct. I am fully agreeable to taking this matter up and disposing of it at this time. We did pass it unanimously. The Senator from Nevada (Mr. BIBLE) was there at the time the other day. It was agreed to unanimously by the entire committee and I think it should be passed.

Mr. JACKSON. Mr. President, I would like to commend the managers on the part of the House and the Senate for the spirit and expediency they exercised in agreeing upon the content of the report. The conferees recognized the immense national interest in this legislation, particularly that shown by young people, as something unique. The Congress has demonstrated to the public our concern for the preservation of our wildlife and the sincere desire to enhance and enrich the dreams and enjoyment of future generations of Americans.

As a matter of legislative history, I would like to call to the attention of the Senate one of the points of compromise agreed upon by the conferees. This relates to point 4 of the joint statement of the committee of conference wherein it was agreed upon to recommend the adoption of the language originally appearing in the Senate version of the bill. The House amendment provided that the remains of a deceased wild free-roaming horse or burro could be disposed of in any customary manner not prohibited by the act. The Senate version permitted any customary method of disposal so long as the remains, or any part thereof, were not sold for any consideration.

As noted in the Senate report (92–242) accompanying S. 1116 when it was reported from the Interior and Insular Affairs Committee, it is the expressed intent of the committee to remove the possibility of monetary gain from the exploitation of these animals. However, the committee recognizes the difficulties that may be encountered when it is necessary to dispose of the remains of a deceased wild free-roaming horse or burro which may have died on an individual's property or on the public lands. Because of this, the committee believes that it is essential that the customary methods of disposal of the remains be permitted. For example, this would not preclude the remains of a deceased wild free-roaming horse or burro from being hauled away and eventually being utilized in a commercial process if that is the customary method of disposal, so long as no consideration is received for the remains. There had been some question on this point and I wanted to set the record straight.

Again, I commend my colleagues on the conference committee from both the House and the Senate for their fine cooperation. This is a most important and humane act and I urge speedy approval of it by the Senate and the President.

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Kansas (Mr. DOLE), I ask unanimous consent to have printed in the RECORD a statement by him on the conference report on S. 1116, the bill to protect wild horses, and also an editorial entitled "Remaining Wild Horses of the West Face Slaughter," written by Lewis Regenstein, and published in the Washington Post of November 13, 1971.

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

The statement and editorial are as follows:

STATEMENT BY SENATOR DOLE

As an original cosponsor of S. 1116, I am pleased to support its conference report, which would make it a Federal offense to kill or harass wild horses and burros roaming public lands.

The wild horses in the west have made an immeasurable contribution to our heritage. It is thought that the first bands of these animal took their freedom from horses used by Coronado and his men in the early 1500s when they pushed their way to Kansas in search of riches from the mythical kingdom of Quivera. Thriving on the Midwestern Plains, some of the offspring of these horses were eventually captured and trained by Indians, cowboys and settlers when their domesticated supplies were depleted. This tough little horse continued to multiply rapidly, however, and by 1900 it is estimated that there were still a million of these horses roaming freely on public lands, (excluding those bands on Indian reservations). Indeed a century ago, it is reported that the bands on the Midwestern Plains were so large that their movement across the horizon could last uninterrupted for a day.

But Mr. President, the wild horse now faces a serious crisis. Since 1900 there has been a sharp decline in its numbers. In 1936 there were one million; in 1958, 33,000; and by the best estimates, only 10,000 survive today in a few rugged, remote areas. At this rate, in another ten years, this animal could

be bordering on extinction in the United States.

The initial reason for the decline of the wild horse population was due to increased pressures brought about by the settlement of the West. Some things were forced to give way. The wild horse was crowded out along with the American Indian, passenger pigeon, timber wolf and Buffalo. But in recent years, there has been another threat to the wild horse—man. A living symbol of the early West, the wild horse has been cruelly captured and slain for pet food and fertilizer, as well as used for target practice and harassed for sport and profit.

Mr. President, I have received hundreds of letters from children and adults in Kansas strongly urging the preservation of this animal and that all cruelty to it be stopped. It may seem surprising that the people of my State are so interested in this legislation, since the best estimates indicate that there are no wild horses remaining in Kansas; but the concern of hundreds of Kansans is consistent with the thrust behind this bill—that the wild horse should belong to all Americans, and that cruelty should be outlawed no matter where it is practiced.

Specifically the bill would provide:

That wild horses and burros may freely roam on public lands, where they are presently found;

That to accomplish this, the Secretary of the Interior with the Secretary of the Agriculture would be responsible for the management and protection of these animals from capture, branding, harassment, or death due to cruelty by man;

That persons with a special knowledge about protection of horses and burros and the management of wildlife would be appointed as advisors to the secretaries;

That designated employees of the Department of the Interior or Agriculture would have powers to arrest violators of the act; and

That violators of the act would be speedily prosecuted and could receive a maximum penalty of $2,000 and/or one year imprisonment.

In 1959 Congress passed a law known as the "Wild Horse Annie Law," prohibiting the use of aircraft and motor vehicles in the pursuit or capture of wild horses on public lands. This legislation, however, contained a number of loopholes and has failed to stop what now appears to be a concerted effort to kill the remaining few of this animal. Last year in the Senate, I was the principal sponsor of the animal welfare act, legislation designed to protect certain animals used for research, experimentation, exhibition or for sale as pets. It is out of this same concern, and the overwhelming public support to preserve the wild horse, that I urge prompt passage of this conference report.

Mr. President, I ask unanimous consent to include in the record at this point a recent editorial about wild horses from the Washington Post.

[From the Washington Post, Nov. 13, 1971]

REMAINING WILD HORSES OF THE WEST FACE SLAUGHTER

(By Lewis Regenstein)

The wild horses in the western United States are facing a new and desperate crisis. With legislation about to be enacted which would protect the few remaining wild horses and burros, a concerted effort seems to be underway to kill off as many of them as possible before the law takes effect.

Today, only about 10,000 of these horses remain, less than 1 per cent of the estimated two million which once freely roamed the West. The other 99 per cent have been slaughtered by pet food manufacturers for use in dog food, and by ranchers and "sportsmen" who hunt them by airplane and truck, sometimes at the instigation of government officials. The method of hunting is brutal but efficient. After the horses have been located, the lead stallion is blasted with buckshot; the confused and terrified herd is then buzzed or harassed into a stampede. After chasing the horses until many collapse and die from exhaustion, the "mustangers" then round them up for transport to slaughtering houses. The live horses are bound and dragged into trucks, some with broken legs and eyes gouged out. The horses which die of shock or collapsed lungs are left to rot on the prairie. Many newborn foals are thus left without their mothers, to die a death of slow starvation. Foals born in the slaughtering house are clubbed to death and used for fertilizer.

Despite the fact that the wild horses have been pushed into barren and remote areas of little agricultural value, many ranchers want them eliminated; they argue that the horses compete with domestic livestock for grazing on federal, publicly owned land leased to the stockmen by the Interior Department's Bureau of Land Management (BLM). Some hunting groups also want to get rid of the horses and replace them with "target" or "game" animals which can be hunted.

For many years, the BLM, which has jurisdiction over the land the horses inhabit, hired mustangers to round up hundreds of thousands of horses to be sold at auctions (for a few cents a pound) "to all comers." One Nevada mustanger, Chester "Chug" Utter, brags that he has captured some 40,000 wild horses for the Bureau. "Time" magazine quotes him as philosophizing: "there's only one end to being a horse, whether he's a champion race horse or a plug, and that's dog food." The Bureau's attitude toward the wild mustangs is typified by its proposed action concerning the approximately 230 horses which now inhabit the *Pryor Mountain Wild Horse Range* in Montana and Wyoming. A few years ago, when the protected herd reached about 200, BLM expressed concern that overgrazing might damage the land. Using this as a rationale, it proposed to "cut back" the herd to about 30 horses (that is, kill or remove 170 of them), or eliminate the herd entirely. In this way, the Bureau could improve the forage and lease it to cattlemen for grazing. Fortunately, a public outcry saved the herd, and until recently it was thriving. Now, however, the government has built a road through the range, and the BLM is again insisting that the herd be cut back (although none of the horses will be killed).

Legislation seems to be the only hope for saving the wild mustangs. Bills now before Congress, sponsored by Senator Henry Jackson (D-Wash.) and Representative Walter Baring (D-Nev.) would provide protection for the few remaining horses and burros by designating them "national heritage species that are living symbols of the historic and pioneer spirit of the West."

A few weeks ago, however, several controversial amendments were added on to the House version of the bill which, in the opinion of many conservationists, would have badly weakened the bill. Two of these amendments, sponsored by Congressman John Dingell (D-Mich.) and Wayne Aspinall (D-Colo.), would have provided the various state fish and game commissions a heavy hand in deciding where the horses would live and their allocation of forage. As a result, the state agencies would have had a federal mandate to influence the fate of the horses. These state commissions, controlled for the most part by ranching and hunting interests, are the same groups which have led, and are still involved in, the campaign to kill off the wild horses. Another loophole, authorized by Congressman John Melcher (D-Mont.), would have permitted the "removal" of wild horses from public lands by anyone acting in the interests of "normal and prudent husbandry needs," a curious phrase not further defined.

Happily, these congressmen—much to their credit—have now agreed to a removal of these amendments or a modification of the language which would greatly lessen their impact and potential harm. Those groups working for a strong bill are generally satisfied with the final language which emerged from the joint House-Senate conference on November 11 and are particularly laudatory of the strong stand taken by Senator Jackson.

This political maneuvering did, however, delay final passage of the bill. Furthermore, it is expected to be several weeks before President Nixon signs the bill and it becomes law; and it could take anywhere from a few months to a year for the Interior Department's rules and regulations to be drawn up.

Meanwhile, the slaughter of the mustangs is continuing. Mrs. Velma Johnston, a Nevadan known as "Wild Horse Annie" who has been battling for over 20 years to save the wild horses, has alerted conservationists that "the word has gone out all through the West to 'get rid of as many as you can.'" Mrs. Johnston states that the county commissioners of Lincoln County, Nevada, has issued more "mustanging" permits in the past few weeks than during the entire history of the state. There are even rumors that a new slaugherhouse has opened on the border between Nevada and Arizona and that this is where the horses are destined. According to Mrs. William Blue, Vice President of the American Horse Protection Association, a similar situation prevails in Oregon and Arizona; and the Arizona animal welfare league has filed suit against one rancher who has requested permits to round up 60 horses.

It is difficult, however, to determine the extent of this killing, since the state authorities refuse to make branding and roundup permit records available to the public.

Senator Jackson is aware of and concerned about the situation. He and the American Horse Protection Association have urged the Interior Department to take immediate measures to prevent this impending slaughter. The BLM could, for example, use its influence and power to request or call for a moratorium on the killing or capturing of these horses on its land until the legislation is acted upon by Congress. So far, however, no action has been forthcoming.

In her book, "America's Last Wild Horses" Hope Ryden describes the last remaining wild horse in the area of Texas which was, until recently, the heartland of these animals. This determined creature has avoided capture and "rendering" so long that it has been nicknamed "Born Free"; despite its advanced age, it still rears up and paws a defiant challenge at planes or helicopters that approach too close. This sole, pitiful remnant of a once vast herd may well herald the fate of all the mustangs unless the Interior Department and Congress take prompt action to save these living symbols of the early West.

Mr. JACKSON. 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. President, I move adoption of the conference report.

The motion was agreed to.

ORDER OF BUSINESS

Mr. KENNEDY. Mr. President, I yield 3 minutes to the distinguished Senator from New York (Mr. BUCKLEY).

Mr. BUCKLEY. Mr. President, I thank the Senator from Massachusetts.

(The remarks of Mr. BUCKLEY when he introduced S. 2944 and S. 2945 are printed in the later portion of today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

SUPPLEMENTAL APPROPRIATIONS, 1972

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 11955, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11955) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes.

The PRESIDING OFFICER. The time is under control. Who yields time?

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is the supplemental appropriation now before the Senate?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The committee amendments must be agreed to before any other amendments are in order on this bill.

Mr. KENNEDY. Mr. President, is time running now? No amendment is before the Senate, is that correct?

Mr. MANSFIELD. Mr. President, if the Senator from Massachusetts will yield without losing his right to the floor so that I may suggest the absence of a quorum without the time being charged to either side.

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

Who yields time?

Mr. ELLENDER. Mr. President, how much time do I have on the bill?

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. ELLENDER. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 15 minutes.

Mr. ELLENDER. Mr. President, the supplemental appropriations bill passed the House of Representatives Thursday, December 2, 1971, and was reported by the Committee on Appropriations of the Senate the same day.

In the House of Representatives, budget estimates of new obligational authority totaling $769,341,154 were considered and new obligational authority of $786,282,654 was approved. Subsequent to the hearings in the House Committee, budget estimates were submitted directly to the Senate containing additional budget requests in the amount of $94,091,122.

In addition, the Senate committee considered $2.4 billion which had been transmitted in the original budget this year but which was not considered by the House because the programs were not authorized.

The pending bill recommends new obligational authority in the amount of $3,833,828,371. This amount is $615,129,000 above the total of the budget estimates considered by the Senate committee and is $3,047,545,717 above the bill as it passed the House of Representatives. Included in this increase is the sum of $2,893,595 for Senate line items which were not first considered by the House of Representatives as is the customary procedure. I will comment further on these Senate items later in these remarks.

Some of the large increases over the House are: $735,837,000 for manpower training services authorized by the Economic Opportunity Act, $687,157,000 for health manpower, $265,000,000 for school assistance in federally affected areas, $289,696,000 for special benefits to disabled coal miners, and an additional item, $376,876,000 for Headstart, and $780,400,000 for the Office of Economic Opportunity. None of the foregoing items were considered by the House of Representatives.

Mr. President, the report of the Committee on Appropriations is before each Senator and I will now proceed to discuss briefly the recommendations contained in the various chapters of the bill. The distinguished chairmen of the subcommittees concerned are present—as are the ranking minority members—and we will be happy to respond to any questions that may arise as we proceed in the consideration of this bill.

First, let me call attention to page 4 of the report, which explains the committee's decision concerning supplemental budget requests totaling $272,975,000 for various military functions of the Department of Defense, to be derived by transfer from the revolving funds. It was the view of the committee that the items referred to should be funded through the expanded transfer authority provided in the Department of Defense appropriation bill, 1972, and no action was taken on the budget requests.

Under chapter I of the bill, the committee recommends the amount of the budget request, $1,587,000, for salaries and expenses of the Securities and Exchange Commission. This estimate was submitted directly to the Senate and the funds recommended represent a portion of the increase over the House bill total. A detailed explanation of the allocation of these funds is contained in the committee report.

For chapter II, Department of the Interior and Related Agencies, the committee recommends a total appropriation of $27,995,000, which is $1,919,000 over the budget estimates and $19,825,000 above the House allowance.

For health and safety, the committee recommends an appropriation of $7,225,000, which is $1,975,000 above the House allowance and the budget estimate. This will provide $5,250,000 to increase staff needed to perform health and safety inspections, provide required technical support and to assess civil penalties for violations of provisions of the Federal Coal Mine Health and Safety Act of 1969—$975,000 is for grants to States under section 503 of the act and $1 million is for development and purchase of specialized equipment needed to detect and rescue trapped miners.

Under Office of Coal Research, the committee recommends the amount of the budget estimate, $10,280,000, to provide for an expanded pilot plant coal gasification program on a cooperative basis with nongovernment entities.

For construction, National Park Service, the committee recommendation is $2,325,000, which is $2,215,000 over the House allowance. In addition to concurring with the House in the $110,000 for planning buildings and utilities at Pictured Rocks National Lakeshore, Mich., the committee has included $2,215,000 for an extension of the runway and construction of pertinent facilities at the Jackson Hole Airport, Grand Teton National Park, Wyo.

For the Youth Conservation Corps, the committee has recommended the amount requested in Senate Document 92–43, $3,500,000, to continue for the second year a 3-year pilot program of the corps. This request was submitted directly to the Senate and was not considered by the House of Representatives.

The committee has recommended an appropriation of $1,400,000 for the American Revolution Bicentennial Commission, to accelerate the Commission's program to insure a nationwide celebration of the bicentennial.

There are other items in this chapter which I have not mentioned, Mr. President, but the appropriations and explanations therefor are contained in the report.

We now come to chapter III, Departments of Labor and Health, Education, and Welfare. The total appropriation recommended for this chapter is $3,238,950,000, which is $554,295,000 over the budget estimates and $2,904,511,000 over the House allowance.

For Manpower Training Services, Department of Labor, the committee recommends $735,837,000, a reduction of $81,760,000 from the budget request, when the pending authorizing legislation is enacted. The committee believes that this amount will provide sufficient funds for carrying out the work and training programs, including Public Sector On-the-Job Training, Job Corps, Neighborhood Youth Corps, Operation Mainstream, and the concentrated employment program.

For health manpower under the National Institutes of Health, the committee recommends an appropriation of $687,157,000, an increase of $336,962,000 over the supplemental request, which was not considered by the House of Representatives. This appropriation is for the programs authorized by the Comprehensive Health Manpower Training Act of 1971 and the Nurse Training Act of 1971, which the President signed on November 18. These two programs were designed to increase significantly the future supply of health manpower, to develop

new types of personnel and modes of practice to make competent health care more readily and more uniformly available, and to establish a coherent and explicit Federal role in the support of the educational system that prepares all types of health manpower.

The committee has also included and recommends an additional $265 million for school assistance in federally affected areas, $289,696,000 for special benefits to disabled coal miners, and $376,876,000 for Headstart.

For the Office of Economic Opportunity, the committee recommends $780,400,000, the amount of the budget request. The House did not include any funds for the OEO in this bill.

Complete details concerning these and other appropriation line items are contained in the committee report.

With respect to chapter IV, legislative branch, the committee recommends $26,443,515, which is $2,893,595 over the bill as it passed the House of Representatives. These increases represent strictly Senate items, as I stated earlier, and were not considered in the House of Representatives. The report on this chapter is quite detailed and clearly sets forth the committee's recommendations. So that there will be full understanding on the part of the Senate, I believe it is in order for me to summarize quickly the allowance adjustments which are being recommended. Many Members in the past have indicated the insufficiency of present allowances for the operation of senatorial offices. At the behest of a delegation of Senators, the subcommittee considered proposed suggestions for improvements and greater latitude by individual Senators in the distribution of their allowances. The proposals offered by this panel of Senators are printed in full in the hearings.

Initially, the proposals suggested would have cost some $5 million additional annually. This was subsequently revised downward to an annual additional cost of some $3 million. The gross annual cost of the committee's recommendations amounts to $1,353,158, a considerable reduction. However, funds included in the bill for the balance of the fiscal year total only $685,250, and encompass the following increases and adjustments:

For clerk-hire—except for those States having a population of under 3 million, for which no increases are recommended, adjustments are proposed for each office ranging from an additional $8,610 for States having a population of 3 to 4 million to $52,152 for the two States with a population of over 17 million.

Stationery—except for those States with a population of under 3 million, varying increases are recommended for the different population categories, and these are listed in the committee report. The total annual cost for these increases is $17,400.

Telephone-telegraph—the committee has recommended in the report that the Senate Committee on Rules and Administration consider the feasibility of consolidating all communications allowances, to be used interchangeably at the discretion of each Senator.

State offices—the number of State offices has been increased from two to three, with a consolidated appropriation for all authorized home-office expenses, to be expended at the discretion of the Senator. In addition, the allowance for State offices has been increased from the present $5,200 to $7,800, of which not to exceed $3,600 may be used for payment of rent.

This concludes the itemization of allowance adjustments, and I will continue with an explanation of the balance of the chapter.

Under miscellaneous items, you will find a recommended appropriation of $145,000, authorizing expenditures to modernize the Senate Disbursing Office by improving through the use of computers the payroll and personnel systems, just mentioned. Also under miscellaneous items is the detail concerning some of the allowance increases I have already enumerated.

The committee has again recommended that restoration of the Old Senate Chamber and Old Supreme Court Chamber in the Capitol proceed, according to a new two-phase approach evolved by the Architect of the Capitol. Full information on the project is contained in the report, and the sum of $1,521,000 is recommended for the purpose.

For modifications and enlargement, Capitol Powerplant, the Committee concurs in the House allowance of $1,200,000, which will provide for engineering and other services necessary in the preparation of contract plans and specifications for planned expansion of the Capitol Powerplant. This is a necessary first step in connection with coordinating Powerplant operations with the construction of the new Library of Congress James Madison Memorial Building. Complete details concerning this project are available in the printed hearings.

The total amount recommended for chapter V, Public Works, is $119,010,000, the same as the sums requested in the budget estimates, but $72,510,000 over the House bill. The funds in this chapter deal exclusively with projects in areas with acute unemployment problems, and I will proceed to discuss them.

For construction, general, Corps of Engineers, the committee considered two budget estimates—one in the amount of $34,100,000, which the House allowed, and a revised estimate, including the $34,100,000, in the amount of $102,400,000, which was submitted to the Senate on November 17. The committee recommends the appropriation of $102,400,000, which is an increase of $68,300,000 over the House figure. These funds will provide for a more rapid pace of work on water resources projects in States with unemployment in excess of 8 percent in major labor areas where it is hoped the construction of such projects will contribute to a solution of this problem. The States and projects involved are listed in the report. The same rationale applies to the $9,210,000 recommended for construction and rehabilitation, Bureau of Reclamation. This sum is $2,210,000 over the House allowance, the increase reflecting a revised budget submission to the Senate which was not considered by the House. Again, the States and projects are listed in the report.

For the Upper Colorado River storage project, the House included $4,800,000, unbudgeted, but subsequently a request in the amount of $6,800,000 was received in the Senate—hence the increase of $2 million over the House allowance. These funds are also designed to alleviate unemployment problems by avoiding project delays and providing for a continuation of work on water resources projects which are presently underfinanced.

The committee recommends concurrence with the House allowance of the full budget estimate, $600,000, for the Bureau of Reclamation's loan program. The specific allocations of funds for the projects just mentioned are also listed in the committee report.

The next section of the bill is chapter VII, dealing with appropriations for the Department of Commerce and certain agencies normally contained in the Departments of State, Justice, Commerce, the Judiciary and related agencies appropriation bill. The total amount recommended for this chapter is $115,273,000, which is $65,027,000 over the budget estimates and $43,179,000 over the House bill.

For minority business development, Department of Commerce, the committee recommends concurrence with the House allowance of $40 million, the budget estimate, for expenses in fostering, promoting, and developing minority business enterprise.

There were two items requested for the National Oceanic and Atmospheric Administration—one for salaries and expenses, for which $532,000 was requested for the purpose of moving certain activities from the National Bureau of Standards site on Van Ness Street. It was the view of both the House and Senate committee that this move can be accomplished within available funds. The other item, satellite operations, was not considered by the House of Representatives. The sum of $4,919,000 was requested in Senate Document 92–43, for the purpose of funding a launch vehicle and preparation of a backup weather satellite to replace the satellite which was lost due to a launch malfunction on October 21, 1971. The committee recommends the full amount of the budget estimate.

To provide design and construction funds for a new fire research facility at Gaithersburg, Md., for the National Bureau of Standards, the committee recommends concurrence in the House allowance of $1,750,000, a reduction of $350,000 in the estimate.

For the item, "International radio broadcasting activities," the committee recommends an appropriation of $36,225,000 to finance the operations of Radio Free Europe and Radio Liberty, and the administrative expenses of the Commission to be created pursuant to S. 18, the authorizing legislation, and has inserted a proviso in the bill making the appropriation available only upon enactment into law of S. 18 or other authorizing legislation, 92d Congress.

Coming now to chapter VIII, Treasury, Postal Service, and General Government.

For the U.S. Postal Service, the committee has recommended the sum of $200

million, which is $16,400,000 below the budget estimate and the House allowance.

The committee has inserted into the bill the sum of $11,200,000 for construction of the substructure of the Patrick V. McNamara Federal Office Building in Detroit, Mich. This project was authorized in 1963 and the site purchased in 1967. This construction is long overdue, and with the completion of the building, the consolidation of various Federal activities and the release of some 577,125 square feet of rented space at an annual cost of $2,936,000 will serve a desirable end. The committee recommends approval of this appropriation.

The committee considered requests submitted to fund the economic stabilization activities instituted by the President on August 15, 1971, and the post-freeze program for fighting inflation. The committee recommends transfer authority of not to exceed $20,153,000, the amount testified as being necessary to finance the activities of the Cost of Living Council, Pay Board, Price Commission, Internal Revenue Service legal interpretations services, and the Bureau of Customs. Detailed information is provided in the committee report concerning the program by activities, position requirements, and allocation costs.

The last major chapter in the bill relates to the Department of Transportation and Related Agencies, for which a total appropriation of $60,994,000 is recommended. This is $750,000 above the budget estimates and $5,450,000 over the House bill.

For the Office of the Secretary, transportation planning, research and development, the committee recommendation is $5 million, an increase of $2.5 million over the House allowance. These funds are to be used to continue contracts with the States to produce needed transportation planning.

A significant item under the Federal Aviation Administration is the sum of $15,033,000 recommended by the committee for research and development, which is the same as the budget estimate and the House allowance. These funds would permit completion of seven projects begun in connection with the civil supersonic transport development program but which are of broad beneficial application to U.S. aerospace technology generally. The committee was assured that no new supersonic transport work is included in these projects.

The committee also recommends the sum of $2,200,000, the budget estimate, to provide supplemental funding for the U.S. International Aeronautical Exposition to be held at Dulles International Airport in May–June 1972, $2 million of which would be available, pursuant to language inserted by the committee, upon enactment into law of appropriate authorizing legislation.

For the Washington Metropolitan Area Transit Authority, the committee recommends concurrence in the House allowance of $38,011,000, the amount of the budget estimate. This is the Federal share of the rapid rail transit system in the District of Columbia.

The last chapter in the bill provides appropriations in the amount of $21,569,856 for the payment of mandatory claims and judgments. This is an increase of $2,540,122 over the amount contained in the House bill for this purpose, occasioned by a later budget submission to the Senate.

That concludes my statement, Mr. President, and if there are any questions. I will be happy to respond.

Since the largest amounts in this bill are contained in chapter III of the bill which is provided by the subcommittee chaired by the Senator from Washington (Mr. MAGNUSON), I would like him to discuss the details on the items in this chapter, if he desires to do so.

Mr. MAGNUSON. Mr. President, first of all, I shall put in the RECORD a detailed account of chapter III of the supplemental appropriation bill, H.R. 11955, which is the chapter on Labor, HEW, the Office of Economic Opportunity, and other related agencies. The committee recommends in chapter III $3,238,950,000, an increase of $2,904,511,000 over the amount recommended by the House and $554,295,000 over the budget request.

As the distinguished chairman of the full committee pointed out so well, most of this large increase occurred because we did not get the authorization for the Economic Opportunity Act until yesterday. It has yet to pass the House.

There is included under the EDA authority, two items that are administered by other departments rather than OEO—namely Headstart in HEW and Job Corps in the Department of Labor—the EOA manpower training programs. On the comprehensive health manpower and nurse training—which the Congress just passed—the authorization bill was passed a few weeks ago and the President signed it November 18. The budget did send up a request. On a number of items, the budget did not send up a request. The House did not consider health manpower or nurse training leaving that up to us, along with the Economic Opportunity Act programs.

Mr. President, with regard to the Labor Department programs authorized by the Economic Opportunity Act, the committee has included an amount slightly under the budget request. The committee feels that the amounts included in the bill are sufficient to maintain the momentum of the training programs.

The committee has attempted to provide a maximum amount under the budget estimate for OEO for emergency food and medical services because of the critical needs in the high areas of unemployment.

The committee has included $780,400,000 for the programs of the OEO, the full amount of the budget request. For the Department of Health, Education, and Welfare, the committee agrees with the House and has included the full budget request for benefits payments to disabled coal miners, the Headstart program, civil rights education activities, and fund for nursing home improvement. The major difference between the budget request and the committee bill focuses on two areas: programs of the Office of Education and the health manpower training programs of the National Institutes of Health. These are the principal items of increase recommended by the committee.

The committee has included $32.5 million in additional funds for elementary and secondary education in order to assure that no State will receive less in 1972 when compared with 1971. Without this amendment some 15 States would receive less.

The committee has also included $265 million over the budget request and the House allowance for impacted area aid. Of the total recommended, $200 million would be for construction of school facilities as authorized by Public Law 81–815 and $65 million would be for initial funding of the low-income housing provision authorized under Public Law 81–874. These funds will be used primarily to eliminate the backlog of construction needs for schools on Federal property and for schools to serve pupils residing on Indian land. The amount recommended would provide approximately 5,000 classrooms for about 125,000 children. The committee is also recommending $65 million for payments to local school districts for the education of children residing in federally assisted low-income public housing. The amount provided would pay approximately 22 percent of entitlement and would go to local school districts serving over 1,200,000 such children.

For health manpower the committee recommends an appropriation of $687,157,000, an increase of $336,962,000 over the amount of the administration's supplemental request. The supplemental appropriation plus the funds already appropriated for health manpower in the regular HEW bill total $867,777,000 which is an increase of $438,367,000 over the appropriation for fiscal year 1971.

This appropriation is for the programs authorized by the Comprehensive Health Manpower Training Act of 1971 (Public Law 92–157) and the Nurse Training Act of 1971 (Public Law 92–158) which the President signed on November 18. These two acts do not merely continue the existing programs, launched under the earlier health manpower legislation which has expired, but were designed to increase significantly the future supply of health manpower.

When signing the new legislation on November 18, the President said:

> These acts follow substantially the recommendations I made to the Congress last February—and they constitute the most comprehensive health manpower legislation in the Nation's history.

In view of this enthusiastic endorsement of the legislation and the President's further statement that:

> Legislation is only a first step. These new programs must now be adequately funded and effectively carried out.

The committee was surprised and disappointed that the supplemental budget request for these health manpower programs total only $350.2 million. Together with the $180.6 million included in the Labor-HEW appropriations bill (H.R. 10061) already enacted, the supplemental budget request would make only $530.8 million available out of the $1,116 million authorized for the health manpower programs.

The amount requested is exactly the same as that requested in the budget that the President laid before the Congress last January. The only cognizance that has been taken of the new legislation is that the distribution of the funds requested is somewhat different from their distribution in the January budget. No attention has been paid to the clear intent of the Congress that the production of urgently needed health-care personnel be sharply increased and accelerated.

On the contrary, the supplemental budget requests make grossly inadequate provision for the most important long-range programs authorized by the new legislation. For example, it is proposed that capitation grants for health profession schools and loans for students in these schools be funded at only 60 percent of the authorized level. The committee is deeply concerned that these new laws simply will not work with these few funds. Unless the capitation provision is adequately funded, schools will continue to compete in the "disaster derby" for limited financial distressed funds. Indeed, if the levels in the administration's request for capitation and construction stand, schools will not be placed on a stable financial footing and they will need every dollar of financial distress money they can get. The net result will be that we will get only a fraction of the manpower that the authorizing legislation envisions and the country needs.

Consequently, the committee has increased the level of student loans and capitation grants from 60 percent of the authorization to 80 percent.

The administration's budget seeks no funds at all for capitation grants for nursing schools, thus, in effect, seeking to repeal this important provision of the new legislation. The committee has funded this provision at 80 percent of the authorization, the same percent used in funding the capitation provision for medical and related health professions.

For scholarship assistance to students in the health professional schools including nursing schools, only $35 million is requested though it is estimated that $112 million would be required to carry out the intent of the legislation by making scholarship funds available in accordance with the formula prescribed therein. The committee has included $70 million for this purpose.

For construction of health educational facilities, on which the future success of the whole health manpower program may well depend, only $82 million of the $225 million authorization is requested—despite the fact that there is already a backlog of $840 million in approved but unfunded construction-grant applications. The committee has included $170 million to help reduce the backlog.

The committee believes that it is clearly the intent of Congress—and notwithstanding its meager budget request, the wish of the administration—to move ahead vigorously and promptly toward the goal of a diversified corps of highly competent health manpower that can adequately serve the health-care needs of the American people wherever they live and whatever their social and economic circumstances. To this end, the committee has significantly increased the appropriation for the health manpower programs.

Mr. President, I think the Labor-HEW chapter of this supplemental bill is a good chapter—much improved over the House allowance and budget request. I am hopeful that when we conference with the House that we can return to the Senate with many of these items still intact. As you know, on those items considered only by the Senate and not by the House, the conference will be between our figure and zero. This makes the conference situation far more difficult. However, I am sure the Senate conferees will do their best to protect those items that the Members of the Senate feel most strongly about.

Mr. President, I have had prepared a table which shows the total amounts authorized for all categories of health manpower, the amount appropriated in the regular fiscal year 1972 Appropriation Act which was enacted into law in August, the amount requested by the administration under the new Comprehensive Health Manpower Training Act and Nurse Training Act, and the amounts recommended by the committee in this supplemental bill.

This is a most complicated and complex subject and I believe that this detailed breakdown on health manpower will be helpful. I ask unanimous consent that this table be printed in the RECORD at this point.

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

BUREAU OF HEALTH MANPOWER EDUCATION, FISCAL YEAR 1972 SUPPLEMENTAL REQUEST

HEALTH MANPOWER

[Dollar amounts in thousands]

	Authorization	Fiscal year 1972 appropriated		Fiscal year 1972 supplemental request		Total		Recommendation	
		Positions	Amount	Positions	Amount	Positions	Amount	Amount	Increase
Health manpower:									
1. Medical, dental, and related health professions:									
(a) Institutional support:									
(1) Capitation grants:									
MOD	$200,000				$120,000		$120,000	$160,000	+$40,000
VOPP	34,000				20,400		20,400	30,000	+9,600
(2) Start-up assistance:									
New schools	10,000				2,580		2,580	2,900	+320
Converting schools	[1] 5,000				4,700		4,700	4,700	
(3) Special projects (grants and contracts)	118,000				36,000		36,000	70,000	+34,000
(4) Financial distress	20,000				20,000		20,000	20,000	
(5) HMEIA's	45,000				20,000		20,000	30,000	+10,000
(b) Student assistance:									
(1) Student loans:									
United States	50,000		$30,000				30,000	[1] 40,000	+10,000
Foreign	1,750								
(2) Scholarships:									
United States	[1] 56,700		15,500				15,500	[1] 35,000	+19,500
Foreign	150								
Physician shortage	2,500							1,000	+1,000
(3) Traineeships and fellowships:									
Family medicine	25,000				5,000		5,000	5,000	
Health professions teachers	10,000				1,000		1,000	1,000	
(c) Construction:									
(1) Grants	225,000				82,000		82,000	170,616	+88,616
(2) Interest subsidy	8,000				800		800	2,000	+1,200
(d) Computer technology	5,000				1,000		1,000	3,000	+2,000
(e) Education cost studies	[2]				2,015		2,015	2,015	
(f) Educational grants and contracts and direct operations:									
(1) Grants and contracts	[2]		927				927	[1] 927	
(2) Direct operations	[2]	162	4,232			162	4,232	[1] 4,232	
Total, health professions	816,100	162	50,659		315,495	162	366,154	582,390	+216,236
Dental health:									
1. Educational grants and contracts	[2]		5,909				5,909	[1] 6,409	+500
2. Direct operations	[2]	219	5,941			219	5,941	[1] 5,941	
Total, dental health		219	11,850			219	11,850	12,350	+500

Footnotes at end of table.

BUREAU OF HEALTH MANPOWER EDUCATION, FISCAL 1972 SUPPLEMENTAL REQUEST—Continued

HEALTH MANPOWER—Continued

[Dollar amounts in thousands]

	Authorization	Fiscal year 1972 appropriated		Fiscal year 1972 supplemental request		Total		Recommendation	
		Positions	Amount	Positions	Amount	Positions	Amount	Amount	Increase
Nursing:									
1. Institutional support:									
(a) Capitation grants	$78,000							$63,000	+$63,000
(b) Start-up assistance	4,000								
(c) Special projects (grants and contracts)	20,000				$18,000		$18,000	20,000	+2,000
(d) Financial distress	15,000				5,000		5,000	10,000	+5,000
2. Student assistance:									
(a) Student loans	25,000		$21,000				21,000	[1] 25,000	+4,000
(b) Scholarships	[3] 55,500		19,500				19,500	[1] 35,000	+15,500
(c) Traineeships	20,000		10,470				10,470	[1] 15,000	+4,530
3. Construction:									
(a) Grants	35,000				9,500		9,500	25,000	+15,500
(b) Interest subsidy	1,000				200		200	200	
4. Educational grants and contracts and direct operations:									
(a) Recruitment (grants and contracts)	3,500				2,000		2,000	2,000	
(b) Grants and contracts	[2]		3,805				3,805	[1] 3,805	
(c) Direct operations	[2]	153	6,915			153	6,915	[1] 6,915	
Total, nursing	257,000	153	61,690		34,700	153	96,390	205,920	+109,530
Public health:									
1. Institutional support:									
(a) Schools of public health	12,000		5,554				5,554	[1] 7,000	+1,446
(b) Graduate public health training	15,000		4,517				4,517	[1] 4,517	
2. Traineeships	16,000		8,400				8,400	[1] 8,400	
3. Direct operations	[2]	24	573			24	573	573	
Total, public health	43,000	24	19,044			24	19,044	20,490	+1,446
Allied health:									
1. Institutional support	20,000		10,000				10,000	[1] 15,000	+5,000
2. Traineeships	10,000		3,750				3,750	[1] 6,000	+2,250
3. Allied health special projects (grants and contracts)	20,000		14,745				14,745	[1] 15,745	+1,000
4. Direct operations	[2]	64	2,159			64	2,159	[1] 2,159	
Total, allied health	50,000	64	30,654			64	30,654	38,904	+8,250
Program direction and manpower analysis:									
1. Planning and analysis	[2]	135	4,068			135	4,068	[1] 4,068	
2. Program direction	[2]	123	2,655			123	2,655	[1] 2,655	
Total, program direction and manpower analysis		258	6,723			258	6,723	[1] 6,723	
Grand total	1,166,100	880	180,620		350,195	880	530,815	[4] 867,777	[4] +336,962

[1] Partially funded in regular bill.
[2] Indefinite.
[3] Formula.
[4] Includes $1,000,000 to implement and carry out the purposes of S. 3418, the Family Practice of Medicine Act.

Mr. MAGNUSON. Mr. President, I also ask unanimous consent to have printed in the RECORD a letter from the American Medical Association regarding the Comprehensive Health Manpower Training Act appropriations, and a letter from the Office of Management and Budget referring to the EDA public works impact program.

This letter from the AMA is typical of those we have received from any number of professional organizations. It evidences their support of the health manpower legislation and the urgency they feel about the needs of these complex programs.

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

AMERICAN MEDICAL ASSOCIATION,
Chicago, Ill., November 30, 1971.

HON. WARREN G. MAGNUSON,
U.S. Senate, Chairman, Subcommittee on Labor and Health, Education, and Welfare, New Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: The Comprehensive Health Manpower Training Act of 1971, recently enacted as P.L. 92–157, represents a major national declaration of intent to provide federal assistance for the training of physicians and other health personnel. The development of adequate numbers of health manpower is a goal strongly supported by the medical profession.

Appropriate funding must be provided if medical schools are to receive urgently needed financial assistance, and if medical education is to become a reality for students of all economic and cultural backgrounds. Financial support for training of family practice physicians, an essential need, is also provided in the new legislation.

Public Law 92–157, in providing for capitation and construction grants, increased loans and scholarships, grants for family practice, and other beneficial programs, has greatly expanded the role of the federal government in supporting medical education and constitutes a major thrust toward achieving our manpower goals.

The American Medical Association recommends that full appropriations under the law be provided by the Congress. This is essential if we are to obtain the full benefits which the law intended, and if we are to achieve our goals of better availability of health care for all our citizens.

We urge that your Subcommittee provide for full funding of Public Law 92–157.

Sincerely,

ERNEST B. HOWARD, M.D.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

HON. JOHN L. MCCLELLAN,
Chairman, State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for comments on an amendment before the Senate Appropriations Committee for additional funding of the EDA Public Works Impact Program, I am pleased to inform you that the President had planned to request an FY 72 supplemental for this program in the amount of $30 million in the January budget. If the Committee should decide to provide this additional amount now, we would consider that a more desirable outcome since it would ensure that the special impact program could go forward immediately.

Sincerely,

GEORGE P. SHULTZ,
Director.

Mr. MAGNUSON. I will be glad to yield for questions.

Mr. JAVITS. Mr. President, first I wish to join with the chairman of the Committee on Appropriations in praise and appreciation for the fine job that has been done and the courage shown by the subcommittee presided over by the Senator from Washington (Mr. MAGNUSON) in this critically important field.

I would just like to underline what has already been said to point out that no provision whatever was made for an extra appropriation for nursing schools in the administration request. It is almost inconceivable that could be passed by, but it was until it was corrected by the Senator from Washington.

I read the analysis which is available of the items increased and the reasons, and I agree thoroughly.

I would like to ask the Senator this question: In view of the fact that the administration request is so low and so unrealistic—$350 million—as against an allowance of almost $650 million, and even that is some $500 million under the authorization. But I still think the Senator has done magnificently.

Would it strengthen the Senator's hand if we had a separate rollcall vote on this amendment to show the solidarity of the Senate behind it? As a member of the subcommittee and the Committee on Appropriations I know what happens when we get into conference with a $650 million appropriation and there has been an administration budget request of $350 million. We want to strengthen the hand of the Senator from Washington (Mr. MAGNUSON) if he thinks it would help. I would be happy to ask for it as a separate vote if the Senator feels it would strengthen his hand.

Mr. MAGNUSON. I think it would be helpful. I do not know how many Senators expected rollcall votes on individual items. I think we should have a rollcall vote on final passage. This is a bill involving a great deal of money. It is a bill that everyone is interested in and the Senate should show its support of these programs, especially on items the House did not consider.

Mr. JAVITS. That is correct.

Mr. ELLENDER. Mr. President, I wish to say to the Senator from New York that I hope we do not have to vote on each amendment to show that the committee is supported by the Senate because there are quite a few items and it is my hope to have a rollcall vote on the entire bill. I am prayerful that the vote will reflect the views of the entire Senate.

Mr. JAVITS. I will certainly defer to the wishes of the chairman of the committee but I wanted to emphasize what I felt was the unanimous or near unanimous feeling of the Senate.

Mr. MAGNUSON. If we vote on the entire bill we will express our opinion on these items. Most of them are well known. We will have to deal with items that many times were zero in the House and in the budget.

Mr. JAVITS. I hope the Senator from Louisiana and the Senator from Washington, notwithstanding my deference to them, and other Members, will appreciate the degree of feeling and hope which go into the item of health manpower.

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

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. KENNEDY. May I have time on the bill?

Mr. ELLENDER. I yield the Senator 5 minutes on the bill.

Mr. KENNEDY. I thank the Senator. First of all, I desire to extend warm congratulations to the distinguished Senator from Washington (Mr. MAGNUSON), as well as the ranking Republican member (Mr. COTTON), for the attention that they have given to the whole health manpower field, as well as to the chairman of the full committee (Mr. ELLENDER). I think that they have demonstrated true statesmanship and great courage in allocating resources to the health manpower programs and to the nursing school programs.

The authorizing legislation that the Senate passed this year dealing with health manpower, I think, is some of the most innovative and creative legislation in this area that this body has ever considered.

We have incorporated a dual approach in the authorizing legislation—that of the stick, in string requirements of health educational institutions as well as the carrot in the form of bonuses and financial incentives to encourage increased enrollments and curriculum innovation. To provide the amount and kinds of health manpower that are desperately needed in this country, this legislation must be adequately funded.

As chairman of the Subcommittee on Health, and as one who participated in the Senate-House conference, I know that the authorizations made in this legislation are really thoughtful, carefully calculated authorizations. I was distressed when we were confronted with the administration's request—which was some 44 percent of the money that was authorized. I believe that budget would have put an undue burden, almost an intolerable burden, on the health professional schools of this country. Fortunately, the Committee on Appropriations has raised that budget for manpower from 44 percent to some 72 percent of the authorization, and the budget for nurse training from 38 percent to some 80 percent of authorization.

I wish to have this committee know that I think they have really provided an extraordinary service in helping to address this country's health crisis. The President has pointed out that there is a health crisis; as has the Secretary of HEW. All who have considered this crisis, and the health needs of this Nation, realize that increased manpower is imperative if we are really going to meet the health care needs of the people of this country. I really think that this committee has performed a yeoman service.

I agree with the Senator from New York (Mr. JAVITS) that if the chairman of the subcommittee or the chairman of the full committee thought it would be useful, I should certainly hope that we could get a rollcall vote on this manpower portion of the bill. But obviously I will defer to their good judgment. They have indicated time and time again their commitment to the health needs of the people of this Nation, and I want to indicate to them my full support and my admiration for the work that has been done in responding to the health manpower needs of this Nation.

Mr. MAGNUSON. Mr. President, I wish to make one brief remark, if the Senator will yield?

Mr. KENNEDY. I yield.

Mr. MAGNUSON. We had a great deal of guidance from the legislative committee and from the Senator from Massachusetts and the members of his subcommittee in this matter. It is pleasing to me that we have worked together on this matter. If there is a health crisis in the United States, which I think there is, it is the failure of the delivery of health care. That is what we are striving to correct.

Mr. KENNEDY. The manpower legislation passed the Senate by a vote of 88 to 0 and in the House the vote was 343 to 3. It was passed unanimously by both committees. It has strong bipartisan support. Its major provisions are supported by the American Medical Association, and the administration, and it has the support of the overwhelming majority of people in the country. The Committee on Appropriations performed an extraordinary and valuable service to the Senate and the people of this Nation by providing funds adequate to launch this new legislation.

I thank the Senator.

Mr. President, the measure we have before us is a matter of grave concern. This body passed new authorizing legislation on July 14, 1971, intended to dramatically increase the numbers of doctors, dentists, nurses, and other health professionals in this country. The legislation intends also to produce new types and levels of health personnel—and to bring more physicians and others into our rural and inner-city areas.

More manpower, new types of manpower, and better distribution of manpower are necessary to alleviate the crisis in this Nation's health care system. In fact, they are basic essential needs without which no Federal program can solve the problems. The need for doctors, dentists, and nurses is basic—and every responsible agency has acknowledged it as such.

The President acknowledged it in his health message to Congress on February 18 of this year.

The House acknowledged it by passing their versions of the Comprehensive Health Manpower Act and Nurse Training Act on July 1 by a vote of 343 to 3.

Finally, the Senate acknowledged it by passing our versions of these bills on July 14 by a vote of 88 to 0.

The House and Senate legislative Committees on Health has given serious and lengthy consideration to what actions the Federal Government should take with respect to manpower. You are familiar with the hours of hearings and drafting sessions that have gone into these considerations. You are familiar also with the 10 lengthy conference sessions the Senate and House held—thrashing through very different but equally innovative bills.

The bills that we produced, and which the President signed into law on Thursday, November 18, are landmark legislation in the history of America's health professions, and the educational institutions which produce them. These laws take the Nation's need for health manpower very seriously. They establish a new and expanded Federal role in support of health professions education.

Mr. President, this is an area of the health care crisis that everyone agrees is fundamental to progress. It is an area of the crisis where everyone agrees the Federal Government must act. And it is an area in which the Congress has

shaped a most throughtful mechanism for Federal action.

Now, Mr. President, we have the opportunity and the responsibility to act—to put adequate funds into this mechanism to make it work. If we do not put adequate funds behind this law, all our work to date is pointless.

The budget request that the Congress received from the executive branch, Mr. President, was so low as to effectively scuttle this law. By simply holding back dollars in a misled desire to keep down the budget, the administration's request would have deprived the Nation of the health manpower we need to stop the skyrocketing inflation in health care costs.

The dollar levels in this budget request would have kept the health educational institutions on the financial ropes and so watered down the incentives for training more manpower that they were meaningless.

Mr. President, Senator MAGNUSON's subcommittee has gone a long way toward setting this right. The increases they have recommended in the budget reflect their deep concern with health care in this country, and their understanding of our basic need for more of the right kinds of health manpower. I am grateful for their courage in seeing the Senate action through to a conclusion by recommending defensible funding levels. I strongly recommend unanimous passage of this bill.

I must add, however, that I am gravely concerned over the fate of this appropriation bill in conference with the House. The House Appropriations Committee has held no hearings on the manpower and nursing supplemental requests. Their bill has no dollar figures in these areas. I am afraid that lacking a basis for independent judgment, they will insist on accepting the administration's proposed budget with only minor changes—even though this will scuttle a law originally passed in the House by a vote of 343 to 3. The Senate must give a full measure of support to Senators MAGNUSON and COTTON to arm them for this important conference.

Mr. President, this is a vital appropriation. My concern for the problems the American people have in getting and paying for health care demands that we take every possible step to assure adequate funding of these new manpower and nursing laws. The issues are simply too important to allow misguided economy to interfere with our actions.

Senators MAGNUSON and COTTON will, I am confident, do everything they can to represent the Senate's interest in conference with the House. I want them to understand—and above all I want the House conferees to understand—that the Senate stands fully behind its Appropriations Committee on this bill.

Mr. ELLENDER. I thank the Senator and I accept his remarks for all members of the committee. We all worked together in unison.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this request.

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

The committee amendments agreed to en bloc are as follows:

At the top of page 2, insert a new chapter, as follows:

CHAPTER I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SPACE, SCIENCE, VETERANS' ADMINISTRATION, AND OTHER INDEPENDENT AGENCIES

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," $1,587,000.

On page 2, line 10, change the chapter number from "I" to "II".

On page 2, line 15, after the word "resources", strike out "$160,000" and insert "$85,000".

On page 2, after line 15, insert:

BUREAU OF INDIAN AFFAIRS

RESOURCES MANAGEMENT

For an additional amount for "Resources management", $230,000.

On page 2, after line 19, insert:

CONSTRUCTION

For an additional amount for "Construction", $550,000, to remain available until expended.

On page 2, after line 22, insert:

GEOLOGICAL SURVEY

For an additional amount for "Surveys, investigations, and research", $1,190,000.

On page 3, after line 1, insert:

CONSERVATION AND DEVELOPMENT OF MINERAL RESOURCES

For an additional amount for "Construction and development of mineral resources", $300,000.

On page 3, line 8, strike out "$5,250,000" and insert "$7,225,000".

On page 3, after line 8, insert:

OFFICE OF COAL RESEARCH

For an additional amount for "Salaries and expenses", $10,280,000, to remain available until expended, of which not to exceed $80,000 shall be available for administration and supervision.

On page 3, line 20, after the word "Construction", strike out "$110,000" and insert "$2,325,000"; and, in line 21, after the word "expended", insert a colon and *"Provided,* That notwithstanding the Act of March 18, 1950, as amended, not to exceed $2,215,000 shall be available for airport planning, development, or improvement at the Jackson Hole Airport pursuant to the Act of March 18, 1950, including availability through the Jackson Hole Airport Authority as sponsor's share of project costs for any grant made pursuant to Public Law 91–258."

On page 4, after line 3, insert:

PARKWAY AND ROAD CONSTRUCTION (LIQUIDATION OF CONTRACT AUTHORITY)

For an additional amount for "Parkway and road construction (liquidation of contract authority)", $96,000, to remain available until expended.

On page 4, line 19, strike out "$500,000" and insert "$518,000".

On page 5, after line 8, insert:

YOUTH CONSERVATION CORPS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Act of August 13, 1970 (Public Law 91–378), establishing the Youth Conservation Corps, $3,500,000, to remain available until expended: *Provided,* That $1,750,000 shall be available to the Secretary of the Interior and $1,750,000 shall be available to the Secretary of Agriculture.

On page 5, after line 16, insert:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

INDIAN HEALTH FACILITIES

For an additional amount for "Indian health facilities", $42,000, to remain available until expended.

On page 6, at the beginning of line 12, strike out "$1,800,000" and insert "$1,400,000".

On page 6, line 15, change the chapter number from "II" to "III".

On page 6, after line 17, insert:

SALARIES AND EXPENSES

For an additional amount for the Manpower Administration, $23,400,000: *Provided,* That $23,000,000 of this appropriation shall be available only upon the enactment into law of S. 2007 or other authorizing legislation by the Ninety-second Congress.

On page 6, after line 23, insert:

MANPOWER TRAINING SERVICES

For expenses necessary to carry into effect title I of the Economic Opportunity Act of 1964, as amended, $735,837,000: *Provided,* That the amounts heretofore appropriated for title II, parts A and B of the Manpower Development and Training Act of 1962, as amended, for expenses of programs authorized under the provisions of subsection 123 (a) (5) and (8) of the Economic Opportunity Act of 1964, as amended, shall not be subject to the apportionment of benefits provisions of section 301 of the Manpower Development and Training Act: *Provided further,* That this appropriation shall not be available for contracts made under title I of the Economic Opportunity Act extending for more than twenty-four months: *Provided further,* That all grants agreements shall provide that the General Accounting Office shall have access to the records of the grantee which bear exclusively upon the Federal grant: *Provided further,* That this appropriation shall be available for the purchase and hire of passenger motor vehicles, and for construction, alteration, and repair of buildings and other facilities, as authorized by section 602 of the Economic Opportunity Act of 1964 and for the purchase of real property for training centers: *Provided further,* That this appropriation shall be available only upon the enactment into law of S. 2007 or other authorizing legislation by the Ninety-second Congress.

On page 8, line 1, after the word "services", strike out "$4,500,000" and insert "$24,640,000".

On page 8, after line 6, insert:

OFFICE OF THE SECRETARY

For an additional amount for "Salaries and expenses," $400,000.

On page 8, after line 21, insert:

ELEMENTARY AND SECONDARY EDUCATION

For an additional amount for "Elementary and Secondary Education", $32,500,000, which

shall be for title I–A of the Elementary and Secondary Education Act: *Provided*, That the aggregate amounts made available to each State in fiscal year 1972 under such title for grants to local educational agencies within that State shall not be less than such amounts as were made available for that purposes in fiscal year 1971.

On page 9, after line 5, insert:

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For an additional amount for "School Assistance in Federally Affected Areas", $265,000,000, of which $200,000,000, which shall remain available until expended, shall be for carrying out the Act of September 23, 1950, as amended (20 U.S.C., ch. 19), and $65,000,000 shall be for carrying out section 303(1)(C) of the Act of September 30, 1950, as amended (20 U.S.C., ch. 13), as specified in section 5(c)(3) of said Act.

On page 9, after line 14, insert:

HIGHER EDUCATION

For an additional amount for "Higher Education" to carry out section 105 of the Higher Education Facilities Act of 1963, as amended, $3,000,000.

On page 11, after line 2, insert:

NATIONAL INSTITUTE OF HEALTH

HEALTH MANPOWER

For an additional amount for "Health Manpower," $687,157,000 of which $197,816,000 shall remain available until expended to carry out part B of title VII and part A of title VIII of the Public Health Service Act: *Provided*, That $120,000,000 to carry out sections 772, 773, and 774 shall remain available for obligation through September 30, 1972: *Privided further*, That $10,616,000 shall be for a construction grant to the Louisiana State University, as authorized by title VII of the Public Health Service Act and $1,000,000 shall be used to carry out programs in the family practice of medicine, as authorized by the Family Practice of Medicine Act of 1970 (S. 3418, Ninety-first Congress).

Loans, grants, and payments for the next succeeding fiscal year: For making, after December 31 of the current fiscal year, loans, grants, and payments under section 306, parts C, F, and G of title VII, and parts B and D of title VIII of the Public Health Service Act for the first quarter of the next succeeding fiscal year, such sums as may be necessary, and obligations incurred and expenditures made hereunder shall be charged to the appropriation for that purpose for such fiscal year: *Provided*, That such loans, grants, and payments pursuant to this paragraph may not exceed 50 per centum of the amounts authorized in section 306, parts C and G of title VII, and in part B of title VIII for these purposes for the next succeeding fiscal year.

On page 12, after line 3, insert:

OFFICE OF CHILD DEVELOPMENT

CHILD DEVELOPMENT

For an additional amount for "Child Development", $376,817,000, to carry out Project Headstart, as authorized by section 222(a)(1) of the Economic Opportunity Act of 1964: *Provided*, That this appropriation shall be available only upon the enactment into law of S. 2007 or other authorizing legislation by the Ninety-second Congress.

On page 12, after line 11, insert:

MATERNAL AND CHILD HEALTH

Grants made during the current fiscal year for any project under section 508, 509, or 510 of the Social Security Act may be for periods ending prior to July 1, 1973.

At the top of page 13, insert:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," for expenses of additional hearing examiners, $660,000, to be derived by transfer from the appropriation to the Department of Labor, the Workplace Standards Administration, for "Salaries and expenses."

On page 13, after line 8, insert:

OFFICE OF ECONOMIC OPPORTUNITY

FEDERAL FUNDS

ECONOMIC OPPORTUNITY PROGRAM

For expenses necessary to carry out the provisions of the Economic Opportunity Act of 1964 (Public Law 88–452, approved August 20, 1964), as amended, $780,400,000, plus reimbursements: *Provided*, That this appropriation shall be available for the purchase and hire of passenger motor vehicles, and for construction, alteration, and repair of buildings and other facilities, as authorized by section 602 of the Economic Opportunity Act of 1964: *Provided further*, That no part of the funds appropriated in this paragraph shall be available for any grant until the Director has determined that the grantee is qualified to administer the funds and programs involved in the proposed grant: *Provided further*, That all grant agreements shall provide that the General Accounting Office shall have access to the records of the grantee which bear exclusively upon the Federal grant: *Provided further*, That this appropriation shall be available only upon the enactment of S. 2007 or other authorizing legislation by the Ninety-second Congress.

On page 14, line 5, change the chapter number from "III" to "IV".

On page 14, after line 6, insert:

SENATE

On page 14, after line 7, insert:

For payment to Jennette Herbert Hall Prouty, widow of Winston L. Prouty, late a Senator from the State of Vermont, $42,500.

On page 14, after line 10, insert:

SALARIES, OFFICERS AND EMPLOYEES

COMMITTEE EMPLOYEES

For an additional amount for "Committee Employees", $21,770, to include herein, from and after January 1, 1972, the positions made permanent by Public Law 92–136, approved October 11, 1971.

On page 14, after line 16, insert:

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For an additional amount for "Administrative and Clerical Assistants to Senators", $597,535: *Provided*, That the clerk hire allowance of each Senator from the States of Maryland and Tennessee shall be increased to that allowed Senators from States having a population of four million, the populations of said States having exceeded four million inhabitants, that the clerk hire allowance of each Senator from the State of Florida shall be increased to that allowed Senators from States having a population of seven million, the population of said State having exceeded seven million inhabitants, and that the clerk hire allowance of each Senator from the State of Michigan shall be increased to that allowed Senators from States having a population of nine million, the population of said State having exceeded nine million inhabitants: *Provided further*, That effective January 1, 1972, the table contained in section 105(d)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified, is amended to read as follows:

$295,938 if the population of his State is less than 3,000,000;

$321,768 if such population is 3,000,000 but less than 4,000,000;

$345,138 if such population is 4,000,000 but less than 5,000,000;

$362,850 if such population is 5,000,000 but less than 7,000,000;

$382,038 if such population is 7,000,000 but less than 9,000,000;

$403,440 if such population is 9,000,000 but less than 10,000,000;

$424,842 if such population is 10,000,000 but less than 11,000,000;

$446,244 if such population is 11,000,000 but less than 12,000,000;

$467,646 if such population is 12,000,000 but less than 13,000,000;

$488,556 if such population is 13,000,000 but less than 15,000,000;

$509,466 if such population is 15,000,000 but less than 17,000,000;

$530,130 if such population is 17,000,000 or more.".

On page 16, after line 9, insert:

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For an additional amount for "Office of Sergeant at Arms and Doorkeeper", $68,390: *Provided*, That effective January 1, 1972, the Sergeant at Arms may appoint and fix the compensation of an additional assistant video engineer at not to exceed $17,958 per annum, a senior programer at not to exceed $17,712 per annum, two program analysts at not to exceed $15,006 per annum each, four operators at not to exceed $10,086 per annum each, a liaison and documentation specialist at not to exceed $12,054 per annum, a job controller at not to exceed $12,054 per annum, and a key punch operator at not to exceed $6,642 per annum.

On page 16, after line 21, insert:

CONTINGENT EXPENSES OF THE SENATE

FOLDING DOCUMENTS

For an additional amount for "Folding Documents", $14,000.

At the top of page 17, insert:

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Items", fiscal year 1971, $250,000 to be derived by transfer from the appropriation "Salaries, Officers and Employees", fiscal year 1971.

For an additional amount for "Miscellaneous Items", $275,000: *Provided*, That each Senator shall be entitled to office space suitable for his official use at not more than three places designated by him in the State he represents. The Sergeant at Arms shall secure for each Senator such suitable office space in post offices or other Federal buildings at the places designated by each Senator. In the event suitable space is not available in post offices or other Federal buildings at any place designated by a Senator within his State, the Senator may lease or rent other office space for the purpose at such place, and the Sergeant at Arms shall approve for payment from the contingent fund of the Senate vouchers covering bona fide statements of rentals due for such office. In addition, the Sergeant at Arms shall approve for payment from the contingent fund of the Senate to each Senator, upon his certification, the official office expenses incurred in his State, telephone service charges officially incurred outside Washington, District of Columbia, and charges incurred for subscriptions to newspapers, magazines, periodicals, or clipping or similar services. Payment of rentals due and such expenses and charges shall not exceed the amount of $7,800 each calendar year, of which amount not to exceed $3,600 shall be available for the payment of rentals due, except that in the case of a Senator holding his office as Senator for less than a full calendar year, such $7,800 and $3,600 shall be prorated for that portion of such year he has served as a Senator. The aggregate of payments to or on

behalf of a Senator shall not exceed at any time the sum of $650 multiplied by the number of months (or fractions thereof) elapsing from (1) the first day of the calendar year in which the payment is made, or (2) the day during such year in which the Senator assumed the duties of his office, whichever day is applicable, to the date of payment, and the amounts included in such sum as payment for rentals due shall not exceed $300 multiplied by the number of such months (or fractions thereof), except that nothing in this sentence shall preclude the payment of rentals at the beginning of the month for which they are due. In the case of the death of any Senator, the chairman of the Committee on Rules and Administration may certify for such deceased Senator for any portion of such sum already obligated but not certified to at the time of such Senator's death, and for any additional amount which may be reasonably needed for the purpose of closing such deceased Senator's State office, for payment to the person or persons designated as entitled to such payment by such chairman. The proviso relating to strictly official telephone service charges incurred by Senators outside the District of Columbia appearing in the first paragraph of chapter VIII of the Second Supplemental Appropriation Act, 1967 (2 U.S.C. 46d–3), is repealed, and the paragraphs relating to the securing of office space for Senators in post office or other Federal buildings in their States and to the payment of official office expenses incurred by Senators in their States appearing under the heading "Senate" in the Legislative Branch Appropriation Act, 1957, as amended (2 U.S.C. 52, 53), are repealed. The preceding seven sentences and the proviso preceding such sentences are effective January 1, 1972.

On page 19, after line 14, insert:

STATIONERY (REVOLVING FUND)

For an additional amount for "Stationery (Revolving Fund)", $17,400: *Provided*, That effective with the fiscal year 1972 and thereafter, the annual allowance for stationery for the President of the Senate shall be $3,600, and such allowance for each Senator shall be as follows:

$3,600 if the population of his State is less than 3,000,000;

$3,800 if such population is 3,000,000 but less than 5,000,000;

$4,000 if such population is 5,000,000 but less than 9,000,000;

$4,200 if such population is 9,000,000 but less than 11,000,000;

$4,500 if such population is 11,000,000 but less than 13,000,000;

$4,800 if such population is 13,000,000 but less than 17,000,000;

$5,000 if such population is 17,000,000 or more.

On page 20, after line 9, insert:

ADMINISTRATIVE PROVISION

In the event of the death, resignation, or disability of the Secretary of the Senate, the Assistant Secretary of the Senate shall act as Secretary in carrying out the duties and responsibilities of that office in all matters, except those matters relating to the Secretary's duties as disbursing officer of the Senate, until such time as a new Secretary shall have been elected and qualified or such disability shall have been ended. For purposes of this paragraph and the last full paragraph under the heading "SENATE" in the First Deficiency Act, fiscal year 1936 (44 Stat. 162; 2 U.S.C. 64a), the Secretary of the Senate shall be considered as disabled only during such period of time as the majority and minority leaders and the President pro tempore of the Senate certify jointly to the Senate that the Secretary is unable to perform his duties.

On page 23, after line 6, insert:

RESTORATION OF OLD SENATE CHAMBER AND OLD SUPREME COURT CHAMBER IN THE CAPITOL

To enable the Architect of the Capitol to make such expenditures as may be necessary to restore the Old Senate Chamber on the principal floor of the Capitol and the Old Supreme Court Chamber on the ground floor of the Capitol substantially to the condition in which these chambers existed when last occupied in 1859 and 1860, respectively, by the United States Senate and the United States Supreme Court, including expenditures for procurement, restoration, and repair of furniture and furnishings for these chambers, $1,521,000, to be expended without regard to section 3709 of the Revised Statutes, as amended, and to remain available until expended, all under the direction of the Commission on Art and Antiquities of the United States Senate established by S. Res. 382, 90th Congress, agreed to October 1, 1968.

At the top of page 24, insert:

SENATE OFFICE BUILDINGS

For an additional amount for "Senate Office Buildings", $66,000, to remain available until expended.

On page 24, after line 3, insert:

EXTENSION OF ADDITIONAL SENATE OFFICE BUILDING SITE

To enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, to acquire on behalf of the United States, by purchase, condemnation, transfer, or otherwise, in addition to the real property contained in square 724 in the District of Columbia heretofore acquired under Public Law 85–429, approved May 29, 1958 (72 Stat. 148–149), and Public Law 91–382, approved August 18, 1970 (84 Stat. 819), for purposes of further extension of such site or for additions to the United States Capitol Grounds, all publicly or privately owned real property contained in lot 18 in square 724 in the District of Columbia, as such square appears on the records in the Office of the Surveyor of the District of Columbia as to the date of the approval of this Act: *Provided*, That for the purposes of this Act, square 724 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further*, That, upon acquisition of any real property under this Act, the jurisdiction of the Capitol Police shall extend over such property: *Provided further*, That, any proceeding for condemnation brought under this Act shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further*, That upon acquisition of any real property pursuant to this Act, the Architect of the Capitol, when directed by the Senate Office Building Commission to so act, is authorized to provide for the demolition and/or removal of any structures on, or constituting a part of, such property and to use the property for Government purposes or to lease any or all of such property for such periods and under such terms and conditions as he may deem most advantageous to the United States and to incur any necessary expenses in connection therewith: *Provided further*, That, such real property, when acquired under authority of this Act, shall be subject to the provisions of the Act of July 31, 1946, as amended (40 U.S.C.. 193a–193m, 212a, and 212b): *Provided further*, That, the Architect of the Capitol, under the direction of the Senate Office Building Commission, is authorized to enter into contracts and to make such expenditures, including expenditures for personal and other services, expenditures authorized by Public Law 91–646, approved January 2, 1971 (84 Stat. 1894–1907), applicable to the Architect of the Capitol, and expenditures for any other required items, as may be necessary to carry out the provisions of this appropriation; $270,000, to remain available until expended.

On page 27, line 12, change the chapter number from "IV" to "V".

On page 27, after line 17, strike out:

For an additional amount for "Construction, General", $34,000,000, to remain available until expended.

And, in lieu thereof, insert:

For an additional amount for "Construction, General," $102,400,000, to remain available until expended, of which not to exceed $1,400,000 shall be available for emergency flood control construction of debris basins and channel clearing in the Carpinteria, California, area affected by recent fires, and such work is hereby authorized.

On page 28, line 8, after the word "Rehabilitation", strike out "$7,000,000" and insert "$9,210,000".

On page 28, line 12, after the word "Project", strike out "$4,800,000" and insert "$6,800,000".

On page 28, line 17, change the chapter number from "V" to "VI".

On page 29, after line 12, insert:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SATELLITE OPERATIONS

For an additional amount for "Satellite operations," $4,919,000, to remain available until expended.

On page 29, after line 17, insert:

PATENT OFFICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," $2,035,000.

On page 30, after line 9, insert:

INTERNATIONAL RADIO BROADCASTING ACTIVITIES

For expenses necessary for international radio broadcasting and related activities, as authorized by law, including not to exceed $36,000,000 for grants to Radio Free Europe and Radio Liberty, $36,225,000: *Provided*, That this appropriation shall be available only upon the enactment into law of S. 18 or other authorizing legislation, 92d Congress.

On page 30, line 18, change the chapter number from "VI" to "VII".

On page 30, line 24, after the word "development", strike out "$2,500,000" and insert "$5,000,000".

On page 31, line 12, after the word "expended", strike out "$200,000, to be derived from the appropriation 'Office of the Secretary, salaries and expenses'" and insert "$2,200,000: *Provided*, That $2,000,000 of this appropriation shall be available only upon the enactment into law of authorizing legislation by the Ninety-second Congress".

On page 32, after line 1, insert:

AVIATION ADVISORY COMMISSION

SALARIES AND EXPENSES

(Airport and Airway Trust Fund)

For an additional amount for the Aviation Advisory Commission, authorized by section 12 of the Act of May 21, 1970 (Public Law 91–258), as amended, $750,000 to be derived from the Airport and Airway Trust Fund and to remain available until March 1, 1973: *Provided*, That funds for the Aviation Advisory Commission, as provided for in chapter XI of title I of the Second Supplemental Appropriations Act, 1971, shall also remain available until March 1, 1973.

At the top of page 33, change the chapter number from "VII" to "VIII".

On page 33, line 10, after the word "Fund", strike out "$216,400,000" and insert "$200,000,000".

On page 33, after line 11, insert:

GENERAL SERVICES ADMINISTRATION

CONSTRUCTION, PUBLIC BUILDING PROJECTS

For an additional amount for "Construction, public buildings projects," for construction of Patrick V. McNamara Federal Office Building, Detroit, Michigan (substructure), $11,200,000, to remain available until expended: *Provided*, That in addition, savings effected in other projects under the appropriation for "Construction, public buildings projects" shall be available for the foregoing project but in an amount not to exceed 10 per centum of the amount appropriated herein.

On page 33, after line 22, insert:

SITES AND EXPENSES, PUBLIC BUILDINGS PROJECTS

For an additional amount for "Sites and Expenses, Public Building Projects", $250,000.

On page 34, after line 7, insert:

FUNDS APPROPRIATED TO THE PRESIDENT

ECONOMIC STABILIZATION ACTIVITIES

SALARIES AND EXPENSES

For expenses necessary to carry out the Economic Stabilization Act of 1970, as amended, including activities under Executive Orders No. 11615 of August 15, 1971, and No. 11627 of October 15, 1971, both as amended; activities under Proclamation 4074 of August 15, 1971; and hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for GS–18, such amounts as may be determined from time to time by the Director of the Office of Management and Budget but not to exceed $20,153,000, of which not less than $3,000,000 will be derived by transfer from the Exchange Stabilization Fund and the remainder to be derived by transfer from balances reserved for savings in such appropriations to the departments and agencies of the Executive Branch for the current fiscal year as the Director may determine: *Provided*, That advances or repayments from the above amounts may be made to any department or agency for expenses of carrying out such activities.

On page 35, line 6, change the chapter number from "VIII" to "IX".

On page 35, at the beginning of line 12, insert "Senate Document Numbered ___, and"; in line 13, after the word "Congress", strike out "$19,029,734" and insert "$21,569,856".

At the top of page 36, change the chapter number from "IX" to "X".

And, after line 5, insert a new section, as follows:

SEC. 902. Property described in the last sentence of section 303(1) of Public Law 81–874 which, at any time during the fiscal year ending June 30, 1971, was Federal property for the purposes of such public law shall continue to be Federal property for such purposes for the fiscal year ending June 30, 1972.

Mr. BIBLE. Mr. President, will the distinguished chairman of the Committee on Appropriations yield so that I may offer an amendment?

Mr. ELLENDER. I yield the floor.

Mr. BIBLE. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BIBLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the end of the bill, add the following new section:

SEC. 903. The funds provided in the Department of Justice Appropriation Act, 1972, for Salaries and Expenses, Federal Bureau of Investigation, may be used, in addition to those uses authorized thereunder, for the exchange of identification records with officials of Federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the official use of any such official and subject to the same restriction with respect to dissemination as that provided for under the aforementioned Act.

Mr. BIBLE. Mr. President, the purpose of this amendment is to make it clear that the Federal Bureau of Investigation is authorized to use fiscal year 1972 funds to continue the long-standing program of providing criminal record identification services to federally chartered or insured banking institutions and authorized State and local public agencies for their official use in checking the background of persons seeking employment or licenses to engage in sensitive businesses or occupations affected with a public interest—such as the liquor industry, the legalized gaming industry in Nevada, and applicants for gun licenses.

These identification services have been authorized in each Department of Justice Appropriation Act since 1921, including the Act for fiscal year 1972.

However, the service was terminated in June of this year as a result of a decision of the U.S. District Court for the District of Columbia in the case of *Menard* v. *Mitchell* (328 F. Supp. 718) that these identification services may not be provided to other than Federal agencies except for strictly law-enforcement purposes without specific congressional authorization.

This Menard case is now pending on appeal before the U.S. Court of Appeals for the District of Columbia.

Mr. President, State and local laws throughout the country contain provisions requiring full inquiry into the background of persons seeking firearms and other licenses or employment in sensitive occupations. But we now have a situation in which the official agencies required to develop such information are denied access to FBI records.

This termination of an essential investigative service that has been available to State and local regulatory agencies for many, many years is completely unacceptable. The FBI is the only agency able to provide centralized criminal records services.

In addition, the discontinuance of this essential FBI service is inconsistent with the Crime Control Act of 1970, which had the overwhelming support of the Congress.

Title IX of that act is designed to curb and penalize the infiltration of legitimate business by organized criminals and racketeers.

It makes no sense at all to deny State and local public access to these FBI identification services. In many instances, it is their official duty to monitor and protect sensitive industries against such infiltration, and they need the FBI's centralized records service to do the job effectively.

This amendment will provide authorization for continuation of these services during fiscal year 1972.

In the meantime, bills are pending before the Senate Judiciary Committee and a further proposal is being prepared by the Department of Justice to improve the law governing criminal records services. Hopefully, hearings can be had early in the next session with a view to enacting improvements in the present law.

However, while that process goes forward it is essential that the FBI's criminal records service continue to be made available to State and local agencies for their official use.

The amendment does not involve any increased funding. Funds for the service involved would come out of the regular appropriation for the FBI for fiscal year 1972.

I have discussed the amendment with the chairman of the full committee and I have discussed it with the ranking Republican member of the committee. I believe they have advised me they are perfectly willing to take this amendment to conference and see if it can be worked out.

I urge acceptance of this amendment.

Mr. ELLENDER. Mr. President, I have examined the amendment and consulted with a few members of the committee. The amendment does not require any funds whatsoever. We will be glad to take it to conference.

Mr. BIBLE. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question arises on the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. WEICKER obtained the floor.

Mr. BIBLE. Mr. President, will the Senator yield to me for 1 moment?

Mr. WEICKER. I yield.

Mr. BIBLE. I find myself involved in what we hope is the last day of the conference on the settlement of the Alaskan Native claims. I am due there at this time as a conferee.

If there are any questions on the chapters of this bill relating to the Departments of Interior or Transportation by any Senator present now, I will be happy to try to respond.

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

Mr. BIBLE. I am willing to yield, but I do not have the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIBLE. I am yielded 1 minute.

The PRESIDING OFFICER. There is no time available to the Senator.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator have 5 minutes of the time he originally had on his amendment.

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

Mr. PERCY. Mr. President, I have an amendment which would relate to the Interior Department section. As I understand it, the amendment will be accepted; I can place my remarks in the letter and there would be very prompt action. I appreciate that the chairman of that subcommittee has to be away from the floor at the time the amendment may be offered. I shall be happy to offer it at a more convenient time later.

Mr. BIBLE. The trouble is we are locked up on the Alaska claim bill and we might be all night. Is the Senator's amendment one with which I am familiar?

Mr. PERCY. This is the Kennedy Center amendment.

Mr. BIBLE. I have carefully considered the Kennedy Center amendment and, speaking for myself, as chairman of the Interior Appropriations Subcommittee, I am completely satisfied with it and am perfectly willing to accept the amendment.

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

Mr. BIBLE. I yield, with the permission of the Senator from Louisiana (Mr. ELLENDER), to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank my distinguished colleague for yielding and wish to thank him and the members of the Appropriations Committee for recommending the appropriation of $2,325,000 for construction activities of the National Park Service.

Of that amount, $2,215,000 will be available for extension and construction of permanent facilities at the Jackson Hole Airport, Grand Teton National Park, Wyo.

Legislative language suggested by the committee is intended to assure that the funds will be available for airport planning, development, or improvement at the Jackson Hole Airport, including availability to provide the sponsor's matching funds for a project or projects under the Airport and Airway Development Act of 1970, Public Law 91–258, whether the project is sponsored by the Department of the Interior or the Jackson Hole Airport Authority, or both.

Mr. President, this is the major airport serving Grand Teton and Yellowstone National Parks in Wyoming. Teton County, wherein this airport is located, is 97 percent federally owned. It is not one of Wyoming's biggest counties in terms of assessed valuation, but it does have a great number of visitors, including those who come by air, because of the beauty and grandeur of the area.

The need for more adequate airport facilities is well known. Serious doubts are inherent in the present airstrip uses. It is hard to believe that an airport used by jet aircraft and large commercial aircraft does not have a taxi strip; $465,000 will be used for the construction of hangar facilities, access strip and aircraft parking. The remaining $1,750,000 will permit extension of the runway by 1,300 to 8,000 feet. Construction of these facilities will permit the airport to accommodate the greatly increased traffic, more sophisticated aircraft and will meet the higher safety standards which we require today.

In 1972, Yellowstone National Park will celebrate its 100th anniversary. This is the year of the National Park Centennial and the United States will host the second World Conference on National Parks at Yellowstone and Grand Teton National Parks.

The attention of the world will be focused on these national parks and adequate facilities providing access to the parks by air should be available.

The action of the Committee on Appropriations is the first step in seeing that this goal is met.

Mr. BIBLE. Mr. President, I am familiar with this item. It was unanimously approved by the subcommittee and the full committee. I am happy to join in the plea made by the Senator from Wyoming. Both Senators from Wyoming have been very actively interested in this item. It is urgent and it should be in the supplemental bill. I am glad to lend my weight and my support to it.

Do we have further questions, other than on the Kennedy Center, on the Interior portions of the bill or the chapter on Transportation?

Mr. PASTORE. We do not.

Mr. BIBLE. Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President——

The PRESIDING OFFICER. The Chair had previously recognized the Senator from Connecticut (Mr. WEICKER).

Mr. WEICKER. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. I would like to make inquiry as to where we now stand in these proceedings. Is the bill now open to amendment?

The PRESIDING OFFICER. The bill is open to amendment. There is a limitation of 1 hour on each amendment.

Mr. WEICKER. Mr. President, I send an amendment to the desk, which I ask to have read.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read the amendment, as follows:

On page 30, after line 17, insert the following:

"SMALL BUSINESS ADMINISTRATION

"BUSINESS LOAN AND INVESTMENT FUND

"For additional capital for the 'Business loan and investment fund', authorized by the Small Business Act, as amended, $100,000,000, to remain available without fiscal year limitation."

Mr. WEICKER. Mr. President, the amendment, I believe, is self-explanatory. In essence, what I am doing here is trying to bring some measure of balance into what the Senate has been doing during the past week. If $100 million sounds like a great deal of money to go to small business, I think it important to note that in the economic packages before our body, roughly $26 billion has been accorded to the economy and principally to the benefit of big business and big labor. The fact remains that out of 5,275,000 firms in our Nation, 95 percent of them are small businesses. Four out of every 10 civilian jobs in the economy are involved in small businesses. I do not exactly see how we can enjoy any measure of economic recovery unless we pay some attention to that aspect of our economy.

The United States is not just General Motors and the AFL–CIO. It is many small businesses and many persons employed in those businesses. In 1970, roughly 11,000 small businesses went under—went down the chute. This was not the prospective failure of a Lockheed or the prospective failure of a Penn-Central—11,000 went under.

In 1970, after-tax earnings of corporations with assets of less than $1 million went down 45 percent, as compared to those corporations with assets of over $1 million, whose earnings were down only 13 percent.

Mr. BIBLE. Mr. President, will the Senator yield to me?

Mr. WEICKER. I yield.

Mr. BIBLE. Mr. President, as chairman of the Senate Select Committee on Small Business, I wholeheartedly support the amendment of the Senator from Connecticut (Mr. WEICKER) to increase the appropriation for small business loans by $100 million. I commend the Senator for his initiative and welcome support from the other side of the aisle for the fight that the Senator from Alabama (Mr. SPARKMAN), the Senator from New Hampshire (Mr. MCINTYRE) and others have been waging since 1969 to bring about recognition of small business problems and adequate funding for Small Business Administration financial assistance programs.

To summarize the highlights of this struggle, I ask unanimous consent that our requests to the White House of 1969 and 1970, and the responses, be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BIBLE. To illustrate the conservative tenor of this amendment, let me briefly review the amounts which both Houses of Congress have, in the past few years, approved for the section 7(a) business loan programs of the Small Business Administration:

[In millions]

Fiscal year:	
1968	$307.4
1969	261.0
1970	116.0
1971	135.0

Because we were concerned and disturbed by this downward curve of funds requested by the executive branch, I joined last year with the distinguished Senator from Alabama, the former chairman of the Senate Small Business Committee (Mr. SPARKMAN), in urging that President Nixon raise his budget request

to the neighborhood of the 1968 level. We considered this a modest and reasonable position, pointing out in detail to the President how the time-tested programs of SBA could help in resolving some of the most pressing problems of our country, for instance:

First. The transition to a more civilian-oriented economy;

Second. The balance between rural and urban areas;

Third. Assisting less advantaged Americans into the mainstream of commercial life; and

Fourth. Helping small firms adapt to higher environmental and consumer standards.

We suggested in our letter ot the White House at that time that—

The SBA budget for fiscal year 1972 will be one of the acid tests that will divide those interested in rhetoric about small business and the economy from those seriously concerned about dealing with these problems.[1]

Accordingly, we felt it unfortunate that the amount requested in the fiscal year 1972 budget for SBA direct and participation loans combined came to only $99 million, an overall reduction of more than two-thirds over the past 4 years.

This has been unfortunate for the 5¼ million small businesses in the country and also for the Congress, which has a problem in attempting to assist the Small Business Administration and the small business community in the face of this kind of action by the White House.

Frankly, this credibility problem in the small business area was deepened when the President strongly backed guaranteed loans to Lockheed—the Nation's largest defense contractor—and Penn Central—the Nation's largest railroad corporation—totaling $375 million. This amount was more than 3½ times the total requested for 5¼ million small businessmen. I feel, and I have said in the past, that credit priorities of this kind are out of balance and difficult to justify.[2]

The Senator from Connecticut has recognized the needs which will be unmet as a result of these reductions in small business loan funds, as well as the economic waste and human disappointment which will result, particularly at a time of economic turbulence. He has had the courage to bring the matter to the attention of this body.

Because of the figures which I have summarized, this limited increase of SBA loan funds which will be paid in full and with interest cannot be considered a budget-busting amendment in any sense. If approved in full, the amount available for SBA direct and participation loans to the growing small business population would still be one-third below the level which Congress fully approved in fiscal year 1968.

I feel that the Congress and its Members interested in small business owe it to the hard-pressed, taxpaying small business owners and employees in the cities and towns across this country to stand up for their economic interests regardless of whether the executive branch may be critical, or whether the President might or might not freeze these funds after the Congress makes them available.

I hope that my colleagues will join in approving this increase which is well within and below the levels previously approved on several occasions.

EXHIBIT 1

LETTER TO PRESIDENT RICHARD M. NIXON BY SENATOR BIBLE URGING RELEASE OF $170.2 MILLION IN SBA LOAN FUNDS

JUNE 25, 1969.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: May I respectfully call your attention to several fact situations which I believe are placing the 5½ million small businessmen of this country in an economic strait-jacket as a result of skyrocketing bank interest rates and the absence of direct loan money from the Small Business Administration.

The Senate Select Committee on Small Business, of which I have the honor to be Chairman, has just concluded the preliminary phase of hearings on the legislative oversight of the Small Business Administration. Many of our members have expressed deep concern at the drastic reductions in both the budget requests for the SBA loan programs and Executive action reducing loan commitments substantially below amounts approved by the Congress.

According to our Committee's calculations, there remain, within SBA Section 7(a) financial assistance and investment company programs, loan authorizations totaling more than $170 million which will expire if not released before the end of this fiscal year. The amounts are in three categories, as follows: for the direct business loan program $59 million; for SBA's share of immediate participation loans $89.9 million; and for the SBIC lending program $21.3 million, for a total of $170.2 million.

It is my understanding that the release of such authority is for lending rather than spending, so that the budgetary "expenditure" features of these loans would be subject to an immediate offsetting repayment of principal and interest. Moreover, the amounts to be loaned are already in the SBA revolving fund so that no new "appropriations" would be required. Accordingly, expenditure controls would appear to be only a secondary consideration in this matter.

You will recall that last April the Department of Agriculture obtained release of $41 million for the Farmers Home Administration under similar conditions. I feel that small business is entitled to at least comparable treatment in government loan money availability in the face of credit needs of small business which, in the tightening money market, are becoming increasingly acute.

The prime bank rate has reached 8½% and other market instruments have followed suit, raising interest rates to their highest peaks in 100 years. Small, independent, and family businesses, which are less creditworthy than large national firms, customarily pay interest rates scaled upward from the prime.

With this background in the private sector, a cut in the public lending program of last resort in the order of 58.5% is creating a massive squeeze on our 5½ million small businessmen.

Therefore, immediate action is required if small business is not to bear a disproportionate part of the sacrifices necessary to curtail inflation. This may be done administratively, beginning with the release of the full $170.2 million in Congressionally approved loan authority for fiscal year 1969 SBA and SBIC loan programs. This should extend to all necessary technical and implementing measures, which will allow this authority to be carried over on the books until these small business loans can be approved and disbursed. I urge that you instruct the Budget Bureau before June 30 to take the administrative action which is conveniently within your control, and to recommend to Congress whatever additional action may be needed to preserve the budget authority I have described so that it will not become permanently unavailable to the SBA and the small business community.

Very respectfully,

ALAN BIBLE,
Chairman.

LETTER TO PRESIDENT NIXON BY SENATORS BIBLE AND SPARKMAN URGING RESTORATION OF SBA DIRECT LENDING FUNDS TO 1968 LEVEL

SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C., December 29, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: At this time of the year, when budgets are being prepared in the Executive Branch, we in the Congress are also well aware of the responsibility which we all share for the 95 percent of American commerce and industry which is small business and accounts for an estimated 40 to 50 percent of all jobs and 33 to 40 percent of GNP.

Accordingly, we ask that you give your most earnest consideration to increasing the Small Business Administration budget for fiscal year 1972 to levels approximating those approved by Congress for fiscal year 1968, particularly as to funds for direct participation, community development, and SBIC loans.

From the passage of the Small Business Act in 1953, it has been generally accepted that the ability of the SBA to supply direct funds in its various loan programs has been the heart of its assistance to the small business community. However, a recent emphasis on guarantee loans to the detriment of the direct loan programs has not done the job for the nation's 5½ million small businesses. The last three fiscal years have seen SBA direct loans fall from 2,456 in 1968, to 635 in 1969, to 42 in 1970. Participation loans have also fallen far below the previous averages.

Loan guarantees cannot be fully adequate to meet current circumstances, because the effectiveness of this approach depends first, upon the availability of financial resources in the private sector; second, upon many commitments to allocate these resources to what are generally considered less-preferred risks; and third, upon the payment of higher interest rates by those least able to bear them.

An indication of the extent to which guarantees are not equal to the problem is found in the failure rates for businesses in 1970, which rose 25 percent. Failures with liabilities of $1 million increased a starting 95 percent. Another indication was that small and independent firms, which are lower-rated borrowers and stand at the end of the line for credit, continued to pay record-high interest rates for loan funds, a national average of 8.6 percent in November, with peaks of 9.4 percent in the Pacific and Mountain states.

Although the crisis of liquidity appears to have abated somewhat, the continued weakness in bank term loans seems to represent continued hesitancy of financial institutions to offer longer term financing to medium- and lower-rated companies. Declining profits are cutting into internally-generated capital, and the bond market remains the preserve of the very largest corporations.

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[1] "Next Year's SBA Budget Will Be Important Test—Direct Loan Funds Should Be Restored," CONGRESSIONAL RECORD, vol. 116, pt. 33, p. 44026.

[2] "Administration Overlooks Potential of Smaller Businesses in Solving Nation's Problems," CONGRESSIONAL RECORD of July 19, 1971, p. 25808.

These extreme stresses of 1970 give us serious concern about the ability of small firms across the country to secure financing for even their "normal" needs without more affirmative help from the Federal Government. As you have pointed out, our economy must also take up the burden of transition in the years immediately ahead.

Smaller defense contractors and subcontractors, which have been vital to the nation's military build-up, must retool, and reorient for civilian markets. Many returning veterans, like their colleagues after World War II and Korea, will wish to start their own businesses. Communities surrounding installations to be closed or curtailed will experience severe dislocation if they cannot plan now to attract new industry to take up the slack.

Small Business Administration loan programs are designed precisely to assist in these situations. They have the additional advantages of encouraging balanced growth between rural and urban areas; helping smaller firms to adapt to higher environmental and consumer standards; and assisting less advantaged Americans into the mainstream of commercial life.

Today, economic forces beyond the control of smaller businessmen make the obligations of Government even stronger. If these SBA programs are permitted to operate far below levels considered appropriate a few years ago, it would seem that the basic concept of fair play for the small business community is being seriously impaired.

To the degree this happens, there will surely be a shifting of existing business and future potential growth to bigger, well-financed companies which already exert a preponderant influence on our economy. At the same time thousands of worthy small, family, local, and independent firms will be squeezed out of our economic life leaving both the economy and our society poorer in the end.

We should emphasize also that SBA assistance is not in the form of grants, but in loans which are fully repayable with interest.

It seems to us that the programs of the Small Business Administration have extraordinary and almost unique ability to deal with the pressing difficulties of transition and economic opportunity with which we all are concerned. We therefore feel that these tools should receive the full budgetary support to which an objective analysis entitles them.

We are hopeful you will give appropriate consideration to these views in your final decisions on the Small Business Administration's budget for fiscal year 1972 and see fit to restore the direct loan program to a more meaningful level and thereby meet the realistic needs of small businesses nationwide.

Cordially,

ALAN BIBLE,
Chairman, Small Business Committee.
JOHN SPARKMAN,
Chairman, Banking and Currency Committee.

REPLY TO 1970 LETTER

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., February 17, 1971.

HON. ALAN BIBLE,
Chairman,
Senate Small Business Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: I would like to take this opportunity to discuss some of the issues you raised in your letter to the President concerning the budget of the Small Business Administration (SBA). Although the Administration's position on the issues you raised is reflected in the President's recent budget recommendations for SBA, I feel it may be helpful to mention briefly some of the information that went into the formulation of that position.

As you correctly point out in your letter, the number of direct loans for the regular business loan (7a) program have declined from 2,456 in 1968 to 42 in 1970. However, it is important to recognize that the dollar value of all SBA direct lending, excluding disaster and displaced business loans, actually increased from $133 million in 1968 to $140 million in 1970. It is also important to note that direct lending constitutes only a portion of the funds provided directly by SBA at a 5½ percent interest rate. In 1970 an additional $82 million in 5½ percent funds were provided through the immediate participation portion of the 7a program. The President's budget provides for $210 million in direct and immediate participation funds in 1972, with the split to be determined based upon the needs at that time. Thus, although direct and immediate participation funds have declined somewhat, the total amount of funds provided directly by SBA are substantially greater than the figure for the number of direct 7a loans would indicate.

The decline in direct lending has been more than offset by the rapid expansion of SBA's guarantee program. Guaranteed lending increased from $195 million in 1968 to $378 million in 1970. The further anticipated expansion to $855 million in 1971 and $1 billion in 1972 is ample evidence that the private sector can and is providing increased financial assistance to the small business community. Even in periods of relatively tight money, such as 1970, SBA has been able to increase the guarantee program. Part of the sharp rise in 1971 and 1972 can be attributed to the increasing ability of banks to sell SBA guaranteed loans to various investment funds. This ability can result in SBA guaranteed loans being more attractive to banks, from a liquidity standpoint, than other investments.

While it is true that the interest rate on guaranteed loans has averaged about 2 percent above the prime rate, it is not clear from the history of the 7a program that SBA loans were intended to involve an interest subsidy for the borrower. In 1958, when the 5½ percent ceiling on 7a direct loans was established, the prime rate was only 4 percent. However, in recognition of the burden bank rates may place on some small business borrowers, the President recently reintroduced legislation which would authorize SBA to pay interest subsidies of up to 3 percent on some loans guaranteed by SBA. The Senate, with the aid of your support, approved this legislation last year and we would hope the legislation would be passed by the Congress this year.

Although financial institutions may be reluctant to offer longer term financing to medium and lower-rate firms, evidence would indicate that the guarantee program has provided loans with terms comparable to those of SBA loans. In 1969, the average maturity on both 7a direct and guaranteed loans was 7 years.

Based on these facts we hope that you will concur in our feeling that SBA's direct loan program has been budgeted at an appropriate level and that the increase in the guarantee program has more than offset the decline in direct lending over the past several years.

Sincerely,

CASPAR W. WEINBERGER,
Deputy Director.

[Remarks to the Senate in 1970]

NEXT YEAR'S SBA BUDGET WILL BE IMPORTANT TEST—DIRECT LOAN FUNDS SHOULD BE RESTORED

MR. BIBLE. Mr. President, even as this session of Congress concludes, the budget experts in the executive branch will be conferring with President Nixon about plans for fiscal year 1972.

The judgments made now and announced in January will govern the basic direction of the Small Business Administration for the next year and a half and will determine its financial ability to meet the needs of 5½ million hard-pressed American small businessmen.

To express the responsibility that we in Congress also feel in this area and as chairman of the Select Committee on Small Business, I have joined with the distinguished chairman of the Committee on Banking and Currency (Mr. SPARKMAN) in placing our views before the President. We have requested that SBA fund levels, particularly for the direct, immediate participation community development, and SBIC loan programs be restored to a meaningful level and hopefully commensurate with that approved by Congress for fiscal year 1968.

We have stressed that SBA assistance is not in the form of grants but is fully repayable to the Government together with interest. SBA loans are therefore an investment in small, new, family, local, and independent enterprise which brings disproportionate benefits to our economy and our society.

These investments are in accordance with the Small Business Act of 1953, which established these programs because of:

The declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise . . . and strengthen the overall economy of the nation.

SBA PROGRAMS DESIGNED TO MEET CURRENT PROBLEMS

The programs set forth in the 1953 act were designed especially to cope with problems which have not only persisted but are of special concern today:

The unmet credit needs of smaller firms in periods of extremely tight money;

The transition to a more civilian oriented economy;

The balance between rural and urban areas;

Assisting less advantaged Americans into the mainstream of commercial life; and

Helping small firms to adapt to new technology, and therefore to higher environmental and consumer standards.

During periods of economic stress such as this, the obligations of the Government are redoubled if fair play to the small business community is to be maintained.

We have had 17 years of experience with the programs, which has refined many of the rough spots out of them. We know they are of proven effectiveness.

It is therefore apparent that perhaps the most essential difference between just talking about these problems and doing something about them is whether funds are provided by the President's budget for the various SBA direct loan programs.

Previously, this administration has chosen to reduce these programs nearly to the vanishing point while placing emphasis on guarantees of loans made by private institutions. As we attempt to show, this approach has not done the job and is not a fully adequate substitute for direct and participation lending.

Accordingly, we would suggest that the SBA budget for fiscal year 1972 will be one of the acid tests that will divide those interested in rhetoric about small business and the economy from those seriously concerned about really dealing with these problems.

We have expressed our hope that the President will earnestly consider this appeal, and we wish all members of this body would become familiar with these questions with a view toward the general support of this position.

And, Mr. President, we shall be watching to see whether our hopes are fulfilled in the new year.

I ask unanimous consent that our letter of December 29 to the White House in this

matter be reprinted in the RECORD at this point for the information of all concerned.

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

[Letter reprinted above.]

[Remarks to the Senate in 1969]

SMALL BUSINESS CAUGHT IN TRIPLE CREDIT SQUEEZE—ADMINISTRATION SHOULD RELEASE $170 MILLION IN SBA LOAN AUTHORITY NOW

Mr. BIBLE. Mr. President. I invite the attention of the Senate to the credit problems of small business firms, which are becoming increasingly acute.

Earlier this month, the Select Committee on Small Business, on which I serve as chairman, concluded preliminary hearings on the legislative oversight of the Small Business Administration.

Evidence developed in the course of this inquiry indicates that the executive branch has reduced the business loan program of the Small Business Administration by 58.48 percent for fiscal year 1969. In other words, for the 12 months ending on June 30 of this year, the White House has allowed SBA to loan only about two-fifths of the sums budgeted and approved by both Houses of Congress for this period. The amounts withheld are in three categories as follows:

SBA BUSINESS LOANS

[In millions of dollars]

Fiscal year 1969	Direct loan program	Immediate participation loans (SBA share)	Small business investment company program
Loan authorization approved by Congress	77	184.0	30.0
Loan authorization committed	18	94.1	8.7
Loan authority remaining on June 20, 1969	59	89.9	21.3
Total			170.2

The officials of the SBA testifying at our hearings agreed that if this remaining $170 million of loan authority is not released by the end of the fiscal year, it will lapse and therefore become permanently unavailable for any assistance to the 5½ million small business firms of this country.

In an effort to restore this loan money, I have, on behalf of the Small Business Commitee, forwarded to the White House a letter urging the President and the Bureau of the Budget to take all steps necessary to assure that this loan authority is carried forward on the books for a period adequate to actually make it available to small business borrowers through the approval and disbursement of the loans attributable to this authority.

The urgent need for such action can be demonstrated by a brief review of what is happening in the private money markets.

STRINGENCY IN PRIVATE CREDIT MARKETS

As the Members of this body are aware, the prime bank interest rate has risen five times in the past 7 months, in the following sequence:

Increase in prime interest rate, December 1968 to date

	Percent
On Dec. 2, 1968, from 6.25 percent (6.0 percent for some banks), to	6.5
On Dec. 18, 1968 to	6.75
On Jan. 7, 1969, to	7.0
On Mar. 17, 1969, to	7.5
On June 10, 1969, to	8.5

The March increase to a then record high in the words of one reporter: "received the silent approbation of Government officials who had warned Americans not to expect any relief soon from the highest interest rates in history in light of today's overheated economy." [1]

There followed, 2½ months later, the most recent and unprecedented jump to 8½ percent. To realize how unusual this full point increase was, it must be remembered that of the 33 changes in the prime rate since World War II, all of the shifts from 1945 to 1955 were of one-fourth point. After 1956 there were nine changes of one-half point. The June 10, 1969, rise has been the only change as large as 1 percent ever made in the prime rate, either up or down.[2]

Of course, other money market instruments have followed suit—and continue to escalate along with bank rates of interest.[3]

In the real world of finance, it is recognized that his prime rate states the basic cost of money to national corporations with the finest credit ratings. It thus tells only part of the story.

A factor not reflected is the "compensating balance." These are funds which borrowers are informally required to maintain on deposit in noninterest paying accounts at the lender's bank. The level of compensating balances is now about 20 percent, meaning that "the best corporate customers are paying an effective rate—of interest—of 10.6 percent." [4]

Another consideration is that relatively few loan applications are granted the "prime rate." Every month the Federal Reserve System publishes a tabulation of the interest rates on various sizes of loans. The most recent table, covering February 1969 when the prime rate was 7 percent, demonstrates that it is the big borrowers who get the premium rates, while small businesses must accept interest rates scaled up to 1½ points about the prime:

BANK RATES ON SHORT TERM BUSINESS LOANS, FEBRUARY 1969

	Size of loan				
Interest rate (percent per annum)	$1,000 to $9,000	$10,000 to $99,000	$100,000 to $499,000	$500,000 to $1,000,000	$1,000,000 and over
	Percentage distribution of dollar amounts				
7 or less	16.3	18.9	28.4	38.1	59.2
7.01 to 7.49	13.6	13.1	24.8	33.2	24.6
7.5 to 7.99	30.8	36.1	25.1	15.8	10.7
8.0 to 8.49	26.8	19.6	13.6	8.8	3.9
8.5 and over	12.3	12.3	8.3	4.0	1.6
Total	[1] 100.0	100.0	[1] 100.0	[1] 100.0	100.0

[1] Numbers may not add due to rounding.

Source: Federal Reserve Bulletin, May 1969, table A31.

Not only are the large corporations favored with lower interest rates, but they can and, as the Wall Street Journal points out, have taken other self-protective measures:

But for large segments of the economy, especially big corporations and financial institutions other than commercial banks, the credit squeeze is less painful than in 1966 . . . major national companies have thus far managed to insulate themselves in large degree against credit restraint. They are bidding aggressively for funds in the commercial paper market, in which they offer unsecured corporate promissory notes for short-term funds at high interest rates. In addition, following the 1966 crunch, the companies rushed to establish firm loan commitments with their banks, refunded short-term debt into long and accumulated assets that could quickly be turned into cash. These preparations have paid off in recent months.[5]

The Journal believed these factors explain "the easily overlooked fact that broad Government policies of stringent credit restraint hit various kinds of borrowers unevenly" and specifically weigh most heavily upon small businesses, governmental borrowers, and the housing industry—which is also predominantly composed of small firms.

With this background in the private sector, a massive cutback of 58½ percent in the public credit program of the SBA—which is intended to be the lender of last resort—puts the small business community between the jaws of a vise, crushing it from two directions.

The full impact of these forces, we fear, is immediately ahead.

Financial statistics show that the ratio of loans to bank deposits, a commonly accepted measure of credit pressures, stood at 71 percent in May 1969, significantly higher than during the tightest period of the 1966 credit shortage. Because of a new method in calculating required reserves at the end of the month, commercial banks have postponed the effect of tax borrowings and other recent credit demands until the end of this month so that "their problem is still ahead." [6]

Reports emanating from the International Monetary Conference of the American Bankers Association were that we may see still another increase in interest rates in the near future.[7]

INVESTMENT TAX CREDIT IN JEOPARDY

However, there is a third element on the horizon, the administration's proposal to repeal the investment tax credit. The Secretary of the Treasury and other administration witnesses have refused to consider a continuation of the credit for small business firms.

On May 20, a statement was presented to the Ways and Means Committee of the House of Representatives on behalf of myself, as chairman, and the Senator from New York (Mr. JAVITS), as ranking minority member of the Small Business Committee. We urged the committee to retain the investment tax credit for small business firms and farmers up to $25,000 in investment, with a cutoff at $1 million in income, so that large firms would not gain a windfall from a measure intended as relief for small business.

We pointed out the particular advantages of the tax credit to small and dynamic companies, which have the greatest needs for growth capital, and the entire free enterprise system which would flow from continuing the credit for small firms only. We also emphasized that there would be a "substantial revenue gain" from the adoption of our proposal, probably over $3 billion. This is so because truly small firms account for a very minor share of existing investment tax credits and not as high as is being claimed by some Treasury Department spokesmen.

On June 12, the Senator from Alabama (Mr. SPARKMAN) expressed his judgment that the investment tax credit should be retained at the $150,000 level of investment for balance of payments, among other compelling reasons. I was impressed by the Senators' historical research on the subject. It reminds us that the Treasury Department, in 1961, after considering a wide variety of tax devices for bringing us abreast of foreign govern-

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Footnotes at end of article.

ments in the tax field, chose the investment tax credit, "primarily because it increases the profitability of investment far more per dollar of revenue cost than any of the other alternatives." [8]

I hope that the House, the Committee on Finance, and the Senate, will consider these contentions as the current surtax legislation moves through the Congress.

THESE THREE FORCES ARE CONVERGING ON SMALL FIRMS

In the meantime, the prospects are that a combination of the three forces I have described: that is, record interest rates and intensifying stringency in the private money markets: the cutback of 58½ percent in the public SBA lending programs; and the proposed elimination of the investment tax credit for small business, will create intolerable financial pressures on smaller and independent businesses.

Under these circumstances, small firms which would ordinarily survive will go out of business. Others that would have been successful will be less so, or will experience reverses that may take years to overcome. Others which may escape setbacks will be denied their fair share of economic expansion. The system of free enterprise itself—ease of entry, competition, and growth of firms supplying new products and services—will be impaired. Opportunities for men of imagination and enterprise will be limited.

Mr. President, as one commentator has said, "money markets are reeling under the cumulative pressure of a tight-money policy that keeps squeezing, squeezing, squeezing." [9]

In my judgment, it is primarily small business that is getting caught in this triple squeeze. It seems apparent that the small and independent firms are absorbing more than their share of the restraints on the economy. I feel that they should not in the future continue to bear a disproportionate part of the sacrifices necessary to achieve the country's domestic and international goals.

I wonder if there are any other domestic programs which have been reduced by three-fifths in a single year. I am concerned that small business, because it is not strong enough to protect itself, has been singled out for the worst treatment.

The members of our committee share this concern. Many of us have discussed these matters in detail, and several, including the Senator from Alaska (Mr. GRAVEL), have made timely and important contributions to the committee's work in this area.

WHAT CAN BE DONE

Fortunately, there are steps which can be taken that will provide some measure of relief to hard-pressed small firms. One of these is to free the SBA loan authority already provided by the Congress. Accordingly, I have urged the White House, in the letter to President Nixon to which I referred, to take immediate action in order to release the $170.2 million in SBA loan authorizations, and to take all other action which may be necessary to assure that the funds are carried over on the books of the SBA until the actual loans can be approved and disbursed. Of course, if any further congressional action is needed to reach this result, we urge the President to inform us of this, with his recommendations. The important thing is to get the job done.

Mr. President, it seems unfortunately clear that small business is headed for a credit crisis. I hope the administration will do what it can to avoid it. The action we have suggested can be taken now to mitigate some of the most undesirable consequences.

I, therefore, call upon the administration to begin its relief to the small business community by releasing the full amount of the lending authority for the section 7(a) business loan programs and small business investment company lending, together with other steps which are necessary to implement this action which are administrative and, therefore, conveniently within the control of the executive department.

We on the Small Business Committee stand ready to cooperate in these matters and will continue to do all we can in the Senate to meet this gathering emergency with affirmative and effective action.

For the information of all who are concerned, I ask unanimous consent that our letter to the President requesting release of SBA loan authority for fiscal year 1969 be printed in the RECORD.

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

[Letter reprinted above]

FOOTNOTES

[1] "Interest Raised to 7½% High; Move Backed in U.S. Fight on Inflation," by Frank C. Porter, *Washington Post*, March 18, 1969, p. A1:8.

[2] "Comments on Credit," Salomon Brothers & Hutzler, June 20, 1969, p. 4.

[3] See for instance, "Bankers' Acceptances Rates Rise ⅛ Point; GMAC, Chrysler Unit Lift Fees on Paper," *Wall Street Journal*, June 23, 1969, p. 4:3.

[4] "How the Crunch Hits; Money Squeeze Falls on Various Borrowers With an Uneven Impact; States and Cities, Mortgage Seekers Suffer, but Big Concerns Don't Fare Badly," by Charles N. Stabler, *Wall Street Journal*, June 20, 1969, p. 1:6.

[5] "How the Crunch, etc.," *loc. cit.*

[6] "Comments on Credit," *loc. cit.*, p. 1.

[7] "Another 'Prime' Rate Rise May Be Needed, U.S. Bankers, Meeting in Copenhagen, Say," by Richard F. Janssen, *Wall Street Journal* June 17, 1969, p. 4:2.

[8] "The Investment Tax Credit—Its Relation to the Balance of Payments and Small Business." Remarks on the Senate floor by Senator Sparkman, June 12, 1969, pp. S6280–82.

[9] "Money Market Crisis Could Hit This Month," by Peter S. Nagan, *Washington Post*, June 8, 1969, p. G3:3.

SBA LOAN FUNDS SHOULD BE RELEASED BEFORE JUNE 30

Mr. GRAVEL. Mr. President, the legislative oversight hearings of the Select Committee on Small Business now in progress clearly indicate that the executive branch has been gradually tightening the noose around the loan programs of the Small Business Administration.

As a junior member of this distinguished committee, I strongly support its most recent efforts to obtain economic justice for smaller firms. I commend the chairman, the Senator from Nevada (Mr. BIBLE), for his decision to reconvene the hearings in mid-July so that we may continue our scrutiny over the kind of assistance available to smaller firms from the Small Business Administration, the Department of Commerce, and the Nixon administration as a whole.

At this time, as Senator Bible has pointed out, there are few reasons for optimism.

From the testimony at the committee's public hearings June 10–12, it appears that SBA's lending funds have been drastically reduced several times within the past year and a half, and that the direct business loan program of the agency is, in fact, at a complete standstill.

These cutbacks have been of two types; first, reduced requests for funds in the President's budget, and, second, action by the Budget Bureau to roll back lending authority below congressionally approved budget levels. The results have been the same in both cases—the permanent unavailability of loan funds which small businessmen need and Congress is willing to provide through SBA programs. In fact, the results of these executive actions have been cumulative.

Chairman BIBLE has asked for the details of each of these reductions—how they were made and how deeply they have cut into SBA's capacity to do its job. The complete statistics will become available next month, but we are now in a position to review the preliminary figures already on the public record.

It was startling for me to learn that, for this year and next year, the SBA business loan program will actually show a minus figure for net lending, as shown in the following table:

MAJOR CREDIT PROGRAMS—COMMERCE AND TRANSPORTATION

[In millions of dollars]

Agency and programs	Fiscal years			
	1967 actual	1968 actual	1969 estimate	1970 estimate
Small Business Administration	101	176	−16	−46

Source: The Budget of the U.S. Government, for fiscal years 1969 (p. 115) and 1970 (p. 111).

This means, Mr. President, that more money is being taken out of the SBA loan program than is repaid in the principle and interest. For the 1970 fiscal year just ahead, the back-up will amount to nearly $50 million, which I believe should be immediately available for relending.

The amounts committed in loans by the executive branch are far below the levels which Congress has been willing to appropriate and has actually appropriated during this period. For instance, for fiscal year 1968. Congress approved a loan authority budget level of $88.3 million for the direct loan program. Of this, the executive branch would only commit $54 million. For fiscal year 1969 the SBA should have been provided with at least the previous year's $88 million, plus the restoration of the $34.3 million withheld in 1968 together with some extra funds to grow on. In fact, however, they were only allowed to request budget authority for a far lower direct loan level for current year ending June 30, 1969. Congress approved $77 million for this fiscal year. But the agency was not even allowed to commit this much. The figure was cut all the way back to $18 million. That $18 million was the amount that finally became available for direct loans after all of the cutbacks.

SBA LENDING HAS BEEN VIRTUALLY HALTED

As a consequence SBA ran out of direct loan authority midway through the year. The agency was forced to issue a directive virtually closing down the direct and participation business loan program in the following language:

"As far as FA (financial assistance) programs are concerned the 7(a) direct and immediate participation program levels have been most affected. Our FY 1969 Congressional appropriations submission reflected $77 million for 7(a) direct loans and $184 million for the SBA share of the IP (immediate participation) loans. While the original estimate of the effect of the Congressional action for these loans was a FY 1969 level of $155 milion, $41 million direct and $114 million IP (SBA share), further analysis of income and expenditures has resulted in reductions to $18 million for 7(a) direct and 94.1 million for IP.

"In view of our first half year allocations, rates of approval and expenditures, and existing backlog, it became necessary to cut off immediately further acceptance of 7(a) direct loan applications. At the same time it was deemed essential that we preserve for the balance of the fiscal year as much of our 7(a) IP program as possible.

"However, with $52.4 million already allocated for 7(a) IP loans, only $41.7 million (SBA share) will be available for the last six

months of the fiscal year; less than $7 million per month nationally."

The cutbacks in the direct loan authority by the executive branch left an unused $59 million in congressionally authorized budget loan level for fiscal year 1969. This authority can be turned over to the Small Business Administration provided action is taken before June 30. As long as the authority is released by that date it will not lapse and will be available for present or future use in the direct loan and participation programs. If this loan authority is not released, it will revert to the U.S. Treasury and will no longer be available for use in any SBA lending program.

Mr. President, anyone who has been reading the newspapers these days is aware of the compelling reasons of taking such action.

SMALL BUSINESS IS NOT KEEPING PACE

Although the economy has been expanding at a rapid rate, small firms have been precluded from gaining their fair share of these advances by the shortage and expense of capital. Defense procurement has flown up and away because of Vietnam but the small business share of military purchases has declined from 21.8 percent in 1966 to 16 percent in the last half of 1968. Corporate profits have likewise soared 32.8 percent, or almost one-third between 1964 and the beginning of 1969, but 50 giant companies at the summit of our economy account for 39.8 percent of all industry profits, according to the annual Fortune 500 survey.

A comparison among some of the advances in national income, with particular attention to professional firms, farm businesses, and other proprietorships which are predominantly small business, is contained in the following table:

Advances from 1964 to the beginning of 1969

[In billions of dollars]

	Percent
Proprietors' income:	
Business and professional	+18.9
Farm	+24.3
Corporate profits (after taxes)	+32.8
Gross national product	+36.1
Wages and salaries	+38.1

Source: "Federal Reserve Bulletin," May 1969, Tables A66 and A67.

It thus appears to me that the income of smaller and independent businessmen and farmers in this country are lagging behind most of the other indicators. One of the leading disabilities of the small businessman in this regard has been the steep climb, since 1965, of the prime interest rate to 8½ percent. Other forms of commercial financing have risen accordingly. As dizzy as the present peaks are, there have been newspaper reports that interest rates may even go higher before they turn down. In addition to this, the Federal Reserve Board, as a prudent anti-inflationary measure, is "reducing liquidity" in our financial system, which boils down to the fact that banks will end up with less money to loan at higher prices.

As the chairman of our committee has said:

"It has been acknowledged that new and small firms are normally under capitalized. The small local, or family firm, or any company with a new product is simply not in a position to compete for credit with a huge national corporation."

This is the background in the private money market against which the massive cutbacks in the public loan program of the Small Business Administration should be viewed. I can think of no reason why small and independent businesses should be paying a disproportionate price for the Nation's involvement in Vietnam while the giant corporations net record profits, which are not even subject to an excess profit tax such as existed during all of the major armed conflicts of this century.

As I have said, the Small Business Committee will reexamine the Small Business Administration and the Department of Commerce with respect to these matters during July. We will be collecting further information upon which to base the committee's ultimate findings and recommendations.

ACTION SHOULD BE TAKEN

In the meantime, there is action which can be taken by the executive branch which can provide substantial relief. That is the release of the $170.2 million in loan authority which the executive branch has impounded for fiscal year 1969, and which will lapse if it is not released by the end of this month. There is a precedent for such a decision in the release of $41 million for Farmers Home Administration loans in April of this year. It seems to me that the small businessmen of this country are entitled to comparable treatment.

I therefore join in the call upon the Bureau of the Budget and President Nixon to release this $170.2 million SBA loan authority before June 30, including the $59 million for direct loans; the $89.9 million representing the SBA share of IP—immediate participation—loans and $21.3 million representing loan assistance to small business investment companies. In other words, I am asking for the release of the full $170.2 million for all SBA programs which the Congress approved for these programs before the end of fiscal year 1969. I understand that Chairman BIBLE has officially made this request in a recent letter to the White House, and I wish to give that recommendation my unqualified endorsement.

As the committee investigation proceeds, I shall continue to do all that I can to support a rebuilding of the SBA direct loan program as well as other SBA and Federal programs which can benefit the small business firms of Alaska and the rest of the Nation in the months and years ahead.

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

Mr. WEICKER. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. Mr. President, as ranking Republican member of the Small Business Committee, with the Senator from Nevada (Mr. BIBLE) as its chairman, I too, support the amendment and I shall vote for it. I realize our budgetary problems, but aid to small business makes revenue in a geometric ratio rather than in a direct ratio to the amount which will be provided as a means of financing and aiding small business. As this is a direct loan program, it is the most effective, immediate way to help small business in its efficiency and with necessary resources.

I believe the amendment is highly desirable and should be adopted.

Mr. WEICKER. I thank the Senator.

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

Mr. WEICKER. I yield to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I agree with what has just been said here with regard to help to small business. Small business is being helped, too, by the movement of the economy, with particular reference to wholesale prices.

Today's release of the wholesale price index for November shows that since the freeze began we have had 3 extremely good months on the inflation front. For the whole period of the freeze wholesale prices actually declined. The seasonally adjusted index for all commodities at wholesale rose only one-tenth of 1 percent in November, following a similar small rise in October and a decline of four-tenths of 1 percent in September. The index for industrial commodities is especially significant, because the prices there are less volatile and because the prices of raw agricultural products are not controlled. The index for industrial commodities did not rise at all in November, declined by three-tenths of 1 percent in October and declined by one-tenth of 1 percent in September. Altogether the total index fell by two-tenths of 1 percent during the 3-month freeze period and industrial commodities fell by three-tenths of 1 percent.

So wherever we can help small business, either in this supplemental appropriation bill or through the administration's efforts to curb inflation, these are all steps in the right direction.

I thank the distinguished Senator from Connecticut.

Mr. WEICKER. I thank the Senator from Pennsylvania.

I would point out to my colleagues that back in December of 1970, the distinguished Senator from Nevada (Mr. BIBLE) had a statement in the CONGRESSIONAL RECORD relative to the direct loan fund, in which he goes over the Small Business Administration direct loan program. He states:

The programs set forth in the 1953 act—

Almost 20 years ago—

were designed especially to cope with problems which have not only persisted but are of special concern today:

The unmet credit needs of smaller firms in periods of extremely tight money;

The transition to a more civilian oriented economy;

The balance between rural and urban areas;

Assisting less advantaged Americans into the mainstream of commercial life; and

Helping small firms to adapt to new technology, and therefore to higher environmental and consumer standards.

Certainly if anything is totally on target in the year 1971, it is that.

The SBA has a whole range of loan and guarantee programs, but the money available for direct loans is pitifully small, and that is why I am recommending to the Senate that we increase the SBA's direct loan program. The tight capital markets of the last 2 years have shown dramatically the impact of tight money on small business, and this kind of squeeze, over which the small businessman or prospective small businessman has no control, must end.

Along this line, over the past several years, both in the Senate and the House of Representatives, we have passed a multitude of programs relative to the environment and to health and safety standards, which though correct have an enormous impact on business. It has been tough enough on big business, but almost ruinous to small business.

The reason why I have mentioned all this to my colleagues this afternoon is that small business, in an economic sense, represents what this country is all about. Small business is not spectacular, and is not loud in its voice. Because it is the opposite of monopoly, it carries neither the weight, financially nor peoplewise, that is the case with big business and with big labor. But small business is as

much Connecticut, as United Aircraft, or Olin, or the AFL–CIO.

As we face the problems of our Nation and the world, let us do it together, rather than at the expense of each other.

I think $26 billion is quite enough attention lavished on big business and big labor; today I request the consideration of my colleagues of the other, 50 percent of our economy. That is if we are going to get the whole Nation moving again.

Mr. President, I yield the floor.

Mr. ELLENDER. Mr. President, I hope that the Senate will not act hastily on this proposal. The Senator from Arkansas (Mr. McCLELLAN), who is not here today, handled this hearing when SBA was before us when we considered their regular 1972 request. I also heard their testimony. They did not mention the need for increased funding for this particular activity.

The effect of this amendment would be to increase the appropriation for the Business Loan and Development Fund from $275 to $375 million. It would increase the amount for direct and immediate loans the sum of $99 million which we have for 1972 from participation loans $99 to $199 million.

I do not know of any time that the Small Business Administration has failed to obtain the money that was necessary, and there was a case made. The Small Business Administration did not come before us in connection with this supplemental and ask for an increased appropriation for this fund. They apparently were satisfied with the $275 million that we appropriated for fiscal year 1972. I do hope that the Senate will refrain from increasing this amount.

It strikes me that if a necessity does develop later on, then on the next supplemental, we could add such amounts as may be necessary. But, Mr. President, as I have said, as long as the Small Business Administration seems to be thoroughly satisfied, this amendment should be defeated.

Several Senators addressed the Chair.

Mr. ELLENDER. I yield to the Senator from North Dakota such time as he may require.

Mr. YOUNG. Mr. President, I am entirely in sympathy with the objectives of my friend from Connecticut. It is very necessary to help small businesses in every way we can; but there has been no budget estimate for this item, and no hearing on it before the committee. I believe it would be poor fiscal policy to add $100 million on the Senate floor, without holding a hearing or having a budget estimate.

While I applaud the Senator for his objectives, I hope he will not insist on his amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, will the Senator from Connecticut yield me a few minutes?

Mr. WEICKER. I yield a few minutes to the Senator from Alabama.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. WEICKER. I yield 5 minutes to the Senator from Alabama.

Mr. SPARKMAN. Mr. President, I rise in support of this amendment, and I point out that this proposal is restricted to money for direct loans.

When the Small Business Administration was originally set up, it was set up for the purpose of making direct loans to small businesses that could not get the funds from other services on reasonable terms. Gradually, over the years, the Small Business Administration has gotten away from direct loans, and now accepts, nearly exclusively, bank-participating and bank-guaranteed loans.

However, there are many areas in this country where there are no banks which will participate, or which will guarantee these loans. The biggest single need in the Small Business Administration is for money for direct loans. That does not mean that they have got to pass favorably on every application for a direct loan, but in those cases where the bank guarantee and the bank participation is not available—and there are many areas in this country where that is true—then those small businesses ought to be able, if they can otherwise justify their purpose, to get a direct loan.

That is what the Senator's amendment, as I understand it, seeks to do—to put additional funds in the bill to make money available for direct loans.

I was talking with one of the Regional Administrators of the Small Business Administration just a few days ago, and I asked him, "How much money do you have in your area for direct loans?"

He said, "I have practically none at all."

And that is true all over the United States. Because of this lack of funds, the Small Business Administration is not performing the job it was supposed to perform when it was originally set up.

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

Mr. SPARKMAN. Let me just say this: I am in favor of the bank participation loans and I am in favor of the bank guarantee loans, in those areas where they can be had. But, I happen to know that there are many areas in this country where such loans are not available, and small businesses there ought not to be denied the right to credit if they merit it.

Mr. President, since 1968 the amounts available for the section 7(a) direct loan programs of the Small Business Administration have been contracting almost every year, as shown in the following table, which I ask unanimous consent to have printed in the RECORD.

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

AMOUNTS AUTHORIZED BY CONGRESS FOR SBA DIRECT LENDING

[In millions]

Fiscal year	Direct	Immediate participation	Total
1968	$88.3	$219.1	[1] $307.4
1969	77.0	184.0	261.0
1970	18.0	98.0	116.0
1971	35.0	100.0	135.0
1972			[2] 99.0

[1] $170,000,000 frozen by the executive branch lapsed and became unavailable on June 30, 1969.
[2] Budget request.

Mr. SPARKMAN. Thus, in fiscal year 1968, Congress approved $307.4 million in funds for these loans, which are repayable to the Treasury in full with interest, more than three times the request made by the White House for the next fiscal year. This decline is in the face of repeated efforts during 1969 and 1970 by many of us in the Senate to stem this ebbing tide, which the Senator from Nevada (Mr. BIBLE) has reviewed in detail.

Because of these cutbacks, the direct loan program of SBA practically came to a standstill: 42 such loans were made throughout the country during all of fiscal year 1971, or less than one direct loan per State. SBA has attempted, in 1971, to breathe some life into this vital program but it cannot do so without cooperation from the President and the White House budget staff.

Accordingly, I joined with the Senator from Nevada (Mr. BIBLE), who is chairman of the Select Committee on Small Business, in again writing to the White House last year to urge respectfully that the level of funds for direct and participation loans be restored approximately to the figure approved in 1968.

We felt this was quite a conservative request, in view of the growth of the small business population and the onset of inflation in nearly every cost of doing business during the intervening time.

When the Federal Government stands still in its programs of assistance to small and new businesses, it is the little man in the cities and towns across the State of Alabama and across the country who suffers. Dun & Bradstreet figures show that 1970 business failures were up 17 percent to a 3-year peak of 10,748 firms. The owners and workers of many of these bankrupt firms had gone to swell the total of the unemployed. When 6 percent of a labor force of 80 million is unable to find work, as has been the case during most of this past year, that means over 4½ million persons are adversely affected, as well as their families and other dependents.

I for one feel that the SBA should be doing more than minimize the financial and human difficulties that we are seeing. We know very well from the past that SBA can do more to take up the slack in the economy—if it is given the tools and the funds it needs.

This amendment would add $100 million to direct loan funds, which would still not bring the total back up to the level of 1968, 4 years ago. However, it is a modest step in the desirable direction of helping SBA and 5¼ million American small businesses, and I strongly urge its adoption.

I yield to the Senator from North Dakota.

Mr. YOUNG. Would the Senator really advocate adding $100 million on the floor of the Senate, without anyone having appeared before the committee?

Mr. SPARKMAN. May we have order, Mr. President? I cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order.

Mr. YOUNG. I asked the Senator from Alabama if he really wants us to add $100 million on the floor of the Senate, with no one appearing before the Appropriations Committee for it. No estimate whatsoever. Does he think that is good fiscal policy? If there was a certain need—and I am sure there must be some need—someone should have appeared before the committee. What would be the need for maintaining an Appropriations Committee if the Senate itself makes a practice of bypassing its Appropriations Committee?

Mr. SPARKMAN. The Senator knows that, usually, we rely upon the agency that has the responsibility for doing it. But I say to the Senator that for the last several years this agency has been getting further and further away from the direct loans, until today there are practically no direct loans available for the small business out in the areas where banks are not available. I do not mean where banks are willing to participate or are willing to join in guaranteed loans. But where bank financing is not available, the situation is critical for smaller firms.

Mr. YOUNG. Is not the same true of practically every agency of Government—they are going more to guaranteed loans than to direct loans? This started 4 or 5 years ago.

Mr. SPARKMAN. Yes, that may be true; but there is a great deal of difference between most of those and small businesses. Remember, the direct loans are only for the purpose of helping small businesses which cannot find credit anywhere else on reasonable terms. The direct loan is only for that purpose; and this amendment would allow a reasonable amount of capital to go into that program.

Mr. WEICKER. I thank the Senator from Alabama.

It is important to point out, in connection with the comments he made, that some $3 billion is available for loan guarantees while only $37.5 million is available for direct loans. In the State of Connecticut, we have for general purpose direct loans by the Small Business Administration, $500,000. That is a ridiculous figure. The assistance that has gone to big business and big labor in my State goes far beyond that.

I do not dispute the many other aspects of the Small Business Administration loan program, but here we are talking about the general purpose direct loan program.

Let us be candid with each other. The Senator from Alabama is correct. This program has been cut back year after year, so that the small businessman or prospective businessman who finds it hard to get money under normal circumstances—never mind a tight economy—finds it virtually impossible to do with existent funding.

In the debate on the big economic package, we heard how important it was to give economic assistance to General Motors, Ford, and Chrysler. That is fine. But if we have governmental policy in this country that makes free enterprise sense, it should be to encourage businesses that some day might be another Ford, GM or Chrysler. That is one of the purposes of the small business program. Yet that fact is forgotten and so is the money.

I do not dispute the contention advanced by the distinguished Senator from North Dakota with respect to the need for order in fiscal procedures. On the other hand, there are too few opportunities when we can express ourselves on a matter of such vital concern to the economic game plan of this Nation.

I hope my colleagues would understand the plain fact of life that funds are not available today in this country to small businesses or those who want to start small businesses. Unless we put some financial muscle into it the purposes of the Small Business Administration will be impossible of fruition.

Listen to the reasons that were advanced in 1953 and see whether they apply to today:

The unmet credit needs of smaller firms in periods of extremely tight money;

The transition to a more civilian oriented economy;

The balance between rural and urban areas;

Assisting less advantaged Americans into the mainstream of commercial life; and

Helping small firms to adapt to new technology, and therefore to higher environmental and consumer standards.

Certainly, if anything applied to the situation we confront today, it is those standards; yet, there is no money to achieve our stated ideals.

Mr. President, I yield the floor.

Mr. ELLENDER. Mr. President, I yield 5 minutes to the Senator from North Dakota.

Mr. YOUNG. Mr. President, as recently as August 10 of this year, we passed a regular appropriation bill containing $275 million for all types of small business loans. Does anybody know how much money is left from the $275 million? They certainly have not spent all that since August 10. This is another reason why we in the Appropriations Committee do not want to consider an item this large on the floor, without a hearing, not knowing how much money is still available.

Mr. WEICKER. The figure the Senator has mentioned is applicable to programs other than the direct loan program.

Mr. YOUNG. Does the Senator know how much remains from the $275 million we appropriated on August 10 1971? The money could not have been available to them until at least a month later. They have had only about 2½ months to obligate $275 million.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ELLENDER. Mr. President, I yield myself 3 minutes.

I do hope that the Senate will stand behind the committee. It must be recalled that this is a supplemental bill. In the original bill, we provided a huge sum for the very purpose that the distinguished Senator from Connecticut is talking about. He wants to add $100 million to the amount we appropriated in the regular bill over and above the budget. In addition this $100 million contained in the Senator's amendment is over the budget.

I wish to point out to Senators that with the amounts already added for various programs in this bill, the supplemental budget requests are exceeded by $615 million. The distinguished Senator from Connecticut wants to add another $100 million to that. My fear is that somebody will be dissatisfied at 1600 Pennsylvania Avenue; and when we add more and more to this supplemental, not only may we be faced with a veto, but also, if we add this $100 million, it will be impounded by the Budget Director.

As the distinguished Senator from North Dakota pointed out, we have had no evidence in the regular or supplemental hearings as to whether or not more was needed. We gave the amount that was asked for by the Small Business Administration for fiscal 1972.

I do hope that the Senate will reject this amendment.

INCREASING SMALL BUSINESS LOAN FUNDS WOULD MAKE A LARGE DIFFERENCE IN NEW HAMPSHIRE

Mr. McINTYRE. Mr. President, as chairman of the legislative Small Business Subcommittee, I have become increasingly concerned as the supply of dollars available for direct and participation lending by the Small Business Administration has declined sharply over the past 4 years.

As the Senator from Alabama (Mr. SPARKMAN) has pointed out, Congress approved $307.4 million for the section 7(a) lending program in fiscal year 1968; and the administration has requested only $99 million for fiscal year 1972, a cut of more than two-thirds. This is despite repeated attempts by Members of the Senate to get the White House to act favorably on SBA's business loan program request.

New Hampshire is definitely a small-business State, with 99 percent of the firms having less than 100 employees. It is somewhat remote from the larger centers of capital, which is needed to start businesses and fuel their expansion. Therefore, SBA's lending programs take on added importance.

The Senator from Connecticut (Mr. WEICKER) knows this, and is therefore proposing to increase the appropriation for SBA's direct lending from $99 million to $199 million for fiscal year 1972. This figure would still be below the amount approved by both Houses of Congress in 1968, 4 years ago. Furthermore, the loans which would be made from these funds are fully repayable to the Treasury with interest.

Therefore, this amendment could make very little difference to the Federal budget; but it will mean a very great difference to the small independent businesses in my State of New Hampshire, as well as their employees, shareholders, and the small community which they do so much to support.

This amendment is a modest step which will give substantial assistance and hope to the Nation's 5½ million

small businessmen, and I firmly support its adoption.

Before concluding my remarks, however, I must express my reservations on the administration's past and present policies on direct loan and participation funds. They have reduced budgeted amounts dramatically over the past 3 years. And when the Congress has authorized and appropriated more funds, they have been held up, and are still held up, in the Office of Management and Budget.

There is no doubt in my mind that these funds are needed. And there is no doubt that they can be used even if additional funds, now held by OMB, are released. The question is whether the administration will see the light and allow SBA to do its job and use the funds provided by Congress.

Again, our economy is now sluggish. We just finished with a multibillion-dollar tax cut to spur business investment. This will help big business. The small businessman, however, has been left out in the cold. And this is a chance to help this sadly neglected sector of the economy.

I must therefore indicate that I do support the amendment. But I do want to make it clear that the administration must act to allow these funds to be used. It is my hope that the passage of this additional appropriation will serve notice that the small business investment needs of the Nation have been too long ignored.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, this will be my last statement on the matter, and I am prepared to yield back the remainder of my time.

We have spent 2 weeks in the Senate trying to devise legislation to get the economy moving again. During the course of that 2 weeks, we have given roughly $26 billion to big business and to big labor. The small amount which is now being requested is for that segment of our economy which is fully 50 percent of the economy—small business. This is not giving money away or throwing money away. We are talking about a direct loan program. The object of the amendment is to create the circumstances upon which we can have total economic recovery, and upon which we can once again reestablish the principle that small business in the United States deserves every bit of the attention, whether it be in words or money, that has been lavished on big business.

Mr. President, I am prepared to yield back the remainder of my time if the Senator from Louisiana is.

The PRESIDING OFFICER. Does the Senator from Louisiana yield back the remainder of his time?

Mr. ELLENDER. Yes; but I wish, first, to repeat that this is a supplemental bill and we have provided for the Small Business Administration in the original bill which became law on August 10, 1971. I do hope, therefore, that the amendment will be rejected.

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

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Connecticut (Mr. WEICKER).

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 Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from Massachusetts (Mr. BROOKE) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 40, nays 43, as follows:

[No. 434 Leg.]

YEAS—40

Allen	Hart	Pearson
Anderson	Hatfield	Pell
Bayh	Hollings	Randolph
Beall	Humphrey	Ribicoff
Bible	Jackson	Roth
Buckley	Javits	Schweiker
Byrd, W. Va.	Long	Sparkman
Cook	Magnuson	Stafford
Cranston	Mathias	Stevens
Dominick	McIntyre	Stevenson
Eastland	Mondale	Thurmond
Fulbright	Muskie	Weicker
Gravel	Packwood	
Hansen	Pastore	

NAYS—43

Aiken	Goldwater	Moss
Allott	Griffin	Nelson
Bellmon	Gurney	Percy
Bentsen	Harris	Proxmire
Burdick	Hruska	Scott
Byrd, Va.	Hughes	Smith
Case	Inouye	Spong
Chiles	Jordan, N.C.	Stennis
Cooper	Jordan, Idaho	Symington
Curtis	Kennedy	Talmadge
Eagleton	Mansfield	Tunney
Ellender	McGee	Williams
Ervin	Metcalf	Young
Fannin	Miller	
Fong	Montoya	

NOT VOTING—17

Baker	Church	McGovern
Bennett	Cotton	Mundt
Boggs	Dole	Saxbe
Brock	Gambrell	Taft
Brooke	Hartke	Tower
Cannon	McClellan	

So Mr. WEICKER's amendment was rejected.

Mr. ELLENDER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. YOUNG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INVESTIGATIONS OF CERTAIN WATER RESOURCE DEVELOPMENTS

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2248.

The PRESIDING OFFICER (Mr. BEALL) laid before the Senate the amendment of the House of Representatives to the bill (S. 2248) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments which was to strike out all after the enacting clause, and insert:

That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following potential water resources development projects:

(a) North Side Pumping Division Extension, Minidoka project, Jerome and Minidoka Counties, Idaho.

(b) Dickinson Unit, Pick-Sloan Missouri River Basin program, North Dakota.

(c) Upper John Day project, on the John Day River in Grant and Wheeler Counties, Oregon.

(d) A plan to rehabilitate the distribution system of the Red Bluff project, Texas.

(e) Rogue River Basin project, Grants Pass Division, Josephine and Jackson Counties, Oregon.

(f) Central Valley project, Delta Division, Montezuma Hills unit in southern Solano County, California.

(g) Gallup project in McKinley, Valencia, and San Juan Counties in New Mexico.

(h) Modification of the Seminoe Dam, Kendrick project, Wyoming.

(i) Butte Valley division, Klamath project in the Klamath River Basin, Klamath County, Oregon, and Siskiyou County, California.

(j) Billings Municipal Water Supply Unit, Yellowstone Division, Pick-Sloan Missouri River Basin program, Montana.

And amend the title so as to read: "An Act to authorize the Secretary of the Interior to engage in certain feasibility investigations."

Mr. JACKSON. Mr. President, this is the annual feasibility authorization bill that we have in connection with the reclamation projects. The House added four projects for which I have obtained the comments of the Secretary of the Interior.

Mr. President, I ask unanimous consent that my letter to the Secretary of the Interior and an explanation of the projects be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., November 10, 1971.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior, Department of the Interior, Washington, D.C.

MY DEAR MR. SECRETARY: On November 1, 1971, the House of Representatives amended S. 2248, a bill to authorize certain feasibility investigations of reclamation projects, by adding the following studies:

Upper John Day project, Oregon
Red Bluff project, Texas
Butte Valley Division, Klamath project, Oregon
Billings Municipal Water Supply, Pick-Sloan MRB program, Montana.

To assist the Committee in its consideration of this amendment, I would appreciate it if you would provide me with a description

of each of the above projects and a statement of the reconnaissance studies which are available.

I would appreciate having this information as soon as possible to expedite further legislative action on the bill.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

UPPER JOHN DAY PROJECT, OREGON

Location: John Day River Valley above the confluence of the John Day River with Rock Creek, north-central Oregon, in Grant County.

Project Data: Reconnaissance February 1970.

Total construction cost	$10,007,000
Adjustments	
Total to be allocated	10,007,000
Allocations:	
Irrigation (6,580 acres)	1,363,000
Flood control	972,000
Fish and wildlife	$6,504,000
Recreation	759,000
Highway improvement	409,000
Total	10,007,000

Benefit-cost ratio, 1.04 to 1.

Description: The water resource functions included in the plan of development for the Upper John Day Project are irrigation, fish and wildlife enhancement, flood control, and recreation. The proposed plan also provides for highway improvement.

Project features include Hall Hill Dam and its 40,000-acre-foot capacity reservoir located on the John Day River just downstream from Prairie City. Reservoir releases would provide supplemental irrigation water to 6,580 acres lying between the dam and Picture Gorge. The reservoir operation plan includes storage space during winter and spring months to control floods at the site and reduce downstream flood damages. Improved streamflows resulting from reservoir releases would enhance the stream fishery resource. Anadromous fishery losses in the river above the dam would be mitigated by a hatchery near the dam. Campsites, a boat launch ramp, and other recreational facilities would be provided around the reservoir.

Status: Reconnaissance investigation and Upper John Day Project report completed February 1970.

In 1916 the U.S. Reclamation Service and the State of Oregon prepared to cooperative report on the John Day basin. This report dealt primarily with the irrigable lands along the Columbia River between the towns of Arlington and Hermiston, although damsites along the upper John Day River were also investigated. In 1945 the Bureau of Reclamation made a study of the John Day River which provided information for the 1950 Comprehensive Columbia Basin Report. The Hall Hill reservoir site, as studied at that time, would have had a capacity of 37,000 acre-feet of water for 14,200 irrigable acres in the Prairie City area. Other comprehensive basin-wide reports were prepared in 1948 by the Army Corps of Engineers, in 1961 by the U.S. Department of Agriculture, and in 1962 by the Oregon State Water Resources Board. The area was also covered by the State in an irrigability survey in the mid-1960's as a part of the Oregon Ultimate Needs Study.

Both the Corps of Engineers and the U.S. Forest Service are also studying the hydrology of the Upper John Day specifically as it applies to their areas of interest and administration. The Corps has made multipurpose studies in the area, emphasizing flood control measures, while the Forest Service is currently preparing a reconnaissance hydrologic survey of ways in which watersheds can be treated to increase their water yield.

Justification: Most of the arable land adjacent to the upper John Day River is irrigated, but much of it now receives an inadequate supply. There are summer irrigation shortages which could be reduced significantly with a storage project to store water for release during the dry season. A storage dam on the John Day River would also reduce the flood risk along the fertile bottom lands.

Since the primary source of income in the area is agriculture, the local people realize that one direct route to expansion of their economy is the improvement of agricultural output through irrigation and flood control. Most of the Hall Hill reservoir site is in privately owned hay and meadow grazing land. Loss of income from agricultural production on these lands would be offset by improved agricultural production throughout the project, reduced flood damages, and a general strengthening of the local economy.

Lakes are sparse in the upper John Day basin and a reservoir would attract considerable local use. Reservoir recreation potential also offers an opportunity to broaden the economic base by attracting recreationists to the area.

Storage releases from the reservoir would supplement dry season natural flows to contribute to an increase in runs of salmon and steelhead on the John Day River.

Local Interest: Strong interest has been shown by local ranchers and such groups as the Grant County Chamber of Commerce, Grant County Planning Commission, Grant County Junior Chamber of Commerce, and Grant County Water Resources Committee. There is local agreement that development of all water resource functions must be carefully studied in order to insure the area's economic growth.

RED BLUFF PROJECT

Rehabilitation of the Distribution System.

Location: On the Pecos River between Red Bluff Dam and Girvin, Texas, in Loving, Ward, Crane, and Pecos Counties, Texas.

Project data: (1963 prices), total cost, $12,400,000.

Benefit-cost ratio, 0.77:1.00 direct, 2.85:1.00 total.

Description: Since the late 19th century, the Red Bluff Project area has been under continuous irrigation farming by seven irrigation districts. In 1936 these districts joined in the Red Bluff Water Power Control District to build Red Bluff Dam and Powerplant under a Public Works Administration loan and grant. Harsh climatic, land, and water supply factors have always made economic survival a trying task. High water salinity and low surface water supplies in recent years have caused many acres in the project area to become idle. Approximately 90 percent of the 200,000 irrigated acres within the Pecos River Basin between Red Bluff Dam and Girvin, Texas, now use ground-water supplies with a consequent lowering of the ground-water levels to the extent that this source of water supply is becoming uneconomical.

The proposed investigation will study the rehabilitation, reconstruction, and replacement of existing works of the Red Bluff Water Power Control District and the acquisition of lands necessary to carry out the plan for rehabilitation of the project distribution system.

Status: The Red Bluff Water Power Control District elected to try and obtain authorization of the development of a rehabilitation program without a feasibility study per se. Therefore, in May 1965, the Bureau completed an engineering report on the project. Economic aspects of the proposal were studied by the district and reviewed by the Bureau.

Legislation to authorize the rehabilitation of the project was introduced in both the 90th and 91st Congress. In a memorandum dated September 29, 1969, to the Legislative Counsel, Associate Solicitor Morthland agreed with Bureau of the Budget comments made earlier and questioned the advisability of the Department supporting authorization of the project prior to carrying out of a feasibility study.

In our May 1965 engineering report on the potential rehabilitation program, the cost was estimated to be $12,400,000 based on October 1963 price levels. Based on a 100-year period of analysis at 3⅛ percent interest, the benefit-cost ratio was computed to be 0.77 to 1 for direct benefits and 2.85 to 1 for total benefits. Since that time, construction costs have escalated 35 to 40 percent and the current interest rate for plan formulation and evaluation has increased to 5⅛ percent. Under current cost and present procedures for benefit evaluation, the proposal would not be economically justified.

Justification: The Red Bluff diversion distribution system must be rehabilitated to alter adverse economic trends in the project area. Without such improvement, the deteriorating situation will compound an already faltering agricultural economy. Depletion of oil and natural gas reserves in the near future will increase the economic burden on the agricultural sector. Without rehabilitation, only 12,000 acres of the approximately 42,000 potentially irrigable acres will continue to produce efficiently.

Local interest: The early studies covered an area of some 35,000 acres within seven districts which comprise the Red Bluff Water Power Control District. The Pecos River Commission and the Texas Water Development Board were kept fully informed of the investigation.

KLAMATH PROJECT, BUTTE DIVISION, CALIFORNIA-OREGON

Location: Siskiyou County in north-central California and Klamath County, Oregon.

Project data: Feasibility report, June 1960.

Total Estimated Cost	[1] $21,957,000
Adjustments	
Total to be Allocated	[1] 21,957,000
Allocations:	
Irrigation	21,957,000
Full, 31,900 acres.	
Supplemental, 12,000 acres.	
Total	21,957,000

[1] January 1971 prices.

Benefit-cost ratio, 1.40:1.00 direct, 1.80:1.00 total.

Description: Klamath River flows would be lifted through a series of pumps to a reshaped twin-cell Meiss Lake during the winter and irrigation season. From Meiss Lake, canals and pumps would convey and lift water to areas of use during the period of peak irrigation demand. Return irrigation flows would, depending on quality, be mixed or stored in the smaller Meiss Lake cell for disposal after the irrigation season.

Status: In June 1960, the Bureau completed an unsigned feasibility report which outlined a feasible project plan. However, due to lack of local support at that time, the report was not processed further.

Justification: In 1960, only about one-fourth of the productive land in Butte Valley was irrigated. Subsequently, there has been an increase in new wells to irrigate previously dry-farmed lands. Recently, local water users have complained of lowering ground-water tables early in the irrigation season with a loss of pumping capacity. A firm and dependable water supply would permit farm operators to increase their productive acreage, increase yields, and obtain increased income.

Local interest: The Butte Valley Irrigation District, the Butte Valley Soil Conservation District and the local congressman have shown interest in updating previous studies for their area.

PICK-SLOAN MISSOURI BASIN PROGRAM, YELLOWSTONE DIVISION, BILLINGS WATER SUPPLY UNIT, MONTANA

Location: South-central Montana in Yellowstone County at the city of Billings.

Project data: Reconnaissance studies of September 1971.

Total estimated cost	$25,400,000
Adjustments	
Total	25,400,000

Benefit-cost ratio, not determined.

Description: The purpose of this investigation is to develop detailed plans for furnishing municipal and industrial water supply to meet current water needs for the city of Billings (70,000 population in water-service area), and provide an assured supply for a future population of 300,000 people.

Under one plan being considered, the present pumping system from the Yellowstone River near the city would be replaced by a gravity supply system from the Yellowstone River. Water would be diverted from the river about 40 miles upstream and conveyed to the west end of the city by gravity. A storage reservoir would be required above the canal near the city to store water for peak summer demands and for winter demands when the canal would not operate.

Alternative plans of development would also be studied.

Status: A prereconnaissance evaluation of a gravity plan was made in 1971 and findings submitted to the city for consideration.

Justification: The Billings water supply system is inadequate to furnish water requirements for the present population and uses during summer months, requiring water rationing. Storage is inadequate to meet peak demands. Much of the system has been in use for many years and is subject to breakdown during overloaded operations. The city has also extended its water service area to the west and east, as it has grown, and the distribution system is inadequate in size. Winter icing problems at the pumping plant and pollution are problems. A gravity pumping system which would take better quality water from an upstream point on Yellowstone River, with storage in a large reservoir, has been proposed for many years.

There is also a need for an increase in water-associated recreation near the city which could be met by a storage reservoir.

Local interest: The city of Billings has urged the Montana Congressional delegation to seek authority for the Bureau of Reclamation to engage in a feasibility investigation of plans to provide a new water supply for the city.

Mr. JACKSON. Mr. President, I have cleared the matter with the ranking minority member, and there is no objection.

Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

SUPPLEMENTAL APPROPRIATIONS, 1972

The Senate continued the consideration of the bill (H.R. 11955) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes.

Mr. JAVITS. Mr. President, I strongly support the supplemental appropriations for health manpower provided for in H.R. 11955. The appropriations dollars provided for in this bill by the Senate will go a long way toward implementing the comprehensive authorizing legislation for health manpower which we passed on July 14, 1971, and was enacted into law as Public Law 92–157 and Public Law 92–158.

The authorizing legislation was a bold new approach to dramatically increase our desperately needed physicians, dentists, nurses, and health professionals. At the same time, the legislation was designed to permit our schools to develop new programs responsive to national need in every area, from developing more physicians and dental assistance and nurse practitioners; to emphasis on family medicine; to increased professional training in the diagnosis, treatment, and rehabilitation of alcoholism and drug abuse; to greater development of computer technology, which I believe portends the greatest potential for overcoming many of our health care problems.

The appropriations levels provided for by this bill will, for the first time, allow us to overcome the severe shortage and maldistribution of health manpower and allow us to bring more physicians and other health professionals into our rural and inner-city areas.

Mr. President, if our goals are to be realized, we must put our appropriations where our authorization promises are, rhetoric must become reality and this, the Senate Appropriations Committee has sought to accomplish.

The increases Senator MAGNUSON and Senator COTTON's subcommittee have recommended in their budget not only reflect their deep concern with America's health care, but their understanding of how the authorizing legislation seeks to meet the basic need for more and the right kinds of health manpower.

As the ranking Republican member of the Senate Labor and Public Welfare Committee which had responsibility for the development of the Comprehensive Health Manpower Training Act of 1971 and the Nurse Training Act of 1971, I am grateful to Senator MAGNUSON and Senator COTTON for seeing Senate action through to a reasonable conclusion by their recommendation of funding levels. I strongly recommend passage of this bill.

However, I am deeply concerned about the fate of this measure when it is in conference with the House. The House Appropriations Committee has held no hearings on the manpower and nursing supplemental requests and their bill has no dollar recommendations in this area. I am concerned that without a basis for independent judgment they may insist on accepting the administration's proposed budget which I regret did not adequately respond to health manpower needs; the basic underpinning for any reform of our health care system, with which we also are deeply concerned.

I urge my colleagues in the Senate to give their fullest support to Senators MAGNUSON and COTTON and arm them with our endorsement of their appropriations recommendations when they go to conference. I am confident Senators MAGNUSON and COTTON and the other Senate conferees will do everything in their power to represent the Senate's interest in conference with the House, they should be assured of our complete support to assure that the appropriations conference report funding levels are sufficient to carry out the purposes of this authorizing legislation.

For myself, I am prepared to oppose the acceptance of any conference report that fails adequately to fund these dramatic new health manpower authorizing laws.

Mr. KENNEDY. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. KENNEDY. 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 12, after line 3, insert the following:

SOCIAL AND REHABILITATION SERVICE

SPECIAL PROGRAMS FOR THE AGING

For an additional amount to carry out, except as otherwise provided, the Older Americans Act of 1965, $45,750,000.

RESEARCH AND TRAINING

For an additional amount to carry out, except as otherwise provided, titles IV and V of the Older Americans Act of 1965, $9,500,000.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, for the benefit of Members of the Senate, there is a 1-hour time limitation. I do not think we will take much more, hopefully, than 15 minutes or so.

Mr. President, I call up my amendment to increase the funding for aging programs under the Older Americans Act to the $100 million level.

At the outset, let me say that I believe that I am doing so with the approval and concurrence of the President of the United States.

I say this because yesterday in a speech to the final session of the White House Conference on Aging, the President recommended bringing the current $44.75 million appropriation up to the $100 million level. My amendment would provide for an additional $55.25 million for the Older Americans Act, raising the level of funding for this year to $100 million.

Clearly this action today would carry out at the earliest possible date the recommendations of the President on this matter and would demonstrate to the White House Conference that the Congress is not willing to allow the needs of the elderly to be forgotten.

The amendment would bring the level of appropriations close to the $105 million ceiling authorized by the Congress in the 1969 Amendments to the Older Americans Act.

Now because I fully share the President's concern for the elderly and have each year supported increases in the administration budget requests in this area, I am introducing this amendment to do exactly as the President has suggested.

I would hope and I would expect that the President would indicate that the full weight of the administration is in support of this increase.

At this point, let me provide my colleagues with some history on this subject:

I recall in 1969, at a time when I was privileged to serve as chairman of the Senate Subcommittee on Aging, the subcommittee reported amendments to the 1965 Older Americans Act with a 3-year authorization. That measure then was passed by the full committee, approved by the Senate and the House and enacted into law on September 17, 1969.

Now, I am extremely pleased that slightly over 2 years after signing this measure into law, the President has announced his belief that the authorization levels are justifiable and should be funded.

In this regard, let me cite the previous years' requests submitted by the President. This assuredly provides us some evidence of the priority he has assigned to the Older Americans Act in the past.

In his budget message for fiscal year 1970, the President submitted requests which were $1 million less than the Johnson administration request. The $28.3 million request represented less than 46 percent of the level of authorization.

In fiscal year 1971, the President submitted his budget request for the AOA and the request was for $31 million, only 37 percent of the authorized level for fiscal year 1971.

And this year, the President submitted his budget request and it turned out to be for $29.5 million, 28 percent of the authorized level and $2.5 million less than the Congress appropriated the year before.

After a series of hearings by the Senate Subcommittee on Aging and the Senate Special Committee on Aging, the Secretary of Health, Education, and Welfare announced that he would ask that the budget request be amended to include an additional $10 million.

Subsequently, a Senate amendment added approximately $5 million additional moneys which brought the level of appropriations to $44.75 million, compared to an authorized level of $105 million.

I believe that these appropriations levels are essential and I suggest that the evidence that was contained in the hearings before my subcommittee some 2½ years ago demonstrated that need.

In addition, the overwhelming need that has been documented through the evaluation hearings conducted this year and the evidence submitted at the White House Conference on Aging show that this administration has consistently underfunded elderly programs.

Therefore, I applaud and support the President today in his decision to provide meaningful levels of funds for the Older Americans Act.

The President's decision to accept categorical programs for the aging represents a significant revision of his previous position. Hopefully, the speech yesterday will be turned into action today by support for this amendment and also by an end to the administration opposition to the nutrition for the elderly program which was passed by the Senate 88 to 0 on Tuesday. That opposition prevented the bill from being considered in the House Wednesday, but I am sure that if the administration follows the President's edict and supports this measure that it can be passed before the session is over.

Also, by approving this amendment today we can be sure that there will be a smooth transition to a full nationwide program since this will permit State offices on aging to carry out planning and coordination activities for that purpose.

Also, it will enable the communities now operating title III pilot projects to perhaps expand some of their activities, adding additional outreach and transportation aspects.

I might also note that the President's strong endorsement of the title III type community service programs is particularly encouraging. That is one of the areas that by amendment seeks to bring to full finding.

I only wish that the President now would drop his opposition to S. 555, the Older Americans Community Service Act, which would make the senior aide program nationwide. Administration spokesmen including the Secretary of Labor have testified in opposition to this measure because of its categorical nature.

However, with the President's strong support yesterday, I would expect that opposition to be removed.

The amendment provides: For title III: $18 million for community programs on aging, including Senior Aides and Green Thumbs; $1 million for State planning and operations, $4.5 million for areawide model programs.

For title IV—research and demonstration—the amendment provides an additional $4.5 million. For title V—training—the amendment provides an additional $5 million for training.

For title VI—the amendment provides $10 million for retired senior volunteer program, tripling last year's appropriation level, and $12.25 million for foster grandparents, doubling that appropriation.

I would emphasize that the priority item is title III's community programs for the aging, followed by the foster grandparents program, the retired senior volunteer program, and the State planning and operations office.

The areawide model program also deserves funding and the President's task force emphasized the research and training needs.

An eloquent source of evidence of the need for the additional level of funding was contained in the statement by William Hutton of the National Council of Senior Citizens who testified:

> The annual appropriations for AOA have not amounted to more than one dollar and fifty cents for each American over 65—only 75 cents a year when you properly count our older Americans—those over 55:
>
> With such puny appropriations it is not surprising that AOA has lacked clout in the bureaucracy of government.

Or we can go through the hearings and find time after time, eloquent statements by individuals urging that Congress increase their funding and stating that they are providing needed services to elderly Americans.

In Massachusetts, I have seen the Senior Aide program in New Bedford and Fall River. It is enormously successful and the only thing it lacks is adequate funding.

The Green Thumb programs in rural America, also have been remarkably free of criticism. Testimony at every hearing on the yearly requests of the administration have demonstrated the vital need for the expansion of these programs.

At this point, let me just add that the constituency needing service are the 20 million older Americans, 4.7 million of whom are poor, including a 100,000 rise in that number of poor older Americans since 1969.

The elderly have been ignored for far too long. We have denied them their dignity. We have denied them an opportunity to participate in the life of this Nation.

Passage of this amendment will be a step in remedying that record.

Mr. President, the amendment I have introduced is really to carry through what the President stated was his promise in comments to the White House Conference on Aging yesterday.

Yesterday the President spoke to the White House Conference on Aging and in that speech he said:

> We want to begin by increasing the present budget of the Administration on Aging nearly five-fold—to the $100 million level. We plan to give special emphasis to services that will help people live decent and dignified lives in their own homes—services such as home-health aides, homemaker and nutrition services, home-delivered meals and transportation assistance. Much of this new money will be used to help marshal existing and expanded resources more effectively at the local level.
>
> * * * * *
>
> I will therefore request that the Retired Senior Volunteers Program be tripled to $15 million, so that an additional 50,000 volunteers can be involved. I will request that the Foster Grandparents programs be doubled to $25 million and will ask that this program be altered so that foster grandparents can work with older persons as well as with children.

Mr. President, this takes the President's statement yesterday and puts it in the form of an amendment to the supplemental. In effect, this would raise Older Americans Act funding close to its total authorization which is $105 million. At the present time there is a funding level of $44.75 million; initially requested by the administration was $29.5 million, but it was raised by Congress to $44.75 million. This amendment adds $55.25 million to that sum.

What we are doing is taking the President's pledge as he articulated it yesterday and turn it into actual programs for older Americans.

This is completely appropriate and justifiable. As the chairman of the Subcommittee on Aging that reported the Older Americans Act of 1969, the items that the President listed here conform neatly to the authorization in that legislation. We have had sufficient and adequate hearings. The administration has admitted time and time again that scores of requests remain unmet in the

areas that the President itemized, requests for funding, help, and assistance. This amendment would provide that funding.

Therefore, I hope we can help the President fulfill his commitment. I might note that, after contacting the White House, I have been informed through Assistant Secretary Kurzman at HEW, that the administration supports my amendment.

Mr. President, I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. Mr. President, I yield 10 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I am sorry I was not in the Chamber earlier but we have been having a policy meeting in the office of the majority leader.

I understand this amendment is to supplement the special program for aging in the Social and Rehabiliation Service in the amount of $45 million for special programs, and $9.5 million for research and training.

I wish to ask the Senator from Massachusetts a question. Is this a new item?

Mr. KENNEDY. I should like to respond to the Senator on this question. It is a new item on the supplemental bill; but permit me to provide some history regarding this matter. The Older Americans Act Amendments of 1969 in its provisions has provided for a variety of different senior citizens' programs to provide a focus for meeting the needs of the elderly. In that effort, the RSVP, the foster grandparent programs, the nutrition and senior aide programs—all form part of the Federal commitment to the dignity of the elderly.

Funds have been authorized for those programs, but the appropriations have fallen tragically short, some 28 percent of the authorization for 1972 and some 37 percent of authorization for 1971.

Instead of increasing the resources to meet the needs of the elderly, the administration annually has cut its budget requests. Only congressional action has prevented the disappearance of many of these Federal aging programs.

Also, the programs which would be included with this increased amendment, would be exactly the programs that the President itemized in his statement. They would be the retired senior volunteer program, the Green Thumb program, senior aides, the foster grandparents progam, as well as some home service for the senior citizens.

Mr. MAGNUSON. We provided in the regular fiscal 1972, appropriation bill $38,950,000 for the special programs for the aging the Senator is talking about. The foster grandparent program and retired senior volunteer program have been shifted, have they not, to what they call Action, the volunteer programs agency?

Mr. KENNEDY. That is right.

Mr. MAGNUSON. The $38.9 million that was appropriated is being used for these programs and half a year has gone by. I am in favor of adding something to this, and we can go to conference and see what we can do with it.

Mr. KENNEDY. All right. I mention to my good friend from the State of Washington the foster grandparent program, even though it is designated under——

Mr. MAGNUSON. The money has to come through this Older Americans Act.

Mr. KENNEDY. It has to come through this act. The work of the Senator from Louisiana, the Senator from Washington, and the Senator from New Hampshire has been vital in meeting the needs of the elderly in the past.

They have indicated time and time again their deep concern. But we are not asking for a tremendous increase. We simply are attempting to move this Nation closer to our pledge of providing dignity to the elderly of America. It seems to me that the added resources called for in this amendment could be used extremely effectively for the benefit of the older people.

Mr. MAGNUSON. I have no doubt about the motives and the principles of the Senator. How does the Senator arrive at $55.2 million.

Mr. KENNEDY. The way I arrived at it is by taking what the President indicated yesterday, and then bring the program levels closer to their authorized ceilings. He gave that figure at one time to those attending the White House conference. This is what he wanted. The President indicated that he had itemized it in great detail. I would like to support my President, just as the Senator from Washington would, whenever I can. I want to assure him we are going to fulfill that promise.

Mr. MAGNUSON. If I were to pay close attention, which I try to do, to all the suggestions that the President has made in the field of health and in this field, the budget would have provided about three times this amount on every item. I have listened to his speeches on health and I have listened to all the administration rhetoric, and then I sit down with the Senator from Louisiana and the Senator from New Hampshire, and here comes the budget. What a difference between what we hear promised, and what their budget requests would produce.

One day I had the experience of being down there and the budget came up 2 days after he made the speech on health and on what we should do. I listened to him closely on the nurse training, the capitation grants for nurses' part we have before us. The budget came up and there was a big round zero.

So I am in sympathy with what the Senator from Massachusetts has said. If this is what the President said he wants as far as I am concerned I am glad to give it to him in this field.

I hope that with respect to the ongoing programs there has been adequate planning so the money will not be spent unwisely. I do not know what my distinguished chairman feels about this, but we are going to the House with a new figure, and I do not have any illusions that the House is going to accept this total figure, but at least we have a starting point and that is the way I will explain it.

Mr. KENNEDY. I totally agree with the Senator from Washington when he recites the record of this administration in making promises and then submitting budget requests that contradict those promises. Well today, we are going to insure that yesterday's promise becomes tomorrow's reality.

This is the principal act that serves as the backbone from which all other programs for the aging come. The hearing that have been held demonstrate the need. I refer to not only the 1969 act, which provided the authorization for it at $105 million, but the President's task force report of 1970 which evaluated the various programs to be included under this provision and indicated strong support for it.

Mr. MAGNUSON. What is the authorization?

Mr. KENNEDY. $105 million.

Mr. MAGNUSON. That is about 60 or closer to 55 percent of the authorization. Is that correct?

Mr. KENNEDY. This amendment would provide $55,250,000. I have heard the Senator use a figure lower than the $44,750,000, which is the figure that I understand——

Mr. MAGNUSON. That is adding the amount under research and training.

I am willing to go to the House. Perhaps by that time we will have some more fine rhetoric from downtown. Maybe they will say this is a fine authorization and that Congress moved quickly on the matter.

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

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 24 minutes.

Mr. KENNEDY. I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I commend the Senator. While he was bringing up this amendment, I was privileged to be visiting with people who attended the White House Conference on Aging. Some of us were privileged to participate in some of the panels. The only thing we heard repeatedly was that we have many statements made about our senior citizens and the aged. They are sort of put under a microscope. Then those statements get neatly filed away, with the exception of some minor actions that are taken.

This is one place where the President of the United States, speaking to the Nation, went before the White House Conference on Aging and, without any ands, ifs, or buts, said:

> I will therefore request that the Retired Senior Volunteers Program be tripled to $15 million, so that an additional 50,000 volunteers can be involved. I will request that the Foster Grandparents Programs be doubled to $25 million and will ask that this program be altered so that foster grandparents can work with older persons as well as with children.
>
> I have also ordered that our jobs program for older persons with low incomes be doubled to $26 million. Under the program, projects such as Green Thumb and Senior Aides have demonstrated that older Americans can make valuable contributions in health, education and community service projects even as they earn additional income.

Mr. MAGNUSON. He just said that yesterday.

Mr. HUMPHREY. Yes. Here is our opportunity now to show our elder citizens

that those remarks will be followed. Here is the President's recommendation. Let us take it lock, stock, and barrel. Really, it is under the authorization. We really ought to be fulfilling the authorization. If any of my colleagues had a chance to listen to the pleas of senior citizens and older Americans, their hearts would be touched and we would be moving into effective action here. It was a pathetic thing to hear some of the pleas these people were making.

I do hope and pray that the distinguished Senator from Washington and the chairman, the distinguished Senator from Louisiana, will accept this amendment wholeheartedly and stick with it in conference, because it is desperately needed. I hope and pray we will act on it promptly.

Mr. MAGNUSON. The Office of Management and Budget made it a trickle when they sent it up here. That is my point. I sometimes get a little impatient with appropriating money for programs and following some advice. Sometimes the President makes good speeches to do this and that, but when we get the money downtown, nobody spends it in the right manner. Who gets the devil then? It is those of us who are up here.

I want to say right here and now that I think one of the problems with the special programs for the aging is that there is too much administration and too little going down to where it should go.

In some places they are stumbling over one another trying to help out. I want to serve notice that if we put this in, and if we can get substantial agreement in the House, we are going to take a look at the departmental administration of these items. There is too much of it. I take this opportunity to suggest that there are now 717,000 people employed in HEW programs and I want to see that these programs are administered correctly, so it will not be a hoax on these older people who think something good is going to happen to them, we provide a program, and then it is bungled somewhere down the line.

I am willing to take this amendment to the House conferees.

I have listened to a lot of this, and I have to take a look at what comes up from the OMB. Sometimes they threaten to have a bill vetoed or say that they will not spend it if it comes to them. Congress gets blamed for it. I hope there are some people from that conference listening to what we have had to say.

Mr. KENNEDY. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I would like to first state that the administration does support the amendment. I am authorized to notify the Senate that the President stands foursquare behind the statement he made yesterday.

I think it would have been highly desirable to go through the ordinary processes, holding hearings and getting details of the program, but the need is so urgent that the Appropriations Committee has responded magnificently to legislation that has been sent to it to increase programs such as the foster grandparents with this added amount. The need for it has been clearly demonstrated. I think it presents no real problem, and I would hope the committee will accept the amendment. The President made a commitment. It has bipartisan support.

I ask the Senator to add me as a cosponsor of the amendment.

In the work I have done on the Committee on the Aged this type of program offers more hope, greater inspiration, a greater sense of belonging and feeling important and being needed and wanted in society than anything else.

In the city of Chicago's Division for Senior Citizens we now have 51 grandparents. It would like to take on 56 additional grandparents. It gives the parents something to do and someone to be responsible for. Hundreds of children are taken care of who would otherwise be in orphan asylums. They now have someone who cares for them. The cost to society is minimum. We get back many times over the investment we have made when, instead of putting children in institutions, we provide a small stipend for love, care, and affection.

In the city of Chicago, the division for senior citizens has asked for an increase in funding from $130,000 to $235,000. This pattern is repeated across the country.

I ask unanimous consent that a letter from me dated October 19, 1971, on this subject be printed at this point in the RECORD.

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

OCTOBER 19, 1971.

Mr. JOSEPH BLATCHFORD,
Director, Action,
Washington, D.C.

DEAR JOE: As a member of the Senate Special Committee on Aging, I have become increasingly concerned about the need for more employment and community service opportunities for older citizens. The Foster Grandparents Program, it seems to me, has accomplished a great deal in terms of providing worthwhile, meaningful job opportunities for elderly persons.

The program has proved to be very successful in Chicago, and this year, requests from participating agencies for grandparents, and from elderly persons for jobs, have risen substantially.

The Chicago program now operates with 51 grandparents. The City of Chicago's Division for Senior Citizens would like to be able to take on an additional 56 grandparents. To accomplish this, the funding level for Chicago would have to rise from $130,000 to at least $235,000. It is my understanding that the Division for Senior Citizens has already formally requested this increase.

In light of Chicago's very sizable elderly population—more than 516,000 persons over age 60—as well as the recent funding increase approved by Congress for the Foster Grandparents Program for Fiscal Year 1972, I wish to give my full endorsement to the request of the Division for Senior Citizens of the City of Chicago.

With warm regards.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

Mr. PERCY. Mr. President, I ask unanimous consent to have printed in the RECORD the President's speech of yesterday, which was a magnificent speech, and also an article entitled "No Cure Like Love," which I think will conclusively demonstrate the value of this type of program.

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

[From the Washington Post, Dec. 3, 1971]

YOUNGER AND OLDER AMERICANS NEED ONE ANOTHER

(Following is a partial text of President Nixon's prepared address to the White House Conference on Aging.)

In recent years a gulf has been opening between older Americans and the rest of our people. This gulf is the product, in large measure, of a great social revolution which has weakened the traditional bonds of family, neighborhood and community. For millions of older Americans, the result has been a growing sense of isolation and insecurity.

We must change that. Younger and older Americans need one another. We must find ways to bring the generations together again.

In addressing the challenges before us, let me begin where most of you begin: with the problem of inadequate income. If we move on this front, all the other battles will be easier. If we fail to move here, the other battles will be impossible.

That is why it is so important that the Congress approve one of the most important bills to come before it in many years—the bill which is known as H.R. 1—and approve it without delay. For this legislation would revolutionize our whole approach to income problems among the elderly.

NATIONAL FLOOR

For the first time in our history, it would put a national floor under the annual income of every older American. For the first time in our history, it would make social security benefits inflation proof.

It would also allow social security recipients to earn more money from their own work. It would raise benefit levels, especially for widows. And I hope the Congress will also include in H.R. 1 my proposal for eliminating the $5.60 monthly fee now charged for Part B of Medicare.

H.R. 1—as it now stands—would provide some 5½ billion dollars in additional federal benefits to older Americans; 3 billion dollars in increased social security benefits—and, when it is fully effective—another 2.5 billion dollars in new benefits to persons with lower incomes. My proposal to eliminate the monthly Medicare fee would enrich this 5.5 billion dollar package by an additional 1.4 billion dollars—the equivalent of an additional 5 per cent increase in social security.

As we work to increase federal benefits for older Americans, we must also work to reduce the pressure of taxes. We are therefore supporting a series of tax reform proposals which would enable a single person age 65 or older to receive up to $5,100 of tax free income. A married couple, both of whom are 65 or older, could receive over $8,000 in tax free income if these changes take effect.

However, one of the most onerous of all taxes for older Americans is largely unrelated to income. I refer, of course, to the property tax—which keeps going right on up, even when an older person's income is going down. In fact, property tax collections have increased by some 40 per cent in the last five years alone.

Nearly 70 per cent of older Americans own their own homes. For many, these homes represent a lifetime of careful saving. And yet, because of property taxes, the same home which has been a symbol of their independence often becomes a cause of their impoverishment.

Even older persons who rent their homes often bear an unfair burden, since property tax increases are often passed along in the form of higher rents. And the inequity of the property tax is often all the greater because it takes money from those who have already educated their own children and uses it largely for the education of others.

EMPTY DREAMS

I received a letter recently from a woman whose parents brought her and five other children to this country from Switzerland many years ago. They settled in California as homesteaders, full of hope and pride. And over the years that followed they made their dreams come true.

But today—many years later—things have changed, so much so that Mrs. Ewing begins her letter to me by asking, "Was it just an empty dream after all?" Her father—at 73—is too ill and tired to work. His family is grown and scattered. And to meet his real estate taxes he is now being forced to sell the property for which he worked so hard and so long. "If this is really the country I grew up believing it to be," Mrs. Ewing continues, "these inhumane tax laws must be changed . . ."

I agree. We need a complete overhaul of our property taxes and of our whole system for financing public education. Our revenue sharing program can help relieve the pressure on property taxes and older Americans have a large stake in its enactment. But additional reform is also needed.

I am therefore preparing specific proposals to ease the crushing burden of property taxes for older Americans, and for all Americans.

The President's Commission on School Finance, which I appointed last year, has been carefully studying a range of possible remedies. It is clear that these remedies will involve large sums of money. We are prepared, however, to make the hard decisions we will have to make. The time has come to stop talking about the impact of property taxes on older Americans and to act in their behalf, and in behalf of other citizens in similar circumstances.

A second major problem affecting the income of older persons is the inadequacy of private pension plans.

I will therefore propose to the Congress a new program to reform our private pension system. This program will include measures designed to expand pension coverage and to ensure that pension funds are soundly and honestly managed. It will also recommend new laws to require the vesting of pensions—to ensure that the benefits which accumulate in a person's working years are paid to him when he is older.

COST OF LIVING

Lately, of course, we have been giving high priority to another effort that has special meaning for older Americans: the drive to curb the rise in the cost of living. When wages and prices rise unreasonably for the few, the result is an unreasonable decline in the purchasing power of the many. By holding wage increases to reasonable levels for those who are working, we will help protect the incomes of those who are retired.

I have appreciated the support that older Americans have given to this effort—and I am determined that as we achieve our new prosperity, it will be a new prosperity without inflation, and therefore without the hidden tax that hits so cruelly at those on fixed incomes.

As the income position of older Americans improves, so will their ability to cope with many of the other problems you have been discussing. But even with higher income, many older persons will still face problems beyond their individual control.

Take the one million Americans who live in nursing homes, for example. Many of them—like my 91-year-old aunt in California—receive excellent care in pleasant surroundings. But many do not—and there is little they can do about it. This is why I announced last summer an 8-point program for improving our Nation's nursing homes and for cutting off funds to those which remain substandard.

Our primary objective is the upgrading of nursing homes. But we will not hesitate to cut off funds from homes which are hopelessly substandard. Furthermore, we will take the initiative in making sure that public and private resources are available to provide alternative arrangements for the victims of such homes.

But nursing homes are only one part of the picture. The greatest need is to help more older Americans to go on living in their own homes. Income programs and tax reforms can help us achieve this objective. And so can a number of additional decisions which we already have made.

We want to begin by increasing the present budget of the Administration on Aging nearly five-fold—to the $100 million level. We plan to give special emphasis to services that will help people live decent and dignified lives in their own homes—services such as home-health aides, homemaker and nutrition services, home-delivered meals and transportation assistance. Much of this new money will be used to help marshal existing and expanded resources more effectively at the local level.

Toward this end, I will direct the Social Security Administration to provide an information center in each of its 889 district and branch offices to help explain all Federal programs which aid the elderly.

We have made two additional administrative decisions which will also help older Americans to remain in their own homes. The first will make housing money more readily available to older citizens to purchase homes in a variety of settings, including condominium apartments and retirement communities. The second will require that federal grants which provide services for older persons also provide for the transportation they need to take advantage of these services.

Some of the best service programs for older Americans are those which give older Americans a chance to serve. Thousands of older Americans have found that their work in hospitals and churches, in parks and in schools gives them a new sense of pride and purpose even as it contributes to the lives of others.

Federal programs to provide such opportunities have proven remarkably successful at the demonstration level. But now we must move beyond this demonstration phase and establish these programs on a broader, national basis. I will therefore request that the Retired Senior Volunteers Program be tripled to $15 million, so that an additional 50,000 volunteers can be involved. I will request that the Foster Grandparents programs be doubled to $25 million and will ask that this program be altered so that foster grandparents can work with older persons as well as with children.

I have also ordered that our jobs program for older persons with low incomes be doubled to $26 million. Under the program, projects such as Green Thumb and Senior Aides have demonstrated that older Americans can make valuable contributions in health education and community service projects even as they earn additional income.

Older persons can be proud of how well they have made all these programs work in recent years. These decisions mean they will not be able to work in more places and for more people.

Any discussion of recommendations for dealing with the problems of the aging would not be complete without recognizing the strong support expressed at this conference for extending medicare coverage to include prescription drugs, and for accelerating the rate at which the income floor comes into effect under H.R. 1.

As you know, these proposals involve very difficult budgetary problems for the government.

However, because of the interest which conference delegates have expressed in these changes, I have directed the Domestic Council to carefully consider both proposals and to make recommendations to me at an early date.

Your work is not yet over. You have a message to take home with you from this Conference—a message which must now be heard in every community in this land.

NEW ATTITUDE

The message is simply this: We need a new national attitude toward aging in this country—one which fully recognizes what America must do for its older citizens, and one which fully appreciates what our older citizens can do for America.

A few months ago I met with a remarkable man by the name of George Black. For more than 80 years, Mr. Black has been making bricks by hand in Winston-Salem, North Carolina. George Black is 93 years old but that does not mean that his productive days are over.

Recently our government sent George Black to the country of Guyana in South America, so that he could share his skills with people in that land. When he was asked about his trip, Mr. Black made this comment: "I have always asked the Lord," he said, "to let my last days be my best days. I feel like he's answering my prayers."

George Black's prayer is the prayer of millions of Americans—"to let my last days be my best days." And for them—as for him—its answer depends not only on what they are given but on what they continue to give.

[From Harvest Years, May 1969]

NO CURE LIKE LOVE

(By Helen Bottel)

"Love to a child is like water to a plant. When we Foster Grandparents offer it to these youngsters they thrive. Without it, they wither. They're scared and lonely—and we cure that."

The gray-haired woman untwined pipestem arms from around her neck, brushed a gentle kiss on the sleeping boy's forehead, then tucked him in his hospital crib.

"He was a battered baby . . ." she whispered. "If ever a child needed someone to empty their own life into his, this child does. In just a week, I'm amazed at his progress. He smiles now—he was so fearful in the beginning."

Love is truly potent medicine at the Robert B. Green Memorial Hospital, San Antonio, Texas, one of the first of the now national Foster Grandparents projects. Now over 8,000 children a year in hospitals and institutions all over the country receive the happiest medical treatment in the world—tender loving care. Some might not survive without it, for those who must spend long weeks or months in hospitals have real emotional needs.

"Doctors were skeptical at first," said a nurse in the pediatric ward. "They thought the Grandparents would be in the way; now they're all for them. They can see the delightful way elders share their love with children—and they know happiness is a two-way street."

Mrs. Elizabeth Finnigan, R.N., who has succeeded Mrs. Burke as the San Antonio project director, emphasized, "Our youngsters here need constant love and attention—a feeling of security. Nurses just don't have time to sit and hold one child for hours, but our Grandparents do."

Mrs. Finnigan told of Grandpa Walker, who literally willed polio-stricken Ramon out of his wheel chair. Assigning Mr. Walker to Ramon was no accident—therapists knew the pain involved in rehabilitation exercises and the determination it would take for him to learn and endure. They chose fun-loving Grandpa W. for his patience, ingenuity, and good humor. Great admiration developed between the two; Ramon wouldn't let Grandpa down. He slowly learned to walk again.

Some children have been deserted by their parents, and will be placed in foster homes

when they are well again. Others come from such miserable hovels that they know little else but filth, fighting, hunger, rejection. Some are literally starving, like fourteen-month-old Martha who weighed seven pounds and was near death when admitted to an eastern hospital.

Physicians described her rigid bed position, listlessness, and wanness as "mirasmas," sometimes fatal condition caused by lack of demonstrated affection. They requested a Foster Grandparent. Martha's response to tender loving care was amazing: her stifled reactions changed to awareness . . . she became alert, almost happy . . . gained several pounds. Now, when her Grandmother enters the room, the baby's smile and upreaching arms say "Hold me," and Grandma does!

Sometimes mirasmas is tentatively diagnosed as mental illness. Such was the case with John, a little blind boy nobody wanted. He was sent from a shelter home to a midwestern hospital "because of head-dropping spells." He slept almost continuously and wouldn't swallow or talk.

The medical staff asked two Foster Grandparents for help. To everyone's surprise, the child snapped out of his near-vegetable state after a week of cuddling, crooning and handfeeding.

He said later he could eat because "Grandpa cut my meat up real fine," but the staff believes it was because Grandpa's and Grandma's hearts were full of love.

There's a happy ending here. John is now adopted; the seven-year-old has "real live parents" who shower him with affection, but like many others, his Grandparents still keep in touch with him.

Not all children are so early won. A Foster Grandmother in San Francisco wrote:

"My 'granddaughter' was in protective isolation with a skin disease. She wouldn't talk or respond to any friendly overtures, but I visited her and stayed at least an hour a day.

" 'Would you like me to read you a story?' 'No-No!' The head turned to the wall, the eyes closed. But I read and even showed pictures, although it was only to the back of a little head. Then I just sat and told her funny things about the other children and nature stories. No response . . . day after day the same time devoted to a silent, withdrawn child.

"One day I was surprised to see a little eye peeking out—but quickly closed. Then her mother came during story time, and Betty sat up and smiled. Her mother said, 'Oh, you must be Grandma. Betty has told me how you read and talk and tell her things. She really loves it!' "

. . . And Grandma never knew she had gotten through until Betty was almost well.

While most children in pediatrics clamor for the Grandparents' attention, some do not. One Grandmother—a widow with ten grandchildren and three great-grands of her own—remembers an unhappy lad who shouted, "Get out of here!" when she entered the room.

"I will not," she replied stoutly. Then, drawing up a chair, she began to read nursery rhymes. In a few minutes, the boy lifted his face to hers and buried his head in her shoulder.

A unique Foster Grandparent program is carried on by the California Department of Youth Authority at two Stockton correctional institutions, the D. H. Close and the Karl Holton Schools for Boys.

After two weeks of basic training, qualified Foster Grandparents (thirty-eight in the Stockton area) go into the schools four hours a day, and pretty well dispel the notion about a "generation gap." They act as teachers' aides, help with homework, sew on buttons, show the boys how to make beds or work at hobbies, organize games, even play basketball and football with them. But their biggest help is "just listening and being there when the fellows need to talk." Nearly 40 percent of the Grandparents here are men and over half are Negro or Spanish Americans, as are the boys at school.

Grandparents' concern extends beyond the gates. One woman was a "foster" to young Alden, whose time was nearly up. He needed a home placement, however, before he would be released on parole. Knowing this, Grandma R. invited him to spend Sunday at her house. There she introduced him to a neighbor who had a local store. Result? Alden now has a foster home and a job with her neighbor, and at last reports was doing fine.

Classroom essays on Grandparents are revealing. One boy at the Karl Holten School wrote:

"My Grandma is Mrs. L. T. She's helped me in these ways: She helped me get a room. She brought me four pies and a pack of Kool-aid. She talked with me whenever I had problems. She talks with me for enjoyment. She watches me play sports and she cheers for me. She helps me understand certain things that I didn't. She helps me write letters . . . talks to me about family life. She bought me three stamps for my letters. And she does everything she can to help me."

The benefits to both Foster Grandparents and children are innumerable. These are strikingly obvious as one goes through the wards or the schools and observes old and young together.

One Grandparent stated: "If all the Foster Grandparents (and I am sure they do) get this happiness from knowing they are wanted, they've spent four wonderful hours. My age can't hide the wrinkles, but the old heart is young and happy."

Since 1965, the number of Foster Grandparents has grown from about 800 in the first 22 projects to over 4,000 in 184 hospitals and institutions throughout the country. Grandparents serve 4 hours a day (usually 2 hours with each of two children), 5 days a week, at the Federal minimum hourly wage of $1.60. Nineteen percent of the Grandparents are male; 81 percent female. The oldest is aged 92.

The program nationally has been funded by the Office of Economic Opportunity and administered by the Department of Health, Education and Welfare's Administration on Aging since its beginning. (In his February message on poverty, President Nixon announced his intention of transferring all functions of the program to HEW.)

Grandparents don't substitute as nurses, but their services include feeding, diapering, and cuddling infants, assisting children with meals, reading and playing games with them. In a heart-warming way, the project brings together youngsters who need love, and affectionate seniors whose incomes need bolstering. "I like the feeling of being needed even more than the money," says one Grandpa.

To be eligible for Foster Grandparents, you must be at least age sixty with an income of no more than $1,600 a year for a single, $2,100 a year for a married person.

How did the national program start? Many persons, including Mrs. Vera M. Burke, Ph. D., social service supervisor of the Robert B. Green Hospital of San Antonio, Texas, contributed to its original development by the U.S. Office of Aging (predecessor of the present Administration on Aging) and OEO.

Mrs. Burke participated in early discussions during field visits of Washington officials in the planning stages of the program. When President Johnson announced on August 28, 1965, the funding of the first 22 pilot projects, the Robert B. Green was one of them.

Prospective grandparents are given a physical examination and an interview to establish their qualifications and their attitudes about children. Then they have a short training course before they go on the wards.

If you would like to become a Foster Grandparent inquire at your state employment office or write the State Agency on Aging in your State Capitol.

Mr. PERCY. Mr. President, I commend the President for his initiative, and I commend my distinguished colleague for his early response to that initiative, and I trust he will have overwhelming support for his amendment.

Mr. MAGNUSON. Mr. President, I may say to the Senator from Illinois that my subcommitee has increased the amount for foster grandparents and other special programs for the aging. I do not say anything was wrong with the President's speech yesterday. It was a good speech. I read it. He has made good speeches before, but my problem is that the speeches do not seem to get down to OMB. I do not know why. They are only across the street from one another. There is a tunnel that goes there. That is our problem.

I am glad we are all together on this, because now we are getting some action. I am a little like the fellow who saw Senator Borah riding in Rock Creek Park one day. His companion said, "No, that can't be Borah—the horse and the rider are going the same way." I am glad we are going the same way. We do not want older people to get their hopes up and then fail them.

Mr. PERCY. Mr. President, if the Senator will yield, let me say I talked to 150 of them yesterday, who I invited to the Senate for a reception.

The main message they gave to me was, "There is so much talk, and we never see action." Here we have a chance. They say, "Let us do it," the President said, "I will" yesterday, and in 24 hours, the Senate of the United States can respond and say, "We agree with you, and we will do it."

They would go home feeling, "We really accomplished something."

I think this is a tremendously important symbol to them. This is the swiftest action that we can take. I do not think we are taking precipitate action at all, and I certainly deeply appreciate the level of support that the senior members of the Committee on Appropriations have assured every time we have tried to meet needs of this type.

I do not think the Office of Management and Budget, much as they are needed in our total system of government, can always be left with the final and ultimate judgment. That is why we have been given final responsibility, and I thank the Senator for adding my name as a cosponsor.

Mr. KENNEDY. I thank the Senator from Illinois, who has been tremendously interested in all the problems of the elderly, and of course was instrumental in assuring the continuation of 18 nutritional projects for the elderly earlier this year.

I hope the administration will understand our very deep desire to support these programs that affect our elderly citizens. This past week, as the Senator from Illinois knows, we passed an authorization of some $250 million for nutritional programs for the aging, and I hope we will hear very shortly of the President's backing for funding on that program as well.

Mr. MAGNUSON. Mr. President, I should be very glad to have the Senator put his amendment to a vote. I think the Senate is sufficiently well informed as to how I feel about it and how our committee feels about it.

I yield to the Senator from Louisiana.

Mr. ELLENDER. Mr. President, in view of all that has been said, the attitude of the chairman of the subcommittee on HEW, and the fact that I am 18 years old backwards, I am sympathetic to the aging. I have consulted with quite a few members of the committee, and they are willing to accept the amendment and take it to conference.

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

Mr. ELLENDER. I yield to the Senator from North Dakota.

Mr. YOUNG. I merely wish to say that, as ranking minority member, I fully support the proposal, and I am sure if the senior Senator from New Hampshire (Mr. COTTON), who handled this bill in the subcommittee, had been present, he would have approved it also. Senator COTTON couldn't possibly be here today.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the names of Senators EAGLETON, MCINTYRE, CHURCH, CRANSTON, STEVENSON, BENTSEN, BAYH, TUNNEY, PERCY, BEALL, HUMPHREY, and STAFFORD be added as cosponsors.

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

Mr. KENNEDY. I also ask unanimous consent to have printed in the RECORD a telegram just received from Nelson Cruikshank, the president of the National Council of Senior Citizens, in support of the proposal.

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

DECEMBER 3, 1971.

National Council of Senior Citizens supports increasing appropriation for administration on aging to $100 million now. We have repeatedly urged appropriations at the level of the authorizations in the Older Americans Act which specifies $105 million for FY 1972. At White House Conference on Aging President supported $100 million for FY 1973. We ask for $100 million now.

NELSON CRUIKSHANK,
President, National Council of Senior Citizens.

Mr. WILLIAMS. Mr. President, I wish to express my strong support for the proposed amendment to the supplemental appropriations bill, H.R. 11955.

The effect of this amendment would be to increase appropriations for successful programs under the Older Americans Act—including community programs on aging, areawide model projects, research, training, the retired senior volunteer program, foster grandparents—from $44.75 million to $100 million.

For older Americans living on limited, fixed incomes, this additional funding can perhaps mean the difference between living independently and being institutionalized at a much higher public cost. For example, the community programs on aging—the lifeline of services for older Americans—have helped the elderly in a wide variety of ways, including transportation for the infirm and frail, home delivered meals, homemaker services, telephone reassurance calls and many others. And with the adoption of this amendment an additional 7,700 projects could be funded which would serve approximately 1.1 million more elderly persons.

Equally important, this measure would provide an increase of $12.25 million for the foster grandparent program. In my own State of New Jersey, I have personally observed the valuable supportive services rendered by foster grandparents for neglected, retarded or otherwise disadvantaged children. Adoption of this amendment could provide new employment opportunities for an additional 6,000 low-income persons 60 and over, raising the present total from 6,000 to 12,000. Moreover, 12,000 more young children would receive vitally needed services.

In addition, the foster grandparent is a very sound investment. For example, a recent report entitled "Cost-Benefit Analysis of the Foster Grandparent Program" stated:

The funding rate of the Foster Grandparent Program is thus a sound investment having a rate of return of at least 200% or 300% in term of direct benefits and savings.

As a member of the Senate special committee since its founding and as immediate past chairman, I am especially concerned about chronic underfunding of the Administration on Aging. When Congress passed the Older Americans Act in 1965, we envisioned an AOA fully capable of serving as a focal point of Federal concern about aging and aged Americans. We also expected that the AOA would serve as an action agency capable of establishing service programs of its own or encouraging other Federal agencies to do so. Many of us have been concerned by recent administration actions which have downgraded the AOA to the point that it cannot possibly meet the expectations of Congress or of older Americans. And one of the biggest threats to the AOA has been the persistent refusal of this administration to make budget requests that would enable AOA to do the job. After all, Congress has authorized $105 million for this purpose. This year, the year of a White House Conference on Aging, the administration originally asked for only $29.5 million, a reduction of $2.5 million from the previous year.

But, possibly because of congressional pressures and the momentum provided by a White House Conference on Aging, President Nixon has reversed an earlier position. He now seeks $100 million. He should receive it, and he should receive it early enough to assure early implementation of several key recommendations made at this week's White House Conference on Aging.

MEETING THE PRESIDENT'S COMMITMENT TO OUR SENIOR CITIZENS

Mr. PACKWOOD. Mr. President, at this time I would like to add my brief endorsement of this amendment to increase funds for the Older American Act. I applaud the Senate for its speedy implementation of the President's request for additional funds for senior citizen programs under the sponsorship of the Administration on Aging, and am confident that the increase will be put to good use, in Oregon and elsewhere around the Nation.

This vote shows that the President and the Senate are serious in their commitment to our senior citizens and to meeting the needs which have been at least partially described during the past week of the White House Conference on Aging. I, for one, cast my vote for this amendment in a loud voice, and look forward to the further steps I hope the Senate will take in improving the lives of this Nation's 20 million senior citizens.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time, if the Senator from Louisiana is prepared to yield back his.

The PRESIDING OFFICER. Do both Senators yield back the remainder of their time?

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

The PRESIDING OFFICER (Mr. BEALL). All remaining time has been yielded back. The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY). 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 Nevada (Mr. CANNON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. JORDAN), and the Senator from Idaho (Mr. CHURCH) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), and the Senator from South Dakota (Mr. MCGOVERN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 80, nays 0, as follows:

[No. 435 Leg.]

YEAS—80

Aiken	Bentsen	Cook
Allen	Bible	Cooper
Allott	Burdick	Cranston
Anderson	Byrd, Va.	Curtis
Bayh	Byrd, W. Va.	Dominick
Beall	Case	Eagleton
Bellmon	Chiles	Eastland

Ellender	Kennedy	Randolph
Ervin	Long	Ribicoff
Fannin	Magnuson	Roth
Fong	Mansfield	Schweiker
Fulbright	Mathias	Scott
Goldwater	McGee	Smith
Gravel	McIntyre	Sparkman
Griffin	Metcalf	Spong
Gurney	Miller	Stafford
Hansen	Mondale	Stennis
Harris	Montoya	Stevens
Hart	Moss	Stevenson
Hollings	Muskie	Symington
Hruska	Nelson	Talmadge
Hughes	Packwood	Thurmond
Humphrey	Pastore	Tunney
Inouye	Pearson	Weicker
Jackson	Pell	Williams
Javits	Percy	Young
Jordan, Idaho	Proxmire	

NAYS—0

NOT VOTING—20

Baker	Church	McClellan
Bennett	Cotton	McGovern
Boggs	Dole	Mundt
Brock	Gambrell	Saxbe
Brooke	Hartke	Taft
Buckley	Hatfield	Tower
Cannon	Jordan, N.C.	

So Mr. KENNEDY's amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MONTOYA. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 33, line 25, after "$250,000" add the following: ", to remain available until expended".

Mr. MONTOYA. Mr. President, this is merely a technical amendment to permit GSA to use these funds beyond the fiscal year. There is no addition to the item at all.

Mr. ELLENDER. Mr. President, there is no objection to the amendment.

Mr. MONTOYA. Mr. President, I yield back the remainder of my time.

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

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

AMENDMENT NO. 782

Mr. PERCY. Mr. President, I call up my amendment No. 782 and ask that it be stated.

The assistant legislative clerk read the amendment as follows:

Page 4, after line 8, insert the following:

SMITHSONIAN INSTITUTION

THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for maintaining and operating the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $1,500,000: *Provided*, That these funds shall be available for obligation only upon enactment into law of S. 2900, Ninety-second Congress, or similar legislation.

Mr. PERCY. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of the amendment: Senators BIBLE, RANDOLPH, COOPER, MANSFIELD, BOGGS, GRAVEL, MATHIAS, FULBRIGHT, TUNNEY, and COOK.

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

Mr. GOLDWATER. Mr. President, will the Senator from Illinois yield?

Mr. PERCY. I yield.

Mr. GOLDWATER. I recall last year, during debate on money for construction of the Center, we were told at that time there would be no costs devolving upon Congress for finances for the Kennedy Center.

I read the article in the newspaper yesterday that the Senator refers to, and now we are being asked for $1.5 million; so that I would like to know if there is any way of knowing that this will continue to be a cost that will have to be paid by the taxpayers, and if so, will the $1.5 million be the low level or the high level?

Mr. PERCY. I can only refer to the public testimony offered by Mr. Roger Stevens when he appeared before the committee chaired by the Senator from Louisiana (Mr. ELLENDER) in which he made it clear that, so far as the performing arts are concerned, the intention of the management of the Center is to have the performing arts pay for itself, which is a magnificent achievement because there is not a performing arts group, whether it be opera, symphony, the dance, or choral groups—no matter in what capital of the world—operating that can support itself just on ticket sales.

It is the intention of the Center to try to raise sufficient funds to match the cost of the ticket sales, including the lower cost to the low-income families and students. So they are not asking for any money for the performing arts.

Mr. Stevens made it clear at the time that he could not operate the Center and keep it open to the public 7 days a week, with the thousands of people going through each day—there were some 20,000 that went through the day after Thanksgiving—without incurring the costs of maintenance, guard service, and adequate security which have to be provided. Doors have to be opened and they have to be closed, and the building has to be heated and air conditioned during the public nonperforming hours, which is the area Mr. Stevens very clearly indicated. If we want to use the Center as a public memorial and keep the doors open, then the performing arts, those who will go to the theater, to the Eisenhower Theater, to the opera, and to the concert halls cannot be expected to pay enough for their tickets to attend these performances and to support the same kind of costs incurred by the National Park Service in maintaining other memorials dedicated to deceased Presidents.

Mr. GOLDWATER. The thing that concerns me is not the $1½ million this year but what it is going to become in later years. I was wondering whether it is going to be $1½ million now and then $2½ million later, or what. We were told if my recollection is correct, that when the building was going up it would be built at no expense to the taxpayer, that it would adequately maintain itself. It was last year that we talked about $7½ million. I may be wrong on that, but it was voted, and we were told that would be the end. So what I want to find out is, is this the beginning, and are we going to have to support maintenance on the building from here on in? If that is the case—and I do not say this in a demeaning way—we could have a baseball team in Washington, D.C., if we could support the RFK Stadium.

Mr. PERCY. Mr. President, I feel that the question is a very pertinent one. This is an amount fixed by the Bureau of Management and Budget. They have taken a very careful look at the budget for maintenance and security, which is about $2.5 million. Approximately $1 million is attributable to the performing arts and about $1.5 million—it goes up to $1.8 million—attributable by their figures simply for public use of the building. I would anticipate that this would be an annual request. May I say also that I am very willing, indeed, that the chairman and the ranking member of both the full Senate Public Works Committee and its subcommittees will have jurisdiction over this, and they are cosponsors of the amendment, because it is their intention to hold a full-scale set of hearings to analyze the appropriations and to oversee the responsibility needed, just as we do with the Smithsonian Institution and other agencies where title to the property is 100 percent held by the Federal Government and the people of the United States.

I would anticipate that it would be for this purpose as long as Congress intends to keep the Center as a memorial, and the money will be made available only for the nonperforming arts portion of the memorial in the form of an annual request. But it is conceivable that there could be a sufficient income for all functions, if the performances are successful enough.

I can tell the distinguished Senator from Arizona that Leonard Bernstein's "Mass" is so successful that it is highly possible the record sales alone will bring a substantial proportion of income to the Kennedy Center, with the possibility of a quarter of a million dollars or more involved there. So that certainly it would be the intention to repay, although there is no desire to make a profit on a nonprofit operation. They may be able to get a surplus of any amount by the sale of the "Mass" in other areas going into other States perhaps, with the royalties which might be paid back to the Kennedy Center. So that obviously they would be able to get an effective income generated, but I could not at this stage promise anything. It would be a miracle if that happened.

I simply would say that if the Senate does not support this endeavor, the Kennedy Center will simply have to be closed, except for times of performance and admit only people who have tickets. We would have an avalanche of criticism from people all over this country if that should happen.

Mr. GOLDWATER. Mr. President, I asked a bookkeeping question. Let us say that we are able to show a surplus and a

profit on the performance of the arts income, would it be possible under corporate operation to transfer those funds to the needs of maintenance so that it might be possible that it become self-sustaining?

Mr. PERCY. Mr. President, I see no reason why it should not be, at all. And I can assure the distinguished Senator that, as a trustee designated by the Senate to serve on this board, I have probably put as much time into this activity as I have on any committee I have served on. I can assure the Senator that it was with tremendous reluctance that we came back to ask for another appropriation.

The distinguished Senator will recall that several times I spoke of the need of funds to keep us from mothballing the building—and that was the only alternative, to mothball two-thirds of the whole building. Had construction been halted, I suspect that it would have cost at least $12 million to get it started again.

When I came on the floor to request a final appropriation for construction costs, I never said that we would charge enough for the arts to support the public use of that building, which has been two or three times what anyone anticipated it would become.

Mr. GOLDWATER. Mr. President, is my understanding correct that the public use of it has become so great that it is going to become a very expensive thing to keep up? I have read of people cutting up the carpets and the drapes and stealing crystals off the chandeliers and faucets out of the restrooms.

Will this continue? I do not want to seem chintzy about a million and a half dollars. However, I could think of a lot of things we could use $1.5 million on. I am very interested in the aerospace museum in the Smithsonian. I would like to think that when we need money, I could make the same kind of impassioned plea that the Senator from Illinois makes and have a chance to get it.

I thank the Senator for answering the question, but I still have some doubts.

Mr. PERCY. Mr. President, the Senator's questions are very pertinent. I appreciate very much the fact that they have been asked.

The demand has been overwhelming. The management again admitted before the Public Works Committee that it did not anticipate the tremendous desire of the American people to somehow take back a piece of the Kennedy Center. As a matter of fact, there have been more faucets taken out of the ladies' restroom than out of the men's. People seem to have a desire for taking the crystals out of the chandeliers and for having a piece of the Center to take back home.

We now have mementos that can be sold. The demand is there and we think we can create good sales on the site. We simply did not anticipate the great interest of the American public in the Center which the American people have taken.

Mr. COOPER. Mr. President, may I have the floor in my own right?

Mr. PERCY. Of course.

The PRESIDING OFFICER. How much time does the Senator desire?

Mr. COOPER. Five minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. COOPER. Mr. President, I intend to support the appropriation of $1.5 million for the fiscal year 1972. I had hoped that the chairman of the Public Works Committee would speak before I did. At the time I asked for the floor, I did not know that he was in the Chamber or I would have deferred to him. I had also hoped that the Senator from Alaska (Mr. GRAVEL), the chairman of the subcommittee, would speak.

I will be brief because I know the chairman of the committee will speak. As the Public Works Committee properly has jurisdiction of this subject I think it appropriate that we should provide the Senate our understanding of this matter. The senior Senator from Illinois, Senator PERCY, discussed with us the need of approximately $2.4 million for the operating costs of the Kennedy Center. According to the estimate he gave us, $1.5 million could be properly allocated as a Federal cost for the nonpaying guests of the Center.

I recommended that the Senator introduce a bill for reference to the Public Works Committee for proper authorization, which he did. Later the Senator from West Virginia (Mr. RANDOLPH), and I arranged for hearings before the subcommittee of the Senator from Alaska, Senator GRAVEL.

The hearings were held yesterday before the Subcommittee on Buildings and Grounds, of which the Senator from Alaska (Mr. GRAVEL) is chairman; and the Senator from Connecticut is ranking member. The subcommittee recommended that $1.25 million be authorized as an emergency measure. The Senator from Alaska (Mr. GRAVEL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. WEICKER) and I wrote a letter to the Appropriations Committee and informed it that a hearing had been held upon the merits and that we would support an appropriation.

I would like to respond to the inquiry of the Senator from Arizona. From the information we have received it cannot be accurately determined at this stage of the Center's operations what would be a correct allocation of operating costs between nonpaying public use and paying public use. And it cannot yet be determined what the extent of the operating costs are, and whether operating funds have been used for construction costs. It is simply a fact that the Center has been operating only a short time and the facts are not available.

The Senator from West Virginia and I suggested to the Senator from Illinois (Mr. PERCY) and to the committee that we believed it correct to ask for an authorization and appropriation, for the $1.5 million. Before action is taken as to funds required for future needs, hearings should be conducted by the Senate Committee on Public Works. With hearings and the testimony of the proper officers of the Center, and of the Bureau of the Budget, we could determine what the proper allocation of operating costs should be.

I should state to the Senate that I support an appropriation of $1.5 million, for this fiscal year. However, I want to ask the Senator from Illinois a question.

We have discussed this several times and with the Senator from West Virginia (Senator RANDOLPH). The Senator will recall that we talked about the need of $1.5 million for the emergency. I note the last sentence of the amendment:

Provided, That these funds shall be available for obligation only upon enactment into law of S. 2900, 92nd Congress, or similar legislation.

Does the Senator intend this language to be open end legislation for the future?

Mr. PERCY. We would certainly not want to do so in the future. I would think that having in a sense an emergency situation here and responding to it, we would have adequate time when we came back in January to go through the normal channels. I fully support that. I do not like any shortcircuit methods unless it is a true emergency. However, I can assure the Senate that we would have to close the Kennedy Center otherwise.

Mr. COOPER. I understand that. I am for keeping the Center open. That is why I support the $1.5 million appropriation. I was in the Senate when the Eisenhower administration approved the establishment of a center. I was on the Public Works Committee, when it authorized grants in 1964, and the second grants in 1969. I stood on the floor with the Senator and urged the approval of the second appropriation.

But, I am attempting to determine if the Senator's amendment is a $1.5 million emergency measure, or open-ended, for the future. That was not our understanding.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PERCY. Mr. President, I yield the Senator 1 additional minute.

Mr. COOPER. Mr. President, I read from line 5:

Provided, that these funds shall be available for obligation only upon enactment into law of S. 2900, Ninety-second Congress, or similar legislation.

Is it intended to be open-ended for the future?

Mr. PERCY. The bill I offered would authorize an annual appropriation.

Mr. COOPER. I ask if it would be in order to strike the sentence on line 5 beginning with: "Provided, that".

I do not think that an annual appropriation was intended at this time, only an emergency authorization and appropriation. We have no testimony at all bearing on the costs, except as an emergency matter.

Mr. PERCY. I took the language from the House bill, feeling it was desirable to keep the same language which the House had. From my standpoint it is perfectly acceptable to limit this to 1 year and then to go through the orderly process of having hearings and exhaustively look at the budget and select an appropriate amount, whatever in the judgment of the Committee on Public Works would be best.

Mr. COOPER. My suggestion is that on line 5 after the colon, strike the remaining language.

The PRESIDING OFFICER. The Senator's amendment is not in order till all time has been consumed on this amendment. The amendment could be modified.

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. Mr. President, I accept it and I would like to put it in as my own modification, if that would clarify it.

The PRESIDING OFFICER. The Senator has the right to modify his own amendment. Would the Senator state the modification?

Mr. PERCY. I accept the modification.

The PRESIDING OFFICER. Would the Senator send it to the desk so that it may be stated?

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

The PRESIDING OFFICER. On the Senator's time?

Mr. PERCY. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. 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. PERCY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. PERCY. Mr. President, I yield 3 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. GRAVEL. Mr. President, after the hearings yesterday we tried to solicit opinions from all parties, including Mr. STEVENS.

Mr. RANDOLPH. Mr. President, we cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order. Senators will please cease to engage in conversations.

The Senator from Alaska may proceed.

Mr. GRAVEL. Mr. President, it was the spirit of the committee to accommodate the emergency situation which we thought was real. We think there is a situation now that, unless this money is forthcoming, we will see a different use of the Kennedy Center than has evolved or than has been legislated into existence.

It would be the intent of the subcommittee, first, to have hearings immediately on the bill. Speaking for myself and, I believe, for the Members, based on the opinions solicited in the committee, we would be willing to authorize and probably would have authorized it yesterday, had that been what was requested of us, but what subsequently came out was a letter, only because we did not think of an authorization. An authorization would have been passed had it been before us.

I hope Senators will keep in mind the concept here. We are talking about a monument. It happens to be a living monument. It has use extraneous to its use as a monument. We pay the money of taxpayers for the upkeep of monuments. That is the concept here—money to fund the operation of a monument.

In this case the monument is a living monument. It is testimony that we can place these mausoleums to a higher and better use.

I think we will find out what the sum will be as we get experience, but at least we can see this is the amount needed to meet the emergency that evolved, not from the operation of this monument as a theater or a cultural center, but the operation of a building that has attracted hundreds of thousands of Americans because they look upon this building not as a natural art center but a monument to one of our presidents, just as they go to the Lincoln Memorial or the Jefferson Memorial they go to this memorial. Since there are movable particles involved, we seek to assure greater security by putting some items in the center itself.

I think we have to face up to the problem. This is a monument, and it has acquired monumental status. I hope this body will vote this emergency money. The subcommittee would have come forward with authorizing legislation if we had had the time to do so.

I shall be happy to answer questions that may be directed to our subcommittee.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ELLENDER. Mr. President, I yield 5 minutes to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, we share a concern about the subject matter now before us. Our concerns vary, of course, but essentially I think we realize the importance of this unique institution within the District of Columbia. The imprint has already been placed on the structure, and its purpose, by the Congress.

I share completely the thinking of my able colleague from Kentucky (Mr. COOPER), the senior minority member of the Committee on Public Works. He has explained the situation which led to certain action being taken, after consultation with interested parties who have jurisdictional responsibility.

I desire to indicate that the Committee on Public Works, through its Subcommittee on Buildings and Grounds, chaired by the diligent Senator from Alaska (Mr. GRAVEL), attempted to come quickly to a point of responsibility following the introduction recently of legislation by the Senator from Illinois (Mr. PERCY). In fact, we had yesterday a meeting of the subcommittee, and, as the Senator from Alaska has indicated, we were in a certain twilight situation. The committee, through its subcommittee, felt that we should address a letter, which we did yesterday, to the able Senator from Nevada (Mr. BIBLE) in reference to the situation as we understand it to be at the present time.

That letter, Mr. President, has not been read, but I ask unanimous consent that it be placed in the RECORD at this point of my remarks.

It is signed by Senators COOPER, WEICKER, GRAVEL, and myself.

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

WASHINGTON, D.C.,
December 2, 1971.

Hon. ALAN BIBLE,
Chairman, Subcommittee on the Interior, Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: Earlier today, the Subcommittee on Buildings and Grounds of the Committee on Public Works held an urgent hearing on S. 2900, a bill to authorize the appropriation of $1.5 million each fiscal year to defray certain operating and maintenance costs of the John F. Kennedy Center for the Performing Arts.

Because of the large number of non-paying tourists who have visited the Center since its opening, the Center's Board of Trustees contends that it is performing public memorial functions similar to that of the Washington Monument or the Lincoln and Jefferson Memorials. They state that this non- on Public Works would support the inclusion stantial outlays for security, maintenance, utilities and other services. The Board of Trustees has advised the Committee that the financial burden of this memorial function is such that without a subsidy, the Center may be forced to close its doors to the general public.

In light of this situation, the Committee on Public Works would suport the inclusion of 1.250 million dollars for this purpose in the Supplemental appropriations bill for fiscal year 1972 only. We are using this method in the knowledge that your Subcommittee is in mark-up this afternoon. It is our intention to hold further hearings during the next session to determine whether a permanent authorization is justified and to review the relationship of the Kennedy Center to the Congress. However, to avoid the closing of the Kennedy Center to public visitors, the Committee believes that an interim appropriation is proper.

Truly,

JENNINGS RANDOLPH,
Chairman.
MIKE GRAVEL,
JOHN SHERMAN COOPER,
LOWELL P. WEICKER, JR.

Mr. RANDOLPH. We have felt strongly that the vandalism—and I use the word advisedly—which is being committed at the Kennedy Center must be increasingly the concern of the Members of the Congress.

If you visit the Center and check even in a cursory manner, you will see what has taken place in this structure. I am not going to place an estimate on the actual cost of replacement that has been caused by the vandalism, by the thievery, that has taken place in the Kennedy Center.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ELLENDER. I yield 2 minutes.

Mr. RANDOLPH. Now faced with that situation, Senator COOPER, Senator GRAVEL and I—those of us in the Senate Public Works Committee—recognize that there is a certain urgency as presented by the Senator from Illinois in the introduction of his legislation to hope for action that might, I must repeat, bridge the gap.

We are not attempting to provide money for a long period of time. We are only attempting now, because of the urgency of this situation, to support the $1.25 million, or the $1.5 million, for this 1 year. We are not attempting to have it be an open-ended operation, because those of us who ask for the 1-year appropriation are strong supporters of the Kennedy Center. Yet we believe that at

the expiration of the sum there must come not only a closer scrutiny, but there must be a security force provided.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ELLENDER. I yield 2 minutes.

Mr. RANDOLPH. I have joined in the presentation of the amendment with the belief that we must do something now, but not attempt to do more without the Public Works Committee holding hearings on the legislation, developing the facts, and understanding the program. The committee intends to hold further hearings in the next session to fully explore the operation of the Center and to do what may be necessary to strengthen its management. I think the Senate, very frankly, has an obligation to act now to take care of an emergency situation caused by vandalism and destruction. This is not the hour for us to move over a long period of time, as Senator COOPER and others of us believe, in providing money. If it is found necessary to provide additional funds, the Senator now would certainly stand with others in an attempt to bring that to fruition.

Mr. ELLENDER. Mr. President, I yield 5 minutes to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I associate myself with the remarks of the Senator from Illinois. We are both members of the Board of Trustees of the Kennedy Center. The Center has been open only 3 months and it has proved to be a greater attraction for tourists and visitors from all over the country than anticipated. The vandalism, which is like the littering of our streets, was not anticipated. The facility must have security on the one hand, and on the other, there is a requirement to keep it air-conditioned in the summer and heated in the winter. These are expenses not associated with the performing arts.

I do not see how we can possibly refuse the visitors to this city the opportunity to see the memorial, because it has proved to be more attractive than anyone anticipated. In fact, there are three times more people visiting the facilities, like the restaurants, than was foreseen. It has been at much greater interest to visitors than anyone expected.

The alternative to this proposal is to close it to visitors. I cannot believe that the representatives of the people wish to do that, when the public has demonstrated such a great interest in visiting the Center.

As the Senator has said, there was not a long enough history to justify a full hearing. We have had 3 months of experience. Who could have anticipated that a tourist inside an elevator would reach up and pull off the crystal from the light fixture?

As the Senator says, the vandalism that has occurred is incredible. I am sure it is not with evil intentions. It is like the people who steal towels from a hotel. They want a memento.

In any case, it is happening, and we have got to have greater security.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FULBRIGHT. One more minute.

There is no doubt if we keep it open for this purpose, we cannot expect the theaters to pay this kind of expense. A normal theater would close during most of the day. Two-thirds of the time the Center is open it is for the convenience of tourists, not for the purpose for which it was constructed, that is, for the performing arts.

I do not want to mislead anyone by saying this is not going to be a problem for solution in hearings. This is an interim measure, although I hope the Senate will approve further funds for this purpose in the future. I join the Senator from Illinois in urging Senators to pass this measure.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I yield myself 2 minutes.

I should like to notify my colleagues that it is my understanding that a point of order will be raised. In that event, it would be my intention, pursuant to the notice of intent I filed on December 2, to file a motion to suspend the rules. If the motion to suspend the rules is sustained, then it would be my intention to strike from the motion before us the words "provided that these funds shall be available for obligation only upon enactment into law of S. 2900, 92d Congress, or similar legislation," which would then clearly leave this an obligation of $1.5 million, period.

It is my understanding that the Public Works Committee will have hearings, and will thoroughly investigate and study this matter.

Mr. President, the amendment which I am now offering is to provide an appropriation of $1,500,000 for the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. This is a matter of great importance and of extreme urgency.

Yesterday, Mr. Roger Stevens, Chairman of the Board of the Kennedy Center, and I appeared before the Senate Public Works Committee to urge that these funds be authorized and appropriated at the earliest possible time. Unless these funds are made available, the Kennedy Center will soon be closed except for the performances.

Mr. President, the Kennedy Center represents a much needed investment in the performing arts in this country. This enterprise, begun by President Eisenhower, nurtured along by President Kennedy, further by President Johnson, and completed during this administration, has enjoyed as well the strong continuing assistance and interest of the Senate over these 14 years. The marble structure on the banks of the Potomac ranks among the greatest performing arts structures in capitals throughout the world and certainly is a showcase for the arts in this country.

The amendment presently under consideration will enable the Kennedy Center to fulfill its commission by providing much needed funds for the nonperforming arts aspects of the Kennedy Center program. By nonperforming aspects, I am talking specifically about expenses such as security, utilities, maintenance, and operation incurred because the Center is intended to be more than a performance hall; it is expected to be available as well as a tourist attraction for millions of visitors each year as a memorial to the late President Kennedy. In this respect it is similar to the Washington Monument and Lincoln and Jefferson Memorials. The expense of these memorials is of course borne by the Federal Government, and in my opinion, the same should hold true to this extent for the Kennedy Center. I should emphasize at this point that this amendment is intended in no way to subsidize performing arts expenses. It relates only to expenses connected with the nonperforming public or memorial aspects of the Center.

The funds which have been raised through private sources and ticket receipts have had to be channeled already in large portion to these nonperforming arts areas in order to keep the building open to the public. If this continues we will no doubt fall short of our requirements to carry out the performing arts and educational aspects of the Kennedy Center. Obviously, if this occurs, the quality of programs will be severely diluted.

Mr. President, if we fail to appropriate funds, there seems to be only one real alternative: close the building to the public, as is done in other theaters, keeping it open only at performance times. But, in my opinion, this would be both tragic and contrary to the important services attributable to the memorial aspect of the Center.

Mr. President, in 1969 on the floor of the Senate I spoke in favor of an amendment to the Kennedy Center Act which appropriated funds and created a borrowing authority to complete construction of the Center. At that time I reported the view of the other trustees of the Center indicating that if this amendment passed, as it eventually did, they felt there would be no need to return to Congress again for construction funds, and I indicated further that in such case I would have nothing to do with any later request for additional construction funds.

The Senate Public Works Committee requested GAO to make a full-scale fiscal examination of the Center in which it was estimated that the final construction cost would be $66.2 million. I am pleased to say that this figure has proven its reliability except for the delay damage claims asserted subsequent to the completion of the GAO report by contractors and subcontractors. The claims were brought to our attention by the General Services Administration, the Government's agent for design and construction, and are based on allegations that these damages are due to the delay in constructing the building. This controversy actually caused walk-outs by the workers and a threatened shut-down of the facility which certainly would have caused even greater costs. The trustees advanced over $2 million in private funds to prevent having to incur these costs and to continue construction of the building.

The trustees of the Kennedy Center are eager to keep the Congress fully informed of the full financial condition of the Center. This additional data

should not distract us from our main objective of appropriating $1.5 million for the nonperforming arts aspects. Yesterday, in testimony before the Senate Public Works Committee I urged the committee to undertake a full review and study of the problems the delay claims have posed.

In asking the committee to undertake such a review I do not feel that I was acting inconsistently in light of my earlier statements on this matter. These delay damage claims cannot properly be considered as part of the construction costs discussed in the 1969 legislation. They grew out of labor problems rather than the construction itself. Without the delay claims the project would have been completed for the estimated $66.2 million.

The trustees insured the opening of the building in September by their stop gap action of advancing private funds but the time of reckoning has come as to the payment of these delay claims. It is my hope that the committee will act to clear up this question in the very near future.

In the meantime, the most immediate and critical need is for the $1.5 million provided by my amendment. Those of us entrusted with the responsibility for overseeing the successful operations of this great Center consider this need for funds to be of emergency proportions.

I urge that the Senate consider carefully Mr. Stevens' warning of yesterday that if the Kennedy Center were unable to stay open daily for tourists the public demand and interest expressed by our constituencies would be sufficient to reopen the Center within a week. Neither I nor any of my colleagues here would, I am certain, want to be in that kind of position.

Mr. President, my remarks today contain the essence of the testimony I gave yesterday before the Public Works Committee, so that we will have a full and complete picture, as complete as a trustee of the Center can give, as complete a picture as I can give of the financial status of the Center as it relates to past representations on the floor of the Senate by myself and by the distinguished Senator from Arkansas when we asked for assistance with the construction fund, so that we would not have to mothball the Center and put it away, and simply stop the construction, because we had reached an impasse.

Mr. President, I would like to express my deep appreciation for the comments that have been made this afternoon on this floor, and for the support that has been offered by the cosponsors of the amendment.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. ELLENDER. Mr. President, I yield myself 10 minutes.

I wish to say that this matter was considered by the full committee, and a vast majority of the members of the committee were very sympathetic to the proposal. The only objections urged were that it was not authorized, and that it might be well that the Public Works Committee go into the matter before we start making appropriations for this purpose.

I am not trying to blame anyone for being delinquent in tending to this business, but I am informed that a similar bill was introduced in the House of Representatives last July, hearings were held on that bill, and the House committee has not yet reported that bill. Why I do not know. But I am informed that there was some opposition to it. This is a privately owned building, and why the Federal Government should spend any money to maintain it, was the question.

As far as I personally am concerned, I can well understand that this great structure for the performing arts was built, really, from Federal funds and from funds that were collected from private concerns and from citizens of our country, and that if ways and means can be found to operate the administration of the building and charge the Federal Government for moneys to administer it for the purpose of entertaining our visitors, the same as we do for the Lincoln Memorial, the Jefferson Memorial, and others, I can see no objection to that. My only objection is that the proposal is not before us in the proper form, that the money should be authorized and appropriated in the regular manner.

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

Mr. ELLENDER. I yield.

Mr. YOUNG. Mr. President, I have to take the same position as the distinguished chairman in this matter. It is not authorized. The amendment was offered in the Committee on Appropriations. Had we accepted the amendment, it could have been subject to a point of order, and the whole bill could have been sent back the committee.

One of the Members of the Senate visited the Kennedy Center just recently, and he said all the building was closed except at times of performances, except the corridors. He and his son visited them, and that is all that is open now. So, really, I cannot see that there is such an emergency right now. If there had been some real justification for it, this really should have been brought up at least a couple of weeks earlier. We always get these emergencies in the last 3 or 4 days of a session.

As the chairman has pointed out, the authorizing bill was introduced in the House of Representatives some 4 months ago, and has not been approved, and no consideration taken. If this amendment goes in the bill and it goes to conference, even though the House conferees agree to it, under their rules it automatically is subject to a point of order on the House side.

So there is a real problem involved, and I would hope that we could wait until the appropriation is authorized.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, will the Senator from Illinois yield me a minute?

Mr. PERCY. Mr. President, I yield whatever time the distinguished Senator from Arkansas may require.

Mr. FULBRIGHT. First, I ask unanimous consent that my testimony before the Subcommittee on Public Buildings and Grounds yesterday be made a part of my remarks.

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

STATEMENT OF SENATOR J. W. FULBRIGHT

Mr. Chairman, I would like to thank you for the opoprtunity of appearing before this distinguished Subcommittee in consideration of S. 2900, which would authorize an annual appropriation of up to $1.5 million for the public, memorial, or, in other words, nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. I appear today in a dual capacity: first as a concerned member of Congress and second as one of the three Senate designees to the Center's Board of Trustees.

This Committee can take particular pride in having authorized the building which now graces the banks of the Potomac. Many have helped to bring this project to fruition, but no group deserves higher praise than this Committee, which has monitored the entire project, lending critical assistance and advice to make the Center a reality.

Your work goes back to 1958 when you considered and approved a bill which I was honored to introduce, S. 3335, which was subsequently approved by the Senate. After similar action in the House on a bill introduced by the distinguished Congressman of New Jersey, Frank Thompson, and approved by President Eisenhower, the National Cultural Center was born. Though the National Cultural Center was conceived to be primarily supported by private funds, it nevertheless represented a truly historic milestone because of a national commitment to encourage the performing arts represented by a national institution.

The entire concept was vastly expanded in 1963, with greater federal participation, after the tragic death of President Kennedy, who had shown a genuine interest in the National Cultural Center.

When the Kennedy Center was renamed as such to memorialize the late President, the Congress vested in the Board of Trustees responsibilities greater than anyone had previously envisioned for the National Cultural Center.

It is for assistance in meeting these added responsibilities that the Board of Trustees of the Kennedy Center seek the authorizing legislation of S. 2900, of which I am a cosponsor. The justification for this annual appropriation is plainly evident. As a public memorial similar to the Washington Monument and Lincoln and Jefferson Memorials and as a public building of great interest to the millions of tourists who visit the Nation's Capitol yearly, the request of the Kennedy Center for operation and maintenance funds has strong precedent and, in fact, is quite reasonable under the circumstances.

The distinguished former Commissioner of Public Buildings, William A. Schmidt, who is now the Kennedy Center's Executive Director for Engineering, has thoroughly analyzed the costs of the Kennedy Center, which are comparable to those of these other memorials and public buildings, and has ascertained that a $1.5 million authorization is justified. I understand that his testimony will clarify for the Committee the basis for the estimate that $1.5 million is necessary for the nonperforming arts functions of the Kennedy Center.

The Trustees of the Kennedy Center have succeeded in creating an appropriate memorial to the late President, which has brought a series of successful performing arts attractions to our Nation's Capitol. On September 8, 1971, the Opera House of the Kennedy Center opened and on the 9th of September the Concert Hall had its first performance. And the third great theater, the

Eisenhower Theater, was opened on October 18, 1971. Numerous works, many original and involving the Nation's and the world's foremost artists have been presented in the Kennedy Center during the past three months, and have received both national and international acclaim.

Every building has its critics, and the Kennedy Center is no exception; however, no critic has raised a question about the functional superiority of the Kennedy Center's three halls. All have been said to have acoustics equal to those of any in the world.

Thus, at the cost of approximately $70 million, the Nation and its capital have been provided with a facility which is benefitting to their stature in the world, but, even more importantly has introduced a new dimension to our national cultural fabric. And, I should point out that the taxpayers did not pay the full cost since over $28 million of the total has been underwritten by private gifts and another $20 million of the total cost is attributable to loans from the Federal Treasury which the Trustees of the Kennedy Center are committed to repay from the receipts from the parking garage of the building. The grant of Federal funds thus far is only $23 million.

The $1.5 million requested will not be used for any of the performing arts and educational functions of the Kennedy Center. It will defray non-performing arts expenses incurred because of the Center's unique dual function. Therefore, I urge the Committee's prompt approval of S. 2900 so that the Trustees can appropriately direct their attention to the Center's performing arts and educational activities.

I also understand that the Committee has been advised that the Trustees have an urgent immediate need for an additional $3 million to meet delay damage claims which have been asserted by the contractors and subcontractors of the Kennedy Center, and which surfaced after the 1969 legislation. This revelation to the Committee has been made by the Trustees in the interest of sharing fully with the Congress problems of operation and construction of the facility. Our present preoccupation should be the appropriation of $1.5 million for the memorial, non-performing arts aspects of the Center. However, I would recommend that in the near future this Committee consider amending the Act to provide a $3 million additional borrowing authority which would alleviate the problem without an additional federal appropriation.

Such claims were unknown when the Congress first considered the 1969 amendments, the last amendments to the Kennedy Center Act. At that time, the Trustees indicated that the total budget for construction of the Kennedy Center was $66.2 million. However, since the Congress first considered the 1969 amendments, the General Services Administration, the government's experienced agent for construction of public buildings, which was utilized by the Board of Trustees for the Kennedy Center, disclosed that the subcontractors and general contractors intended to assert claims against the government for damages due to excessive delay.

The total of these claims as of this date is approximately $6 million and represents a cost item not contemplated at the time of the 1969 legislation. These were more than mere paper claims as critical subcontractors have walked off the job during the past two years in their efforts to obtain prompt settlement of the claims.

After reviewing all the claims and with the advice of General Services Administration, the General Accounting Office, and competent counsel, the Board of Trustees advanced from non-appropriated private funds money sufficient to let critical subcontractors complete their jobs in order to complete the building without further delay and escalation in cost. Now I hope this Committee will shortly consider an expanded borrowing authority to deal with this problem.

I believe we have achieved in the Nation's Capital a focal point for cultural activity in the United States of which we can be proud. But the energies of our Board must be directed to an ever improved and expanded performing arts program. This is why I support an appropriation by Congress to take care of non-performing arts aspects of the Center.

Thank you.

Mr. FULBRIGHT. The Senator from Louisiana said this was a private building. It is no more a private building than the Museum of Technology, which is under the Smithsonian Institution. The board of trustees——

Mr. ELLENDER. It was privately constructed.

Mr. FULBRIGHT. No, it was not privately constructed. It was mutual. There is $23 million in Government grants in this $70 million building. $27 million of it was given by private sources, and there is a loan balance of $20 million. I am speaking of the building itself. The land was originally Government land, dedicated for this purpose by an act of Congress in 1958. It belongs to the Government in the same sense that the Smithsonian Institution belongs to the Government. It has a board of regents, chaired by the distinguished Chief Justice. It is really a public building just as the National Gallery is a public building. This is just as publicly owned as is the Lincoln Memorial, except that private citizens did contribute to its construction, and surely that should not be held against it. $27 million was raised from private funds.

The Center is permanent. It was agreed, in the legislation passed by both Houses shortly after his assassination that this would be the memorial to President Kennedy. This was declared by law as the only memorial to President Kennedy, and we meant the only one, for which the Federal Government assumed responsibility. There are others, of course, administered by local authorities.

The Senator speaks of delay. I do not know what happened in the House of Representatives, but I can say for myself, we had no prior experience in this matter. The Center has been opened only since September. Such things as the Senator from West Virginia mentioned, no one could have believed. Even now it is hard to believe that American citizens going through a building like this would reach up and grab crystals off the chandeliers or would otherwise deface this beautiful building.

With respect to its being open, all the corridors are open, and they are enormous. All the public rooms for the restaurants, the cafeteria, the garages, are open. When they are having a rehearsal, say, in the Eisenhower Theater, of course, they cannot then open the theater to the public. What they expect to do, given sufficient money for guards, is to open it for regular tours, somewhat like the White House is open. The big problem is to supply enough guards to prevent vandalism from taking place. Imagine letting people on tour walk through the stage area of a theater. They could completely demolish it, and they cannot let them go in without supervision. The intention is to allow them to do that, with proper guards.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PERCY. Mr. President——

The PRESIDING OFFICER. The Senator from Illinois has no time remaining.

Mr. ELLENDER. I yield 3 minutes to the Senator.

Mr. PERCY. Mr. President, so that the RECORD may be perfectly complete, I ask unanimous consent to have printed at this point in the RECORD a memorandum from the general counsel of the Kennedy Center, Ralph E. Becker, dated December 3, 1971, in which he states very clearly at the Attorney General of the United States has rendered a letter of opinion indicating that the site of the John F. Kennedy Center is public land under the jurisdiction of the U.S. Park Service of the Department of the Interior. I also ask unanimous consent to have printed in the RECORD a letter from the Comptroller General, dated May 12, 1966, indicating that the Kennedy Center is an "executive agency" within the meaning of section 302 of the Federal Property and Administrative Services Act of 1949, and that the building is a "public building" within the meaning of the United States Code.

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

JOHN F. KENNEDY CENTER
FOR THE PERFORMING ARTS,
December 3, 1971.

Re ownership of John F. Kennedy Center.

MEMORANDUM

The John F. Kennedy Center Act, 72 Stat. 1698, as amended, provides that the site of the John F. Kennedy Center is to be assembled by the National Capital Planning Commission (Sec. 3), which was accomplished prior to the commencement of building construction. Upon assembly, the subject lands were titled in the United States with jurisdiction in the United States Park Service of the Department of the Interior. A letter dated June 24, 1966 (copy attached) was sent by the General Counsel of the Kennedy Center to the Attorney General of the United States and requested an opinion in favor of title of the site for the Center. A letter dated August 3, 1966 from the Attorney General to Roger L. Stevens (copy attached) confirmed that valid title to be vested in the United States of America had been acquired for the site of the Kennedy Center. All lands constituting the site of the Kennedy Center remain titled in the United States. The building itself, pursuant to the Act (Sec. 3), was constructed for the Smithsonian Institution. The opinion of the Comptroller General, B–154459 dated May 12, 1966, is in concurrence with the position that the Kennedy Center is an "executive agency" within the meaning of Sec. 302 of the Federal Property and Administrative Services Act, 1949, as amended, 41 U.S.C. 252, and that the building is a "public building" within the meaning of 31 U.S.C. 682.

RALPH E. BECKER,
General Counsel.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., August 3, 1966.

Re: File No. 33–9–414. District of Columbia.

Hon. ROGER L. STEVENS,
Chairman, John F. Kennedy Center for the Performing Arts,
Washington, D.C.

MY DEAR MR. CHAIRMAN: An examination has been made of the title evidence and related papers pertaining to certain land in

which interests have been acquired under authority of existing legislation. The land and estate acquired by the United States are more particularly described in Schedule A attached hereto.

The title evidence and accompanying data disclose valid title to be vested in the United States of America subject to the rights and easements noted in Schedule A which your Agency has advised will not interfere with the proposed use of the land.

Sincerely yours,

NICHOLAS DEB. KATZENBACH,
Attorney General.

SCHEDULE A

Project: John F. Kennedy Center for the Performing Arts, located in District of Columbia.

Estate Aquired: Fee simple.

Description: All of Squares 10, 11, 12, South of 12, Lots 9, 10, 19, 21, 22, 24, 800, 801, 802, 803, 804, 805, 806, 815 in Square 20, the closed portions of New Hampshire Avenue, 26th Street, D Street, E Street, the alley in Square south of 12 and a portion of the alleys in Square 20, and the adjacent portion of the Rock Creek and Potomac Parkway as shown on a plat recorded in the Office of the Surveyor for the District of Columbia in Liber 133 at folio 29.

The title is subject to the following:

1. Existing easements for subsurface utility lines, water lines and sewer lines.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 12, 1966.

Mr. ROGER L. STEVENS,
Chairman, Board of Trustees, John F. Kennedy Center for the Performing Arts, Washington, D.C.

DEAR MR. STEVENS: We have a letter dated March 1, 1966, from Mr. Ralph E. Becker, General Counsel for the Board of Trustees, who requests our advice upon the propriety of negotiating a contract for the construction of the John F. Kennedy Center for the Performing Arts, rather than proceeding by advertisement for bids. Mr. Becker notes that you and representatives of the General Services Administration (GSA), which agency is said to act as the Center's agent for the design and construction of the building, are members of a Committee to which the Board of Trustees has given authority and power with respect to the plans of the building, and that the Committee has recommended the contract be negotiated rather than advertised.

Mr. Becker asks if we concur in his opinion that the Trustees of the John F. Kennedy Center for the Performing Arts are by the terms of the John F. Kennedy Center Act, approved September 2, 1958, P.L. 85–874, 72 Stat. 1698, as amended, excluded from the requirements of the Federal Property and Administrative Services Act of 1949, approved June 30, 1949, Ch. 288, 63 Stat. 377, as amended, and are therefore free to negotiate instead of advertise the construction contract for the Center building.

With respect to whether you are free to negotiate instead of advertise the subject contract, you have submitted at our request letters from the Chairmen of the Senate and House Committees on Public Works, the Senate Committee on Appropriations, and the House Subcommittee of the Committee on Appropriations, before whom you had earlier testified that contracts for the Center building would be awarded on the basis of competitive bidding, according to standard GSA procedures. The first two letters indicate that it was not the intention of those two Committees to impose a rigid or irrevocable requirement that the contract be awarded pursuant to the procedures of competitive advertising. The latter two letters reference letters from you to the Chairmen which mention the above noted testimony, and ascribe to our Office the opinion that on the basis of the present record we would have no legal objection to negotiation of the general construction contract for the Center building. The Chairmen indicate that under these circumstances their Committees have no objection to negotiating the subject contract if our Office has no objection to such procedure. We conclude from these four letters that the funds appropriated for the construction of the Center building were not intended to be irrevocably conditioned upon the use of competitive advertising procedures in awarding the contract for such construction.

Turning to the question whether the John F. Kennedy Center Act excluded the Trustees from the requirements of the Federal Property and Administrative Service Act, we note that the first mentioned Act created a bureau within the Smithsonian Institution, and authorized its Board of Trustees to solicit contributions for, and to construct, the Center building for the Institution. Section 302 of the Federal Property and Administrative Services Act of 1949, as amended, 41 U.S.C. 252, provides that "Executive agencies" shall make procurements in accordance with the provisions of Title 3 of that Act except when the subject Title is made inapplicable by other law. Although this Office has never ruled upon the question of whether the Smithsonian Institution is an "Executive agency," we are advised that it is the view of counsel in the General Services Administration that the Smithsonian Institution is considered an independent establishment in the Executive branch of the Government, and an "Executive agency," as those terms are used in the Federal Property and Administrative Services Act of 1949 and in the Reorganization Plan No. 18 of 1950. The General Services Administration has concluded that its basic authority to act as agent for the Center in the design and construction of the building depends upon the status of the Smithsonian Institution as a Federal and an Executive agency within the meaning of those terms as used in the Federal Property and Administrative Services Act of 1949. We see no clear reason to disagree with these views, acceptance of which would appear to support the conclusion that any contract for construction of the Center should be made in accordance with the 1949 Act.

On the other hand, the John F. Kennedy Center Act, as originally approved on September 2, 1958, imposed no limitations or restrictions on the power of the Board with respect to the manner of carrying out its authority to construct what was then referred to as the "National Cultural Center." Section 5(c) of the Act, the language of which section has not been subsequently amended, provides that the actions of the Board, including any payment made or directed to be made by it from *any trust funds*, shall not be subject to review by any officer or agency other than a court of law. Moreover, in our decision of B–145878, dated September 1, 1961, we had occasion to consider the unique character and status of the Smithsonian Institution, of which the Center is a bureau, and concluded that the discretionary powers of the Board of Regents with respect to such functions as the management and control of the buildings of the Institution, which functions are generally financed with trust funds, are not subject to the statutes usually applicable to Government buildings. However, prior to the amendment to the John F. Kennedy Center Act, approved January 23, 1964, Public L. 88–260, 78 Stat. 4, which changed the name "National Cultural Center" to "John F. Kennedy Center for the Performing Arts," the only funds which were to be involved in the construction of the building were trust funds acquired through public contributions.

The amendment of January 23, 1964, authorized the appropriation of Government funds to the Board, in an amount to match public contributions up to $15.5 million. You will recall that by letter of November 27, 1964, your General Counsel, Mr. Becker, requested the decision of this Office as to the period of availability of the funds appropriated for construction of the Center, stating it to be his opinion, as well as that of counsel for the Bureau of the Budget and General Services Administration, that the amount appropriated as the Federal share of the cost of the Center "is an appropriation for construction of a public building which will remain available until completion of construction in accordance with the quoted statutory provision (31 U.S.C. 682)." This interpretation, which was accepted and agreed to by our decision B–154459, December 9, 1964, appears to be inconsistent with the view that the amount appropriated became automatically a part of the trust funds of the Board, subject to its control without review "by any officer or agency other than a court of law."

Since the Board of Trustees is a bureau within the Smithsonian Institution, it would appear to enjoy the same authority as the Institution's Board of Regents with respect to the management and control of the Center which it has been authorized to construct for the Institution. B–154459, dated October 30, 1964. However, in the absence of any contrary provision in the appropriation act, it is our opinion that purchases of equipment or facilities for the Institution for which funds have been appropriated by the Congress must be made in accordance with the general provisions of law governing the expenditure of appropriated funds. 41 Comp. Gen. 177. The amendment of January 23, 1964, did not exempt the Board from procurement laws which ordinarily apply to the disposition of Government funds. Moreover, the Report on the subject amendment explained that since the bill provided for the expenditure of Federal funds in connection with the Center, "it is clear that the Director of the Bureau of the Budget and the Comtroller General must and do have authority to examine and audit the financial records of the Board for all purposes." See House Report No. 1050, 88th Congress. Therefore, we believe the 1964 amendment should be construed as modifying the powers of the Board at least to the extent of requiring that expenditures involving the $15.5 million appropriation be in accord with general procurement laws governing the expenditure of such funds.

Mr. Becker asserts that even if the general procurement laws are applicable, the subject contract may be negotiated without advertising pursuant to section 302(c)(10) of the Federal Property and Administrative Services Act of 1949, which provides for such negotiation where it is impracticable to secure competition. In support of such assertion he has submitted numerous reasons why negotiation of the contract is desirable. GSA shares this opinion, and has supplemented the record to indicate the reasons for its agreement.

Section 1.3–305(b) of the Federal Procurement Regulations, issued in implementation of section 307 of the Act, provides that a determination and findings on the impracticality of securing competition shall set forth enough facts and circumstances to clearly and convincingly establish that the use of formal advertising would not be feasible or practicable. To date no determination or findings, as such, has been issued but on the basis of the facts, circumstances and conclusions in the record submitted to us by your office and the GSA it would appear that a substantial basis can be said to exist to justify a determination that the use of formal advertising would not be practical. Therefore, on the present record our Office would have no legal basis for questioning negotiation of the subject contract under exception 10 of section 302(b) of the Federal

Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)(10)) and section 1.3-210 of the Federal Procurement Regulations, provided you and your agent in this matter, the GSA, issue a joint determination setting forth the facts and circumstances which clearly and convincingly establish that the use of formal advertising is neither feasible nor practicable.

If we may be of any further assistance to you in this matter, please do not hesitate to call upon us.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

JOHN F. KENNEDY CENTER
FOR THE PERFORMING ARTS,
Washington, D.C.,
June 24, 1966.

Hon. NICHOLAS DEB. KATZENBACH,
The Attorney General,
Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: Under the provisions of Title 40, United States Code, Section 255, a written opinion is required in favor of the validity of the title to land proposed to be used for the construction of public buildings. This letter is to request that such an opinion in favor of the title of the site of the John F. Kennedy Center for the Performing Arts be rendered.

Enclosed herewith are deeds, certificates of title, and other evidences of title, including a copy of an order by the Commissioners of the District of Columbia closing certain streets and alleys and ordering their reversion to the abutting title-holder, the United States, as provided in Section 7-401, District of Columbia Code.

I would appreciate it if you would send your opinion to Roger L. Stevens, Chairman, John F. Kennedy Center for the Performing Arts, 1701 Pennsylvania Avenue, N.W., Washington, D.C., with one copy to me as General Counsel.

If you have any questions or desire any further data or information, I would be happy to furnish same.

Thank you for your consideration of this request.

Very sincerely yours,

RALPH E. BECKER.

ENCLOSURES

General Services Administration: Letter dtd. Dec. 10, 1965; Opinion of Atty. Genl. dtd. Oct. 14, 1948; Opinion of Atty. Genl. dtd. Sept. 1, 1965.

National Park Service: Letter dtd. Dec. 20, 1965; Map No. 8746 from Surveyor's Office.

District of Columbia Government: Letter dtd. June 8, 1966; Order No. 66-131 dtd. Feb. 4, 1966 re closing streets and alleys.

John F. Kennedy Center for Performing Arts:

Extract of Bd of Trustees Meeting—May 17, 1965.

Extract of Executive Committee Meeting—June 3, 1965.

Letter dtd. Jan. 28, 1966 from Title Co. to Center.

Deed of Gift dtd. July 19, 1965 from Heurich heirs to Kennedy Ctr.

Deed dtd. Dec. 2, 1965 from Kennedy Ctr. to U.S.A.

National Capital Planning Commission:

Land Acquisition Memoranda: #53, 64, 65, 72, 73, 74, 75-A.

Opinion of Atty. Genl. dtd. Jan. 7, 1963.

Opinion of Atty. Genl. dtd. May 3, 1966.

Deed dtd. Oct. 12, 1965 from Wards to U.S.A.

Deed dtd. Feb. 21, 1963 from Stokes to U.S.A.

Deed dtd. Feb. 19, 1963 from Gildenhorns to U.S.A.

Certificate of Title dtd. Jan. 23, 1961.

Certificate of Title dtd. Mar. 15, 1961.

Certificate of Title dtd. Dec. 14, 1964.

Certificate of Title dtd. Dec. 14, 1964.

Certificate of Title dtd. July 7, 1965.

Certificate of Title dtd. Sept. 4, 1965.

Mr. PERCY. So there seems to be no question whatever that this is a public building, public property built on public land, and it is owned by the people of the United States—no one else. The trustees simply act to operate it as best we can. They are appointed by the Senate, by the House of Representatives, and by the President of the United States. They function at the direction of Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the John F. Kennedy Center Act.

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

JOHN F. KENNEDY CENTER ACT

An act to provide for a John F. Kennedy Center for the Performing Arts which will be constructed, with funds raised by voluntary contributions, on a site made available in the District of Columbia

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

SECTION 1. This Act may be cited as the "John F. Kennedy Center Act".

BOARD OF TRUSTEES

SEC. 2. (a) There is hereby established in the Smithsonian Institution a bureau, which shall be directed by a board to be known as the Trustees of the John F. Kennedy Center for the Performing Arts (hereinafter in this Act referred to as the "Board"), whose duty it shall be to maintain and administer the John F. Kennedy Center for the Performing Arts and site thereof and to execute such other functions as are vested in the Board by this Act. The Board shall be composed as follows: The Secretary of Health, Education, and Welfare, the Librarian of Congress, the Assistant Secretary of State for Public Affairs, the Chairman of the Commission of Fine Arts, the President of the Board of Commissioners of the District of Columbia, the Chairman of the District of Columbia Recreation Board, the Director of the National Park Service, the Commissioner of the United States Office of Education, the Secretary of the Smithsonian Institution, three Members of the Senate appointed by the President of the Senate, and three Members of the House of Representatives appointed by the Speaker of the House of Representatives ex officio; and thirty general trustees who shall be citizens of the United States, to be chosen as hereinafter provided.

(b) The general trustees shall be appointed by the President of the United States and each such trustee shall hold office as a member of the Board for a term of ten years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (2) the terms of any members appointed prior to the date of enactment of the National Cultural Center Amendments Act of 1963 shall expire as designated by the President at the time of appointment, and (3) the terms of the first fifteen members appointed to the Board pursuant to the amendments made by the National Cultural Center Amendments Act of 1963 shall expire, as designated by the President at the time of appointment, three on September 1, 1964, three on September 1, 1966, three on September 1, 1968, three on September 1, 1970, and three on September 1, 1972.

(c) There shall be an Advisory Committee on the Arts composed of such members as the President may designate, to serve at the pleasure of the President. Persons appointed to the Advisory Committee on the Arts, including officers or employees of the United States, shall be persons who are recognized for their knowledge of, or experience or interest in, one or more of the arts in the fields covered by the John F. Kennedy Center for the Performing Arts. The President shall designate the Chairman of the Advisory Committee on the Arts. In making such appointments the President shall give consideration to such recommendations as may from time to time be submitted to him by leading national organizations in the appropriate art fields. The Advisory Committee on the Arts shall advise and consult with the Board and make recommendations to the Board regarding existing and prospective cultural activities to be carried on in the John F. Kennedy Center for the Performing Arts. The Advisory Committee on the Arts shall assist the Board in carrying out section 5(a) of this Act. Members of the Advisory Committee on the Arts shall serve without compensation, but each member of such Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in connection with the work of such Committee.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

SEC. 3. The Board shall construct for the Smithsonian Institution with funds raised by vountary contributions, a building to be designated as the John F. Kennedy Center for the Performing Arts, on a site in the District of Columbia bounded by the Inner Loop Freeway on the east, the Theodore Roosevelt Bridge approaches on the south, Rock Creek Parkway on the west, New Hampshire Avenue and F Street on the north, which shall be selected for such purpose by the National Capital Planning Commission. The National Capital Planning Commission shall acquire by purchase, condemnation, or otherwise, lands necessary to provide for the John F. Kennedy Center for the Performing Arts and related facilities. Such building shall be in accordance with plans and specifications approved by the Commission of Fine Arts.

DUTIES OF THE BOARD

SEC. 4. The Board shall—

(1) present classical and contemporary music, opera, drama, dance, and poetry from this and other countries,

(2) present lectures and other programs,

(3) develop programs for children and youth and the elderly (and for other age groups as well) in such arts designed specifically for their participation, education, and recreation,

(4) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts,

(5) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President.

POWERS OF THE BOARD

SEC. 5. (a) The Board is authorized to solicit and accept for the Smithsonian Institution and to hold and administer gifts, bequests, or devises of money, securities or other property of whatsoever character for the benefit of the John F. Kennedy Center for the Performing Arts. Unless otherwise restricted by the terms of the gift, bequest, or devise, the Board is authorized to sell or exchange and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property composing trust funds given, bequeathed, or devised to or for the benefit of the John F. Kennedy Center of the Performing Arts. The income as and when collected shall be placed in such depositaries as the Board shall determine and shall be subject to expenditure by the Board.

(b) The Board shall appoint and fix the compensation and duties of a director, an assistant director, and a secretary of the John F. Kennedy Center for the Performing Arts and of such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the

efficient administration of the functions of the Board. The director, assistant director, and secretary shall be well qualified by experience and training to perform the duties of their office.

(c) The actions of the Board, including any payment made or directed to be made by it from any trust funds, shall not be subject to review by any officer or agency other than a court of law.

ADMINISTRATION

SEC. 6. (a) The Board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations, as it deems necessary for the administration of its functions under this Act, including, among other matters, bylaws, rules, and regulations relating to the administration of its trust funds and the organization and procedure of the Board. The Board may function notwithstanding vacancies and twelve members of the Board shall constitute a quorum for the transaction of business.

(b) The Board shall have all the usual powers and obligations of a trustee in respect of all trust funds administered by it.

(c) The Board shall submit to the Smithsonian Institution and to Congress an annual report of its operations under this Act, including a detailed statement of all public and private moneys received and disbursed by it.

(d) The Board shall transmit to Congress a detailed report of any memorial which it proposes to provide within the John F. Kennedy Center for the Performing Arts under authority of paragraph (5) of section 4 of this Act, and no such memorial shall be provided until the Board of Regents of the Smithsonian Institution shall have approved such memorial.

TERMINATION

SEC. 7. (a) This Act shall cease to be effective, and all offices created by this Act and all appointments made under this Act shall terminate, if the Board of Regents of the Smithsonian Institution does not find that sufficient funds to construct the John F. Kennedy Center for the Performing Arts have been received by the Trustees of the John F. Kennedy Center for the Performing Arts within eight years after the date of enactment of this Act.

(b) If the offices of Trustees of the John K. Kennedy Center for the Performing Arts terminate under the provisions of subsection (a), all funds and property (real and personal) accepted by the Trustees of the John F. Kennedy Center for the Performing Arts under section 5(a), and income therefrom, shall vest in the Board of Regents of the Smithsonian Institution and shall be used by the Board of Regents of the Smithsonian Institution to carry out the purposes of the Act entitled "An Act to provide for the transfer of the Civil Service Commission Building in the District of Columbia to the Smithsonian Institution to house certain art collections of the Smithsonian Institution," approved March 28, 1958, and for the acquisition of works of art to be housed in the building referred to in such Act; except that such funds or property, and the income therefrom, shall vest in an organization designated by the donor of such funds or property at the time of the making of the donation thereof, if, at such time, such organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and is exempt under section 501(a) of such Code, and if, at such time, a contribution, bequest, legacy, devise, or transfer to such organization is deductible under section 170, 2055, or 2106 of such Code.

APPROPRIATIONS

SEC. 8. There is hereby authorized to be appropriated to the Board for use in accordance with this Act, amounts which in the aggregate will equal gifts, bequests, and devises of money, securities, and other property, held by the Board under this Act, except that not to exceed $23,000,000 shall be appropriated pursuant to this section.

BORROWING AUTHORITY

SEC. 9. To finance necessary parking facilities for the Center, the Board may issue revenue bonds to the Secretary of the Treasury payable from revenues accruing to the Board. The total face value of all bonds so issued shall not be greater than $20,400,000. The interest payments on such bonds may be deferred with the approval of the Secretary of the Treasury but any interest payments so deferred shall themselves bear interest after June 30, 1972. Deferred interest may not be charged against the debt limitation of $20,400,000. Such obligations shall have maturities agreed upon by the Board and the Secretary of the Treasury but not in excess of fifty years. Such obligations may be redeemable at the option of the Board before maturity in such manner as may be stipulated in such obligations, but the obligations thus redeemed shall not be refinanced by the Board. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average rate on current marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of the obligations of the Board. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Board to be issued under this section and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of the Board's obligations under this section.

GIFTS TO UNITED STATES

SEC. 10. The Secretary of the Treasury is authorized to accept on behalf of the United States any gift to the United States which he finds has been contributed in honor of or in memory of the late President John F. Kennedy and to pay the money to such appropriation or other accounts, including the appropriation accounts established pursuant to appropriations authorized by this Act, as in his judgment will best effectuate the intent of the donor.

NATIONAL MEMORIAL

SEC. 11. The John F. Kennedy Center for the Performing Arts, designated by this Act, shall be the sole national memorial to the late John Fitzgerald Kennedy within the city of Washington and its environs.

Mr. PERCY. Mr. President, to conclude the legislative history, I should like to advise Senators that yesterday, when I offered this amendment before the full Appropriations Committee, it prevailed by a 2-to-1 vote.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ELLENDER. I yield 1 additional minute to the Senator.

Mr. PERCY. It was then pointed out to the Senator from Illinois that if this amendment were incorporated in the bill, the whole supplemental appropriation might be subject to a point of order. On that basis, not wishing, as a member of the committee, to endanger the work that committee has put in over a period of months, I then withdrew my amendment, with the understanding that the amendment would be fully supported on the floor by the distinguished chairman and by other distinguished members of the committee, except those who, for reasons of their own, have chosen to oppose this particular provision.

I think this completes the legislative history, and I would be happy to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ELLENDER. Mr. President, I yield to the Senator from Maine.

Mrs. SMITH. Mr. President, I raise the point of order that this is legislation without authorization on an appropriation bill.

The PRESIDING OFFICER (Mr. BEALL). In the opinion of the Chair, the point of order is well taken, because under rule XVI, paragraph 1, the amendment is subject to a point of order.

The amendment is also subject to a point of order because it involves a contingency. It provides that these funds shall be available by obligation only upon enactment into law of S. 2900, 92d Congress, or similar legislation.

The Chair sustains the point of order.

Mr. PERCY. Mr. President, pursuant to the motion of intent I filed December 2, to request suspension of the rules, I now move the suspension of paragraphs 1 and 4, rule XVI.

The PRESIDING OFFICER. How much time does the Senator yield himself? Twenty minutes is available on this motion—10 minutes to the proponent of the motion and 10 minutes to the Senator from Maine.

Mr. PERCY. I reserve such time as I have, and I will be happy to be preceded by the distinguished Senator from Maine.

Mrs. SMITH. Mr. President, on this motion I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. It is my understanding that it would take a two-thirds vote of the Senate.

The PRESIDING OFFICER. The Senator is correct. It will take a two-thirds vote.

Mr. PERCY. Mr. President, what is the question?

The PRESIDING OFFICER. The question is, Shall the Senate sustain the motion of the Senator from Illinois to suspend the rule?

Mr. PERCY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Maine yield back her time?

Mrs. SMITH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the motion has been yielded back.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Is a vote "aye" a vote to suspend the rule?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the motion of the Senator from Illinois. 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 Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Minnesota (Mr. HUMPHREY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "nay," and, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

On this vote, the Senator from Delaware (Mr. BOGGS) and the Senator from Massachusetts (Mr. BROOKE) are paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Massachusetts (Mr. BROOKE) would each vote "yea" and the Senator from Texas (Mr. TOWER) would vote "nay."

The yeas and nays resulted—yeas 55, nays 23, as follows:

[No. 436 Leg.]

YEAS—55

Anderson	Hollings	Percy
Bayh	Hughes	Randolph
Beall	Inouye	Ribicoff
Bentsen	Jackson	Roth
Bible	Javits	Schweiker
Burdick	Kennedy	Scott
Byrd, W. Va.	Magnuson	Sparkman
Case	Mansfield	Spong
Chiles	Mathias	Stafford
Cook	McGee	Stennis
Cooper	McIntyre	Stevens
Cranston	Mondale	Stevenson
Eagleton	Montoya	Symington
Eastland	Moss	Talmadge
Fong	Muskie	Tunney
Fulbright	Nelson	Weicker
Gravel	Packwood	Williams
Harris	Pastore	
Hart	Pell	

NAYS—23

Aiken	Fannin	Metcalf
Allen	Goldwater	Miller
Bellmon	Griffin	Pearson
Byrd, Va.	Gurney	Proxmire
Curtis	Hansen	Smith
Dominick	Hruska	Thurmond
Ellender	Jordan, Idaho	Young
Ervin	Long	

NOT VOTING—22

Allott	Church	McClellan
Baker	Cotton	McGovern
Bennett	Dole	Mundt
Boggs	Gambrell	Saxbe
Brock	Hartke	Taft
Brooke	Hatfield	Tower
Buckley	Humphrey	
Cannon	Jordan, N.C.	

The PRESIDING OFFICER. On this question, two-thirds of the Senators present having voted in the affirmative, rule XVI is suspended.

Several Senators addressed the Chair.

Mr. PERCY. I send to the desk a modification of my amendment. The modification is a very simple modification.

The PRESIDING OFFICER. Will the Senator suspend? The Senator from Illinois will have to submit the identical amendment which would then be open to amendment.

Mr. BYRD of West Virginia. Mr. President, except by unanimous consent.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 782

Mr. PERCY. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

Page 4, after line 8, insert the following:

SMITHSONIAN INSTITUTION

THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for maintaining and operating the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $1,500,000: *Provided*, That these funds shall be available for obligation only upon enactment into law of S. 2900, Ninety-second Congress, or similar legislation.

Mr. PERCY. Mr. President, I ask unanimous consent to modify my amendment by striking out the words beginning with the word "Provided," on line 5 through the remainder of the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment as modified reads as follows:

Page 4, after line 8, insert the following:

SMITHSONIAN INSTITUTION

THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for maintaining and operating the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $1,500,000.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois as modified.

Mr. PERCY. Mr. President, I do not think there will be any occasion to debate the amendment as modified if the distinguished chairman of the committee is willing to accept the amendment as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois as modified.

The amendment was agreed to.

Mr. TUNNEY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 11, line 6, strike out "$687,157,000" and insert in lieu thereof "$707,157,000"; and strike out "$197,816,000" and insert in lieu thereof "$217,816,000".

Mr. TUNNEY. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. TUNNEY. Mr. President, I ask unanimous consent that the names of the Senator from California (Mr. CRANSTON) and the Senator from South Carolina (Mr. HOLLINGS) be added as cosponsors of my amendment.

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

Mr. TUNNEY. Mr. President, this amendment is a simple one, but one that is most important, I believe. It would add an additional $20 million for health profession school construction grants.

Mr. President, as the Appropriations Committee report on this bill states, the future success of the whole health manpower program may well depend on the construction of health educational facilities. Yet the administration requested only $82 million of the $225 million authorized, despite the fact that there is already a backlog of $840 million in approved but unfunded construction grant applications.

Through the able leadership of the Senator from Washington (Mr. MAGNUSON), the chairman of the HEW Subcommittee, the Appropriation Committee has increased the funds for construction grants by an additional $88.6 million.

Yet, in the face of the tremendous need throughout the country, I believe an additional increase is most necessary. For example, in the State of Washington there are at present $8.1 million in grant applications approved but unfunded. In Massachusetts, the figure is $32.7 million. In South Carolina, $27 million. And in California, $94.7 million. I might add, Mr. President, that of that amount, more than $13 million in California is at the stage where construction can begin immediately.

There is no need for any additional review by the agency. There are similar examples throughout the country.

Mr. President, I think it is particularly important, as we consider this amendment, to listen to the rhetoric of the administration on this very point. In an address today to the annual meeting of the Council of State Governments, Presidential Counselor Robert Finch is quoted as saying that the administration is now emphasizing the supply side of medical care because there is now a shortage of personnel. He said, according to the UPI wire story of today, that the country has lost five medical schools within the past 5 years and that about 40 percent of the medical personnel now in practice in the United States has been trained abroad.

Mr. President, I submit that out of the mouths of the administration, truth has come. In the face of those comments by Mr. Finch today, and in the face of the very great need for trained medical personnel in this country, this additional $20 million is most appropriate.

It is particularly important as we continue to debate the need for and means of achieving a health insurance program for all Americans at some date in the near future.

Mr. MAGNUSON. Mr. President, it all gets down to the fact that we are trying to have a real forward thrust toward providing more and better trained medical personnel throughout the country. We know that we have a shortage of 50,000 doctors. We know that

the medical schools are in financial trouble. Some of them are not only in financial trouble but also do not have physical facilities so they can add to their usual quota of students.

We would like to start moving on this. I know that there is a great backlog of qualified applicants in the medical schools in the State of Washington and also in the State of California, and elsewhere.

The amazing fact to me is that the authorization, despite the fact that it states the figure the Senator has mentioned—which I believe was——

Mr. TUNNEY. $225 million.

Mr. MAGNUSON. It only authorized $225 million.

The administration request was $82 million and we went up to $170 million, almost double. We are getting pretty close to the authorization ceiling.

But I do not see any particular reason why we should not take this to conference, because if ever there was a crying need today it is the need to develop enough health personnel to take care of the health needs of America. We are 50,000 doctors short.

Two years ago we put extra money in this bill. We had testimony from the administration that they were going to try to enroll 1,200 more medical students than normally would be graduated from these schools. We gave them the extra money. I do not know what happened. They reported the next year they were able to add only 346 to help meet that shortage of 50,000.

Now, we are almost on a treadmill. We are not making any progress but we are hopeful. We are hopeful because of the cooperation of the medical schools all over the country and their administrators. We may be able to pick up more than we think. Many of the schools are shortening their curriculums. Many of them are going year around. Many of them are trying to train people as physicians' assistants and many are starting new and innovative programs.

I hope that the Senate approves the comprehensive nurses program, the capitation and other parts that we did not have any budget request for.

I do not need to tell Senators about the shortage of dentists. Just make an appointment with a dentist and miss it and see when the next appointment can be made. There will be a long wait. Fifty percent of all children under the age of 12 have never been seen by a dentist in this country and never have been in the office of a dentist.

These are the things we are trying to get at. I want to take it to conference and get as much as we can, and come as close as we can to the authorization.

I am glad to accept the amendment.

Mr. TUNNEY. I thank the Senator. I have had private conversations with the Senator about this matter. I can say that he has been most understanding of the needs of our medical schools and is aware of the particular needs of my own State of California.

Mr. MAGNUSON. I wish I could take even more but I know the practicalities of the matter. But if we are going to talk about the forward thrust in health in America it gets down to a matter of improving delivery. That is where the crisis is.

Mr. TUNNEY. The Senator is correct. There is not a Member of this body who is not aware of the fact that we must provide the resources to deliver adequate health care to all Americans.

Mr. MAGNUSON. Our biomedical research people are the best in the world but it is a question of delivery of health care.

Public health programs are also involved here. We have money here for the public health schools. In almost any city it is difficult to get a public health administrator, and that deals with preventive medicine, vaccinations, X-rays, and all these programs aimed at prevention of disease.

I am glad to take the amendment. I hope we can get the House to agree to the full amount.

Mr. TUNNEY. I thank the Senator.

Mr. MAGNUSON. The full committee and the subcommittee have been sympathetic with us in moving quickly on this matter.

Mr. TUNNEY. I deeply appreciate the Senator's statement and I appreciate his willingness to accept and support this much needed increase.

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

Mr. MAGNUSON. I yield.

Mr. CASE. The Republican members of the subcommittee support the amendment and we are very happy to say so. On a personal note, I support it strongly. We need this money in southern New Jersey for a new medical school and I am sure for other things.

While I cannot make the speech our chairman made or add the weight his support will bring to the amendment, what little I can do I offer.

Mr. MAGNUSON. I did not mean to ignore the Republican member of the committee. I am so used to looking over and seeing the Senator from New Hampshire. He and I talked these things over. I presume the Senator from New Jersey is taking over for the Senator from New Hampshire.

Mr. CASE. I have been asked to do so. I am happy to be a member of the choir.

The ACTING PRESIDENT pro tempore. Who yields time? Do Senators yield back the remainder of their time?

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

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

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment of the Senator from California (Mr. TUNNEY).

The amendment was agreed to.

FUNDING FOR HEALTH MANPOWER PROGRAMS

Mr. CRANSTON. Mr. President, I would like to congratulate Mr. ELLENDER, chairman of the Committee on Appropriations and Senator MAGNUSON, chairman of the Subcommittee on Labor-HEW appropriations for the excellent supplemental appropriations bill they have reported from committee. Again they have shown their responsiveness to the needs of the Nation and have produced a supplemental appropriations bill which reflects the true needs of those programs of priority importance to the Nation.

I was particularly pleased with the committee's action on the appropriations for the health manpower programs of the National Institutes of Health. These programs provide the critically needed manpower resources for our Nation's health system, a high priority with Congress and with the President as he stated in his health message of February 18.

However, despite the avowals of firm commitment and dedication on the part of the administration to bend every effort to meet the health manpower needs of the Nation, when the opportunity was presented them to match this verbal zeal with money, they faltered and presented a request for funding of these programs well below the levels authorized.

In some cases, they asked for 60 percent of the amount authorized; in others even less. The committee is to be congratulated for its action in substantially increasing the amount requested by the President in almost every category.

One of the most critical areas is that of institutional grant support. The administration had suggested funding these programs at the level of 60 percent for health professions schools and had suggested not funding them at all in the case of nursing schools. In testimony before the Appropriations Subcommittee, I had urged that these programs be fully funded. I am delighted that the committee has recommended 80 percent support for institutional grants to schools of medicine—which includes my amendment in the law for physician's assistant capitation—osteopathy and dentistry, and 88 percent for the other schools of the health professions. In the case of nurse training schools, the committee has recommended funding at the level of 80 percent whereas the administration had requested zero funding.

Another area which I felt needed considerably more support financially than the administration requested and for which I urged the committee to recommend substantially higher funding is that of construction of health education and research facilities.

The committee, again, has recognized the critical need for support of construction and recommended an appropriation of $170,616,000, an increase of over $88 million more than double over the administration request for construction of health professions schools and health research facilities. I was also delighted that the committee is recommending an appropriation of $25 million for construction for nursing schools, an increase of $15.5 million over the administration request.

The need for additional funds in the area of student support has been one the Committee on Appropriations has recognized and acted upon generously and responsively in the past. Again, the committee has expressed its concern for the financial difficulties students are facing today by recommending increased funding for student loans and scholarships for both health professions and nursing students.

Adequate funding for student support programs is another issue upon which I

focused in my testimony before the committee, and I am glad the committee has recommended substantial increases in these areas. Of particular note is the committee's recommendation of full funding of student loan programs for nursing students, and of 80 percent for health professions students. Scholarship support was increased over the administration request by almost $20 million for health professions students and by almost $15 million for nursing students.

Among other programs for which I asked a funding increase over the administration request were the programs to encourage the recruitment and retention of disadvantaged students in both the health professions and nurse training schools.

While I am disappointed the committee accepted the administration suggested figure for these programs in nursing schools, and did not provide for funding above the earmarked level for this vital program in health professions schools, on balance the committee has done a most responsive and responsible job.

Mr. President, I covered these subjects in some depth in my testimony before the Subcommittee on Labor-HEW Appropriations, and ask unanimous consent that the full text of my November 29 testimony before the subcommittee be printed in the RECORD at this point.

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

STATEMENT OF SENATOR ALAN CRANSTON

Mr. Chairman, thank you for the opportunity to present this statement.

This century has seen a growing need for and acceptance of the involvement of the federal government in the creation and development of the nation's social institutions.

As little as 100 years ago, responsibility for the social environment and the alleviation of social ills was considered the province of the individual citizen. Since then, the rapid growth of the United States, in terms of population, land area, and increased knowledge and capability to deal with social problems has made reliance on such a system impossible.

With this growth, our nation has had to develop institutions and institutional systems to cope with the complexity of issues involved in creating a liveable social environment for our citizens. As these institutions grew, we resorted to organizational methods or as it is proudly called "good old American know-how" to provide social services to the people. In the process, organization itself became institutionalized and the intended beneficiary—the individual and his needs—became secondary rather than being the primary purpose and focus of the "system."

This process of institutionalization has brought with it new problems. Today all our social institutions are in a state of change in response to demands made by the rising expectations of a more aware and enlightened citizenry. Nowhere is this more so that with the institutions of health care and health manpower education.

CONGRESSIONAL RESPONSE TO NATIONAL NEEDS

Congress has manifested its recognition of heightened demand by a series of legislative initiatives over the past 25 years—from support of hospital construction, continuing through extension of health services to our retired citizens under Medicare as well as to those outside the mainstream of the system under Medicaid, to support of medical research and medical education. Currently, major legislation is being considered to change dramatically our nation's system of providing health care in order to correct the inequities that still exist.

Likewise, I believe Congress has responded to national needs in the development of the Comprehensive Health Manpower Training Act of 1971 (P.L. 92–157) and the Nurse Training Act of 1971 (P.L. 92–158). These two Acts extend the legislative authorities of the federal government for support of the training of men and women in the health fields, and, I believe, should lead to improved capacities in our training institutions to produce more professionals and to prepare them better to meet the increasing demands being made upon their skills and their time. I was privileged as a member of the Health Subcommittee of the Labor and Public Welfare Committee to be involved with the writing of this legislation from subcommittee through conference committee.

This legislation is indispensable to reaching the national goal of making health care accessible to all in our land, and its funding and implementation is crucial in developing the manpower resources needed to meet this goal. I urge you to be as generous as possible in recommending adequate appropriations levels for the statutory authorities in these two new public laws.

I would like to concentrate on just five specific categories in these training programs—construction; institutional support; student support; support of programs to broaden the makeup of student bodies economically, socially and ethnically; and training of family practitioners.

CONSTRUCTION

The new health professions legislation authorizes an appropriation of $225 million for construction grants for schools of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, public health, and health research facilities. An additional $8 million is authorized for subsidized interest payments on loans (either guaranteed or not) by the federal government to schools.

However, one critical aspect of these authorities is that the amount of loans which may be guaranteed and the amount of loans for which subsidy payments may be made are limited to the amount of grant funds obligated in any fiscal year. Thus, the amount appropriated for construction grants will set the ceiling for the amount available for guaranteed loans and the interest-subsidized loans. The maximum amount which may be provided for construction through grants and loans under this authorization would be $500 million, which sounds like a very generous sum of money. However, given the backlog of over $800 million in approved but unfunded construction grant applications, this total authorization is a realistic estimate of proven need. Of this $800 million, applicants for more than half, some $450 million, have already taken all the necessary steps to acquire local matching funds and to clear title to land and are ready to go to contract immediately.

Among these projects are three which are vitally necessary to my state of California: (1) $9.4 million for one of our new schools of medicine—the University of California at San Diego—which will provide for a clinical sciences building basic to the School of Medicine's building program; (2) $2.4 million for renovation and expansion of the Loma Linda School of Dentistry; and (3) $2.4 million for expansion of the California College of Podiatric Medicine.

California also has some $85 million in approved construction grants which are not quite ready to go to contract but which will be ready in the near future. Among these are a major construction program for the University of California at San Francisco's School of Dentistry. This school is at present operating at full capacity. I am advised that without the additional space which would be made available through a construction grant, it cannot add one more student. Thus, the school will be unable to meet the mandatory enrollment increase of the new legislative authority, thereby jeopardizing its eligibility for any form of federal financial support. This situation exists in many other health professions schools. In order for these schools to follow the expressed intent of Congress to increase their production of graduates, they must be able to rely on support of their construction programs by the federal government. I urge your subcommittee, Mr. Chairman, and the full Committee on Appropriations to recommend funding of the construction programs at the full level of the authorization.

The need for support for construction for nursing schools is no less urgent. Many of these schools are in obsolete facilities, severely restricting their ability to provide quality training programs for their current student load. The new authorities in the Nurse Training Act of 1971, as with the health professions schools, require a five percent increase in student enrollment for nursing schools to be eligible for federal financial support. Where facilities are already inadequate to student needs, they will be seriously delinquent with an expanded student body. Fiscal year 1971 saw 34 nursing schools' applications for construction programs meet with full DHEW approval, but remain unfunded due to budgetary limitations. These projects alone totaled almost $27 million with an additional $13 million worth of projects awaiting review. In view of these figures, the administration budget request of $9.5 million for FY 1972 is unrealistic. I would hope your committee will settle on a funding level more reflective of the national need for expanded production of nurses.

INSTITUTIONAL SUPPORT

Both the health professions and the nurse training legislation contain provisions for strong institutional support through capitation grants which will at the same time provide incentives to increase enrollments, shorten curricula, make needed improvements in methods of training, and develop new types of health professions assistants and nursing specialists. Through this combination of incentives the educational institutions should, I believe, be able to produce the professionals to fill the role that will be required of them as our nation moves more effectively and efficiently to provide health care to all.

But the great promise of these new authorities will be frustrated unless full funding of institutional support is provided to ensure a continuing level of federal support upon which hard pressed health professions and nursing schools can place reliance.

I wish to stress, Mr. Chairman, that although the authorized level of federal support of the schools through the capitation method will provide considerably more funding than in the past, this funding will be forthcoming only if those institutions meet certain criteria with respect to substantial innovations, which in themselves will be costly to the schools. The basic requirement is a mandatory enrollment of 5% or ten students in first year places for schools whose entering class size is more than 100 and of 10% if the entering class size is 100 or less. To qualify for bonus funding, an enrollment increase of 5% or 5 students over and above the mandatory increase or a shortened curriculum is required. On top of that, schools are required to submit plans to carry out innovative programs over the next three years—such as projects to:

Effect significant curriculum improvements.

Establish cooperative training among health professions schools in the various disciplines.

Train for new roles, types or levels of health personnel, including physicians assistants, dental therapists, nurse practitioners.

Make innovative modifications of existing programs of education in the health professions.

Increase significantly the supply of adequately trained personnel.

Increase admissions of qualified individuals who due to socioeconomic factors are financially or educationally disadvantaged.

In the case of schools of the health professions, establish increased emphasis on and training in the science of clinical pharmacology, drug and alcohol abuse prevention and treatment; the science of nutrition, and the efficiency of various therapeutic regimens.

In the case of schools of nursing, provide in-serve or other training to upgrade the skills of licensed vocational nurses, nursing assistants, aides and other paraprofessional personnel.

This plan requirement is the result of an amendment I offered and is an essential part of my rationale for substantially increased federal assistance. National needs require rapid change, not more of the same in health manpower training.

This plan requirement is the result of a requirement of a substantial investment of resources on the part of the schools. I think this is just; indeed, it is necessary. But it would be tragic if the federal government were to fail to live up to its obligations under this arrangement. The amount authorized for capitation grants is $200 million for schools of medicine, osteopathy and dentistry; $34 million for schools of veterinary medicine, optometry, pharamacy, and podiatry; and $78 million for schools of nursing.

These figures were based on projections provided the respective House and Senate committees by DHEW on the numbers of students who would be enrolled in these schools this school year. They are realistic projections of the respective capitation grants corresponding to the actual number of students in each discipline. A reduction in the amount appropriated from that authorized, will mean each school will receive commensurately that much less. A severe reduction such as the administration requests for FY 1972 funds ($120 million, $20.4 million and zero for nurses) would be tragic.

This administration proposed level of support, I feel, would be totally unacceptable, would thwart congressional intent, and would result in placing many of our health training institutions in positions of extreme financial distress. One of the deans of a California health professions school, took pencil to paper and computed the federal support he would receive under the new legislative authorities if they were funded at the administration level of appropriations. He discovered he would receive less than he had in previous years, and in order to receive this shortfall would be required to increase his enrollment by an additional 10 students. That ridiculous situation requires no elaboration.

Although the administration is willing to fund financial distress grants at the full level authorized, it is a poor strategy to cut basic institutional support to a level where more and more schools will be driven to the brink of disaster before they can receive adequate federal support. This kind of funding brinksmanship is not only disastrous from the standpoint of effective educational programming but is downright wasteful in terms of basic notions of economical management.

Underfunding of basic capitation support would serve to defeat the basic purposes of these bills. Mr. Chairman, I urge appropriation of the full authorizations for the institutional support grants.

TRAINING OF PHYSICIANS' ASSISTANT AND DENTAL THERAPISTS

Included in the new Health Manpower Act as a separate institutional grant is capitation for students in full-time programs for the training of physicians' assistants or dental therapists, a program I proposed in Committee. The training of these new types of health professionals may be the best investment America can make in health care. Where these new types of health personnel have been utilized to date, they have proven themselves to be indispensable extenders of the professional's ability to treat patients, they have received wide acceptance from patients as well as from other professionals, and in short, have measurably expanded the capacity of our health system to meet the growing demand for services. The development of these professional extenders is crucial to the expansion of the provision of adequate health services to a greater proportion of our population. For example, they offer one clear way to make rural or small town practice of medicine or dentistry more attractive by reducing appreciably the physical, mental and time demands made on the physician or dentist. These new professionals also offer a much needed opportunity for more intimate contact and interpersonal relationships between the health care provider and the patient since the health professional assistant will have more time to personalize the rendering of his services.

When Congress completes its consideration of various national health plans—a greatly enlarged supply of these valuable men and women will be essential. Without full funding of the capitation authorizations, I fear that development of these new types of professionals will be the type of program first sacrificed by our already strained health professions institutions. The legislation authorizes a capitation payment of $1,000 per student in these programs. The administration request of funding at 60% of authorizations would mean a reduction in this level of support to only $600 per student. The annual costs of training these young men and women is high. Studies have shown this cost to be comparable to the annual cost of training a physician because of the compressed-time nature of their education, although the total cost is considerably less due to far shorter training period.

STUDENT SUPPORT

The rising cost of living has also impacted on the student. Your committee gave full recognition to this critical situation when you recommended last summer, in the FY 1972 appropriations act, a $3 million and $5 million increase, respectively, over the budget request for scholarships for health professions and nursing students and a $5 million and $4 million increase, respectively, for direct loans for health professions and nursing students. The final appropriation represented a total increase of approximately $9.5 million over the administration's request in all student support categories. Without your leadership in this area, Mr. Chairman, this substantial increase in support to students in the health and nursing professions could not have been achieved.

I have long felt our students in these scarce professions, which also require a large personal financial investment, need greater support in their efforts to pursue a career in health. This is why I proposed an increase in the student support provisions in separate legislation well over a year ago when I introduced S. 4296 in the 91st Congress. This bill was reintroduced in January of this year as S. 372 and certain of its provisions are incorporated in P.L. 92–157 and P.L. 92–158. These provisions increase the amount of scholarships which can be provided an individual student from $2,500 to $3,500 for health professions students. Also nursing student scholarships are increased from $1,500 to $2,000. The legislation also provides scholarship funds to the health professions institutions on a formula basis. By projecting this formula it is estimated $56,700,000 should be allocated to schools of the health professions for scholarship funds, and that $55,500,000 should be allocated to nursing schools.

The FY 1972 appropriations act already includes appropriations of $15,500,000 for health professions student scholarships and $19,500,000 for nursing student scholarships. The administration has asked for no additional funds in either category. With the increased amounts which may be provided each scholarship student, and with the increased and highly laudable efforts health professions and nursing schools are making to attract more students from low-income and disadvantaged backgrounds, I believe the need for scholarship funds will be greater than it has ever been in previous years. One Medical School of the University of California alone currently has a backlog of one million dollars in actual scholarship assistance needed. I urge this Subcommittee, Mr. Chairman, to recommend substantially more funding in these student assistance categories than is currently appropriated.

At the same time, many students will still also be relying on loans to make ends meet. For the past two years, the administration has consistently obligated less than was appropriated for student loans. Such holdup of funds works an exceedingly severe hardship on the student from a disadvantaged family, since the alternative—loans from private sources—are exceptionally difficult for such an individual to obtain. The bills authorize an addition to the student loan funds of $50 million in the case of the health professions schools and $25 million for nursing schools. The FY 1972 appropriation bill last summer included an appropriation of $30,000,000 for health professions student loans and $21,000,000 for nursing student loans. I urge appropriation of the differences needed to bring the amounts made available up to the level of the authorization.

FULL UTILIZATION OF EDUCATIONAL TALENT

A component of both the Health Professions and Nurse Training acts is a provision, which I authored in the Senate, for the recruitment and retention of individuals with a high potential for training, who because of economic or socially disadvantaged backgrounds would not without special encouragement seek training in the health professions. Grants are authorized in both bills for the purpose of identifying such individuals, encouraging and assisting them to enroll in a health professions or nurse training school, or if they are not qualified to enroll in such school, to assist them in undertaking such training as may be required to qualify them for enrollment; to publicize existing sources of financial aid available to students; and to establish programs which will enhance and facilitate programs which will enhance and facilitate the enrollment, pursuit and completion of study by such individuals.

In the case of the nurse training bill, a specific authority is made to publicize to licensed vocational nurses and other nursing personnel sources of financial assistance available to nursing students. Hopefully, implementation of this provision will result in the movement of more licensed vocational nurses into the ranks of professional nursing (and nursing assistants to become licensed vocational nurses) and the eventual recognition of this well-qualified individual as a prime source of recruits to the nursing profession.

I believe these provisions will enable many highly qualified individuals to enter the health professions who currently are dissuaded from doing so because of seemingly insurmountable social and financial roadblocks. One of the greatest defects in our health system is the disproportionate representation of minority groups in the health professions. The Carnegie Commission on Higher Education stated:

"The need to train more minority-group physicians and dentists is crucial. They can play a leadership role in stimulating more emphasis on adequate health care services and health education for minority groups, and they can undoubtedly relate to patients of their own races more effectively than white practitioners."

As health services are extended to those low-income individuals not adequately served at present, many of them members of minority groups, this need will become more apparent and the lack of minority representation at the professional level will become even more glaring. The provisions in these bills will enable us to make a significant start toward rectifying this situation.

Funds to support these programs for the health professions are included in the $45 million authorized for the health manpower education initiative awards. Of funds appropriated under these authorities, no less than $2.5 million and no more than 7.5% of the amount appropriated is to be allocated to these programs. Thus, the greater the funding the higher the permissible level of expenditure for this vital program.

In the Nurse Training Act, $3.5 million is authorized for these purposes. The Administration has requested $20 million of the $45 million authorized under the health professions legislation, and $2 million of the $3.5 million authorized in the Nurse Training Act. Because of the language earmarking funds for these purposes in the health professions legislation, the amount requested by the administration will not severely limit the funds available to those schools but *will* result in a reduction of $875,000 from the maximum authorized for these purposes.

On the other hand, however, the administration request of only $2 million for support of these programs in nursing schools if approved would constitute a severe reduction which will seriously affect the nursing schools' ability to carry out effective recruitment and retention program for disadvantaged students.

The health education schools have looked at their enrollment figures honestly and have come to realize that they must make positive efforts to reduce the stark discrepancies in enrollment percentages of minorities. Whereas three years ago 95 percent of medical students were white, one year ago this figure had been reduced to 90%. In my state of California where the figure in 1968 had been 94.7% white, in 1970 it was 83%. Where schools have made an effort, the results have been outstanding, although I hasten to add that a great deal more progress is necessary to rectify the racial and ethnic imbalance which has pervaded health professions education for far too long.

The University of California at San Diego in 1970 had a minority representation in its entire school of medicine of 21%, while U.C. Davis had a minority representation of 17.4%. The University of California at San Francisco last year had minority representation in its first year class of 26%. Achievement of these percentages at these top flight universities, whose high educational standards are without question, is proof that the same percentages can be achieved at other schools. It was achieved at these schools however, only with a full commitment on the part of the schools' administration. The California Medical Association describes the efforts as follows: "Many medical schools have initiated minority student recruitment programs in recent years; however, few have been as highly committed to this effort as the U.C. School of Medicine at San Francisco. In addition to waiving application fees and occasionally, tuition for the minority student, UCSF has also designed summer programs offering special academic assistance and basic science courses for the entering medical student from a racial minority group. The school's admissions committee includes seven minority representatives from the faculty, four minority students, and three minority physicians from the community."

Moreover, representation of women in the enrollments of health professions schools is no less out of balance than is that of the economically and educationally disadvantaged. Actually, women suffer from a third type of disadvantage—they are disadvantaged as a result of social custom and practice. Congress has made a strong effort to correct this inequity by amending the legislation to prohibit discrimination on the basis of sex. Thus, any school discriminating on the basis of sex in admission to its training programs will be ineligible for any federal financial support.

I'd like to put in another plug for the achievements of my State of California in this field too. Whereas AMA figures indicate that the total percentage of women entering medical schools in the last decade has been limited to between 7 and 10 percent, the enrollment of women at the six medical schools of the University of California in 1971 averages out to almost 12 percent with a high of 16.5% at the San Diego campus.

Obviously, the success of these minority recruitment programs was not achieved without strenuous efforts and a significant investment of the school's financial resources. To make this same kind of achievement possible at other schools, considerable financial support will be needed from outside sources. I hope that this subcommittee will enable the federal share of these costs to be an adequate one by recommending appropriations generously for this item.

TRAINING OF FAMILY PRACTITIONERS

There is just one other item among several critical support categories which I would like to emphasize—the special support which the Comprehensive Health Manpower Training Act provides for programs for training in family medicine. The new authorities include a provision for grants to public or private nonprofit hospitals for the development of educational programs in the field of family medicine. Such programs would include training for interns, residents, practicing physicians, or medical students. Authority is also included for special financial assistance ot participants in such programs. This type of practice is the less glamorous side of medicine; there are no exciting breakthroughs creating a demand for public notice, there are no dramatic achievements which can attact heavy endowments to a hospital or university. Instead there is the steady trust and mutual satisfaction that develop in enduring close relationships with family units, and what is most important there is a continuing provision of preventive care—an all important factor in keeping a family and a nation healthy.

The special incentives of the recently enacted law will make it possible for hospitals to offer training in this critically needed specialty. The authorization is for $25 million, yet the administration has requested only $5 million. This pathetic response, given the grandiose dimension of the national need, is a far cry from the amount of the authorization of the Family Practice of Medicine Act of the 91st Congress, which the President failed to sign.

(That legislation authorized $50 million in grants for the first year of operation plus an additional $8 million for planning.) I hope your subcommittee will increase the budget request to a level more reflective of congressional intent and the national need for more family practitioners.

CONCLUSION

I am grateful to you, Mr. Chairman, for giving me the opportunity to present my deep concern for adequate funding for our health professions and nurse training schools. As a member of the Subcommittee on Health, and as chairman of the Subcommittee on Health and Hospitals of the Veterans Affairs Committee, I am deeply aware of the numerous obstacles (some of their own creation) these institutions must overcome and of the substantial changes they will have to make in order to keep up with the dynamics of our society. The two new public laws constitute Congress' recognition of the Federal responsibility to aid these institutions in their efforts to meet national needs, and I know you gentlemen will be just and generous in your decisions, just as you were in so many instances in making recommendations for health funding in the FY 1972 Appropriation Act.

Mr. COOPER. Mr. President, I note that the Senate Appropriations Committee, at page 12 of the committee report, has recommended for the Department of the Interior's Bureau of Mines an additional $975,000 for grants under section 503 of the Federal Coal Mine Health and Safety Act of 1969.

Section 503 authorizes Federal grants to assist States, first, for developing and enforcing effective coal mine health and safety laws and regulations; second, for improving State workmen's compensation programs and occupational disease laws relating to coal mines; third, for promoting better Federal-State coordination in improving coal mine health and safety.

Because of the many problems arising with respect to the administration and enforcement of the act and particularly with respect to the Bureau of Mine's regulations implementing the act, there is a need for greater State participation and coordination with the Bureau of Mines in administering the Federal and State laws. I support the committee's recommendation for these additional funds to strengthen our State programs. I would also hope that some of these funds would be available as authorized under paragraph 2 of section 503 to improve the administration of "black lung" programs.

I also note that the committee has authorized an additional appropriation of $1 million over the House allowance for the development and purchase of specialized equipment needed to detect and rescue trapped miners as a result of recommendations by the Bureau of Mines based on its research.

I would like to make a few brief comments concerning research programs for coal mine health and safety and the policies that the Bureau of Mines has adopted with respect to these programs.

Section 102(a)(1) of the act requires the Secretary of the Interior to appoint an Advisory Committee on Coal Mine Safety Research and section 102(a)(2) establishes the committee's responsibilities:

The advisory committee shall consult with, and make recommendations to the Secretary on matters involving or relating to coal mine safety research. The Secretary shall

consult with, and consider the recommendations of such committee in the conduct of such research, the making of any grant, and the entering into of contracts for such research.

The Secretary's Advisory Committee has been appointed and has met several times this year. I am informed, however, that members of this important advisory group are not consulted nor is their advice sought by Bureau of Mines' officials with respect to the Bureau's decisions on particular research projects. In fact, the Bureau of Mines recently authorized some $10 million for research projects to improve techniques in coal mine safety without affording the Secretary's Advory Committee an opportunity to consider the feasibility and the desirability of the particular research projects, to review and suggest alternative projects that may have a more immediate effect in improving coal mine health and safety.

It is my view that the Bureau of Mines should undertake specific research before promulgating a particular regulation so as to determine the feasibility of the regulations and whether such regulations actually contribute to safety. Such research could also provide technical knowledge and improvements in technique and equipment to help the industry comply with the Bureau's regulations. I know, for example, that there is a need for greater research efforts for the prevention of falls of roof, rib, and face which cause a majority of the fatalities in the coal industry today. In addition to recommending and suggesting short-term research projects designed to facilitate compliance with the present law and regulations I would also hope that the Advisory Committee would have an opportunity to assist and to make recommendations in the development of long-term research programs.

Many members of the Secretary's Advisory Committee are experts in certain areas of coal mine safety and their advice and experience should be utilized to the fullest extent. I know that it will prove valuable to the Secretary in his consideration and determination of the types of research programs that will better advance the health and safety of all those who work in our underground coal mines. I believe it incumbent on the Bureau of Mines to carry out the intent of Congress as set forth in section 102 of the act and to provide the membership of the Secretary's Advisory Committee on Coal Mine Safety an opportunity for a full and active participation in the development of these important research programs. The Bureau of Mines should obey the intent of the law with respect to the Secretary's Advisory Committee. It is not doing so at this time.

Mr. JAVITS. Mr. President, I call up an amendment I have at the desk for myself and Senators NELSON, CRANSTON, MONDALE, and HUMPHREY.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The amendment was read as follows:

On page 6, line 20, insert the following: delete "$23,400,000" and insert in lieu thereof "$26,207,000."

On page 6, line 26, delete "$735,837,000" and insert in lieu thereof $817,597,000."

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. Does the Senator ask unanimous consent that the amendments be considered en bloc?

Mr. JAVITS. If that is agreeable to the Senator from Louisiana I would like to do that. I ask unanimous consent that these two amendments may be considered en bloc.

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

Mr. JAVITS. Mr. President, the purpose of these amendments is the same. They represent an effort to bring to the budgeted amount—and I hope the Senate notes that carefully—that part of the manpower training appropriation which relates to poverty manpower training programs, programs which come under the Economic Opportunity Act.

Mr. President, this is an administration amendment. I have a letter from the Secretary of Labor and I ask unanimous consent that the letter may be printed in the RECORD.

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

U.S. DEPARTMENT OF LABOR,
Washington, D.C., December 3, 1971.

Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: I support your efforts to amend the 1972 supplemental appropriations bill scheduled to be on the floor of the Senate this afternoon by offering an amendment to restore the reductions made by the Senate Appropriations Committee in the EOA manpower programs.

The Appropriations Committee reduced our request for manpower training services by $81.8 million from $817.6 million to $735.8 million. I have identified in the attachment to this letter the effect of this reduction on manpower programs. As you can see from the attachment, some 67,200 fewer jobs could be provided to the EOA manpower programs if this reduction were to stand. This would have a serious impact on our NYC, Operation Mainstream, CEP, and New Careers programs.

In addition to the 10 percent reduction in the manpower training services appropriation, the Committee recommended a reduction of 10 percent in the Manpower Administration Salaries and Expenses appropriation from $26.2 million to $23.0 million, a reduction of $3.2 million. This 10 percent reduction corresponds with the 10 percent reduction made in the training services appropriation. It is important that these funds be restored along with the training services funds. These positions are absolutely essential to administering the manpower programs at our requested level. Moreover, since we have been operating at this staff level for the first six months of this year, we would be forced to reduce staff by 275 if this reduction were sustained by Senate action.

Sincerely,

J. D. HODGSON,
Secretary of Labor.

Mr. JAVITS. Mr. President, I wish to read part of the letter which I have just had printed in the RECORD:

I support your efforts to amend the 1972 supplemental appropriations bill scheduled to be on the floor of the Senate this afternoon by offering an amendment to restore the reductions made by the Senate Appropriations Committee in the EOA manpower programs.

The Appropriations Committee reduced our request for manpower training services by $81.8 million from $817.6 million to $735.8 million. I have identified in the attachment to this letter the effect of this reduction on manpower programs. As you can see from the attachment, some 67,200 fewer jobs could be provided to the EOA manpower programs if this reduction were to stand. This would have a serious impact on our NYC, Operation Mainstream, CEP, and New Careers programs.

Mr. President, while Senators are in the Chamber I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, the other part of the amendment also covered by this letter relates to manpower administration salaries and expenses in connection with the administration of these various programs. The letter reads:

In addition to the 10 percent reduction in the manpower training services appropriation, the Committee recommended a reduction of 10 percent in the Manpower Administration Salaries and Expenses appropriation from $26.2 million to $23.0 million, a reduction of $3.2 million. This 10 percent reduction corresponds with the 10 percent reduction made in the training services appropriation. It is important that these funds be restored along with the training services funds. These positions are absolutely essential to administering the manpower programs at our requested level. Moreover, since we have been operating at this staff level for the first six months of this year, we would be forced to reduce staff by 275 if this reduction were sustained by Senate action.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. Yes. The Senate is not in order. The Senate will be in order.

Mr. JAVITS. Mr. President, this program is designed to deal with problems of the disadvantaged, underprivileged, and the poor. Each are programs which this amendment would help to the extent of 10 percent, and is directed expressly to a special category. The programs focus principally on disadvantaged youth and cover exactly the group where the most severe unemployment is the case.

In addition, I am deeply moved in respect of making this amendment by the fact that our unemployment rate and the figures on that rate—which I will refer to—so very sharply underscore the need for making this precisely our target group.

Unemployment has gone up to 6 percent in November from 5.8 percent in October.

Mr. President, that does not begin to tell the story as far as this group is concerned. For teenagers the unemployment rate now is 17 percent, and in urban poverty neighborhoods that proportion goes up to 27 percent. The urban poverty neighborhoods and the youth from poor families are precisely and directly the groups that these programs reach.

The programs covered by this appropriation, in which I seek to make the 10-percent increase from the 10-percent reduction made by the committee, are the following:

They relate first, Mr. President, to public service careers, including new careers. That is a program for putting the disadvantaged into public service jobs which are sponsored by State and local governments, and giving them training, and supplementing what the State or locality is able to pay them with a Federal payment which covers, of course, the training and other supportive services to get them into a work pattern.

Another category which is of great importance, of course, is the Job Corps, with which we are all familiar, which deals with youth of the ages from 14 through 21, enrolling such youth, both from city and rural areas, in order to put them into a proper environment to give them an opportunity to learn work and learn work habits.

Also, this particular appropriation covers the Neighborhood Youth Corps in all of its aspects, that is, the in-school program, which relates to helping the young people who are anxious to earn their way through school; the summer program, which has been very, very often debated here, and which relieves the distress suffered by youths and poor families during the summer, and gives them an opportunity to learn work habits and to earn a little money—indeed, that is the major part of this whole appropriation that comes to $155 million—and out-of-school work programs dealing with school dropouts, again for youth.

The appropriation also covers Operation Mainstream, which is essentially applied to people 55 years of age and older who are participating in such projects as renovation of public recreation areas, the building of vestpocket parks, and improvement of homes for welfare recipients and for the elderly poor.

Finally, it covers the concentrated employment program which deals with an effort to organize the delivery of manpower and training services in poverty areas through community action agencies.

It will, therefore, be seen, Mr. President, how very directly and sharply this ties in with the most heavily impacted group with respect to both training and employment opportunities.

These slots, which were provided for by the budgetary request—and I emphasize that because this represents really an administration amendment, amounted to 817,600.

The slots granted by the committee bring the number down to 671,600. The biggest impact in the number of slots, Mr. President, falls in respect to the summer jobs for the Neighborhood Youth Corps, where a very appreciable contraction is made with respect to the jobs which could be available to young people in this year.

Mr. President, it may be said—or an effort may be made to contend—that the public service employment program should take up this slack, but there are two reasons why it does not and cannot. One is, it has its own troubles. It is already looking after 125,000 jobs of the unemployed generally and so is fully occupied in terms of its allocation of $934 million and really does not have anything more to put into these programs. Second, the group which is served is only to a very small extent related to the disadvantaged or the young teenagers who represent the main concern of the manpower services and training connected with our poverty program. These factors rule out the public service employment program as an alternative to what we offer here.

Mr. President, I ask unanimous consent that a chart showing the activities of the individual programs affected by this particular appropriation may be made part of my remarks, together with a chart showing the diminution in job slots caused by the cut which was made by the Appropriations Committee.

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

(See exhibit 1.)

Mr. JAVITS. Mr. President, I also ask unanimous consent that a chart showing the operation of the public service employment program, and why it does not have the slack to take up what is cut out here, may be made part of my remarks.

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

(See exhibit 2.)

Mr. JAVITS. Mr. President, I think this really proves the case in the strongest way insofar as the Department of Labor is concerned which, in accordance with a letter from the Secretary which I read, fully supports this amendment.

Finally, Mr. President, may I say this. There are lots of differences of opinion about many things in this particular appropriation. Here it seems to me we are dealing with the most elementary of all: job training directly zeroed into the people whom we are most anxious to take out of welfare syndromes, or idleness, or out of other misapplied lives, mainly young people. We also deal directly with the most critical domestic situation we have—aside from drug abuse—the 5 million unemployed, and the fact that not only is the 6-percent unemployment rate unacceptable to all of us, but the pyramiding of this rate when you get into the very client group which is sought to be reached by the increase in the appropriation, in order to eliminate the cut made by the committee.

That is the youth group among the disadvantaged and the poor, and I have explained precisely how this particular appropriation is zeroed in to their particular needs.

For all of those reasons, Mr. President, which are of the most compelling social character, I hope that the Senate will approve this amendment.

EXHIBIT 1

EFFECT OF SENATE ACTION—FISCAL YEAR 1972 MANPOWER TRAINING SERVICES APPROPRIATION

MTS Supplemental Request	$817,600,000
Appropriation Committee action	735,800,000
Reduction	81,800,000

EFFECT OF REDUCTION [1]

	Amount (millions)	Job opportunities
Public service careers, including new careers	−$9.0	−4,600
Job Corps	−19.7	−2,500
NYC:		
In school	−7.0	−7,500
Summer	−16.6	−41,400
Out-of-school	−12.7	−3,700
Mainstream	−3.9	−1,200
CEP	−12.1	−4,300
Research and demonstration	−.8	
Total	−81.8	−67,200

[1] The Senate Committee action made a 10-percent reduction from the request. It would require reduction of the amounts and job opportunities.

Description: PSC * secures, within merit staffing principles, training and permanent employment for the disadvantaged and stimulates upgrading of employed persons in the public service fields. Projects are sponsored by State and local governments while the training and supportive services costs are borne by the Federal government.

The Public Sector On-the-Job Training Program is composed of five major plans:

Plan A operates in selected State, county, and local governments by providing entry jobs for disadvantaged persons and upgrade training for low income employees for "User" agencies. Agencies must first hire the employees and then are supplied with funds and technical assistance.

Plan B is designed to provide manpower training to disadvantaged employees of agencies receiving Federal Grants in Aid. Plan B also has an entry and upgrading component.

Plan C continues the New Careers Program which leads to career employment for disadvantaged persons in sub-professional human service occupations. Enrollees receive additional training and education and are trained and hired by participating public or private non-profit agencies.

Plan D is designed to provide manpower training and employment to disadvantaged persons in the Federal government. It is administered by the Civil Service Commission and contains entry and upgrade components.

Plan E—the Supplemental Training and Employment Program is designed to provide short term, supplemental employment for trainees unable to find jobs in areas of high unemployment.

Description: Job Corps provides a residential rehabilitation program for disadvantaged youth whose home or community environment is so culturally deprived that it inhibits success in other training activities, or who are located in rural or other areas where work and training opportunities are not available. Services include: vocational training, basic education, counseling, personal and cultural developments, recreational activities, and work experience training. The law limits enrollment to those between the ages of 14 through 21. As a matter of operating practice, Job Corps enrolls only youth 16 through 21.

Description: The Neighborhood Youth Corps In-School and Summer Programs assist disadvantaged students of high school age to remain in school by providing them part-time jobs during the school year and summer. Projects are sponsored by State and local public non-profit agencies, public schools and community action agencies. Enrollees work an average of 26 hours a week during the summer and 8 to 15 hours a week during the school year. Work assignments are typically connected with the school and other public agencies. Federal funds are used primarily to pay enrollees the hourly Federal

* Public Service Careers.

minimum wage or the prevailing wage if it is higher. In addition, the funds are used to provide counseling, remedial education, skill-training and other supportive services.

Description: The Out-of-School program provides high school dropouts 16 and 17 years old and other low-income youth with remedial education, vocational training, supportive services and work experience to prepare them for subsidized employment in the public and private sectors of our economy. Out-of-School projects operate under one of two programs designs: the original design (NYC–1) in small communities and rural areas or the redesign (NYC–2) in Standard Metropolitan Statistical Areas and growth areas.

Description: Operation Mainstream is designed to provide jobs for poor adults, especially in rural areas. Although the program is for adults 22 years of age and older, special emphasis is placed on enrolling persons 55 years of age and older. Participants work on projects such as renovation of public recreation areas, the building of vestpocket parks, and the improvement of homes for welfare recipients and the elderly poor.

Description: The Concentrated Employment Program (CEP) provides for the delivery of a comprehensive array of manpower and supportive services to the disadvantaged residents of 82 special target areas that suffer from especially high unemployment and underemployment. Thirteen of the 82 target areas are rural, the balance are inner city neighborhoods.

EXHIBIT 2

MANPOWER ADMINISTRATION,
Washington, D.C., December 1, 1971.

Reply to attention of: MO.

Subject: EEA Pipeline Report; November 28, 1971.

To: Malcolm R. Lovell, Jr.

This report covers Agent information received through November 26, 1971 for funding and position levels under Sections 5 and 6 of the Emergency Employment Act of 1971.

	Allocated (millions)	Number of grants	Funded agents	Federal obligation (millions)	Number of funded positions
All sections	$934.3	1,200	613	$822.2	124,510
Sec. 5 total	720.0	675	613	638.9	95,838
Original	600.0	649	613	591.3	88,902
Discretionary	120.0	26	(1)	47.6	6,936
High impact	65.0	18	(1)	41.0	5,454
Welfare	50.0	5	(1)	2.0	729
Other	5.0	3	(1)	4.6	753
Sec. 6 total	$214.3	525	(1)	$183.3	28,672
Original	200.0	365	(1)	183.3	28,672
Reserve	14.3	160	(1)	0	0
Employment reported (as of Nov. 19)					50,864
Employment estimate for Nov. 26					58,000

1 Not available.

Note: Indian allocations total $8,440,000. Allocations, obligations, and funded positions are distributed among sec. 5 and 6 in the ratio of each section's or subsection's allocation. Indian obligations are $7,400,000 for 1,313 positions with 485 employed. Nearly all agents were designated in the original sec. 5 distribution. This appears as 649 grants, equating with agents. All 22 Indian agents are designated in the original sec. 5 category.

Public employment program—Summary of participant characteristics
(Percent of total reporting)

Sex:	
Male	76
Female	24
Group:	
White	70
Negro	20
American Indian	1
Oriental	3
Spanish American	5
Other	1
Military service status:	
Special veteran	22
Vietnam era	19
Veteran	16
Total veteran	57
Nonveteran	43
Disadvantaged	37
Previously employed by agent	10
Public assistance recipient	10
Professional	7.5
Government unit of employment:	
State	11
County	36
City	49
Tribal council	0
Federal	0
Other	4
EEA wage:	
Less than $2	10
$2 to $2.99	43
$3 to $3.99	31
$4 to $4.99	12
$5 and above	4
Age:	
18 and under	2
19–21	12
22–44	67
45–54	13
55–64	4
65 and over	1
Education:	
8th or less	5
9th–11th	16
12th	42
Education:	
13th–15th	21
16th or more	16
Handicapped	5

NOTE.—These statistics are based on characteristics summaries representing approximately 4,000 participants.

Source: Department of Labor Manpower Administration.

Mr. AIKEN. I would like to support the amendment offered by the Senator from New York, because I think this is one of the most important functions of Government that we can pursue at this time. The rapidly changing nature of jobs has left so many people who are not trained to take the jobs which are already available. It is necessary that we have adequate administrative personnel to carry on this work, as well as the money needed to carry it on.

I should also like to point out that the rural development program is almost in worse shape now as far as administrative personnel is concerned. The funds which have been appropriated, I understand, are totally inadequate to carry on the additional work which has been put upon the Farmers Home Administration. Not only are the rural water and sewage programs running way behind the several thousand applications which cannot be handled at the present time, but when we—last year, I believe it was—raised the definition of a rural area from 5,500 to 10,000, that really made difficulties, particularly in the eastern States. In addition to that, now they have a program for rural housing, which has become an extremely important part of the work of the Farmers Home Administration.

Of course, not all rural housing is for people who rely on the soil for their living.

In my State, there is a decrease directed which makes it impossible for the office there to begin to handle the work which they are required to do under the law. But the appropriation is inadequate. Some money has been withheld for some purposes, but I do not know how much; I think $56 million a year for the last 2 years, under rural water and sewage.

But the main thing is, if they do not have the personnel to handle the applications and to look at the sites where the money is to be expended, if it is ever to be made available, it is almost disastrous. I understand that applies all over the country, but in some areas rather more than it does in others.

It may be a little late to offer an amendment to this bill, but I would hope that at the beginning of the year we could try to make this Farmers Home Administration a workable program, because the demand for it is so great that they simply do have to have well-staffed offices, and those jobs are available as long as they get the funds to operate with. That is why I am in full agreement with the Senator from New York on this amendment. I have not been in full agreement with all the amendments offered here today, but with this one I am.

Mr. JAVITS. I am very grateful to my colleague from Vermont.

Mr. AIKEN. It is important to remember that every time someone invents a new pushbutton it throws a lot of people out of work, but makes other jobs available, only the people are not trained for them.

Mr. JAVITS. I am very grateful to my colleague for this support, coming from our dean over here.

Mr. President, I point out and call to the attention of the Senate, in view of

Senator AIKEN's support and his great advocacy of the cause of the farmer, that a number of these programs, indeed the principal ones, have a very strong impact upon the rural areas, and are designed to serve rural areas. That goes for the Job Corps, for the Neighborhood Youth Corps, certainly, in its in-school and out-of-school programs, and for Operation Mainstream. All of these are specially zeroed into rural as well as urban areas.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ELLENDER. Mr. President, I yield myself 2 minutes.

Soon after this bill was presented, the members of the committee found bouquets flung in our direction for the good work we had done in providing funds for various programs such as the one of which the distinguished Senator from New York has been speaking.

Up to now, this bill is almost $700 million above the budget. If we add another $100 million, it will be $800 million above the budget.

I point out that in the regular bill, for the very program that the distinguished Senator from New York is speaking of, we have $748 million, and we have added to that, in the pending bill, $735 million, so that the total amount for the 1972 appropriation is $1.583 billion.

I think that that is quite a large sum for that purpose. If any more is needed within the authorization, we are going to have some supplementals early next year, I presume, and if a case is made whereby more money is needed, I feel confident that there will not be any difficulty in adding to the appropriation.

I repeat, we are sympathetic with this program—very sympathetic. But I feel that the amounts of money added in the regular bill and in this bill are ample for the time being, and I do hope that the Senate will sustain the committee.

I yield 5 minutes to the Senator from Washington.

Mr. MAGNUSON. Mr. President. I do not dispute the value of these programs at all. Some of them have very good names, and I have helped nurse them along. We have doubled them and tripled them. But it seems to me that whenever we decide to slow up a little on some of these programs, somebody downtown always gets all excited. As a part of this, they say they are going to lose 275 jobs.

If you have seen some of these programs as I have, you might feel that maybe they could well get along with fewer Federal jobs. These are the people who are always concerned.

No one is more concerned about jobs than the Senator from Washington, but, as the chairman has pointed out, we will have a total of $1,583,000,000 for this fiscal year—$748 million in the regular bill and $735 million in this bill.

On top of that, we have appropriated for the Emergency Employment Act another billion dollars, and they say they are going to work in combination with that, in their justifications.

That is $2.5 billion. And on top of that, in this bill, they are also going to work with all the programs in OEO. There is $780 million there.

I think this is sufficient to try to do the job. Let me state why.

We have looked pretty deeply into this program, if the Senator from New York will listen to me—he is sympathetic with me, and I am sympathetic with him—but we think we ought to take a deeper look, and we have asked the General Accounting Office to look at it, and they are going to report to us in February.

Therefore, as the chairman has well pointed out, we think we have enough money, and when this report comes in and we take a thorough look at it, and how they are doing, how they are spending their money, perhaps we can put some more in. But I am not willing to give these people this additional amount of money now, even though the Budget Bureau may agree to it in this particular case, until we take a better look, when we have $1.5 billion in this bill plus what is in OEO, and another billion dollars in emergency employment funds, which they are going to work with.

Let us just take one item, the public sector job training, which is a laudable item, and the motive is good.

Here is what they say they accomplished in 1971. They say they have a total of 36,000 enrollment opportunities, which were funded at a Federal cost of $91 million.

That is fine.

Funds obligated under the Manpower Development and Training Act were $21 million, which funded another 12,909 of what they call enrollments.

I said:

That's fine; how many people did you place in this program?

I can go on here; there are about six or seven programs. But what counts is how many people, finally, are placed.

In this case, 2,700 were hired out of 36,000. I think this is something we ought to take a look at, and we are trying to do so. We have given them a great deal of money. I am sure they can handle this program, and I think we ought to see what is going on.

I asked them: "Why don't you use some of this money?"

It is a funny thing about departments. If you give them a little cut, they always come along and tell you, "We have to cut this and we have to cut that." They never thought of switching money around once in a while or helping a good program against one that is shaky.

They have the Neighborhood Youth Corps summer employment program. I have helped that program for years, and I think they ought to spend the full amount. We have to take a look at some of these other programs.

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

Mr. MAGNUSON. I will yield in a moment.

Talking about the 275 people—how many people does the Senator think are employed through OEO? There are 118,000 employed by OEO grants and contracts. There are 717,000 employed under all of the HEW programs. But, in all fairness, that figure includes the social security offices.

All of these programs have laudable goals, but we had better see if they are getting down to the people where they belong, and that is all we are trying to do with this modest action. When the GAO comes back and reports to us about some of this we can take appropriate action. We do not question the motives and we do not question the dedication of the people who try to run these programs, but they have $1.5 billion to work with now, and that ought to be enough.

So I reluctantly oppose this amendment, much as I would like to see all these programs become more effective.

I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, first, I want to say that the Senator from New York is a man of great compassion. There is no question about that. But for all the years I have been in the Senate, I have been associated with the great Senator from the State of Washington; and when it comes to regard for human kind, I do not think he has a peer in this body. As a matter of fact, today we would not have the National Institutes of Health if it had not been for him.

All along, he has been a man who has been in the forefront. He is in the vanguard of those who have thought not only for the health of our people but also for the social, welfare, and other reforms that have meant so much to our people. I want the Senate to understand that if Senator MAGNUSON rises up to say that he considers this amount to be sufficient, he has a reason for saying it, and I think he ought to be supported in this.

I say to the Senator from New York that I have always supported him, too, in many of the amendments he has sponsored; but in this case, Senator MAGNUSON is right, and I hope we sustain him.

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

Mr. ELLENDER. I yield.

Mr. YOUNG. I should like to join in the comments made by the Senator from Rhode Island.

The Senator from Washington has, been more generous on these programs than I would be. In this case, the Senator from New Hampshire, who handles it on the Republican side, agreed with him. When these two Senators agree—and they have been very considerate and very helpful on these programs—I cannot help but go along.

Mr. JAVITS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from New York has 12 minutes remaining.

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, when we get along to this point in the afternoon, in the supplemental appropriations bill, it all depends on what time it is and how much money we have already added to the bill. It obviously does not depend so much upon what is in the amendment. That is exactly what I think is happening here, and I think this is very regrettable. If I had had the good fortune to be recognized first, I doubt that this would be the nature of the argument.

No one in the Senate has been more admiring and praising than I for years of the Senator from Washington and

the Senator from Rhode Island. We had worked together in many high causes. I would like to hear the speech he could make for the amendment I am proposing this afternoon. It would be great and convincing. I know how he feels, and I know the situation, and nobody can do it but the Senate. I understand that. You are not going to get the chairman to accept this amendment. I understand that situation. But the reason I offered it is that it is uniquely timely, and this happens to be a figure which zeroes in directly on the program.

What do we do about these summer jobs? It is interesting that Senator MAGNUSON spoke on that, because he is a great friend of that program. The fact is that $165 million was asked for, and the committee has cut that about $17 million. The difficulty is that when you cut it $17 million, you run it down by 41,000 jobs. The trouble is that the unit figure in the Neighborhood Youth Corps for summer jobs is so small that it has a very regressive impact, even though the amounts involved are not all that great.

The fact is that we have constantly been running after the bus on these summer jobs. The Senator from Washington and the Senator from Rhode Island and I always come along in May or June, and then there are complaints that the money was not spent well. That is exactly what the situation is here. Here is a relatively early supplemental, when we can tool up and do this job right and assign money to the localities in time for them to use it effectively. The same is true of the Job Corps, where some $20 million is cut.

Mr. President, let us visualize the number of jobs involved and the fact that these jobs involve people and that these people are the most depressed of all. That is the thing that commends this to us.

In addition, there is always the argument that even if you give it to them, they cannot spend it. But here is the Department of Labor itself, as an administration proposition, coming along and asking me, as the ranking Republican member of the subcommittee and as the ranking Republican member of the Committee on Labor and Public Welfare, to move this particular amendment.

It seems to me that that certainly should dispose of the argument that they cannot use it. They want it; they need it. It is in the President's budget request. It is literally as hard a thing, as bad a thing, to cut as one could encompass.

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

Mr. JAVITS. I yield.

Mr. CASE. Mr. President, I think the Senator has just made the point which ought to be controlling and ought to be persuasive here. The administration is not generally thought to be overgenerous, and I am not now saying that I agree with that attitude about the administration or disagree with it. But, certainly, it is a strange situation in which the Secretary of Labor comes and literally begs us for $85 million for programs which we are withholding from him, I know with the very best of intention. But, as the Senator from New York said, as much as I dislike to agree with our subcommittee chairman or with the chairman of the full Appropriations Committee, it seems to me that we ought to give the greatest possible weight to the Labor Department's expression of concern here and its strong urging for this bill.

Mr. JAVITS. Mr. President, I am grateful to the Senator from New Jersey for that statement.

Mr. MAGNUSON. Mr. President, I want the record to be clear that with this amount decreased, they can use it any place they want. They can upgrade a good program. It is not directed against or for any one program.

Mr. JAVITS. The Senator is correct. Nonetheless, he knows what happens in these Government departments. They have it all slotted, and that is the way it is going to go.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 1 additional minute.

This is what the Secretary of Labor says:

> I have identified in the attachment to this letter the effect of this reduction on manpower programs. As you can see from the attachment, some 67,200 fewer jobs could be provided to the EOA manpower programs if this reduction were to stand. This would have a serious impact on our NYC, Operation Mainstream, CEP, and New Careers programs.

That is what I am going on, the finding of the department that it is materially adverse. In voting, I beg Members to visualize human beings, especially teenagers and black teenagers, where we have 33 percent to 40 percent unemployed, who are in this 67,200 which we will add at a time of the most serious unemployment we have had in recent years in this country. That is the only reason for making this amendment, as I say, expressly at the request of the Department of Labor. That is why, with all respect for the committee and understanding their exigencies and the fact that they are trying to keep the bill within the limits which they like to keep it, again I repeat, we could not make that argument against it in the amendment. We have got to be selective as to what deserves support and what does not. I hope, therefore, that the amendment will be approved.

Mr. President, the committee staff tells me that there is a technical problem in one part of the amendment, that someone has already got $400,000 more and that that has got to be rolled into whatever the Senate votes on. Will the Senator from Louisiana allow me to modify by amendment accordingly?

Mr. ELLENDER. Of course.

Mr. JAVITS. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The modification will be made.

The text of the amendment as modified is as follows:

> On page 6, line 20, insert the following: delete "$23,400,000" and insert in lieu thereof "$26,607,000".
>
> On page 6, line 26, delete "$735,837,000" and insert in lieu thereof "$817,597,000".
>
> On page 6, line 20, delete "$23,000,000" and insert in lieu thereof "$26,207,000".

Mr. ELLENDER. Mr. President, I yield back my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER (Mr. CHILES). All time on the amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from New York, as modified.

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 Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

Also, the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 43 nays 30, as follows:

[No. 437 Leg.]

YEAS—43

Aiken	Hart	Nelson
Bayh	Hollings	Packwood
Beall	Hughes	Pearson
Bellmon	Inouye	Pell
Burdick	Jackson	Percy
Byrd, W. Va.	Javits	Randolph
Case	Kennedy	Ribicoff
Cooper	Mansfield	Schweiker
Cranston	Mathias	Scott
Dominick	McIntyre	Stafford
Eagleton	Metcalf	Stevens
Fong	Mondale	Stevenson
Fulbright	Montoya	Williams
Griffin	Moss	
Harris	Muskie	

NAYS—30

Allen	Ervin	Roth
Anderson	Fannin	Smith
Bentsen	Hansen	Sparkman
Bible	Hruska	Spong
Byrd, Va.	Jordan, Idaho	Stennis
Chiles	Long	Symington
Cook	Magnuson	Talmadge
Curtis	Miller	Thurmond
Eastland	Pastore	Tunney
Ellender	Proxmire	Young

NOT VOTING—27

Allott	Cotton	Jordan, N.C.
Baker	Dole	McClellan
Bennett	Gambrell	McGee
Boggs	Goldwater	McGovern
Brock	Gravel	Mundt
Brooke	Gurney	Saxbe
Buckley	Hartke	Taft
Cannon	Hatfield	Tower
Church	Humphrey	Weicker

So Mr. JAVITS' amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHWEIKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CASE. Mr. President, the supplemental appropriations bill includes a number of important additions to the original supplemental requests for health manpower.

Both the distinguished chairman of the Subcommittee on Labor-Health, Education, and Welfare Appropriations (Mr. MAGNUSON) and the ranking Republican member of that subcommittee (Mr. COTTON) put in a great deal of work in this area. They are to be commended for the improvements they have made in this section of the bill, and as a member of the subcommittee I was happy to work with them in this effort.

Perhaps the most noteworthy addition is that the supplemental recognizes the need for assisting nursing training by providing $63 million in capitation awards. This is a modest sum which provides a school of nursing with an amount of slightly more than $200 per student to offset the high cost of nursing training and to help offset the national shortage of qualified nurses.

The nurse training provision will also assist teaching hospitals and many community and junior colleges who are now providing or plan to provide nurse training. It will help to reduce the cost of medical care at teaching hospitals where some of the cost of training is necessarily passed on to the medical consumer—the patient.

The bill, as reported by the Appropriations Committee, adds additional funds for nursing schools faced with bankruptcy. This will prove to be important in assisting nursing schools that will not receive enough immediate benefit from the capitation awards provided for in this bill.

The subcommittee suggests increases in funds for construction. This is an important addition since the amount of expansion our existing schools can manage without construction is not great enough to meet the needs that are said to exist.

Another addition made by the subcommittee is the inclusion of funds for the Allied Health Professions Act. Allied health training—the training of X-ray technicians, laboratory assistants, and the like—is a profession that provides employment for many young people who want to work in the medical field. The law provides assistance especially to our community colleges that offer this training. The subcommittee has enlarged the amount of funding for institutional support and for traineeships.

Two significant contributions have been made by the Subcommittee for Health Manpower Act appropriations.

First, capitation awards for medical students have been increased and, second, more money was included in the bill for the construction of medical schools. This will help to meet an urgent need for medical schools, including in my own State. It may be possible, with the enlarged amounts, to start thinking about building new medical schools where they are needed. For example, there is a need for a medical school in the southern part of my State and it may be possible to get one off the planning boards with the funds made available in this bill.

Mr. COOPER. Mr. President, the fiscal year 1972 supplemental appropriations bill now before the Senate provides an additional $32.5 million for title I–A of the Elementary and Secondary Education Act. These additional funds are necessary to assure that no State will receive less in fiscal year 1972 for the local education agency programs than received in fiscal year 1971 under title I–A.

I would like to commend the members of the Appropriations Committee for their consideration of this problem.

Several weeks ago, 15 States, including my own State of Kentucky, were notified of a reduction in funds under title I–A. While the full $1.5 billion appropriated by the Congress earlier this year has been made available, this sum was not enough to meet the growing needs of the program and, without a floor provision to assure that no State would be reduced below its current operating level, several States experienced cutbacks in the program.

Approximately 226,800 children are served by the title I–A program in Kentucky and these funds represent 7 percent of the total money spent from all sources on elementary education in the State. The loss of these funds so late in the school year has placed a burden on these schools and I am glad that the bill reported by the committee provides the necessary funds. This will be good news to many local districts in Kentucky and throughout the country.

I was glad to have received communication from Kentucky on this subject and that I could urge action by the committee to secure the funds.

I hope the Senate-House conferees will retain the funds.

Mr. NELSON. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

On page 9, between lines 14 and 16, insert the following new paragraph:

ENVIRONMENTAL EDUCATION

For an additional amount for carrying out the provisions of the Environmental Education Act, $2,500,000.

Mr. NELSON. Mr. President, the distinguished Senator from Washington (Mr. MAGNUSON) wished to be on the floor when the amendment was called up. I, therefore, 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. NELSON. 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. NELSON. Mr. President, this amendment would simply add $2.5 million to the Environmental Education Act. I am offering the amendment at this time because the request from schools and colleges all over the United States for participation in this program have dramatically escalated. The appropriation is $3.514 million, thanks to the support of the Senator from Washington (Mr. MAGNUSON).

Earlier this year the Senate voted a $5 million appropriation for fiscal year 1972 for the Environmental Education Act—Public Law 91–516—which was unanimously enacted into law last year. This Senate support for environmental education was more than double the administration's requested figure of $2.014 million, which had been approved by the House. The Senate conferees were able to achieve a compromise figure of $3.514 million.

This additional $1.5 million over the administration's request will certainly be helpful in beginning to implement the congressional intent expressed in Public Law 91–516. However, in comparison with the initial experience with this program, this level of funding does not reflect the clearly demonstrated interest in environmental education which is being expressed in all parts of the Nation.

In the first year of this program, the Office of Education received some 2,000 applications under the provisions of the Environmental Education Act requesting a total of over $75 million in assistance grants. Of course, there will be much duplication with a number of those applications and we do not anticipate by any means going to that level.

Over 11,000 guidelines have just been sent out this month for the second year applications and current expectations are that there will be an increase in applications to a minimum of 4,000 or a maximum of 5,000 proposals with total requests easily reaching $150 million. Thus, the $3.514 million will not go very far in response to this increase in applications.

In addition, the administration just recently seems to be giving a higher priority to environmental education. Within the past month, the Commissioner of Education announced in a House hearing that the Office of Environmental Education will be formally created and an advisory Council on Environmental Education has been appointed with their first meeting scheduled for tonight. Both of these administrative actions now bring the Office of Education much closer to complying with the express provisions of the Environmental Education Act.

We are all aware of the need for judicious control of the appropriations process to keep Federal expenditures in line. This restraint can be best demonstrated

by insuring that expenditures are devoted to their highest and best use. I think that a direct expression of this is efforts to establish a firm educational base to act as a necessary foundation for the long-term productive interests of this Nation.

The Chinese proverb by Kuan-tze—circa 390 B.C.—perhaps best expresses this philosophy:

If you plan for one year, plant rice; for ten years, plant trees; for a hundred years, educate men.

In a like manner this country can only achieve sound environmental policy and actions if the necessary decisions are based on sound environmental education.

Therefore, I am requesting in this amendment that an additional $2.5 million for implementation of the Environmental Education Act be included in the supplemental appropriations presently under consideration by the Senate. This $2.5 million will bring the total direct appropriations for fiscal year 1972 for environmental education to $6.014 million. This is still substantially short of the $15 million that has been authorized by the Congress for this purpose, but it would materially help in the effort to mount an effective environmental education program for the citizens of this country. It will provide for the funding of an additional 100 proposals at $23,000 per proposal with the amazingly low figure of $1,000 overhead cost each. Presently only 125 out of at least 4,000 applications can expect to be funded so this amendment will almost double the effort.

The level of funding at this point is particularly significant because of the coordinating role given to the Office of Environmental Education under Public Law 91–516. With authority to coordinate projects and funds under other Federal programs toward environmental education, a properly funded OEE can, therefore, have a multiplier effect and expand the impact on environmental education many times its particular dollar level.

Mr. President, another reason for this matter not having been included earlier is that the Office of Environmental Education was just announced by Commissioner Marland in testimony on October 28, 1971, just a month or two ago.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. NELSON. Mr. President, the appointment of the Advisory Council on Environmental Education was announced by Commissioner Marland in testimony on October 28. The first meeting of the advisory council is being held in Washington this evening. They are prepared to manage more applications than they were in the last year. If this $2.5 million is added to this fiscal year budget they will be a little more than one-third of the amount of money authorized in the authorizing legislation.

Mr. MAGNUSON. Mr. President, I think the distinguished Senator from Wisconsin has stated very well the reasons why the committee was a little reluctant to go into his matter. The Office was just created, as the Senator pointed out, a short time ago. Actually, the request came up here very, very late and we were not quite sure what their plans were or what they were going to do.

Since talking to them, I believe we should start to make plans in this field because the demand for people who might be able to do something of this kind is getting greater and greater. I am glad to see the interest and the places where they are going to do this job. The Senator from South Carolina and I are pleased because it involves some of our pet projects in oceanography.

With the concurrence of the distinguished chairman of the committee I will be glad to take this to conference. I hope I can sustain it to make a beginning. When the regular budget comes up in a couple of months we will know where we are going.

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

Mr. MAGNUSON. I yield to the distinguished "Senator pro tempore from New Jersey."

Mr. CASE. It is nice to be included with the "big fellows."

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. CASE. Mr. President, on behalf of the members of the committee on the Republican side I am happy to join with the chairman of the subcommittee and the full committee in accepting this amendment. Speaking for myself, we have a very good school in New Jersey which is one of a number we hope to have. This is a very important matter and I think we are most happy with this amendment.

Mr. PACKWOOD. Mr. President, this Nation has at long last realized that humanity is but a single component in the ecological structure of the universe, and has begun taking steps to correct the imbalances which have resulted from man's abuse of his environment. We have approved and funded a variety of pollution control programs and are making headway toward cleaning up the mess our predecessors and our fellow Americans have made for the future generations. Perhaps more importantly, we are gaining an overall awareness of man's place in his world, or should I say, in the world he occupies with other forms of life. Young people have, I believe, a greater appreciation of man's relationship with his environment, and this is a most encouraging trend. We here in Congress, in recognition of both this trend and the need for new input and resources, last year approved the Environmental Education Act of 1971, Public Law 91–516. This landmark legislation established in the Office of Education a new Office of Environmental Education to administer a $45 million environmental and population education program, authorized over 3 years, fiscal 1971 to 1973.

In 1971, $5 million was authorized for this important educational program. Unfortunately, only $2 million was appropriated, in a supplemental appropriation. Therefore, although about 2,000 applications for funds were received in the new Office of Environmental Education, only 74 could be funded, at an average of $23,000. I was sorry and quite disappointed that additional funds could not be made available during fiscal 1971, and was also quite dismayed and disappointed that more attention was not given to the population component of the program, certainly one of the most fundamental and important aspects of environmental education.

This year, the budget request for environmental education was $3.5 million, enough to fund roughly 125 proposals at last year's rates. But I am advised that at least 4,000 proposals are expected, requesting in the vicinity of $150 million for environmental education programs. Hopefully, the new office will include in the funded projects a significant portion of population education programs and environmental education programs with strong population education components. Needless to say, it is difficult to be optimistic over prospects for any program when only a tiny fraction of the needed resources are made available by Congress; $3.5 million will not go very far, even if we start by funding the very most superior of the proposals.

Mr. President, I would, therefore, like to join with my distinguished colleague from Wisconsin (Mr. NELSON) in requesting the Senate to approve an additional $2.5 million for the environmental education program during fiscal 1972. This is such a small figure, and yet one which has the potential to do immeasurable good in furthering an awareness and appreciation of population growth, resource development, pollution, and in general man's interaction with and dependence upon his living environment. This supplemental is vitally important to get this program off the ground, to reassure this Nation's young people that we are serious in our commitment to restore ecological harmony in our lifetimes.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. NELSON. I yield back my time.

Mr. MAGNUSON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. STEVENSON). The Chair recognizes the Senator from Florida.

Mr. CHILES. Mr. President, I call up the amendment I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 20 (between lines 9 and 10 insert the following): "Sums available to each Senator under "Stationery" and sums available to each Senator under "Telephone" and "Telegraph" and "Communications" shall be consolidated and used interchangeably."

Mr. CHILES. Mr. President, on the amendment I have submitted to the supplemental appropriation bill, I think the Committee on Appropriations has taken a significant step in the supplemental bill to give some much needed relief to members of larger States and really all Members of the Senate in respect to how we set up our offices and how our expenses are allocated.

When I realize the amount of constituency service that we perform, sort of acting as an ombudsman, this is some of the most valuable service we can perform, and certainly it has been a burden in some Senate offices in trying to perform the service that we have. So there has been an increase in the funds that were allocated. In addition to that, there has been some assistance in how we would allocate our funds. I am delighted to see in the committee report the recommendation that the Rules Committee lump the telegraph funds and the funds for telephone.

It has long been a mystery to the junior Senator from Florida why we have an allocation for telegraph and an allocation for telephone and why we would not be able to use these funds interchangeably, especially in today's day when we use the telephone to such an extent.

My amendment would go to further lumping of communications expenses into the stationery allowance. The committee has provided an increase in the stationery allowance. I am delighted, again, with the actions of the committee and of the distinguished Senator from Louisiana, and delighted with the actions of the subcommittee chairman for legislative expenses, the distinguished Senator from South Carolina.

I think that a number of junior Members of the Senate, especially, appeared before the committee and told the committee of the problems that they were having, and I am delighted that we were heeded. Much work has gone into this and a start has been made, but it seems to me again that, with the responsibilities of a Senator, with the millions and millions of dollars that we pass on for all the other agencies, we would be wiser if we would free ourselves a little more and recognize the individual problems that we have in our respective States and allow a lumping of these funds, rather than let them be channeled, so that if I am short on telephone funds I have to go to a committee to write a letter, but if I have money in the telegraph fund I may use that, rather than use that money for the other purpose.

For that reason, I have offered this amendment to the bill.

Also, I emphasize the words that we are making a start, but there is more work to be done, especially in travel, where we allow our entire staff and Senators only 18 trips a year. I do not know of any other business that handicaps us as the Senate does here.

I shall be happy to hear the comments of the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I want to commend the Senator for the fine work he did in bringing to our attention the needs of the more populous States.

Referring to the Senator's amendment, which provides that "sums available to each Senator under 'stationery' and sums available to each Senator under 'telephone' and 'telegraph' and 'communications' shall be consolidated and used interchangeably," of course, in the supplemental bill we did not provide that. For one, it is not a matter of jurisdiction within the Legislative Appropriations Subcommittee.

Some 3 years ago, by law, the United States Senate passed that responsibility over to the Rules and Administration Committee and they have been handling telephone and telegraph for the past 3 years, and we did not want to infringe on its jurisdiction. So at the time this particular matter was raised we promised to take it up with the committee.

We did, in pursuance of that promise, meet with the Rules Committee. I talked to the Senator from North Carolina (Mr. JORDAN). He is not on the floor at the present time, but I think we ought to protect the Rules Committee. I do not want any Senator to make a point of order that we are calling for a consolidation of telegraph and telephone expense, which does not proceed under this heading, by inserting this language on page 20, between lines 9 and 10, because there is no such provision there. If the Senator is referring to permanent legislation, and if we pass this, the result might be that we would not have effectuated the purpose but caused confusion, because we have regular amounts for stationery and then lines for "communications," "telephone," and "telegraph." In a supplemental bill we could hardly make a change in the law which would come under the jurisdiction of the Rules Committee.

We want to join in what the Senator from Florida has brought to the attention of the Senate. We want to pursue it with the Rules Committee. The Rules Committee considered it again this afternoon, at my request. They discussed it and promised to have a hearing on it and try to bring about interchangeability of telephone, telegraph, and stationery funds in a regular appropriation bill, first through an authorization bill, next year.

I hope the Senator does not insist on pressing the amendment. It would not accomplish anything but would only confuse control.

Mr. CHILES. Mr. President, I am delighted the chairman recognizes the other views we have, and he has worked hard and diligently on that. With his assurance that he will continue his fight for our particular problem, I am willing to withdraw the amendment.

Mr. HOLLINGS. I certainly give that assurance.

Mr. CHILES. Before I withdraw the amendment, I would like to yield to the Senator from California.

Mr. TUNNEY. Mr. President, I thank the distinguished Senator from Florida for yielding to me.

I would like to congratulate the Senator from Florida for bringing this point before the Senate. I would also like to thank the Senator from South Carolina and the other members of the Appropriations Committee for being considerate of Senators from large States in what has been to date a difficult problem. I agree with the Senator from Florida that Senators from large States face unique problems, and I think we are not being fairly treated.

There are days when I get 4,000 letters, and during those particular periods of time it takes as many as four of my employees to do nothing more than merely open the mail and direct it, not answer it; and I know the same thing is true of my colleague from California (Mr. CRANSTON).

During a period early this year when Ann Landers asked those who read her column to write their Congressmen and Senators about their support for a separate national institute for cancer research, my office was deluged with about 25,000 communications in the next week just on that subject.

When one considers that a State like California has 21 million people, that it is 1,000 miles long, that up until now we have been allowed to have only two district offices—and I have had one in Los Angeles and one in San Francisco, without any coverage in the Sacramento area or the San Diego area, and the San Diego area is a community of 2 million people, including the outskirts of the city and the county—it just demonstrates that those who represent large States are not able to give service to our constituents that Senators from the smaller States are able to do.

I just received in the mail recently a letter to the editor of a California newspaper written by one of my constituents. I do not want to give it publicity, but as long as we are on the subject, perhaps I should say something about it. It is headed "Disillusioned With TUNNEY." The reason the letter writer was disillusioned with TUNNEY was that, as a young American, he was interested in the smog problem getting into the trees in the San Bernardino Mountains. It took 2 weeks for him to get an answer, and when he did, it was not a personal communication that people like; it was a reprint of a speech that I sent to him. When he wrote another letter, he still did not get an answer, but got the same reprint.

The point is that when we have as many as 15,000 to 20,000 letters a week coming in, it is absolutely impossible, with the very limited resources we have, to do the kind of adequate job answering our constituents' mail that we should, and at the same time pay a legislative staff which can help a Senator do the things he was elected to do.

I thank the Senator from South Carolina for his concern and interest. Every time I have gone to him and talked to him about the problem, he has said that he understands the terrible problem we face in the big States, and has said he would be willing to do anything he could to help us. I wish him to know that I am most appreciative, and that I do not wish to bite the hand that feeds me.

Mr. HOLLINGS. But you have not been fed enough.

Mr. TUNNEY. We would like a little more.

Mr. HOLLINGS. That is right. We are trying in a supplemental bill to take care of those needs. The needs are genuine. The distinguished Presiding Officer (Mr. STEVENSON), the Senator from California, and the Senator from Florida represent very populous areas. We understand that, and we are trying to bring it right along. We have provided substantially in a supplemental bill at the time of a freeze, we believe, and we wish to reiter-

ate our assurance to the Senator from Florida that we will try to get those funds commingled under the rules as a proper approach.

Mr. CHILES. Mr. President, I think one of the problems we have in Congress is that we often seem to equate funds for our Senate offices with personal funds for us, and we are always kind of leery that maybe the voters are going to look on that with some jaundiced eye. I think we are so leery that we deprive the people of the services that they are entitled to have, and that is where we really miss the boat. We fail to carry out the functions that constantly are required and should be carried out, and we actually deprive the people rather than do something for ourselves.

With the assurances that we have, Mr. President, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

INTRODUCTION OF A BILL BY UNANIMOUS CONSENT

(The remarks of Mr. CHILES when he introduced S. 2948 are printed later in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

SUPPLEMENTAL APPROPRIATIONS, 1972

The Senate continued the consideration of the bill (H.R. 11955) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes.

The Chair recognizes the Senator from California.

Mr. TUNNEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 12, after line 11, insert the following:

"SMALL BUSINESS ADMINISTRATION

"DISASTER LOAN FUND

"For additional capital for the 'Disaster loan fund', authorized by the Small Business Act, $50,000,000, to remain available without fiscal year limitation."

Mr. TUNNEY. Mr. President, my amendment is very simple. It provides for an additional $50 million for the emergency loan fund of the Small Business Administration which has brought aid to thousands of Californians as a result of the February 9 earthquake disaster, as well as to citizens throughout the country. I think this amendment will be an important opportunity to call to the attention of Senators some very serious problems which have occurred in the SBA disaster loan program. I have discussed these with the distinguished chairman of the Appropriations Committee, Senator ELLENDER.

At the present time there are 37 disaster areas in which loans are made from this fund.

I am very deeply concerned about the program. Right after the earthquake occurred, I was able, through the cooperation of the distinguished Senator from West Virginia (Mr. RANDOLPH) to make plans to have the Public Works Committee hold hearings out in California in the earthquake area. Those hearings were chaired by the Senator from Indiana (Mr. BAYH) from June 10 through June 12 and we explored the problems of disaster relief, including the Small Business Administration program, in great depth. We heard from many citizens of the community, and we heard from SBA representatives. We learned that the SBA had moved very slowly in granting relief to citizens after the earthquake. We found evidence that the SBA had begun to move more quickly in processing these loan applications around the time the committee came to California in order to hold the hearings.

As I recall from our hearings, Senator BAYH announced that the staff of the committee had told him that, by March 16, 2,394 SBA loan applications had been accepted, but only 118 had been approved. In other words, at that point in time the SBA was moving very slowly. I have learned even more troubling news very recently. It has been demonstrated that the program has been widely misused, and some very recent hearings that were held by the Appropriations Committee have indicated that there is a great danger that the SBA has not monitored the program in the way that it should have.

The SBA came to the Apppropriations Committee and asked for an increase of $150 million. The agency says it needs these funds because loan applications have increased vastly. Whereas in February the SBA was processing applications at the rate of 100 per week, in October the application rate was 1,500 per week—this is just in California—and since November 12 the rate has been 4,000 applications per week.

Administrator Kleppe indicated in his testimony that the SBA would need about $150 million more in order to be able to process those loans that were outstanding and those that were expected. They estimated that for fiscal year 1972, the loan fund would need $326 million for California alone. They said that for the entire country, they would need $485 million for fiscal year 1972, which, using a little subtraction, would indicate that California would use up the $326 million, and the rest of the country would use up approximately $159 million.

Now, it is quite clear that the SBA is going to be short, and it is my understanding that the committee rejected any increase at all in the Disaster Loan Fund. It is equally clear to me that this program must be managed to aid all those who have valid claims—and that administrative safeguards are needed to protect against waste.

I would like to ask the very distinguished chairman of the committee some questions in this connection. It would be helpful if he could describe for the Senate the information available to the committee which led the committee to refuse any additional disaster loan funds. I think it would be useful to bring this article to the attention of the Senate.

Mr. HOLLINGS. Mr. President, will the distinguished chairman yield? Because the chairman of the subcommittee, the Senator from Arkansas, held those particular hearings. Since he is absent now and I was present at the hearings also, perhaps I can respond to the Senator's question.

Mr. ELLENDER. I yield.

Mr. HOLLINGS. Could I ask the Senator from California, when did you have that earthquake?

Mr. TUNNEY. In February, but I cannot remember the exact date.

Mr. HOLLINGS. Right. The answer is wrapped up in the facts just given by the distinguished Senator from California. SBA went right along, trying to respond to what were real disasters, until the fall period, in September and October, when for some unknown reason, some enterprising repairmen in the State of California came upon this forgiveness clause of $2,500 under the SBA formative law and went out and openly encouraged disaster loan applications.

They went out and said, "If you have a crack in your home, they cannot legally prove that it didn't occur in the earthquake back in February, and all we need to do is get an SBA man to come and take a picture of the crack, then you can get up to $2,500 from SBA that you don't have to pay back; in other words we can do a $3,000 job for $500."

It is a tremendous fraud on the people of America, and it ruins the SBA; it ruins their credibility in their other programs. There were 4,000 applications last month, $60 million last month alone. Instead of $150 million, you are going to need $6 billion.

As I said before to the Senator, the present disaster is not in California, it is right here in Washington. We cannot approve enough funds for that kind of disaster going on out there in California now.

Mr. TUNNEY. What the Senator is suggesting, then, is that the SBA has not administered the program the way Congress intended it?

Mr. HOLLINGS. Exactly. And the only way to get the SBA to do it is to get to the distinguished former Congressman Kleppe, who administers the small business program. When I mentioned it to him, he sort of looked lost. He said:

If we went out and followed through and tried to determine whether even the work was done, we would not have the staff and personnel, so we make no effort to find out whether the work is done. We find a crack, we get a picture, and give the money.

That is no disaster loan. That is a Christmas present.

Mr. TUNNEY. I agree. One thing I would like to make absolutely clear is that I certainly do not support the kinds of fraud and abuses which seem to have occurred, and which trouble the committee so deeply.

Mr. HOLLINGS. That is exactly right.

Mr. TUNNEY. And neither do I support the SBA mishandling a program so badly that they would allow people to get help who do not deserve it, while people who need help are ignored.

Mr. HOLLINGS. It ruins the credibility of the SBA in the needed programs

for the Small Business Administration.

Mr. TUNNEY. I have studied the transcript of the hearings with care, and I saw that in answer to a question by Senator McCLELLAN about repair loans, Mr. Kleppe said:

> We don't know whether they get the repairs or not.

Mr. HOLLINGS. That is right.

Mr. TUNNEY. Does that mean that there is no procedure to make a determination whether the funds are honestly used for repairs?

Mr. HOLLINGS. That was his answer.

Mr. TUNNEY. What kind of study is made?

Mr. HOLLINGS. A picture study. They run in with a camera and make a picture of the damage, and the fellow certifies this $2,500 windfall. It is a racket, an obvious racket.

What we should do—what we recommended to the subcommittee—is that we do away with the forgiveness clause of $2,500. That is too much. If we reduced it to $100 or $200, to a nuisance amount, there would be no more pictures, no more applications, and no more disaster mismanagement.

Mr. TUNNEY. I am interested and deeply concerned to hear the Senator report to the Senate what the hearings demonstrated—that there had been this very poor mismanagement by the SBA. The Senator says that $60 million——

Mr. HOLLINGS. $60 million last month. It will even exceed $60 million next month.

I hope the Senator would withdraw this amendment, as I understand he intends to do.

Mr. ELLENDER. Mr. President, I hope the Senator will withdraw the amendment.

The SBA came before the committee and requested $150 million for the disaster loan fund. At that time they informed us that a supplemental estimate would be submitted to us. As of now we still have not received a budget estimate. As the hearing record shows, all that the SBA has done is to take the word of homeowners that they had a crack in the roof or in a wall, a picture was taken; and when that was shown, an estimate was made of what it would cost to repair. Usually, the amount asked for was $3,000.

In fact, 70 percent of the applications are for loans just under $3,000. The reason is that if the applicant secures a loan for $3,000, he pays only $500 and the rest is forgiven.

There is no doubt that a great deal of fraud is being practiced; and if it keeps on as it is going now, it is going to develop into one of the biggest scandals we have had in a long time.

I am hopeful that the Senator will withdraw this amendment, so that we can have a chance to look into this matter. If a good case can be made, early next year we will be able to provide money to pay for just claims.

Another thing, Mr. President, the record shows that there is no followup, that many claims have been paid, and it is doubtful that any of the borrowed money was used in order to repair the alleged damage.

Mr. TUNNEY. One thing I would like to make absolutely clear: I discussed this amendment with the Senator from Louisiana before offering it, and I offer it simply to air the problem before the Senate. Personally, I feel that there is evidence that the SBA has totally mishandled this program, that they have not had the adequate checks and monitoring they should have had.

I am deeply worried about people in the 37 disaster areas presently extant in the country—in Mississippi, in Florida, in Corpus Christi the SBA is still processing loans. Many, many thousands of people in California have suffered loss and they deserve the assistance from our Government which the Disaster Act provides. It is an outrage that these people would be denied the help to which they are legitimately entitled because the SBA has had such loose procedures that other persons can come in and get $2,500 from the Government for putting up $500—in other words, $3,000 for $500—and ruin a program that was designed to help honest people in need.

When the SBA comes before the committee in the early part of next year, I hope the committee would require the SBA to show what they have done to tighten up these procedures, so that the people who are deserving of help are going to be able to get the help, and so that those who do not need help will be screened out.

Mr. ELLENDER. It is my belief that under the law as it is now written, if it were properly administered, much of this fraud could be prevented. But there is no followup. There is no doubt that there is a great deal of fraud.

As I have said, early next year, if a case can be made, there is no doubt that Congress will provide the funds for disaster relief.

Mr. TUNNEY. That is the point I want to make. I have no doubt that the law would work well if it were better managed. I would not want to see deserving people in California and other parts of the country denied the opportunity to get funds under the Disaster Relief Act.

I must say that I do not have any proof that there has in fact been wrongdoing in California. Certainly, however, Mr. Kleppe says on the record he does not know whether or not persons receiving loans actually get the repairs. Also, the record shows $60 million in claims each month. On these facts, it looks as though the program is being mismanaged.

Mr. ELLENDER. There is no doubt about that, and I hope the Senator will withdraw his amendment.

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

Mr. ELLENDER. I yield.

Mr. YOUNG. Mr. President, I was not at the hearings, so I am in no position to comment on the Administrator's testimony. However, he comes from my State and I consider him to be a very fine individual.

As long as you have a law so wide open that anyone is eligible for a $3,000 loan and gets $2,500 forgiven, unless the Administrator has a whole army to check on these borrowers, there is bound to be a misuse.

How can anyone tell, for example, whether an earthquake caused cracks in a building, and what is and what is not eligible for a loan? Under this kind of law, you would have to have a great number of inspectors. It seems to me that the basic law should be changed and tightened up.

Mr. BAYH. Mr. President, I associate myself with the remarks of the Senator from California on the problems which exist in the administration of disaster relief, an act which has only recently been passed by this Congress, and with the particular reference he made to the present problem existing in the Small Business Administration with the distribution of disaster relief funds made through that agency.

I became involved in the disaster business when dealing with the consequences of one of the horrible disasters which confront us annually several years ago when, on one Palm Sunday, 40 citizens were killed by a series of tornadoes. That was back in 1965. Since that time several of us have been involved in trying to overhaul the Nation's disaster laws. It has been like pulling teeth, to coin a phrase, but as of a year ago we were successful in getting a major reform and an overhaul and revision of the Nation's disaster laws. It has been a step-by-step process—a quarter of a loaf here and a quarter of a loaf there—in overhauling the Nation's disaster laws. It has not been perfect. Only recently, at the request of the Senator from California and other Senators, the Senate passed a bill to shore up one imperfection, namely, to make possible the distribution of funds to not-for-profit hospitals. When we took the Disaster Subcommittee, of which I had the good fortune to be appointed as chairman by the chairman of the Public Works Committee (Mr. RANDOLPH) to California to study the aftermath of the disaster there, two of the worst tragedies took place at Pacoima Lutheran Hospital, which suffered an $8 million to $10 million loss and at Holy Cross Catholic Hospital, which suffered about a $10 million loss. Why more people were not injured and killed in those two hospitals I do not know, but the law presently does not permit those hospitals to be rebuilt with public funds.

The bill which has been introduced by the Senator from California and other Senators has been passed by the Senate and is now before the House. Hopefully, it will be passed in short order, perhaps even by the first of the week. The SBA loan program which has been raised by the Senator from California grew from the insistence, primarily, on the part of the Senate, at an early date, that, if we are going to start or continue distributing large amounts of foreign aid for disaster relief to other nations, we ought to do a better job of dealing with our own citizens when they are hit with disaster.

So, in addition to the distribution of funds in the event of disaster to public institutions such as city halls, hospitals, schools, and that type of public reimbursement, for the first time we decided we would give some help to the average businessman and the average homeowner. So we provide, in the act as it is today, for reimbursement of $2,500 worth of loss beyond the first $500 worth of loss,

to be distributed through the Small Business Administration.

I am disturbed at the way in which the funds now apparently are being withheld. I think this is a direct result of an irresponsible administration of this program by Mr. Kleppe and his assistants in the Small Business Administration.

I remember going there after the disaster, on my own, after the Senator from California had been there earlier, and then coming back. We had great difficulty in getting the Small Business Administration to act. We had insufficient bilingual communication by administrators who went into a Mexican-American area to try to disburse small business loans, and I was particularly concerned about the slow initial response of the Small Business Administration.

We all remember this disaster very vividly. It was a dramatic upheaval that occurred on February 9 of this year.

As of March 16, only 2,394 SBA loan applications had been accepted, and only 118—118 out of 2,394—had been approved.

The same was the case as of April 16. That was more than 2 months after the disaster.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator from Indiana may proceed for an additional 5 minutes.

Mr. BAYH. Did the Senator ask for 3 minutes?

Mr. BYRD of West Virginia. We are operating under a period for the transaction of routine morning business.

Mr. BAYH. I appreciate the courtesy of the Senator from West Virginia. I was not aware of that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAYH. I ask unanimous consent to have printed in the RECORD some correspondence between the Senator from California and Mr. Kleppe, to show the tremendous backlog of cases that developed early on because the SBA just was not on the job.

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

MARCH 15, 1971.

THOMAS S. KLEPPE,
Administrator, Small Business Administration, Washington, D.C.

DEAR ADMINISTRATOR KLEPPE: I am deeply concerned to hear repeatedly from Californians that the Federal aid promised by the Small Business Administration, and directed by Federal law, has not been made promptly available.

To bring me up to date, and to confirm information given to my staff by telephone, I would like to have answers to the following questions:

(1) How many applications for emergency disaster loans were distributed in the disaster areas of Southern California as of the latest date for which information is available?

(2) How many such applications have been returned to S.B.A.?

(3) Of the returned applications, how many were accepted by S.B.A. as meeting its requirements with respect to documentation and completeness of information?

(4) What is the total of loans requested in applications accepted by S.B.A. as complete?

(5) How many loans have been approved?

(6) How much money has in fact been paid to loan applicants?

(7) What is the S.B.A. estimate of private property damage for which S.B.A. loans can properly be requested?

(8) How much money is currently available to S.B.A. apart from future supplemental appropriations to make the disaster loans projected in paragraph (7) above?

(9) What steps is S.B.A. taking to secure any extra funds needed to make the loans projected in paragraph (7) above?

(10) Does S.B.A. require an appraiser to visit each property which is the subject of an S.B.A. loan?

(11) How many such appraisers are in the Los Angeles area?

(12) How many appraisers are usually in the Los Angeles area under normal circumstances?

Because of the deep concern which has been expressed to me about the S.B.A. loan program in Los Angeles, I would especially appreciate a prompt response to the foregoing questions. I hope you will indicate the date at which your information is supplied. I also welcome any supplementary information you may wish to provide.

Yours very truly,

JOHN V. TUNNEY,
United States Senator.

SMALL BUSINESS ADMINISTRATION,
Washington, D.C., March 29, 1971.

Hon. JOHN V. TUNNEY,
United States Senate,
Washington, D.C.

DEAR SENATOR TUNNEY: This is in reply to your letter of March 15, 1971, expressing concern that Federal aid promised by the Small Business Administration has not been made promptly available.

In attempting to answer the list of questions contained in your letter, we must point out that in a disaster of the magnitude of the Los Angeles earthquake, significant changes occur daily in the number and amount of applications distributed, received, approved, and disbursed, as well as in the number of persons assigned to the disaster staff. The information set forth here is taken from Agency records as of March 25, 1971.

(1) Since the earthquake occurred on February 9, 1971, 20,352 applications have been provided to disaster victims.

(2) A total of 4,251 applications have been returned to SBA.

(3) While some applications must be returned for additional information, we are informed that the majority of applications submitted have been accepted as complete or with minor deficiencies that can be corrected during processing. We do not have a mechanism for determining the number of applications not accepted as presented without requiring a special study by the disaster field staff that would interfere with their assistance effort in Los Angeles.

(4) The total amount of applications accepted is $28,649,333.

(5) A total of 305 loans have been approved for $1,863,950.

(6) At this early stage, 5 home loans have been disbursed for $11,986.

(7) It is estimated that private property damage as a result of the earthquake amounted to approximately $242 million.

(8) The Office of Management and Budget has apportioned for our use in Fiscal Year 1971, $240,688,479. Of this amount, $226,072,847 has been allocated to our various field offices leaving $14,615,632 currently available for all disasters.

(9) SBA has, with OMB's concurrence, submitted a request for a supplemental appropriation in the amount of $265 million. This supplemental has been transmitted to the Congress, and hearings will be held on March 29 with the House Appropriations Committee.

(10) Since legislation and Agency regulations require that the amount of disaster loans be limited to the amount of actual damage, plus eligible refinancing, verification of loss is required by an SBA appraiser in each case.

(11) and (12) There are presently 14 appraisers assigned to disaster duty in Los Angeles in addition to the normal appraisal staff of 2. This number will be increased in the next week to 10 days as additional applications are received.

I am sure you realize that in an operation of this size, some delays are experienced in the initial stages as an emergency field organization is established to efficiently handle a large volume of activity.

You may be assured that the Small Business Administration, while small in relation to many Federal agencies, is well experienced in handling disasters of major proportions. In fiscal 1970 SBA made over 17,000 disaster loans for an amount in excess of $175 million. In fiscal 1971, it is anticipated that this activity will increase to 40,000 loans for $400 million.

We hope this information will be of assistance to you, and if we can provide additional information, please let us know.

Sincerely,

THOMAS S. KLEPPE,
Administrator.

Mr. BAYH. Mr. President, when disaster strikes, the Federal bureaucracy ought to be able to respond with compassion and promptly, but this has not been the case with the SBA, and I am concerned that some of us in the Senate who have been in roles of, one might say, leadership in this disaster area, point out the real need not to unduly restrict the humane legislation which is now on the books, and to administer it so that it does not adversely affect the purpose of assisting the homeowner and the small businessman, and certainly that we resist the temptation to cut off all funds, which is what is in the process of happening, but rather strive to point the finger of accusation to place the guilt where it is.

It is not that the program is bad. Our trouble today is not the number of needy people in California, but the fact that the SBA, by its own admission, is not policing the program.

For example, Mr. Kleppe, in recent testimony before an appropriations subcommittee, in response to a question by the Senator from Arkansas (Mr. MCCLELLAN) about repair loans, said:

We don't know whether they get the repairs or not.

In other words, there is no effort to check. There is no effort to verify; and as a result, what we find is that the needy citizens in California are being penalized because a few unscrupulous contractors are trying to make a fast buck.

For us to destroy 3 or 4 years of work and make it impossible for needy citizens in the future to get adequate disaster relief, all because the Small Business Administration is not able to police the program, is a result that the Senator for Indiana is not willing to stand still for.

I salute the Senator from California for his efforts. I say particularly to our

distinguished President pro tempore, the Chairman of the Appropriations Committee (Mr. ELLENDER), that I appreciate the consideration he has in this area, and express the hope that we will be able to straighten out the program, and not let maladministration wreck it.

I close with the thought right now insufficient administration is creating problems such as those that exist in California, over past years, I have witnessed disasters in the home State of the present Presiding Officer (Mr. CHILES), Florida, in Texas, in Louisiana, and in my own State of Indiana; and I point out that although at the moment some of us might not want to get too deeply involved because the problem does not involve our own States, unfortunately, Mother Nature is rather erratic at times, and we do not know where disaster is going to strike next.

Mr. President, I want this program cleaned up.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Is there objection? The amendment is withdrawn.

The bill is open to further amendment.

If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. BYRD of West Virginia. Mr. President, I rise to express my appreciation to the Appropriations Committee for including several very important amendments in the supplemental appropriations bill at my request.

First, under the Labor, Health, Education, and Welfare title of the bill, the committee took affirmative action on my amendment, which will prevent 15 States, including West Virginia, from receiving $35,500,000 less in fiscal year 1972, in title I, Elementary and Secondary Education Act funds, than they received in fiscal year 1971. In some States, increases in State allocations have taken place due to the increase in the number of eligible pupils and the increase in per pupil expenditures. However, in 15 States, pupil enrollment and expenditures have remained constant, and the distribution formula has resulted in these States receiving less title I funds in 1972 than they received in 1971. To remedy this problem, the committee has included a floor provision, which will prevent reductions in State allocations from one year to another. Also included was an additional $35,500,000 to cover the costs of funding this provision.

In fiscal year 1971, West Virginia was allocated $20.5 million in title I funds, while the fiscal year 1972 allocation was $18.3 million. The amendment which I proposed, and which is included in the pending bill, will prevent my own State of West Virginia from losing $2.1 million in funds for educationally deprived children. I want to especially thank Chairman MAGNUSON and the other members of the subcommittee for their assistance in seeing to it that this amendment was included in the bill.

Second, the committee included, at my request, two other amendments, both of which are concerned with mine health and safety. One of these amendments would add $1 million for the Bureau of Mines, to enable it to develop, purchase, and test additional mine rescue equipment, which will increase the chances of miners to survive coal mine fires and explosions. The other amendment added $975,000 to fund the grants to the States program, to assist them in complying with the provisions of the Federal Coal Mine Health and Safety Act, and in developing their own complementary health and safety regulations in this field. I consider both of these amendments to be extremely important, and I believe that they will make substantial and lasting contributions to improving the health and safety aspects of the mining industry.

The last item concerns a subject about which I am vitally concerned—that is inclusion by the committee of $10,280,000 for acceleration of the coal gasification program. This program is needed nationally to meet future energy requirements and to solve natural gas shortages which are already facing this country.

Projections of future energy requirements in the United States clearly show a need for development of all energy resources. Thus, even if we develop all of our natural gas resources, we will still be faced with a serious gas shortage. The development of plants to produce synthetic natural gas from petroleum naphtha, or the importation of liquefied natural gas, is not an adequate solution because we then put ourselves in the undesirable position of being dependent upon foreign sources to meet our energy needs. I have consistently supported coal research programs because I believe that coal, as our most abundant fuel resource, is the resource from which our future energy requirements will have to be met.

I am grateful to Chairman BIBLE and the other members of the subcommittee for their thorough consideration, and approval of the items under the Interior subcommittee's jurisdiction.

I also want to express, to the Appropriations Committee, my appreciation for including these items in the bill, and to state my admiration for the committee's expeditious handling of this legislation.

Mr. COOPER. Mr. President, I am very pleased that the Bureau of the Budget submitted and the Appropriations Committee has recommended a supplemental request for an increase of $9 million in the proposed budget allowance for fiscal year 1972 for the Smithland Locks and Dam, Illinois and Kentucky on the Ohio River.

The Smithland project is of national importance and I consider it to be of the highest urgency as its completion will eliminate one of the most serious bottlenecks in the entire inland waterways system.

Just before markup on the public works appropriations bill earlier this year, the Corps of Engineers submitted a revised capability for this project for an additional $10 million. In response to my request, Senator JOHN STENNIS, chairman of the Appropriations Subcommittee on Public Works, and the manager of the bill on the floor, indicated that the project had merit and the Appropriations Committee would look favorably upon a supplemental request for funds later in the year. I then talked with Mr. Shultz, Director of the Office of Management and Budget, in company with the Senator from Ohio (Mr. TAFT) and supported also by my colleague from Kentucky (Mr. COOK) and all Senators who live in the States along the Ohio River, asking that the amount of $10 million be added to meet the revised capability of the Corps of Engineers.

I also wish to express my appreciation to the chairman of the Appropriations Committee (Mr. ELLENDER) for his long years of work for the Ohio River projects as well as the Senator from North Dakota (Mr. YOUNG) and the full committee.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN) the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), 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 Ohio (Mr. SAXBE) is absent on official business.

The Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. HATFIELD), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Utah (Mr. BENNETT) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

Also, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Florida (Mr. GURNEY) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. HATFIELD), the Senator from Texas (Mr. TOWER), and the Senator from Connecti-

cut (Mr. WEICKER) would each vote "yea".

The result was announced—yeas 68, nays 5, as follows:

[No. 438 Leg.]

YEAS—68

Aiken	Griffin	Packwood
Bayh	Hansen	Pastore
Beall	Harris	Pearson
Bellmon	Hart	Pell
Bentsen	Hollings	Percy
Bible	Hruska	Proxmire
Burdick	Hughes	Randolph
Byrd, W. Va.	Inouye	Ribicoff
Case	Jackson	Schweiker
Chiles	Javits	Scott
Church	Jordan, Idaho	Smith
Cook	Kennedy	Sparkman
Cooper	Long	Spong
Cranston	Magnuson	Stafford
Curtis	Mansfield	Stennis
Dominick	Mathias	Stevens
Eagleton	McIntyre	Stevenson
Eastland	Metcalf	Symington
Ellender	Miller	Talmadge
Ervin	Mondale	Tunney
Fong	Montoya	Williams
Fulbright	Moss	Young
Gravel	Nelson	

NAYS—5

Allen	Fannin	Thurmond
Byrd, Va.	Roth	

NOT VOTING—27

Allott	Cotton	McClellan
Anderson	Dole	McGee
Baker	Gambrell	McGovern
Bennett	Goldwater	Mundt
Boggs	Gurney	Muskie
Brock	Hartke	Saxbe
Brooke	Hatfield	Taft
Buckley	Humphrey	Tower
Cannon	Jordan, N.C.	Weicker

So the bill (H.R. 11955) was passed.

Mr. ELLENDER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. ELLENDER, Mr. MCCLELLAN, Mr. MAGNUSON, Mr. STENNIS, Mr. PASTORE, Mr. BIBLE, Mr. MCGEE, Mr. MONTOYA, Mr. HOLLINGS, Mr. YOUNG, Mrs. SMITH, Mr. HRUSKA, Mr. ALLOTT, and Mr. COTTON conferees on the part of the Senate.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO MAKE TECHNICAL CORRECTIONS IN THE ENGROSSMENT OF H.R. 11955

Mr. ELLENDER. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in the engrossment of H.R. 11955.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for several days I have been cogitating on the move which I am now expecting to make. After much thought and consideration, I think it is in the best interests of the Senate and all parties directly and indirectly concerned that the Senate go into executive session to consider the nomination of Lewis F. Powell, Jr., of Virginia, to be an Associate Justice of the Supreme Court.

It is my belief that by operating on that basis, the debate will not be as extended as it might well be. It is my further belief that there is to be no filibuster on either of the nominations. And it is my hope that, on the basis of my reasoning—which of course I took up with others, as well, on both sides of the aisle—this will be the most expeditiously procedure possible.

May I say that as far as the joint leadership is concerned, we intend to stay with these two nominations until they are decided one way or the other.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Lewis F. Powell, Jr., of Virginia, to be an Associate Justice of the Supreme Court.

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

SUPREME COURT OF THE UNITED STATES

The legislative clerk read the nomination of Lewis F. Powell, Jr., of Virginia, to be an Associate Justice of the Supreme Court.

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

Mr. MANSFIELD. Yes indeed.

Mr. SCOTT. Mr. President, I think it important that we once more state what I hope is now fairly well understood, that the distinguished majority leader and I consult together at all times in an effort to keep the Senate on a straight course, moving responsibly toward the solutions of our legislative problems and that in doing so, we are also pointing to the fact that Senators, contrary to the impression of some cartoonists, are also human beings and that as human beings we have obligations to our families, our children, and our grandchildren and that there ought to be some occasion during the year when we can enjoy some of the simple pleasures which are those one normally associates with family life and a fuller enjoyment of the human expectation on this planet.

In doing that, there are temptations that have to be set aside. One of those here is the fact that under rule VIII, section 8.1, the calendar has to be called in order, and Senators on this side could have raised an objection and have made as the order of business the consideration of the name of Mr. Rehnquist; but to have done that would have in turn injected the political aspect into this whole operation.

There are recourses available to the majority of which we are well aware. As the Greek poet Menander said:

We live not as we would, but as we must.

Under those circumstances, a motion to postpone consideration of the nomination of Mr. Rehnquist at some point would have been in order and we would have gotten involved in an unseemly squabble, which to my mind, is not to the credit of the Senate.

So, I think the distinguished majority leader is doing the right thing, as he generally does, and almost always does; and on the rare occasions when he does not, I have a moment of joy to realize he is like the rest of us, and not perfect.

But I think this is the way to do it, seriously. In doing it this way, it is important we all show our mutual good will toward each other and toward each other's children and grandchildren, and in doing that, if we can dispose of the nomination of Mr. Powell on Monday, and then have a proper, legitimate, reasonable, and dignified examination of the qualifications of the other nominee, Mr. Rehnquist, I hope that bearing in mind the mutual concerns of all of us, which I think should be prior in our consideration of the singular advantage of any individual in this Chamber, perhaps we could find a way to reach next week an opportunity to vote on Mr. Rehnquist. I think most people's minds are made up and I think that the public's mind is largely made up.

However we may disagree at the end of it we will have a Supreme Court functioning, or we will not.

I congratulate the distinguished majority leader for having come to this solution, although it is not the same one I would have come to; but having come to this solution, it is our job, as the minority, to cooperate with him and show evidence of our good faith and our desire to get this matter disposed of.

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

Mr. SCOTT. I am glad to yield.

Mr. MANSFIELD. May I say that I am drenched with the balm of Gilead just bestowed on me.

Mr. SCOTT. No matter what he asks for, I give him Arpege.

Mr. MANSFIELD. I was thinking of some others.

But I do appreciate the statements of the distinguished Senator and what he has said about what could have been. It could have gone far back beyond the nominations, and it is within the rules to have done that, and dragged this down to the present time.

But the spirit of cooperation is deeply appreciated. I repeat that, in the long run, I think this will produce the most expeditious results; and I, too, would express the hope that every Senator be given a chance to express his opinions, but I state also that on the basis of statements made by interested Senators I do not expect in any way, shape, or form a filibuster.

ORDER TO VOTE ON POWELL NOMINATION AT 4 P.M. MONDAY, DECEMBER 6, 1971

Mr. MANSFIELD. Mr. President, at this time I ask unanimous consent that the vote on the Powell nomination occur at the hour of 4 o'clock Monday afternoon next.

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

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

Mr. MANSFIELD. I yield.

Mr. BAYH. Mr. President, I come out second best in my remarks addressed to the distinguished majority leader after the remarks of praise delivered by the distinguished minority leader, but I would like to express my appreciation to

the majority leader for handling these two nominations in the right sequence.

Little is to be gained by going into the facts that have led to their being placed on the calendar in the order referred to by our friend and colleague, the distinguished minority leader, but I have been concerned about getting that Court to a full complement as soon as we can, letting the legislative process work its will. It could have had a sitting judge for the last 3 weeks if there had not been a determined effort to tie these two men together. Now we are going forward and I think the Senate will work its will.

The Powell nomination is to fill the first vacancy, that of Justice Black, so it seems proper to consider it first in the Senate. The President said he intends to swear in Powell first, so he will be the senior Justice. It seems equitable for this reason that we would consider the Powell nomination first.

I realize the minority leader has been under considerable pressure from some sources to go the other way, and I salute him for resisting that pressure and considering them in this order.

I concur completely in the four descriptive words used by the distinguished minority leader with respect to the type debate which will precede the vote on both nominations, in which he said: proper, legitimate, reasonable, and dignified. That is certainly the criteria I feel are appropriate and I am sure our colleagues will all agree with the Senator from Pennsylvania.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination?

Mr. BYRD of Virginia. Mr. President, in accordance with article II of the Constitution, the Senate has been called upon to give its consent to the nomination of two Justices for the Supreme Court.

One of the nominees I do not know personally; the other I have known long and well.

The Senate's responsibility to advise and consent is a vital element in our constitutional separation of powers and in our system of checks and balances.

Members of the Supreme Court are subject to confirmation by the Senate, but once a nominee is confirmed, assuming his good behavior, there are no checks or restraints upon his lifetime appointment.

The decisions of the Justices of the Supreme Court are not reviewable. The only restraint on Supreme Court Justices, once confirmed, is their own self-restraint.

The Senate has a solemn obligation to examine Supreme Court nominations with utmost care. A court appointee differs substantially from a Cabinet officer, who is an administrative aide of the President. The Court is independent of the Executive and is co-equal.

In considering the nomination of William H. Rehnquist to be an Associate Justice, I find nothing in his record to justify an adverse vote.

Indeed, Mr. Rehnquist has distinguished himself both in private practice and in Government service. His legal credentials seem fully adequate to qualify him for the Supreme Court.

After an outstanding academic career, he was a clerk to the late Mr. Justice Jackson. He them commenced 16 years of successful private practice in the legal profession.

Since coming to Washington in 1969 as Assistant Attorney General in charge of the Office of Legal Counsel, he has served as the legal adviser to the Attorney General. Mr. Rehnquist drafted the official opinions of the Attorney General, and in that capacity, dealt with constitutional issues in much the same manner as does a justice of the Supreme Court.

His experience in the Justice Department, when coupled with his broad background as a trial and appellate lawyer, allow him to bring to the Supreme Court a balanced background.

Mr. Rehnquist has been forthright and candid in expressing his views before the Judiciary Committee.

He demonstrated great poise during the long hours of questioning by members of that committee and showed that he possesses the patient temperament demanded of a member of the judiciary.

Several days of sharp and probing questions produced nothing that was detrimental to Mr. Rehnquist, and indeed, his answers to these questions revealed that he is a man of personal integrity and professional competence.

I am pleased that the Judiciary Committee conducted such an exhaustive investigation into Mr. Rehnquist's background and beliefs, for the Senate's role of giving its advice and consent should never be taken lightly.

After considering committee testimony and committee action, I shall cast my vote to confirm Mr. Rehnquist.

Now we come to the second nomination, that of Lewis F. Powell, Jr., of Richmond, in the Commonwealth of Virginia.

Mr. Powell I have known for many years. He is a close friend.

Knowing him so well, I can speak with enthusiasm regarding his nomination.

In his chosen profession, he stands at the top. His entire adult life has been spent in the practice of the law.

He has lent his talents to the wide range of problems which confront the private practitioner.

He has participated in cases on every conceivable subject in the courts of Virginia, and in the Federal courts, including the U.S. Supreme Court. In so doing he has earned the admiration of his legal colleagues and the respect of the judges before whom he has appeared.

I think it it appropriate to say that Lewis Powell is a lawyer's lawyer.

He has a deep respect for the law and unlimited devotion to the legal processes.

He received one of the highest honors which could be bestowed upon him by his fellow lawyers. He was elected president of the American Bar Association, in which position he served with energy, imagination, and distinction.

To my knowledge, no one has questioned his qualifications to serve as a member of the Nation's highest court. Indeed, most of those with whom I have talked, or whose views I have read, regard his legal attainments as being of the highest degree.

Aside from the requisite knowledge of the law, it always has been my view that perhaps the most important single qualification for a judgeship is that the nominee possess judicial temperament.

This I feel Lewis Powell possesses in abundance. His entire career has shown him to be fair-minded and sensitive to equal rights under the law for all citizens.

In reviewing his testimony before the Senate Judiciary Committee, I find that no one questioned his knowledge of the law, or his legal qualifications.

Lewis Powell is a splendid lawyer, but he is far more than a lawyer.

Mr. Powell has recognized his obligations to the public and has given unfailingly of his time to serve the public interest.

In World War II he served for 33 months in the European theater, rising from first lieutenant to colonel in the Army Air Corps.

His role as a member of the State board of education and the city of Richmond school board during the trying desegregation period won him wide acclaim.

As a member of the National Advisory Committee on Legal Services for the Poor, he helped create the National Legal Services program.

Mr. Powell was a member of the Department of Defense study panel in 1969.

He has also lent his considerable legal talent to both the State and Federal governments. While a member of the commission on constitutional revision, he participated in the rewriting of Virginia's constitution.

In 1965 President Johnson appointed him to the National Commission on Law Enforcement and Administration of Justice. This Commission's work led to many of the provisions of the Omnibus Crime Control Act of 1968.

So it will be seen that Lewis Powell can bring to the Supreme Court not only a deep sense of responsibility and dedication, but also a wide acquaintance with public affairs which will enrich the Court.

Mr. Powell at the age of 64 did not seek the Supreme Court appointment. In fact, I have reason to believe that he accepted the nomination with some reluctance.

He recognizes full well the honor conferred upon him by the President of the United States. He has a deep reverence for the Supreme Court as an institution. He is ready and willing to serve his Nation in any position of responsibility.

But as he himself so frankly stated following his appointment by the President, he is not certain that the role of judge will be to his liking.

He is certain, however, of his own dedication to the law and to the good of his country. It is for these reasons that he has accepted the nomination of President Nixon to serve on the Supreme Court.

Mr. Powell will serve with ability, dedication, and distinction.

I hope, and believe, that he will be confirmed by unanimous vote.

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

Mr. BYRD of Virginia. I yield.

Mr. BAYH. I compliment the Senator for the statement he made, expressing the qualifications of and support for his fellow Virginian, Lewis Powell. I hope,

on tomorrow, or the first of the week, to have the opportunity in more detail to debate and to try to follow the footsteps of the Senator from Virginia in support of the nomination of Lewis Powell. I do believe he would make an exceptional Justice. I just want to associate myself with that part of the Senator's statement.

Mr. BYRD of Virginia. I thank the distinguished Senator from Indiana for his comments. His support of Mr. Powell will mean a great deal to Mr. Powell in the matter of his nomination to the Supreme Court.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight it stand in adjournment until 10 o'clock tomorrow.

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

RECOGNITION OF SENATOR BEALL TOMORROW

Mr. MANSFIELD. Mr. President, it is my understanding that the distinguished Senator from Maryland (Mr. BEALL) will be recognized for not to exceed 15 minutes after any statements by the joint leaders are disposed of.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the remarks of the Senator from Maryland (Mr. BEALL) tomorrow there be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 3 minutes.

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

PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate there will be no votes tomorrow. If through happenstance that possibility does become a reality, such votes will be put over until Monday.

The PRESIDING OFFICER. The Chair wishes to ask the majority leader whether after morning business is completed it is contemplated the Senate would go into executive session.

Mr. MANSFIELD. Yes, indeed. I make that request.

ORDER FOR EXECUTIVE SESSION TOMORROW

Mr. MANSFIELD. Mr. President, I make that a part of my request. I ask unanimous consent that at the conclusion of morning business the Senate return to executive session for the consideration of the nomination of Mr. Powell.

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

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

Mr. MANSFIELD. I yield.

Mr. SCOTT. I take it it is the understanding we will continue in executive session until we have disposed of these two nominations.

Mr. MANSFIELD. Yes.

Mr. SCOTT. Subject to unanimous consent requests to the contrary.

Mr. MANSFIELD. And conference reports and the like.

Mr. SCOTT. Yes, such as conference reports.

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business with statements limited to 3 minutes.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED SUPPLEMENTAL APPROPRIATIONS, 1972 (S. Doc. No. 92–45)

A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1972, in the amounts of $124,065,122 in budget authority and $5,000,000 in liquidation of contract authority (with accompanying papers); to the Committee on Appropriations and ordered to be printed.

MAP OF NATURAL GAS PIPELINES AND SALES OF ELECTRIC POWER

A letter from the Chairman of the Federal Power Commission submitting a map of the major natural gas pipelines showing the sales of firm electric power for resale (with accompanying papers); to the Committee on Commerce.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States submitting a report entitled "Benefits Could Be Realized through Reuse of Designs for Public Housing Projects" (with accompanying report); to the Committee on Government Operations.

REPORTS OF THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner of Immigration and Naturalization submitting, pursuant to law, reports concerning visa petitions which have been approved (with accompanying papers); to the Committee on the Judiciary.

PROPOSED LEGISLATION INCREASING AUTHORIZATIONS

A letter from the Chairman of the Atomic Energy Commission submitting proposed legislation to increase the authorization for appropriations for operating expenses and plant and capital equipment (with accompanying papers); to the Joint Committee on Atomic Energy.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A resolution of the Legislature of the State of Minnesota; to the Committee on Finance:

"H.F. No. 66

"A resolution memorializing the President and Congress to enact legislation extending income tax benefits given married persons to single persons

"Whereas, there is inequality in the present income tax structure which places an unduly large financial burden on single taxpayers of this country; and

"Whereas, this problem is becoming more serious with each increase in taxation; and

"Whereas, fair income taxation to all people of this country, regardless of marital status, should be a prime concern of the United States Congress; now, therefore,

"Be it resolved, by the Legislature of the State of Minnesota that Congress should speedily enact legislation, such as H.R. 4219, H.R. 850, and S. 869, which would extend to all single taxpayers the full tax benefits now enjoyed by married taxpayers filing joint returns.

"Be it further resolved, that the Secretary of State of Minnesota transmit copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Chairman of the Finance Committee of the Senate, the Chairman of the Ways and Means Committee of the House of Representatives, and the Minnesota Senators and Representatives in Congress.

A resolution adopted by the Saipan Legislature of the Trust Territory of the Pacific Islands; to the Committee on Veterans' Affairs:

"RESOLUTION No. 23–15–1971

"A resolution respectfully requesting the President of the United States to support and the United States Congress to enact, legislation to provide that citizens of the trust territory of the Pacific Islands who serve in the United States Armed Services be granted the same veterans benefits as citizens of the United States not otherwise applicable to the trust territory citizen

"Be it resolved by the twenty-third Saipan Legislature, that:

"Whereas, many citizens of the Trust Territory of the Pacific Islands have served and are serving in the United States Armed Forces; and

"Whereas, the hardships which may result from such service are as severe for citizens of the Trust Territory of the Pacific Islands and their families as for citizens of the United States and their families; and

"Whereas, citizens of the Trust Territory of the Pacific Islands should be provided the same benefits as citizens of the United States when they are willing to risk their lives in the service of the United States of America; now, therefore,

"Be it resolved by the Twenty-Third Saipan Legislature, Fifth Regular Session, 1971, that the President of the United States is respectfully requested to support and the United States Congress is respectfully requested to enact legislation to provide that citizens of the Trust Territory of the Pacific Islands who serve in the United States Armed Services be granted the same veterans benefits as citizens of the United States not otherwise applicable to the Trust Territory citizen; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the President

of the Senate and Speaker of the House of Representatives, United States Congress, and to the Secretary of Defense.

"Passed and adopted this 24th day of September 1971."

A letter transmitting the results of a referendum in the City of Pittsfield, Mass., concerning the question of a ceasefire and withdrawal of troops from Southeast Asia; to the Committee on Foreign Relations.

A petition from citizens of Southeastern States expressing disagreement with proposed gun control legislation; to the Committee on the Judiciary.

A resolution adopted by the Knights of Columbus, Accokeek, Md., concerning proposed legislation regarding abortion; to the Committee on Labor and Public Welfare.

Resolutions adopted by the Utility Co-Workers Association, Newark, N.J., pertaining to matters of national interest; to the Committee on Labor and Public Welfare.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore on today, December 3, 1971, signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

S. 1483. An act to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes;

H.R. 6283. An act to extend the period within which the President may transmit to the Congress plans for the reorganization of agencies of the executive branch of the Government, and for other purposes;

H.R. 10383. An act to enable professional individuals and firms in the District of Columbia to obtain the benefits of corporate organization, and to make corresponding changes in the District of Columbia Income and Franchise Tax Act; and

H.R. 11489. An act to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 6065. An act to amend section 903(c)(2) of the Social Security Act (Rept. No. 92-551); and

H.R. 10604. An act to amend title II of the Social Security Act to permit the payment of the lump-sum death payment to pay the burial and memorial services expenses and related expenses for an insured individual whose body is unavailable for burial (Rept. No. 92-552).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. LONG, from the Committee on Finance:

Romana Acosta Banuelos, of California, to be Treasurer of the United States; and

Edgar R. Riedler, of New York, to be an Assistant Secretary of the Treasury.

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. STAFFORD:

S. 2942. A bill to establish a comprehensive manpower development program to assist persons in overcoming obstacles to suitable employment, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HUMPHREY:

S. 2943. A bill to designate the Department of Health, Education, and Welfare South Building in Washington, D.C., as the "Mary Switzer Memorial Building. Referred to the Committee on Public Works.

By Mr. BUCKLEY (for himself, Mr. KENNEDY, Mr. ALLEN, Mr. ALLOTT, Mr. BAKER, Mr. BENNETT, Mr. BOGGS, Mr. BROCK, Mr. BROOKE, Mr. COOPER, Mr. COTTON, Mr. CURTIS, Mr. DOLE, Mr. EASTLAND, Mr. FANNIN, Mr. GRIFFIN, Mr. GURNEY, Mr. GOLDWATER, Mr. HARRIS, Mr. HATFIELD, Mr. HUMPHREY, Mr. HOLLINGS, Mr. JACKSON, Mr. JAVITS, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCGEE, Mr. MCINTYRE, Mr. MILLER, Mr. MONTOYA, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. RANDOLPH, Mr. ROTH, Mr. SAXBE, Mr. SCOTT, Mr. SCHWEIKER, Mr. TOWER, Mr. YOUNG, Mr. WEICKER, and Mr. BYRD of West Virginia):

S. 2944. A bill to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict. Referred to the Committee on Finance.

By Mr. BUCKLEY (for himself, Mr. KENNEDY, Mr. ALLEN, Mr. ALLOTT, Mr. BAKER, Mr. BENNETT, Mr. BOGGS, Mr. BROCK, Mr. BROOKE, Mr. COOPER, Mr. COTTON, Mr. CURTIS, Mr. DOLE, Mr. EASTLAND, Mr. FANNIN, Mr. GRIFFIN, Mr. GURNEY, Mr. GOLDWATER, Mr. HARRIS, Mr. HATFIELD, Mr. HUMPHREY, Mr. HOLLINGS, Mr. JACKSON, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCGEE, Mr. MCINTYRE, Mr. MILLER, Mr. MONTOYA, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. RANDOLPH, Mr. ROTH, Mr. SCHWEIKER, Mr. SCOTT, Mr. TOWER, Mr. TUNNEY, Mr. SAXBE, Mr. YOUNG, Mr. WEICKER, and Mr. BYRD of West Virginia):

S. 2945. A bill to amend title 10 of the United States Code to permit the appointment by the President of certain additional persons to the service academies. Referred to the Committee on Armed Services.

By Mr. NELSON (for himself and Mr. MONDALE):

S. 2946. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge, and for other purposes. Referred to the Committee on Commerce.

By Mr. STEVENS:

S. 2947. A bill for the relief of Despina Papadopoulou. Referred to the Committee on the Judiciary.

By Mr. CHILES:

S. 2948. A bill to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STAFFORD:

S. 2942. A bill to establish a comprehensive manpower development program to assist persons in overcoming obstacles to suitable employment, and for other purposes. Referred to the Committee on Labor and Public Welfare.

COMPREHENSIVE MANPOWER TRAINING AND EMPLOYMENT ACT OF 1971

Mr. STAFFORD. Mr. President, I am today introducing a new comprehensive manpower act to accomplish the national objectives recognized by virtually every authority in the manpower training field as necessary to achieve an effective effort on behalf of those members of our labor force who are unemployed or underemployed.

Mr. President, as a result of the rapid advance in our technology and automation, there is a growing imbalance between the training and skills required of many of those who are seeking to join the active labor force. Because of this and other reasons there are many workers in our economy who are unemployed or employed below their potential capacity, and who with appropriate training could make a greater contribution to the labor economy and share more fully the rewards which our economy gives to those gainfully employed.

In addition, there is the problem of assuring meaningful employment opportunities to those seeking employment when we have a labor force that is undergoing sustained rapid growth. The education systems in this country have a responsibility to provide the academic, technical, and vocational training opportunities necessary to prepare students for adult living. However, where this system falls short of matching the employers needs and the prospective employee's qualifications in a viable economic framework, then supplementary and remedial services are essential and justified as a part of a national manpower program. The availability of jobs to the unemployed, underemployed, and low-income workers is restricted by the lack of sufficient unskilled entry-level positions in our technically progressive society. Such opportunities can be increased by assisting workers to learn or improve their skills so that their upward mobility in the labor market can be assured.

An improved program of training and retraining for the unemployed and underemployed can make a significant contribution toward obtaining this goal. The achievement of this objective will also produce a desired side effect of reducing the present heavy burden of welfare and unemployment costs.

It is the purpose of this bill to establish a comprehensive national manpower program which will engage the efforts of all sectors of the economy and all levels of government. This will help bring about the realization of an economy that is characterized by full employment

within a context of prosperity and economic stability.

Mr. President, my bill recognizes that the administration and implementation of effective manpower services can best be achieved by delivery of these services at the local level. The local manpower agencies are in the best position to secure the confidence and active cooperation of employers and employees and other public and private agencies which are essential in the establishment of an effective manpower program.

Mr. President, there is little doubt as to the pressing need for comprehensive reform of our Nation's manpower training programs. The bill I have introduced will go a long way in achieving this needed reform.

Mr. President, I ask unanimous consent that the text of my bill be printed at the conclusion of my remarks.

Mr. President, one final comment on my bill. In section 3, the authorization section, I have not filled the amounts of money that should be authorized. I feel that, after extensive hearings and research by the Employment, Manpower, and Poverty Subcommittee, a more rational and comprehensive figure can be placed in the bill to meet the needs of our unemployed and underemployed.

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

S. 2942

A bill to establish a comprehensive manpower development program to assist persons in overcoming obstacles to suitable employment, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Manpower Training and Employment Act of 1971."

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) as a result of rapid advances in technology and automation, there is a growing imbalance between the training and skills of many of those in or seeking to join the active labor force and the requirements of production, service and supervisory tasks throughout the national economy, and there are many workers who are unemployed or are employed below their potential capacity and who, with appropriate training or retraining, could make a greater contribution to the national economy and share more fully in its rewards;

(2) the problems of assuring meaningful employment opportunities will inevitably be compounded by the continued rapid growth of the labor force. The public and private education system has the major responsibility to provide the academic, technical and vocational training opportunity necessary to prepare students for adult living. However, where this system falls short of matching needs and opportunities in a viable economic framework, supplementary and remedial services are essential and justified as part of a national manpower program;

(3) the availability of private employment to unemployed, underemployed, and low-income workers is restricted by the lack of sufficient entry level jobs opportunities. Such opportunities can be increased by assisting workers now in entry level jobs to improve their skills and move upward to more advanced positions;

(4) improved training and retraining programs and facilities for the unemployed and underemployed can make a significant contribution toward reducing the present heavy burden of welfare costs;

(5) the reduction of unemployment, underemployment, and excessive public assistance, payments, and the realization of an economy characterized by full employment within a context of prosperity and economic stability, are matters of major national concern. On the other hand, the administration and delivery at the local level of effective manpower programs are by nature primarily local matters, and local agencies are in the best position to secure and maintain the confidence and active cooperation of employers, employees and other public and private agencies, individuals, and organizations.

(b) It is the purpose of this Act to establish a comprehensive national manpower program to imploy the efforts of all sectors of the economy and all levels of government. It is the intent of Congress that the programs developed and carried out or assisted pursuant to this Act shall rely to a maximum degree on local initiative and responsibility, public and private, within a context of national need and purpose.

APPROPRIATIONS AND ALLOCATIONS OF FUNDS

SEC. 3. (a) In order to carry out the provisions of this Act, other than Title III, there are hereby authorized to be appropriated not to exceed the sums of $——— for the fiscal year ending June 30, 1972; $——— for the fiscal year ending June 30, 1973; $——— for the fiscal year ending June 30, 1974; and such amounts as may be necessary in succeeding fiscal years. Any amounts autorized by the preceding sentence but not appropriated during any fiscal year may be appropriated in subsequent years. Appropriations made pursuant to this subsection may provide that the funds so appropriated shall remain available for obligation until the close of the fiscal year following that for which the appropriation is made.

(b) The Treasury shall reserve eighty-five per centum of the amounts appropriated pursuant to subsection (a) to carry out the provisions of Title I of this Act.

(c) (1) The amounts reserved by subsection (b) of this section shall be apportioned among the States in an equitable manner, taking into consideration the proportion which the total number of persons in the labor force, of unemployed persons, and of persons heading low-income persons in each such State bears to such total numbers, respectively, in the United States, but not less than three-fourths of one per centum of the amounts appropriated shall be apportioned to any State. Not less than one-third of one per centum each shall be apportioned to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of this paragraph the term states over not to include the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(2) Not more than twelve and one-half per centum of the amounts reserved and made available for programs and activities authorized until Title I of this Act pursuant to such subsection (b) shall be available for use within any one State.

(3) The Secretary is authorized to make reallocations for the purposes of Title I of this Act of the unobligated amount of any apportionment under subsection (b) to the extent that the Secretary determines that it will not be required for the period for which such apportionment is available. No amounts apportioned under subsection (b) for any fiscal year may be reallocated for any reason before the expiration of the ninth month of the fiscal year for which such funds were appropriated and unless the Secretary has provided fifteen days advance notice to the prime sponsor for such area of the proposed reallocation. Any funds reallocated under this subsection are not required to be apportioned in accordance with subsection (b), and no revision in the apportionment of the funds not so reallocated shall be made because of such reallocations.

(f) In addition to the amounts authorized in subsection (a) hereof, there are authorized to be appropriated such amounts as may be required for the administrative expenses of the Secretary in carrying out the provisions of this Act.

TITLE I—COMPREHENSIVE STATE PLANS AND MANPOWER GRANTS

USE OF FUNDS

SEC. 101. (a) Prime Sponsors approved pursuant to this title shall have broad discretion as to the various uses of funds as provided under this title for manpower programs which shall include any Comprehensive Manpower Development Activity set forth in paragraph (3) of section 401.

PRIME SPONSORSHIP

SEC. 102. (a) For the purposes of this title—

(1) any State; and

(2) any unit of general local government—

(A) which has a population of 100,000 or more persons on the basis of the most satisfactory current data available to the Secretary and (i) which is a city or (ii) which is a county or other unit of general local government which is determined by the Secretary, in accordance with such regulations as he shall prescribe, to have general governmental powers substantially similar to those of a city and to serve a substantial part of a functioning labor market area; or

(B) which has a population of less than 100,000 persons on the basis of the most satisfactory current data available to the Secretary and which has the largest population of any unit of general local government meeting the requirements of clause (i) or (ii) of subparagraph (2) (A) in a State; and

(3) any combination contiguous of units of general local government which covers a geographical area which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary and which is determined by the Secretary, in accordance with such regulations as he shall prescribe, to serve a substantial part of a functioning labor market area;

(4) any combination of contiguous units of general local government, Indian Reservation, without regard to the population requirements of clauses (2) and (3), in rural areas designated by the Secretary which have substantial out migration and high unemployment shall be eligible to be a prime sponsor of a comprehensive manpower services program in accordance with the provisions of this title.

(b) (1) Any State or unit (or combination of units) of general local government, or Indian Reservation, which is eligible to be a prime sponsor under this section and which desires to be so designated shall submit annually to the Secretary a prime sponsorship plan in accordance with provisons in section 105 including provisions which evidence capability for carrying out a comprehensive manpower services plan. Each such prime sponsorship plan shall be submitted through the State Comprehensive Manpower Agency, established in accordance with the provisions of section 104, for comment and coordination.

(2) The State Comprehensive Manpower Agency shall be afforded an opportunity to comment upon such plan, within a period not to exceed 60 days of the submission of such plan. In any case in which the provisions of this paragraph are not met, the Secretary shall directly fund comprehensive manpower programs in the area proposed to be covered by that prime sponsorship plan in accordance with the provisions of subsection (d) of this section.

(c) In any State in which the Secretary has approved a State Comprehensive Manpower Plan, a program proposed by a prime sponsor shall not be approved for assistance by the Secretary unless such proposal has been determined by the comprehensive manpower agency of the State to be not inconsistent with such comprehensive manpower plan.

(d) In any area of a State for which a prime sponsorship plan has not been submitted, or in any case in which a submitted prime sponsorship plan or modification thereof has been disapproved by the Secretary, funds allocated to that State shall be made available for expenditures in that area shall be made available to qualified applicants in that State directly by the Secretary pursuant to applications approved by him for purposes of this subsection.

NONCOMPLIANCE OF A PRIME SPONSORSHIP

SEC. 103. (a) If the Secretary determines, after notice to the State and opportunity for hearing, that a prime sponsor which has been determined to be eligible for grants under section 102 is no longer complying with the requirements of the provisions of this title, he may determine that the State, or prime sponsor, is no longer eligible to receive assistance under this title and withhold such further assistance or portions thereof as may be appropriate.

(b) No determination of noncompliance under this section shall be made without concurrence of the Secretary of Health, Education, and Welfare respecting any matters approximately within the jurisdiction of the Department of Health, Education, and Welfare.

STATE COMPREHENSIVE MANPOWER AGENCY

SEC. 104. (a) Any State desiring to participate in the comprehensive manpower program shall establish a comprehensive manpower agency in the following manner:

(1) by statute; or

(2) by designation by the chief Executive of an existing appropriation State agency or of a new agency created for the purpose of this Act.

(b) The State comprehensive manpower agency shall develop a comprehensive manpower plan which shall contain assurances that the maximum extent possible of resources of existing State and local manpower and employment agencies will be used. The comprehensive manpower plan of each State shall be coordinated with the approved statewide plan under the Wagner-Peyser Act. Each such plan shall be submitted to the Secretary for approval.

(c) The State shall provide for a manpower coordinating council broadly representative of appropriate State and local persons involved in the manpower activities and local community action projects.

(d) Each State Comprehensive Manpower Agency shall provide for a system of continuing evaluation of all programs and activities conducted pursuant to this Act, including their cost in relation to their effectiveness in achieving stated goals, their impact on communities and participants, their implication for related programs, and the adequacy of their mechanism for the delivery of services. Each such agency shall arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs assisted under this title.

APPROVAL OF PRIME SPONSORSHIP PLANS

SEC. 105. (a) The principal governing body of the area to be served by the prime sponsor shall submit a prime sponsorship plan in accordance with the requirements of this section. Each plan shall:

(1) provide for the conduct of programs financed under this Act including the furnishing of services to eligible prime sponsors, to the extent, in such manner, and in accordance with such rules, regulations, standards of performance, and annual guidelines as the Secretary determines are necessary for the purpose of (A) providing coordinated and comprehensive assistance to those individuals requiring manpower and manpower-related services in order to achieve their full economic and occupational potential, (B) providing increased occupational opportunities and work experience for eligible individuals, (C) lessening the number of persons receiving public assistance or the amount of the payments made under the program, (D) providing intensified efforts to relieve skill shortages, and (E) providing for a more effective utilization of manpower in our economy;

(2) provide for the development or standards for evaluating the effectiveness of programs carried out under the State plan in achieving the objectives of this Act and provide adequate assurances that such standards will be considered in determining whether to renew or supplement assistance to agencies administering programs pursuant to such plan; and

(3) provide such other assurances or information as the Secretary may find necessary to carry out the purposes of this title.

(b) The Secretary shall approve a State or prime sponsor plan which meets the requirements of this title except that with regard to programs including basic education; institutional training; health, child care and other supportive services; new careers and job restructuring in the health, education, and welfare professions; and work-study programs, he shall secure the concurrence of the Secretary of Health, Education, and Welfare.

PLANNING GRANTS

SEC. 106. The Secretary is authorized to make grants to the States and prime sponsors for the purpose of establishing and maintaining State comprehensive manpower agencies and for developing comprehensive plans and prime sponsorship plans for submission to the Secretary pursuant to this title. Planning grants shall be made to a State from funds apportioned to such State under section 3 and available for the purpose.

ELIGIBLE INDIVIDUALS AND PRIORITIES

SEC. 107. (a) No financial assistance for any program under this title shall be provided to prime sponsors unless the Secretary determines that participants in such programs are for the benefit, except as otherwise disadvantaged persons sixteen years of age or over who are not adequately prepared for suitable employment in their area of residence.

(b) In referring individuals to any programs or services provided under this title priority shall be given to veterans, welfare recipients, disadvantaged, and other unemployed and underemployed persons.

SPECIAL CONDITIONS

SEC. 108. No financial assistance for any program or project may be made under this title.

(1) arrangements respecting compensation and allowances will be in accord with the provisions of this Act and applicable regulations of the Secretary consistent with the provision of section 109.

(2) conditions of employment or training will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

(3) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on any project are established and will be maintained.

(4) no discrimination will be exercised or threatened in the operation of any program, against any applicant or program participant because of race, creed, color, sex or national origin.

(5) the project does not involve nor will any participant be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(6) the program will not result in the displacement of employed workers or impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed.

(7) the program will not provide assistance in relocating establishments from one area to another, except where such establishments have been displaced by public action. This limitation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary, if the Secretary of Labor finds that assistance will not result in an increase in unemployment in an area where such business entity is located or conducts business.

(8) Funds utilized to carry out a prime sponsor plan will be used to supplement, to the extent practicable, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administration of programs within the scope of this Act and not to supplant such other funds.

(9) the State Comprehensive Manpower Agency and the prime sponsors will make such reports, in such form and containing such information as the Secretary may from time to time require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure that funds are being expended in accordance with the provisions of this Act.

(10) no services will be duplicated in the administration of the plan which are being provided under other federally funded manpower programs.

COMPENSATION AND ALLOWANCES

SEC. 109. (a) Workers in programs providing work experience under this Act shall be compensated at a rate not less than the applicable minimum wage rate, but in no case less than the rate prescribed by Section 6(b) of the Fair Labor Standards Act.

(b) Workers engaged in employer-compensated on-the-job training under this Act shall be compensated at a rate not less than the higher of (1) the applicable minimum wage rate, or (2) the prevailing wage paid to workers of like experience performing similar work in the locality.

(c) A participant undertaking training or work-experience or other manpower development activity described in subsection (f) on either a full-time or part-time basis, shall receive allowances for transportation, in addition to the applicable training allowance or wage. The amount of allowance provided under this subsection shall be determined in accordance with regulations prescribed by the Secretary.

(d) For the purposes of this section, a basic allowance shall be computed on the average weekly wage of all categories covered by the unemployment compensation law in the State in which an individual is referred for participation in institutional training or other manpower activities referred to in paragraph (3), without regard to any limitation on the amount of wages subject to contribution under such State law. The basic allowance shall be 65% of such average: Provided that a basic allowance shall in no case be less than 45 times the minimum hourly wage provided in section 6(a)(1) of the Fair Labor Standards Act of 1938.

(e) For the purposes of this section, a dependents' allowance shall equal $7.50 per week for each dependent.

(f) Persons, except those specified in subsection (d), who are participating on a full-time basis in the following programs assisted under Title I in (1) institutional training; or (2) other manpower development activi-

ties which are not compensated by an employer or subject to subsections (a) or (b); shall receive a basic allowance plus a dependents' allowance for his dependents as specified in subsection (c) for each week of full-time participation: Except, that no individual shall receive allowances under this subsection which are less than the unemployment compensation (including allowances for dependents) to which such person would be entitled under any Federal or State unemployment compensation law if he were not participating in such activity.

(g) The following participants in full-time institutional training or other manpower development activities described in subsection (f) shall not be entitled to allowances provided in subsection (f):

(1) A public assistance recipient under programs assisted under titles I, IV, X, XIV, and XVI of the Social Security Act, who shall be paid, in addition to any public assistance payments to which he may be entitled, incentive payments of not more than $30 per month under regulations prescribed by the Secretary. (2) A participant who is not the head of a household, as defined by the Secretary. Such participant shall receive ¾ of the allowance computed under subsection (c).

(3) A participant receiving unemployment compensation under any Federal or State unemployment compensation law. Such participant shall receive for each week of training, allowances equal to the difference between (1) any allowance to which he would otherwise be entitled under subsections (f) and (g) of this section and (2) the unemployment compensation (including allowances for dependents) which he actually received for such week.

(4) A participant engaged in employer-compensated on-the-job training or work experience assisted under this title. The allowances of such participants shall be computed in accordance with subsections (f) and (g), as appropriate, and shall be reduced in accordance with rules and regulations prescribed by the Secretary, which shall take into account the hours of such work experience or on-the-job training and the amount of compensation therefore.

(h) The Secretary shall promulgate regulations for the fair and equitable compensation of those applicants participating in the program on a proportion basis.

(i) No allowance under subsections (f), (g) or (h) of this section may be paid for any portion of a training period which extends beyond one hundred and four weeks.

(j) Not to exceed eighty per centum of the compensation paid participants in on-the-job training projects shall be eligible for inclusion for assistance under this title.

(k) A participant who has successfully completed a program of full-time participation, of not less than fifteen weeks' duration, in institutional training or other manpower development activities described in subsection (f) shall receive upon completion of his period of participation, a completion bonus which shall be equal to twice the allowance to which he is entitled under subsections (f) or (g) for his last week of full-time participation during such period and which there shall be an addition thereto.

PAYMENTS

SEC. 110. (a) In accordance with this section the Secretary shall pay from the applicable apportionment under section 3 the federal share of the costs of prime sponsorship plans and State Comprehensive Manpower Plans which have been approved in accordance with the provisions of this title.

(b) For the purposes of this title, the federal share shall be 80 per centum for the fiscal year ending June 30, 1972, and each fiscal year thereafter.

(c) The non-federal share of the costs of manpower programs assisted under this title may be provided through public or private funds and may be in the form of cash, goods, services, or facilities, reasonably evaluated.

(d) Payments to a State or prime sponsor under this title may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or a prime sponsor, as the case may be, or to one or more public agencies designated for this purpose by the State, or all three.

INTERSTATE AGREEMENTS

SEC. 111. In the event that compliance with provisions of this title requires cooperation or agreements between States, the consent of Congress is hereby given to such States to enter into such agreements to facilitate such compliance, subject to the approval of the Secretary.

TITLE II—SPECIAL FEDERAL PROGRAMS INFORMATION, RESEARCH AND DEVELOPMENT

SEC. 201. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of manpower research utilizing the methods, techniques, and knowledge of the behavioral and social sciences, and such other methods, techniques and knowledge as will aid in the solution of the Nation's manpower problems. This program may include, without being limited to, studies which may contribute to the formulation of manpower policy; development or improvement of manpower programs; increased knowledge about labor market processes; reduction of unemployment; promotion of more effective manpower development, training and utilization; improved national, regional, and local means of measuring or forecasting labor demand and supply; enhancement of job opportunities; up-grading of skills; meeting of manpower shortages; and means of easing the transition from school to work, from one job to another, and from work to retirement.

(b) The Secretary may make grants to or contracts with State comprehensive manpower agencies, prime sponsors or other qualified public or private organizations or agencies, for experimental, developmental, demonstration, and pilot projects for the purpose of developing, testing and demonstrating new or improved techniques for meeting manpower, employment, and training problems. In carrying out this subsection the Secretary of Labor shall, where appropriate, consult with the Secretaries of Health, Education and Welfare, Commerce, Agriculture, and Housing and Urban Development, the Chairman of the Civil Service Commission, and such other agencies as may be appropriate.

LABOR MARKET INFORMATION

SEC. 202. The Secretary of Labor shall develop a comprehensive system of labor market information on a national, State, local or other appropriate basis, including the following information:

(1) with respect to an individual labor market area—

(A) the numbers and characteristics of persons requiring manpower services;

(B) an inventory of job opportunities and skill requirements;

(C) labor supply in various skills; and

(D) occupational outlook and employment trends in various occupations;

(2) with respect to State, regional or national summary data—

(A) areas of short or excess labor supply by types of skills;

(B) in cooperation and after consultation with the Secretary of Commerce, economic and business development trends; and

(C) such other information as in his judgment will be of value to public and private officials concerned with planning and carrying out programs of industrial or commercial development or manpower training and development.

(D) maximum effective use shall be made of electronic data processing, telecommunications, and other tools of modern technology in the development and administration of the program. The Secretary shall develop and institute procedures for distributing and assuring the prompt and ready availability of information concerning manpower needs and resources as herein provided to employers, employees, public and private job placement agencies, unions and other interested individuals and agencies.

EXPERIMENTS, DEMONSTRATION, RESEARCH AND DEVELOPMENT

SEC. 203. The Secretary may conduct directly, or through contracts, grants, or other arrangements with public or private agencies or organizations, such experimental or demonstration projects, research and development as he deems necessary to improve the effectiveness of the program established under this title.

TITLE III—ACTIVE MANPOWER POLICY AS AN ECONOMIC STABILIZER

FINDINGS AND PURPOSE

SEC. 301. It is the purpose of this title to provide an automatic increase in manpower program resources in a timely manner when serious deterioration in the level of economic activity is reasonably anticipated.

EXTENDED APPROPRIATIONS

SEC. 302. (a) For the purpose of providing rapid action in situations involving excessive unemployment, until the Congress shall have an opportunity to act, there is hereby authorized to be appropriated $100,000,000 for fiscal year ending June 30, 1972, to remain available until expended.

(b) Funds appropriated under this title shall be utilized without regard to the apportionment formula prescribed in section 3, in financing, training and related activities for unemployed individuals, in addition to those authorized for title I of this Act, which afford the most effective opportunity to alleviate a local or regional situation of increasing unemployment.

(c) Subsection (a) shall become effective only when the Secretary determines that for each of the most recent three consecutive calendar months ending prior to the date on which a determination is made, the rate of unemployment in a prime sponsorship area is 5 per centum or higher. No further obligation of funds under this title shall be made in any such one subsequent to a determination by the Secretary that the rate of unemployment (seasonally adjusted) has receded below 4.5 per centum for three consecutive months.

TITLE IV ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

DEFINITIONS

SEC. 401. For the purposes of this Act, the term—

(1) "Secretary" shall mean the Secretary of Labor;

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

(3) Comprehensive manpower activities includes the following—

(A) basic education, including literacy and communications skills which will assist individuals to become more employable or more suitable for participation in occupational training;

(B) outreach, counseling, testing, work evaluation and adjustment, work sampling,

recruitment, placement, and followup services;

(C) institutional and on-the-job occupational training, including training or employed workers for the purpose of upgrading their skills and improving the utilization of available manpower;

(D) supportive services, including health services, physical examinations, the furnishing of prosthetic devices, developmental child care, bonding, and other special services, including residential support, deemed necessary for enhancing the employability of participants in programs assisted under this title;

(E) work experience for unemployed and disadvantaged individuals, including the performance of socially useful work in public and private agencies or organizations in the field of health, public safety, education, recreation, streets, parks and municipal maintenance, housing and neighborhood improvement, conservation and rural development, beautification, and other fields of human betterment community improvement, including the establishment, operation, or strengthening of any such program;

(F) part-time work for student in ninth through twelfth grades (and youths of equivalent ages) to assist them in remaining in or returning to school; and with such employment opportunities developed in consultation with educational authorities to enhance, to the extent feasible, the educational growth of such students;

(G) relocation assistance, including grants, loans, and the furnishing of such services as will aid an involuntarily unemployed individual to relocate in an area where he may obtain suitable employment;

(H) the development of job opportunities including activities designed to promote job restructuring and redesign for the purpose of providing more effective utilization of manpower;

(I) incentives for specialized or other personnel and technical assistance which is needed in connection with the programs established under this title or which otherwise pertain to the purposes of this title.

(K) "Dependent" means any spouse, parent, or offspring of a participant residing in the same household and not employed fulltime.

ADMINISTRATIVE PROVISIONS

SEC. 402 The Secretary may—

(1) make such grants, enter into such contracts or agreements, and make and publish such policies, rules and regulations as he may deem necessary to carry out the provisions of the Act;

(2) utilize, contract with, and act through, without regard to section 3709 of the Revised Statutes, any Federal, State or local public agency or instrumentality, educational institution, or non-profit agency or organization with the consent of the agency or organizations concerned, and make arrangements for payments to any such organization or agency by way of advance or reimbursement without regard to the provisions of section 3648 of the Revised Statutes; and

(3) accept and employ in furtherance of the purposes of this Act any money or property of any sort received by gift, bequest, devise or otherwise; and accept voluntary and uncompensated services notwithstanding the provisions of section 3679 (b) of the Revised Statutes (31 U.S.C. 665 (b)).

REPORTS

SEC. 403. The Secretary shall include in his annual reports to the President and the Congress a full and detailed account of activities taken pursuant to this Act and the results thereof, including a summary of the evaluations made pursuant to Title I of this Act, together with his findings and recommendations in connection therewith.

PAYMENTS TO PUBLIC ASSISTANCE RECIPIENTS

SEC. 404. Notwithstanding the provisions of titles I, IV, X, XIV, and XVI of the Social Security Act, a State plan approved under any such title shall provide that no payment made to any person pursuant to section 109 (g) (1) or 109(h) of this Act shall be regarded (A) as income or resources of that person in determining his need under such approved State plan, or (B) as income or resources of any other person in determining the need of that other person under such approved State plan. No funds to which a State is otherwise entitled under titles I, IV, X, XIV, or XVI of the Social Security Act for any period before the first month beginning after the adjournment of the State's first regular legislative session which adjourns more than sixty days after the enactment of this section shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of this paragraph.

LABOR STANDARDS

SEC. 405. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

PROVISIONS AFFECTING EXISTING AUTHORITIES

SEC. 406(a). The provisions of this Act shall be supplemental to and not in substitution for the provisions of the Emergency Employment Act of 1971 (Public Law 93–54). During any period of time when the Emergency Employment Act of 1971 is in effect, the Secretary shall provide for a coordinated and consistent administration of activities to be assisted under both Acts in order to end overlapping and duplication.

(b) The Manpower Development and Training Act of 1962, as amended (42 U.S.C. 2517 et seq.), is hereby repealed.

By Mr. HUMPHREY:

S. 2943. A bill to designate the Department of Health, Education, and Welfare South Building in Washington, D.C., as the "Mary Switzer Memorial Building." Referred to the Committee on Public Works.

MARY SWITZER MEMORIAL BUILDING

Mr. HUMPHREY. Mr. President, I take great pleasure today in introducing legislation which will offer our Nation an opportunity to pay lasting and appropriate tribute to one of the great women of our Nation, Mary Switzer.

My bill provides for the South Building of the Department of Health, Education, and Welfare, Washington, D.C., to be named the Mary Switzer Memorial Building.

As far as can be determined, this will be the first Federal building to be named after a woman—and no woman is more deserving of this honor than is Miss Switzer.

Her distinguished career in the Federal Government spans 48 years—during which time she worked under eight Presidents and became the first person to head the Social and Rehabilitation Service in the Department of Health, Education, and Welfare.

This position gave her the largest administrative responsibility of any woman in Government and required that she combine and consolidate the work of five Federal agencies providing social and rehabilitation services to millions of Americans.

During the 3-year period that she held this post, she supervised the expenditure of $8 billion in Federal programs serving the aged, the poor, children and youth and the disabled.

When she accepted this challenging new assignment, her name was already synonymous with rehabiliation. For 17 years she had been engaged in this work—first, as head of the Federal-State program for the rehabilitation of the disabled—and later as Commissioner of the Vocational Rehabilitation Administration, where she remained until 1967.

Under her inspiration and direction the vocational rehabilitation program grew from one that rehabilitated fewer than 60,000 disabled persons a year for useful work in 1950 to 240,000 in 1969.

Such success prompted former Secretary of Health, Education, and Welfare Arthur Flemming, under whom she served from 1958 to 1961, to call her "one of the 10 career civil servants who has rendered the most to the Nation throughout its entire history."

And during her long career similar tributes have come from all levels of government and from the people whom she served.

At the time of her retirement she had received 16 honorary degrees and more than 40 awards, including the President's Certificate of Merit—the highest wartime award for civilians; the Albert Lasker Award in medicine; and the National Civil Service Award.

She also had the distinction of being the first woman to be appointed to the board of directors of Georgetown University and as trustee of Assumption College.

But such recognition only seemed to act as an impetus to further accomplishment and effort.

Each year, more vigorously than before, she would fight the battles necessary to make sure that her area of government was as responsive as possible to the people that it was meant to help.

Too many children and too many adults in this free society still live under the subtle but powerful tyrannies of ignorance, disease, want, discrimination, physical handicap or mental illness.

She maintained:

Those tyrannies keep them dependent. We want them to be free and strong.

We feel rehabilitated individuals have a right to work instead of to beg. We feel an individual is entitled to his place in the sun somehow.

I feel that Mary Switzer is also entitled to her "place in the sun" for her outstanding years of accomplishment in the field of social welfare and rehabilitation. And I ask my colleagues to join in assuring that the South Building of HEW bears the name of this "dedicated bu-

reaucrat," as she laughingly, but proudly, referred to herself.

Now I ask unanimous consent to have printed in the RECORD as part of my remarks the New York Times story written following a Washington dinner in her honor the year before her death. It summarizes her career and acknowledges the high regard which the Nation felt for this courageous and able woman from Boston.

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

[From the New York Times, Mar. 1, 1970]

CAREER IN REHABILITATION: MARY E. SWITZER HONORED AT DINNER AFTER 48 YEARS AS PUBLIC HEALTH AIDE

(By Howard A. Rusk, M.D.)

WASHINGTON.—Public dinners for people and causes these days are generally a dime a dozen. However, last Tuesday night here in Washington, a tribute dinner was given, honoring a career, a cause and a lady who has made great contributions in public health and rehabilitation.

The woman was Mary E. Switzer; the occasion, her retirement after 48 years of public service. Her career began in 1922, as a junior economist in the Treasury Department. In 1934, she was given certain supervisory fiscal responsibilities over the United States Public Health Service.

This new responsibility "infected" her with a special concern for public health and rehabilitation services.

In 1950, when she was named head of the Federal-state program for the rehabilitation of the disabled, The New York Times commented editorially on the excellence of the appointment. When she was asked how she would like to be described, she replied, "A dedicated bureaucrat."

In the beginning there was no organized national training program for professional staff. Only 12 rehabilitation counselors graduated from American universities in 1950, and only three of the nation's medical schools had courses in rehabilitation methods. No organized rehabilitation research program existed.

5,000 GRADUATES LAST YEAR

Last year more than 5,000 rehabilitation counselors were graduated, and 98 schools of medicine and osteopathy routinely provide rehabilitation training.

The far-reaching research program today supports a wide variety of advanced research undertakings in universities and rehabilitation facilities.

In the early years, the total number of those rehabilitated annually in Federal and state programs reached 60,000. The public vocational rehabilitation program today is rehabilitating more than 240,000 disabled Americans a year for useful work, including 8,000 blind and 25,000 mentally retarded.

It has been documented over and over again that for every dollar spent in rehabilitation, $5 comes back in Federal income taxes alone, in the first five years after training. Congress and the people have learned that this is not only good medical and social practice but good economics. This is why the budget has increased from $20.5 million in 1950 for rehabilitation of the disabled to more than $500 million today.

A NEW DIMENSION

In 1960, a new dimension was added to the program: an international rehabilitation research program. Since the program began, 237 projects have operated in 12 countries, paid for with counterpart funds in the currency of the country owed to the United States for surplus commodities.

A number of these research projects have been "bread cast on the water." From them we have learned much to help the disabled in the United States. One of these is the new technique developed in Poland for the immediate fitting of an artificial limb with the patient on the operating table under anesthesia.

In late 1967, the Secretary of Health, Education, and Welfare, John W. Gardner, appointed Miss Switzer as first administrator of the newly constituted Social and Rehabilitation Service. Secretary Gardner said he wanted the spirit of rehabilitation transferred into all of the merging agencies.

Five major Federal agencies serving millions of Americans were brought under the new agency. Its functions included providing cash assistance (in 1967) to 7.6 million people—about 4 per cent of the population; supporting medical assistance for 6 million needy persons a year, providing rehabilitation services for the nation's disabled, extending Federal assistance for medical services for 450,000 crippled children each year, helping a quarter-million women a year obtain family planning services and assisting 700 projects in the course of a year in providing services for 19 million Americans over 65 years of age.

The Social and Rehabilitation Service, under Miss Switzer's guidance, has simplified procedures for needy people to obtain public assistance and social services, and has ameliorated the punitive aspects often associated with welfare. Experience has also proven that the overwhelming majority of welfare recipients prefer work and self-support to idleness and dependency.

More than a thousand persons came to this memorable event honoring Miss Switzer. They included co-workers, patients and families, and colleagues from every state in the union. The program was symbolic. Members of the National Theatre for the Deaf, a "Switzer project," recited poems in the wonderfully dramatic silent language they have created. Nanette Fabray sang "The Impossible Dream," not only with voice but also in the language of silence. Helen Francis Dunn, the 1969 Rehabilitant of the year for the District of Columbia, who is blind, told eloquently about the new life she has had through rehabilitation.

Six of the eight former Secretaries under whom Miss Switzer served attended and expressed their appreciation and affection. Secretary Robert H. Finch presented Miss Switzer with a flag of the department, the first time in history that this had ever been done.

MESSAGE FROM NIXON

Thousands of messages from all over the country were piled on the rostrum. The topmost was from President Nixon, expressing deep personal appreciation, and that of the people of the United States, to Miss Switzer for her services to the handicapped and disadvantaged.

The principles of rehabilitation were really practiced at the dinner, for there were 20 standing ovations to the guest of honor and the program participants. This secondary dividend of exercises prevented a lot of aching backs and postprandial somnolence.

In closing, Miss Switzer told of her new career as Vice President of the World Rehabilitation Fund, directing its work from her Washington office, in coordinating its worldwide programs with governmental, national and international voluntary organizations.

Evenings like this do not just happen. They are capstones of a lifetime of dedicated service to mankind. Those attending the dinner could not help but feel the aura of the unseen presence of the two million disabled throughout the United States who are walking, working and living lives of dignity because of the leadership of a great lady who cared.

By Mr. BUCKLEY (for himself, Mr. KENNEDY, Mr. ALLEN, Mr. ALLOTT, Mr. BAKER, Mr. BENNETT, Mr. BOGGS, Mr. BROCK, Mr. BROOKE, Mr. COOPER, Mr. COTTON, Mr. CURTIS, Mr. DOLE, Mr. EASTLAND, Mr. FANNIN, Mr. GRIFFIN, Mr. GURNEY, Mr. GOLDWATER, Mr. HARRIS, Mr. HATFIELD, Mr. HUMPHREY, Mr. HOLLINGS, Mr. JACKSON, Mr. JAVITS, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCGEE, Mr. MCINTYRE, Mr. MILLER, Mr. MONTOYA, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. RANDOLPH, Mr. ROTH, Mr. SAXBE, Mr. SCOTT, Mr. SCHWEIKER, Mr. TOWER, Mr. YOUNG, Mr. WEICKER, and Mr. BYRD of West Virginia):

S. 2944. A bill to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict. Referred to the Committee on Finance.

By Mr. BUCKLEY (for himself, Mr. KENNEDY, Mr. ALLEN, Mr. ALLOTT, Mr. BAKER, Mr. BENNETT, Mr. BOGGS, Mr. BROCK, Mr. BROOKE, Mr. COOPER, Mr. COTTON, Mr. CURTIS, Mr. DOLE, Mr. EASTLAND, Mr. FANNIN, Mr. GRIFFIN, Mr. GURNEY, Mr. GOLDWATER, Mr. HARRIS, Mr. HATFIELD, Mr. HUMPHREY, Mr. HOLLINGS, Mr. JACKSON, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCGEE, Mr. MCINTYRE, Mr. MILLER, Mr. MONTOYA, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. RANDOLPH, Mr. ROTH, Mr. SCHWEIKER, Mr. SCOTT, Mr. TOWER, Mr. TUNNEY, Mr. SAXBE, Mr. YOUNG, Mr. WEICKER, and Mr. BYRD of West Virginia):

S. 2945. A bill to amend title 10 of the United States Code to permit the appointment by the President of certain additional persons to the service academies. Referred to the Committee on Armed Services.

Mr. BUCKLEY. Mr. President, I introduce for appropriate reference two bills. The first bill is designed to exempt from income taxation the compensation payable to prisoners of war and to those missing in action during the Vietnam conflict for the period in which such persons are held prisoner or are in a missing status. The second is designed to enable the sons of POWs and MIAs in the Vietnam conflict to compete for presidential appointments to the service academies. The overall purpose of this legislation, of course, is to express in some measure this Nation's gratitude to these men and its awareness of the very special sacrifice which they and their families have been called upon to make.

The lot of our prisoners of war in the Vietnam conflict has been particularly cruel. Aside from the broad evidence of the physical and mental duress to which they have been subjected by their captors, these men and their families have been denied the elemental rights and decencies which are supposed to be guaranteed to all prisoners of war by the Geneva Convention.

The families of these brave Americans have suffered, and courageously sustained, unusual hardships. Among the worst of these has been the fact that so many still do not know whether their husbands or brothers or fathers are among the living, or how those who are held captive are being treated. There is the further agony which results from the knowledge that the prisoners are being held as pawns in a political game being played by calculating men who have proven themselves to be impervious to the most elemental considerations of decency and humanity.

One of these days, God willing, the men now held captive in Southeast Asia will return to their homes; but even then, their lot will be quite different from that of prisoners taken in World War II and in the Korean war. These men will be returning as the victims of a war which has lost that broad base of public support which would make the memory of their sufferings easier to bear. This has become a war in which there are no heroes, no victory parades, no open-hearted expressions of public gratitude to those who have borne the brunt of battle.

The passage of this legislation would be a demonstration on the part of our Nation that the sacrifices of 1,599 sailors, soldiers, airmen, and marines who are prisoners of war or are missing in action have not been forgotten by a grateful people.

The public cost of the proposed legislation is modest, but the need for a national recognition of the special sacrifice of these men is large.

The National League of Families of American Prisoners and Missing in Southeast Asia enthusiastically supports this legislation.

I introduce this legislation on behalf of myself, Senator KENNEDY and 41 other Senators who cosponsor the legislation relating to income taxation, and 39 other Senators who cosponsor the legislation relating to additional Presidential appointments to the service academies.

Mr. KENNEDY. Mr. President, I would like to commend the distinguished junior Senator from New York for introducing this bill on behalf of the families of American prisoner's of war and missing in action in Indochina. I am pleased to join in cosponsoring this very concrete legislation to help bring at least financial relief to these families.

It is tragic that there is so little new to be said about the prisoner of war problem. The plight of these prisoners and missing remains as troubling today as ever before. Despite all that has been said and done in recent years, meaningful progress on the prisoners identification and treatment—let alone their release—has been extremely slow and too often filled with false hopes. And the understandable anguish felt in the hearts of relatives grows deeper with each passing day.

Each day also brings more tragedy—for the list of Americans missing in action and presumed captured, continues to grow. This year alone several dozens of new names were added to the list. So we must remember the hard reality—that as long as the Indochina war continues, more young American men will be added to the list. Let us also remember that the ultimate safety and return of the prsioners rests squarely on the ability of our Government to extricate this Nation from Indochina, and to negotiate an end to our part in the conflict.

Mr. President, we have all been moved by the courage and spirit shown by the wives and children, and mothers and fathers of these American men missing or captured. And we all certainly share in their frustration over the lack of progress that has been made in their behalf. Yet, despite frustrations and disappointments, the families continue their activities for the sake of their sons and husbands and fathers, and set an example for all of us.

The least we in Congress can do is to take those steps that will help make their anguish and trial less difficult. It is for this reason that I gladly cosponsor this bill introduced by the distinguished junior Senator from New York. I agree with him that the public cost of this legislation is modest, while the deed for a national recognition of the special sacrifice of these men is large.

Mr. President, whatever relief we can bring to the families of these men, even if only financial, we should be prepared to do.

I urge speedy passage of the bills introduced today.

Mr. BROCK. Mr. President, for a great many of us the war grows dimmer and occupies less of our concern as increasing numbers of servicemen leave Southeast Asia. Not so for the families of those men who are either prisoners of war or listed as missing in action in Vietnam, both North and South, Laos, and Cambodia. For them, the weeks, months, and years drag on endlessly, bringing very little if any news of their loved ones. I am sure this body assigns top priority to any and all efforts to improve the treatment of our men, assist the families here at home, and press for eventual release.

It must be admitted that most of our efforts to date have yielded little results. Yet those efforts must be continued. One such result can be accomplished, I believe, by enacting legislation being proposed by the distinguished Senator from New York (Mr. BUCKLEY) which would do two things:

First. Relieve POW's and MIA's from the burden of income tax for the years spent in captivity or in a missing status.

Second. Make it possible for the sons of POW's/MIA's to attend the service academies.

This is little enough to do for those who have suffered and sacrificed so much for so many. Let us not delay in reaffirming our commitment to them and to their families. I am delighted to join my distinguished colleague the Senator from New York (Mr. BUCKLEY) in support of this measure.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have the following cosponsors added to these two bills: Senators BYRD of West Virginia, JACKSON, NELSON, and ALLOTT.

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

Mr. COOPER. Mr. President, I want to thank the distinguished junior Senator from New York for inviting me to be a cosponsor of his two bills.

Above all is the fact that Senator BUCKLEY has introduced legislation which will give concrete, certain assistance to our fellow countrymen who are prisoners of war, and for whose early return to their families we fervently hope. I hope very much that it will be enacted into law.

By Mr. NELSON (for himself and Mr. MONDALE):

S. 2946. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge, and for other purposes. Referred to the Committee on Commerce.

Mr. NELSON. Mr. President, Senator MONDALE and I are introducing today a bill to require that auto manufacturers recall and repair safety related defects free of charge, when the Department of Transportation determines that such a recall is necessary.

In the past 2 months, major safety related defects have been revealed in several domestic automobiles: faulty motor mounts, which can cause sudden jamming of accelerators on some 6 million Chevrolets built between 1965 and 1970; and defective heaters blamed for leaking carbon monoxide fumes in Corvairs built between 1961 and 1969. Some 760,000 Corvairs are still in use.

Under existing law, the National Traffic and Motor Vehicle Safety Act of 1966, auto manufacturers are required to notify car owners of safety related defects.

Senator MONDALE was the sponsor of the defect notification provision in the 1966 act.

However, manufacturers are under no obligation to recall the faulty equipment nor to repair it free of charge to the consumer. Thus, unless the manufacturer agrees to remedy such defects, the car owner must bear the cost himself. A provision, which would have remedied this problem by requiring auto manufacturers to recall and repair safety-related defects free of charge, passed the Senate in 1970 as part of a package (H.R. 10105) amending the National Traffic and Motor Vehicle Safety Act of 1966. The recall and repair provision, however, was dropped in conference.

The bill that we are introducing today restores the language that was dropped in conference.

Senator HARTKE, chairman of the Senate Commerce Committee Subcommittee on Surface Transportation, made it clear after the 1970 conference that Congress would be watching auto manufacturers closely to see if they honored their word

to repair auto safety defects without charge to car owners. I ask that Senator HARTKE's statement explaining the conference action on H.R. 10105 be included in the CONGRESSIONAL RECORD at the conclusion of my remarks.

The present situation indicates that manufacturers have not been true to their word.

The companies have not offered to recall the affected autos, or to pay for repairs as needed.

Douglas W. Toms, Director of the NHSTA, stated November 16:

We are pleased that GM agreed to send out defect notices [regarding Corvairs]. The one thing GM refused to do was pay for repairs. We asked them to do that, but they were firm and there didn't appear any way of changing them. It would be nice if we could get these corvairs repaired free of cost to the consumer, but, as I said, we don't have the authority.

Toms further stated:

We have been able to achieve everything that the law permits us to do. We have gone the full extent of the legal remedy. We have asked for recall authority because we think it is necessary to do our job.

The Department of Transportation strongly supported the recall and repair provision in 1969. In a letter to Commerce Committee Chairman Senator WARREN MAGNUSON, Under Secretary of Transportation James M. Beggs wrote:

We agree with the sponsors of the proposal that defect repair as well as defect notification is important if we are to achieve the safety goals Congress established in the act. We have learned from experience that unless notification of a safety related defect in a motor vehicle or equipment is accompanied by an offer to remedy that defect without expense to the vehicle owner, many persons will allow those defects to go uncorrected.

To cover this situation, we agree that the Secretary should be legally authorized to direct a recall campaign when he determines that the interests of motor vehicle safety make one appropriate.

It is clear that Congress must take the next step, if the auto industry does not act to protect the consumer.

Such legislative mandates would act as a stimulus to better manufacturing practices.

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

Mr. President, I ask unanimous consent that, at the conclusion of my remarks, several articles describing this situation be printed in the RECORD following Senator HARTKE's statement explaining conference action on the 1970 bill (H.R. 10105), previously printed in the CONGRESSIONAL RECORD on April 23, 1970.

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

S. 2946

A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for remedies of defects without charge, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 113(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718) is amended to read as follows:

"(c) The notification required by subsection (a) or (e) of this section shall contain a clear description of such failure to comply with applicable motor vehicle safety standards or such defect, an evaluation of the risk to traffic safety reasonably related to such defect, a statement of the measures to be taken to repair such failure or defect, and the commitment of such manufacturer to cause such failure or defect to be remedied without charge."

(b) Section 113 of such Act is further amended by redesignating subsection "(g)" as subsection "(h)" and inserting immediately after subsection (f) the following new subsection:

"(g) If—

"(1) any motor vehicle (including any item of original motor vehicle equipment) or tire is determined by the manufacturer under subsection (a) to contain a defect which relates to motor vehicle safety; or

"(2) any motor vehicle or item of motor vehicle equipment is determined by the Secretary under subsection (e) to contain a failure to comply with applicable motor vehicle safety standards prescribed under this title or a defect which relates to motor vehicle safety;

and the notification specified in subsection (c) is required to be furnished on account of such failure or defect, then—

"(A) the manufacturer of each such motor vehicle presented for remedy pursuant to such notice shall cause such failure or defect in such motor vehicle (including any item of original motor vehicle equipment) to be remedied without charge; or

"(B) the manufacturer of each such other item of motor vehicle equipment presented for remedy pursuant to such notice shall cause such failure or defect in such item of motor vehicle equipment to be remedied without charge.

"If a manufacturer can establish to the satisfaction of the Secretary that a failure to comply with an applicable motor vehicle safety standard is of such inconsequential nature that the purposes of this title and the public interest would not be served by requiring the applicable manufacturer to remedy such noncompliance, the Secretary may, upon publication of his reasons for such findings, exempt such manufacturer from the requirements of this subsection with respect to such failure."

STATEMENT OF SENATOR HARTKE EXPLAINING CONFERENCE ACTION ON H.R. 10105

AUTHORIZATION

The Committee adopted the following dollar amounts as authorization for the Department's motor vehicle safety program:

1970, $23 million.
1971, $40 million.
1972, $40 million.

Because the Administration will begin planning for its 1972 budget next fall, the conferees thought it advantageous to include a fiscal year 1972 authorization amount in this bill. Since the Department did not request or provide justification of appropriations for fiscal year 1972, the Committee set the authorization amount at 40 million dollars for both 1971 and 1972. However, the identical amounts for these two years are not intended to be a prohibition on the necessary growth of the safety program but rather reflect the Committee's best estimate of need at this time. The Department is invited to inform the Commerce Committees if it finds that its needs for the motor vehicle safety program for fiscal year 1972 can be justified at an amount higher than $40 million.

The Committee deleted the provision in section 121(c) which would have made available in 1970 2.8 million dollars for employment of additional personnel in the National Highway Safety Bureau to carry out the provisions of the National Traffic and Motor Vehicle Safety Act of 1966. This deletion was made because fiscal year 1970 had nearly ended at the time of the Committee's action, and the fiscal year 1970 appropriations had already been enacted.

The Committee's action is not meant to suggest that the Committee is no longer concerned about the level of staffing in the National Highway Safety Bureau. To the contrary, the Committee believes that this is one of the Bureau's most critical needs as was shown during the authorization hearings in 1969.

The Committee is hopeful that recent actions by the Department of Transportation will be satisfactory to meet manpower needs. In the fiscal year 1970 appropriations, there was an increase of 56 staff positions provided for the National Highway Safety Bureau, reaching a total of 518 positions. With the reorganization of the Bureau into a major operating element in the Department of Transportation, a step which the Committee heartily approves, the staff positions previously allocated to the Federal Highway Administration to provide support services for the Bureau were transferred to the Bureau's staff, making a total for fiscal year 1970 of 589 staff positions. The Committee understands that for fiscal year 1971 the Department is requesting an additional 254 positions for the National Highway Safety Bureau, reaching a total of 843.

In view of these steps the Committee believes that it is not necessary, as it appeared at this time last year, to specifically allocate a portion of the authorization for appropriations solely for the purpose of hiring additional staff. However, the Committee intends to continue its oversight and review of Bureau operations to make certain that this trend is not reversed or slowed down.

DEFINITION OF MOTOR VEHICLE EQUIPMENT

The Senate-passed bill had expanded the definition of "motor vehicle equipment" to authorize the setting of standards not only for motor vehicles and motor vehicles equipment but for automotive safety accessories and equipment such as motorcycle goggles, tire repair equipment and tire inflation equipment. The House conferees agreed with the thrust of the Senate amendment but they expressed concern that the Senate definition might be interpreted to include items which had only tangential relationship to automotive safety such as shoes or gloves. To clarify the intention of the conferees not to include such tangential items, the Senate amendment was limited to accessories intended for use "exclusively" to safeguard motor vehicles, drivers, passengers and other highway users from risk of accident, injury or death.

PROSPECTIVE PURCHASES—CONSUMER INFORMATION

The Committee amended the provisions of section 112(d) of the Act concerning consumer information to make it clear that manufacturers would be required to provide consumer information to prospective purchasers as well as to owners. Thus, the bill requires that the information be given to each prospective purchaser at each location where any such manufacturer of vehicles or items of equipment are offered for sale by a person with whom the manufacturer has a contractual, proprietary, or other legal relationship. The information must, as a minimum, include printed material which can be retained by the prospective purchaser or sent to him by mail at his request. For the purchaser, the printed material must be placed in the motor vehicle or attached to or accompany the item of equipment.

The Committee recognizes the great difficulty and complicated task facing the Department and the manufacturers in developing comparable technical safety information

which is useful for consumers. Nevertheless, the Committee believes that these requirements are essentials of the Safety Act. The Committee was impressed with the first effort made by the Department to collect and organize the vast amount of consumer information submitted by the manufacturers in December 1969 and urges the Secretary to continue and perfect the document entitled "Performance Data for new Passenger Cars and Motorcycles". Because of the importance of disseminating this information for all makes and models of vehicles sold in the United States, the Committee urges the Secretary to disseminate this booklet as widely as possible and require manufacturers to make it available at each dealership.

It has come to the Committee's attention that despite the promulgation of the first consumer information regulations on January 1, 1970, the vast majority of motor vehicle dealers have not been volunteering the information to consumers. In other words, the dealers are not posting the information at the dealerships or in other ways attempting to inform the consumer about the availability of this information. The Department of Transportation made a survey of dealers to determine the extent to which they made the consumer information available during the first months of 1970. The survey showed that only 1.8% of the dealers had the information on display although 85% were able to produce the information when specifically requested to do so by the survey team.

The Committee expects that the Department will, under the new language of this bill, issue regulations which specifically show the steps the manufacturers, distributors and dealers are expected to take in assuring that consumers are fully informed and have access to the consumer information provided in accordance with section 112(d) of the Act.

DEFECT NOTIFICATION AND RECALL

The Committee considered the addition to the bill of the Senate language which would have specifically required motor vehicle and tire manufacturers to remedy without charge the vehicle or equipment determined to be defective or not in compliance with Federal vehicle safety standards. However, the Committee did not believe it necessary at this time to adopt the Senate language. It is the Committee's understanding that it has to date been the general practice for the industry to remedy without charge any vehicle or equipment about which safety defect notification (concerning a defect or violation of standard) has been sent to owners. The Committee agrees that it is implicit in present law, in the requirements for notification of owners, that the manufacturer must remedy the defect or violation without charge.

Thus, the Committee emphasizes that this action is in no way intended to suggest that the Committee does not expect all manufacturers to remedy defective and non-complying vehicles and equipment without charge. It is obvious that unless the manufacturers accept this responsibility, there is little likelihood that owners will bring their vehicles to dealers for correction. It would be an intolerable situation if the manufacturers, after notifying owners that the product they manufactured was defective or in violation of a safety standard and in need of correction, would not also effect the correction without charge.

The Committee is not interested in needlessly adding legislative language to the National Traffic and Motor Vehicle Safety Act. However, the Committee fully intends to carefully watch the performance of all manufacturers and the extent to which they cooperate with the Department of Transportation in carrying out the intent of the Act. If it should come to the attention of the Committee that the manufacturers are not recalling any vehicle or equipment which is defective or in violation of the Federal standards nad remedying these without charge, we will not hesitate immediately to initiate legislation which would require manufacturers to recall and remedy such vehicles and equipment, to be penalized by the Government for failure to do so immediately, and to require payment of punitive damages to owners whose vehicles contain safety defects or fail to comply with safety standards.

The Committee believes that the National Traffic and Motor Vehicle Safety Act is of vital importance to the Nation, and expects that its benefits will be even more evident in reducing the death and injury rate within the next several years. Assurance that defective or unsafe vehicles are not travelling on the highways is a critical part of the Act, and the Committee expects that the Department of Transportation and the automotive industry will work jointly to assure that the millions of vehicles on the highways are in the safest possible condition at all times.

TIRE DEFECT NOTIFICATION

The bill requires tire manufacturers, as vehicle manufacturers are already obligated under present law, to provide defect notification of defective or noncomplying tires, As Senate Report 91–559 makes clear, the motor vehicle manufacturers will continue to be responsible for safety defect notifications to owners of original equipment tires sold with new motor vehicles, while the tire manufacturers under this bill will be responsibe for notification to owners of aftermarket tires.

The bill also requires the motor vehicle and tire manufacturers to maintain records of the names and addresses of first purchasers so that the company is able to provide notification as the present law requires by certified mail. Language adopted by the conferees authorizes the Secretary to establish procedures under which distributors and dealers must assist manufacturers in securing the names and addresses of first purchasers on the condition that such procedures do not affect the basic obligation of the manufacturer to keep records. The purpose of this provision is to assure that dealers and distributors whose efforts are important and necessary in securing the names and addresses of first purchasers, will cooperate fully with the manufacturers. However, the Committee also expects the Department in its regulations to take care not to compromise the competitive position of these small businessmen in their dealings with the manufacturers, and expects that the Department will penalize manufacturers if the lists of purchasers are in any way used for commercial purposes by the manufacturers to the detriment of independent distributors or dealers.

FACILITIES

The Committee gave thorough consideration to the need for research and development facilities as well as Bureau compliance testing facilities. The Committee believes that the provisions in the bill as reported by the conferees will provide the Department with the maximum flexibility in rapidly designing and constructing the needed facilities. Thus, the bill, as reported, provides an unlimited authorization for the Secretary of Transportation to plan, design and construct facilities suitable to conduct research, development and compliance and other testing in traffic safety.

The burden now rests with the Secretary of Transportation to provide the Senate and House Committees and the Senate and House Public Works Committees with an appropriate prospectus of his plans for requesting appropriations for design and construction of these facilities. The Conference Committee is cognizant of the great need for testing facilities both for the purpose of developing standards and other research information as well as for assuring compliance with these standards. The conferees pledged that they will provide every assistance to the Secretary in securing passage of the resolutions called for in H.R 12105 to expedite appropriations by the Congress. The conferees are anxious to assist the Secretary in dramatically reducing the enormous death and injury toll and stand ready to act on his own requests as soon as they are forwarded to the Congress.

WARNING OF RISKS IN OPERATION OF VEHICLES

The Department of Transportation's National Highway Traffic Safety Administration issued a special Consumer Protection Bulletin today, alerting motorists to potential risks in the operation of certain General Motors Corporation vehicles which may be subject to front engine mount failure.

Specifically involved in the risk "alert" are all 1965 through 1969 model year Chevrolets Novas, Chevelles, and Camaros.

The Traffic Safety Administration said the Consumer Protection Bulletin reflects the preliminary results of an intensive investigation that is still in progress to determine if a safety-related defect exists. The purpose of the alert is to warn owners of the potential hazard and to solicit further data for the investigation.

Owners of the Chevrolet models named in the Consumer Bulletin are advised to seek inspection by competent service personnel to determine the condition of engine mounts.

Engine mounts—two front and one rear—support the engine on the vehicle's frame and also serve to absorb noise and vibration. Failure of the left front engine mount may result in partial rotation of the engine within the engine compartment, during acceleration. Such failure may, in some cases, jam the accelerator and gear shift linkages and may also cause loss of power braking and power steering assist. The result is partial or total loss of vehicle control.

The Safety Agency said reports of engine mount failure, many of which involved loss of vehicle control, have been received from approximately 500 vehicle owners. There is evidence that many more such failures have occurred. Approximately 100,000 engine mounts have been replaced, for all causes, on 1965 through 1969 Chevrolet vehicles.

The failures noted occur when the engine mount (a "sandwich" composed of a layer of rubber bonded between two layers of metal) comes apart, allowing the upper and lower pieces to separate.

The Traffic Safety Administration recommends periodic inspection, and advises that replacement of defective or broken engine mounts is imperative. If an engine mount failure occurs while the vehicle is in use, the vehicle can be controlled by shifting into neutral (if possible), by turning off the ignition, and by braking.

Owners of all vehicles, regardless of manufacture, and including multipurpose vehicles and trucks, which experience engine mount failures are urged to report such failures to the National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C. 20590.

SPECIAL CONSUMER PROTECTION BULLETIN

(No. 2–71, October 15, 1971)

Subject: Alerting United States Motorists to specific use-risks in connection with the highway operation of certain General Motors Corporation vehicles which may be subject to front engine mount failure; and *inviting reports from motorists who experience such failures.*

General Motors vehicles potentially involved, according to current findings, are:

Year: 1965 through 1969.

Make: Chevrolet.

Model: Chevrolet, Nova, Chevelle, and Camaro.

Engine mounts—two front and one rear—serve to support the engine on the vehicle's frame and to absorb noise, vibration, and

torque reaction forces generated during engine operation. Failure of the left front engine mount may result in partial rotation of the engine within the engine compartment, during acceleration. This lifting of the left side of the engine may, in some cases, jam the accelerator and gear shift linkages and may also cause loss of power braking and power steering assist. The result is partial or total loss of vehicle control.

Prior action background: Reports of engine mount failure, many of which have involved loss of vehicle control, have been received from approximately 500 vehicle owners. There is evidence that many more such failures have occurred. Approximately 100,000 engine mounts have been replaced, for all causes, on 1965 through 1969 Chevrolet vehicles.

Current conclusions: This Bulletin warns owners of the Chevrolet vehicles listed of the hazard which can result from engine mount failure. The failures noted occur when the engine mount (a "sandwich" composed of a layer of rubber bonded between two layers of metal) comes apart, allowing the upper and lower pieces to separate. Such failures can cause a loss of vehicle control as a result of jamming of engine control linkages and disconnection of power brake and power steering hoses.

Consumer action advised: Owners of the Chevrolet models listed should be alert to the possibility of engine mount failure. Inspection by competent service personnel will determine condition of mounts. Periodic inspection is advised, and replacement of defective or broken engine mounts is imperative. If an engine mount failure occurs while the vehicle is in operation, the vehicle can be controlled by shifting into neutral (if possible), by turning off the ignition, and by braking.

Consumer request: Owners of all vehicles, regardless of manufacture and including multipurpose vehicles and trucks, which experience engine mount failures, are urged to provide the Department of Transportation with a description of the failure and the make, model, model-year and serial number of the vehicle involved. This information is vital to the ongoing investigation of this matter and to the public safety. Such reports should be sent to:

National Highway Traffic Safety Administration, Department of Transportation, Washington, D.C.

NOVEMBER 26, 1971.

Hon. JOHN VOLPE,
Secretary of Transportation,
Washington, D.C.

DEAR MR. SECRETARY: For over two years the National Highway Traffic Safety Administration (NHTSA) has been investigating defective engine mounts on Chevrolets, first on 1968 models, then on 1969 models, and most recently on 1965–1969 models. This matter came to my attention this summer when I received several consumer complaints describing the catastrophic consequences of broken engine mounts: a jammed accelerator, disengaged power brake vacuum house, and in some case a locked gear shift lever. The NHTSA was alerted to our concern on July 18, 1971, by Mr. Clarence Ditlow of my staff, and again on September 1, 1971, by my comprehensive letter to Mr. Douglas Toms, NHTSA Director.

The September 2 letter generated many letters from people who had experienced this defective behavior in Chevrolets and other General Motors cars. It also generated interest in further news stories which appeared throughout the months of October and November. Notable is the series by Mr. Robert Irvin which appeared in the Detroit News. As a result, I have received over 300 complaints concerning broken engine mounts on GM cars, mostly Chevrolets; Mr. Irvin has also received in excess of 300 complaints; the NHTSA has received at least 200 directly plus copies of hundreds of others; and General Motors has received at least 1500. The scope of the problem is also revealed in the statistic quoted from General Motors in early October 1971 that they had replaced under warranty alone some 100,000 engine mounts on 1965–1969 Chevrolets.

In recognition of the defective design of the Chevrolet engine mount, General Motors late in 1969 redesigned this item to include a metal interlock between the portion connected to the automobile's engine and the portion connected to the automobile's frame. This interlock prevents complete separation of the mount in the event of its failure, and precludes the possibility that the car will run amok, out of control, due to the failure. General Motors also recalled all of the old style mounts available on their dealers' shelves as replacement parts and substituted instead the newer, interlocking, type. The warranty for engine mounts on 1968 and 1969 models was unofficially extended beyond its normal duration, also in tacit recognition of the defect inhert in the design and construction of the engine mounts.

General Motors could have learned of this defect from at least two sources. First, the NHTSA, in response to a consumer complaint letter dated September 27, 1969, from Mr. Charles Combe, sent Information Request number 162 to General Motors on October 20, 1969. The letter questioned the company on the possibility of engine mount failure, and asked if General Motors has also received any letters concerning the defect on other 1968 Chevrolets. In its response of November 26, 1969, General Motors admitted the possibility of a defect, said that it had received fourteen similar complaints on engine mounts with jammed accelerators, but concluded that the problem could occur only under unusual circumstances and in limited numbers. The problem of jammed accelerators was not unknown to General Motors. At least one precedent was set in February 1969 when General Motors recalled 2.5 million cars with the defective fast idle cam on the Quadra jet carburetor which was causing the acelerator to jam. (It is interesting to note that there were only 48 known cases of failure at the time of this recall.

General Motors also learned of the engine mount defect from accidents involving these Chevrolets. For example, in June 1969 a 1969 Chevrolet sedan driven by an active 68 year old woman with her husband and two grandchildren as passsengers, suddenly, and without warning, accelerated out of control on a Boston street. It collided with a telephone pole after the woman maneuvered so as not to strike other cars on the road. The woman suffered a skull fracture which has caused her permanent blindness prematurely ending her very successful professional career as a real estate agent. The car was sold by the insurance company to a junk dealer who promised to sell it to her attorneys for $500. This sale was never consummated, however, because the car was acquired instead by the Royal Globe Indemnity Company, a company which insures General Motors. Although the car has now been examined by the plaintiff's attorneys, certain key parts, such as the engine mounts, were found mysteriously to be missing.

In October 1969, a Michigan woman was driving a new Camaro when it began to accelerate wildly out of control. The car spun around and was struck by another car in the right rear. The driver was injured, and her passenger killed. It was found that the engine mounts were broken.

After receiving the November 1969 reply from General Motors, which should have sparked further interest and questions in the engine mount investigation, the NHTSA engineers recommended in June 1970 that the investigation be discontinued because of the small number of complaints. Apparently no further attempt was made to determine the nature or the extent of the defect and its effect on vehicle safety. General Motors, in flagrant violation of the National Traffic and Motor Vehicle Safety Act of 1966, did not inform the NHTSA of other instances of engine mount failure in 1968 Chevrolets or other Chevrolets of similar design which subsequently came to its attention and did not initiate a safety defect notification campaign. They did, however, act in late 1969 to substitute the interlocking mount on the production line for the defectively designed mount.

During the intervening two years thousands of motorists have been frightened by the spectre of their cars suddenly roaring forward at full throttle with the brakes considerably reduced in effectiveness, and the gearshift jammed. Most were lucky to have been only frightened. The unlucky ones crashed, suffering property damage, injury and death. Both General Motors and the Department of Transportation share in the responsibility for this tragic situation in which the toll of human suffering is being needlessly expanded.

In November 1970, a 1969 Impala sped out of control in a way fully reminiscent of the 1969 Camaro case in Michigan. In this case, however, the driver was lucky to have sustained only major property damage as her car plowed into the guard rail separating the lanes of the highway.

In April 1971, two high school girls in Los Angeles, California, were crushed between a parked car and a runaway Camaro—a car on which the engine mount had broken causing the loss of control. In May, a service manager of a McAllen Texas Chevrolet garage was revving up the engine of a 1967 Chevelle from under the hood, in an effort to determine the source of the strange underhood noises. The car was in neutral, and the emergency brake was engaged, but when the mount separated, the car was pulled into gear, and lept forward, pinning the man between that car and the car ahead of it in the shop. In September, perhaps the most tragic accident of all occurred in the Virgin Islands. A 1968 Camaro convertible in which four children were being driven to school went out of control and crashed, killing all of the children. The car's engine mounts were found to have broken, causing the accelerator to jam open so that the driver, the mother of three of the children, could not control the car. Last month in Richmond, Virginia, a 1969 Camaro went out of control after the engine mounts broke and crashed into a telephone pole. The passenger in the car is now a paraplegic as a result of his injuries. The owner had experienced engine mount failure previously, and after replacing the mounts had added a chain to prevent the engine from raising off the mounts should they break again. However, the force of the engine on its mountings was sufficient to break both the mount and the chain. Even more recently, a driverless runaway 1967 Chevrolet in Laredo, Texas, crashed completely through a school classroom, injuring 32 children, six so that they required hospitalization, and one critically. The car's engine mounts broke, causing the car to slip into gear and the accelerator to be held open, even though there was no one in the car as it sped into the school building.

These are examples of failures known to us. There are undoubtedly many many more unknown not only to us, but to owners as well. Indeed, most owners have stated that they initially thought the problem with their car was unique. How many times must these incidents be repeated before the Department acts?

When the Congress passed the National Traffic and Motor Vehicle Safety Act in 1966 the intent was to protect the public against the kind of corporate irresponsibility demonstrated by General Motors in the engine mount disaster by investing an agency of the

government with substantial corrective power. Congress provided that, in the event of a refusal of a motor company to notify owners of safety defects, you are empowered to have such defects investigated, and to order the manufacturers to notify owners. Although you have delegated this function to the NHTSA, Office of Defects Investigation, their excessive tardiness in this case and callous disregard for the safety of owners and passengers of these defective vehicles makes it incumbent upon you to personally review the issues immediately so that owners of these cars may be notified by certified mail in accordance with the statute. In my opinion, this investigation has not been concluded within a reasonable time within the meaning of the Administrative Procedure Act.

Under the pressure of your action and complaints from thousands of owners, General Motors might also be awakened to their responsibility to repair the remaining defective Chevrolets at their expense. Time is of the essence. You must act to halt the spread of this mechanical epidemic which may afflict as many as one in ten cars now on the Nation's highways.

Sincerely,

RALPH NADER.

[From the Detroit News, Nov. 3, 1971]

GM SHOULD REPLACE MOUNTS, SAYS HADDON

(By Robert W. Irvin)

Dr. William Haddon Jr., who was the first Federal traffic safety chief, said today the government or the courts ought to force General Motors Corp. to recall several million 1965–69 Chevrolets to replace engine mounts.

At the same time, it was learned GM in recent weeks has received more than 1,500 complaints of engine mount failures, with close to 100 of these reportedly involving accidents.

That report came as a surprise to the National Highway Traffic Safety Administration (NHTSA), which thus far has received from GM only about 500 names of people who have registered engine mount complaints.

(The NHTSA is investigating engine mount failures to see whether a defect notice should be issued. It already has issued a consumer warning alerting people that the mounts could break, sending their cars out of control.)

GM said it has not forwarded any more complaints to the NHTSA after an initial batch in mid-October because government officials have not asked for them.

Informed there are 1,000 or more additional complaints at GM, an NHTSA spokesman promised, "We'll be asking for them—you're darn right."

The NHTSA said it has received 270 complaints from citizens, with about 10 percent involving accidents.

The Detroit News has forwarded to the NHTSA another 250 complaints it has received in the last month since it made public the problems of engine mount failures on late model Chevrolet-built cars.

GM said its complaint file, which includes those forwarded to the auto maker by The News, totaled 1,530 through the end of last week. It said "fewer than 100" involved reports of accidents.

Haddon, the first director of NHTSA and now president of the Washington-based Insurance Institute for Highway Safety (IIHS), made it plain in an interview that he thought something should be done about the engine mount failures.

"If the information as reported in the press is accurate, a recall with full repair at manufacturer's expense should be forced by either the executive branch of government or the courts," Haddon said.

"In addition, I believe Congress should take a very close look at the whole episode. It seems that the original safety statute is not tough enough to prevent what appears to be a failure to act in the public interest."

Haddon criticized the Chevrolet engine mount design of the 1960's. When the mount fails, it can allow the accelerator to jam open and cut off the power brakes, an NHTSA consumer bulletin says.

"I think the public will notice and question whether this, in fact, is sufficient excellence of engineering," Haddon said.

He took exception to a statement by GM President Edward N. Cole, who likened engine mount failures to a tire blowout at a low speed.

"I know I sure wouldn't want this to happen to a car I was driving or, even worse, to happen to a car coming the other way," Haddon said.

He also said. "We have no idea and we will never know what tragedy may have been caused by these so-called light blowouts.

"This appears to be a nationwide environmental problem created by poor design."

He said the whole affair points up the need for not only a change in the federal safety law but also new administrative rules.

"One of the things which may be needed is a routine submission to the NHTSA or surveillance by the agency of claims against manufacturers' warranties," Haddon said. "There also should be surveillance of sales of replacement parts so problems can be more easily identified."

[From the Detroit News, Nov. 17, 1971]

SAFETY CHIEF WILL PRESS FOR CORVAIR RECALL LAW

(By Robert W. Irvin)

President Nixon's traffic safety chief said today Congress should amend the safety law so the federal government can order auto makers to recall cars with defects, such as Corvairs with faulty heaters.

Douglas W. Toms made the comment after the National Highway Traffic Safety Administration (NHTSA) which he heads announced General Motors will issue a defect notice about Corvair heaters.

GM will advise 760,000 owners of 1961–69 Corvairs by certified mail of an NHTSA definding. The agency said the heaters on 1965 Corvairs could allow deadly carbon monoxide fumes to enter the passenger compartment. The other years' models are suspected of having the same problem.

But GM did not admit the cars are defective—only to pass on the NHTSA finding. And GM is not recalling the cars. While owners are urged to have the cars inspected, they must bear the cost of the checkup and any repairs to the cars.

Auto critic Ralph Nader and Senator Vance Hartke, Indiana Democrat, whose Senate subcommittee oversees the NHTSA, issued separate statements attacking GM for not recalling the cars and demanding a change in the safety law to give the agency the authority to order a callback.

Toms, interviewed in Detroit where he was attending a safety conference, agreed with Hartke and Nader. "We have asked for recall authority because we think it is necessary to do our job," he said. "We still believe that, but it is hard to say whether this case will lead to a change in the law."

As the Corvair case now stands, he said, "we have been able to achieve everything that the law permits us to do. There wasn't one single thing more we could have gotten out of this. We have gone the full extent of the legal remedy."

The case has been under investigation for more than a year. The NHTSA issued a consumer warning earlier this year and followed that up last month with an initial defect notice on the 1965 Corvairs.

It said samples of several hundred of these models disclosed high carbon monoxide concentrations which could impair a person's health and driving ability. The NHTSA was planning further tests on 1961–64 and 1966–69 Corvairs.

It also had scheduled a meeting with GM in Washington today on the matter. Then, Toms said, GM came in early yesterday "and agreed to send out defect notices. I was surprised because I had anticipated a fight."

Toms said "we are pleased that they agreed to do it at this time because the winter months of high car heater usage are approaching. We would much rather see the heaters fixed now then spend months more investigating the matter."

"The one thing GM refused to do was pay for repairs," Toms said. "We asked them to do that, but they were firm and there didn't appear any way of changing them. It would be nice if we could get these Corvairs repaired free of cost to the consumer but, as I said, we don't have the authority."

Toms agreed that GM's approach of sending out defect notices but refusing to make a recall was unprecedented. He said "this has got to affect GM's legal position. It's going to be very interesting to watch what class action suits develop. There already are many suits pending because of the heaters."

For its part, GM would say nothing. "We have no statement to make," a spokesman said.

However, the NHTSA said that in the defect letter "General Motors urges prompt inspection for Corvair owners who detect noticeable odors or an eye-burning sensation, especially when accompanied by a hissing or spitting noise from the engine. Prompt inspection is also urged for owners who notice any damage or deterioration to the exhaust system itself.

"Owners who detect these indicators are advised to shut off their heaters and roll down a window until inspection and-or repair can be effected."

The safety agency said it is now going to close the case. But Hartke and Nader indicated that, as far as they were concerned, the matter was still open.

"It is clear that massive litigation will be necessary on behalf of Corvair owners," said Nader, long-time foe of the Corvair. The rear engine car was dropped from production after it became embroiled in the safety controversy

Nader also said "the value of most of these 760,000 Corvairs remaining in service is less than $500 each. So they are generally owned by people in lower economic brackets. Mr. Toms has established that the correction of this defect will cost around $170 to repair, which is probably close to the wholesale value of most pre-1966 Corvairs.

"Thus, in order to guarantee his own safety, an owner must either pay for major repairs or lose his investment in his car. This is in his choice after years of driver and occupant exposure to these harmful emissions."

Hartke charged a double cross. He said the Senate in 1969 tried to give the NHTSA the recall authority missing in the original 1966 safety law. He said the Senate-passed bill "required auto companies to fix defects without charge."

But, Hartke added, "the House, in conference with the Senate, said the provision was unnecessary, arguing that the auto companies had pledged to fix defects without charge voluntarily. What treachery was worked upon the American people by the auto companies that day!

"I call upon General Motors to honor its promise and fix Corvair heaters without charge. If they do not, I pledge that I will work for immediate passage of legislation that will not only require them to repair a defective car without charge but will also impose a penalty upon them for producing such a car.

"The human tragedy played out on the highways of this nation each day should not

be heightened by corporate decisions which protect profits at the expense of human life."

[From the Washington Post, Nov. 17, 1971]

GM To Warn All Owners of Corvairs

General Motors Corp. agreed yesterday to notify some 760,000 owners of Corvair automobiles, from the 1961 through the 1969 models, of possible heater system defects.

The manufacturer will advise Corvair owners to have the cars inspected by a Chevrolet dealer and repaired, if necessary, to eliminate dangerous fumes.

The inspections and repairs will be made at the expense of the owners unless warranty provisions are still in effect.

Secretary of Transportation John A. Volpe announced the agreement one day before a meeting at which General Motors was to have appeared with regard to an Oct. 29 finding of the National Highway Traffic Safety Administration that a safety defect existed in the engine heater system of Corvairs of the 1965 year model.

In view of the new development, the meeting was cancelled. General Motors disputed the findings, but agreed to issue the notice to all Corvair owners over the nine-year span.

The agency noted that it does not have the authority to compel a manufacturer to recall and repair motor vehicles free of charge.

"General Motors is doing more than the law requires it to do by agreeing to conduct a search for the names and addresses of all present Corvair owners rather than limiting its notice to first purchasers or warranty owners, as the law requires," said Douglas Toms, administrator of the agency.

"This is especially significant when talking about vehicles sold as long as 10 years ago."

Ralph Nader said last night that GM's move was intended to prevent the government from making "an imminent official finding of a safety defect," and to shift the cost of repair, an estimated $170, to the owners. Most Corvairs are worth less than $500 each, he said.

[From the Washington Star, Nov. 28, 1971]

United States Will Issue Notice of Defects in Chevrolets

(By Robert W. Irvin)

Detroit.—Federal safety officials have decided to issue a formal defect notice against engine mounts on some Chevrolet-built cars and they believe General Motors will recall and fix the vehicles, it was learned yesterday.

The officials also have broadened their investigation to include most other domestic makes of cars because of reports of engine mount failures on these models, too. Some of these also may be ruled defective.

The government action will cap an intensive probe by the National Highway Traffic Safety Administration.

Government investigators have concluded the engine mounts are a hazard on some late-model Chevrolets and possibly other makes because when they fail the accelerator can be jammed open, sending the car speeding out of control.

The NHTSA issued a consumer protection bulletin Oct. 15 warning 5.8 million owners of 1965–69 Chevrolet-built cars that the engine mounts could be hazardous.

CAN'T ORDER RECALL

The agency continued its investigation to see whether there was enough evidence to find the engine mounts defective and press GM for a recall. (The agency cannot actually order a recall, only order GM to send out a defect notice to owners.)

The NHTSA has now received some 2,000 complaints, including more than 100 cases where accidents resulted from engine mount failures. The agency also believes some people have been killed in some of these accidents, although no one is willing to estimate how many.

Douglas Toms, NHTSA administrator, said he has a meeting scheduled Tuesday with White House officials now in San Clemente, Calif., to go over the matter and he expects an announcement on the defects late in the week or early the following week.

Toms said he was sure some models of Chevrolets would be ruled to have defective motor mounts. "I am certain of that," he said, "but how far we go on some other makes and models hasn't been decided."

MANY FAILURES

"We are getting into almost all domestic makes because engine mount failure is a very common thing. I wouldn't venture to guess how many cars on the road have failed motor mounts but it's very high."

Toms had originally thought GM would fight any defect notice but has now changed his mind. "My personal opinion is that they are not going to fight us on the large engines. But they are not going to say anything until they find out what we recommend.

"They have a fix in mind—something to do to the existing engine mounts to make them fail-safe," he said. "They have suggested some alternatives but whatever they decide will be a permanent fix."

By Mr. CHILES:

S. 2948. A bill to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict. Referred to the Committee on Finance.

Mr. CHILES. Mr. President, today I am introducing a bill to amend the Internal Revenue Code to exclude from gross revenue the entire compensation of members of the Armed Forces of the United States who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict.

The bill is a companion to Congressman Vanik's bill, H.R. 9900, which he recently introduced in the House. It seems to me such legislation is the very least we can do to express our Nation's concern for the welfare of missing and imprisoned servicemen. I am sure it would receive widespread support from all sectors of our Nation—and would be welcomed especially by relatives of these unfortunate people.

As a Department of Defense endorsement of this proposal to Congressman Vanik's office stated:

With respect to the servicemen involved, there is simply no way that they can be financially compensated for the deprivation of human dignity and the mental and physical torture to which we know they are being subjected. Viewed in this light, it seems grossly unfair for the government to insist on taxing their income while they are enduring unspeakable hardship. It is unfeeling and parsimonious for the United States to insist on the payment of income tax on a portion of the military pay of any service member in captivity. The forgiveness of the residual income tax is in part a token gesture to these men and their families in recognition of the very great sacrifices which they are making on behalf of this Nation.

Recently the wife of a serviceman of our country who was a prisoner of war asked me if I would wear a bracelet with his name on it. I know that other Senators and Representatives have these bracelets. They serve as a reminder that in this particular case Commander Hutton was captured in 1965. The bracelet serves as a reminder when people ask me what the bracelet is for and why I wear it. Then I remember that the man has been in captivity for over 6 years, I remember the amount of time he has missed with his family and the time that his family has missed his services. I know that in addition to this serviceman there are approximately 450 American prisoners of war and 1,204 missing in action.

Excluding from gross income the entire amount of their compensation is only a small gesture. And yet I think it is a significant one. It is a step we in Congress can take in the name of the American people. It expresses, if only in a small, symbolic way, our shared sense of anxiety over these men. They have loyally served their country and we must not forget them. While we must continue to direct every possible effort toward the release of prisoners of war, my bill would offer some expression of concern to their relatives now.

I hope the Committee on Finance will give this measure its early consideration. I think it is important that we make this gesture at the earliest possible time.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2465

At the request of Mr. Chiles, the Senator from Arkansas (Mr. McClellan) was added as a cosponsor of S. 2465, a bill to establish the Everglades-Big Cypress National Recreation Area in the State of Florida.

S. 2574

At the request of Mr. McGee, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor of S. 2574, the national voter registration bill.

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 49

At the request of Mr. Allott, the Senator from Arkansas (Mr. McClellan) was added as a cosponsor of Senate Concurrent Resolution 49, calling for the humane treatment and release of American prisoners of war held by North Vietnam and its allies in Southeast Asia.

NOTICE OF HEARING ON NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Monday, December 6, 1971, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

Richard A. Dier, of Nebraska, to be U.S. district judge, district of Nebraska, vice Richard E. Robinson, retiring.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McClellan); the Senator from Nebraska (Mr. Hruska) and myself as chairman.

NOTICE OF HEARINGS ON THE WIDER BUS BILL

Mr. BAYH. Mr. President, on December 13 and 14, the Subcommittee on Roads of the Senate Committee on Public Works will hold initial hearings on H.R. 4534, a bill which would authorize States to permit buses not in excess of 102 inches to operate on any part of the Interstate Highway System with 12-foot lanes.

Although current law restricts maximum width of vehicles on the Interstate System to 96 inches, the wider bus can be used legally now in nine States which were exempted by a "grandfather clause" in the 1956 act. They are also operated quite widely on some other State highways and city streets.

The hearings will begin at 10 a.m. each day in room 4200, New Senate Office Building. The subcommittee expects to receive testimony on Monday, December 13, primarily from proponents of the measure, while those who are opposed will appear on Tuesday, December 14.

Invited to testify at a later date yet to be determined, but probably in January, will be officials from various governmental agencies, including the Secretary of Transportation, the Federal Highway Administrator, the National Highway Traffic Safety Administrator, the Chairman of the National Transportation Safety Board, the Chairman of the Interstate Commerce Commission, and certain State toll road commission and highway safety directors.

ADDITIONAL STATEMENTS

THE FUTURE OF RURAL AMERICA

Mr. CRANSTON. Mr. President, the fact that the nomination of Dr. Earl L. Butz was, as expected, narrowly confirmed by the Senate yesterday as Secretary of Agriculture is overshadowed by the fact that 44 Senators of both parties voted against him. That kind of opposition is highly unusual for a Cabinet nomination.

The significance of this strong bipartisan opposition, in my opinion, extends far beyond the confines of the Department of Agriculture and the philosophy of its chief administrator. What it says to me—and what I hope it says to Secretary Butz—is that there is a deep, growing concern in Congress and the Nation over the social and economic implications of the corporate invasion of agriculture. The Senate vote is a further recognition of the need to reshape rural America, and of the basic interrelationship between the so-called farm problem and the problems of our cities.

Dr. Butz has been closely allied with corporate agriculture. His nomination symbolized the start of the battle we must wage against the encroachment of industro-agriculture in our national life. Many—including myself—voted against him because we feel we must reverse the economic trends that are revolutionizing the structure of American agriculture.

During the past decade we have been preoccupied with the problems of poverty and inequality, of hunger and malnutrition, of urban overcrowding and ghetto riots and pollution and overpopulation. And we have mistakenly ignored what has been happening in rural America. We have, by and large, failed to see the connection between our urban problems and a number of new and bewildering developments "down on the farm". We dutifully recorded the numbers of people fleeing rural America, content merely to document this vast human migration with graphs and charts and statistics. But we have failed to ask why millions of people are leaving the farm, whether they are leaving by choice, and, perhaps more importantly, we have not asked whether they should be leaving.

California has 21 million people and an agricultural economy that generated $4.8 billion last year. As a Senator from the Nation's most populous as well as richest agricultural State, I am in a position to appreciate perhaps better than some of my colleagues that urban and rural well-being are inextricably linked. While most States are either primarily urban or primarily rural, California is not only both, it is the most of both.

California agriculture reflects—often in exaggerated form—the trends and characteristics of agriculture nationwide.

Agriculture in California is big business. California produces more than 200 commercial farm commodities as compared with most agricultural States which produce only one or two major farm products. It supplies nearly 40 percent of the Nation's fresh produce; and some $900 million worth of livestock are produced annually on California's range land and irrigated pasture. This is a vast source of new wealth for the State each year, California's largest single source of agricultural income.

The annual harvest of California sugar beets totals nearly one-fourth of the national production; cotton production contributes some $200 million annually to California's diversified agricultural economy; the State produces nearly one-fourth of the Nation's domestic supply of rice, and nearly 40 percent of the world almond production—and virtually all domestic almond production—takes place in California.

Furthermore, a full 37 percent of the total land area of California is in farms, about half in full production.

Farm units are large and getting larger, and the number of farms is rapidly declining. It has been projected that another 20,000 farms in California will go out of business in this decade, bringing the number of farms in the State down to around 43,000 in 1980. At the same time, the size of the average California farm is expected to rise to 800 acres.

Though California's gross farm income was $4.8 billion in 1970 and is expected to rise this year, net farm income amounted to only $1 billion. Investment per farm is expected to reach $300,000 by 1980, but farm real estate values are declining.

California is also first in the number of farming corporations. A Department of Agriculture survey in 1968 found that California had 1,673 farming corporations. These accounted for 4 percent of the commercial farms in the State and 25 percent of the total farm sales. Furthermore, California farming corporations operated an average of 3,678 acres per farm, compared to an average of 849 acres for all commercial farms in the State.

Though the vast majority of these farming corporations are family owned, having incorporated for tax and inheritance purposes, California is home for some of the corporate giants in agriculture. Corporate farms in California account for 90 percent of the melon crop, 46 percent of the cattle sold, 38 percent of the cotton produced, and 30 percent of the citrus fruits. Two such corporate giants alone account for one-third of the green leafy vegetable production in the United States.

California clearly has a tremendous involvement in the programs and policies of the U.S. Department of Agriculture. The philosophy and leadership positions of the new Secretary of Agriculture are thus of critical importance.

But California's specific involvement in USDA programs is not my sole concern. The health and vitality of rural America is also of crucial importance. I am deeply concerned about what is occuring in the rural areas of America—what has been happening for the last 20 years and what is likely to happen in the future if present trends continue.

Mr. President, here is a picture of what has been happening in rural America:

First. The farm to city migration continues unabated, averaging some 500,000 persons a year during the 1960's. The 1970 census revealed that a mere one-quarter of our total population resides in rural areas. Of these, only 10 million are engaged in farming; 14 million poor remain in rural America, and nearly one-half of the farm families have annual incomes of less than $3,000. A million and a half farm workers received an average income of just $1,083 in 1970.

Second. There were 5.5 million farms in America in 1950. By 1960, the number of farms had dwindled to 3.9 million. Today there are only 2.9 million. USDA economists project there will be fewer than 2 million farms in 1980.

Third. There is a glaring disparity of farms with sales below $10,000 per year—about two-thirds of all farms—sold only 12 percent of the Nation's agricultural output in 1969. The USDA predicts an acceleration of this trend. By 1980, they say, 95,000 giant farms will supply more than half of the Nation's food and fiber.

Fourth. As the number of farms dwindles, the average size of the farm increases. Farms in 1960 averaged 215 acres compared to 380 today.

Fifth. While farm size increases, the total amount of cropland actually in use has dropped by 11 percent in the last two decades. At the same time, crop production has soared 34 percent due to better varieties of seed and a 240-percent increase in the use of fertilizer. We have, in essence, been substituting fertilizer for farmland.

Sixth. There has been a 50-percent reduction in the amount of agricultural labor during the last two decades, and a 36-percent increase in machinery. Carey McWilliams' "factories in the field" remains an accurate portrayal of modern agriculture—except that he com-

pared farms to assembly lines. A more modern analogy would be the automation of agricultural production.

Seventh. Concomitant with all these trends has been a sharp rise in the capital investment per farm—from around $17,000 in 1950 to $91,700 today. This contributes to the economic pressure to obtain more land so as to reduce the unit costs of production.

Eighth. Most significant is the change in entrepreneurial status. The farmer's traditional role of owner, manager, and laborer in his own business is being replaced by the corporate form of ownership and clearly defined divisions of labor.

In response to criticisms about the lack of data on corporation farming, the Department of Agriculture in 1968 conducted a survey of the number, kinds, and general characteristics of corporations involved in farm production. The study found:

First. A total of 13,300 corporations directly engaged in farming.

Second. Eighty percent of these were family or individually owned.

Third. Taken together, these corporations accounted for only 1 percent of all commercial farms, but they owned or rented 7 percent of all farmland and accounted for 8 percent of all farm sales.

Fourth. Corporation farms owned or rented an average of 4,531 acres per farm in 1968. The average acreage per farm for all commercial farms was 380 acres.

Fifth. The percentage of farmland operated by corporations was highest in Florida and California. In California, corporate farms account for 4 percent of all commercial farms in the State and 25 percent of all farm sales.

We are witnessing the industrialization of agriculture. Not only are machines and technology and professional farm managers replacing the free spirit and enterprise of the small family farmer, but vast, impersonal food factories are destroying the rural communities and institutions that have been an integral part of our history.

The single most pervasive phenomenon in rural America today is the corporate invasion of the production phases of agriculture. Giant corporations like Tenneco, which is engaged in such diverse industries as shipbuilding, oil and gas production, farm machinery, and chemicals, are buying up acres of farmland and producing a tremendous volume and variety of farm products. Tenneco produces an enormous diversity of crops in Kern County, Calif., including corn, potatoes, barley, sugar beets, cotton, almonds, grapes, oranges, lemons, peaches, pears, and plums, and company officials frankly admit that their aim "is to accomplish integration from the seedling to the supermarket."

If Tenneco and similar corporations achieve their aim of total integration of the food production process, there will be no small family farms left in America. At best, small farmers will become little more than serfs in a modern feudal system that demands the production of cheap raw commodities for the benefit of giant conglomerates.

This corporate invasion of agriculture must be stopped. But it can be stopped only by specific congressional action, by the development of a farm program that makes sense and which can provide means by which the small farmer—and his way of life—can survive. While these goals are the primary responsibility of the U.S. Congress, they cannot be accomplished without the cooperation and involvement of the administration, and particularly, the Secretary of Agriculture.

Small farming, as both an economic unit and a way of life, is fast becoming an anachronism. The small independent farmer is falling victim to the technological, economic, and social revolution that has struck at the heart of rural America.

Small towns and communities that once teemed with life and vigor in the rural areas of every State now stand silent and deserted, ghostly reminders of a better time in rural America.

These towns, and the people who once inhabited them, have been forced out by the corporate invasion. In their place are absentee-owned farms—field of corn and wheat and lettuce and tomatoes stretching as far as the eye can see, broken only by the giant combines that make their lonely way across these vast acres.

Hundreds of thousands of small farmers, small businessmen and farm laborers continue their 25-year exodus from rural America. The rate of departure is now slightly reduced, but only because there are not many people left in rural America. Today, less than 10 million individuals are engaged in farming.

Mr. President, as the small farm dies, rural America dies too. The young cannot support themselves on the farm, so they leave as soon as they are able. Only those too young or too old to leave remain, the very people most in need of the community services which the dwindling rural tax base can no longer support. Churches, schools, hospitals, and community centers are boarding up their doors. Rural America is gasping for breath.

I raise this specter to suggest that time is running out. We must make our choice for rural America. We must decide whether to stand idly by while economic forces destroy the small farmer, or to stop this unseen hand by developing and implementing positive agricultural policies to assist the small family farmer, the farmworker and the small businessman of rural America.

If left unabated, economic forces will radically alter the structure of American agriculture. If we do nothing—and thus strengthen the myth that these forces are inevitable—we will have chosen an agriculture that is devoid of people and rural communities, an agriculture that resembles a giant, well-oiled food-producing packaging and processing assembly line. We would get our food, but at what human cost?

The social effects of corporate agriculture were eloquently stated in the well-known Dinuba-Arvin study done in 1947. This study focused on two California farming communities of equal size, both located in the great central valley. The point of comparison was the difference in the scale of farming—Dinuba is a community of family farmers and is surrounded by small acreages. Arvin is the center of large-scale agriculture, with a high percentage of absentee ownership.

The findings of this study were striking. The people living in the small farm community had a higher standard of living, better schools, churches, and civic associations, more small businesses and a higher volume of retail trade. Newspapers, parks, public recreation centers, Boy Scouts troops, and public services also were more plentiful in Dinuba and were of better quality. The more study came to the obvious conclusion that the small farm bears an important relationship to the character of American rural life.

The lesson is clear, Mr. President. We can ignore the economic and social implications of corporate agriculture only by risking the "the good life" for millions of rural Americans.

Senator HARRIS put it well in stating that we are at a "crossroads" in rural America. Are we going to endorse an agriculture which is little more than a giant food factory and which contributes to the demise of rural communities? Or are we going to develop and implement an agricultural policy which allows people to live and work in dignity?

I suggest that far more is at stake than efficient food production. At stake is the livelihood and welfare of small farmers, small businessmen and farmworkers who cannot compete with the agribusiness conglomerates with multibusiness resources.

It may be that farmer bargaining is the only tool by which small farmers can get their fair share of the final food price in the emerging food system. That is now being debated in the agriculture committees of the House and the Senate. It is essential that we take immediate action to stem this corporate invasion of agriculture and provide the small farmer with the tools he needs to survive.

It is high time we remembered these millions of rural Americans who operate efficient, family sized farms, who participate in the social life of their communities, and who have contributed so much to the well-being of America.

Now, let me turn to the interrelationship between the farm problem and the problems of our cities. The population of rural America is declining because corporations are snuffing out the economic base of our small towns. People move by necessity into the cities and the slums of America, placing a still heavier burden on urban areas at the very time we are attempting to achieve a better rural-urban balance. Three-quarters of our population is now concentrated on 2 percent of our land. This has a direct impact on the deterioration of our cities and the quality of our environment.

Our cities are decaying. Our air and water are hazardous to health and life. Our lands are polluted with chemicals and depleted of vital minerals. Our food is abundant but curiously tasteless—as

though the commodity is reflecting the loss of vitality experienced on the farm. Crime and congestion and pollution and frustration—these are the constants of city life today.

We must, therefore, bear in mind that the decisions we make today about the future of rural America—and the tools we enact to revitalize it—will relate directly on the fate of our cities. We cannot separate the two.

Unless we stem the farm to city migration; unless we reverse the increasing concentration of our population; unless we revitalize rural communities and halt the corporate invasion of agriculture, our efforts to solve crime, curb pollution and restore beauty and order to our cities will be largely in vain.

PAT SULLIVAN—OUTSTANDING COLLEGE FOOTBALL PLAYER

Mr. SPARKMAN. Mr. President, I had the privilege of watching two of the finest college football teams in the United States in action on Saturday, November 27, at Legion Field in Birmingham, Ala. But it was more than just another football game; it was an exhibition of courage and stamina by the participants.

On the field stood a man with No. 7 printed on his blue jersey, the recipient of the Heisman Trophy, which is awarded to the outstanding college football player in the United States. Some people may have doubted his ability, but I was not among them. For this young man with the eyes of the Nation upon him passed for more than 150 yards against one of the finest defense teams in the country.

This young man continued to rally his teammates until the final whistle sounded. He never gave up. With red jerseys clinging on his side, he completed pass after pass—this was the true test of a great athlete.

When the chips are down, he never gave up, and this has been true of Pat Sullivan during his entire career at Auburn University.

I talked with Pat after the game, and he was certainly disappointed that Auburn had lost; but he was not discouraged. He is a young man of tremendous ability and courage, and I salute him.

BULLISH OUTLOOK ON PHASE II

Mr. SCOTT. Mr. President, the Christian Science Monitor of December 1, contains a noteworthy article on what we can expect from phase II of the President's economic program. I commend the article to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

[From the Christian Science Monitor, Dec. 1, 1971]

GIRARD'S ECONOMIST BULLISH ON PHASE II

(By Richard A. Nenneman)

If someone gave you good advice once when you were about to get a new car—or buy some stock—chances are you remember him. You'll remember someone who gave you bad advice, too—but when it comes time to make the next move, you will return to the person who was right the first time.

That's why I have been intrigued by the latest Girard Outlook, published by the Girard Bank of Philadelphia. The Outlook is extremely bullish on the economy. Its writer, Hugh L. Stokely Jr., vice-president and economist for Girard, is one of those fellows who plays around with an econometric model of the economy on a computer. (Playing around is too casual a description of this esoteric activity that very few outsiders can understand; he comes up with some very serious results.)

His present diagnosis of the economy is particularly interesting because for some time he had been saying that a wage-price freeze might be the only way to get the rampant inflation in the economy stopped. Thus, when Mr. Nixon made his Aug. 15 announcement of the freeze, this struck Mr. Stokely as "the right medicine at the right time. . . ."

Now, he argues, "confidence in the consensus forecast for 1972 is justified—confidence that gains of $100 billion in GNP and of more than 15 percent in corporate profits will take place. Given success in 1972, it is reasonable to believe the restraints will prove temporary—with the price and pay boards eventually reduced to a purely symbolic role."

Furthermore, Mr. Stokely thinks the chances quite good, after a year of wage and price restraint, of getting the economy onto a long-term path of noninflationary growth.

He thinks the present fears about Phase 2 are unjustified. First, he notes that the freeze and incomes policy come at a time in the business cycle when they stand the best chance of success (the economy is not overheated, that is). Second, the economy can take a lot of both monetary and fiscal stimulus without becoming inflation prone. Third, he thinks "rapid progress" is being made in getting a new international currency agreement, and says, "The world financial system is not about to come unraveled."

Noting that stock prices are influenced by credit, confidence, and profits, Mr. Stokely says that credit will be ample in 1972 and that beginning late in 1971, quarterly profit reports will show year-to-year gains of 15 percent or more for several quarters. These factors should at some point rebuild confidence, which would supply the ingredient presently missing on the individual investor's part.

The most optimistic part of the outlook, though, is the long-term one. Mr. Stokely's econometric model tells him it should be possible to get the inflation rate back down to about 2 percent, unemployment down to 4 percent, with wage increases of about 5.7 percent a year. The problem has been to rid ourselves of inflation, to break out of what he calls "the present trap of business stagnation." This, he thinks, Phases 1 and 2 can accomplish.

It still remains to be seen, of course, whether the new economic policy will actually be that successful—if, as Mr. Stokely says, "stop means go" for the future of the economy. But one remembers that as long ago as 1969 he was saying privately that the traditional means of slowing down an inflation would be inadequate, and that a temporary freeze might have to be tried. It's natural now that that prediction has worked out, to pay some attention to what he thinks will come next. One hopes he is right this time, too.

TRIAL FOR GENOCIDE: OTHER NATIONS SUPPORT OUR VIEWS

Mr. PROXMIRE. Mr. President, article VI of the Genocide Convention deals with the trial of persons accused of genocide. The Foreign Relations Committee has recommended an understanding that, if accepted by the Senate, will put the United States on record as willing to exercise the right to try its own citizens for alleged acts of genocide that occur in other countries.

Will the other nations of the world respect this understanding? Yes, because they have the same understanding of article VI. In December 1948 the Legal Committee of the United Nations General Assembly adopted the following resolution.

The first part of article VI contemplates the obligation of the State in whose territory acts of genocide have been committed. Thus, in particular, it does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

The other nations of the world will honor the recommended understanding on article VI because it is also their understanding of article VI.

The Genocide Convention is not intended to deny the American people their rights, nor to destroy our Constitution, nor to subject us to any foreign power. It does not do any of these things. The Genocide Convention is to protect the people of the world, and that includes the American people, from the horrors of mass murder. If the Senate ratifies this treaty and if the Congress enacts the implementing legislation, then the United States will have done its share to prevent this crime from occurring.

Mr. President, I call upon the Senate to ratify the Genocide Convention.

THE C–5A AND THE BORN-YESTERDAY SYNDROME

Mr. PROXMIRE. Mr. President, on Monday, November 29, 1971, we learned that the Air Force had begun an investigation into the technical and structural problems of the C–5A.

The news must be received by the public with a certain amount of amazement. I know that I am amazed.

After all the Pentagon boasts about the superior performance of the C–5A, after the Air Force has denied on repeated occasions that there were any significant performance problems with the C–5A, and after completion of several Government studies of this program, at least three of which were done by the Air Force, we are now told that the Air Force has embarked on yet another C–5A investigation. The Joint Economic Committee heard testimony about the C–5A in 1968, and has been studying this program for the past 3 years. In addition to cost overrun problems, we have seen extensive evidence of technical and structural deficiencies in the C–5A. We learned about the first wing crack in 1969.

The Air Force response to this evidence has been simply to deny or cover it up. On several occasions Air Force and other officials of the Department of Defense have told us and have stated publicly that while the costs are perhaps higher than was originally estimated, the performance of the aircraft was exceeding

and was expected to exceed all expectations. The C–5A, as one high Air Force official testified, was performing at 101 percent of the original estimates.

When, in 1969, wing cracks began to appear on the C–5A in ground tests, the Air Force assured us that nothing unusual had happened. These kinds of tests, we were told, were designed to reveal defects and weaknesses early enough in the program so that they might be corrected. The wings on aircraft already accepted by the Air Force were modified in the hope that the problem would not recur.

But then other deficiencies began showing up and wing cracks continued to be produced in tests.

Finally, the Air Force established a special scientific advisory board in 1970 to study the C–5A wing structural problems. The board was headed by Dr. Raymond L. Bisplinghoff of the Massachusetts Institute of Technology.

It was a high-powered, well-staffed board, whose members included Dr. Alfred J. Eggers, Jr., of NASA; Brig. Gen. Carroll H. Bolender, of the Air Force; and Col. Harold A. Steiner, also of the Air Force.

In addition, subcommittees were established on avionics, landing gear, performance, and wing structure. These subcommittees were made up of representatives of the Pentagon and private industry. The Aerospace Corp., Bendix, Systems Technology, Inc., MIT's Lincoln Laboratory, the North American Rockwell Corp., Westinghouse, the Cornell Aeronautical Laboratories, Trans-World Airlines, Boeing, Grumman, General Dynamics, McDonnell Douglas, and the Federal Aviation Administration all participated in this study.

It took about 6 months to complete and the costs, so far as I know, have never been made known.

Although the report contained a few tepid criticisms, and although deficiencies were uncovered, it gave the C–5A program a more or less clean bill of health. I would describe the investigation, at best, as an off-white-wash.

There were, however, two interesting observations about the wing structure. The Bisplinghoff board noted that it was doubtful that the wing would be able to meet its fatigue life goal of 120,000 hours. The board also concluded that additional modifications to the wing structure would probably be required in order to provide an operationally useful vehicle.

Ironically, on June 18, 1970, just 2 days after the Bisplinghoff report was issued, new data from static tests indicated that there were still signs of structural weakness in the wings.

In light of subsequent events including new wing cracks and the fact that an engine fell off the plane while it was preparing to take off, the board's conclusion that the C–5A wing structure met its key performance requirements somehow missed the mark.

Nevertheless, the C–5A program was moved forward on a business-as-usual basis with the Air Force continuing to assure everyone that everything was fine.

But in March of this year, the General Accounting Office issued a staff study on the C–5A which painted a different picture.

GAO reported that:

> Existing deficiencies restrict the aircraft to performance of its basic cargo mission in that it cannot perform its tactical mission until such time as certain deficiencies are corrected.

GAO also reported that the Air Force was accepting C–5A aircraft with significant deficiencies, a practice not followed by the commercial airlines. Finally, it was concluded that whether the C–5A would eventually meet all of its performance specifications could not even be determined until the completion of testing in 1973.

The major deficiencies in the aircraft which the Air Force was knowingly accepting are in the landing gear, wings, and avionics. In the first 15 operational aircraft alone, the Air Force had accepted an average of 130 agreed-upon deficiencies and 127 unresolved deficiencies in each plane.

On the wing problem, GAO learned that following the static test failures of June 1970, additional structural weaknesses were discovered in August of that year and additional structural modifications were requested by the Air Force at that time.

New structural defects in the C–5A wing structure have been revealed since the March 1971 GAO report. In mid-September, wing cracks turned up once again in static tests. In late September there was the engine rip off—concealed by the Pentagon for more than a week while the Senate was voting on the military authorization bill—and following that, the discovery of cracks in the engine pylons on seven C–5A aircraft.

We have in the C–5A history replete with, first, predictions of structural problems, and then actual structural problems, in the face of assertions by the Air Force that there were no structural problems.

Now, more than two years after the first of the wing cracks was reported publicly, and following a number of investigations, the Air Force has come forward with its tried and true formula for getting by difficulties with the C–5A program: it has announced a new study.

It is as if we were all born yesterday, as if the Air Force had never procured an expensive weapons system, as if Lockheed had never produced an aircraft for the Air Force, and as if Congress had never had to authorize or appropriate funds for such a program before. The problems in weapon purchases always seem to be presented as if they were occurring for the first time.

For the Air Force to find itself with an aircraft program that is estimated to cost about $2 billion more than was originally planned and that, in addition, is so ridden with deficiencies and structural defects that it cannot perform its tactical mission is both astonishing and scandalous.

The Air Force has known officially about the structural problems since at least 1969. At that point in the program it might have been able to do something, to take effective steps to correct the deficiencies, or to terminate the program if the problems could not be corrected. Instead, the Air Force did what it usually does—it launched a study in 1969 headed by Assistant Secretary Phillip N. Whittaker. As might have been expected, the Whittaker report glowed with favorable conclusions about the C–5A. "The outlook for the performance of the C–5A," the report found, "even considering the recent failure during the static test, is optimistic."

Now, more than 2 years later, most of the aircraft have been produced, delivered, and accepted by the Air Force. What does it expect to find out in the new study that it could not have learned 2 years ago, following the first wing crack, or a year and a half ago when it decided to set up its scientific advisory board?

More importantly, what recourse does the Air Force now have? By knowingly accepting deliveries of C–5A's with major deficiencies and by waiting so long before taking decisive and effective steps to correct them, the Air Force has completely dissipated whatever bargaining power it had to begin with.

At this late date, it will be unable, in my judgment, to require the contractor to absorb the costs of correcting the deficiencies. Indeed, with the cost-plus contract entered into earlier this year, the Air Force has obligated itself to pay to correct whatever is wrong with the plane, no matter whose fault it is.

How much will the correction of deficiencies cost the American taxpayer? I have attempted to obtain that information by requesting it from the Secretary of the Air Force. On November 2, 1971, I wrote to Air Force Secretary Robert C. Seamans, Jr., asking for a breakdown of costs of correcting the defects that have been revealed so far. I ask unanimous consent that my letter to Secretary Seamans be printed in the RECORD.

NOVEMBER 2, 1971.

Hon. ROBERT C. SEAMANS, Jr.,
Secretary of the Air Force,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: As you know, a number of deficiencies have turned up on the C–5A aircraft that have been delivered to the Air Force.

Is it possible for the Air Force to calculate the cost of correcting defects that have been revealed so far? I would specifically like to know the cost to the Government, including all R&D, of the following:

1. Correcting and retrofitting aircraft for cracks in wings;
2. Repairs to aircraft damaged in landings and tests;
3. Replacement of aircraft totally destroyed;
4. Correcting and retrofitting aircraft with defective engine mountings.
5. Excessive maintenance and servicing such as that reported by GAO in March 1971 in connection with brake systems of the first 15 aircraft delivered to the Air Force.

In addition, I would like to know the costs in terms of lost time and idled resources resulting from the grounding of C–5As, and all other costs not specified above that have been incurred or are anticipated to correct contractor deficiencies.

I would appreciate hearing from you at your earliest convenience.

Sincerely,

WILLIAM PROXMIRE,
Chairman, Subcommittee on Priorities and Economy in Government.

Mr. PROXMIRE. A few days after sending my letter, I received an acknowledgement from the Air Force stating that my requests were receiving attention. But I have yet to receive any answers to my questions. It is now about a month since I wrote my letter to the Secretary of the Air Force.

With unanimous consent, I am inserting in the RECORD newspaper stories reporting the recent announcement of a 1-year Air Force investigation of the C–5A, and other recent stories reporting on C–5A technical problems.

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

[From the Baltimore Sun, Nov. 30, 1971]

AIR FORCE STARTS PROBE OF C–5 WOES

WASHINGTON.—With 9 of 47 planes still grounded, the Air Force announced yesterday that a group of experts would undertake a year-long study of the C–5 transport and recommend ways to prevent future problems.

The Air Force said Big. Gen. Warner E. Newby, the C–5 program director, and 130 military and civilian aviation experts would conduct the review at Lockheed Aircraft Corporation's Marietta (Ga.) facility where the plane is built. The study will cost $3,500,000.

The panel will evaluate structural tests now under way and recommend modifications within budget requirements to assure that the planes, costing $60 million apiece, are able to carry out their missions.

A series of structural and other problems have plagued the C–5's at a cost now estimated at $4.7 billion.

The 47 planes delivered to the Air Force so far were grounded recently after an engine fell off one of them and flaws were discovered in engine mounts on several other planes. All but 9 have been returned to duty.

[From the Chicago Tribune, Nov. 30, 1971]

AIR FORCE PLANS STUDY OF C–5A JET

(By Fred Farrar)

WASHINGTON, November 29.—The Air Force announced today it is forming a 130-member team of specialists to conduct a thoro one-year review of the trouble-plagued C–5A cargo plane.

The announcement followed the latest mishap in the history of the giant aircraft. Last Sept. 29, an engine tore loose from a C–5A when its engines were set to full power prior to take-off.

OTHER PROBLEMS

Earlier problems with the plane have involved wing cracks, trouble with its massive and sophisticated landing gear, and malfunctioning of its navigation equipment. There have been no crashes of the plane in the more than two years it has been flying.

The Air Force today said the job of the investigating team, which will be made up of technical specialists from the Air Force, the Lockheed Aircraft Corp., and other aerospace corporations, "will be to evaluate structural tests and procedures and to recommend operational refinements for aircraft modifications where necessary to assure that the aircraft is fully capable of effective mission performance."

SELECTION OF TEAM

The Air Fore said its specialists, as well as the experts from Lockheed, which builds the C–5A, will be men who have not been associated with the C–5A program.

The team, which is expected to be assembled by the end of next month, will evaluate each of the structural components of the aircraft—the wings, the fuselage, the engine mounts, the tail, and the landing gear.

[From the Washington Post, Oct. 8, 1971]

PENTAGON EXPLAINS DELAY IN C–5A MISHAP DISCLOSURE

(By Michael Getler)

The Air Force has grounded most of its giant C–5A jet transports after an accident Sept. 29 at Altus AFB, Okla., in which an engine fell from one of the planes preparing to take off.

On Wednesday—a week after the mishap—the Air Force belatedly announced the accident in Washington and said that seven of the planes had been grounded. Yesterday, the Pentagon said that 22 more of the 41 operational C–5As were being kept out of the air as a safety precaution pending more tests.

The announcement yesterday was made by Pentagon spokesman Jerry W. Friedheim, instead of the Air Force.

Friedheim, apologizing to newsmen for the delay in disclosing the incident here, said that the Defense Department's top-ranking civilian officials responsible for keeping the public informed also had not been told of the accident by the Air Force, until a press inquiry Wednesday forced the news out.

The disclosure in Washington of the incident involving the costly and controversial plane brought quick charges from Rep. Clarence Long (D-Md.) that the Pentagon intentionally held up the news here until after the $21 billion military procurement authorization bill—which includes $472 million for the C–5A—had passed the Senate Wednesday.

Friedheim strongly denied the charges, claiming "there was no intention to withhold information." Friedheim said the Air Force made a public statement about the accident at Altus on Sept. 29 but because of some foul-up, the information was not made known to top Pentagon officials.

Friedheim also pointed out that there still were several congressional votes that had to be taken before the Pentagon got its final appropriations bill through Congress.

The Pentagon spokesman described the accident, in which one of the plane's four engines tore loose at full power, as "spectacular," indicating that it must have attracted considerable attention at Altus. This apparently prompted the Air Force release of information in Oklahoma.

At the briefing, Friedheim said that the Pentagon's top public affairs official, Assistant Secretary of Defense Daniel Z. Henkin, "yesterday directed that a release be made across-the-board here within an hour after he first learned of the C–5 situation."

Air Force officials said they had no estimate of the cost to replace the pylons that hold each engine to the wings. A total of 81 C–5As, which cost almost $60 million each and which have suffered other technical problems, are scheduled to be built by Lockheed.

The Air Force said it hoped to absorb the cost within the existing total of $4.57 billion for the C–5A program, but officials noted that the C–5A contract with Lockheed recently has ben restructured on a cost-plus basis so that any added expenses have to be paid by the government.

A spokesman for Lockheed yesterday said its engineers previously had notified the Air Force that the engine mountings were "an area of potential weakness" and proposed a structural change to strengthen them.

The Lockheed warning reportedly came last summer. The Air Force made inspections early in September of those C–5As that had accumulated a lot of flighttime and said it found no faults. But the Air Force says that about Sept. 20 it ordered a go-ahead for modifications required to strengthen the engine mounts. No grounding order was issued, however, and the Altus accident took place before the work was started.

[From the Wall St. Journal, Sept. 16, 1971]

LOCKHEED'S C–5A SUFFERS ANOTHER BLOW TO IMAGE AS WING CRACKS IN GROUND TEST

(By Richard J. Levine)

WASHINGTON.—Lockheed Aircraft Corp.'s trouble-dogged C5A cargo jet has run into yet another technical problem.

According to Air Force officials, a nonflying C5A test model suffered a wing crack during so-called "static" testing Tuesday at Lockheed's Marietta, Ga., facilities. The crack, near the fuselage, occurred as the wing was subjected to stress of "approximately 130% of design load," officials said. The Air Force requirement is 150%.

Test data are being evaluated to determine exactly when during the test the damage occurred, and "what effect it may have on the continuing test program," officials said. Despite the crack, Air Force officials said, "The test did verify that the current operating aircraft are adequately covered by margins of safety."

Until they get more information on the test failure, Air Force officials said it's impossible to know what, if any, corrective measures might be necessary. Nor would they speculate about the cost of any adjustments.

However, it seems clear that the latest technical problem will further damage the C5A's already poor image on Capitol Hill, thus making it more unlikely than ever that the Air Force would be able, at some future time, to win approval to expand the program beyond the current 81 planes.

Wing problems aren't new to the C5A, a giant plane designed to transport large, heavy weaponry and equipment for Army combat troops.

In July 1969 a failure occurred during a static test when the wing was subjected to stress of 125% of design load. In January 1970 cracks were discovered in the wing of the third C5A off the production line, a plane that had been used for severe in-flight structural tests. The cracks were found as the plane was being prepared for modifications required as a result of static-test failure.

The modifications, or "structural beefing up," involved reinforcing parts of the wing with aluminum plates. Deputy Defense Secretary David Packard, the Pentagon's procurement boss, told Congress last year that changes necessitated by static-test failure would cost about $185,000 an aircraft.

DEADLINE WAS SET

The latest failure occurred after the improvements had been made. Earlier this year, Lt. Gen. Otto Glasser, the Air Force's top research and development officer, said: "We have tested and installed a fix for the wing crack problem, and we now expect to complete structural static testing of the aircraft in August 1971."

Now it appears static testing will have to continue well beyond the target date, which had been missed even before Tuesday's failure.

The original wing crack prompted Air Force Secretary Robert Seamans to order a special technical review of the C5A program by the Air Force's Scientific Advisory Board.

The civilian-dominated advisory board that studied the C5A found the wing had "regions of high stress which are suspect for static strength." As a result, the panel said it believed "additional modifications to the wing structure in conjunction with other measures will be required in order to provide an operationally useful vehicle."

Among other things, it recommended that all wing testing be accelerated "so that most of the problems can be identified in the laboratory rather than in service." And it concluded that the Air Force "must choose one of several viable proposals which will enable the wing to more easily meet its static strength requirements."

ACTIONS WERE TAKEN

Last November, the Air Force took several actions recommended by the advisory board at a cost of $28 million, including $3 million for a faster static test. However, it said decisions on any major changes in the wing to increase static strength would await further test results.

Currently, the C5A is operating at 80% of maximum capacity. Air Force officials say this limitation is standard procedure for all new aircraft pending the completion of airborne tests.

[From the Washington Post, Sept. 21, 1971]

PROXMIRE HITS C–5A SAFETY MARGIN

Sen. William Proxmire (D-Wis.), chairman of the congressional Joint Economic Committee, said yesterday that the safety margin of the giant C–5A cargo plane was dangerously inadequate although costs had doubled.

He accused the Air Force of withholding from Congress information on the increased costs.

Following reports of a wing crack in one of the aircraft, the senator again called for the recall of all C–5A aircraft—the world's biggest plane—already delivered to the Air Force.

Proxmire, in a statement issued here, said the C–5A program was now expected to cost $4.9 billion, an increase of $300 million over the figures of a year ago.

"Taking into account that the program has been reduced from 120 planes to 81, we find an overrun of $2.2 billion," he said.

"On a unit basis, the costs have risen from $28 million originally estimated for each C–5A to $60 million, an increase of over 100 per cent," Proxmire added.

"What is most disturbing about this case is the fact that the Air Force has repeatedly concealed the truth about the C–5A cost overruns from Congress and the public.

"The disclosure that another C–5A wing has cracked and failed to meet ground tests indicates that neither Lockheed nor the Air Force has yet been able to solve this fundamental structural problem.

"The fact that the wing failed under stress of 130 per cent of design load when the Air Force equipment is for 150 per cent of design load shows that the margin of safety in this plane in dangerously inadequate.

"I repeat my suggestion that Lockheed be required to recall the C–5As already delivered to the Air Force. Obviously, if this structural problem still hasn't been corrected the Air Force is flying a deficient, unsafe aircraft," he said.

An Air Force spokesman said his initial reaction was that he was sure that none of the pilots now flying the C–5A had any fears, noting that the wing crack had come at 30 per cent more than the wing stress the plane would ever be required to undergo. He conceded that Lockheed's contract did call for 50 per cent more ability to withstand stress than the maximum that would be allowed and said he thought Lockheed would be asked to make good.

[From the New York News, Oct. 8, 1971]

AF GROUNDS 29 OF ITS C–5A'S AFTER MISHAP

(By Frank Van Riper)

WASHINGTON, October 7 (News Bureau).—The Air Force ordered today 29 of its fleet of 41 C–5A jumbo jet transport planes grounded amid congressional charges that the Pentagon had withheld news of a serious C–5A mishap until the Senate approved an additional $472 million for the plane.

Pentagon spokesman Jerry W. Friedheim vigorously denied charges by Rep. Clarence D. Long (D–Md.) that the Pentagon waited for seven days to announce that a huge engine had broken off the wing of a C–5A at Altus Air Force Base, Okla., as the plane was preparing to take off. No one was hurt, but the engine was ruined.

As a result of the mishap on Sept. 29 the Pentagon grounded seven C–5As Monday, and today announced the grounding of 22 more as a precaution.

Not until yesterday was the incident announced at the Pentagon—the same day that the Senate passed the Military Procurement Bill. Long, a member of the House Appropriations Committee, charged that the Defense Department had withheld word of the incident until after the bill had passed the Senate, so as not to endanger funds for the plane. The C–5A's technical and cost problems have made it a favorite target for Pentagon critics.

Friedheim said that a statement on the incident had been released at Altus the day of the mishap, but that his office did not learn of the accident until yesterday, when it promptly issued its own statement.

[From the New York Times, Oct. 19, 1971]

FIRST C–5A RETURNED TO SERVICE; PROXMIRE CITES A NEW ACCIDENT

(By William Beecher)

WASHINGTON, October 18.—The Air Force announced today the return to service of the first of 47 grounded C–5A transport planes.

But Senator William Proxmire charged that new technical difficulties were plaguing the giant aircraft.

The whole C–5A fleet was ordered temporarily grounded last Tuesday after an engine tore loose from one of the planes on Sept. 29 at Altus Air Force Base in Oklahoma. The cause of the problem was said to have been a faulty pylon connecting the engine to the left wing.

The Air Force said today that, after having passed extensive X-ray and ultrasonic inspections of its pylons, one of the planes was put back in service to fly from the United States to Southeast Asia with a load of military cargo.

At least 16 other C–5A's, the Air Force said, are expected back in service soon, after undergoing thorough inspections of their engine mounts.

NEW ACCIDENT ALLEGED

Senator Proxmire, Democrat of Wisconsin, asserted today that a new accident involving a C–5A occurred recently. He said that the accident was hushed up by the Air Force and the Lockheed Aircraft Corporation, manufacturer of the plane.

According to the Senator, the landing gear collapsed during tests of a C–5A last Friday at Marietta, Ga., where the planes are built and initially tested before being turned over to the Air Force. He said that the plane's fuselage fell to the ground and estimated the damage at from $70,000 to $100,000.

An Air Force spokesman conceded that there had been an accident but said it occurred while the C–5A was on the assembly line, not during powered tests.

As the landing gear was being retracted into the plane, the Air Force said, it struck and damaged the landing gear door. The plane's fuselage did not fall to the ground, the Air Force said.

An Air Force spokesman said that the area immediately around the accident was closed off as a standard precaution to check whether sabotage might have been involved.

STATEMENT BY LOCKHEED

In a statement, the Georgia Division of the Lockheed Aircraft Corporation described the incident this way:

"During a routine functional test of the landing gear and doors on an uncompleted C–5 fuselage on the prefinal assembly line Friday, a malfunction of part of the system occurred, and one of the gear doors was damaged. No one was injured.

"The door will be returned to the builder, disassembled, and reworked. The cost of the new door would be less than $17,000."

A spokesman said that the fuselage had been resting on jacks while the gear was put through its up-and-down cycle. He said the gear "brushed one of the doors." The incident was said to have taken place inside the Lockheed plant.

[From Newsweek, Oct. 25, 1971]

AVIATION: EDSEL OF THE AIRWAYS?

From the beginning, the Air Force's massive C–5A, the world's biggest airplane, seemed to be bidding for the dubious title of the Edsel of the airways. There was the day in June 1970, when a distinguished roster of government, military and civilian brass gathered at Charleston Air Force Base in South Carolina to celebrate Lockheed Aircraft Corp.'s delivery of the first C–5A to the Air Force. As the 700,000-pound leviathan lumbered in for a landing, one of its 28 wheels dropped from its mount and bounded down the tarmac. Besides, one plane has been destroyed by fire and another by an explosion, and a crack was found in the wing of a third plane during tests at Lockheed's plant in Marietta, Ga. Moreover, Lockheed ran up a whopping $2 billion cost overrun on its $2.3 billion contract to build 81 of the planes, and had to be saved from bankruptcy by a $250 million government loan guarantee.

POOMPF

Then last week came a new disaster: the Air Force announced that it was grounding its entire fleet of 47 C–5A's. The groundings were the result of an accident Sept. 29 at Altus Air Force Base, Okla., where C–5A crews train. A pilot preparing for take-off had taxied his plane to the end of the runway, where he applied his brakes and opened the throttle to maximum thrust. Suddenly the massive outboard engine tore loose from the left wing, cartwheeled 200 to 300 feet in the air and careened downfield.

The breakaway was caused by the failure of a rear support for one of the plane's four engines. The craft, with 1,300 flying hours and 3,400 landings in its flight log, was one of the senior citizens of the C–5A fleet. As a precaution, the Air Force promptly grounded six other planes with similar totals in flying time. But after new cracks turned up in a newer plane, the Air Force followed up with orders grounding the entire fleet.

After last week's grounding, Lockheed had no comment. But Pentagon sources were quick to defend the company. "Those guys were pushing the state of the art," one Air Force officer told Newsweek's Tom DeFrank. "Nobody ever tried to fasten a 40,000-pound thrust engine to a wing before. They did the best they could; it just turned out to be not good enough." The Air Force is not backing away from the plane itself, which can carry 265,000 pounds of cargo. "The Air Force continues to have complete confidence in the plane," a spokesman said. "There's not a pilot in the Air Force afraid to take off on a C–5A mission. We've had plenty of problems, but I haven't heard anybody call it a lemon yet."

[From the New York Times, Oct. 31, 1971]

AIR FORCE FINDS CRACKS IN SEVEN C–5's

(By Richard Witkin)

The Air Force disclosed yesterday that it had found cracks in seven engine pylons on seven C–5 cargo jets, all apparently due to "improper fabrication."

It said that the pylons—underwing structures on which each jet engine is mounted—would be replaced and the planes released for flight. It added that a new pylon design was under intense study and might be ready for installation within three to five months.

In a C–5 status report to interested Congressional committees, the Air Force also disclosed that a 16-month study of wing fatigue showed that "some type of strengthening" of the wing section close to the fuselage

would be needed in the life span of the cargo craft.

Meanwhile, the announcement said, the C–5, the largest aircraft in the world, could be expected to continue to operate without difficulty with only normal modifications and repairs for at least 6,000 hours of flight.

ONE-FIFTH OF LIFETIME

This is one-fifth the 30,000-hour lifetime the Air Force had been hoping to attain for the plane.

A spokesman for the manufacturer, the Lockheed Aircraft Corporation, said the company had high hopes that the 6,000-hour mark could be significantly extended with a relatively simple and inexpensive "fix." This would involve a change in the rigging of the wing controls, the ailerons, and would relieve the wings of some of the strain imposed on them.

A long-standing debate over the C–5 boiled up again about a month ago after an engine tore loose from a C–5 as it was about to take off from Altus Air Force Base in Oklahoma.

Twenty of the 47 C–5's delivered to the Air Force were grounded after the Altus incident. The rest were grounded Oct. 12 after cracks were discovered in a relatively new C–5 in the same pylon area that had given way in the Altus mishap. Twenty-three of the planes have since been returned to duty after close inspections.

The mass grounding was dictated by fear that the C–5 pylons might have an immediately dangerous fatigue problem that would cause other engines to fly loose in the air, as the first one had done on the ground in Oklahoma. In that incident, the left outboard jet flew off the wing as the engines were being revved up to full power, fell to the ground and skidded several hundred feet along the ground.

A STRUCTURAL WEAKNESS

An inquiry indicated that this pylon did have a structural weakness. A decision was then made to install new outboard pylons on a total of seven C–5's, which, like the plane involved in the mishap, had accumulated the most flying time—about 1,300 hours.

In the inspections of the C–5 fleet, no fatigue cracks indicating fundamental structural flaws have turned up. Metal fatigue is the phenomenon that, for example, causes the metal fastener of a manila envelope to break when it is bent back and forth too many times.

What the inspections did find were seven pylon cracks, which, according to the Air Force announcement, "all apparently derive from improper fabrication during pylon manufacture." The cracks were found in seven different planes. The generic designation of the craft is the C–5, although the Air Force has called it the C–5A to designate the first model. No follow-up model is envisaged.

The pylons are manufactured under subcontract to Lockheed by the Rohr Corporation, of Chula Vista, Calif.

No cost estimate was given for the planned modification of pylons or wings.

THE PLIGHT OF THE ELDERLY

Mr. HOLLINGS. Mr. President as we approach the Christmas season, let us not forget our older Americans. Christmas is a time of giving, and these citizens have given so much of themselves; it is our turn to think of them. These are times of increasing awareness and determination to end prejudice and discrimination yet the elderly are consistently denied their rights. We must give them back the rights that are theirs.

There are more than 20.5 million aged Americans. That is the equivalent of the population of the 20 smallest states, and the number is increasing more than twice as fast as other age groups of our population.

According to the June, 1971, HEW Administration Report on Aging, one out of every four older people live in poverty. While the economic deprivation of the elderly has increased, that of other age groups has decreased. In 1970 the median income of an elderly person living was $1,951. Older people are twice as likely to be poor as younger citizens. Although the elderly comprise 10 percent of this country's total population, they constitute 20 percent of our poor.

There is a need for renewed commitment and implementation of a national policy on aging. We must assure our elderly that they shall enjoy the abundance of this Nation. In the wealthiest nation in the world, it is no longer necessary for 5 million older Americans to live in poverty.

It is not an either/or proposition now. Older Americans must have major advances in their present standard of living. Our chief priority should be raising the individual income to a decent level. The Social Security Act provides the means to assist the elderly, but there are several areas which need improvements.

Social security benefits constitute an annual income $300 below the poverty level of $1,852 per year for a family of two. We need a measure to keep pace with the rising cost of living that would insure proper food, housing, and medical care be provided to all.

A low-income elderly couple spends over 75 percent of its income on necessities of food, housing, and medical care, while a low-income family of four spends, on average, 56 percent for these items. There are also high property taxes which are especially damaging to the elderly who have fixed incomes. Moreover, these taxes have doubled or tripled in many communities during the last decade and reached a record high of $37.5 billion last year. Many who have managed to purchase their own home are unable to retain ownership because of such tax burdens. In the line of health care, medicare pays less than half of all health care costs, which have risen 64 percent in the past 4 years. The average health bill for the elderly is six times that of children and three times that of an adult.

My interest in the plight of the elderly is not new. It is an area that I have worked in constantly. Presently, I am a cosponsor of the Older Americans Rights Act of 1971. This proposal provides for an increase in benefits which has the potential of wiping out poverty among the elderly. I feel it is the best proposal now pending before Congress because new methods of financing the social security program result in much lower costs to the taxpayers.

I am also a cosponsor of S. 1163, the nutrition program for the elderly, which passed the Senate November 30. A large proportion of our elderly suffer from hunger and malnutrition because of poverty level incomes; inadequate nutritional education; lack of transportation to and from food stores and inadequate cooking facilities. The nutrition for the elderly bill authorizes $250 million over a 2-year period for funding programs that provide a daily meal that contains one-third the recommended daily dietary needs. These meals would be available in both urban and rural areas and would emphasize the social benefits of meals in a group setting for those with accessibility to community meeting places. This bill takes a giant step in providing for a nationwide nutrition program establishing low cost nutritious meals for persons over 60.

In our own State of South Carolina, we have approximately 190,000 to 200,000 citizens over 65 years of age. Compared to the rest of the country we have a very small percentage of the elderly. South Carolina recently received an areawide model project award of $234,705 for the Piedmont Life Enrichment for Aging. This is the first project of this nature in South Carolina and will be an innovative program designed for meeting the needs of the elderly. This project plans to focus on improving the level of physical and mental health of older people. the development of a system of links between existing health and related services, and the development of new services.

The Nixon administration has made little effort to reverse the plight of the elderly. President Nixon requested about $30 million for the funding of the Older American Act. This figure is dwarfed by expenditures like the Pentagon's public relations budget of $39 million, and the cost of the war. The money required to buy two C5–A airplanes each year would be sufficient to fund the Older Americans Act at $105 million annually through the end of the century.

The theme of the White House Conference on Aging held November 29 through December 2, 1971, was a call for "increased voluntary action to provide services for the elderly." This "self-help" is not the answer. As one conferee said:

> What the hell does that mean, when you are talking about someone who is arthritic, who is deaf, who is partly blind, whose children have moved away, and who is not properly covered by Social Security.

While government should not carry the entire burden; it should provide a base of opportunity for the elderly to live decently. It will be up to the Congress to overrule the administration on its "moratorium" that seems to have been declared on action in this area. There has been enough money spent on study on the plight of the elderly. The majority of recommendations made by the 1961 White House Conference on Aging were never implemented, thus the conference failed; $1 million was spent in preparation for the 1971 conference. Enough preparation and study. Let us start getting some of these proposals working. The Older Americans Rights Act of 1971 of which I am a cosponsor does start the action rolling in an area that has reached a point of urgency.

It is the moral obligation of the Nation to provide for the needs of its older citizens in keeping with the dignity to which they are entitled.

STATE OWNERSHIP OF PROPOSED TRANS-ALASKA PIPELINE STUDIED

Mr. STEVENS. Mr. President, recently the Governor of Alaska, the Honorable William A. Egan, announced that he would explore the question of State ownership and operation of the proposed trans-Alaska pipeline, which will carry crude oil from the North Slope of Alaska to the ice-free port of Valdez. This proposal has generated a great deal of discussion in Alaska and elsewhere. In the following news release, the Governor has sought to answer some of the most commonly asked questions.

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

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

NEWS RELEASE OF WILLIAM A. EGAN, GOVERNOR OF ALASKA, NOVEMBER 19, 1971

Some good questions have been asked by the news media from time to time with respect to the State's proposal to own the Trans-Alaska pipeline. The Anchorage Times recently asked eleven well thought out and pertinent ones. I will attempt to answer them at this time.

Q. 1: Is it sound and practical for the state to own such a vast facility and what sort of precedent would state ownership set on future development opportunities or programs by private industry?

A. The size and importance of TAP to every aspect of Alaska's economy is such that the question of public ownership of the facility is a question distinct from any other question of public ownership. It appears at present that it will not only be sound and practical, but possibly even essential for the State to own such a vast facility. We are continuing to study these questions and will not make any final, firm proposal until we are satisfied our position is correct.

Since the TAP is unique, no precedent whatsoever will be set by this action. Some have questioned whether State ownership of other pipelines is implied. No such implication has been considered. TAP is not any pipeline, but "The" pipeline. It may well serve as a yardstick for some purposes, but it is not a precedent for ownership of pipelines generally where quite different principles may apply.

Furthermore, the State will provide Alyeska fair and just compensation for the Trans-Alaska pipeline, should continuing definitive analysis clearly indicate State ownership is in the interest of the people. Since such an action would not represent a loss to Alyeska, but probably, in fact, a certain reasonable amount of profit on its investment, nothing in the action would discourage future development programs by private industry.

It is the State's general policy to use funds, where possible, to take reasonable actions that will encourage developments by private industry.

Q. 2: What precisely would the financial requirements be, and could the state literally afford to handle the debt service and cover the cost of the borrowing or bond issues that would be required?

A. While we do not know the exact figure, the initial financial requirement would be much the same as that required to be raised from financial markets by the owners for this purpose. The debt service requirement should be significantly smaller. In general terms, the cost of buying the pipeline might range from $1 billion upward, but careful studies and accounting work will have to be done to determine the exact financial requirements, just as if the owners financed the project alone.

Whether the State can afford to handle the debt service and costs of borrowing is a matter depending upon the receptivity of the market. This is being explored by the seven major investment houses retained for this purpose. The cost of floating the bond issues necessary to purchase the pipeline, and the cost of debt service on them will be paid for from the gross revenues received from the operation of the pipeline, just as would be the case under private ownership. The State's profit on the pipeline will be a built-in part of the cost of transporting a barrel of oil, as will the cost of debt service.

While there are some challenges to putting together a bond issue of $1 billion or more, there do not presently appear to be insurmountable difficulties in marketing the bonds that cannot be worked out.

Q. 3: What are the short-term and long-term risks? What if the oil supply actually falls far short of projections in the Prudhoe Bay area? Private industry might weather such a setback—but could the state?

A. We are currently attempting to analyze and identify the real short-term and long-term risks in State purchase and operation of the pipeline.

A basic reason for considering public ownership of this pipeline is that, for better or worse, the destinies of the State of Alaska are bound up in its future. As the pipeline's fortunes rise or fall, so do the fortunes of Alaska.

It is extremely doubtful that the actual oil supply in Prudhoe Bay will fall far short of projections. In fact, I believe it is more likely that the supply is far greater than current reserve statements indicate. In addition, there are other reserves relatively nearby that can be developed and transported through the pipeline.

The extra cost to private industry in a shortfall in supply would be passed on to the State in any case in increased cost of transportation deducted from the well-head price.

Q. 4: What effect would world money market gyrations have on the State's economic prospects if it sank so much of its monetary future into this one venture?

A. Fluctuations in the dollar are something all Americans have to contend with anyway. The value of oil upon which the value of the pipeline ultimately depends, the State must live with anyway. Interests in oil actually are more likely to ride out international monetary fluctuations successfully than cash assets. The American market is our fundamental guarantee of price.

Q. 5: What would be the effect on requirements for borrowing for other purposes? What would Alaska's bond rating and bond prospects become if its full faith and credit were overextended on one issue?

A. No decision has yet been made whether to issue revenue bonds or general obligation bonds engaging the full faith and credit of the State. The State's bond rating depends very much on the success of TAP with or without public ownership. There would be very little effect on the State's bonding capacity since, as noted before, pipeline revenues would pay for the bonds used for the pipeline purchase. With successful operation of the pipeline, and the additional millions of dollars in State revenue that will be received from it, the State's bond rating will improve substantially, just as when a small company becomes a successful large company through the use of debt financing, its borrowing capacity is greatly increased.

Q. 6: If the State owned the pipeline, which is part of the transportation system to move the oil to market, would it also have to acquire ownership of the tanker fleets required to move the crude from Valdez to Puget Sound?

A. No, the State would not have to acquire tanker fleets to move North Slope crude to market. Alyeska Pipeline Service Corp. currently exists only to build and operate the Trans-Alaska pipeline; the State would assume the same role, acting as a common carrier for North Slope producers who will make their own arrangements to get their oil to Market from Valdez.

Q. 7: How does the state buy out Alyeska? Does it pay for its technology, for its environmental studies, for its engineering, for its pipe? Who determines a fair and equitable price?

A. The details of how the State buys out Alyeska must be worked out in negotiations with the company. Naturally, the State would pay for Alyeska's technology, environmental studies, engineering and pipe, insofar as they are part of the cost of the pipeline. A fair and equitable price would be determined through negotiations between the State of Alaska and Alyeska, based roughly upon acquisition costs and initial investment, plus interests on investment.

Q. 8: For that matter, what is the state's position if the oil companies won't sell?

A. It depends upon the reasons why the companies won't sell. A number of alternatives are available to the State in the event that there appears to be an overriding State interest in public ownership which the owners simply refuse to recognize.

Since there is no indication that the owners will refuse to sell under such circumstances, there is no purpose served in speculating on alternatives available to the State.

Q. 9: Assuming that the oil companies would agree to sell, how does the state buy the technical knowhow to complete the job? What if Alyeska—which is formed by men largely on loan from the various participating companies—simply dissolves, leaving no technical expertise for which the state could contract?

A. The State proposal is likely to include contracting with Alyeska for the completion of the job and an initial operating phase. The technical know-how is part of what the State would purchase, not just a pile of pipe and a few stacks of books and drawings. We realize the need for appropriate expertise in both the construction and the operation of the pipeline, and we will not shirk our responsibility to see that such expertise is available to the State should a purchase take place.

Q. 10: If, as the environmental extremists contend, the pipeline should ever break, the oil companies under private ownership would be subject to gigantic penalties, fines and assessments. If the state owned the pipeline, would it have the monetary resources to clean up a major spill without even more bonding?

A. Frankly, the possibility of such spill has been grossly overstated. The pipeline is overdesigned for the purpose of reducing this risk even further. The cost for disaster contingency preparations and for clean-up is part of the cost of pipeline operation. Money for these vitally necessary things will come from the tariff charged. The State will pay in the end anyway through the well-head price. Because of the State's responsibility to its people, I feel that we can do a better job of protecting the environment than could be done by private operators.

Q. 11: Where would the state acquire the manpower to operate the pipeline on a continuing basis once it was built? Would new political empires be built and huge patronage jobs created under a political system subject to a flip-flop every four years?

A. The State would acquire manpower initially as part of the pipeline purchase and operating contract with Alyeska. Although details have not been worked out as yet, among the considerations presently being employed by the State is the creation of a

quasi-independent pipeline authority that would be immune from such situations you describe in the event that after the original operating phase it was determined that Alyeska was not an appropriate operating contractor for the long term. The Marine Highway Division of the State operates a far more extensive transportation system in terms of employment. It does not appear to suffer from the drawbacks stated.

My proposal to explore State purchase and operation of the Trans-Alaska pipeline was based on the initial appearance of desirability of such an action. The proposal is continuing to evolve and take on greater definition as more information is gained on various aspects of it and various ideas are tested.

I appreciate this opportunity to answer these questions of general public interest, and I can assure you that my Administration is developing more questions and seeking more answers daily. When adequate concrete information becomes available, I shall certainly report to the people again on the status of a proposal that currently appears to provide a strong means toward building a better State for all Alaskans.

S. 2097—DRUG ABUSE PREVENTION BILL

Mr. MOSS. Mr. President, last night the Senate passed a piece of landmark legislation, S. 2097, the drug abuse prevention bill. This was the result of a bipartisan effort to combat one of our greatest national problems—drug abuse. With enthusiasm I voted "yea."

The Nation has been justly alarmed by the growing menace of drug abuse. The problem is not confined to one area of the country or a single segment of society. It is pervasive, affecting cities, suburbs, and rural areas; civilians and military personnel. It particularly affects the Nation's youth.

I am proud to have been a cosponsor along with more than half of my colleagues in the Senate.

The bill responds to the need for better organization and for increased funds for drug abuse programs. It attacks the drug problem on a broad spectrum—law enforcement, prevention, treatment, and rehabilitation. It is a constructive bill which I believe will lead to controlling the problem of drug abuse throughout the Nation.

The availability of drugs on the virtually open illicit market has been described before. The range of drugs being abused is long and well known; marihuana, amphetamines, barbituates, heroin, cocaine, LSD, mescaline. The characteristics of those abusing drugs have changed radically in the last few years. Once largely confined to the inner city poverty areas where, like all other problems there, it could be conveniently ignored by the rest of society, drug abuse now substantially involves young, middle-class residents of the suburbs, college students, and military personnel. In fact, it is quite clear that one of the most compelling forces behind the present initiative was the disclosure of widespread use of heroin among GI's in Vietnam.

The bill covers the ground which needs to be covered. It creates an office with high visibility to express the full extent of our concern. The language we have used is reserved because we understand how serious the problem is, how deeply it is tied to other problems of our society, and how unlikely it is to yield to quick solutions or emotional terminology.

Most important, the development of a national strategy will assure that at the highest levels of government, issues which have undermined the effort against drug abuse will receive considered attention. For the first time the policy basis for controlling and preventing drug abuse will receive the kind of comprehensive treatment that it needs.

The bill is a good one. It provides the authority needed to begin the job that needs doing.

I would also like to point out the work of several Senators whose contribution to this bill makes it the piece of constructive legislation which we need. From the Committee on Government Operations, high praise must be given to Chairman McCLELLAN and Senators MUSKIE, RIBICOFF, PERCY, JAVITS, and GURNEY. And from the Subcommittee on Alcoholism and Narcotics, we must express our gratitude to the chairman, Senator HUGHES, and the ranking minority member, Senator JAVITS.

They all deserve congratulations from the American people for fashioning this important legislation.

ECONOMIC IMPACT OF RETIREMENT

Mr. MUSKIE. Mr. President, Nelson Cruikshank has had a long and distinguished career, serving the best interests of the elderly. After holding various posts in Government, Mr. Cruikshank served for 10 years as director of the AFL–CIO Social Security Department. He is now president of the National Council of Senior Citizens, an organization that is in the forefront of the battle to secure greater justice for older Americans. In the November issue of Social Action, Mr. Cruikshank eloquently and succinctly discusses the economic impact of retirement. Mr. Cruikshank reveals that despite the best efforts of the citizens themselves and major programs such as social security and medicare, retirement for too many of our senior citizens is an introduction to poverty. As revealed by the Subcommittee on Aging, of which I am a member, today 4.7 million persons 65 and older fall below the poverty line, nearly 100,000 more than in 1968. More than 2 million older Americans are on welfare. And 60 percent of all elderly persons living alone are classified as poor or marginally poor.

Unlike most people, Mr. Cruikshank not only knows the problem but offers a solution. As Mr. Cruikshank observes, we must abandon the myth that social security provides only a "basic floor of protection." For most Americans the social security system is their only source of income during their retirement. This will continue to be true in the future. Therefore, if we are to provide true economic security and dignity for our elder Americans, there must be substantial and massive increases in social security benefits. I have long maintained that such increases can be achieved only by general revenue financing. Mr. Cruikshank shares this conclusion by noting in his article that the entire cost of an adequate system of old-age security should not be borne as it now is by a payroll tax. To quote Mr. Cruikshank:

There is every sound economic reason for the cost to be shared not only by employers and employees but by contributions from general revenues of the government.

General revenue financing will, of course, cost money, but the present system has a cost far greater than dollars. Our present system places an increasingly regressive tax on the working American, while failing to provide economic security for an increasing number of elderly Americans.

So that Senators may have the benefit of Mr. Cruikshank's observations, I ask unanimous consent that his article be printed in the RECORD.

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

THE ECONOMIC IMPACT OF RETIREMENT

(By Nelson H. Cruikshank)

The American worker born in 1906 reaches the normal retirement age, 65, this year. He was 23 years old and was getting started in his life work, preparing to assume the responsibilities of a family, when the 1929 crash triggered the complex chain reaction he learned to know in the next few years as the great depression.

If he had harbored the typical dreams and ambitions of most Americans of that time, the events of those years brought a rude awakening. Hard work, industry, savings, and prudent investment no longer were the sure road to success and security. He saw all around him older people, who had obeyed all the rules and lived up to all the precepts, suddenly deprived of the promised rewards and forced to seek assistance from whatever source they could—even the government.

By the time he reached the age of 30 he had learned the hard way some of the tough economic and political facts of life. Gradually, with his fellow citizens, he worked his way out of the depression, aided in no small measure by the massive government spending incident to World War II as well as by the changing attitudes with respect to government's responsibility for the general welfare—changes he himself helped develop as his own notions about such matters shifted.

Gradually the dream of individual success as entertained in the days of his innocent youth was replaced by another—the dream of a comfortable and relaxed retirement. He passed the 50-year mark in 1956—not a very good year in our economic history. But his children were grown or would soon be on their own. In a few years the house would be paid for. There was social security and his company was instituting a pension plan. He had even managed to lay aside a small nest egg: some government Savings Bonds and a modest amount in a savings and loan association. Fifteen more years of work and he could retire. No more getting up at the clang of the alarm clock, grinding through traffic with his car pool to report at the factory at 8 o'clock or at the office by 9. He could buy a little place on the lake or in Florida or California, do all the fishing and hunting he liked. He and his wife would spend their golden years in leisure. Every week would be one long weekend. What a life!

And now comes 1971 and age 65. Will the dreams of middle and later life be shattered as were those of his early 20s? For many, tragically, they will.

TRADITIONAL ROUTES TO OLD-AGE SECURITY

It's been a long time since the average worker looked to the traditional pattern of family security characteristic of an earlier agrarian society. Our modern worker remembered his grandparents who developed

160 acres of midwest farmland, raised and educated their family from its proceeds and their labor, and retired on the homestead in comfort and dignity with one of the sons taking over most of the work while the old man supplied the wise management out of years of experience. But our modern worker knew this was not for him. Among other things, his was a city way of life. When the great depression started there were over 6,000,000 farmers in the United States. Now there are only about one-third that number.

To save enough

Nor was our typical worker ever really convinced that he could save enough out of his earnings to meet the needs of retirement on a kind of do-it-yourself basis. Suppose he had tried, and suppose at retirement he was earning $8,000 per year. Considering the tax advantages arising from a smaller income and the special exemptions for the elderly, assume he was willing to settle for half that gross income. To buy an annuity that would yield $4,000 a year for the rest of his life and the same amount for his widow after his death, he would need better than $50,000 cash at the time of retirement. Even if he had been foresighted enough to start saving 25 years ahead of time, he would have had to make monthly payments of $166 all those years to accumulate such an amount. But remember, our typical worker would have been 40 years old in 1946 and at that time he was making not $8,000 a year but $5,000. His children were still in school, the home wasn't paid for, and there were always more calls on his paycheck than he could meet. Obviously he could not set aside nearly half his take-home pay to meet the needs of retirement 25 years in the future.

To allow for rising costs

Besides, our worker had no way of knowing then that his living standards and his earnings would rise in the 25 years ahead to the point where he would need as much as $4,000 a year to maintain a moderate standard of living.

One thing that he could not have foreseen was the dramatic rise in the cost of living that was going to take place in his later working years. From the 1957–59 base, the Consumer's Price Index for all items has risen by nearly 40%. But many of the items that most directly affect older people have seen even sharper rises. Physicians' fees, for example, have risen by 76.8%, property taxes by 47.3%, property insurance rates by 61.7%, maintenance and repairs by 60.3%. Local transit fares have doubled, and hospital daily service charges have more than tripled in that period.

PROTECTION THROUGH MEDICARE

Six years ago passage of the Medicare law improved security in old age by covering the greater part of the most unpredictable and burdensome threat to retirement budgets, namely, the cost of a hospitalized illness and high doctor bills.

In fiscal year 1969, the average annual medical bill for aged persons was $692, but the average older person's out-of-pocket outlay was only $163 according to Social Security Administration figures.

Hospital care constituted by far the largest health expenditure for the aged—approximately $6.5 billion in fiscal year 1969. Medicare paid $4.3 billion, or 66%, and an even higher proportion of large bills for individual cases. The program also paid about 72% of the $2.1 billion spent for physicians' services for the elderly.

Gaps in the program

There are still, however, large gaps in the program that constitute a heavy burden for people living on retirement incomes. The deductible and co-insurance features constitute a barrier to medical care, especially for the elderly poor. Out-of-hospital drugs, which are not covered, are frequently a costly item. Many drugs which older people use are of the most expensive kind, and frequently the elderly need these drugs in treating such disabilities as heart disease, diabetes, and arthritis—not just occasionally, but regularly. Their cost represents a steady drain, on low incomes. Furthermore, unless the attending physician agrees to the assignment method of payment under which the amount paid by Medicare is accepted as the total payment (minus the 20% co-insurance), the doctor is free to charge any amount he thinks he can get over and above the amount Medicare procedures establish as "reasonable" in terms of the going rates and past practice. So the elderly person is faced with an 87% increase in monthly premiums for Part B. Medicare since the start of the program, plus the burden of increasing charges by physicians over and above the insured amount.

PRIVATE PENSIONS

By the end of 1968, 28.6 million wage and salary workers were covered by private pension and deferred profit sharing plans. This represented nearly half (47.8%) of all wage and salary workers. However, the degree of protection afforded by these plans is in many respects illusory.

Shortcomings

In the first place, pension payments vary widely. The sample of 100 plans under collective bargaining published by the U.S. Bureau of Labor Statistics shows pensions as low as $13 per month for workers making $400 per month at retirement. Others range as high as $565 a month for workers retiring after 30 years of service who were earning $7,800 per year. Both of these, of course, are extremes—not at all typical.

Many plans require long unbroken service with a particular employer with no vesting provision (an equity in the plan for those not meeting service requirements). Some have been been terminated when the employer went out of business, leaving workers stranded with no protection or with a fraction of the benefits they had expected. Frequently there is no protection for the worker who quits or is laid off just prior to the time he would become eligible.

While the total number now working under the provision of some private retirement plan is impressive, there are many more who are totally without such protection. The Senate Committee identified 40,592,000 such individuals including the currently unemployed, family workers, employees of local governments, self-employed, and agricultural workers; 26,187,000 were in private, non-agricultural, industries having no supplementary pension program.

Reduction of income

Even for those fortunate workers who are under liberal, solidly financial plans backed by major industries and supported by powerful unions, the reduction in income at time of retirement can be quite a shock.

Take, for example, an auto worker earning $9,000 a year. This would put him in the distinctly higher wage group. On retirement, if he and his wife were both 65, and he had been steadily employed over the years, they would together draw $306.80 a month social security benefits. His auto worker's pension would be $183. His annual combined income would therefore be $5,878. This seems liberal, but it represents a 23.5% reduction in income taking into account that even on his $9,000 working income he had only $7,684 left after taxes and social security deductions.

This is an example of the more favored worker at the time of retirement. There is, of course, an almost infinite variety of circumstances that determine a worker's economic situation in retirement. In the example both man and wife had reached age 65. If the wife were younger by three to five years (as is usually the case), the couple either would have a reduced social security benefit or would have to postpone one-third of the benefit for the number of years it takes the wife to reach 65.

Our example also assumes that both husband and wife were living during the period of retirement. Actually, in the vast majority of cases the wife outlives the husband by several years, and the typical private pension plan makes little or no provision to protect the surviving widow. Social security is also deficient in this respect. Under present law if the wife dies the surviving husband continues to draw 100% of his primary benefit. But if the husband dies his widow draws only 82½% of the primary. H.R. 1, passed early this summer by the House and now awaiting action by the Senate, would correct this inequity.

COMPARISON OF BENEFITS

There appears to be no comprehensive up-to-date study of private pension plans with respect either to their overall benefit structure or to survivor's benefits. The Bureau of Labor Statistics Digest of 100 selected pension plans under collective bargaining gives some indication of the better plans.[1] An analysis of this study by the Special Senate Committee shows that only 44 of the 100 plans had any provision for survivor's benefits and most of these benefits were very meager. Sixteen provide monthly payments after the death of the primary beneficiary for periods of 6 months to 5 years. Eleven of them pay back the worker's direct contributions plus interest—not very significant since most plans do not require workers' direct contributions. The indirect contribution workers make to plans, through a reduction in potential wage payments resulting from the institution of a pension plan, are never refunded. Nine of the plans pay lump sum death benefits ranging from $400 to $7,500 but only two pay amounts above $3,200. Only two of the plans continue the full benefit to the survivors after death of the beneficiary. Six more pay a percentage of the primary benefit.

SOCIAL SECURITY AS THE BASE FOR RETIREMENT SECURITY

The statistical information on private pensions, while meager, gives reason to believe that the outlook will not improve greatly in the immediate future. The Senate Committee on Aging reports this major finding: Projections to 1980, using relatively liberal assumptions with respect to increases in benefit levels under both social security and private pension plans, indicate that about half the couples and more than three-fourths of the unmarried retirees will receive less than $3,000 in total pension income.

There is also abundant evidence of the inadequacy of the overall protection we have afforded the elderly through all our efforts so far, including savings, pensions, home ownership, insurance, and social security. A study issued by the Senate Special Committee on Aging in 1969 showed that three out of ten people 65 and over were living in poverty in 1966. Though there have been substantial improvements in social security payments in the last 5 years, the rapid rise in living costs has kept about the same proportion below the poverty line. Older people living alone or with non-relatives were the worst off financially. In 1967 half of such persons had yearly incomes below $1,480 and a fourth had $1,000 or less. The study also showed that most of the elderly now in poverty had been able during their working years to keep themselves and their families out of poverty in the typical American self-reliant fashion. Poverty came only with old age.

Policy changes required

It now seems clear that if we are ever to make possible a reasonable degree of assurance of economic security for the great ma-

jority of working people, we are going to have to make some basic changes in policy.

First, if we are going to continue with the assumption—an assumption that has proven to be largely a myth—that social security is to provide only a "basic floor of protection" with personal savings, investment, and private pensions supplying the main part of the structure, we are going to have to take actions at the government level to see that these programs, in fact, fill that need. To do this would require mandatory vesting and portability of rights, and standards controlling the level of benefits. Coverage would also have to be made universally compulsory.

If we were to go that far in controlling private pension programs, we might just as well improve our basic social security system to the point where it could do the whole job. For most people it is already their chief reliance in old age. The only trouble is the benefits are too low. For the middle and upper wage and salary groups particularly, the ratio between benefits and past earnings is far too low—much lower than for the lower income groups. For example, a worker retiring at age 65 in 1971 with an average monthly wage of $200 is entitled to a primary benefit of $128.60 or 64.3% of his past wage. But a worker with an average wage of $800 a month has a primary benefit of $204.50 per month—only 25.5%.

Surely we would not wish to lower the benefits for the low-income workers. But we need to improve very substantially those for the middle and high paid workers simply because other means of economic security have been found seriously defective.

Paying the bill

All this, of course, is going to cost money—a great deal of money. But so do highway systems, schools, hospitals, and humane welfare programs and all the other necessary and desirable things—not to mention unnecessary and undesirable things like a big war in Southeast Asia. Nor should the entire cost of an adequate system of old-age security be borne, as is our present Social Security program, by a payroll tax. There is every sound economic reason for the cost to be shared not only by employers and employees but by contributions from general revenues of the government. It will be a huge and costly program but that consideration has not, throughout our past history, deterred America from doing whatever she really wants to do.

PROPERTY TAX RELIEF FOR THE ELDERLY

Mr. MOSS. Mr. President, yesterday at the White House Conference on Aging, President Nixon made a bold promise of relief to those older Americans suffering under what he called the "onerous" burden of property taxes. The President said:

> The time has come to stop talking about the impact of property taxes on older persons and to act in their behalf.

After hearing the President's words and thinking back on recent administration actions, it appears that Mr. Nixon has come up with another political "football."

On November 20, I supported an amendment by the Senator from Missouri to the 1971 tax relief bill which was aimed specifically at granting Federal income tax credits to these same elderly property owners. The legislation would have permitted up to $300 relief to those people over 65 years of age who are dependent on limited incomes.

When this proposal came to a vote in the Senate, however, the administration's floor manager opposed it. And only a few days ago we heard that the amendment had been removed, under strong White House pressure, from the House-Senate conference report.

It is difficult to attach much credibility to an administration which continues to make public promises to help the aging American and at the same time works against his interests when it comes to real legislation. Mr. Nixon talks like he wants to help the older American, but judging from his administration's opposition to the property tax credit, this football fan is nothing more than an "armchair quarterback."

WELFARE CHEATERS

Mr. RIBICOFF. Mr. President, the enclosed note, entitled "Welfare Lode," published in New York magazine for December 6, 1971, is self-explanatory. I ask unanimous consent that it be printed in the RECORD.

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

WELFARE LODE

About six months ago, Governor Rockefeller decided to do something about the fact that more than one million people in New York City were on welfare and he set up the office of Welfare Inspector General George Berlinger. According to state sources, the Inspector General has spent almost $200,000 of his $750,000 appropriation and to date has investigated thirteen cases and found three cases of welfare cheating.

TRAGEDY IN ULSTER—XII—GRAHAM GREENE ON THE SHAME OF THE CATHOLICS AND THE SHAME OF THE ENGLISH

Mr. KENNEDY. Mr. President, every so often, amid the turbulence and confusion of the horrors that confront the peoples of the world in so many places, an eloquent and moving commentary appears of such power that it serves to crystallize an issue. Such, I think, is the power of Graham Greene's magnificent recent letter on Ulster to the London Times, which was reprinted yesterday by the New York Times.

In a few remarkable paragraphs, Mr. Greene captures the hypocrisy and the hideous reality of the Compton report, the fruit of the official British inquiry into the allegations of torture in the Ulster internment camps.

If Mr. Greene sees the truth of Ulster more clearly than others, it is because, perhaps, he sees with the vision of the novelist and poet that he is. The quality of his vision here reminds me of the words President Kennedy once used, in commenting on the role of poetry in public life:

> When power leads man toward arrogance, poetry reminds him of his limitations. When power narrows the areas of man's concern, poetry reminds him of the richness and diversity of his existence. When power corrupts, poetry cleanses.

I hope that all who doubt the depth of the tragedy now unfolding in Ulster will read Mr. Greene's letter and reflect again about the views they hold.

Mr. President, I ask unanimous consent that Mr. Greene's letter as reprinted in the New York Times, may be printed in the RECORD.

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

[From the New York Times, Dec. 2, 1971]

SHAME OF THE CATHOLICS, SHAME OF THE ENGLISH

(By Graham Greene)

To be at the same time a Catholic and an Englishman is today to be ashamed on both sides. As a Catholic one is ashamed that more than a thousand years of Christianity have not abated the brutality of those Catholic women who shaved a young girl's head and poured tar and red lead over her body because she intended to marry an English soldier. As an Englishman the shame is even greater.

"Deep interrogation"—a bureaucratic phrase which takes the place of the simpler word "torture" and is worthy of Orwell's "1984"—is on a different level of immortality than hysterical sadism or the indiscriminating bomb of urban guerrillas. It is something organized with imagination and a knowledge of psychology, calculated and cold-blooded, and it is only half condemned by the Compton probe.

Mr. Maudling, in his blithe jolly style, reminiscent of that used by defenders of corporal punishment when they remember their school days, suggests that no one has suffered permanent injury from this form of torture, by standing long hours pressed against a wall, hooded in darkness, isolated and deprived of hearing as well as sight by permanent noise, prevented in the intervals of the ordeal from sleep—these were the methods we condemned in the Slansky trial in Czechoslovakia and in the case of Cardinal Mindszenty in Hungary.

Slansky is dead; he cannot be asked by Mr. Maudling how permanent was the inquiry he suffered, but one would like to know the opinion of the Cardinal on methods which when applied by Communists or Fascists we call "torture" and when applied by the British become down-graded to "ill treatment." If I, as a Catholic, were living in Ulster today I confess I would have one savage and irrational ambition—to see Mr. Maudling pressed against a wall for hours on end, with a hood over his head, hearing nothing but the noise of a wind machine, deprived of sleep when the noise temporarily ceases by the bland voice of a politician telling him that his brain will suffer no irreparable damage.

The effect of these methods extends far beyond the borders of Ulster. How can any Englishman now protest against torture in Vietnam, in Greece, in Brazil, in the psychiatric wards of the U.S.S.R., without being told, "You have a double standard: one for others and another for your own country."

And after all the British tortures and Catholic outrages, what comes next? We all know the end of the story, however long the politicians keep up their parrot cry of "no talk until violence ends." When I was young it was the same cliché they repeated. Collins was "a gunman and a thug." "We will not talk to murderers." No one doubts that it was in our power then to hold Ireland by force. The Black and Tans matched the republicans in terror. It was the English people who in the end forced the politicians to sit down at a table with "the gunman and the thug."

Now too, when the deaths and the tortures have gone on long enough to blacken us in the eyes of the world and to sicken even a Conservative of the right, there will inevitably be a temporary truce and a round-

table conference—Mr. Maudling or his successor will sit down over the coffee and the sandwiches with representatives of Eire and Stormont, of the I.R.A. and the Provisional I.R.A. to discuss with no preordained conditions changes in the constitution and in the borders of Ulster. Why not now rather than later?

This letter, written from Paris by Graham Greene, the novelist, was published by The Times of London.

SOLAR ENERGY—THE FORD-KANE PROPOSAL

Mr. GRAVEL. Mr. President, if all the electrical power this country now uses could be provided, pollution-free, from the sunlight falling on just 2 percent of our deserts, we would be crazy to ignore the idea.

That is why I would like to call attention to the article called "Solar Power" in the October 1971 Bulletin of the Atomic Scientists. Written by two physicists at the University of Massachusetts at Amherst, Dr. Norman Ford and Dr. Joseph Kane, it proposes a method of using solar energy which does not require exotic processes or materials. Instead, it requires just "the consolidation of knowledge, ideas, and technologies which are at hand."

Mr. President, I ask unanimous consent to have that article placed in the RECORD.

TOO CHEAP TO METER?

While Drs. Ford and Kane believe the method of using solar energy which they propose would produce energy at reasonable cost, they are the first to agree that paper studies are not evidence enough. That is the lesson everyone must have learned by now from nuclear power, which was supposed to be "too cheap to meter."

The Ford-Kane solar energy proposal "is obviously subject to the often experienced fate of many technical ideas of our age: it may cost more in fact than anticipated * * * We believe," they say, "that the possible benefits are sufficient to merit serious consideration."

THE NEW BUDGET

New energy technologies cannot be fairly evaluated until feasibility studies have been adequately funded and completed.

This administration has shown remarkable patience when it comes to funding feasibility studies in one type of engineering, namely nuclear engineering. It showed $330 million worth of patience last year for a technology which is still seriously flawed after 20 years of effort and an investment of $3 billion tax dollars.

Therefore, if the White House Office of Management and Budget fails to give serious consideration and dollars in the new budget for solar energy studies like the Ford-Kane proposal and several others, Budget Director George P. Shultz will certainly owe the country a very detailed explanation.

On the other hand, I would be the first to cheer loudly for Mr. Shultz if he funds an honest competition between solar and nuclear energy.

THE GAS BUSINESS

Eventually the gas people might also press for funding of various solar technologies, like the Ford-Kane idea. The reason is that the Ford-Kane proposal would use solar heat to produce nonpolluting hydrogen gas from water, which could be transported and sold like natural and synthetic gas. Various windpower ideas would also produce hydrogen.

The combination of hydrogen gas and fuel cells could produce abundant, clean electricity all over the country, day and night. On July 8, when I first referred to the Ford-Kane solar proposal, I placed two articles on advanced fuel cells into the CONGRESSIONAL RECORD, volume 117, part 18, pages 24014–24016. These fuel-cell units will be on the market starting in 1975.

I fully agree with the concluding statement in the Ford-Kane article:

We are indeed at a major juncture in our industrial history, and full analysis of all possibilities for energy production seems only prudent.

FOREIGN ADVENTURES

Moreover, a major moment is also occurring in our foreign policy. As long as the United States and Europe depend on foreign energy sources, we are likely to do desperate and nasty and dangerous things abroad. Another "Cuban missile crisis" over Middle East oil, for instance, is not inconceivable under present world leadership.

As a man of peace President Nixon should put the highest budget priority on developing inexhaustible, nonpolluting sources of energy both in Europe and at home. He should look to the sun. Now.

And if he sincerely wants to prevent the proliferation of nuclear bombs all over the world made with fissionable material from nuclear power reactors, he had also better stop the promotion and export of nuclear power plants.

There are more defensible ways for the Nation to make both money and electricity.

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

[From the Bulletin of Atomic Scientists, October 1971]

SOLAR POWER

(By Norman C. Ford and Joseph W. Kane)

[*"We would like to propose a possible method of producing energy from solar radiation at a reasonable cost. . . By using plastics presently available it may be possible to solve the economic problems of collection . . . and the energy may be converted via thermal dissociation of water into hydrogen, an efficient, nonpolluting fuel." Norman Ford, associate professor, and Joseph Kane, assistant professor, are members of the department of physics and astronomy, Hasbrouck Laboratory, University of Massachusetts.*]

The full industrial development of the world took place only when man learned to recover and use the energy concentrated in fossil or combustible fuels other than wood. The extent to which the maintenance and growth of these developed nations depend upon fuel is indicated by the fact that about 20 per cent of the American gross national product is directly related to energy usage.

Two developments in energy production are impinging on the consciousness of the industrialized world which makes a reexamination of our fuel resources imperative: (1) We are rapidly exhausting our finite fuel reserves. While coal is still available in large quantities, the United States is presently using the last half of its known crude oil and natural gas reserves at a rate which is still increasing. (2) As our energy demands grow, we are increasingly aware of the immense spoilage of our environment which using and recovering fossil fuels entails.

The degree of severity of either problem is the subject of some debate, but the outcome is not in serious dispute. Increased power rates, blackouts, oil spills and heating oil shortages are all examples of the disruptions which we face to an increasing degree. The most satisfactory response to these problems is to find an energy source which is not in short supply and which can provide a major fraction of our energy needs without causing major environmental deterioration

Many believe the most likely candidate for such an energy source is the nuclear power industry. Nuclear power generation, however, faces formidable problems. First, the industry cannot long provide our power needs without the development and wide use of power producing breeder reactors. (The present generation of uranium burners, if called upon to supply power as projected by the Atomic Energy Commission, would contain nearly our total uranium supply in their fuel elements by the latter part of the 1980s.) The breeder reactors, particularly the fast breeder which has top priority, are considerably more sophisticated and difficult-to-manage machines than present reactors and will contain very large inventories of highly toxic plutonium, an element with a half-life of 24,000 years. Second, the problem of reprocessing and storage of the huge amounts of fission products is still one which awaits solution. Realistically, it seems that nuclear power represents a new method with new problems, and the world will have to suffer the cost of these problems to benefit from the power.

However, one aspect of nuclear power production which does not receive wide attention may well prove to be the most important factor. Power generated in nuclear plants as well as in fossil fuel plants is going to cost more in real dollars. For example, the proposed 820 megawatt nuclear electric power plant at Shoreham, Long Island, N.Y., carries an estimated price tag of about $330 capital cost per kilowatt of generating capacity. This is about twice the present capital cost of a fossil fuel plant. Since fuel costs are not sufficiently different, nor is plant operating life different, the power cost implications of this decision by a public utility are clear. It is only the simultaneous rise in price of fossil fuel which has kept nuclear power competitive. We do not wish to boost one method of power generation over the others; we merely wish to make it clear that energy is going to cost more, a good deal more.

LOOK AT THE SUN

In view of the increasing cost of energy, both direct cost and environmental cost, and the possible exhaustion of our resources, we would like to propose the reexamination of an often disdainfully dismissed source of power—the radiant energy of the sun. To appreciate the reasons for the traditional lack of enthusiasm for solar energy production, it is useful to review briefly the developments in this field.

The direct use of solar radiation to replace fossil fuel energy has a long and rich history. The primary motivation for contemporary activity is the lack of fossil fuels in certain areas of the world. Considerable re-

search has gone into developing solar cookers, solar heating of individual dwellings, solar furnaces for various high-temperature applications, study of photo-induced chemical reactions and, more pertinent to our study, the use of solar energy for desalination and electric power production.

One can easily see why solar energy for power production and desalination, if viewed casually, is found to be expensive. The total incident solar energy is enormous, but it is available at very low densities. One must envision enormous arrays of collectors (mirrors or lenses), each costly to manufacture and maintain, driven by elaborate steering mechanisms. This energy, once collected, must then be converted to a useful form since storage or transportation of heat energy as such is prohibitively inefficient.

Various proposals have been made and demonstrated for attacking this conversion problem. An obvious one is to heat water and drive a turbine, producing electricity which can then be transported, but one immediately faces the day-night problem of uneven power production. Elaborate provisions would be necessary for overcoming this fluctuation, for example, pumped storage. Electric power is also expensive to transport for distances of more than about 500 miles. While work progresses on high voltage power transmission, the improvements are slow and expensive.

SOLAR CELLS

A second possibility is direct conversion of solar to electric power using solar cells. This has many of the drawbacks of turbine-generated electricity in addition to being a technology which is far from mature and the cost of an array of solar cells (which are also very inefficient) to produce any reasonable amount of electricity is again out of the question.

A third possibility is chemical storage of energy, for example in hydrogen-oxygen fuel cells. This also is a field of rapidly developing technology, but again one runs headlong into the high cost of such units.

It is perhaps worth mentioning a fourth possibility, that is, the collection of radiant energy in space and transmitting it to earth for use. One such scheme is to collect the energy, transport it (still in space) via a superconducting link to a microwave transmitter which would send it to earth. While the components to this stage are sufficiently exotic to give one pause, it is interesting to note that in order to keep the microwave power density on earth at a safe level, the microwave collector on the ground would need to be about the same size as a ground level solar energy collector. Thus, the benefits of an extensive operation in space seem small.

With the exception of the last, all of these methods of solar energy usage are technically possible but economically out of the question. The collectors and steering mechanisms alone may exceed the total cost of present energy sources, even the increasingly expensive nuclear power. The problems of conversion, day-night variations, storage and distribution are enough to make solar energy an indefensible source of power on a large scale.

We would like to propose a possible method of producing energy from solar radiation at a reasonable cost. It is important to keep in mind that this is indeed a proposal and hence subject to over-simplification and a certain vagueness regarding details, both technical and economic. Still, our investigations to date lead us to believe that the program has merit and deserves serious consideration.

Our proposal contains two main points: First, by using plastics presently available, it may be possible to solve the economic problems of collection by using large arrays of Fresnel lenses. These are similar to condensing lenses in optical projectors. Second energy may be converted via thermal dissociation of water into hydrogen. Hydrogen is an efficient, nonpolluting fuel (the combustion products being primarily water) which, when used under specified conditions, is no more dangerous than natural gas and is easily transported. The remainder of this article is devoted to a description of this proposal. The description is in three parts: the collection problem, the production of hydrogen and, finally, the utilization of hydrogen as a major energy source. We mention in passing that the solution of the collection problem alone would make large-scale desalination possible.

We have two unavoidable criteria to satisfy in collecting solar energy. First, in order to produce hydrogen or even steam for a turbine, the incident solar energy must be concentrated by some sort of a lens or mirror system. Second, the energy must be focused on a boiler of some sort, so that the lens or mirror system is capable of adjusting to the daily variation of the position of the sun. (Recall that only direct solar radiation can be focused; scattered light will be useless.) In order to understand why the collection problem becomes expensive we can estimate the surface over which one must collect solar radiation in order to have a commercially reasonable amount of energy.

Suppose we wish to collect the energy equivalent to the 24-hour output of a 1,000 megawatt (electric) power plant during the approximately eight hours per day that the sun shines. This amounts to 8.65×10^{12} (86.5 million million) joules per day. When the sun passes directly overhead at noon the energy flux at the earth's surface is about one kilowatt per square meter. If we correct this for the fact that the sun is not always directly overhead, we find that the average power incident on a square meter is 0.83 kilowatts during the eight-hour collection period. Finally, we must take into account that in some places the sun is never directly overhead. At 40° latitude (Boulder, Colorado) the sun is 17.5° below the zenith in summer and 62.5° below zenith in winter. If we split the difference and assume that the sun is at 45°, our average power during eight hours is about 0.585 kilowatts per square meter. So the energy collected per day per square meter would be about 1.68×10^7 (16.8 million) joules. Then the area upon which 8.65×10^{12} joules per day of solar energy is incident is about 5.15×10^6 square meters, 5.15 square kilometers, about two square miles, or a square area about 1.4 miles on a side. Since we cannot hope to use this energy 100 per cent efficiently, this represents a minimum estimate of the collection area. It is clearly a large and potentially expensive job to collect the energy.

COST OF LENSES

We would like to suggest that we now have available—in the form of mass-produced, plastic, Fresnel lenses—an economic means of collecting and focusing this energy. These lenses are available at a speed of f-1 at about $6 per square foot. The important property of such lenses is that the price increases linearly with an increase in area, and is largely a function of the cost of materials up to some maximum size. Other lenses or reflectors have a cost proportional, at least, to the radius cubed.

Under the conditions of mass production (to cover our two-square-mile area with lenses of about a 10-square-meter area would require about 0.5 million lenses), our discussions with industrial experts lead us to expect the price to be about $5 to $10 per square meter. We have made a crude estimate of the cost of the support and steering apparatus for such a lens array. This cost, $18 per square meter, just for collection is based on an array of circular collectors. We can use round lenses, with a tripod support, the three legs converging in a fixed ball joint. If a long east-west line of these lenses is coupled so that they rotate during a day about an axis parallel to the earth's axis (this means that during each day we must steer in only one direction), the day-to-day adjustment in the north-south direction is very small.

A single drive mechanism moves a large number of lenses so that the light is always focused on the fixed boiler. In practice we anticipate that land cost will be a small fraction of the cost of the system. Hence we picture the lens units spaced so that they directly face the sun during the entire collection period and no shadowing of one lens by the next occurs. We have assumed that the plastic lens unit can be fabricated so that it is self-supporting; one need only attach legs.

Now, assuming that we have focused the light as we need to we turn to the problem of producing hydrogen, keeping in mind that the details of the chemical and material properties of the boiler and its contents will ultimately determine the exact shape, size and cost of the boilers.

What we envisage is a boiler in which pure water is heated to a temperature of about 1500°C. At this temperature some of the water vapor thermally dissociates; inequilibrium about 0.07 per cent of the vapor is dissociated into hydrogen and oxygen. If we can selectively pump the hydrogen out as fast as it is produced, we will have accomplished our goal. The ideal membrane which is highly permeable to hydrogen can be made from a window of palladium metal. While palladium is expensive, we estimate that we would need 1/500 ounce per square meter of collection area, which would only cost about five cents. The low partial pressure of the hydrogen means that the hydrogen must be pumped out, and the details of the chemical kinetics are going to determine what fraction of the water we can convert. The remaining steam would be used to provide the power needed to steer the array and perform other necessary tasks. This could be done inexpensively, with very high efficiency, and the exhaust water vapor would be condensed, allowing collection of the oxygen.

HYDROGEN COMPOUND AS PUMP

The most difficult problem we expect to encounter arises because of the small fraction of water dissociated even at 1500°C. Since large quantities of hydrogen must be compressed to useful pressures, the pumping costs can become unreasonably high if conventional pumps are used. The problem can be reduced by increasing either the temperature or pressure of the water vapor, but at the risk of introducing difficult and perhaps costly materials problems in the construction of the furnace. A more attractive possibility would be to use an intermediate hydrogen compound as a pump. By forming the compound at greatly reduced temperature, and then dissociating the compound at high temperature, an increase in the partial pressure of the hydrogen by a factor of more than an order of magnitude can be obtained.

The major mechanism for reducing the efficiency of the system would be the thermal radiation from the boiler. Using the f–1 lens and assuming that the boiler, at a temperature of 1500°C, will have linear dimensions approximately equal to the radius of the sun's image at the focus, our calculations show that the radiation losses can be kept below 10 per cent.

The cost of boiler and associated equipment is somewhat difficult to estimate because it will depend upon the details of the conversion process. The major share of the cost will be for the fabricated boiler itself. The cost of the special materials, for example, palladium and ceramic, will be significantly smaller. Our estimate of $10 per square meter is, we feel, on the conservative side.

Now that we have estimated the production costs per square meter at $33, it is worthwhile to examine the possible income to be derived from the collected hydrogen. Starting from the assumption that each

square meter of actual collecting apparatus can be used to collect one kilowatt during a period of eight hours each day, we conclude that in one day we would collect 2.88 x 10^7 joules. If we assume that about 10 per cent of this may be lost by reflection, etc., in the optical system, we are left with about 2.6 x 10^7 joules of collected and focused energy per day per square meter. If another 10 per cent is lost at various stages which we cannot accurately account for, the total energy which could actually be used to dissociate the water would be about 2 x 10^7 joules per square meter per day. Since it takes 2.42 x 10^5 joules to dissociate one mole of water (18 grams) into two grams of hydrogen and 160 grams (about 0.35 pounds) of hydrogen per day per square meter of lens area.

For convenience of discussion, we note from Table 1 that one pound of hydrogen is the energy equivalent of about 2.7 pounds of the conventional hydrocarbon fuels. The third column in Table 1 shows the approximate 1968 delivered costs of fuels. This ranges from about one cent per pound for natural gas to about three cents per pound for gasoline. If the hydrogen were to be sold at natural gas prices, each square meter of lens would produce about $3.50 worth of hydrogen per year. If it were sold at gasoline prices, the income would be about $10 per year. Assuming a 10 per cent return per year on investment, this means that one might reasonably spend between $30 and $90 per square meter. (We assume a cost of 10 per cent for delivery charges.) This, as we see from Table 2, compares very favorably with our estimates.

TABLE 1.—DELIVERED COST OF FUELS

Fuel	B.T.U. per pound	1968 price in dollars per pound
Hydrogen (H_2)	51,800	[1] 0.79
Gasoline	20,750	.03
Crude oil	19,500	.01
Natural gas	19,000	.01
Anthracite coal	12,700	.01

[1] Liquid.

TABLE 2.—ESTIMATED SYSTEM COST PER SQUARE METER OF PRODUCING HYDROGEN BY SOLAR ENERGY

	Estimated cost per square meter	Cost per lens
Fresnel lens	$10	$100
Support rods	2	20
Rod ends and ball joints	2	20
Concrete	4	40
Furnace	10	100
Pipes, pumps, guidance, etc.	5	50
Total	33	330

Note: These figures are based on a series of parasol-like Fresnel lenses 10 square meters in area.

Even though the production of oxygen in the copious amounts discussed here would undoubtedly affect the price, the oxygen (nine times the weight of hydrogen produced) might be expected to increase these income figures. Hydrogen gas as a major energy source has been considered by others but has not received wide publicity. Hence we describe the possibilities for its usage.

Hydrogen gas at a cost competitive with natural gas would be an almost ideal fuel. As distinct from nuclear power, it would be usable not only for electric power production but for direct heating; in liquified form it might well be usable for transportation. Further, it is nonpolluting.

Economic hydrogen gas as a gradual replacement for natural gas would save premature retirement of plants (due to reduced natural gas availability), and existing pipelines and storage areas would be utilized. It could be used directly as a fuel, is perfect for fuel cell conversion to electricity, could be utilized in gas turbine generators, and following the coming use of bottled or cryogenic natural gas would serve also as the power source for motor vehicles.

The proposal outlined above is obviously subject to the often experienced fate of many technical ideas of our age: it may cost more in fact than anticipated. However, we are not talking about exotic processes or materials. The procedure requires the consolidation of knowledge, ideas and technologies which are at hand in diverse environments. The fundamental unknown is the final cost, and we believe that the possible benefits are sufficient to merit serious consideration. It should also be emphasized that in addition to the suggestions of Fresnel lenses and hydrogen production, the third necessary factor is size. The cost of such an enterprise could only be competitive if done on a very large scale.

Finally, such a project would be feasible only if it were located in a region that enjoyed a large fraction of sunny days. This suggests immediately the use of deserts as ideal collection areas. It is pertinent to note that only two per cent, approximately, of our major deserts are capable of producing enough hydrogen to equal all the electrical power we now use.

We are indeed at a major juncture in our industrial history, and full analysis of all possibilities for energy production seems only prudent.

THE TRAGEDY OF A RESCUE ATTEMPT

Mr. ALLEN. Mr. President, I want to share with Senators a tragedy that occurred in my home State of Alabama that helps to support my faith that all Americans are not callous to the needs of others. The heroism of the act to which I refer has a tragic ending which impels me even more to call it to the attention of the Senate. I ask unanimous consent that the story, "Man Who Couldn't Swim Drowns in Rescue Attempt" from the Saturday, November 27, 1971, issue of the Birmingham Post-Herald be printed in the RECORD.

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

[From the Birmingham Post-Herald, Nov. 27, 1971]

MAN WHO COULD NOT SWIM DROWNS IN RESCUE ATTEMPT

GUNTERSVILLE.—A 29-year-old Guntersville man, who family members say couldn't swim, drowned in 30 feet of icy water in Lake Guntersville Thursday trying to save another man's life.

Marshall County Coroner Billy Dyar said Carlton Allen Thomas Jr., 29, of Albertville Rt. 5, drowned trying to save the life of James Breedlove of Albertville, who had lost control of his car and run off in the lake.

The accident happened at about 3:30 p.m. in the Spring Creek section of the lake off Alabama Highway 227.

Dyar and State Trooper Cpl. Larry Hardin said Thomas was traveling along the road behind Breedlove and saw him lose control and go off into the lake.

Thomas immediately stopped his car, his wife told officers, and said he was going to try and save the man whom he didn't know who had left the road. Mrs. Thomas said she urged her husband not to try the rescue because he couldn't swim, but he insisted he would be all right, she said.

Mrs. Thomas said her husband said he didn't think the water was too deep, and he was going to try and save the man.

A policeman who arrived on the scene in minutes was able to get Breedlove to shore but couldn't find Thomas.

A local rescue squad came and in their first dive, located Thomas' body.

Breedlove was taken to a Guntersville hospital where he was treated and released.

In addition to his wife, Audrey, Thomas is survived by his parents, Mr. and Mrs. Carlton Thomas.

Funeral arrangements will be announced by Adams Funeral Home in Albertville.

THE U.S. SPACE PROGRAM

Mr. ALLEN. Mr. President, I have long maintained that the United States must have a well-planned, long-range, stable program for space exploration and use. A prominent daily newspaper, the Huntsville, Ala., News, in its issue of December 1, 1971, had as its lead editorial, entitled "Outward Bound, We Have No Option," a discussion of our space program. I commend this article to the Senate and ask unanimous consent that it be printed in the RECORD.

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

[From the Huntsville (Ala.) News, Dec. 1, 1971]

OUTWARD BOUND, WE HAVE NO OPTION

Pioneer II will be outward bound in the foreseeable future, its target the mysterious planet Jupiter.

Every morning men and women here in Huntsville return to the daily detail work which will culminate in an orbiting laboratory, Skylab.

Mars 2, the Russian unmanned space probe, zaps the Red Planet Mars with a hammer-and-sickle pennant, while the cameras in our own nation's Mariner click away, transmitting knowledge.

2001 is just around the corner.

Sunday night on television, a national audience watched a TV movie premier called "Earth II."

Miracles of model making made it seem as if we were really out there in space. A good bit of the technology was pioneered here when "2001: A Space Odyssey" was being filmed. The two movies even shared a common star.

It was a thought-provoking piece of drama. It did not question the fact that an orbital station is bound to be constructed. It did pose a dilemma, however: what will we do when we get out there?

Will we carry the virus of war outward to other planets and perhaps other star systems?

Can a world as divided as ours by conflicting ideologies peacefully explore space and share the wealth of dividends derived from new knowledge?

Can there be peace in space when there is no peace on earth?

The questions posed have the same probable answer, and we will not belabor the point.

But turning our backs on space is certainly no solution.

Not just this nation but mankind itself faces no real choice. Even if the environmaniacs have their way and the McCarthys of these United States cut our space program to the nub, Russia and other nations will continue man's outward-bound flight into the deeps of space.

The point of no return was passed when Sputnik circled the globe and threw the United States into a state of panic. Who can forget the jubilation when the mighty rockets engineered here finally boosted an American citizen into orbit? From that point to

this, achievements in outer space were inevitable as death.

One can easily be tempted to see a working out of things in apparently random events. It was population pressure which forced the Indo-European hordes across the European mainland. It was population pressure coupled with religious and political differences which hurled Europeans across an ocean to a brave new world, the Americas.

Is it blind chaotic coincidence or something else which has caused such a tremendous population that a planet no longer can house a race—that an end to usable resources lies ahead which is discernible and final?

The instinct to war and reproduction seem entwined with advances in technology and exploration. Population pressure and a demand for living room have always been rooted in each surge of humanity into new areas.

From the earth to the stars.

Is that so different a dream than the leap from one continent to another?

There was those in Spain who thought Columbus and his ships would sail right off the lip of the world. They didn't.

There were those who quoted scripture and everything else to prove that if God intended man to fly, he would have been created with wings. They were wrong.

And so are those who would wall us in upon ourselves and bind our feet to this ball of rock and vegetation.

A man running for President who announces a retreat from space as a plank in his platform is, to us, completely unacceptable.

And he misreads the omens if he thinks that the environmaniacs who would throw us back to the stone age espouse the majority—or even sensible and progressive—opinion of the nation.

As long as Huntsville retains its share in space and its future, then the future of Huntsville is assured.

For to go backward is not merely to regress; it is to court extinction. Stop and think about it for a moment. We have enough nuclear warheads stored in various silos over the globe to literally smash a planet, to reduce it to free-floating pieces of rock and rubble. If we can't find a better use for nuclear capacities soon than warheads and tests which literally tamper with the crust of the earth, we are going to bring on doomsday.

The space race has usefully defused a potential Armageddon which could have erupted between Russia and the U.S. So long as that race continues, it can absorb money and material which the inborn instinct to conflict—to compete—might divert to a war disastrous to the entire planet Earth.

This, of course, is the only one reason why we cannot—and will not—turn our backs on space.

Like most human events, the cause for the outward thrust from earth is not simple. But it is real.

What it comes down to, in the end, is not whether man will go to the stars, but which men.

Will they speak Russian, Chinese, or English?

At this juncture, America has a real edge in all the things that count: funds, minds, human and natural and scientific resources.

It is our firm conviction that we can keep this edge—so long as we keep our faith.

THE INDIA-PAKISTAN CONFLICT

Mr. STEVENSON. Mr. President, the news reports that fighting between Indian and Pakistani forces has broken out along the West Pakistan frontier, 1,000 miles from the scene of previous incidents, brings allout war on the subcontinent one step closer.

This prospect dictates major changes in U.S. policy. Although we have taken a number of positive steps in recent months—including Secretary Rogers' meetings with the Indian and Pakistani Ambassadors and the cessation of arms shipments to both parties—we have not tried to bring about an emergency meeting of the United Nations Security Council to consider the dispute.

Our policy of quiet diplomacy has not prevented the situation from deteriorating. It has not prevented the murder of countless thousands of innocent Bengalis and the displacement of 10 million more. And it has not prevented the conflict from spreading to the Kashmire frontier.

It is understandable that neither India nor Pakistan is enthusiastic about the prospect of an emergency session of the security council, for there is evidence that both have committed acts inconsistent with the principles of the United Nations Charter.

There are also reasons why the Soviet Union, China, and the United States have shied away from the Security Council. A Security Council session may force the Soviets to go further than they care to in support of India, just as we or the Chinese may be forced to become reluctant champions of Pakistan. The fact that China took its seat on the Security Council only weeks ago adds further uncertainty to an already confused situation.

But the fact that a conflict is delicate, dangerous, and complex is no reason to bypass the Security Council. On the contrary, it was to deal with just such conflicts that the Security Council was created. If we continue to hold back now, we will not enhance the prospects of peace, and we may permanently cripple the U.N.'s ability to resolve violent international conflicts.

Mr. President, someone has to be the first to live up to the spirit of the U.N. Charter by calling publicly for an emergency meeting of the Security Council—that someone should be the United States. I urge the President to bring the conflict before the Security Council now.

ALTERNATIVES TO THE NLRB

Mr. GRIFFIN. Mr. President, in an article which appeared in the July 1971 issue of the Labor Law Journal, Author Fritz L. Lyne wrote:

> It is time to recognize that the system for dealing with unfair labor practice cases is unworkable from a practical standpoint.

For nearly a decade I have been sponsoring and advocating legislation to abolish the NLRB and replace it with a U.S. labor court patterned after the U.S. Tax Court.

I have long agreed with Mr. Lyne's conclusion that—

> The question is . . . not *whether* something should be done about the Board, but rather *what* should be done.

Mr. Lyne's analysis is comprehensive and scholarly. I ask that the text of his article be printed in the RECORD.

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

THE NATIONAL LABOR RELATIONS BOARD AND SUGGESTED ALTERNATIVES

(By Fritz L. Lyne)

"The National Labor Relations Board is presently in the midst of an ever-increasing backlog of cases, the volume of which is allegedly preventing the Board from taking just and efficient action upon them. In this article, the author sets forth various proposed solutions—his own as well as those of others—to the present dilemma."

Since its creation in 1935,[1] the National Labor Relations Board has been the object of continued criticism.[2] It has on varied occasions been accused of being pro-labor,[3] pro-management,[4] too politically oriented,[5] of failing to follow Congressional intent as set forth in legislation,[6] and of being structurally incapable of handling the responsibility assigned to it.[7] This latter criticism has received repeated emphasis in recent days, and an examination of the relevant facts reveals it to be valid.

The case load handled by the Board has increased annually in avalanche proportions in recent years The latest annual figures available are those for the fiscal year ended June 30, 1969.[8] In that year the Board disposed of 18,939 unfair labor practice cases and 12,658 representation petitions.[9] It has been noted "that (case) volume is not only at a record peak, but it is continuing to increase in this (1971) fiscal year at an unprecedented rate."[10] Board Member John H. Fanning forecast in late 1970 that "we expect the Board's case load to continue increasing at the rate of approximately 5 to 7 per cent a year for the foreseeable future and possibly reach 50,000 new cases every year by the 1980's."[11] At the very time that Mr. Fanning was forecasting the future case load increase of the Board, the actual figures were proving him to be much too modest in his anticipation of the severity of the problem. This has been brought sharply into focus by the latest figures available:

"One of the sharpest quarterly increases in the number of cases brought before the National Labor Relations Board is registered for the Three-Month Period July through September, 1970. The Board logged 9,498 cases of all types in the third period, according to its 'Statistical Summary for the Three-Month Period July through September 1970.' This was a record high in National Labor Relations Board's 35-year history and represents a 17 per cent increase over the 8,122 cases filed by individuals, employers and unions in the corresponding period a year earlier."[12]

The breakdown of the Board's capacity to handle this ever-increasing case load has been both acknowledged and admitted by Board Chairman Miller. In this regard he stated:

"Five Board Members simply cannot, I think, provide full and deliberate complete review of as large a volume of cases as is building up and will continue to build even further in the future. It will not be long before we are asked to review so great a volume of cases that I am at a loss to perceive how it will physically be possible for us to give each case the kind of time and attention which I think you and all the parties who have cases before us expect us to provide. . . . I fear that there will come a point in the not too distant future when all of the sifting and screening we can devise, and all of the administrative help which we can employ, will still not enable us to bring to bear upon the cases before us for review, that kind of careful judicious attention which is expected of us."[13]

It is doubtful that the Board can or will be allowed to function in a way that can reasonably be expected to cure the situation.

Footnotes at end of article.

"The Board simply lacks the personnel to handle its case load, and judging by the criticism to which it is subjected by both labor and management and its lack of friends in Congress, it seems unlikely ever to be allowed to build a staff large enough to handle 30,000 cases a year (its present annual intake) with anything like the dispatch and competence which would be required in order to make its administration of the Act effective." [14]

The question is, therefore, clearly focused not on *whether* something should be done about the Board, but rather *what* should be done. To do nothing is itself a solution; to commit the field to chaos. This was recognized by Board Chairman Miller, who early in 1971 stated:

"Mere inaction—will provide no solution at all. Inaction, I fear, will produce a jamming of our machinery of sufficient proportion that the parties appearing before us will not be able to secure that kind of standard of quality and promptness which is essential to an effective and acceptable decision making process." [15]

BOARD FUNCTION

Broad, general statistical information neither adequately pinpoints the problem nor provides the basis for solution determination. Of the 31,303 cases filed with the Board in the fiscal year ended June 30, 1969, 18,651 or 59.6 per cent of the total were unfair labor practice cases while 12,107 or 38.7 per cent were representation petitions, the balance being deauthorization petitions, amendments and clarifications.[16] The Board itself has characterized its function as primarily twofold:

"Under the statute the National Labor Relations Board has two primary functions—(1) to determine by Agency-conducted, secret ballot elections whether employees wish to have unions represent them in collective bargaining, and (2) to prevent and remedy unfair labor practices whether by labor organiaztions or employers." [17]

The first stated function is clearly the administrative function of the Board. In this and related areas, such as appropriate unit determination and the resolution of work claims in jurisdictional disputes, the expertise of the Board is called upon. In performing this function it operates within its specialized area as does the Civil Aeronautics Board in determining airline routes and the Interstate Commerce Commission in setting rail tariffs. However, when the Board states its second function to be "to prevent and remedy unfair labor practices" it fails to perceive what it is actually doing. This other function that the Board is actually performing is judicial. It is not even quasi-judicial as some writers have characterized it.[18] It is pure judicial. The Board considers evidence, makes findings of fact based upon such consideration and reaches conclusions of law, based upon said findings as to whether or not specific provisions of the law have been violated. In doing this it is acting as a court, and calling it a Board does not change the reality of the matter. It is in this judicial area that the Board is bogging down, and where its procedures and decision making ability are failing to meet the need.

In its administrative area, the Board had a recent median time, from the filing of a representation petition to the date of election, of 49 days.[19] In its judicial area, the Board had a median time for the same period, from the filing of a charge to the date of a Board decision, of 319 days.[20] This delay is emphasized when one realizes that of the thousands of unfair labor practice cases filed with the Board "Only 8 per cent of the cases will be tried and only 6 per cent will be appealed for decision to the Board—." [21] The fact that 75 per cent of all Trial Examiner's Decisions are appealed to the Board is evidence that the existing structure is not functioning at an optimum in resolving contested cases. In fiscal year ended 1969, the Board handed down 732 decisions in unfair labor practice cases,[22] and the appeals courts handed down 363 decisions in which the Board was a party.[23]

Recognizing an urgent need for change in the method of handling unfair labor practice cases, the balance of this paper will be directed to a consideration of various proposed alternatives, calculated to alleviate the problem of the Board's judicial function, as well as to suggest some additional alternatives. These suggestions are not intended as criticism of the individual Board Members nor of the hundreds of people working for the Board, all of whom are diligently trying to make the existing system work. It is the opinion of this writer that it is time to recognize that the system for dealing with unfair labor practice cases is unworkable from a practical standpoint.

LEGISLATIVE ALTERNATIVES

The subject of this paper is not new, nor has it been sudden in making itself manifest. It has been given careful thought and suggestions have been forthcoming from scholars, practitioners, legislators and Board Members themselves. As early as 1961, Reorganization Plan 5 was proposed to the Congress as a method to increase the judicial efficiency of the Board.[24] Under this plan, the Board could delegate its unfair labor practice functions to Trial Examiners whose decisions would be final, subject to a discretionary right of review by the Board in the nature of a certiorari proceeding with any two members of the Board possessing the right to grant such review. After a decade since its proposal, it is receiving renewed attention by Board Members themselves who also advocate automatic judicial enforcement of Board Orders unless the adversely affected party petitions for Court review within a limited, specified period of time.[25] These suggestions found support in the Report of the Committee on Labor Law of the Federal Bar Council issued on February 25, 1970.[26] The Report recommended that Board Orders be self-enforcing unless a petition for review is filed within 30 days after the order is served on the parties, and that review of Trial Examiner decisions be subject to discretionary review by the Board.[27]

There have been two recent bills introduced in the United States Senate in an effort to solve the problem. The Griffin Labor Court Plan [28] would create a "United States Labor Court," which would have jurisdiction over both unfair labor practice and representation cases. An Administrator would investigate and prosecute unfair labor practice charges, process representation petitions and conduct elections. The Court would be composed of 15 judges who would be appointed by the President for 20-year terms.[29] The trial of unfair labor practices would be conducted by Commissioners, similar to those presently used by the Court of Claims.[30] The Federal Rules of Procedure would be applicable.[31] Senator Robert P. Griffin, in a recent Article [32] supporting the reasons for his Bill, has observed that "Having followed the pattern of Board decisions since enactment of Landrum-Griffin, this author has come to the conclusion that the NLRB, as currently structured, is not an appropriate instrumentality to implement Congressional purpose in this vital field." [33] As a result he concluded that "the NLRB does not act like a judicial body because it is not a court. It is a politically appointed, politically oriented agency that is too close to political and other pressures—the time has come to replace it with a U.S. Labor Court patterned somewhat after the U.S. Tax Court." [34]

In attempting to pattern a Labor Court after the United States Tax Court, a Constitutional problem is encountered in that the Tax Court is not a judicial court created under Article III of the Constitution,[35] but rather is a Legislative Court created under Article I, Section 8, Clause 9 of the Constitution.[36] A United States Labor Court could not be created under the same Article of the Constitution as the Tax Court because the applicable Section there deals with the power of Congress to "lay and collect" taxes, etc. The Constitutional question of creating a Federal Labor Court that does not comply with Article III of the Constitution is discussed more fully at p. 413. However, it has been established that Congress may create a Constitutional Court under Article III of the Constitution, and limit its jurisdiction to a particular area.[37]

The Tower District Court Bill [38] would amend Section 10 of the present Labor Management Relations Act so that jurisdiction over unfair labor practice cases would be taken from the Board and vested in existing federal district courts. It provides that any person could petition the United States District Attorney to file a case, and if he declined, the petitioner could file his own case.[39]

BARTOSIC, PETRO SHUTKIN PROPOSALS

Scholars and writers have explored the advantages and disadvantages of the proposals discussed above and have come forth with criticisms, embellishments and alternates. Florian Bartosic [40] has, after criticizing both the Tower and Griffin Bills and discussing the proposals of other legal writers, suggested a hypothesis for an alternative.[41] Under his alternative the present composition of the Board would be left intact, but future appointments would be for a period of seven rather than five years.[42] He would adopt the recommendations of the Committee on Labor Law of the Federal Bar Council that Trial Examiner decisions would be subject only to discretionary, "certiorari-like" Board review, and that Board Orders be made self-enforcing "upon the denial of a petition to review a trial examiner's decision, upon failure to file for Board review in a timely fashion, or upon the issuance of the Board's final order." [43]

The essential feature of the Bartosic proposal, as he characterizes it, is the creation of a Labor Court to replace Appellate review of labor cases by the present U.S. Courts of Appeal.[44] This proposed Court would be composed of 15 judges, who need not be lawyers, and would be divided into a trial and an appellate division.[45] The trial division of the Court would "hear Section 301, fair representation, and Section 303 cases, applications for injunctions by the Board; and suits alleging that the General Counsel has arbitrarily or capriciously refused to issue a complaint." [46] The Appellate division of the Court would review Board and trial division decisions.[47] Under the proposal, decisions of the Labor Court would be reviewable by writ of certiorari to the United States Supreme Court.[48] Mr. Bartosic further suggests that jurisdiction of the Labor Court might be expanded to cover cases brought under the Landrum-Griffin Act,[49] and serve as an appellate body to review Equal Employment Opportunity Commission cases.[50]

Professor Sylvester Petro recommends that all judicial functions of the Board be transferred either to existing, or to-be-appointed life-time-tenure, federal district judges.[51] He contends that the present judicial function by the Board is both unconstitutional and impractical.[52] After a full analysis of the Board's procedure, practice, and decisions, he summarizes his reasons for his conclusions:

"It is unconstitutional because the Constitution confines the judicial power of the United States to an independent judiciary composed of life-tenure incumbents. It is impractical because competent judging cannot be expected from limited-tenure, politi-

Footnotes at end of article.

cal appointees who operate outside the long and sustained judicial tradition of subservience to law rather than to political exigency. The principal argument in favor of specialized, quasi-judicial, administrative tribunals —is based upon an erroneous and deceptive conception of 'expertise.' The relevant 'expertise' must be in the art of judging. The real experts in that art are the life-tenure judges who sit on Courts of general jurisdiction." [53]

Professor Petro's solution would be substantially met by adoption of the Tower Bill. The Griffin Bill calling for 20-year-term appointments, and patterned after the Tax Court would not meet his recommendation that federal judicial matters must be decided by life-time appointees in accordance with Article III of the Constitution.[54]

Joseph J. Shutkin has, in a recent article, proposed the creation of a tripartite United States Court of Labor Relations in each federal appeals circuit to which all appeals of labor cases would be taken.[55] Each such Court would sit *en banc*, would be composed of judges who are attorneys at law, one of whom would either have a background in economics or experience representing unions, one of whom would have "experience representing both labor and management" on one of whom would have "experience representing business as a house counsel or otherwise." [56]

The jurisdiction of this Court, as proposed by Mr. Shutkin, is to be expanded as he phrases it, to "an atomic age concept" by abolishing the standards of "interstate commerce" and "affecting interstate commerce" and assigning to the Labor Court all labor relations problems.[57] To do this, he proposes that we "recognize by effective legislation that the flexibility and mobility expected of the work force of our country plus the dependence of all elements of our work force upon each other, in one way or another in today's atomic age, make it imperative that the labor relations involving our work force be subject to uniformity of regulation." [58] Mr. Shutkin would further, through legislation, prohibit strikes and lockouts and would assign negotiation disputes to the United States Court of Labor Relations for settlement, with a right of appeal to the United States Supreme Court.[59] Mr. Shutkin's broad conclusions leave many unanswered questions, and fail to deal with the inability of the present Board to cope with the problem earlier discussed.

THE MORRIS STUDY

The most exhaustive study to date, of the procedural and organizational shortcomings of the Board, has been made by Professor Charles J. Morris,[60] who couples such study with a similar analysis of the Railway Labor Act.[61] Professor Morris, after fully exploring the tribunals, procedures and problems under both the Labor Management Relations Act and the Railway Labor Act, presents "A Working hypothesis for Procedural Reform." [62] Recognizing that the Board can handle representation matters better than a court but also that "it is a mistake to expect an administrative agency to accomplish tasks which only a court can perform," [63] Professor Morris recommends the establishment of a Constitutional [64] United States Labor Court, to have "jurisdiction over the enforcement of substantive rights and duties contained in the Labor-Management Relations Act and the Railway Labor Act." [65] The proposed Court, in addition to determining unfair labor practice cases, would also hear injunctions in national emergency disputes,[66] complaints involving enforcement of labor agreements,[67] injunction suits under sections 10(j) and 10(l) of the Labor Management Relations Act,[68] complaints alleging breach of duty of fair representation,[69] damage suits for secondary boycott activity,[70] and suits for violation of restrictions on payments to employee representatives.[71]

The Court would be composed of eleven life-term-appointed judges who would be appointed over a period of at least two presidential terms and would, in a step-by-step time basis, assume their ultimate full statutory jurisdiction.[72] The Court would be authorized to use Commissioners and to sit *en banc*, in panels or as single judges.[73] Cases could be initiated by the Board General Counsel or by a private party in a fashion similar to that provided in the Fair Labor Standards Act.[74] In this hypothesis, the General Counsel is retained as General Labor Counsel to prosecute violations of both Acts,[75] while the National Mediation Board under the Railway Labor Act and the Federal Mediation and Conciliation Service are merged into a single National Mediation Service.[76]

Professor Morris anticipates that "Under the Labor-Management Relations Act it is expected that the plan would: (1) virtually eliminate the pendulum-like shifts in decisional law which have characterized NLRB action in preceding years; (2) increase voluntary acceptance of the requirements of the Act; (3) speed up the enforcement process; (4) provide for instant judicial process when and where needed; (5) eliminate or substantially reduce the conflict between unfair labor practice jurisdiction and the arbitration process; (6) provide for joinder of actions, particularly in fair representation cases; (7) provide for a more efficient decisional process; (8) provide for pre-trial discovery; (9) eliminate the absolute power of the General Counsel to dismiss a charge without review; and (10) reduce the incidence of appellate review." [77] In addition, he anticipates 12 beneficial effects in the administration of the Railway Labor Act.[78]

HARRIS PROPOSAL

At the opposite end of the spectrum from the views of Professor Petro is the recent article [79] by Thomas E. Harris,[80] who characterizes Professor Petro as "Senator Tower's avowed intellectual mentor." [81] Mr. Harris advocates, "The most important step that can and should be taken is to provide for equal and effectual remedies against employers' unfair labor practices," [82] that is, injunctions. In this regard he recognizes that, "It is true that that would represent some further restoration of 'government by injunction' in that the role of the district court would be enlarged." [83] In addition, Mr. Harris supports Mr. Bartosic's proposals [84] that a Trial Examiner's Decisions "should be made final, subject to discretionary review by the National Labor Relations Board," [85] and "Board—decisions should automatically become legally effective after a short period, unless a respondent files a petition for review." [86] Mr. Harris' views are more critical of others who propose alternatives than they are constructive. With respect to the views of Profesor Morris, he states that, "I substantially disagree with him," [87] but he apparently fails to comprehend Professor Morris' distinction between substance and procedure.[88] After exploring various specific situations, including the Farm Workers and State, County and Municipal Employees, whom he states "have grown much more rapidly in recent years than those functioning under the supposedly protective umbrella of the NLRA." [89] Mr. Harris' only innovation is to advocate that more injunctive powers be granted to the Federal District Courts against employers' unfair labor practices.[90] His repeated reference to the Morris proposals fails to come to grips with the issues which Professor Morris strives to answer. His limited support of Mr. Bartosic relates only to the decade-old Proposal 5.[91]

Footnotes at end of article.

It is noteworthy that all of who have given serious study to the problems attendant to the Board's performance of its statutory charge, none has defended the *status quo*. All have suggested change of one form or another. There appears to be a general consensus that the time for change is at hand.

There can be no answer that will prove satisfactory to all those who are affected by the complicated and far reaching laws that govern labor relations in this country. An effort can only be made to select a method that will provide a prompt disposition of controversies in a substantially uniform and equitable manner, and create a stability of decision that will provide reliable guidelines for the conduct of future actions. With these goals in mind the following suggestions are made. They will not bring Utopia to the field of labor relations. They will require much deeper study than the scope of this paper affords before being implemented. They are not intended to be submitted as a package. They are all subject to a variety of possible supplementation or variation.

SINGLE LABOR COURT

In summary, it is suggested that there be created a single United States Labor Court of Appeals; [92] that the trial of charges of unfair labor practices be transferred from the Board to the United States District Courts; that the Board continue all other matters now assigned to it; that the General Counsel be retained and that the National Mediation Board and Federal Mediation and Conciliation Service be merged into a single National Mediation Service, both of the latter as recommended by Professor Morris.[93]

The concept of a uniform, national, substantive labor law today finds few critics. This argument has been used to advocate the preservation of the Board as the decision-making body in unfair labor practice cases.[94] The reality of the situation is that beyond the limited number of cases [95] that are heard by the United States Supreme Court, federal labor law is being enunciated by 11 separate courts of appeals who often do not agree with one another on similar situations,[96] and whose decisions, in some instances, the Board elects not to follow.[97] These Courts, in fiscal year ended June 30, 1969, handed down 363 decisions in cases where the Board was a party.[98] It would appear that the goal of uniformity in labor law is more apt to be obtained by the use of a single appellate tribunal and multiple trial tribunals rather than vice versa.

The composition of such a court, and the geographical areas where it would sit, should be determined only after a detailed study of its anticipated case load.[99] In addition to these cases however, the Labor Court of Appeals could relieve existing Courts of Appeals of all other cases arising under the Labor Management Relations Act,[100] Railway Labor Act,[101] Fair Labor Standards Act,[102] Landrum-Griffin Act [103] and possibly cases arising under Title VII of the Civil Rights Act.[104]

The Labor Court of Appeals should be authorized to sit in panels as do the present Courts of Appeal, and its decisions would be subject to review by the Supreme Court on writ of certiorari. As suggested by Mr. Spann it should be required to sit *en banc* in the event of a conflict between its panels; [105] a requirement which would lead to uniformity. To avoid the problem of having all of its Judges appointed by a single President its implementation could be undertaken in a step by step manner as suggested by Professor Morris in his plan for a Labor Trial Court.[106] Under this type of plan the transfer of its jurisdiction from other Courts of Appeals could be accomplished in steps over the period of a time table, thus permitting the size of the Court to be increased as its jurisdiction and responsibility is increased. The time table could be established so that the full complement of the Court is not reached

until the terms of two administrations have expired. If needed, primarily during the implementation period, the Labor Court of Appeals could be temporarily supplemented by the assignment of Judges from other Courts of Appeals or from District Courts for short lengths of time. This has been a successful practice used by the existing Courts of Appeals. To obtain the broadcast representation on the Court, it is suggested that as long as the Court is composed of ten or less judges no two shall be from the same geographical area of an existing Federal Court of Appeals (excluding the D. C. Circuit), and if the Court is increased to more than ten, but less than 20, no more than two judges will be from the same geographical Circuit. The appointment of the judges to the Labor Court, like other Courts of Appeals, would be for life-time terms.

It could be expected that the creation of a United States Labor Court of Appeals as suggested could (1) eliminate conflicts between existing Courts of Appeals; (2) bring greater uniformity to the field of labor law; (3) provide expertise considered by many to be a high priority criteria; (4) eliminate forum shopping between Circuits; (5) eliminate races to the courthouse to obtain a desired forum; (6) reduce the case burden on the Supreme Court; (7) eliminate nonacquiescence by the Board in decisions of the Courts of Appeals; and (8) hopefully provide more speedy disposition of the lengthy appellate stage of labor controversies.[107]

In selecting a forum for the trial of substantive labor controversies the choice of a to-be-created federal labor court or the existing federal district court appear more sound than retaining the Board as a judicial body. Basically, the only ones that argue for retention of this function by the Board are members of the Board itself.[108] Their arguments for adoption of Reorganization Plan 5 [109] not only fail to deal with the real issue, but their failure to innovate a better alternative during the decade since the Plan was first proposed, further evidences their inability or unwillingness to adjust to the changing world around them.

Given the alternatives of a labor trial court or the district court for the disposition of unfair labor practice cases, this writer prefers the district court. With the district courts, already in existence, the transfer of jurisdiction could more quickly and efficiently be accomplished. The district courts presently have a working knowledge of the law of labor relations as they handle all litigation arising under the Railway Labor Act,[110] injunctions under Sections 10(j), 10 (1), and disputes arising under Title II and Title III of the Labor Management Relations Act,[111] as well as disputes under related Acts such as the Fair Labor Standards [112] and Landrum-Griffin Acts.[113] A substantial body of substantive case law exists to serve as guidelines for future litigation of unfair labor practices. Some commentators argue that only a special court or administrative body with the expertise of the present Board could handle the complications of present day labor law.[114] This argument overlooks the fact that our present federal district courts have successfully managed to acquire the expertise necessary to decide the controversies arising under our complicated laws dealing with taxation, patents, anti-trust, utilities, transportation, broadcasting, admiralty, natural resources, etc. For the labor law practitioner to assert that the field of his endeavor stands uniquely alone among federal jurisprudence as the one field too complicated for comprehension by the ordinary federal district judge sounds both pompous and unreal.

OBJECTIONS

Objections have been voiced to the proposal of transferring unfair labor practice jurisdiction from the Board to the District Courts. Some have been too general to be of any assistance in evaluating the proposal,[115] while others have been more specific and offer an opportunity for analysis to test the validity of the objections. One such objection, joined in by a number of critics, was expressed as "—some 30,000 labor cases a year could potentially flood the district courts". (and) "—would tax the country's court system beyond tolerable limits and produce delay in non-labor cases." [116] Such a statement, if not analyzed, is alarming. Upon examination, its fallacy is made manifest. The figure of 30,000 cases relates to all unfair labor practice cases filed for investigation (most of which did not result in the issuance of a complaint) plus all representation matters. The Board's annual report for the year ended June 30, 1969, reveals that for that annual period the Board issued 732 decisions in unfair labor practice cases.[117] In early 1971, there were 354 district judges in the country.[118] This would result in an average of a little over two cases per year per court.[119] One could hardly characterize that as a flood, although it is true that in fact some courts would get more of such cases than others. The proposed Griffin Bill calls for 15 Labor Court judges [120] and the Morris plan calls for a tentative Labor Court of 11 judges.[121] The possible case load burden could be met by the appointment of an equivalent number of district judges in the areas where statistics indicate the greatest number of unfair labor practice cases may be anticipated to be filed.

Another voiced criticism to the proposed plan is that: "Conflicts would arise among districts within one circuit as well as among circuits." [122] This is answered by the proposed Labor Court of Appeals which would bring about greater uniformity of appellate decisions than presently exists and would resolve any such feared conflicts.

Since, under the proposal, all cases would be tried under the Federal Rules of Civil Procedure, the procedures of discovery and deposition would be made available. There has been mixed reaction to making these procedures available in labor cases. Mr. Bartosic opines that "Discovery is especially useless in 8(a)(3) cases which usually turn on credibility conflicts that can be resolved only by seeing and hearing the witnesses. Thus, in most cases, discovery would not only be time consuming but also redundant or useless." [123] It might be noted, that with few exceptions, all cases not subject to summary judgment turn on the resolution of creditability conflicts. In his proposed plan, Professor Morris reaches a different conclusion on this point than does Mr. Bartosic, i.e.; "The proposed Labor Court could also provide for discovery under rules comparable to the Federal Rules of Civil Procedure. This should eliminate the need for formal hearings in many cases, and voluntary settlements would also be enouraged." [124] The answer would appear to be that experience has taught us over a period of three decades that in other fields of the law, discovery and deposition use has brought about an increased deposition of cases by way of settlement, dismissal and summary judgment. It could be reasonably anticipated that it would accomplish the same results in the field of labor law.

For those who have urged that Board orders be made self-enforcing and final unless appealed within limited time periods,[125] the present proposal provides a solution more adequate than they seek. Saying that a Board order is self-enforcing and making it so are not the same. To make it self-enforcing requires a court proceeding or drastic implementation to provide an enforcement apparatus. Under the present proposal all District Court orders are self-enforcing and can be appealed only under the Federal Rules of Appellate Procedure,[126] which would require amendment to accommodate the proposed Labor Court of Appeals. An additional advantage of a Court over the existing Board is its flexibility to combine or sever causes of action, to grant interlocutory orders, to refer fact finding matters to a Master or conceivably to an Arbitrator, if the dispute involves a contract providing for one, or to the Board if the dispute involves a representation matter within the jurisdiction of the Board, to issue temporary restraining orders and injunctions where not prohibited by the Norris-LaGuardia Act,[127] and to use the full power and majesty of the Federal Judiciary to carry out its orders.

MORRIS PLAN'S GENERAL COUNSEL

This writer endorses the Morris plan with respect to retentiton of the General Counsel for the purpose of prosecuting unfair labor practice cases, as well as conferring upon him power to prosecute violations under the Railway Labor Act.[128] Further, the Morris proposal is sound in that it provides, in the event of a failure to prosecute by the General Counsel, the private party can initiate and prosecute his own case in court,[129] with power in the General Counsel to intervene if he deems it appropriate. This has proved workable under the Fair Labor Standards Act, and meets the objections of critics who assert that the present General Counsel has too much power to determine what cases shall be litigated. The Morris plan makes the services of the General Counsel available to, but not mandatory upon, parties in that they are not required to first go through the General Counsel.[130] This has the salutory effect of not allowing the General Counsel by inaction upon a charge to delay or prevent its litigation, as is now the case under Board practice.

The Morris plan's recommended merger of the National Mediation Board and the Federal Mediation and Conciliation Service [131] is likewise salutory, in that it will, in addition to the benefits recited by Professor Morris,[132] be a step toward ultimate repeal of the archaic and cumbersome Railway Labor Act, the proposed implementation of which is beyond the scope of this paper.

TEMPORARY SOLUTIONS

The above proposals are not, as pointed out above, a package. Each element is independent of the other and could be implemented with or without the other elements proposed, or could be adopted in conjunction with alternate proposals made by others. As an example, the Labor Court of Appeals could be adopted in conjunction with a Labor Trial Court as proposed by Professor Morris. Other combinations are equally available for consideration. All proposals, whether here set forth or not, should be given additional detailed study before adoption and implementation.

Until such time as the Congress is persuaded of the urgency for needed change and determines to act, the Board itself, instead of lamenting its plight, could take steps to alleviate the worsening situation. It could direct its Trial Examiners to limit their decisions to findings of fact and conclusions of law instead of vying with one another over the length of the multi-page recitations of minutiae, embellished with their stereotyped adjectives calculated to sell their version of the facts. Many of such decisions resemble more an advocate's brief than a trial judge's decision. Adoption of a system of simplified findings of fact and conclusions of law would surely shorten the time between hearing and Trial Examiner's Decision, and might conceivably reduce the high rate of appeal of Trial Examiner's Decisions [133] to the Board by gaining greater acceptance of the simplified non-embellished factual findings. Another suggestion to speed up the process between hearing and Trial Examiner Decision,

Footnotes at end of article.

is to provide that the filing of briefs with Trial Examiners be made discretionary with the Trial Examiner rather than a matter of right. Few Trial Judges hearing cases with no law issues and with only disputed facts involved seek trial briefs. Many such judges render a decision from the Bench at the close of the evidence and invite the parties to submit proposed findings of fact and conclusions of law consistent with the decision.

Many unfair labor practice cases could be handled in this fashion and, if not appealed to the Board, would not even require the transcription of the record. The mandatory requirement in every case of a written decision that is made only after the filing of written briefs or their filing has been waived is a gross waste of time, and frequently a financial burden upon the parties appearing before the Board. The accompanying economies resulting from this simple change might well encourage settlements as well as greater acceptance of Trial Examiner Decisions.

The Board could, without a doubt, in this writer's opinion, shorten the time of hearing and increase the incidence of settlement by adoption of discovery and deposition rules similar to those provided in the Federal Rules of Civil Procedure. In spite of the arguments of those who assert that such practice would increase the delay in Board proceedings, the known history of their use in federal and state courts evidence the contrary. The arguments, however, could be easily resolved by the Board's adopting them for a trial period. The Board, under Section 6 of the Act, has great flexibility in its rule making power.[134] They should use it, and if a certain adopted practice fails to meet expectations it can be as easily changed or abolished as it was created.

Another procedure well worth consideration for adoption by the Board is Rule 31(b)(1) [135] of the United States Tax Court that requires the government and the taxpayer to agree, prior to trial, upon a stipulation of undisputed facts. Surely this, in view of its past success, is worthy of a trial period. Failure of a party to comply with this Rule is subject to broad and effective sanctions.[136]

CONCLUSION

Others can make recommendations for additional time-saving procedures to the Board, but it is all of no avail unless the Board itself is willing to innovate, to change and to experiment. It can, if it elects inaction, become the administrative dinosaur destined for extinction. The time is short, the need is great.

It is hoped that all who labor in this field of endeavor will apply themselves to the end that those changes are made that will bring about more rapid disposition of controversies, greater uniformity of decision, a fairness that will gain greater acceptance by parties of the decisional process, and reliable guidelines for future conduct that will effectively reduce the number of controversies.

FOOTNOTES

[1] 49 Stat. 499 (1935).

[2] September 1966 Labor Law Journal 522, Gene S. Booker and Alan Coe, *The NLRB and Its Critics*.

[3] "The NLRB is supposed to be an unbiased adjudicating body, something like a court. It usually behaves like a department of the AFL–CIO and is about as neutral as George Meany." The Huntley-Brinkley Report, January 24, 1966, as quoted by Senator Robert P. Griffin, 47 Mich. State Bar Journal 9, 10 (Nov. 1968).

[4] "—George Meany charged the Administration with attempting to 'pack' the NLRB with individuals that had a pro-management attitude." *Supra*, footnote 2 at p. 526.

[5] "It (NLRB) is a politically appointed, politically oriented agency that is too close to political and other pressures." *Supra*, footnote 3 at p. 15.

[6] "Having followed the pattern of Board decisions since enactment of Landrum-Griffin, this author has come to the conclusion that the NLRB as currently structured, is not an appropriate instrumentality to implement congressional purpose in this vital field." Id.

[7] George B. Driesen to the Second Annual Collective Bargaining Forum at New York City on May 19, 1970, 74 LRR 87, 91.

[8] "Operations in Fiscal Year 1969" of NLRB's Thirty-Fourth Annual Report.

[9] Id.

[10] NLRB Chairman Edward B. Miller to the Labor Law Conference, Louisiana State University, Baton Rouge, La., on January 22, 1971. 76 LRR 89, 94.

[11] Address before the annual meeting of the Connecticut Bar Association at New Haven, Conn. on October 19, 1970. 75 LRR 168.

[12] "NLRB Statistical Summary for Third Quarter 1970," 75 LR 278.

[13] *Supra*, footnote 10 at p. 95.

[14] *Supra*, footnote 7 at p. 92.

[15] *Supra*, footnote 10 at p. 95.

[16] *Supra*, footnote 8.

[17] Id.

[18] *Infra*, footnote 51 at p. 1149.

[19] 75 LRR 123, 126.

[20] 75 LRR 168, 169.

[21] Address by Chairman Edward B. Miller to the Ninth Annual Corporate Counsel Institute of the Northwestern University School of Law on October 8, 1970. 75 LRR 123, 125.

[22] 76 LRR 33.

[23] Id. p. 34.

[24] Reorganization Plan No. 5 of 1961 was submitted to Congress by President Kennedy pursuant to the Reorganization Act of 1949, Ch. 26, 63 Stat. 203.

[25] *Supra*, footnote 11, p. 170. See also Address by Chairman Edward B. Miller to the Association of the Bar of the City of New York on November 12, 1970, 75 LRR 245, 250.

[26] 73 LRR 263.

[27] Id. p. 268.

[28] S. 103, 91st Cong., 1st Sess. (1969).

[29] Id., Sec. 2.

[30] Id., Sec. 10.

[31] Id., Sec. 17.

[32] 47 Mich. St. Bar Journal 9, *End NLRB and Create U.S. Labor Court*, (November, 1968).

[33] Ibid. p. 15.

[34] Ibid.

[35] *Infra*, footnote 54.

[36] "The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States 'but all Duties, Imposts and Excises shall be uniform throughout the United States'—(Clause 9) to constitute Tribunals inferior to the Supreme Court;"

[37] *Glidden v. Zdonick*, 370 U.S. 530 (1962) dealing with establishment of the United States Court of Customs and Patent Appeals.

[38] S. 3671, 91st Cong., 2d Sess. (1970).

[39] Id., Sec. 6.

[40] Adjunct Professor, Catholic University Law School and House Counsel, International Brotherhood of Teamsters.

[41] 4 Georgia Law Review 647, *Labor Law Reform—The NLRB and a Labor Court* (Summer, 1970).

[42] Id. p. 662.

[43] Id. p. 664.

[44] Id. p. 666.

[45] Id. p. 667.

[46] Id.

[47] Id.

[48] Id. p. 668.

[49] Labor-Management Reporting and Disclosure Act, 29 U.S.C. Sec. 401–530.

[50] *Supra*, footnote, 41 p. 670.

[51] 14 Wayne Law Review, 1126, *Expertise, The NLRB, and the Constitution: Things Abused and Things Forgotten*, (1968).

[52] Id. p. 1161.

[53] Id.

[54] Section 1: "The Judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their offices during good Behavoir, and shall, at stated times, receive for their Services a Compensation, which shall not be dismissed during their continuance in Office."

[55] February 1969 Labor Law Journal 94, *One Nation Indivisible—A Plea for a United States Court of Labor Relations*.

[56] Id. p. 97.

[57] Id.

[58] Id. p. 95.

[59] Id. p. 99.

[60] Professor of Law, Southern Methodist University.

[61] 35 Journal of Air Law and Commerce *537, Procedural Reform in Labor Law—A Preliminary Paper*, (1969).

[62] Id. p. 559.

[63] Id. p. 568.

[64] I. e. A Court established under U.S. Const. Art. III.

[65] *Supra*, footnote 49 at p. 561.

[66] 29 U.S.C. Secs. 178, 179, and 180, Labor Management Relations Act, Secs. 208, 209 and 210.

[67] 29 U.S.C. Sec. 185, Labor Management Relations Act, Sec. 301.

[68] 29 U.S.C.

[69] *Supra*, footnote 61 at p. 563.

[70] 29 U.S.C. Sec. 187, Labor Management Relations Act, Sec. 303.

[71] 29 U.S.C. Sec. 186, Labor Management Relations Act, Sec. 302.

[72] *Supra*, footnote 62 at p. 564.

[73] Id. p. 565.

[74] Id. p. 566.

[75] Id. p. 562.

[76] Id. p. 568.

[77] Id. p. 573.

[78] Id.

[79] The Southwestern Legal Foundation, Labor Law Developments 1971, p. 331.

[80] Associate General Counsel, AFL–CIO.

[81] *Supra*, footnote 79 at p. 331.

[82] *Supra* p. 338.

[83] *Supra* p. 341.

[84] *Supra*, footnote 41.

[85] *Supra*, footnote 79 at p. 343.

[86] Id.

[87] *Supra*, footnote 79 at p. 332.

[88] His statement that "Professor Charles J. Morris seems at one point, to say that the basic, or at least original, purpose of the NLRA has ben achieved, in that most employers recognize and accept that their employers have a right to join a union and bargain collectively," is certainly subject to question from a careful reading of Professor Morris's article.

[89] *Supra*, footnote 79 at p. 335.

[90] The present Act provides for such injunctions, but leaves the seeking of them solely to the Board's discretion. Sec. 10(j).

[91] *Supra*, footnote 24.

[92] Although not discussed above, this concept has already been suggested by Mr. William B. Spann, Jr. in 4 Georgia Law Review 643. *Foreword—A Labor Court of Appeals*, (Summer 1970). Mr. Bartosic *supra*, footnote 41, as part of his plan, advocates a single Labor Court of Appeals.

[93] *Supra*, footnotes 75 and 76.

[94] Address by Board Member John H. Fanning to Labor Law Seminar sponsored by the Kansas City Bar Association, March 25, 1970. 73 LRR 286, 289.

[95] Ten in fiscal year ended June 30, 1969. 76 LRR 29, 34.

[96] *Supra*, footnote 92 at p. 645.

[97] *Bangor Plastics, Inc.*, 156 NLRB 1165, 1966 CCH NLRB ¶ 20,175, rev'd 392 F. 2nd 772 (1967), 57 LC ¶ 12,607 (1968–CA–6).

[98] 76 LRR 29. In this regard the Board states that, "In the 363 decisions, NLRB was affirmed in whole or in part in 81 per cent." However, stated another way the Board's or-

ders were set aside, modified or remanded in 43 per cent. See table at 76 LRR 34.

[99] This follows the suggestion of Mr. Spann, *supra* footnote 92.

[100] 61 Stat. 136 (1947), as amended, 29 U.S.C. Sections 151–168 (1964), Secs. 208, 209 and 210 relating to national emergency strikes, Sec. 301 relating to enforcement of labor agreements, Sec. 302 relating to restrictions on payments to employee representatives and Sec. 303 relating to suits for secondary boycott damages.

[101] 44 Stat. 577 (1926), as amended, 54 Stat. 785–86, 45 U.S.C. Sections 151–162 (1964).

[102] 29 U.S.C. Sec 201 et seq. (1964).

[103] 73 Stat. 519 (1959), as amended, 29 U.S.C. Secs. 401–531.

[104] 42 U.S.C. Sec. 2000 et seq. (1964).

[105] *Supra*, footnote 92 at p. 645.

[106] *Supra*, footnote 61 at p. 564.

[107] A median time of 630 days in fiscal year ended June 30, 1969. General Counsel Arnold Ordmans Testimony to the Senate Appropriations Committee, 71 LRR 519.

[108] *Supra*, footnote 11.

[109] *Supra*, foonote 10 at p. 95.

[110] 44 Stat. 577 (1926) as amended; 45 U.S.C. Secs. 151–88.

[111] 49 Stat. 449 (1935) as amended; 29 U.S.C. Secs. 151–68.

[112] 52 Stat. 1060 (1938) as amended; 29 U.S.C. Secs. 201–19.

[113] Pub. L. No. 86–257, 86th Cong., 2d Sess. (1959); 29 U.S.C. Secs. 401–531.

[114] "—direct court judges now have relatively little contact with Taft-Hartley and are ill-trained to administer it." *supra*, footnote 41, p. 661.

[115] Board Chairman Edward B. Miller: "—the proposal to transfer our unfair labor practice jurisdiction to the district courts are unworkable and present, in my opinion, more problems than they purport to cure." 76 LRR 89, 95.

[116] *Supra*, footnote 41 at p. 656. This particular criticism directed in opposition to the Tower district court plan was based in part upon the fear that allowing individuals, whose charges had been denied by the General Counsel, to file individual suits would substantially increase the court case load.

[117] *Supra*, footnote 22.

[118] 431 F. 2d.

[119] Mr. Bartosic attempts to distort this obvious fact by only referring to 86 district courts, *supra*, footnote 41, p. 661, overlooking the fact that it is Judges and not judicial districts that count.

[120] 47 Mich. St. B.J. 9 at p. 16.

[121] *Supra*, footnote 61 at p. 564.

[122] *Supra*, footnote 41 at p. 661.

[123] Id. p. 657.

[124] *Supra*, footnote 61 at p. 570.

[125] *Supra*, footnote 11 at p. 170.

[126] *Supra*, footnote 61 at p. 563.

[127] 47 Stat. 70 (1932), 29 U.S.C. Secs. 101, etc.

[128] *Supra*, footnote 61 at p. 566.

[129] Id. p. 563.

[130] Id.

[131] Id. p. 568.

[132] Id. pp. 572, 573 "A merger of the mediation functions of the FMCS and the NMB should provide an opportunity for both groups of mediators to share valuable experiences and techniques. Also, one mediation agency should be more economical to operate than two, and a single agency should provide for a more centralized and uniform direction to the service. Perhaps most important, however, there would be a separation of mediation from the adjudicatory functions of the NMB. If mediators can confine their efforts to mediation, which the NMB as an agency cannot do under the present RLA, their roles as neutrals may yield greater success in assisting parties in reaching bargaining agreements."

[133] 82%—*supra*, footnote 41 at p. 663.

[134] "The Board shall have authority from time to time to make, amend and rescind, in the manner prescribed by the Administrative Procedure Act, such rules and regulations as may be necessary to carry out the provisions of this Act."

[135] "*Stipulations required*—The Court expects the parties to stipulate evidence to the fullest extent to which complete or qualified agreement can be reached including all material facts that are not or fairly should not be in dispute."

[136] Rule 31(b)(5)—"Results of noncompliance by a party.—If at the date of issuance of trial notice in a case a party has failed to confer with his adversary, or has refused or failed to stipulate the facts and evidence which are not in dispute or fairly should not be in dispute, and after trial notice, still fails or refuses to stipulate, as required under paragraphs (1) and (2) hereof, the party proposing to stipulate may within 50 days, but not less than 35 days, prior to the date set for call of the case from a trial calendar, file with the Court a motion for an order to show cause why the facts and evidence covered in his motion should not be accepted as established for the purposes of the case. The facts and evidence of the proposed stipulation covered by the motion shall be shown with particularity and by numbered paragraphs. The motion shall contain adequate references to the sources of the matter set forth, and where such sources are in possession or under control of the moving party, the motion shall also show that the opposing party has had and has reasonable access thereto. The motion shall be accompanied by proof of service on the opposing party or his counsel. Upon the filing of such motion, an order to show cause as moved shall be issued forthwith, unless the Court, in its discretion, directs otherwise.

The party against whom the order to show cause has issued shall, within 25 days of the date of such order, file a response listing by numbers the paragraphs in the proposed stipulation in respect of which there is no dispute. Where there is disagreement with respect to any paragraph in party only, the response shall show the part admitted and the part denied. Where there is any disagreement with respect to any paragraph, either in whole or in part, or where the disagreement takes the form merely of a variance in the statement of the facts or evidence, the response shall show the basis for the dispute, an objection on the ground of materiality or relevance may be noted but is not to be regarded as just cause for refusal to stipulate. The response shall be accompanied by proof of service on the opposing party or his counsel.

The matters covered by the show cause order and response shall be heard at the call of the case from the trial calendar, or, if practicable, at such earlier time and at such place as the Chief Judge in his discretion may fix.

THE FARMERS HOME ADMINISTRATION AND ITS ACHIEVEMENTS IN SOUTH CAROLINA

Mr. THURMOND. Mr. President, many thousands of words have been spoken in this Chamber on the subject of rural development and economic growth. Many of our efforts have been devoted to the countryside. We have sought to give help that is needed, and we have other measures under active consideration at this moment.

I think it is well if we pause and ask what all this is for, and I would like to provide an answer as I have seen it develop in my own State.

Finding water in South Carolina has seldom been a problem, and with the dams along the Santee and Savannah Rivers, and the rapidly growing reputation of my State as an area for water-based recreation, some may wonder that I even raise the question.

But good water—pure water—convenient water, flowing from pipes into our homes, schools, churches, and businesses—is needed before a community can grow and flourish.

Mr. President, Lancaster County in the Piedmont section of South Carolina is an example. Our first water system was built there nearly 10 years ago. Since then, seven more systems have followed, and now some 200 miles of pipeline convey water throughout the county—and provide a supply to five other water districts and one town.

All of South Carolina is the better because of these water systems.

Farmers Home Administration, which assisted with loans for these seven water systems, has also financed over 350 homes along these water lines in rural areas, and private lending institutions have more than doubled that number—over 500 homes for a total investment that exceeds $13 million.

Mr. President, with this increased financing have come expanded telephone and electrical service, new mail routes—and growth. As a result the county has lower fire insurance rates and more plentiful job opportunities. Population has grown 10 percent since the first system was established. The strengthened tax base has improved services and amenities and values have increased from 50 to 100 percent along the water lines.

One of our real good farmers points out that farming people are not interested in selling out at any price.

Mr. President, this is a quick, thumbnail sketch of results that already have come from the good work of the Congress in establishing and maintaining the Farmers Home Administration. I searched deeply into the program that the Farmers Home Administration has provided in South Carolina. As a result I found good work and strong programs that provide an essential foundation to this administration's goal of balanced growth.

We were proud to discover that South Carolina can now claim the No. 1 position in rate of progress in rural areas. Living conditions, quality of homes in the towns and countryside are rising to a general level of first class in South Carolina, faster than in any other State, and I compliment State FHA Director E. Whitson Brooks for his outstanding work.

Mr. President, in county after county in South Carolina water systems have opened the way. In this rural water program, 84 municipal and intercommunity organizations have developed some 75 water systems, large and small, plus nearly a score of sewage disposal systems for towns that had sanitation and pollution problems. All this has been achieved because of some $20 million of financing through the FHA in South Carolina.

Several hundred towns have benefited from the uplift that comes with the graduation to modern systems of water supply and sanitary waste disposal. The

pipelines of a larger rural water system normally embrace several towns, as well as the farms, homes, businesses, and industries that lie in the open country between towns.

Mr. President, Lancaster County offers outstanding examples, but others will be found in every section of South Carolina. Two of Lancaster's neighboring counties—Chesterfield and Kershaw—account for 10 more thriving rural water systems. Union County in the northwest section of the State has a network of eight rural systems. In counties of the coastal areas of South Carolina, both water supply and drainage improvements are being achieved through Farmers Home Administration programs.

Aiken County typifies the surging development of industry and new, modernized communities along our southern boundary. Among eight new rural water systems in that county, the Breezy Hill system is now in the process of more than doubling its service load. More than 1,000 homes will be supplied by this system that started 2 years ago with less than 500. In Greenville County, the Blue Ridge rural water system was recently approved for $2 million of Farmers Home Administration loan financing. This system will begin with coverage of three towns and the intervening countryside, which accounts for a large rural portion of the county.

Mr. President, these examples are exemplary of progress in every sector of our State. Modern services and a prevalent pattern of desirable housing no longer stop at the city line. Every county of South Carolina is being reached by the rural water program. Forty-one more projects totaling $17 million are planned for development within the next 2 or 3 years.

With the solution of water supply and sanitation problems in a rural community comes rebuilding, renewal and growth. This is happening today in South Carolina. The real symbol of advancement for our people is found not so much in plants and storefronts as in homes—new homes of modern quality for the general population of middle and lower income families.

Mr. President, South Carolina is now the leading State in rural housing. In the fiscal year ended last June 30 we topped all States, including many much more populous States, with more than $97 million worth of homebuilding through the Farmers Home Administration rural housing program.

South Carolina produced 7,132 new or newly modernized homes—all for families who, until the inception of today's rural housing program, seldom found home financing within their reach.

Mr. President, in South Carolina the housing effort of 3 years ago produced only 1,500 homes, $13 million worth of building in fiscal year 1968. However, in fiscal 1971, more than 4,700 families of the low-income group alone—families who until now saw no way of escape from crude, old-fashioned, substandard housing—were able to step up to ownership of good, modern homes.

Rural homebuilding of itself has become one of the biggest industries in South Carolina, and one of the most important sources of new rural employment. Some 900 contractors are now producing homes in town and country areas. Homebuilding jobs provide a livelihood for some 20,000 rural South Carolina families.

The economic effect provided by increased homebuilding spreads through many lines of business and employment. To the nearly $100 million invested in 7,100 new rural homes last year, can be added some $15 million spent by homeowner families just for furnishings and modern appliances in their new homes. The combination of these investments has been a tremendous boost to the overall economy of South Carolina.

Mr. President, this transformation of housing is a profound improvement, long overdue in rural areas. The key to its accomplishment has been a conscientious and capable organization of State and county-based workers in the Farmers Home Administration. They have made the people of rural South Carolina aware of the new "second chance" now afforded them in housing. There now is ample FHA credit through the Farmers Home Administration, supplementing all private and conventional credit that may be available in a rural locality.

There also is fine and continuing cooperation between FHA and the homebuilders of our State, working to develop and produce in volume good modern homes that are fully adequate for the families who will live in them, but priced within reach of the family of modest means.

Mr. President, I offer the examples of Lancaster County and the record of accomplishments throughout our State as evidence that rural development is working in South Carolina. We commend Administrator James V. Smith on the immense improvement of services the Farmers Home Administration has achieved under his leadership.

Volume of credit for homes, farms and community improvements has increased from 4,400 loans of all types totaling $29 million in fiscal 1968, to more than 12,000 loans totaling $121 million the past year.

Credit needs of the small farm family also are being better served. FHA farm ownership and operating credit is up from $6.8 million 3 years ago to $7.5 million in the year just ended. Moreover, through new policies introduced by the present administration, private lenders who join with Farmers Home in serving the same borrowers are adding about one-third more to the rural credit picture.

Mr. President, I am proud to present this progress report from the rural areas of South Carolina. It is my belief that as these efforts continue, rural areas will fulfill their promise as the great realm of future community development in this country; the goals of rural development will be realized; and those who want to stay in the country, or turn to country life, will find decent work and living conditions in a better environment.

PRESIDENT NIXON'S ADDRESS TO THE WHITE HOUSE CONFERENCE ON AGING

Mr. FONG. Mr. President, the Second White House Conference on Aging has now come to a close. There are many significant recommendations for all Americans to study in the coming months as we begin to move to implement as many ideas as we can. I am especially delighted to see that the Conference Chairman, Dr. Arthur Flemming, will be continuing in his post to oversee the followup aspects of the Conference.

As ranking minority member of the Senate Special Committee on Aging, I have, of course, followed closely the issues facing older Americans. President Nixon in his remarks yesterday addressed himself to many of those issues. But even more significantly, he emphasized the need for a "new attitude toward the aging that can reopen the doors of opportunity which have too often been closing on older men and women."

To encourage my colleagues and all Americans to take notice of issues concerned with the aging, I ask unanimous consent to have the President's remarks printed in the RECORD.

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

REMARKS OF THE PRESIDENT TO WHITE HOUSE CONFERENCE ON AGING

Dr. Flemming, Chief Justice Warren, all of the distinguished guests on the platform and all of the distinguished delegates to this conference:

First, I want you to know how very delighted we were to have you—2700, I understand—as guests last night at the White House. As I came in by helicopter from Chicago, after speaking to the 4–H Convention there, I saw many in the windows looking out. I only wish I could have come down; but I realized if I shook hands with 2700, that would be more than the four hours that Chief Justice Warren took on Monday night, and I wanted to be here this morning. I wish I could have, though, welcomed all of you from all of the States of this Nation, all of you with your deep commitment.

Now I want to talk about this conference, the White House conference. I want to talk about it very candidly, in terms not of the past or the present, the resolutions that you will present; but in terms of the future.

Down in the Library of Congress there is a whole floor, with many, many stacks of volumes of the records of White House conferences, conferences on the aged, conferences on young people, conferences on health. On almost any subject you can imagine, there has been a White House conference, and every President has participated in them. Every President opens them or closes them, as the case may be.

Those volumes, very many of them, when I have seen them down there, just gathered dust, and you wonder what happened; was it worth it? And all of you, as you come to the end of this conference, must wonder, after all the work you have done, after all the recommendations you have made: Is it going to end here, or is this a beginning?

That is what I want to talk about. I would be less than candid if I were not to say that many White House conferences are more cosmetics than the real thing. They talk about the problem, give people an outlet, and, of course, that is a good thing; but recommen-

dations usually are not put into practices as often as they should be.

When this conference was called, as John Martin and Arthur Flemming will tell you, I told them I wanted to know what we could do. In preparing my remarks today, I wanted to speak specifically to the things that you recommended, and to speak also to how we could follow up.

I do not want the volumes—and there will be volumes on this conference—simply to gather dust in the Library of Congress or in the office of the President. As long as I am here, I will go over and shake off the dust myself to find out what was said. But Dr. Flemming told me before I came in here just what he said to you when he introduced me: that each one of you has made a very important pledge this morning, a specific commitment to action in the post-conference year. I am here to join you in that pledge.

CLOSE, PERSONAL ATTENTION PLEDGED

This means that I am going to give my close, personal attention to the recommendations of this conference. I have asked Dr. Flemming to stay on. We really cannot afford him, but he comes really as a volunteer. He is not only going to be chairman of the conference in the follow-up period; but also as a special consultant on aging, so that I can take up these matters personally with him, as well as John Martin, who, as you know, is my special assistant on aging.

Now, Dr. Flemming is known to you from having presided over this conference. He is also known as a great educator. I knew him as a member of the Cabinet. Beneath that very genteel exterior is one of the most tenacious men I have known. So you have a good representative there speaking up for your problems.

The second step I have taken is that I have directed that your recommendations be put at the top of the agenda of our Cabinet-level Committee on Aging, in which Dr. Flemming also plays a leading role.

Finally, I have asked Dr. Flemming to create a post-conference board to act as your agent in following up on your proposals. When matters that affect the interests of older Americans are being discussed in the White House, I am determined that the voice of older Americans will be heard. That is my commitment to you.

ENHANCE DIGNITY OF ALL AMERICANS

Now, as we consider your suggestions, we will be guided by this conviction: Any action which enhances the dignity of older Americans enhances the dignity of all Americans, for unless the American dream comes true for our older generation, it cannot be complete for any generation.

This is true, first, because we all grow old. The younger generation today will be the older generation tomorrow. But more than that, the entire Nation has a high stake in a better life for its older citizens simply because we need you. We need the resources which you, alone, can offer.

We are speaking, after all, of a proven generation, one that has brought this country through the most turbulent period in human history. Your skills, your wisdom, your values and your faith—these are among the most valuable resources this Nation possesses.

This country will have to be at its best if we are to meet the challenge of competition in the world of the 70's, and we cannot be at our best if we keep our most experienced players on the bench. I am not speaking of the Washington Redskins, either. Yet, in recent years all of us know a gulf has been opening between older Americans and the rest of our people. This gulf is the product of a great social revolution which has weakened the traditional bonds of family, neighborhood and community. For millions of older Americans, the result has been a growing sense of isolation and insecurity.

YOUNG, OLD AMERICANS NEED ONE ANOTHER

We have to change that. Younger and older Americans need one another. We must find ways to bring the generations together again.

In addressing the challenges before us, let us begin where most of you begin—that is the problem of inadequate income. We have to begin there because if we move in this front, all the other battles will be easier, and if we fail to move in the income front, the other battles—and there are many others that I will discuss in my remarks this morning—will be impossible.

That is why it is so important that the Congress approve one of the most important bills to come before it in many years—the bill known as H.R. 1. Now, let me talk to you a bit about H.R. 1.

It is generally known as welfare reform. I presented it to the country in a radio-television address almost 2½ years ago. In that period, since it was presented to the country, it has been debated and talked about, passed one House, and still languishes in the Senate, no prospect for this session, and apparently not too much prospect even for the next session, unless something happens in terms of waking the Congress up to the fact that the American people want it.

Let me tell you what H.R. 1 does. You hear about welfare reform. Well, believe me, we need it. We have a system at the present in this country, a system in which, under our present welfare rules, in many States it makes it more profitable for a man not to work than to work, and it rewards a man for leaving his family, rather than staying with his family. When you have that kind of a system, you ought to abolish it and get something else.

So our new program provides for work incentives and work requirements. It also provides for needy children and provides for those needy children without the effect of the present welfare program, which is so degrading on those children and mars them for life.

But what is in it for older people? I think we have forgotten many of those things. Let me tell you how much is at stake for older citizens in H.R. 1 and why it must be a top priority.

WELFARE PLAN INSURES ELDERLY INCOME

For the first time in our history, it would put a national floor under the annual income of every older American. Now, some may say it ought to be higher, some may say it ought to be earlier; but the point is, it will be done. We need a national floor under the income of every older American. H.R. 1 does that.

Second, for the first time in our history, it would make social security benefits inflation-proof. This is something that I have always believed in. It does not make sense to have social security benefits constantly behind inflation. If we have inflation, the benefits should go up with it, and H.R. 1 provides for that.

It would allow social security recipients to earn more money from their own work. It would raise benefit levels, especially for widows. I have also asked the Congress to include in H.R. 1 a proposal for eliminating the $5.60 monthly fee now charged for Part B of Medicare.

Now let me get into the numbers. These numbers are so big that they may not, of course, be very impressive when we think of $200 billion budgets, and I am going to be working on that budget over this next weekend. But H.R. 1, as it now stands, would provide $5½ billion in additional Federal benefits for older Americans—$5½ billion more.

Let me point out something: If they had passed it two years ago, we would have had it then. You can see why the Congress needs to quit talking and start acting on H.R. 1. This would be $3 billion in increased social security benefits, and when it is fully effective, another $2½ billion in new benefits to persons with lower incomes. And a proposal to eliminate the monthly Medicare fee would enrich the $5½ billion package by an additional $1¼ billion, so that is the equivalent of an additional five percent increase in social security.

So you can see how much is at stake in this one proposal which has been there for over two years, which has not been acted upon, and which needs to be acted upon.

CALLS FOR HELP IN PASSING BILL

I have made a commitment to you. We need your help. Let your Congressman, let your Senator, know that before the next election you want action on H.R. 1. I think we ought to have it.

Now I would like to go to a second subject which is related to income. It is the other side of the coin. That is the subject of taxes. We are supporting a series of tax reform proposals which would enable a single person aged 65 or older, to receive up to $5,100 of tax-free income. A married couple, both of whom are 65 or older, would receive over $8,000 in tax-free income.

However—and now I come to one that will be very close, I am sure, to the hearts of most of the people here, because when I met with representatives of this group before this conference was convened, this subject was raised by every one of those present. That is the property tax. It is not related to income, but it is a tax which keeps going up and up and up; whereas, an older person's income may be even going down.

Property tax collections have increased by 40 percent in the last five years alone. Now, here is where older Americans come in. We have checked and found that 70 percent of older Americans own their own homes. For many, these homes represent a lifetime of careful saving, and yet, because of property taxes, the same home which has been a symbol of their independence often becomes the cause of their impoverishment.

PROPERTY TAXES IMPOSE UNFAIR BURDEN

Take the 30 percent who do not own their homes. Those who rent their homes often bear an unfair burden because property tax increases are often passed along in the form of higher rents.

The inequity of the property tax is often the greater because it takes money from those who have already educated their own children, and uses it largely for the education of other children.

I received a letter recently from a woman whose parents brought her and five other children to this country from Switzerland many years ago. They settled in California as homesteaders. They were full of hope and pride. Over the years that followed, they made their dreams come true. But today, many, many years later, things have changed so much that Mrs. Ewing begins her letter to me by saying, "Was it just an empty dream after all?"

Her father, at 72, is too ill, too tired, to work. His family is grown and scattered. To meet his real estate taxes, he is now being forced to sell the property for which he worked so hard and so long. Then she goes on to say, "If this is really the country I grew up believing it to be, these inhumane property tax laws must be changed."

COMPLETE OVERHAUL NEEDED

She is right, and they should be changed. That is why we need a complete overhaul of our property taxes and of our whole system of financing public education, because the property tax, as you know, in California as well as in many other States, is the primary

tax which can and must be used at this time for financing public education.

Our revenue sharing proposals which were made a year ago, and which still have not been acted upon, can help relieve the pressure on property taxes, and older Americans have a large stake in enacting those proposals. But I believe we have to move in another front, more directly on the problem of property taxes. I am, therefore, working with our Domestic Council and working specifically with Secretary of the Treasury Connally in preparing specific proposals to ease the crushing burden of property taxes for older Americans and for all Americans.

The President's Commission on School Finance, which I appointed last year, has been carefully studying a range of possible remedies. These remedies will involve large sums of money. But we are prepared, however, to make the hard decisions we are going to have to make to provide property tax relief.

The time has come, in this subject as in others, to stop talking about the impact of property taxes on older Americans and to act in their behalf, and in behalf of other citizens in similar circumstances.

Now, I want to go to another matter that I know has had consideration here, and one which I find very fundamental agreement with your conclusions. That is the inadequacy of private pension plans. One half of our work force is not even enrolled in such a plan and many of those who are enrolled have inadequate or unreliable coverage.

REFORM NEEDED IN PRIVATE PENSIONS

I will therefore propose to the Congress a new program to reform our private pension systems. Here are some of the reforms: They will include measures designed to expand pension coverage, to ensure that pension funds are soundly managed, and also, I will recommend new laws to require the vesting of pensions so that an individual who works in a job, has money invested in a pension, and then moves from that job doesn't lose what he has put in. He is entitled to that and he should get it.

Now, there is one other item where I am going to talk about something that involves not what the Congress and what the Administration can do for older Americans, but what you can do for the country and for yourselves.

I am sure you have been reading and hearing in your newspapers and on television and radio a lot about our new economic policy; with the freeze on wages and prices for 90 days, Phase II, some of the arguments that have taken place with regard to what the application should be. Let me say that as far as this program is concerned, its primary design is to stop the rise in the cost of living. As far as this program is concerned, it is inevitable that anything that we do is going to cause some sacrifice on the part of some Americans.

For example, some labor leaders, not all, but some of them object to the fact that labor increases and wage increases cannot be as high as they would like. Some business leaders are objecting to the fact that we have laid down regulations in which their profit margins are not allowed to be as high as they would like. Some stockholders are objecting to the fact that we have laid on regulations where their dividend payments cannot be as high as they would like.

Let me say, I would like to have a program that would satisfy them all, because it is not pleasant to have any segment of the population object to a program that we have adopted. But let me lay it right on the line. Where a wage increase or a profit increase or a dividend increase can be controlled and the result will be stopping the rise in the cost of living for all Americans, that is worth doing, and that is what we plan to do.

ASKS CONTINUED SUPPORT DURING PHASE II

The support for that program has been stronger perhaps, among older Americans, according to all the polls, than all the others. On the other hand, 70 percent of Americans do support it and we ask your continued support, because no matter how much the pensions may be, no matter how much the Social Security payments may go up, if the cost of living continues to go up it doesn't make any difference. That is why those who are retired and living on fixed incomes have the biggest stake of all Americans, and we hope that you will continue to support it right to the hilt.

Now, I have been talking about income and taxes and how we control prices, but even with higher income, we all know that many older Americans face problems beyond their individual control. I am going to talk for a moment about the one million Americans who live in nursing homes.

I can talk with great feeling about this because my mother was in a nursing home. She was very ill and had a stroke during the last two years of her life. It was a very good nursing home and I will always be thankful that the nurses there treated her just as I would have wanted to treat her, if I could have been there. Many of these nursing homes, like the one my mother was in and like the one my 91-year-old Aunt Edith is in out in Riverside, California, are ones where they receive excellent care from people who care about them. But many do not. There are some bad nursing homes, some inadequate ones. There is little that the people who are in them can do about it.

MUST UPGRADE NURSING HOMES

Partially, it is a question of money, being able to afford the payments, and partially it is a question of regulation. Where it is a question of regulation, we certainly can do something about it. That is why I announced last summer an eight-point program for improving our nation's nursing homes, for cutting off funds to those which remain substandard.

Our primary objective is the upgrading of nursing homes, but we are not going to hesitate to cut off funds from those which are hopelessly substandard.

Furthermore, we will take the initiative to make sure that public and private resources are available to provide alternative arrangements for the victims of such homes; to cut off the funds for the substandard ones and just let the people out, that is no answer. We must find an alternative and we are planning to do that.

But when we speak of the million who live in nursing homes, we want it realized that for every person in a nursing home, we have twenty times as many older people who are not in nursing homes. The greatest need is to help more older Americans to go on living in their own homes. Income programs, such as H.R. 1, tax reforms, they can help achieve this, because if the individuals have the funds, then they can retain their own homes. But so can a number of other additional decisions which we have already made.

$100 MILLION INCREASE IN AGING AGENCY

We want to begin by increasing the present budget of the Administration on Aging nearly five-fold—to $100 million. Now, you may wonder where I got that number. I must say, I heard from a number of you and I heard from Arthur Flemming. He didn't know about the number until this morning because it was $80 million last night, and I decided, why not $100 million. $100 million is needed for reasons that I am going to indicate as to what I expect from this.

But let me put it in another context. Let us put it in terms of priorities. The Congress, for example, at the present time, has under consideration a tax bill. It is a tax bill that has some very good provisions in it. It has one in which there is disagreement, honest disagreement, one where I take a different position from some others. But there is one provision in that bill that provides for between $50 and $100 million to go for the purpose of paying the campaign expenses of an individual who is running as the nominee of his Party for the Presidency of the United States. Now, my friends, just let me say this: It is very important that campaigns be adequately financed, but I say, rather than to have the taxpayers' money used for the purpose of financing a candidate's campaign for election, that money should be used for the purpose of allowing the elected President to keep his campaign promises once he gets into office.

Now, let's see what this $100 million is going to do. We can give special emphasis to services that will help people live decent and dignified lives in their own homes, services such as home health aides, homemaker and nutritional services, home-delivered meals, transportation assistance. Much of this new money will be used to help marshal existing and expanding resources more effectively at the local level.

INFORMATION CENTERS TO BE SET UP ON SOCIAL SECURITY

Toward this end, I will direct the Social Security Administration to provide an information center in each of its 889 district and branch offices to help explain all Federal programs which aid the elderly. These offices will, of course, supplement the State offices which already are doing a very fine job in this respect.

Then, there are two additional administrative decisions which will help older Americans remain in their own homes. The first will make housing money more readily available to older citizens to purchase homes in a variety of settings, including condominiums and retirement communities. Secretary Romney, who is also a very tenacious, evangelistic man in our Cabinet, is going to see that that is done, I can assure you.

The second will require that Federal grants provide services for older persons and also provide for the transportation they need to take advantage of these services.

Now, I turn to another subject and if I seem to be moving from place to place, believe me, you moved from place to place throughout this conference and I am trying to cover most of the major subjects in which you expressed an interest. Some of the best service programs for older Americans are those that give older Americans a chance to serve. Thousands of older Americans have found that their work in hospitals, churches, parks and schools gives them a new sense of price and purpose even as it contributes to the lives of others.

EXPANSION OF SENIOR VOLUNTEERS PROMISED

Federal programs to provide such opportunities have proved remarkably successful at the demonstration level, but that is all they have been up to this point. We are going to change them. We are going to move from demonstration to establish these programs on a broader national basis. Therefore, I am going to request that the Retired Senior Volunteers Program be tripled to $15 million, so that an additional 50,000 volunteers can be involved. I have directed that the Foster Grandparents Program be doubled to $25 million, and I will ask that this program be altered so that Foster Grandparents can work with older persons as well as with children.

I have also ordered that our jobs program for older persons with low incomes be doubled to $26 million. Under this program, projects such as Green Thumb and Senior Aides have demonstrated that older Americans can make valuable contributions in health, education, and community service projects even as they earn additional income.

Let me say: Every older American can be proud that you have made these programs work in recent years. That is why we can double this one, triple that one, make a permanent program out of what was previously a trial or demonstration one. These decisions mean that you will be able to work in more places and for more people.

Now, I have spoken this morning about

some of the immediate steps that I am taking as part of my commitment, with your commitment, to action. We are proud of these initiatives, but we are not content to rest on them. We are going to build on them. That is why I have outlined a mechanism for following up on this conference, one which will allow us to take the fullest advantage of the excellent work which you have done.

RECOGNIZES SUPPORT ON PRESCRIPTION DRUGS

Any discussion of the recommendations for dealing with the problems of the aged would not be complete without recognizing the strong support expressed at this conference for extending Medicare coverage to include prescription drugs, and for accelerating the rate at which the income floor comes into effect under H.R. 1.

Now, as you know, these programs involve very, very substantial budget problems for the Administration. Therefore, they are ones that will need a great deal of consideration and study. Because of the interest which you have expressed in these programs, I have directed the Domestic Council, under John Ehrlichman, who has already addressed you, to carefully consider both proposals and to make recommendations to me at an early date.

Your work is not yet over. You have a message to take home with you from this conference, a message which must now be heard in every community in this land. Let me tell you what it is.

NEW NATIONAL ATTITUDE NEEDED

We need a new, national attitude toward older people in this country, and that attitude must be one which recognizes that America, whatever it does for its older citizens fully appreciates what our older citizens can do for America.

Only a new national attitude toward aging can end the throwaway psychology which I understand was so graphically demonstrated in the film you saw Sunday night. Only a new attitude toward aging can reopen the doors of opportunity which have too often been closing on older men and women.

To borrow another phrase from your multimedia presentation—only a new attitude toward aging can keep older Americans from "slipping through the cracks."

We are entering a period when people will be retiring even earlier from their regular jobs, and when it will, therefore, be more important than ever to recognize that retirement from work does not mean retirement from life. This concept must be at the heart of our new, national attitude toward aging.

I see a great number of people in the White House, young people, middle aged, older people, not nearly as many as I would like to see, but every day some come through to receive an award or recognition, and some just want to come in and see the President, for some reason. A few months ago I met with a remarkable man. His name was George Black. For more than 80 years, this man has been making bricks by hand in Winston-Salem, North Carolina, his own special way of doing it. He is a master craftsman.

When he came in to see me, he didn't look it, but he told me he was 93 years old. But his productive years were not over. So our Government, under one of the programs that we fortunately had, sent this remarkable man to a country that needed to learn about that almost forgotten skill of making bricks by hand. George Black went to Guyana, in South America, so that he could share his skills with the people of that less developed country.

When I asked him about his trip, this is what he said: "I have always asked the Lord to let my last days be my best days. I feel like He is answering my prayers."

MUCH STILL TO BE GIVEN BY ELDERLY

George Black's prayer is the prayer of millions of Americans—"to let my last days be my best days." And for them, as for him, its answer depends not only on what they are given, but on what they continue to give.

Older Americans have much to give this country. The best thing this country can give to them is the chance to be a part of it, a chance to play a continuing role in the great American adventure.

In a real sense, therefore, this conference is just beginning, for all of us are going home with promises to keep. As we keep those promises, as we fulfill our commitments to action, we will make this conference the great, new beginning that you have talked about this week. Let us make the last days the best days for all Americans.

THE NEED FOR ELECTRIC POWER

Mr. GRAVEL. Mr. President, Americans are being offered a false choice in the so-called power crisis. They are told that they either must accept construction of more powerplants without limit, or they must go without air conditioning, lights, elevators, and stereo sets.

The real choice may be different.

Suppose a utility announces that its service region needs another 1,000 megawatts of electricity. Suppose also that the utility reveals who is needing the additional megawatts and for what purposes. In other words, suppose the need is real.

That need, then, can be satisfied either by building additional powerplants, or by identifying ways in which 1,000 megawatts of present electrical consumption could be saved without reduction of living standards.

For instance, how much would the net need for electricity be reduced by recycling metals and other materials?

By designing all machinery for better electrical efficiency?

By building better insulated buildings?

If it is really possible by the year 2000 to reduce per capita energy consumption—electrical and other—to 62 percent of the 1968 levels without reductions in availability of material goods and comforts, it would certainly make the present utility spokesmen sound like self-serving alarmists.

A paper arguing that such a reduction is possible has come to my attention. Called "An Assessment of Energy and Materials Utilization in the U.S.A.," the paper is by A. B. Makhijani and A. J. Lichtenberg at the electronics research laboratory, College of Engineering, University of California at Berkeley. It was presented September 22, 1971, to the U.C. Berkeley Seminar on the Ecology of Power Production, and will be published soon in Environment magazine.

Naturally I assume there are some flaws in the paper, simply because there usually are in human efforts. However, if the paper is substantially valid, it is certainly a significant contribution to a vitally important subject. I hope that qualified people will study it, challenge it, elaborate on it, and take a much broader view about the need for every new powerplant.

Mr. President, I ask unanimous consent that the energy assessment paper, including the tables, be printed at the end of my remarks. The figures will be omitted, of course.

The paper is divided into the following seven sections:

ABSTRACT

I. The Reduction of Pollution and the Conservation of the World's Resources.

II. Analysis of Energy and Materials Usage.

III. A Comparison of Energy Consumption of Standards-of-Living in New Zealand and the United Kingdom.

IV. The Reduction of Energy and Raw Materials Consumption.

V. Conclusion.

References.

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

[Memorandum No. ERL-M310
22 September 1971]

AN ASSESSMENT OF ENERGY AND MATERIALS UTILIZATION IN THE U.S.A., ELECTRONICS RESEARCH LABORATORY, COLLEGE OF ENGINEERING, UNIVERSITY OF CALIFORNIA, BERKELEY

(By A. B. Makhijani and A. J. Lichtenberg)

[Figures mentioned in text are omitted]

The amounts of energy needed for the processing of unit weights of basic materials (such as steel, aluminium, glass etc.) are calculated. These data, in conjunction with industrial and statistical data are used to compute the amounts of energy and materials required for the production, consumption and/or use of specific items such as food, cars, housing construction, cans, heating, machinery manufacture and so on. These quantities are tabulated along with the corresponding total and per capita quantities.

It is shown that although an order of magnitude relationship exists between standards of living, GNP and energy consumption, little correlation exists between these quantities if comparisons are restricted to the developed nations. This assertion is substantiated by a study of GNP and energy consumption statistics and by a detailed comparison between New Zealand and the United Kingdom which have almost equal per capita GNPs, very similar material standards of living but vastly different levels of energy consumption.

A model of energy and materials assuming the same (or in some areas such as housing and urban transportation larger) availability of material goods and comforts, the recycling of metals, the limited application of solar power and better insulation to household and commercial usage and the use of reusable containers is presented. It is shown that per capita energy consumption can be reduced to 62% of the 1968 levels. The demands for nonrenewable resources such as mineral ores and fuels are also greatly reduced.

Today, there is a general consensus that the betterment of the human condition in the U.S.A. is intimately correlated with increases in per capita energy consumption. Since the utilization of energy and material resources has provided us with diverse necessities and comforts while at the same time contributing to the deterioration of the environment, it is felt that an evaluation of the efficiencies of the use of energy and materials is necessary. Upon analysis, it is shown that the present efficiencies of utilization of both energy and material resources are low and that their improvement is possible. This results both in the maintenance of current material standards of living and in the enhancement of the environment or at least a prevention of its deterioration at the current rapid rate.

I. The reduction of pollution and the conservation of the world's resources

Pollution can be reduced by two methods: (a) Control and reduction of the waste products of fuel and materials consumption and (b) Reduction in materials consumption

(including fuels) and re-use of non-fuel resources where possible.

These methods are regarded as complimentary, though the emphasis here is on the latter method.

The effects of energy and materials consumption appear in the various forms of waste discharged to the environment. Air, thermal, water, radioactive nuclide, sound and solid wastes pollution are some of them. Fig. 1 [1] shows an approximate relation between energy consumption and solid waste generation. In Fig. (2) [1] we see that per capita production of solid wastes increased 84% between 1920 and 1970. In this same period energy consumption increased 90% per capita. To some extent this extremely close correlation is fortuitous, since not all components of solid wastes require artificial energy for production (e.g. leaves) and not all the wastes represented by energy consumption appear as solid wastes (e.g. air and thermal pollution). Nevertheless, a large portion (75% excluding food) of today's solid wastes are industrially processed materials [1]. Their abandonment is a measure of our disregard for the finiteness of our resources.

Increasingly, the raw materials and fuels used in the U.S. and developed nations in general are being imported ([2], [3]), chiefly from the underdeveloped nations of the world. This does to some extent mitigate the short term foreign exchange problems in poor countries ([4], [5]), but viewed from the point of their own development, if and when this occurs, a continued drain on irreplaceable mineral and fuel resources from these countries can hardly be considered desirable, especially if these resources are utilized in such a manner as to make their reutilization very difficult or impossible.

2. The marginal relationship of standard of living, GNP and energy consumption

Marginal relationship is defined as an order-of-magnitude relationship.

In studies on energy consumption, the terms "standard of living" and "Gross National Product" are often used interchangeably. Both of these terms are imprecise ([3], [4]), although for different reasons. The idea of a "standard of living" as related to consumption of goods is highly personal. However, it is possible at least to some extent to qualify this personal idea by the examination of the availability of food supplies, housing, clothing, medical, recreational, transportation and communication facilities and the like. To the extent that the GNP measures these facilities it is an indicator of this quantified standard of living [4]. GNP, however, includes such items as defense and government spending. Part of the nondefense government spending is in the form of direct monetary redistribution in the form of social security, G.I. bills and the like. These parts are counted twice in that the government only serves as the redistributing agent for the money, the "goods and services" are actually purchased by the recipients and counted in the item on consumer expenditures. In relation to trade, net exports are added to GNP, whereas net *imports* should be added since imports represent the items actually consumed.

One must be very circumspect in comparing GNPs of different countries and inferring relative standards of living primarily since the local buying power of currencies varies greatly from country to country. Since some form of energy (natural or artificial) is required to produce many of the items relating to these needs and comforts, energy consumption appears to have an order of magnitude relationship with per capita GNP.

It is manifest that in the poor countries of the world, the items that go to make up a "good" standard of living listed above, are in scarce supply. Simultaneously, the per capita energy consumption is low compared to that of the developed countries. One concludes therefore that energy consumption and the availability of human needs and comforts are at least quantitatively related and since GNP has an order of magnitude relation to energy consumption, GNP is at least marginally related to standards of living.

We now show that in comparing the developed countries, it is not possible to relate GNP with energy consumption to a degree of precision better than that indicated above. In Fig. 4 [2], we see that the U.K., Belgium, Australia, Germany, Denmark, Norway, France and New Zealand had GNPs within 10% of each other while the per capita commercial energy consumption (including industry, commerce and transport, but excluding household and miscellaneous uses) varied between 110×10^6 and 45×10^6 Btu (New Zealand). In section III a brief comparison is made between these countries from the points of views of standards of living and structure of the economy. Yet it is this same figure that has been used as a justification for the statement: "high energy consumption levels and high income levels go hand-in-hand" (reference [2], p. 4), thus implying a strong positive correlation between the two. In the light of the above comments it can be seen that that is an erroneous statement.

It is also pertinent to note that per capita GNP and per capita income represent averages and say nothing of the distribution of income levels. If a wide disparity in income levels—and consequently a large population segment that is poor—exists in any country, then per capita GNP can hardly represent the standard of living in that country. South Africa is a good illustration of this non-correlation.

Whether reductions in per capita energy consumption will be accompanied by a decline in the per capita GNP is beyond the scope of this study to answer. However, as noted above, this study demonstrates that reductions in energy consumption need not be accompanied by reductions in the availability of material goods and comforts.

II. Analysis of energy and materials usage

In this section, an analysis of the energy and materials consumption according to the goods consumed in the U.S. is made. The raw data were obtained largely from the various U.S. and U.N. statistical reference books listed in the reference section. Where such data were insufficient or not available, consultations with individual industries and design firms were made to determine the energy content of a given product.

The amounts of energy to produce unit amounts of basic materials (generally short tons) such as steel, aluminum, glass, cement, etc. are given in Table I. The units of energy are kilowatt hours thermal (kwht). Where electricity is used in the production process kilowatt hours electrical (kwhe) are converted to kwht by the formula kwht=kwhe/0.3. This includes generation as well as transmission losses. For example, it takes 12,600 kwht to produce a ton of rolled steel whereas it takes 67,200 kwht to produce a ton of rolled aluminum.

From Table I, it is at once apparent that while steel is the basic material that consumes the largest amount of energy, substitutions of aluminum for steel would (and do) result in large increases in energy consumption.

The energy content of various consumer goods and the total and per capita energy consumption as represented by each item are presented in Table II. A more detailed breakdown is certainly possible and a compromise has been made here between such a breakdown and the facility for the identification of large components of energy consumption. Data on materials usage breakdown for some important items is presented in Table III.

TABLE I.[1]—ENERGY CONSUMPTION IN BASIC MATERIALS PROCESSING

[All tons are 2,000 lbs.]

Item and material	Energy for unit production [2] (kw.-ht/ton)	Machinery depreciation [2,3] (kw.-ht./ton)	Transportation [3,4] (kw.-ht./ton)	Total [3] (10^3 kw.-ht./ton)	Percent of tons consumed, 1968 [5]	Total energy (kw.-ht.)	Percent of total energy consumption, 1968 [6]
1. Steel (rolled)	11,700	700	200	12,600	*90×10^6	1.13×10^{12}	6.2
2. Aluminum (rolled)	66,000	1,000	200	67,200	4.07×10^6	2.74×10^{11}	1.49
3. Copper (rolled or hard drawn)	20,000	800	200	21,000	2×10^6	4.2×10^{10}	.228
4. Silicone metal and highgrade steel alloys	58,000	1,000	200	59,200	2×10^6	1.19×10^{11}	.65
5. Zinc	13,800	700	200	14,700	1.5×10^6	2.2×10^{10}	.12
6. Lead	12,000	700	200	12,900	0.467×10^6	6.05×10^9	.035
7. Miscellaneous electrically processed metals	50,000	1,000	200	51,200	$\approx2\times10^6$	1.02×10^{10}	.056
8. Titanium (rolled)	140,000	1,000	200	141,200	$\approx16\times13^3$	2.24×10^9	.012
9. Cement	2,200	50	50	2,300	74×10^6	1.7×10^{11}	1.0
10. Sand and gravel	18	1	[7] 2	21	918×10^6	1.83×10^{10}	.10
11. Inorganic chemicals	2,400	100	200	2,700	67×10^6	1.8×10^{11}	.985
12. Glass (plate finished)	6,700	300	200	7,200	$\sim10^6$	7.2×10^{10}	.394
13. Plastics	~2,400	300	200	2,900	$\sim6\times10^6$	1.74×10^{10}	.095
14. Paper (finished, average)	5,900	300	200	6,400	50.7×10^6	3.24×10^{11}	1.77
15. Lumber	[8] 1.47	[8] 0.02	[8] 0.02	[8] 1.51	†3.75×10^{10}	5.66×10^{10}	.309
16. Coal	40	2	----------	42	556.7×10	3.3×10^{10}	.2

[1] References [3], [6] through [12].
[2] In kw.-ht. per short ton (2,000 lbs.) unless noted. Throughout the paper tons means short tons.
[3] These are order of magnitude numbers derived as follows: For steel calculations are on the basis of 1 ton of installed equipment excluding buildings) per annual ton of steel production. Depreciation is calculated on a 30 year straight line basis. For nonelectrically processed metals the depreciation is taken to be equal to that for steel. Production facilities involving predominantly electrical equipment are amortized over 20 years and therefore the depreciation per ton is 1.5 times that for steel. For nonmetals, the depreciation per ton allocation is about 5 percent of the energy required for producing 1 ton of product.
[4] Figures are the sum of average railroad shipping distance (286 miles) plus 200-mile trucking.
[5] Accuracy is ±15 percent except as follows. Numbers prepared with ≈ should be within 50 percent of the correct values and those prefaced with ~ are order of magnitude estimates.
[6] Assumed the same as inorganic chemicals for lack of information.
[7] Short distance hauling.
[8] Per board foot.
*Excluding alloys.
†Board feet.

TABLE II [1].—ENERGY CONSUMPTION BREAKDOWN

Item No. and finished product	Energy/unit product (kwht)	Consumption (1968)	Total energy (kwht)	Per capita [2] energy (kwht/hr.)	Comments
1. Food (excluding beverages)	1,600/ton	2×10^{8} tons	3.2×10^{11}	0.185	
2. Beverages:					
(a) Carbonated	~3/gallon	$\sim5\times10^{9}$ gallons	1.5×10^{10}	.009	Excluding containers.
(b) Distilled	~15/gallon	$\sim2\times10^{8}$ gallons	3×10^{9}	.002	Excluding containers.
3. Textiles (including leather goods)	[3]		6×10^{10}	[4].035	Chlorine gas used in artificial fabric manufacture. Manufacture of chlorine gas is the major cause of mercury pollution.
4. Construction	[3]				
(a) Residential			[5] 3.02×10^{11}	.175	
(b) Nonresidential			[5] 8.04×10^{11}	.465	
5. Roads			[5] 1.2×10^{11}	.07	Includes street lighting.
6. Trucks:					
(a) Manufacture	89,000 [6]	1.896×10^{6}	1.69×10^{11}	.098	
(b) Operation			1.01×10^{12}	.575	Excluding transportation for basic materials (see table col. 5).
7. Passenger autos:					
(a) Manufacture	31 000 [7]	10.5×10^{6}	3.26×10^{11}	.189	
(b) Operation			2.67×10^{12}	1.545	
8. Ships:					
(a) Civilian:					
(i) Manufacture	4,500/gross ton [8]	0.44×10^{6} gross tons	1.99×10^{9}	.001	25 percent oil tankers.
(ii) Operation			[9] 1.7×10^{10}	.010	
(b) Military:					
(i) Manufacture	4,500/gross ton	[10] 5.52×10^{6}	2.5×10^{10}	.015	Approximate values.
(ii) Operation (see item 10(c)).					
9. Trains:					
(a) Manufacture	20,000/ton dead weight. [11]	3.26×10^{6} tons dead weight.	6.52×10^{10}	.038	
(b) Operation			1.8×10^{11}	.104	
10. Aircraft: [12]					
(a) Civilian:					
(i) Manufacture:					
Single engine	$\sim2\times10^{6}$ kwht	9,000 units	$\sim1.8\times10^{10}$	.010	Very approximate. Includes aluminium used. (See table III.)
Multiengine	$\sim18\times10^{6}$	1,500 units	$\sim2.7\times10^{10}$	.015	Very approximate. Includes aluminium used. (See table III.)
(ii) Operation			2.9×10^{11}	.168	Domestic traffic only.
(b) Military:					
(i) Manufacture	$\sim18\times10^{6}$	1,000 units	$\sim1.8\times10^{10}$	.010	As above for civilian aircraft manufacture except that titanium is includable.
(ii) Operation (see item 10(c)).					
(c) Military vehicles operation			1.42×10^{11}	.082	Approximately 80 percent for aircraft.
11. Industrial machinery	20,000/ton [11]	8.4×10^{6} tons	0.68×10^{11}	.039	Steel (except high-grade alloys), lead, zinc used—total excludes basic materials processing machinery. See table I (i.e., excludes 10^{11} kwht).
	62,000/ton	4×10^{6} tons	2.48×10^{11}	.144	High-grade steel alloys and electrically processed metals (except aluminium). See table III.
	75,000/ton	0.5×10^{6} tons	3.75×10^{10}	.022	Electrical aluminium. See table III.
	29,000/ton	2×10^{6} tons	5.8×10^{10}	.034	Electrical copper. See table III.
12. Household and commercial durables:					
(a) Steel	20,000/ton [11]	4.4×10^{6}	8.8×10^{10}	.051	
(b) Aluminium	75,000/ton	0.4×10^{6}	3.0×10^{10}	.017	
13. Defense related steel	20,000/ton [11]	2.06×10^{6}	4.12×10^{10}	.024	Direct production only.
14. Miscellaneous steel	20 000/ton [11]	26.6×10^{6} tons	5.32×10^{11}	.31	Spare parts, nuts, bolts etc.
15. Agricultural implements	20,000/ton [11]	1.38×10^{6} tons	2.76×10^{10}	.016	
16. Steel cans and packaging	1.0/12 oz. can (20,000/ton).	7.8×10^{6} tons [13]	1.56×10^{11}	.090	55 percent cans and containers, 45 percent packaging. 10 cans/pound. Recycling energy approximately 0.5 kwht/12 oz. or 5 kwht/lb.
17. Aluminium cans and packaging	2.07/12 oz. can (82,000/ton).	0.4×10^{6} tons [13]	3.3×10^{10}	.019	Growth rate is 10 percent per year (ref. [3]). 20 cans/pound. Recycling energy is approximately 0.5 kwht/12 oz. or 10 kwht/lb.
18. Miscellaneous aluminium	70,000/ton	1×10^{6} tons	7×10^{10}	.041	
19. Glass:					
(a) Containers	4/lb	10^{10} lbs	4×10^{10}	.023	Recycling energy requirement is the same as for manufacture of new glass.
(b) Miscellaneous	4/lb	$\sim2\times10^{9}$ lbs	$\sim8\times10^{9}$	~.005	
20. Wooden crates	1.51 board feet	10.5×10^{9} board feet	1.59×10^{10}	.009	
21. Plastics:					
(a) Packaging and containers	$\sim3.5\times10^{3}$/ton	$\approx10^{6}$ tons	$\sim3.5\times10^{9}$	.002	Mercury pollution due to use of Cl^{2} gas. (See item 3.)
(b) Miscellaneous	$\sim3.5\times10^{3}$/ton	$\approx3.7\times10^{6}$ tons	$\sim1.3\times10^{10}$	~.008	Mercury pollution due to use of Cl^{2} gas. (See item 3.)
22. Paper (average, including paperboard)	6,400/ton	46.2×10^{6} tons	2.96×10^{11}	.172	43 percent in the form of paperboard and 5.6 percent in the form of newsprint is recyclable. This probably has no advantages in energy savings but obvious ones in forest conservation.
23. Nonenergy uses			1.2×10^{12}	.7	Excluding coke used for pig iron production. Includes carbon black production (NG), lubricating oils (lubricating oils for transport 4×10^{10} kwht for industry 4.9×10^{10} kwht) petrochemicals (1.73×10^{11})).
24. Inorganic chemicals	2,400/ton	67×10^{6}	1.6×10^{11}	.093	
25. Commercial lighting and miscellaneous electric (air conditioning).			5.18×10^{11}	.3	
26. Household lighting and miscellaneous electric			8.64×10^{11}	.5	
27. Household space heating			1.97×10^{12}	1.14	
28. Miscellaneous household heat			5.7×10^{11}	.33	Includes cooking.
29. Commercial space heat			2.24×10^{11}	.13	
30. Commercial miscellaneous heat			6.9×10^{11}	.4	
31. Miscellaneous space heat			1.2×10^{11}	.07	
32. AEC			$\approx3\times10^{11}$	.174	Operation of nuclear reprocessing plants, gaseous diffusion plants, and weapons R. & D. (See reference [3] ch. 10.)
33. Petroleum processing	44.5 per barrel	3.216×10^{9} barrels	1.43×10^{11}	.083	
34. Coal processing	42/ton	556.7×10^{6} tons	3.3×10^{10}	.018	
35. Miscellaneous industry			1.75×10^{12}	1.0	Electronic industry, rubber, paints, miscellaneous mining fertilizers, toys, instruments, ceramics, stone and clay products, etc.
36. Agricultural kerosene consumption			6.25×10^{9}	.004	
37. Public electric consumption			8.3×10^{10}	.048	Use by Federal, State, and local government excluding defense, AEC, and street lighting.

Footnotes at end of table.

TABLE II [1].—ENERGY CONSUMPTION BREAKDOWN—Continued

Item No. and finished product	Energy/unit product (kwht)	Consumption (1968)	Total energy (kwht)	Per capita [2] energy (kwht/hr.)	Comments
38. Natural gas processing:					
(a) Pipeline losses			1.59×10^{11}	.092	3 percent of ng production (average).
(b) Gases vented and wasted			2.12×10^{11}	.123	4 percent of ng production (average).
(c) Pipeline power			1.85×10^{11}	.107	3.5 percent of ng production (average).
Subtotals			17.2×10^{12}	9.98	
Unaccounted for			1.1×10^{12}	.62	See reference [8].
Total consumption (1968)			18.3×10^{12}	10.6	

[1] Figures are calculated by adding energy for manufacture and energy for processing the materials used. General accuracy limits ±20 percent.
[2] On the basis of U.S. population of 200,000,000.
[3] Too miscellaneous to compute 1 figure.
[4] On the basis of a 1-percent-per-year increase since 1950 during which year the consumption per capita (total for textile industry divided by the population in 1950) was 0.0294 kwht/hr.
[5] Total consumption electric power in construction $=0.7\times10^{12}$ kwht. This has been distributed to residential and nonresidential according to the percentage of total costruction money spent in the 3 sectors (43 percent residential, 47 percent industrial, commerical and public, 10 percent highways). All construction aluminium, steel, cement, sand and gravel was assumed to be in items 4(b) and 5 according to table III. Construction plastics are divided equally between residential and nonresidential construction.
[6] On the basis of a 10,000-lb. truck with material processing, energy approximately equal to that for steel which constitutes about 80 percent of the weight of the truck.
[7] On the basis of a 3,300-lb. automobile (average including imports) calculated as in note 6 except that 0.2×10^{6} tons of Al (40 lbs./car) has been added.
[8] One-sixth ton of dead weight per gross ton. Assumed steel.
[9] Roughly the same tonnage carried as trucks at approximately 0.18 kwht/ton mile.
[10] About 10^{6} tons of steel were used for ship construction. Of this about 0.08×10^{6} tons was for civilian ships (gross weight divided by 6: note 8). The rest of this steel (0.92×10^{6} tons) is assumed to be military construction and the gross weight is obtained by multiplying this number by 6. Probably an underestimate since the weight of other materials is neglected
[11] Assuming the same energy/ton of steel as for car manufacture.
[12] Assumes that 50 percent of the aluminum used for transportation was used for aircraft. (See table III. Also see reference [3], table A 9–4.)
[13] Including all containering and packaging. About 50 percent in cans.
Note: References: [3], [6], through [12].

TABLE III.—MATERIALS USAGE BREAKDOWN

[Figures are percent of production (1968)]

Item and material	Construction	Automotive	Domestic equipment	Industrial equipment	Packaging and containers	Defense	Misc.
1. Steel	19	21 (cars and trucks only)	4.8	9.15	8.5	2.24	4.7 rail and ships, 1.5 agriculture, 29 percent miscellaneous.
2. Aluminum	22	20 (includes all forms of transportation) Assumed 5 percent cars, 5 percent mobile homes, 10 percent aircraft.	----------	[1] 13	10	(6)	25 including defense.
3. Plastics	~20				≈18		62.
4. Glass [2]	~40				≈50		10.
5. Paper	8				[3] 40		5.6 newsprint, 21 other print, 6.8 tissues, etc.
6. Sand and gravel	{50 paving, 50 building}						
7. Cement [4]	{50 paving, 50 building}						
8. Lumber	{43.5 residential, 31.0 industiral and commercial}				[5] 18.5		8.

Note: References: [3], [6], [8].
[1] Electrical equipment.
[2] Very approximate.
[3] Industrial paperboard.
[4] Assumed same as sand and gravel.
[5] Percent.
[6] Not available.

III. A comparison of energy consumption and standards of living in New Zealand and the United Kingdom

Table IV shows a comparison between New Zealand and the United Kingdom. These countries have been selected since their standards of living are comparable and their per capita energy consumptions differ by a factor of two.

The climate of both countries is approximately the same and though the population densities are very different this does not appear to be a factor—see item (2), col. (5) in Table IV.

The large differences in energy consumption between these two countries can be attributed to the basic differences in the structure of their economies—i.e. the components that go to make up their GNPs. The U.K. concentrates on the production and fabrication of primary metals, metals products and other manufactured goods. The economy of the U.K., can be called "energy intensive" [10] since the energy content of its products is high relative to their total value. (See Table V). The economy of New Zealand relies primarily on agrarian products such as butter, meat, wool, etc. These products have a high value relative to the amount of energy spent in manufacturing them even though the food processing industry is highly automated. (In the U.S. where the food industry is automated it takes 7½ times as much energy to make a ton of rolled steel than it does to produce a ton of food—see Tables I and II).

TABLE IV.—A COMPARISON OF NEW ZEALAND AND THE UNITED KINGDOM

[Quantities are for 1961]

Number and item	New Zealand	United Kingdom	Comments
1. Population	2.4×10^{6}	52.7×10^{6}	
2. Population density	9/km.^{2}	217/km.^{2}	Apparently not a major factor in energy consumption since Denmark has a population density of 107/km.^{2} and an energy consumption about 1.3 times that of New Zealand. Population density of Australia is lower than both Denmark and New Zealand but the energy consumption is higher. See fig. 4.
3. Per capita GNP	U.S. $1,550	U.S. $1,400	
4. Energy consumption per capita:			
(a) Industrial, commercial, and transportation	18,000 kw.-ht	32,000 kw.-ht	The per capita energy for New Zealand includes energy for steel imports assuming all such imports were in the manufactured form.
(b) All other	2,400 kw.-ht	6,000 kw.-ht	Difference is probably due to the colder climate of the United Kingdom and the relatively inefficient space heating systems operative there.
5. Steel consumption per capita	0.256 ton	0.4 tons	The difference is a good indication of the plowback of metals into industry in manufacturing industries oriented economy.
6. Tin per capita	0.3 lb	1 lb	See comments for item 5 above.
7. Fertilizers per capita	210 lbs	37 lbs	
8. Cement per capita	600 lbs	600 lbs	
9. Net food supply per capita	3500 cal/day	3150 cal/day	
10. Wheat productions per capita	187 lbs	160 lbs	Both countries import approximately the same quantity of wheat per capita.

TABLE IV.—A COMPARISON OF NEW ZEALAND AND THE UNITED KINGDOM—Continued

[Quantities are for 1961]—Continued

Number and item	New Zealand	United Kingdom	Comments
11. Meat production per capita	685 lbs	78 lbs	
12. Butter production	216.6 tons	49.1 tons	New Zealand butter is 99.9 factory manufactured as compared with 90 percent for United Kingdom.
13. Rail freight per capita	910 ton km	600 ton km	
14. Unemployment	0.4 percent	1.5 percent	
15. Number of people per telephone	2.87	6.17	
16. Number of people per car	4.4	8.2	
17. Number of people per commercial vehicle	18.4	36	
18. Number of passenger-Km by aircraft per capita	114	132	
19. Education, number of school students per teacher	26 (1960)	29 (1959)	
20. Number of people per doctor	830	810	Dentists excluded. Data are for 1967.
21. Housing:			
(a) Number of people per house	4.26	3.84	Includes only those housing units that are occupied.
(b) Number of rooms per house	4.8	4.6	

Source: U.N. Statistical Handbook (1962, 1969) reference [12].

TABLE V

Item number and industry	Percent of the price of the final product spent on energy
1. Tobacco	0.9
2. Textile	3.1
3. Paper	6.9
4. Glass	11.2
5. Primary metals	22.6
6. Average for all industries	4.5

Note: Data are for the United States, 1950. Reference: [8].

IV. The reduction of energy and raw materials consumption

The methods by which energy and raw materials consumption can be reduced are discussed in this section. A proposed model of energy consumption for the year 2000 is presented in Table VII.

The discussion here is predicated on the basic assumption that the people of this country consider their current "standard of living" in terms of material facilities to be "good" and do not desire it changed in any basic way. Consequent to this is the retention of the industrial (rather than agrarian) structure of the economy.

(i) Five methods of reducing energy and/or raw materials consumption are outlined below. They are:

1. The use of solar energy.
2. The use of the "total energy" concept in industry.
3. Materials reuse and recycling.
4. The improvement of fuel usage efficiency in transportation.
5. Improvement in the thermal efficiency of electric power plants.

1. *The use of solar energy.* The ecological advantages of the use of solar energy are manifold. The scientific feasibility of solar energy use has been established and it currently has technological applications in the space program and to a small extent in miscellaneous low energy applications such as highway telephones. It is believed that the economic application of solar energy for household heating and for the partial substitution of household and commercial electrical energy requirements by the use of heat pumps could be developed within a few years, if the necessary funding for the R & D were to become available. Many houses using solar energy for heating are currently in existence. These must be considered as pilot projects and development is certainly required for large scale application.

2. *The "Total Energy" Concept* (see references (13), (14), (15)). This concept is built around the utilization of waste heat from the generation of electricity. It is applicable primarily to industries (or a group of contiguously located industries) and other establishments with large demands of heat, electricity and/or motive power. Electricity is generated locally. The waste heat (in the form of the combustion produced gases) is then utilized to run large turbines (generally larger than 1000 h.p., although smaller ones have been installed), or in such operations as preheating, drying, space heating or even desalination. The overall thermal efficiency of such establishments is claimed to be 75–85 percent (as compared with 40 percent or less for fossil fuel or nuclear power plants). This concept has been applied to industry on a limited scale and can be applied to hospitals and commercial establishments with nearly continuous power demands.

3. *Materials Reuse and Recycling:* The energy requirements for the recycling of metals are generally much smaller than those for their production from ore (See Table VII). Therefore, even if the energy for the fabrication of end products were to remain constant, the total energy requirements for a given end product are generally lower (See Table VII).

As regards cans and containers it is found that the differences in the energy of manufacture of new containers does not vary much between steel and aluminum containers (steel being lower per can than aluminum).

The weight of bottles is too variable for a direct comparison and the energy of manufacture for a bottle may vary between half and double that for a comparable steel container. While recycling of metal containers effects economies in both energy and materials consumption compared to the production of new ones, the most economical from the point of view of both energy and materials is the reuse of bottles as the energy requirements for cleaning are negligible compared to those for the manufacture of new containers. In Table VI, it has been assumed that containers will be of glass and will be reused. (Note: generally a 10% allowance for breakage and loss has been made in Table VII for items reused or recycled.)

4. *Transportation fuel economy:* On adding all the civilian usage of transportation energy in Table II, one finds that about one fourth of the total energy consumption is directly attributable to this sector. This does not include energy demands for gas stations, sales stores, petroleum processing, maintenance and repair shops and spare parts manufacture except at the factory of origin. Energy consumption for transportation can be reduced by increasing the fuel economy of automobiles, by partial replacement of commuter traffic by rapid transit and partial replacement of truck freight. The example of the automobile is illustrated below.

The average weight of an American car (including imports) is about 3000 lbs.; the average gasoline utilization is 13.9 miles/gallon; and the average life is about 5 years. On changing these numbers to 2000 lbs., 25 miles/gallon, and 10 years, diverting 30% of the mileage to mass transit (see Para. (ii) 1 below), maintaining production at the replacement rate (on the basis of 2 persons/car compared to 2.6 persons/car at present) and utilizing recycled materials (paragraph 2) below one has the following: Energy for production, 12,500 kwht/car (Note 3, Table VII); No. of cars produced, 11.25 x 10^6/yr. (Population 225 x 10^6); Energy for operation, 0.6 kwht/hr. per capita; Total per capita equals 0.67 kwht/hr. per capita (Compared with 1.75 kwht/hr. in 1968).

5. *The improvement of thermal efficiencies of electric power plants.* This can be achieved by the use of MHD topping cycles and/or an increase in maximum operating temperatures. Both of these fare serious materials problems.

Item 36 in Table VI illustrates the saving in energy that can be accomplished by increasing the thermal efficiency to 50%. While these savings are not very large, their consequences on the environment in terms of the reduction of thermal pollution are important.

TABLE VI.—COMPARISON OF PASSENGER TRANSPORTATION METHODS

Item number and transport mode	Energy [1] kw.-ht/ passenger mile
1. Car (2 passengers/car)	1.47
2. Bus (U.S. average)	.37
3. (a) train (possible)	[2] .22
(b) U.S. average	.58
4. Air (U.S. average 50 percent load factor)	2.0
5. Ship	4.4

[1] 44 kw.-ht per gallon of fuel oil.
[2] Mix of commuter and pullman trains.

Note: Reference: [6].

6. *Miscellaneous Methods.* The development of superconductor applications for the transmission of electrical energy and for electric motors will probably effect large savings in materials usage in the electric industry. For example it is estimated that a 3000 hp. superconductor motor would be about 1/10th the size of the present one [16]. The technical feasibility of these processes has not been established and they will not make any major impact on the energy picture in the near future.

(ii) A model for energy consumption in the year 2000.

Basic assumptions:

(1) The assumption as regards standards of living mentioned above applies. It is often argued that increased energy consumption is necessary to raise the standard of living of those who do not now fully partake of the material well being in the U.S. In a limited study on apartment houses in New York City (17), it was found that household electrical energy consumption was higher in the poor section studied than in the ones occupied by the more affluent. (A definitive study of energy consumption and income levels has not yet been conducted.) The indications are that direct energy consumption by households is fairly independent of income, although this must necessarily be regarded at this time as a qualitative judgment. The indirect consumption of electricity in the consumption of goods is undoubtedly lower for people with low income levels. Allowances for this have been made in Table VII. A 10% per capita increase in housing, increases in public transportation energy and a decrease in the ratio of number of people per car from 2.6 to 2 have been incorporated

TABLE VII—A PROPOSED MODEL FOR ENERGY CONSUMPTION FOR THE YEAR 2000 [1]

Item and finished product	Energy for production kw.-ht.	Consumption units	Total energy kw.-ht.	Per capita energy kw.-ht./hr.	Per capita reduction compared to 1968 kw.-ht./hr. [2]	Comments
1. Food	1,600/ton	2.25×10^{8} tons	3.6×10^{11}	0.185	0	
2. Beverages:						
(a) Carbonated	3/gallon	5.6×10^{9} gallons	1.7×10^{10}	.009	0	
(b) Distilled	15/gallon	2.25×10^{8} gallons	3.38×10^{9}	.002	0	
3. Textiles	[3]		6.9×10^{10}	.035	0	
4. Construction (all types)	[3]		1.3×10^{12}	.657	−.017	10 percent per capita increase in housing assumed. Could be reduced if construction metals are recycled. All new materials assumed.
5. Roads	[3]		1.38×10^{11}	.07	0	It's assumed that energy reduction in road building will be counterbalanced by better street lighting.
6. Trucks [4]						
(a) Manufacture	58,000	$^{5}1\times10^{6}$	5.8×10^{10}	.029	.069	
(b) Operation			5.65×10^{11}	[5].285	.285	Excluding basic materials transport energy. See tables I and II.
7. Passenger cars:						
(a) Manufacture	12,000	11.25×10^{6}/year	1.35×10^{11}	.068	.121	As outlined in the text. [6]
(b) Operation			1.19×10^{12}	.602	.943	
8. Ships			5.15×10^{10}	.026	0	
9. Aircraft:						
(a) Civilian			3.50×10^{11}	.179	.016	[9].
(b) Military			9.05×10^{10}	.046	.047	50 percent per capita decrease—assuming the war is over.
10. Trains:						
(a) Passenger			1.90×10^{11}	.096	−.096	[9].
(b) Freight			3.72×10^{11}	.188	−.046	[10].
11. Industrial machinery:						
(a) Steel, Pb, Zn	13,250/ton [11]	9.7×10^{8} tons	1.3×10^{11}	.066	.033	All machinery including basic materials processing machinery.
(b) Aluminum	27,800/ton [11]	0.28×10^{8} tons	7.8×10^{9}	.004	.018	50 percent per capita reduction in electrical at and on demand due to per capita reduction in energy consumption.
(c) Copper	20,000/ton [11]	1×10^{6} tons	2×10^{10}	.010	.024	
(d) Steel alloys	62,000/ton	4.5×10^{6} tons	2.84×10^{11}	.144	0	Assumed new.
12. Household and commercial durables:						
(a) Steel	13,250/ton [11]	5×10^{6} tons	6.6×10^{10}	.034	.017	
(b) Aluminum	27,800/ton [11]	4.5×10^{6} tons	1.2×10^{10}	.006	.011	
13. Defense related steel	13,250/ton [11]	1.16×10^{6} tons	1.55×10^{10}	.008	.016	50 percent per capita reduction in consumption.
14. Miscellaneous steel	13,250/ton [11]	22×10^{6} tons	2.92×10^{11}	.148	.162	
15. Agricultural implements	13,250/ton [11]	1.55×10^{6} tons	2.05×10^{10}	.011	.005	
16. Steel packaging	13,250/ton [11]	4×10^{6} tons	5.3×10^{10}	.026	.064	[12].
17. Aluminum packaging	27,800/ton	0.225×10^{6} tons	6.5×10^{9}	.003	.016	[13].
18. Miscellaneous aluminum	27,800/ton	1.125×10^{6} tons	3.12×10^{10}	.016	.025	
19. Glass:						
(a) Containers: [14]						
(i) New	8,000/ton	0.526×10^{6} tons	4.3×10^{9}	.002	.021	
(ii) Reused	800/ton	4.734×10^{6} tons	3.78×10^{9}	.002	−.002	
(b) Miscellaneous	8,000/ton	1.125×10^{6} tons	9×10^{9}	.005	0	
20. Wooden crates	1.51/board-ft	1.285×10^{10} board-ft.	1.94×10^{10}	.010	0	
21. Plastics	~3.5x10 [3]/ton	8.94×10^{6} tons	3.12×10^{10}	.016	−.006	Including containers at the 1968 per capita level. Increase due to substitution for miscellaneous steel.
22. Paper and paperboard	6,400/ton	52×10^{6} tons	3.40×10^{11}	.172	0	[15].
23. Nonenergy uses			6.9×10^{11}	0.35	.35	[16].
24. Inorganic chemicals	2,700/ton	67×10^{6} tons	1.81×10^{11}	.093	0	
25. Household heat and electricity			2.35×10^{12}	1.19	.785	[17].
26. Commercial and miscellaneous space heat and commercial miscellaneous heat.			9.9×10^{11}	0.5	.1	Reduction due to improved insulation techniques.
27. Commercial lighting and miscellaneous electricity.			5.95×10^{11}	.3	0	
28. AEC			3.0×10^{11}	.152	.022	[18].
29. Miscellaneous industry			1.48×10^{12}	.75	.27	A 25 percent reduction in per capita energy is assumed.
30. Petroleum processing	44.5/barrel	1.83×10^{9} barrels	8.15×10^{10}	.042	.041	50 percent per capita of 1968 due to reduction in transportation requirements.
31. Agricultural kerosene			7.0×10^{9}	.004	0	
32. Public electric consumption			1.04×10^{11}	.053	−.005	10 percent increase per capita for running of sewage treatment facilities (fertilizer production).
33. Natural gas processing:						
(a) Pipeline losses			4.26×10^{10}	.023	.069	Production at 50 percent of 1968 per capita level. Loss rate at 50 percent of 1968 loss rate.
(b) Gases vented and wasted			6×10^{10}	.031	.092	
(c) Pipeline power			1.05×10^{11}	.054	.053	50 percent of 1968 level (per capita).
34. Unaccounted for in 1968			9.2×10^{11}	.465	.155	25 percent per capita reduction assumed.
35. Improvement in electric generation efficiency.				−.33	.33	[19].
Total			13.2×10^{12}	6.7	4.0	

[1] Based on a population of 225,000,000; i.e., a ¾ percent growth rate. Per capita consumption of items is assumed the same as for 1968 except as specifically described.

[2] Too miscellaneous to compute 1 figure.

[3] Negative number denotes an increase over the 1968 levels.

[4] 10,000 pound trucks calculated as in note 3.

[5] Assume that 50 percent of the present truck freight will be diverted to railroads. The production of 10^{6} trucks is equal to 50 percent of the per capita production of 1968. Similarly for fuel consumption.

[6] Energy for production is calculated as follows:

(a) Materials processing energy (fully recycled metals)

1. All metals except aluminium=4,200 kwht./ton=4,200 kw.-ht./ton.
2. Aluminium=25,000/ton=375 kw.-ht./40 lbs.

(b) Manufacture energy/ton 7,400 kwht.=7,400.

Total 11,975.

[7] Includes manufacture of civilian and military ships and operation of civilian ships. Operation of military ships is included in item 9. No change in per capita energy consumption compared to 1968; i.e. materials assumed to be new.

[8] 50 percent new and 50 percent recycled aluminium. Per capita production and fuel consumption at 1968 levels. It is assumed that increases in per capita travel can be accommodated by improving the load factor which is only 50 percent at present—See table IV.

[9] Includes operation plus 10 percent for manufacture. Replaces 30 percent of the 1968 per capita car mileage.

[10] Increase is due to take over of 50 percent of truck ton mileage.

[11] In general machinery energy figures are calculated assuming 90 percent recycled and 10 percent new materials with the same energy per ton for fabrication as in 1968. Thus for steel 1 ton of end product requires 13,250 kw.-ht. of energy.

[12] Assumed that 25 percent of the per capita demand for miscellaneous steel will be replaced by nonmetals. These nonmetals are assumed to have one-half the density of steel so that the corresponding per capita consumption by weight of these items is reduced by half.

[13] All metal cans are assumed to have been replaced by reusable glass containers.

[14] All metal containers have been replaced by reusable glass containers. Therefore with a 10 percent breakage rate, 10 percent of the containers are new and 90 percent are reused. It is assumed that the average weight of the glass container will be reduced by 50 percent (see "Resources in America's Future" [3]) and that the energy required for reuse as represented by cleaning is 10 percent of the energy for the manufacture of a new container. Transportation has been accounted for in item numbers 6 to 10. The per capita requirements for containers is assumed to be at the 1960 level.

[15] It is assumed that paper and paperboard will be recycled, but that this will not result in energy savings.

[16] Since most of the nonenergy use is accounted for by lubricants, carbon black and petroleum pipeline losses, it is assumed that improvements in materials and reduction in pipeline losses and improvments in lubrication techniques will have the 1968 level of per capita energy use for this item.

[17] It is projected that in the year 2000, 53 percent of the dwelling units will have been built in the period 1980–2000. See reference [3]. Allowing 10 years for research and development of solar energy usage, it is assumed that dwelling units constructed after 1980 will get 75 percent of their heat and electricity requirements from a combination of solar energy, heat pumps and improved insulation techniques.

[18] It's assumed that no new nuclear power plants will be built.

[19] Assumes that 50 percent of the generating plants in operation in the year 2000 will have a thermal efficiency of 50 percent compared to about 35 percent at present, by the use of higher operating temperatures and cycles.

Note: References: [3], [10], [11], [18].

(2) Population growth rate of approximately ¼% per year. The columns on per capita energy are not affected by this assumption.

(3) Development of solar energy heat pumps for partial household and commercial applications. It is assumed that this will take effect starting 1980 and that the construction of households will incorporate the use of sound insulation techniques.

(4) Technological innovations other than the use of solar energy and heat pumps have not been incorporated. A major omission is the application of the "total energy" principle (See above). This has been omitted in the interest of accuracy as the application of this principle must be considered separately for each industry and the net savings (or lack thereof) will vary largely with the type of industry and size of the plant.

V. Conclusions

Table VII demonstrates that substantial decreases in fuel consumption and mineral ores can be effected whilst maintaining the availability of the goods to which this society has become accustomed and improving the availability of housing, mass transportation, street lighting and public services. Consequent to this is the reduction in the amounts of pollutants that are caused by fuel consumption. The recycling of metals substantially mitigates the problems of solid waste disposal and decreases the vast amount of metals discharged into the water systems of the earth by man.

Serious efforts need to be made in the implementation of programs that reduce pollution before it is made, since these efforts will yield a more livable environment and a conservation of our non-renewable resources and at the same time provide us with the paraphernalia of the modern civilized existence.

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NOMINATION OF WILLIAM REHNQUIST TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. BAYH. Mr. President, so that the information may be widely disseminated, I ask unanimous consent that the individual views of the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from California (Mr. TUNNEY), and myself, on the nomination of William Rehnquist together with the memorandum which accompanies those views, be printed in today's RECORD. I realize that the memorandum is lengthy, but I urge every Senator to read it carefully, for it summarizes the bases of the opposition to this nomination.

Mr. President, I also ask unanimous consent that a statement signed by 20 Harvard Law School professors urging the rejection of Mr. Rehnquist's nomination be printed in today's RECORD. These distinguished lawyers concluded that Mr. Rehnquist's narrow views of human rights and broad views of executive power are outside the mainstream of modern American thought. They are joined in this conclusion by a majority of the faculty of the Wisconsin Law School who also oppose Mr. Rehnquist's confirmation. I ask that their statement be printed in today's RECORD also.

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

INDIVIDUAL VIEWS OF MESSRS. BAYH, HART, KENNEDY, AND TUNNEY

It is no longer necessary to belabor the Senate's coequal role in appointments to the Supreme Court. The President has said that, with the possible exception of promoting world peace, few of his acts are likely to have as lasting an impact upon the American people as his choice of nominees. The same can be said of their confirmation by the Senate. This thought merits reflection as we pause in the rush of legislation to perform that task again.

Recent nominations have also underlined that our duty is truly to "advise" before we "consent"; we are bound to do more than cull nominees obviously flawed by impropriety or incompetence. Beyond evident excellence and integrity, there is a further dimension for the Senate to explore—although to recognize its significance is easier than to define its exact scope.

Under any theory of the Senate's task, our role inescapably includes weighing the nominee's attitude toward the fundamental values of our constitutional system: limits on government power, individual liberty, human equality. A man takes what he is, and believes, to the bench. Ultimately, it may be less important to debate the meaning of "judicial philosophy" than simply to acknowledge the inherent strand of discretion in judicial decision—especially Constitutional interpretation. The best intentions of restraint cannot erase the elements of value and judgment involved when the Court applies the majestic generalities of the Fourteenth Amendment and the Bill of Rights.

In the past, some of us have noted our reluctance to oppose a nominee merely because we disagree with the results he might reach in particular cases. And we have voted to confirm men of views markedly different from our own. But we have also made clear our reluctance to approve anyone whose overall record suggests a persistent insensitivity to the protection of individual liberties and equal rights.

William Rehnquist's record presents no threshold problem of integrity or excellence. But it does raise serious doubts about his sensitivity and commitments to these fundamental values. His numerous public positions on issues involving the Bill of Rights display a consistent discounting of those rights—an inadequate appreciation of the underlying interests at stake and of the danger of their erosion. His reluctance to disavow these views, with few exceptions, leaves us little alternative but to take the record as we find it; for we do not share his view that protecting the pride of the Justice Department takes precedence over the constitutional obligation of the Senate. And that record—on surveillance, wiretapping, inherent executive power, criminal procedural safeguards, dissent by public employees, and more—is a profoundly disturbing one.

That the nominee gives short shrift to individual liberty when it hinders the pursuit of order and authority cannot be explained as merely the result of "strict construction." On the contrary, his approach to Constitutional interpretation seems strangely elastic. The Bill of Rights, and decisions upholding them against competing interests, are read as narrowly as possible, with little heed to their underlying concerns. But provisions and precedents conferring Executive power and declaring the general purposes of government are read loosely and expansively, to justify the most intrusive kinds of official interference with those rights.

In the case of civil rights, Mr. Rehnquist viewed Judge Carswell's continued refusal to enforce the Constitution, even in the face of clear mandates from higher courts, as no more than the reflection of a "consistently applied judicial conservatism." Mr. Rehnquist's own attitudes in this area appear largely from his private actions taken prior to assuming his present position. His volunteered opposition to modest civil rights efforts in Phoenix, viewed in the context of its time, reflects either hostility to their purpose or a startling indifference to the injustice of discrimination. In 1964, as three-quarters of the Senate were agreeing to a nationwide public accommodations law, a man of his intellect and experience should have realized the concern of black Americans and other minorities for equal treatment.

Only five years ago, in 1966, he fought to delete two key sections from a Model State Anti-Discrimination Act under consideration by the Commissioners on Uniform State Laws. One would merely have permitted—not required—employers to reduce the effects of past discrimination by considering this factor in hiring new employees. The second provision would have outlawed racial "blockbusting." And only four years ago, in 1967, he personally opposed modest efforts at voluntary school integration, stating his view that "we are no more dedicated to an 'integrated' society than to a "segregated' society."

Unrelieved by actions showing an affirmative commitment to racial justice, Mr. Rehnquist's record is one of persistent indifference to the evils of discrimination and an almost hostile unwillingness to accept the use of law to overcome racial injustice in America. President Nixon himself has called for judges to interpret our laws who are men "dedicated to the great principles of civil rights." The nominee's subsequent record, both in Arizona and Washington, is devoid of any significant reflection of such dedication.

No one can doubt the difficulty of predicting a nominee's future performance on the

Court. If Mr. Rehnquist is confirmed, we wholeheartedly hope our misgivings prove unfounded. But we must do our best on the basis of all the evidence available to us. On that basis, we cannot consent.

While each of us would put different emphasis on the various points developed in the investigation, we believe it would be helpful to the Senate to bring together in one place the specifics which underlie the conclusions stated in these views. For that reason, the following memorandum has been prepared. We urge the Senate to give it careful consideration.

BIRCH BAYH.
PHILIP A. HART.
EDWARD M. KENNEDY.
JOHN V. TUNNEY.

MEMORANDUM ON THE QUALIFICATIONS OF WILLIAM H. REHNQUIST TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT

I. THE ROLE OF THE SENATE

A. Preliminary remarks

One of the questions which has been raised by the nomination of William H. Rehnquist concerns the proper role of the Senate in the confirmation process—particularly whether it is proper for the Senate to consider the philosophy of the nominee in reaching its decision whether to advise and consent. There is great deal of confusion about what is meant by a nominee's philosophy. A number of disparate notions are subsumed within this term. The phrase "judicial philosophy" traditionally refers to a Justice's view of his role in constitutional adjudication—judicial self-restraint in deferring to the judgment of the legislature, for example, or so-called "strict construction" of constitutional provisions. Apart from judicial philosophy in this sense, there is the separate question of a nominee's personal philosophy—although there is hardly a clean and clear line between these two aspects of a nominee's "philosophy."

For the reasons given below, it seems clear that philosophy in either sense is a fit inquiry for the Senate. But it is not necessary to agree on the precise role the Senate ought to play in the confirmation process, nor to agree on a precise definition of "philosophy" in this context, to deal with the nomination of Mr. Rehnquist. The opposition is not based on simple disagreement with the merits of Mr. Rehnquist's views on any particular issue of the day. The opposition is far more fundamental. Mr. Rehnquist has failed to show a demonstrated commitment to the fundamental human rights of the Bill of Rights, and to the guarantees of equality under law. No person of whatever philosophy—or what ever legal ability or personal integrity—ought to be confirmed who cannot pass this vital test.

B. The scope of the inquiry

Senator William E. Borah of Idaho, during the debate on the nomination of Judge John J. Parker—who was, in the end, defeated on philosophical grounds—described the unique nature of a Supreme Court Justice's role as follows:

"Upon some judicial tribunals it is enough perhaps, that there be men of integrity and of great learning in the law, but upon this tribunal something more is needed, something more is called for, here the widest, broadest, deepest questions of government and governmental policies are involved."

Precisely because the Supreme Court must decide some of the most fundamental questions of government, the philosophy of the nominee must be of concern to the Senate. This situation is wholly different from the nomination of a Cabinet Secretary or other executive official who serves at the President's pleasure. They are the President's men; Supreme Court Justices are the country's.

Senators cannot ignore the fact that if the nominee is confirmed, he will be called upon to breathe life into the grand promises of the Constitution: the separation and distribution of power among three equal branches of government, and the limitations on executive power this demands; the prohibitions against unreasonable searches and seizures, against arrests without probable cause, against compelled self-incrimination, and against cruel and unusual punishment; the guarantees of free speech and assembly and press; and the great promises of fundamental fairness and equality, the due process and equal protection clauses. The answers to the difficult constitutional questions the nominee will face cannot be found only in the intent of the framers or the Court's own precedent, important as those are. Try as he might to avoid it, the justice's own view of the world—his heart and soul—must become involved in this decision. This is why, in the words of Senator George Norris of Nebraska during debate over Judge Parker's nomination—

"When we are passing on a judge, we not only ought to know whether he is a good lawyer, not only whether he is honest—and I admit that this nominee possesses both of these qualifications—but we ought to know how he approaches the great question of human liberty."

There is more than ample historical support for the Senate's inquiry into a nominee's philosophy, both in the annals of the Constitutional Convention and in the Senate's own practice. These matters are discussed in great detail in a number of recent studies that have made available to the Senate. Black, *A Note on Senatorial Consideration of Supreme Court Nominees,* 79 Yale L.J. 657 (1970) (reproduced in 117 Cong. Rec. S 19014 (daily ed. Nov. 18, 1971)); Brest, Grey & Paul, "Memorandum To Senator Birch Bayh and Senator John Tunney on the Role of the Senate in Considering the President's Nominees For Appointment to the Supreme Court of the United States" (reproduced in 117 Cong. Rec. S 17788 (daily ed. Nov. 8, 1971)). Accordingly, this Memorandum touches only on the highlights of that history.

The proceedings of the Constitutional Convention reveal that the Senate's role in advising and consenting was to be an active one. Indeed, for much of the Convention, it appeared that Congress or the Senate alone would have the power to appoint Supreme Court Justices. It was not until a compromise was approved unanimously near the end of the proceedings that the existing practice was agreed to, whereby the President is given the power to "nominate, and by and with the Advice and Consent of the Senate . . . appoint" the members of the Court, Article II, section 2. As Professor Black has written, *supra,* 79 Yale L.J. at 661, the vote on this compromise "must have meant that those who wanted appointment by the Senate alone—and in some cases by the whole Congress—were satisfied that a compromise had been reached, and did not think the legislative part in the process had been reduced to the minimum. The whole process, to me, suggests the very reverse of the idea that the Senate is to have a confined role."

Nothing in the records of the Convention indicates that there is any limitation of the factors the Senate may consider in advising and consenting to Supreme Court justices. In fact, Alexander Hamilton spent much of Federalist Papers 76 and 77 explaining that the Senate was to play a major, unconstrained role in weighing Presidential nominations. Hamilton wrote that confirmation should be denied in the presence of "special and strong reasons for the refusal" without placing any limitation on the type of reason which would be the basis for refusal.

The Senate has regularly used its broad power to advise and consent to reject a nominee on philosophical grounds. In 1795, it refused to confirm President Washington's nomination of John Rutledge to be Chief Justice, primarily because of Rutledge's outspoken opposition to the Jay Treaty. To take but one more example, the Senate refused to confirm President Hoover's nomination of Judge John Parker in 1930. No one disputed Judge Parker's legal ability, but he was rejected because "(1) . . . he favored 'yellow-dog' contracts and was unfriendly to labor; (2) . . . he was opposed to Negro suffrage and participation in politics; and (3) . . . the appointment was dictated by political considerations." J. Harris, The Advice and Consent of the Senate 128 (1953). See also Abraham & Goldberg, *A Note on the Appointment of Justices of the Supreme Court of the United States,* 46 A.B.A.J. 147 (1960).

Thus if the Senate were to refuse to consider the philosophy of a Supreme Court nominee, it would abdicate its historic role in the selection process. The Constitution establishes a partnership of the Senate and the President to choose the men and women who will sit on the Supreme Court for life. To play its full role in this partnership, the Senate must, in Mr. Rehnquist's own words, "thoroughly infor[m] itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him." Rehnquist, *The Making of a Supreme Court Justice,* Harvard Law Record, October 8, 1959, p. 7.

An inquiry into philosophy is particularly appropriate in the case of the nomination of Mr. Rehnquist. First, the nomination comes from a minority President whose party controls neither House of Congress, so it cannot successfully be argued that he reflects the will of the people more accurately than does the Senate. Second, Mr. Nixon has now presented the Senate a nominee for the fourth vacancy during his first term of office. Only two other Presidents since Civil War have had the opportunity to influence the Court so much in a three-year period. We face the prospect that this President's particular philosophy may come to be reflected in not just one or two but in a substantial number of the Court's members. Third, the President has made it perfectly clear that he chose these nominees *because* of their philosophy. Thus on the President's own terms, philosophy is a fit inquiry.

II. LACK OF COOPERATION WITH THE COMMITTEE

The Majority Report states that "to draw sweeping generalizations from the positions an advocate has taken as a means of determining his fitness to be a judge is, in the view of the Committee, mistaken." To the extent that this statement implies that it is improper to base a decision about Mr. Rehnquist's judicial philosophy on the writing and speaking he has done as an Assistant Attorney General, it is mistaken.

Preliminarily, it should be noted that a good portion of the objections to Mr. Rehnquist are based on his views on equal rights for all, and conclusions about those views rest on writing and speaking he did before assuming government office. The views he expressed then, of course, must be taken as his own.

It is only in the area of civil liberties that one must rely primarily on statements Mr. Rehnquist has made while holding office to discern his philosophy. There are at least two reasons why this is legitimate and proper. In the first place, the objections to Mr. Rehnquist's positions on civil liberties relate as much to the mode of reasoning and the openmindedness of the nominee as to the position he finally espoused. These reasoning processes, surely, are his own, whatever may be the advocate's use to which he puts them. Second, Mr. Rehnquist has said both at the hearings and before, *see* Rehnquist, *The Old Order Changeth: The Department of Justice under John Mitchell,* 12 Ariz. L. Rev. 251, 252–253 (1970), that his selection for his present position reflects his intellec-

tual compatibility with the views that he advocates in that position.

Moreover, both the Majority Report and Mr. Rehnquist himself rely on his statement as an advocate when they feel it will help their cause. For example, the majority quotes from a speech Mr. Rehnquist gave on behalf of the Department entitled "Official Detention, Bail, and the Constitution" which is said to show his "sensitivity to the considerations on both sides of Bill of Rights questions." In that speech, discussed below, he defended the Administration's position on preventive detention. Interestingly enough, when Mr. Rehnquist was asked by Senator Fong whether he supported that position, his only reply was that he had supported it in public speeches. He did not give his personal views. Another example of the same phenomenon is Mr. Rehnquist's citation of his part in drafting the Opinion of the Attorney General upholding the Philadelphia Plan, 42 Op. Atty. Gen. No. 37 (Sept. 22, 1969), as demonstrating his commitment to civil rights—a citation which, as discussed below, is undermined by the views Mr. Rehnquist expressed in 1966 during the deliberations on the Model State Anti-Discrimination Act.

In short, the decision whether to confirm or reject Mr. Rehnquist's nomination must be made on the record before the Senate, and a portion of that record consists of statements the nominee made while an advocate—and architect—of controversial positions. Those on both sides of the dispute, including the nominee himself, have cited his statements as an advocate to show his philosophy. So long as the nominee declines to express his own philosophy on important matters, the record remains in its present state, and no Senator has an alternative if he wishes to make a rational decision.

One reason that the Senate is forced to rely on the nominee's statements as an advocate, of course, is that Mr. Rehnquist refused to give the Senate his personal views on those issues on which he had defended the Administration's position. These include some of the most important and controversial issues of the day: national security wiretapping; preventive detention; no-knock; the legality of the Subversive Activities Control Board Executive Order; the scope and extent of executive privilege; the scope and extent of government surveillance power; the desirability of the Equal Rights Amendment; the need for cease and desist power in the EEOC; and others. Mr. Rehnquist invoked the attorney-client privilege to refuse to answer questions on such topics. By his own admission, this privilege had never before been invoked by a Supreme Court nominee.

Indeed, Justice Thurgood Marshall at his confirmation hearing had the following exchange with Senator McClellan concerning *Miranda* v. *Arizona*, 384 U.S. 436 (1966), which was decided while Justice Marshall was Solicitor General:

Senator MCCLELLAN. . . .

I have a responsibility here, and I want to perform it conscientiously. . . . But I think it has become so critical that we who have this responsibility here of upholding confirmations need to have some idea, at least glimpse, some impression of the trend of the thinking and the philosophy of the one who is to receive confirmation.

Judge MARSHALL. . . .

Well, in this case you have the best evidence you could get, which would be the brief that I filed in the *Westover* case [a companion to *Miranda*], which not only gave the views of the U.S. Government. *It gave my personal views.* [emphasis added]

The purpose of the attorney-client privilege is to encourage the frankest and freest exchange of advice and information between lawyer and client. *See e.g.* McCormick on Evidence 181 (1954); 8 Wigmore, Evidence 628–29 (McNaughton rev. 1961). That purpose would not have been undermined at all had Mr. Rehnquist given the Committee his own personal views on the vital issues of the day. This is especially true since he did not invoke the privilege in other situations which are closer to traditional notions of its scope. For example, Mr. Rehnquist revealed to the Committee that he had advised the Justice Department to abandon its public position on national security wiretapping in favor of another position which, while substantively the same did not require advancing an argument based on inherent executive power. Yet advice to a client is something arguably covered by the privilege. *See* sources cited *supra*. And while revealing this piece of legal advice, he repeatedly declined to state his personal views on the same subject.

In any event, the matter could have been handled had the nominee's clients—the President and the Attorney General, by Mr. Rehnquist's own statement—waived the privilege. There can be no doubt as to their power to do so. *See e.g.* Cannon 4, A.B.A. Code of Professional Responsibility (1969); E. Conrad, Modern Trial Evidence § 1097 (1956). And there can be no doubt as to the importance of their doing so. As Mr. Rehnquist himself recognized in an article he wrote in 1959, *see* Rehnquist, *The Making of a Supreme Court Justice*. The Harvard Law Record, Oct. 8, 1959, p. 7, a Supreme Court nominee's philosophy ought to be of utmost importance to the Senate. On any rational scale of values, it surely should be more important that the Senate be fully informed before it votes on a Supreme Court nominee than that an Administration be shielded from the embarrassment, if any, which might result from an announcement that one of its members disagreed with its substantive position on a certain matter.

Nevertheless, the President and Attorney General refused to waive the privilege, and this has made the Senate's job even more difficult than it usually is. As Dean E. Clinton Bamberger, Jr., 18 of the 26 other members of the laws faculty of Catholic University said in a letter to the Committee:

No nominee may justify withholding from the Committee which must initially pass upon his qualifications and dispositions for handling this political power "in legal form" a frank expression of his political and legal philosophy. . . .

There is no such privilege which any nominee was so bold as to claim before against the Senate's right to know in fulfilling its responsibility to the . . . people.

Beyond the difficulties created by the fact that Mr. Rehnquist is a government official, and that he invoked the attorney-client privilege, was the excessive reluctance to the nominee at the hearings themselves. There were numerous examples of this. On national security wiretapping, to take one, the nominee spoke of his role in the formation of the government's position in the Supreme Court several times in general terms. Only at the end of the hearings, upon being asked again about his position, did he reveal that he had advised the Department to change its argument from reliance on inherent power to one phrased in terms of reasonableness. To take another example, Mr. Rehnquist was asked and described his role in the Pentagon Papers litigation, but neglected to mention until specific supplemental written questions were addressed that he had been the person who called the *Washington Post* asking them not to publish the documents. Such instances as these, combined with the invocation of the attorney-client privilege—combined too with the very proper refusal of the nominee in other situations to comment on specific fact situations or issues which may come before the Supreme Court—made it unnecessarily difficult to build a complete record of his views other than as contained in his writings and statements.

The proper perspective for this problem has been supplied by Mr. Rehnquist himself. He has stated his view that judicial philosophy is a proper inquiry for the Senate to make. When that inquiry is partially frustrated, the question arises, who must bear the burden? Mr. Rehnquist answered a similar question when testfiying before Senator Ervin on executive privilege and the role of the Senate in ratifying treaties. Senator Ervin asked whether under some circumstances information accumulated during the negotiation of a treaty would have to be made available to the Senate at least on a confidential basis before the Senate voted on ratification. Mr. Rehnquist's policy was that "the Executive would fail to furnish that [information] at its peril. since . . . the Executive has the burden of proof of persuading the Committee and the Senate as a whole." Hearings Before the Senate Subcommittee on Separation of Powers, "Executive Privilege: The Withholding of Information By the Executive," 92d Cong., 1st Sess., July 27, 28, 29, Aug. 4, 5, 1971 (unprinted). The Executive has the same burden of proof when it comes forward with a Supreme Court nominee. Since the Executive is so largely responsible for the inability of the Senate to get the information it needs, it must run the risk that the Senate will act on the basis of the only substantive record available, and, on this "best evidence," reject the President's choice.

III. CIVIL RIGHTS

The Supreme Court has played a crucial and proper role in the last 20 years in securing the rights guaranteed in the Constitution for all citizens, particularly our racial minorities. For many of those to whom America has made unfulfilled promises, the Supreme Court has often been the one responsive institution which can be counted on to dispense equal justice under law. President Nixon himself, in accepting his party's nomination in 1968 recognized this when he said:

Let those who have the responsibility for enforcing our laws and our judges who have the responsibility to interpret them be dedicated to the general principles of civil rights.

Mr. Rehnquist's record, far from demonstrating such a commitment to civil rights, displays a consistent hostility toward efforts to secure rights for the victims of discrimination.

There are three specific episodes in the last seven years which show that Mr. Rehnquist is unwilling to allow law to be used to promote racial equality in America. These are his volunteered opposition in 1964 to a Phoenix public accommodations ordinance; his opposition in 1966 to two key provisions of a Model State Anti-Discrimination Act; and his public statement in 1967, offered in opposition to modest proposals toward integration, that "we are no more dedicated to an integrated society than to a segregated society." And these incidents are not offset in any way by an affirmative demonstration of commitment to equal rights.

A. The 1964 public accommodations ordinance

In June of 1964 the Phoenix City Council was considering a public accommodations ordinance which declared that—

It is . . . contrary to the policy of the City and unlawful to discriminate in places of public accommodation against any person because of race, color, creed, national origin, or ancestry.

The ordinance applied only to "public places" offering entertainment, food or lodging, and specifically excluded "any place which is in its nature distinctly private." In testimony before the City Council, Mr. Rehnquist called this ordinance so "far reaching" that it should be submitted to the people for a vote rather than being passed by the Council. He also said:

I am a lawyer without a client tonight. I am speaking only for myself. I would like to speak in opposition to the proposed ordinance

because I believe that the values that it sacrifices are greater than the values which it gives. . . . There have been zoning ordinances and that sort of thing but I venture to say that there has never been this sort of an assault on the institution where you are told, not what you can build on your property, but who can come on your property. This, to me, is a matter for the most serious consideration and, to me, would lead to the conclusion that the ordinance ought to be rejected.

The ordinance was passed unanimously by the City Council the next day. Mr. Rehnquist, still without a client save himself, then wrote a letter to the editor of the Arizona Republic calling passage of the ordinance "a mistake." Incredibly, the letter first equated the indignity suffered by a victim of discrimination barred from a lunch counter with the "indignity" suffered by the segregationist forced to serve a meal, and then concluded:

"It is, I believe, impossible to justify the sacrifice of even a portion of our historic individual freedom for a purpose such as this."

The freedom to which he referred was the freedom of the property owner to do with his property as he wished. As Mr. Rehnquist recognized in the letter, this freedom has been impinged upon by a great many laws, such as zoning laws, and health and safety regulations. While Mr. Rehnquist thought that imposition on property rights was acceptable for purposes of zoning, he thought an impingement on property rights designed to assure equal access regardless of race to places which hold themselves out to the public was unjustified. In other words, in 1964 the nominee, as he agreed at the hearings, "felt that personal property rights were more important than individual freedoms, the individual freedom of the black to go up to a lunch counter."

It is important to understand the time at which this ordinance was being considered. The fight to end discrimination in public accommodations was in full swing across the nation. The encounters at Selma and Birmingham were recent history. The Congress was in the midst of considering the broadest and most significant piece of civil rights legislation it had ever passed, and that legislation included a meaningful public accommodations section. By the time Mr. Rehnquist spoke in Phoenix, the House had passed the bill, and the Senate had invoked cloture on it. Even more important, the most substantial objections to the federal act came from those who doubted the federal government's constitutional power to enact public accommodations legislation. This was not an argument the nominee used. He fought the measure solely on its merits.

When questioned at the hearings about his opposition to the ordinance, Mr. Rehnquist said he has changed his mind. Asked why, he replied:

I think the ordinance really worked very well in Phoenix. It was readily accepted and I think I have come to realize since it, more than I did at the time, the strong concern that minorities have for the recognition of these rights.

Subsequently, Mr. Rehnquist, perhaps recognizing that a pragmatic argument is weak where principle is involved, stated that even if the ordinance had been less readily accepted he would no longer oppose it. Thus the real reason for Mr. Rehnquist's change of heart is, according to him, his realization within the past 7 years of the "strong concern that minorities have for the recognition of these rights." Significantly, it is still not a matter of the nominee's feeling that such discrimination is an injustice, but only that he now realizes that *others* may so view it.

While it is encouraging in some ways that Mr. Rehnquist says that he has come to realize the depth of concern among members of minority groups to be treated as individual human beings by all persons, it is very distressing to imagine a person on the Supreme Court who just seven years ago, when he was 40 years old, was as unaware of the depth of this feeling as Mr. Rehnquist was by his own admission. The insensitivity which Mr. Rehnquist's own statement reveals is hardly offset by an announcement at confirmation hearings that he would no longer oppose public accommodations measures—particularly when other actions by the nominee after 1964 are taken into account.

B. The 1966 Model State Anti-Discrimination Act

The second example of Mr. Rehnquist's opposition to the use of law in the promotion of racial equality came in 1966, when as an Arizona representative to the National Conference of Commissioners on Uniform State Laws he participated in deliberations on a proposed Model State Anti-Discrimination Act. The Act forbade discrimination in certain aspects of employment, public accommodations, education, and real property transactions, and it created a State Commission on Human Rights to enforce its provisions. The Act was finally approved by the States 37–2 (Alabama and Mississippi dissenting), with Arizona and Mr. Rehnquist voting in favor of it. But this came only after the Act was relegated to the status of a "Model" instead of a "Uniform" act, thereby relieving the Commissioners of the personal duty to seek passage of the Act in their home states. See Handbook of the National Conference of Commissioners on Uniform State Laws 406 (1966). And it came after Mr. Rehnquist attempted unsuccessfully to delete two key provisions of the Act.

The first was a proposal which was, in the words of the Commissioners' Comments, "designed to permit the adoption [by an employer] of voluntary plans to reduce or eliminate" racial, religious, or sex imbalance in its workforce. No compulsory hiring to achieve racial balance was involved; the Act merely permitted voluntary efforts. These plans were to be subject to the approval of the Commission on Human Rights, and they could apply only to the hiring of new employees or the filling of vacancies. According to the debates, four states already had enacted similar laws: Indiana, Massachusetts, Illinois, and California. Mr. Rehnquist opposed this provision, and, in effect, moved to delete it. Another Commissioner called this motion "a direct attack upon the power granted in the statute to eliminate racial imbalance." The issue then came to a vote and Mr. Rehnquist's motion was defeated. The provision now appears as Section 310 of the Model Act, which reads as follows:

SECTION 310. [Imbalance Plans.] It is not a discriminatory practice for a person subject to this chapter to adopt and carry out a plan to fill vacancies or hire new employees so as to eliminate or reduce imbalance with respect to race, color, religion, sex, or national origin if the plan has been filed with the Commission under regulations of the Commission and the Commission has not disapproved the plan.

This opposition in 1966 reveals Mr. Rehnquist's unwillingness to allow law to be used in constructive ways to undo 200 years of discrimination in America. And it also reveals that the nominee's much heralded responsibility for the Opinion of the Attorney General upholding the lawfulness of the Philadelphia Plan—which required that specified numbers of minority employees be hired to redress the effects of earlier discrimination—cannot be given much weight, for the nominee's personal philosophy and policy preference are to the contrary. Indeed, the inconsistency is shown even more clearly by the fact that the Philadelphia Plan is mandatory on all those covered, while the provisions Mr. Rehnquist sought to delete from the Model Act were merely permissive.

The second proposal that Mr. Rehnquist opposed was one designed to prohibit vicious "blockbusting" tactics by which realtors sometimes play on racial fears for their own profit. As the Reporter-Draftsman of the Act, Professor Norman Dorsen of New York University, said during the deliberations, a number of cities and at least one state (Ohio) had anti-blockbusting provisions by 1966. Mr. Rehnquist moved to delete this section. He said:

"It seems to me we have a constitutional question and a serious policy question, and in view of the combination of these two factors, plus the fact that it doesn't strike me this is a vital part of your bill at all, I think this would be a good thing to leave out."

Mr. Robert Braucher, then Chairman of the Special Committee on the Model Anti-Discrimination Act and a Professor at Harvard Law School, and now a Justice on the Supreme Judicial Court of Massachusetts, replied with an eloquent defense of the anti-blockbusting provision:

"However, I would like to speak for just a moment to the merits of this. The practices that are dealt with in this provision are practices that have no merit whatever. They are vicious, evil, nasty, and bad. These are people who go around—and this is not a hypothetical situation; this is something that has happened in every big city in the United States— and run up a scare campaign to try to depress the value of real estate. They will, if possible, buy one house, and then they will throw garbage out on the street; they will put up "For Sale" signs; they will perhaps hire twenty badly clad and decrepit-looking Negroes to occupy a single-family house, and so forth, and then they go around to the neighbors and say: Wouldn't you like to sell before the bottom drops out of your market?

"And the notion that type of conduct should be entitled to some kind of protection under the bans of free speech is a thing which doesn't appeal to me a tiny bit."

A vote was then taken on Mr. Rehnquist's motion to delete the section, and the motion failed. The section now appears as Section 606 of the Model Act, which reads as follows:

SECTION 606. [Blockbusting.] It is a discriminatory practice for a person, for the purpose of inducing a real estate transaction from which he may benefit financially

(1) to represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, or national origin of the owners or occupants in the block, neighborhood, or area in which the real property is located, or

(2) to represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

Some have argued that Mr. Rehnquist's vote in favor of the final Model Act which contained public accommodations provisions shows the nominee's change of heart from his 1946 position opposing a Phoenix public accommodations ordinance. But that is a vastly oversimplified view. In the first place, the Commissioners were dealing with model legislation, not a law about to be put into effect, so the situations are not comparable. And even more important, the nominee himself was twice asked to explain his change of heart, which was first announced at the confirmation hearings. Neither time did he mention his vote as a Commissioner in 1966. This means either that in the nominee's mind the vote approving the final draft was not significant in showing a change of heart or that he chose not to bring it up because of his opposition to the imbalance and anti-blockbusting provisions. Giving the nominee

the benefit of the doubt, one concludes that in his own mind the 1966 vote was not important. There is then no reason it should be important to the Senate. In any event, the final vote is far less significant than Mr. Rehnquist's earlier opposition to the two sections of the act discussed above.

C. The 1967 letter

The third incident was a letter to the editor Mr. Rehnquist wrote in September 1967 in response to a series of articles and a school official's proposals to deal with de facto segregation in Phoenix. The letter can be understood only in the context in which it was written.

Mr. Harold R. Cousland wrote a series of six articles for the *Arizona Republic* in late August 1967 concerning de facto segregation in Phoenix and what might be done to combat it. Mr. Cousland discussed the problem of racial segregation in the Phoenix schools, the reasons that segregation is self-perpetuating, the contention that minority group children are better off in integrated schools, compensatory education plans, and alternative proposals for integration: open enrollment, voluntary busing, school pairing, educational parks. Forced busing of students was not one of the proposals.

Just as Mr. Cousland's series was completed, the Superintendent of the Phoenix Union High School District, Dr. Howard Seymour, proposed a number of steps designed to combat de facto segregation in Phoenix. As reported in the Arizona Republic of September 1, 1967, at p. 19, these steps were:

Appointment of a policy adviser skilled in interpersonal relations and urban problems;

Organization of a citywide advisory committee representing minority groups;

Formation of a Human Relations Council at each high school;

Promotion of voluntary exchanges of pupils among racially imbalanced schools in various ways, including the location of special enrichment programs and extra-curricular activities;

In the long run, a series of seminars on the nature of prejudice;

Curriculum changes designed to accent the contributions of various ethnic groups and individuals;

Without setting a ratio of minority teachers at each school, the assignment of staff in a way which redressed the existing imbalance.

Mr. Rehnquist found the combination of Mr. Cousland's articles and Dr. Seymour's program "distressing" enough to write the following letter to the Arizona Republic:

"De Facto" Schools Seen Serving Well

[Editor, The Arizona Republic:] The combined effect of Harold Cousland's series of articles decrying "de facto segregation" in Phoenix schools, and the Republic's account of Superintendent Seymour's "integration program" for Phoenix high schools, is distressing to me.

As Mr. Cousland states in his concluding article, "whether school board members take these steps is up to them, and the people who elect them." My own guess is that the great majority of our citizens are well satisfied with the traditional neighborhood school system, and would not care to see it tinkered with at the behest of the authors of a report made to the federal Civil Rights Commission.

My further guess is that a similar majority would prefer to see Superintendent Seymour confine his activities to the carrying out of policy made by the Phoenix Union High School board, rather than taking the bit in his own teeth.

Mr. Seymour declares that we "are and must be concerned with achieving an integrated society." Once more, it would seem more appropriate for any such broad declarations to come from policymaking bodies who are directly responsible to the electorate, rather than from an appointed administrator. But I think many would take issue with his statement on the merits, and would feel that we are no more dedicated to an "integrated" society than we are to a "segregated" society; that we are instead dedicated to a free society, in which each man is equal before the law, but in which each man is accorded a maximum amount of freedom of choice in his individual activities.

The neighborhood school concept, which has served us well for countless years, is quite consistent with this principle. Those who would abandon it concern themselves not with the great majority, for whom it has worked very well, but with a small minority for whom they claim it has not worked well. They assert a claim for special privileges for this minority, the members of which in many cases may not even want the privileges which the social theorists urge be extended to them.

The schools' job is to educate children. They should not be saddled with a task of fostering social change which may well lessen their ability to perform their primary job. The voters of Phoenix will do well to take a long second look at the sort of proposals urged by Messrs. Cousland and Seymour.

Mr. Rehnquist was given several opportunities at the hearings to explain this letter. His reply always took the same line:

"I would still have the same reservations I expressed in 1967 to the accomplishment of this same result by transporting people long distances, from points where they live, in order to achieve this sort of racial balance, and what I would regard as rather an artificial way.

And later in the hearings:

With respect to the 1967 letter which I wrote in the context of the Phoenix School system as it then existed, I think I still am of the view that busing or transportation over long distances of students for the purpose of achieving a racial balance where you do not have a dual school system is not desirable.

And again in answers to supplemental questions, Mr. Rehnquist explained that a statement by Dr. Seymour that he would "not dismiss busing of students as a partial solution" lay at the heart of this letter.

Thus, Mr. Rehnquist has tried to cloak his 1967 letter in the current controversy over mandatory busing of students. But a fair reading of the letter itself and the articles on which it is based demonstrates that Mr. Rehnquist was opposed to much more. The letter itself does not even mention busing, or indeed, transportation of students in any form. And it is apparent from the cursory glance at the proposals Dr. Seymour made that—as Mr. Rehnquist admitted in answers to supplemental questions—virtually all of the proposals are "entirely consistent" with the neighborhood school concept Mr. Rehnquist wrote about. Yet the letter specifically suggested that "the voters of Phoenix will do well to take a long second look at the sort of proposals urged by Messrs. Cousland and Seymour." (emphasis added)

Moreover, the newspaper story from the Arizona Republic of September 1, 1967, out of which Mr. Rehnquist takes Dr. Seymour's statement that he would "not dismiss busing of students" when read in full shows that Dr. Seymour had an extremely moderate view of the problem:

He [Dr. Seymour] said he would not dismiss busing of students as a partial solution, but he discounted busing or the altering of district lines as complete approaches to the problem.

"It is much more preferable for us to demonstrate a willingness to broaden the spectrum of school populations through such actions as voluntary transfers, a local peace corps of students and teachers, . . . and other devices intended to lift the aspirations of those who live and learn without them.

"The research evidence tentatively supports the premise that minority pupils achieve more in an atmosphere of high motivation," he said.

And the *Phoenix Gazette* of August 31, 1967, reporting the same speech by Dr. Seymour makes the Superintendent's position equally clear:

But he [Dr. Seymour] said he opposes gerrymandering district boundaries or "busing" pupils from one part of town to another as means toward "true integration."

"There is nothing more artificial in my judgment than to load a group of pupils from one district and disgorge them at another without making it possible for full, active participation in learning, socializing, sports and activities, and without integrating the adults along with busing pupils," he continued.

Thus, far from being an advocate of forced busing, Dr. Seymour favored other ways of integrating the schools, such as encouraging voluntary transfers under a program already in effect. Viewed in this light, one sees rather clearly that just four years ago Mr. Rehnquist found "distressing" some rather minimal efforts of school officials to promote equality of educational opportunity. One also sees that his answers to the Committee's questions on this matter were more glib than candid.

The truly alarming aspect of this 1967 letter, however, is Mr. Rehnquist's statement, 13 years after *Brown* v. *Board of Education* that "we are no more dedicated to an 'integrated' society than we are to a segregated' society." As explained above, this statement cannot simply be written off by the nominee as made in the context of long-distance busing. It must stand on its own as representing his view of our society's obligation to its citizens. And Mr. Rehnquist has never disassociated himself from this statement. Yet at least since the Supreme Court declared that "separate is inherently unequal," this Nation has not been neutral as between integration and segregation; it stands squarely in favor of the former. And if Mr. Rehnquist does not agree, he is outside the mainstream of American thought and should not be confirmed.

The statement is especially disturbing when put into context. The newspaper story which contains the quote by Dr. Seymour with which Mr. Rehnquist took issue reads:

Commenting on teaching minority members, [Dr. Seymour] said the district should make no attempt to establish ratios of one type of teacher to the pupils they serve.

"Since we are and must be concerned with achieving an integrated society," he said, "the Phoenix Union High School system recognizes an obligation to staff schools with personnel to help relieve cultural imbalance within the community. Pupils need to be exposed to the fine talents representative of all races."

Thus there is yet another part of a consistent pattern, complementing Mr. Rehnquist's opposition to the employment "imbalance" section of the Model State Anti-Discrimination Act, and to the public accommodations ordinance, of the nominee's hostility to programs which recognize 200 years of discrimination in America and take steps to rectify the tremendous burdens which that discrimination has imposed.

D. The absence of affirmative commitment to equal rights

Significantly, the disturbing inferences which flow from the incidents just described are not rebutted in any way by other, affirmative actions Mr. Rehnquist has taken to promote racial justice. Indeed, the absence of a demonstrated commitment to equal rights in the nominee's record is alone strong grounds for questioning his nomination.

Mr. Rehnquist was twice asked at the hearings to describe what in his record demonstrated a commitment to equal rights for all. His entire answer was as follows:

"It is difficult to answer that question, Senator. I have participated in the political process in Arizona. I have represented indigent defendants in the Federal and State courts in Arizona. I have been a member of the County Legal Aid Society Board at a time when it was very difficult to get this sort of funding that they are getting today. I have represented indigents in civil rights actions. I realize that that is not, perhaps, a very impressive list. It is all that comes to mind now.

* * * * *

"I think that there are some paragraphs in my Houston Law Day speech which recognize the great importance of recognition of minority rights, that the progress is not as fast as we would like and that more remains to be done. I am trying to think of some other public statement that may contain similar—well, you know, I am just coming back, not back to isolated passages in public statements."

This was subsequently expanded and clarified by Mr. Rehnquist in response to additional questions by certain members of the Committee. Mr. Rehnquist added that he had been an Associate Member of the American Bar Association Special Committee on the Defense of Indigent Persons Accused of Crime in 1963; that he had testified on behalf of the Administration in favor of ratification of the Genocide Treaty and in support of the Equal Rights Amendment; and that he had participated in the preparation of the Opinion of the Attorney General upholding the legality of the "Philadelphia Plan." Mr. Rehnquist also explained in somewhat greater detail the sorts of civil rights actions in which he represented indigents.

This record, compiled over the course of an 18 year career, reveals little more than the routine activities which may be expected of any private lawyer who becomes a high-ranking government official. It cannot be called a demonstrated commitment to fundamental human rights.

Representation of indigents, for example, is considered one of the duties of every member of the bar, and in criminal cases is usually done at the request of the court. The civil rights actions Mr. Rehnquist described in his response to written questions could more accurately be called civil cases than civil rights cases in the usual meaning of that term. And in response to additional questions, Mr. Rehnquist admitted that his membership on the Maricopa County Legal Aid Society Board had been *ex officio*, by virtue of his position as an officer of the County Bar Association.

Nor is any particular commitment shown by his record in the Department of Justice since 1969. His testimony in support of the Equal Rights Amendment was less than wholehearted. And any reliance which might otherwise be placed on his authorship of the Opinion of the Attorney General upholding the lawfulness of the Philadelphia Plan is undermined by his opposition to a far less reaching proposal in the Model State Anti-Discrimination Act in 1966, discussed above Further, once put in chronological sequence, the significance of that Opinion is somewhat suspect. In June of 1969 the Labor Department, with Administration approval, promulgated the orders for minority hiring commonly referred to as the Philadelphia Plan. In August the Comptroller General held the Plan illegal. In September, Mr. Rehnquist's office prepared the Opinion of the Attorney General which, unsurprisingly, upheld the Labor Department's—and the Administration's—well publicized proposal.

In sum, Mr. Rehnquist's record fails to demonstrate any strong affirmative commitment to civil rights, to equal justice for all citizens, let alone a level of commitment which would rebut the strong evidence of insensitivity to such rights.

E. Alleged harassment of voters

There have been a number of charges and denials concerning Mr. Rehnquist's role in voter challenges by Republicans during various elections in the early 1960's in Phoenix. One serious charge was that made in sworn affidavits by Mr. Jordan Harris and Mr. Robert Tate alleging that Mr. Rehnquist harassed and intimidated a voter and engaged in a scuffle with Mr. Harris at the Bethune precinct in 1964. Messrs. Tate and Harris charge that Mr. Rehnquist made an improper attempt to administer personally a literacy test to a would-be-voter. Mr. Harris says he approched Mr. Rehnquist, to whom he had been introduced, and "argued with him about the harassment of voters." A struggle ensued, in which Mr. Tate came to Mr. Harris' aid. A policeman, it is said, entered and took Mr. Rehnquist into an office, from which he soon left. Mr. Tate identified Mr. Rehnquist "from pictures I have seen lately in the papers . . . he did not, at that time, however, wear glasses."

These affidavits are corroborated by two additional ones sworn within the past few days. These came from the Rev. and Mrs. Snelson McGriff, who say that Mr. Rehnquist—or "his twin brother"—was at Bethune precinct in 1964. Rev. McGriff says that the challenger, Mr. Rehnquist, wore glasses while inside the voting place, but took them off when he came outside, before the scuffle took place. *See The National Observer*, Nov. 28, 1971, p. 4, col. 1.

Mr. Rehnquist has submitted a sworn affidavit which says that the affidavits of Messrs. Tate and Harris "insofar as they pertain to me . . . false." He has denied having been at the Bethune precinct in 1964, and he denied that he ever personally "harassed or intimidated voters."

The conflict in the evidence before the Committee is not resolved simply by reference to Judge Charles Hardy's letter, as the Majority would have us believe. Judge Hardy only confirms what was already documented by contemporaneous news accounts and by an FBI report: that there was voter harassment and a fight at Bethune in 1962, and that Mr. Rehnquist was not involved in it. But Judge Hardy's letter does not by any stretch of the imagination stand for the proposition that no scuffle occurred at Bethune in 1964. Thus Mr. Rehnquist's statements and Judge Hardy's letter do not "completely refute the charges" made by Messrs. Tate and Harris. Indeed, Judge Hardy's letter which states that the "events in question" occurred in 1962, could not have been intended as a refutation of their charges since it is dated before their affidavits were made and released.

Nor does the fact that the Federal Civil Rights Act of 1964, in effect at the time, prohibited oral literacy challenges "undercut the credibility of these allegations" as the Majority Report claims. That fact means only that the challenges, if there were any, violated federal law. And at least in some parts of Arizona, a Justice Department investigation has revealed that "challenges . . . based on . . . ability to read the Constitution in English" were made in 1964. *See Apache County* v. *United States*, 256 F. Supp. 903, 909 (D.D.C. 1966) (3-judge court).

Instead, it appears that the Committee lacks either the motivation or machinery to conduct the type of fact-finding which is needed to uncover which side of this dispute is mistaken. Therefore, each Senator will have to decide for himself what weight—if any—to give either the charges or the blanket denial.

Whatever the actual facts are about the 1964 incident at Bethune, that dispute should not be permitted to obscure the larger question of the extent of Mr. Rehnquist's responsibility for the Republican efforts to intimidate and harass minority voters in Maricopa County from 1958 to 1964. Judge Hardy, whose letter is so heavily relied upon by the Majority, described those tactics as follows:

In 1962, for the first time, the Republicans had challengers in all of the precincts in this county which had overwhelming Democratic registrations. At that time among the statutory grounds for challenging a person offering to vote were that he had not resided within the precinct for thirty days next preceding the election and that he was unable to read the Constitution of the United States in the English language. In each precinct the Republican challenger had the names of persons who were listed as registered voters in that precinct but who apparently had not resided there for at least thirty days before the election. In precincts where there were large numbers of black or Mexican people, Republican challengers also challenged on the basis of the inability to read the Constitution of the United States in the English language. In some precincts *every* black or Mexican person was being challenged on this latter ground and it was quite clear that this type of challenging was a deliberate effort to slow down the voting so as to cause people awaiting their turn to vote to grow tired of waiting and leave without voting. In addition, there was a well organized campaign of outright harassment and intimidation to discourage persons from attempting to vote. In the black and brown areas, handbills were distributed warning persons that if they were not properly qualified to vote they would be prosecuted. They were squads of people taking photographs of voters standing in line waiting to vote and asking for their names. There is no doubt in my mind that these tactics of harassment, intimidation and indiscriminate challenging were highly improper and violative of the spirit of free elections.

In response to a written question from several members of the Committee, Mr. Rehnquist stated that he felt "that there was no connection between my role [in 1962] and the circumstances related by Judge Hardy." He also stated that the practices Judge Hardy described "did not come to my attention until quite late in the day of the election in 1962" and that is why he took no steps to curb practices such as indiscriminate use of literacy challenges, which he believes improper. But this disavowal of involvement in the 1962 practices must be placed alongside the facts, established by Mr. Rehnquist's own answers, that in 1960, 1962 and 1964 the nominee played an important role for the Republican Party in Phoenix in voter challenges.

In 1960, Mr. Rehnquist was designated by the County Republican Chairman as co-chairman of the Ballot Security Program; he supervised and assisted in the preparation of envelopes mailed to Democrats—largely in black and Mexican-American districts—which were the foundation of residency challenges; he recruited lawyers to serve on a Lawyers' Committee; he advised challengers on the law; and he supervised in assembling returns of the mailings for challenging purposes.

In 1962, Mr. Rehnquist was designated Chairman of the Lawyers' Committee of the County Republican Party, and he again taught challengers the procedures they were to use. And, as in 1960, he served as a troubleshooter—going to precincts at which disputes had arisen, in order to help resolve them.

Finally, in 1964 Mr. Rehnquist was Chairman of the Ballot security Program, selected by the County Republican Chairman. As such, he had overall responsibility for mailing out envelopes, recruiting challengers and recruiting members of the Lawyers' Committee, and for speaking, or seeing that someone spoke, at a training session of challengers. In 1964, as well, Mr. Rehnquist was general counsel to the County Republican Committee.

Thus while Mr. Rehnquist has sought to disassociate himself from the tactics em-

ployed by the Republicans in 1962 and other years, it cannot be overlooked that he held a high and responsible position in the Republican party's election day apparatus from at least 1960 to 1964, a period that saw very substantial harassment and intimidation of voters in minority group precincts.

F. Conclusion

A review of the nominee's entire record on civil rights reveals a persistent unwillingness on his part to allow law to be used to overcome racial injustice. There are two significant implications of this which argue strongly against confirmation. First, Mr. Rehnquist's views are such that one must fear the interpretation he may give to the great promise of the Fourteenth Amendment: equal protection of the laws. Indeed, one must also fear the limits he would impose on a legislature's efforts to redress 200 years of racial injustice. Second, there is the question of the very appearance of fairness and impartiality. At a time when many Americans, young and old alike, doubt the responsiveness of our system of government, we cannot afford to put on the Supreme Court a man consistently insensitive to the role that law must play in achieving a fair and just society.

IV. BILL OF RIGHTS

Speaking of Mr. Rehnquist's approach to questions of civil liberties and the Bill of Rights, the Majority Report says that Mr. Rehnquist—sees both sides of the difficult questions in this area, which requires working out the delicate balance established by the Constitution between the rights of individuals and the duty of government to enforce the laws.

The record demonstrates that just the opposite is true. When it comes to dealing with civil liberties, Mr. Rehnquist uniformly takes a position which reflects the low value he places upon concerns of equality and individual freedom. He consistently gives these concerns far less weight than that to which they are entitled by their high place in the Constitution of the United States and their vital role in the fabric of contemporary American society. The nominee does not see "both sides of the difficult questions in this area." Rather, he reads provisions of the Constitution dealing with individual liberties, and decisions upholding them, as narrowly as possible, while giving the most expansive reading and generous extrapolation to those provisions and precedents granting the Executive power to impinge on these freedoms.

A. The early record

Mr. Rehnquist's public record on civil liberties before coming to his present post is sparse—save for some intemperate articles impugning the motives and Constitutional fidelity of the Supreme Court in precisely this area.

In 1957, Mr. Rehnquist wrote an article on the role law clerks play in Supreme Court decisions, and said:

Some of tenets of the "liberal" point of view which commanded the sympathy of a majority of the clerks I knew were: extreme solicitude for the claims of Communists and other criminal defendants, expansion of federal power at the expense of State power, great sympathy toward any government regulation of business—in short, the political philosophy now espoused by the Court under Chief Justice Earl Warren. Rehnquist, *Who Writes Decisions of the Supreme Court?* U.S. News and World Report, December 13, 1957, p. 57.

The following year Mr. Rehnquist attacked the Court for its decisions in *Schware* v. *Board of Bar Examiners*, 353 U.S. 232 (1957) and *Konigsberg* v. *California*, 353 U.S. 252 (1957), where the Court held that applicants for state bar examinations had been deprived of their constitutional rights when they were prevented from taking the examinations because of previous political beliefs. The cases may have been difficult and controversial, but surely the decisions, written by Mr. Justice Black, did not justify Mr. Rehnquist's accusatory closing remark. Referring to the defendants in the cases, one an admitted former Communist and the other an alleged Communist, he said:

A decision of any court based on a combination of charity and *ideological sympathy* at the expense of generally applicable rules of law is regrettable no matter from whence it comes. But what could be tolerated as a *warm-hearted aberration* in the local trial judge becomes nothing less than a *constitutional transgression* when enunciated by the highest Court of the land. (Emphasis added) Rehnquist, *The Bar Admission Cases: A Strange Judicial Aberration*, 44 A.B.A.J. 229 (1958).

At the hearing Mr. Rehnquist said he meant only to suggest that the Justices had great sympathy for "the plight of unpopular groups." But a person of Mr. Rehnquist's intelligence and careful expression does not refer to "ideological sympathy" when he means concern for the unpopular. The innuendo is clear.

Taken together, these articles reveal an antagonism toward opposing points of view on civil liberties which is in stark contrast to the "balanced" approach the Majority claims for the nominee.

B. Wiretapping

With respect to wiretapping, Mr. Rehnquist has been a stern defender of the Administration position, and he has refused to disassociate himself from it or to give the Committee any different personal views on the issue. This position is that the Attorney General may wiretap without prior judicial authorization whenever he concludes there is a threat to the national security, whether the threat comes from foreign agents or so-called domestic subversives. The courts, of course, have permitted executive wiretaps in the former but not in the latter situation. *Compare United States* v. *Keith*, 444 F.2d 651 (6th Cir.), *cert. granted*, 91 S. Ct. 2255 (1971), *with United States* v. *Clay*, 430 F.2d 165 (5th Cir. 1970), *reversed on other grounds*, 403 U.S. 698 (1971).

The answer to the argument that the Executive can engage in wiretapping whenever it believes there is a domestic threat to the national security was eloquently given by the Sixth Circuit Court of Appeals in *Keith, supra*, 444 F.2d at 665:

[T]he Fourth Amendment was adopted in the immediate aftermath of abusive searches and seizures directed against American colonists under the sovereign and inherent powers of King George III. The United States Constitution was adopted to provide a check upon "sovereign" power. The creation of three coordinate branches of government by that Constitution was designed to require sharing in the administration of that awesome power.

The Sixth Circuit concluded (*id.*):

The government has not pointed to, and we do not find, one written phrase in the Constitution, in the statutory law, or in the case law of the United States, which exempts the President, the Attorney General, or federal law enforcement from the restrictions of the Fourth Amendment in the case at hand.

The flaws in the wiretapping position Mr. Rehnquist has taken are so manifest that they suggest an insensitivity to Fourth Amendment principles. The purpose of that Amendment "is to safeguard the privacy and security of individuals against arbitrary invasions by government officials." *Camera* v. *Municipal Court*, 387 U.S. 523, 528 (1967). That purpose is secured by requiring the Executive to obtain a court order *before* it can invade a citizen's privacy. As the Supreme Court put it in *Chapman* v. *United States*, 365 U.S. 610, 614–15 (1961), quoting from *Johnson* v. *United States*, 333 U.S. 10, 13–14 (1948):

The point of the Fourth Amendment, which often is not grasped by zealous officers, is not that it denies law enforcement the support of the usual inferences which reasonable men draw from evidence. Its protection consists in requiring that those inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime. Any assumption that evidence sufficient to support a magistrate's disinterested determination to issue a search warrant will justify the officers in making a search without a warrant would reduce the Amendment to a nullity and leave the people's homes secure only in the discretion of police officers. *Chapman* v. *United States*, 365 U.S. 610, 614–615 (1961), quoting from *Johnson* v. *United States*, 333 U.S. 10, 13–14 (1948).

If Attorneys General could decide on their own who is a domestic threat to the national security, and then tap without prior court order, the protection of the Fourth Amendment will have been badly eroded. For since *Katz* v. *United States*, 389 U.S. 347 (1967), held that wiretapping falls within the Fourth Amendment, there is no apparent reason why an Attorney General could not claim the power to make *other* intrusions of privacy without a warrant when he deemed the national security to be envolved.

In this connection, it is worth noting that the practice of previous Attorneys General with respect to wiretapping, on which Mr. Rehnquist places so much reliance, came before *Katz* made it clear that wiretapping was a search or seizure within the Fourth Amendment. So prior practice offers scant precedent for his position. Indeed, the memorandum from President Roosevelt to Attorney General Jackson dated May 21, 1940, reproduced in *United States* v. *Keith, supra*, at 669–70, which forms the basis for much of the argument, was written not only well before *Katz*, but also appears to be aimed at threats to the national security from foreign countries.

Mr. Rehnquist for his part seems to be willing to go even further than merely supporting wire taps without prior court order in this easily abused area. He took the position at Brown University, as reported in the Providence Journal of March 11, 1971, that the Justice Department "must protect against . . . . subversive domestic elements, yet often does not have the evidence of imminent criminal activity necessary for wire tap authorization." In other words, Mr. Rehnquist argued that *because* the Executive does not have enough evidence to get a warrant against "elements" it deems in its sole discretion "subversive," it should not have to get one. This "analysis" turns the Fourth Amendment precisely on its head. If it were ever accepted, it would reverse the whole course of Fourth Amendment law in this country.

And this view raises questions about Mr. Rehnquist's statement that surveillance other than wiretapping, discussed below, is proper only when directed at the apprehension of a criminal or when the activity under surveillance has a "law violation potential." If Mr. Rehnquist has a loose view of the standard of probability the Executive must meet in the wiretap area, one would conclude that he has a similarly loose view of the standards applicable in the surveillance area. Thus, the limits he purports to place on government surveillance appear to be far more rhetorical than effective.

Much is made by the Majority of the fact that Mr. Rehnquist revealed that he had advised the Attorney General to abandon the Department's previous public position on wiretapping—that the Executive has the inherent power to tap—and take a new one—that such a tap is "reasonable" under the

Fourth Amendment. The change is more cosmetic than real, and even Mr. Rehnquist admitted it was made at least in part for tactical reasons.

Asked about this in supplemental written questions, Mr. Rehnquist replied that the change was significant because it amounted to a recognition "that the Executive is subject to the restraints of the Fourth Amendment in this area as elsewhere." But the restraints of the Fourth Amendment are, in Mr. Rehnquist's view, hardly any restraints at all, for he argues that a wiretap is "reasonable" when the Attorney General decides in his mind that it is necessary to protect the country from domestic opposition. Mr. Rehnquist's argument that the Attorney General, often a close political advisor of the President, is the kind of neutral, objective buffer between the police and the citizen that the framers of the Fourth Amendment envisaged reflects the low value he puts on individual freedom and privacy.

Mr. Rehnquist also said that the "practical result" of the change "was to recognize that the courts would decide whether or not this practice amounted to an unreasonable search which would violate the Fourth Amendment." Of course, that is precisely what the Sixth Circuit in Keith did: it decided that the "practice" was unconstitutional. Moreover, to the extent that Mr. Rehnquist's response implied that the courts will determine the "reasonableness" of each tap after the fact, it overlooks the crucial point that many "national security" wiretaps will never come to the attention of a court and thus occasional and random after-the-fact review does not provide an adequate restraining effect on the executive branch, an adequate deterrent to protect the right of privacy.

C. Government surveillance

Mr. Rehnquist has also taken an active role in presenting the Administration's views on the propriety of government surveillance of individual citizens. It was in this context, indeed, that Mr. Rehnquist made his now-famous statement that:

I think it quite likely that self-restraint on the part of the Executive Branch will provide an answer to virtually all of the legitimate complaints against excesses of information gathering.

But, as Mr. Rehnquist himself recognized at the hearings, the constitutional guarantees of the Bill of Rights were enacted precisely because our Nation was not prepared to trust our future to the "self-discipline" of those who happen to be in power at any given time. If a Supreme Court Justice were to believe that "self-restraint" on the part of the Executive could be relied on to prevent abuse—as Mr. Rehnquist plainly said—then that measure of our freedom which comes from judicial control of the Executive would be sorely threatened.

The Majority Report relies on Mr. Rehnquist's later explanation of his "self-restraint" statement as follows:

My remarks before Senator Ervin's Committe were in a context of the existence of the Bill of Rights, the existence of the statutory restrictions such as were contained in the 1968 Act. And the question, as I understand it, was what additional statutory restrictions should be placed on investigative processes.

But this is hardly an answer at all. In the first place, the statutory restrictions he refers to are applicable only to wiretapping in the detection of specifically enumerated crimes, not to government surveillance or other intelligence gathering. We are unaware—as is Mr. Rehnquist, apparently—of any statutory restrictions on government surveillance activities. In the second place, Mr. Rehnquist opposes any enforceable statutory controls, as he said in a speech entitled "Privacy, Surveillance and the Law" delivered on March 19, 1971:

I do not believe, therefore, that there should be any judicially enforceable limitations on the gathering of this kind of public information by the Executive Branch of the government.

Third, Mr. Rehnquist's reliance on the Bill of Rights as providing enforceable limitations on government surveillance activities is unconvincing, since he is of the opinion that the Constitution imposes virtually no such limits. This is shown by the colloquy he had with Senator Ervin on the question. Hearings Before the Senate Subcommittee on Constitutional Rights, "Constitutional and Statutory Sources of Investigative Authority in the Executive Branch of Government," 92d Cong., 1st Sess., March 9, 1971 (unprinted). Only a small portion of his statement is quoted in the Majority Report. The full colloquy is much more enlightening:

Senator ERVIN. Don't you think a serious constitutional question arises where any government agency undertakes to place people under surveillance for exercising their First Amendment rights

Mr. REHNQUIST. Senator, we discussed that briefly last week, I think and, as I say, I do not conceive it to be any part of the function of the Department of Justice or of any other governmental agencies to surveil or otherwise observe people who are simply exercising their First Amendment rights.

When you go further and say isn't a serious constitutional question involved, I am inclined to think not, as I said last week. Undesirable as this practice is and vigorously as it should be condemned. I do not believe it violates the particular constitutional rights of the individuals who are surveilled.

Senator ERVIN. I would agree with you to the extent that it would not constitute a violation of the Fourth Amendment where surveillance is had of people in public places because there is no search and there is no seizure, no search of a home or building and no search of papers and no seizure, but do you not concede that government could very effectively stifle the exercise of First Amendment freedoms by placing people who exercise those freedoms under surveillance?

Mr. REHNQUIST. No, I don't think so, Senator. It may have a collateral effect such as that, but certainly during the time when the Army was doing things of this nature, and apparently it was fairly generally known that it was doing things of this nature, those activities didn't prevent, you know, two hundred, two hundred fifty thousand people from coming to Washington on at least one or two occasions to, you know, exercise their First Amendment rights, to protest the war policies of the President.

Indicative of Mr. Rehnquist's insensitivity to constitutionally protected interests threatened by government surveillance is his reluctance to recognize the chilling effect such surveillance has on the exercise of First Amendment freedoms. One example of this is the following colloquy the nominee had with Senator Ervin at the surveillance hearings cited above:

Senator ERVIN. Well, is it your position that the government could take and put somebody, I believe it is called, a tail on me, and this man could walk around and follow me everywhere I went, and because he didn't compel me to go to those places, and just observed me, that it would have no legal remedy?

Mr. REHNQUIST. Well, to say you would have no legal remedy, I think, is more than I would care to say. As I have said before, I think that is a waste of taxpayer's money, it is an inappropriate function of the executive branch. I don't think it raises to a First Amendment violation.

At the confirmation hearings, with the benefit of pointed questioning, Mr. Rehnquist conceded that even where some persons exercise their rights, others may be deterred from doing so. But his testimony as presented to Senator Ervin's subcommittee plainly discounted this critical interest near the core of the First Amendment. The Majority Report's own summary of the nominee's later concessions only underlines his attitude:

In summary, his testimony before Senator Ervin's subcommittee and before this committee establishes that Mr. Rehnquist is acutely aware that certain governmental information-gathering activity may raise First Amendment questions if it is proven that citizens are *actually* deterred from speaking out. [Emphasis in original.]

The difficulty of proving a specific chilling effect is obvious, and the notion that a First Amendment question isn't even *raised* until it is "proven that citizens are *actually* deterred from speaking out" (emphasis in original) is alarming. One can have little hope on this record that as a Justice the nominee would be vigorous in his protection of those First Amendment freedoms so vital to the functioning of the American democracy.

But it is not just Mr. Rehnquist's substantive positions which are distressing. Even more fundamental and more distressing is the way he approaches and analyzes civil liberties problems. In the area of government surveillance, Mr. Rehnquist rejects on the one hand the notion of judicial control over surveillance on the ground that the very process of litigation will impede the investigative activities of the Executive and will—in Learned Hand's borrowed phrase—"dampen the ardor of all but the most resolute" public officials. He does not explore the extent of the impediment, or consider available devices (such as *ex parte* or *in camera* judicial proceedings) which would minimize it. On the other hand, until pressed at his own confirmation hearings for a more reassuring answer, he denied that surveillance raises First Amendment questions, resolutely rejecting the argument that it may "dampen the ardor of all but the most resolute" of political dissenters. The acknowledged possibility of abuse of surveillance does not call for judicial controls; but the possibility of abuse of judicial process calls for executive immunity from judicial controls. The government's investigative interests must be protected from the "chilling effect" of litigation; but the First Amendment interests of political dissenters need no protection from the "chilling effect" of the investigation. *See generally* speech, "Privacy, Surveillance, and the Law" (March 19, 1971); Testimony on "Investigative Authority of the Executive," *supra;* speech, "Law Enforcement and Privacy" (July 15, 1971).

Obviously, such conceptions as "possibility of abuse" and "chilling effect" have differing application to the facts and values on the two sides of the surveillance controversy. Carefully analzyed, they may cut more heavily on one side than the other. But anyone who seeks fairly to resolve the controversy must fairly examine the applicability of these conceptions to the contentions on both sides, not just one. To be concerned with degrees of impairment of investigation that result incidentally from judicial supervision, but unconcerned with degrees of impairment of political expression that result incidentally from surveillance, bespeaks sensitivity to law enforcement values but none to the values of free speech.

That sums up Mr. Rehnquist's approach. He uncritically accepts—and expands—such notions as "dampening the ardor" of investigators; but, when it comes to the First Amendment, he is content to stand equally uncritically upon the proposition that: "No decided case of the Supreme Court of the United States has ever held or said that the 'chilling effect' of a governmental activity

by itself, unaccompanied by either an attempt to impose governmental sanctions to compel the involuntary divulgence of information or to impose criminal or other sanctions on the basis of the information obtained amounted to a violation of the First Amendment." Speech, "Privacy, Surveillance and The Law" (March 19, 1971).

This last proposition appears to be wrong. See *Bantam Books, Inc.* v. *Sullivan*, 372 U.S. 58 (1963). But even were it correct, Mr. Rehnquist's refusal to "extrapolate from decided Supreme Court cases" in the First Amendment area starkly contrasts with his far reaching extrapolation of a broad power of federal executive surveillance from the "faithfully executed" Clause as construed in *In re Neagle*, 135 U.S. 1 (1890) and the "Republican Form" Clause, see Testimony on "Investigative Authority of the Executive," *supra*. One who makes these extrapolations but limits *NAACP* v. *Alabama ex rel. Patterson*, 357 U.S. 449 (1958) and *Bates* v. *Little Rock*, 361 U.S. 516 (1960) to the adventitious circumstances that both involved a "government legal sanction" is treating the First Amendment as a constitutional stepchild.

D. Rights of public employees

The same scant regard for the First Amendment appears in Mr. Rehnquist's analysis of the free-speech rights of public employees. See *Public Dissent and the Public Employee*, 11 Civ. Serv. J. 7 (1971). Although it purports to employ a "balancing" approach, this article casts the balance very heavily against freedom of expression by describing the interest to be balanced against free speech as "the interest of the government in governing effectively." Closely examined, the various "factors [used] . . . to meet the balancing test" plainly appear designed to paint *Pickering* v. *Board of Education*, 391 U.S. 563 (1968), into the narrowest possible corner.

But once again the conclusions reached are less significant than Mr. Rehnquist's analytic method of "balancing." When he discusses the weights on the government employer's side, he examines in lavish and loving detail all of the justifications for stifling speech—" 'loyalty,' 'harmony,' . . . avoidance of 'dissention,' " the chief Executive "popular mandate," and the intolerability of "insubordination." On the other side, he aligns a "claim for freedom of speech" to which he devotes no such detailed analysis.

Surely this "claim" also has its several components, including not only the public employee's interest in speaking (which Mr. Rehnquist appears to see as the only First Amendment interest involved) but the public's interest in hearing—and, in particular, a self-governing people's interest in hearing about governmental policies from those most knowledgeable concerning them. About these concerns Mr. Rehnquist says nothing, because he reserves his "critical analysis" for the weights in the other plan. Indeed, he not only slights but also distorts the First Amendment interests involved: for example, he treats the expression of individual views by public employees as some sort of plebiscite which would "control" their employer. This sort of "critical analysis" and "balancing" manifests either a calculated stacking of the weights against the First Amendment or, at the least, a callous insensitivity to what the First Amendment is all about.

E. Right of accused persons

The Majority Report states that Mr. Rehnquist's statements on the rights of criminal defendants "show that he has been consistently aware of and sensitive to the competing considerations on both sides of these very difficult questions." Rather than balance and understanding, the record shows that Mr. Rehnquist has the same insensitivity to Bill of Rights guarantees in the criminal process as he does to rights of expression and association.

Discussing the May Day arrests, Mr. Rehnquist treats the problem of delayed preliminary hearings as though the function of a preliminary hearing were principally to prevent protracted investigative detentions. *See* speech, "Which Ones Have the White Hats? Conflicting Values In The Administration of Criminal Justice" (May 5, 1971). In fact, another major function of the preliminary hearing is to enforce the Fourth Amendment's prohibition of arrests without probable cause, by requiring the arresting officer to justify his arrest before a judicial examiner. Mr. Rehnquist stresses the point that preliminary hearings are more difficult to hold—but he ignores the point that they are also particularly important to hold—in a time of indiscriminate mass arrests.

His treatment of the Eighth Amendment—"[e]xcessive bail shall not be required"—is astounding. On the one hand, he reads it (together with the Fourth and Fifth Amendments) as broadly expressive of a "right to be let alone," which he then broadens into "the right to be free from robberies, rapes, and other assaults on the person by those not occupying an official position"—a concept which warrants governmental use of preventive detention as a device to prevent criminal depradations. Here, certainly, is an extrapolation which dwarfs even Mr. Rehnquist's extrapolation from the "Republican Form" Clause. But when the detained man points to the Eighth Amendment, Mr. Rehnquist replies that "the framers of this Amendment deliberately chose language confined to a relatively narrow set of circumstances", *see* speech, "Official Detention, Bail, and the Constitution" (Dec. 4, 1970); and that, read with proper narrowness, the Amendment "does not establish a right to bail; it forbids judges from requiring excessive bond in cases where the defendant has a statutory right to bail." The latter grudging construction ignores much history and logic (*see* Foote, *The Coming Constitutional Crisis in Bail*, 113 U. Pa. L. Rev. 959, 1125 (1965)). But if it were correct, it would surely render the Eighth Amendment unavailable as a source of Mr. Rehnquist's "right to be let alone." It appears that this amendment means whatever Mr. Rehnquist wants it to mean: viz., preventive detention.

Mr. Rehnquist also takes his own liberties with the Supreme Court's criminal procedure decisions. Whatever view one entertains upon the difficult question of the constitutionality of "no-knock" statutes, it is plainly misleading to assert that they are "actually nothing more than a codification of constitutional law, and of practices which were held not to violate the Constitution in a case decided a few years ago by the Supreme Court of the United States", *see* speech, "The Administration of Criminal Justice" (Dec. 2, 1970). Presumably, Mr. Rehnquist refers to *Ker* v. *California*, 374 U.S. 23 (1963), in which the Supreme Court split 4–4 on the relevant issue. (Mr. Justice Harlan's decisive vote was based upon another ground, which Justice Harlan had abandoned in deference to precedent several years before Mr. Rehnquist's speech.)

Another example of this proclivity is his treatment of the rule excluding unconstitutionally obtained evidence in criminal trials. The exclusionary rule is a controversial subject, to be sure. But controversial questions are not responsibly resolved by unbalanced analysis of the kind Mr. Rehnquist offers here. He concluded after attacking the exclusionary rule:

"Ultimately, decision is made by the balancing of the need of society for protection against crime against the need of the accused defendant for a fair trial and a just result." (Speech, "Which Ones Have the White Hats? Conflicting Values in the Administration of Criminal Justice," May 5, 1971.)

Mr. Rehnquist does not face up to the fact that the fundamental purpose of the exclusionary rule is to *deter unlawful police action*. Thus the balance is not between the need to protect against crime on the one hand and the need for a just result on the other—for as Mr. Rehnquist argued in the speech, illegally obtained evidence can be highly relevant and could, in one sense, lead to a just result. The true balance to be struck is between the need to protect society from crime and the need to provide a meaningful way to enforce the Fourth Amendment's prohibition against unreasonable searches and seizures, of the Fifth Amendment's prohibition against compelled self-incrimination, or other constitutional guarantees. Stated accurately, the final balance one chooses could be far different from the one Mr. Rehnquist, having loaded the scales, picked.

F. Conclusion—Abuse of legal analysis

As this analysis shows, a great deal of Mr. Rehnquist's legal writing reveals not the "balanced approach" the Majority hails but instead the use of an intellectual "double standard." This use of a double standard is apparent in a number of instances in addition to those mentioned above.

One example is Mr. Rehnquist's use of *Valentine* v. *Chrestensen*, 316 U.S. 52 (1942). The Supreme Court there held constitutional a New York City ordinance which prohibited distribution of commercial advertising handbills on the streets. As described in Part III above, Mr. Rehnquist cited this case as posing a constitutional problem for an anti-blockbusting provision of a Model State Anti-Discrimination Act while he was a representative to the National Conference of Commissioners on Uniform State Laws. This is apparently the only time that Mr. Rehnquist has given the First Amendment wide scope—and, significantly, it is a time when his argument cuts against the interests of racial equality. On the other hand, he gave the First Amendment a very narrow scope—and *Valentine* v. *Chrestensen* a comparably broad sweep—when the interest on the other side was not racial equality but regulation of advertising of supposed salacious literature. Notwithstanding a concession that the literature was constitutionally protected—that is, that it was not obscene—Mr. Rehnquist argued that Congress could regulate its advertising. He said that commercial "advertising ranks low on the scale of values underlying the First Amendment. It may be suppressed when necessary to promote other legitimate interests." Statement at Hearings before Subcommittee No. 3 of the House Committee on the Judiciary on H.R. 11032 [relating to mailing of purient materials], 91st Cong., 1st Sess., September 25, 1969 (unprinted).

Consider also the following exchange which Mr. Rehnquist, said by the President to be a strict constructionist, had with Congressman Paul McCloskey, concerning 5 U.S.C. 2954 (1971). That statute reads as follows:

An Executive agency, on request of the Committee on Government Operations . . . shall submit any information requested of it relating to any matter within the jurisdiction of the Committee.

The exchange was as follows:

Mr. McCLOSKEY. Mr. Rehnquist, the rule that permits you to look at the legislative history applies only when the wording of the statute is ambiguous, is that correct?

Mr. REHNQUIST. It's a rule, but has its exceptions.

Mr. McCLOSKEY. Do you know of any legal exception in your experience which justifies looking behind the clear language of Section 2954, by the executive branch?

Mr. REHNQUIST. Yes sir. Well, the executive branch is simply trying to forecast what a court would say in interpreting it.

Mr. McCLOSKEY. Is there any ambiguity in that statute? This is exceptionally clear language. Can you point to me any ambiguity

in that statutory section which would justify seeking explanation of that ambiguity?

Mr. REHNQUIST. I don't think it's that clear.

Mr. MCCLOSKEY. Is there any ambiguity in the section that you could find? Can you read the law specifically so the subcommittee at this point can be aware of the ambiguity, which, in your judgment, would require going to the legislative history of the statute?

Mr. REHNQUIST. * * * (Reads statute)

Mr. MCCLOSKEY. Is there any ambiguity there, Mr. Rehnquist?

Mr. REHNQUIST. I don't think the words "any information" are necessarily that sweeping. Hearings before the House Subcommittee on Foreign Operations and Government Information, "U.S. Government Information Policies and Practices—the Pentagon Papers (Part III)," pp. 785–86, 92d Cong. 1st Sess. (June 30, 1971).

In sum, Mr. Rehnquist consistently overlooks or understates the nature and significance of whatever claim based on the Bill of Rights he purports to be assessing. Consequently, he consistently dismisses such claims without having given them a fair and adequate hearing. He regularly reads constitutional clauses which promote civil liberties interests narrowly; and he invariably reads constitutional clauses and judicial decisions which militate against civil liberties interests or in favor of executive power broadly. He accords the most painstaking and sympathetic analysis to all of those considerations which—he ultimately concludes—require the subordination of civil liberties values; but the competing civil liberties values themselves receive no such analysis. Confronted with a civil liberties claim, Mr. Rehnquist does not pause to consider it dispassionately. Instead his ample critical facilities are bent immediately toward the fashioning of reasons for its rejection.

V. CONCLUSION

Mr. Rehnquist's record reveals a dangerous hostility to the great principles of individual freedom under the Bill of Rights and equal justice for all people. He has persistently opposed the use of law to eliminate racial injustice in America, and he has just as persistently analysed legal problems in a way which minimizes the importance of civil liberties values and maximizes the importance of executive power.

Mr. Rehnquist said several times at the confirmation hearings that he will attempt to disassociate himself "to the greatest extent possible" from his personal views if he is confirmed. But such a promise, made no doubt in good faith, is simply inadequate, given the actual nature of the judicial process. For once confirmed the nominee will face questions arising out of the grand but vague promises of the Constitution, like "equal protection of the laws" and "due process of law." In reaching a decision in such cases, the nominee's own views must necessarily, if subtely, intervene. Mr. Rehnquist was honest enough to recognize this at the hearings when he said:

"And there is also no doubt in my mind that each of us, the Justices who have been confirmed in the past and I, if I were confirmed, would take to the Court what I am at the present time. There is no escaping it. I have lived for 47 years, and that goes with me."

Or as Mr. Rehnquist said in a different context in 1959:

"If greater judicial self-restraint is desired, or a different interpretation of the phrases "due process of law" or "equal protection of the laws", then men sympathetic to such desires must sit on the high court. *The Making Of a Supreme Court Justice, Harvard Law Record*, Oct. 8, 1959, at 10."

The evidence before the Senate suggests that Mr. Rehnquist is not "sympathetic" to the "desires" for racial justice and the fundamental protections of the Bill of Rights. His nomination ought therefore be rejected.

A number of recognized national organizations dedicated to civil rights and to civil liberties have reached the same conclusion. The National Association for the Advancement of Colored People, the Leadership Conference on Civil Rights, the AFL–CIO and the UAW have all opposed Mr. Rehnquist's—but not Mr. Powell's—nomination. The Congressional Black Caucus has also opposed the nomination, as has the National Bar Association, an organization of Negro lawyers; the National Legal Aid and Defender Association; the Washington Council of Lawyers; the National Catholic Conference for Interracial Justice; and a number of law professors. Opposition is uniformly based on Mr. Rehnquist's views on civil rights and civil liberties.

Professor Charles Black of Yale Law School has decribed the role of the Senate in the confirmation process this way:

"[A] Senator, voting on a presidential nomination to the Court, not only may but generally ought to vote in the negative, if he firmly believes, on reasonable grounds, that the nominee's views on the large issues of the day will make it harmful for him to sit and vote on the Court. . . . Black, *A Note on Senatorial Consideration Of Supreme Court Nominees*, 79 Yale L.J. 657 (1970)."

Because Mr. Rehnquist's "views on the large issues of the day will make it harmful to the country for him to sit and vote on the Court", his appointment should be rejected.

STATEMENT IN OPINION TO THE NOMINATION OF WILLIAM H. REHNQUIST BY 20 MEMBERS OF THE HARVARD LAW SCHOOL FACULTY

It is doubtless appropriate for the President to exercise his power of nomination to shift the Supreme Court in the direction of his constitutional philosophy. But history, from 1795 to the present, demonstrates that it is no less appropriate for the Senate to deny confirmation to a Presidential nominee, despite his personal integrity and professional competence, because the Senate believes that the addition of a man of the nominee's philosophy is, under the existing circumstances, against the best interests of the country and the effective functioning of the Court.

In deciding whether to confirm the Hon. William H. Rehnquist in this period of deep change and conflict, the Senate has a special obligation to preserve the position of the Supreme Court as an effective organ in our system of government. Recent changes have already shifted the consensus or balance of opinion in the Court. Within the central stream of contemporary constitutional thought exemplified by all present members of the Court and their predecessors for the past thirty years, there is a wide range for differences of constitutional view—and thus for Presidential and Senatorial choice. Our opposition to Mr. Rehnquist is based on our perception that his views on the relation between government and the individual in the area of security, and on the relation between established power and the disadvantaged in this area of human rights, are so exceedingly deferential to the former and so undervalue the latter as to place him outside that central stream. Twentieth century problems require Justices with a clearer sense of the ingredients of constitutional decision.

Accordingly, we urge that confirmation of William H. Rehnquist be denied.

Victor Brudney, Derrick A. Bell, Jr., Vern Countryman, Abram Chayes, Alan M. Dershowitz, Ruth B. Ginsbury, William B. Gould, Philip B. Heymann, Louis L. Jaffe, Andrew L. Kaufman.

Frank I. Michelman, Arthur R. Miller, Karen S. Metzger, David Rosenberg, Henry J. Steiner, Stanley S. Surrey, Laurence H. Tribe, James Vorenberg, Robert B. Washington, Jr., Lloyd L. Weinreb.

UNIVERSITY OF WISCONSIN LAW SCHOOL

We are a majority of the law professors at the University of Wisconsin Law School. We oppose the confirmation of William H. Rehnquist for a seat on the Supreme Court. His long held views on civil rights and civil liberties are in basic respects contrary to the Supreme Court's. He would have the Court go back to discredited ideas. In our opinion his views warrant rejecting him as a member of the Court which is the ultimate protector of constitutional rights. He is not a judicial conservative. Rather he is a political conservative, who was named for that reason.

Abner Brodie, Willard Hurst, George Bunn, Ted Finman, Samuel Mermin, Arlen C. Christenson, August Eckhardt, Allen Redlich, Thomas C. Heller, James E. Jones, Jr., Jean Love, Robert B. Seidman.

Neil K. Komesar, William H. Clune, Herman Goldstein, William C. Whitford, Carlisle P. Runge, Joel F. Handler, Shirley S. Abrahamson, Richard B. Bilder, John Stedman, Robert Shapiro, Marygold S. Melli.

Mr. MUSKIE. Mr. President, one of the Senate's most important constitutional obligations is to approve or reject nominations to the Supreme Court. The Supreme Court protects our liberties and the principles of due process of law. It has the ultimate responsibility for preserving and defending the Constitution. Our entire constitutional form of government depends upon a sensitive and wise Supreme Court. And the Court can only be as sensitive and wise as the Justices who are appointed to it.

Like the President, the Senate, as part of its assigned role in the selection process of Justices, must act to insure that each appointment to the Court will not weaken our constitutional system. Careful scrutiny of each nominee is vitally important, for a Justice may serve for decades and exercise a cumulative influence over the course of public affairs comparable to that of a President.

In considering nominations to the Court, it is proper for a Senator—and indeed absolutely necessary—to evaluate the judicial philosophy of the nominee. There is no other way to assess whether the proposed Justice will be equal to the task of preserving our constitutional system. A Law Review article by Prof. Charles Black of the Yale Law School—79 Yale Law Journal 657 (1970)—and a lengthier study done by professors at Stanford and Michigan Universities—CONGRESSIONAL RECORD, November 5, page 39591—both indicate that the Senate evaluation of a Supreme Court nominee's judicial philosophy was intended by the Founding Fathers and has been practiced by the Senate for nearly 200 years.

I now reaffirm what I said during the debates on the President's nomination of Judge Haynsworth:

> It is the prerogative of the President, of course, to try to shift the direction and the thrust of the Court's opinions in this field by appointments to the Supreme Court. It is my prerogative and my responsibility to disagree with him when I believe . . . that such a change would not be in the best interests of the country. 115 Cong. Rec. 35368

This standard was also urged upon the Senate by one of the nominees now before the Senate. In an article in the October 8, 1959, Harvard Law Record, William Rehnquist called upon the Senate to restore "its practice of thoroughly in-

forming itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him."

We must remember that when we decide, we are determining the shape of the Court and the direction of the country for years beyond our own terms in office or perhaps even our own lifetime. One Justice still sits on the Supreme Court who was confirmed by a Senate, only one of whose members still serves in this Chamber. So let no one tell us that we cannot examine a nominee's judicial philosophy. Once we confirm a nominee, history will praise or blame us no less than the President for the resulting impact on the future of our law and our national life. With this in mind, I have examined the record of Mr. Rehnquist.

When President Nixon nominated William H. Rehnquist to the Supreme Court, the President said that Mr. Rehnquist is a judicial conservative who would restore balance to the Supreme Court. There is an old and honored tradition of judicial conservatism in American law and on the Supreme Court, a tradition which can be traced back to the time of John Adams. Many distinguished judicial conservatives have served on our highest court. Although I personally disagree with many of their conclusions, I believe that their tradition should continue to be represented. It was represented at its best for many years by Justice John Marshall Harlan, whom Mr. Rehnquist has been nominated to succeed.

My examination of Mr. Rehnquist's record convinces me that Mr. Rehnquist is not a judicial conservative at all, in the time-honored meaning of the term. Rather than being the views of a judicial conservative, they are those of a statist and authoritarian. Mr. Rehnquist exalts the powers of government over the rights and liberties of the individual. He exalts the executive branch over the coordinate branches of the Federal Government. He rejects some of the basic values that have characterized the conservative legal tradition in America. Far from bringing "balance" to the Supreme Court, Mr. Rehnquist would threaten to unbalance the Court.

Examine Mr. Rehnquist's views in detail and compare them to the authentic tradition of judicial conservatism in this country. His views drastically depart in major areas of constitutional law from that tradition.

First, true judicial conservatives in the United States have always given the highest value to the right of privacy—to what Mr. Justice Brandeis called "the right to be let alone—the most comprehensive of rights and the right most valued by civilized men." (*Olmstead* v. *United States*, 277 U.S. 438, 485 (1928)).

It was Mr. Justice Butler—one of the most conservative men who sat on the Supreme Court in this century—who summed up the traditional conservative attitude toward privacy in these strong words:

> The Fourth Amendment forbids every search that is unreasonable and is construed liberally to safeguard the right of privacy . . . its protection extends to offenders as well as to the law abiding . . . the Amendment is to be liberally construed and all owe the duty of vigilance for its effective enforcement lest there shall be impairment of the rights for the protection of which it was adopted. (*United States* v. *Lefkowitz*, 285 U.S. 452, 464 (1932)); *Go-Bart Importing Co.*, v. *United States*, 282 U.S. 344, 357 (1931)).

It was this belief in the value of privacy that led a genuine conservative like Justice Butler to give a resounding "No" to the Federal Government's claim to the right to wiretap without constitutional limitations in the famous Olmstead decision. Likewise, privacy received the greatest priority and protection from Mr. Justice Harlan, who, as he wrote in one of his last opinions before his retirement, was deeply concerned to preserve "that confidence and sense of security in dealing with one another that is characteristic of individual relationships between citizens in a free society." (United States against White, decided Apr. 5, 1971.)

Yet I find only the most perfunctory recognition of this essential constitutional value in Mr. Rehnquist's public record. Far from valuing the right of privacy as authentic conservatives have, he has subordinated it to the powers of Government.

For example, Mr. Rehnquist believes that traditional judicial control over Government wiretapping is unnecessary whenever the executive chooses to label it a matter of national security. Wiretapping has been held by the Supreme Court to be subject to the fourth amendment's provisions requiring judicial supervision of searches and seizures. This requirement of a warrant for a wiretap, like a search warrant for a home, is designed to insure that invasions of privacy are limited by an independent tribunal to cases of demonstrated need. Yet during this administration, the Justice Department has claimed that the fourth amendment requirement of a judicially approved warrant does not apply to domestic cases involving alleged domestic subversion. In these instances, the Department claims the executive can wiretap without court authorization.

In a speech in London last July, Mr. Rehnquist supported this Justice Department attempt to downgrade the protections of the fourth amendment. Mr. Rehnquist said that judicial review could only serve to delay and to hamper criminal investigations. He did not even mention the purpose of the warrant procedure—to protect citizens from unreasonable search and seizure by interposing an impartial magistrate between them and Government. This fall, Mr. Rehnquist refused to retreat from his opposition to judicial review of domestic national security wiretaps during his testimony before the Senate Judiciary Committee. He admitted that the fourth amendment did apply—but he contends that its test of reasonableness should be applied by the Attorney General alone.

A second area in which Mr. Rehnquist rejects traditional judicial control over Government activities is surveillance. In a speech, "Privacy, Surveillance and the Law," given on March 19 of this year, and in testimony before the Senate Subcommittee on Constitutional Rights, Mr. Rehnquist stated that he believed that there were no constitutional limits upon Government surveillance in public places as long as it did not involve the threat of criminal sanctions. He argued that nothing in the Constitution would prohibit an agent of the Justice Department or a soldier of the Army from following an ordinary citizen, recording everything he did in public, and compiling dossiers from that information—even though the individual had no connection with any criminal activity.

In justifying such surveillance, Mr. Rehnquist draws a very fine distinction between surveillance with the threat of criminal sanction—which he concedes raises constitutional questions—and surveillance without that threat—which he feels is constitutional. This distinction ignores the constitutional right of privacy and the first amendment right to free speech, free association, and free petition for redress of grievances without the fear of surveillance or possible future sanction. And it denies the heart of key Supreme Court decisions, such as *Bantam Books, Inc.* v. *Sullivan*, 372 U.S. 58 (1963); *Bates* v. *Little Rock*, 361 U.S. 616 (1960); and *NAACP* v. *Alabama ex. rel. Patterson*, 354 U.S. 449 (1958).

The most disturbing part of Mr. Rehnquist's disregard for first amendment rights in this area is his rejection of their relevance. When asked at Senator ERVIN's hearings if Government surveillance and the fear caused by that surveillance raised any serious threat of a chilling effect on constitutionally protected activities and rights, the nominee answered with an unqualified "No." Later Mr. Rehnquist testified that first amendment questions were not raised until citizens were actually deterred from speaking out—an alarming threshold for the protection of precious rights.

And Mr. Rehnquist not only downgrades constitutional protections, he also sees little reason for the independent judicial supervision mandated by the fourth amendment to enforce these protections. He argued that "no legitimate interest" is served by such judicial supervision. And he is unwilling even to test available procedures to minimize the difficulties of judicial safeguards while preserving their vitality. He asserts that the "self-restraint" of government officials is sufficient protection—and that assertion is nothing less than an outright rejection of our historic commitment to a governmental system of checks and balances.

Second, a vital part of the conservative legal tradition in this country is an insistence on governmental adherence to established procedure, especially in the enforcement of criminal law. Recall Justice Frankfurter's famous statement:

> The history of American freedom is, in no small measure, the history of procedure. (*Malinski* v. *New York*, 324 U.S. 401. 414 (1945)).

Justice Frankfurter amplified this view in these words:

> (We) must give no ear to the loose talk about society being 'at war with the criminal' if by that it is implied that the decencies of procedure which have been enshrined in the Constitution must not be too fastidiously insisted upon in the case of wicked people. Id.

Mr. Rehnquist's record shows no similar faith in the procedural safeguards of our law. In the last 3 years, the Nixon administration has tried to revise traditional constitutional procedures in the field of criminal law. The administration has virtually done battle with the Bill of Rights, claiming that constitutionally dubious measures were essential to the fight against crime. In recommending preventive detention and no-knock searches, the administration has made unwise and unnecessary infringements upon fundamental ideals of justice in order to fashion law enforcement tools that are ineffective and unreasonable. As I said in the Senate over a year ago, preventive detention and no-knock searches are "instruments of fear" and "tools of repression."

During the protracted controversy about these new procedures, Mr. Rehnquist indicated that he felt no constitutional qualms about the denigration of traditional rights. In a December 4, 1970, speech, he called the administration's preventive detention proposals "entirely consistent with the spirit and the letter of the U.S. Constitution."

And in September of this year, testifying before the Senate Subcommittee on Constitutional Rights on Senator ERVIN's speedy trial bill, Mr. Rehnquist urged the committee to consider new limits on other traditional procedural safeguards such as the right of habeas corpus and the fourth amendment's exclusionary rule. With respect to habeas corpus, Mr. Rehnquist suggested the most far-reaching revision in over 100 years of the availability of that writ in the Federal courts. Habeas corpus—often called the "great writ"—is at the center of our system of criminal procedure. Indeed, Winston Churchill, a great conservative in the Anglo-American tradition, once said that the difference between civilization and tyranny may be summed up in two words—habeas corpus.

Mr. Rehnquist has acknowledged that over a century ago, in the Habeas Corpus Act of 1867, Congress decided that "any constitutional violation could be the basis for the exercise by the Federal courts of habeas corpus jurisdiction." The Federal courts have increasingly exercised this jurisdiction in behalf of personal liberty. To Mr. Rehnquist, that constitutes "the present expansive use" of habeas corpus, and he has urged basic restrictions on the availability of the writ.

Thus, in criminal law, the most dramatic changes in constitutional protections are easily embraced by Mr. Rehnquist. He is willing to accept extreme and unprecedented constitutional interpretations without protest. It is clear that individual rights and the Bill of Rights would be weakened by Mr. Rehnquist's judicial philosophy. Instead of being a conservative committed to conserving the most vital procedures of our legal system, Mr. Rehnquist would modify them to reduce the basic rights of our citizens.

Third, the authentic conservative tradition in this country has always stood for the liberties of the individual as against the overreaching claims of Government. America had its origins in a revolution against government abuse of power, and it is fair to state that every major conservative figure in the history of the Court has spoken up on one occasion or another in behalf of private rights and against excessive public authority. This conservative judicial philosophy was eloquently expressed by Mr. Justice Sutherland—for many years the intellectual leader of the conservatives on the Supreme Court—in the following words about the Bill of Rights:

> No one can read the long history which records the stern and often bloody struggles by which these cardinal rights were secured, without realizing how necessary it is to preserve them against any infringement, however slight . . . A little water, trickling here and there through a dam is a small matter in itself, but it may be a sinister menace to the security of the dam, which those living in the valley below will do well to heed. (*Associated Press* v. *NLRB*, 301 U.S. 58, 135–136 (1937)).

It was this spirit which led a conservative like Justice Sutherland to uphold the rights of the press against prior restraint in *Grosjean* v. *American Press Co.* (397 U.S. 233, 250 (1936), and to uphold and extend the right to counsel for all criminal defendants in *Powell* v. *Alabama* (287 U.S. 45 (1932)). These are among the great libertarian decisions in the history of the Court, and libertarianism has been a powerful component in the conservative legal tradition.

I find in the record of Mr. Rehnquist none of this spirit, none of this conservative reverence for the Bill of Rights, none of this willingness to draw the line and say to government: "Thus far and no farther." He interprets the Constitution as giving the executive wide powers to tap telephones and to conduct surveillance. He argues that the decision to invade Cambodia was merely a tactical decision clearly within the constitutional powers of the Commander-in-Chief. In testimony before the House of Representatives, he has defended a sweeping interpretation of executive privilege, granting the President broad powers of secrecy. And he has included in the "inherent powers" of the Presidency the authority to grant to the Subversive Activities Control Board responsibilities that Congress did not grant by statute.

The one notable exception to this in his record—and it points up the spurious nature of his "judicial conservatism"—is his reliance on the claim of individual freedom in opposing the open accommodations law of Phoenix, Ariz. It is revealing and disquieting that this purported exponent of "judicial conservatism" should have given lip service to the principle of individual rights only in an effort to deny non-white citizens the free right of access to public places.

Fourth, another essential element of the conservative tradition in American law has been a commitment to the separation of powers in the Federal Government and a particular distrust for the assertion of unchecked executive power.

It was Mr. Justice McReynolds—perhaps the single most conservative justice since 1900—who wrote:

> If the phrase "executive power" enfolds the one now claimed, many others heretofore totally unsuspected may lie there awaiting future supposed necessity; and no human intelligence can define the field of the President's permissible activities. "A masked battery of constructive powers would complete the destruction of liberty." (*Myers* v. *United States*, 272 U.S. 160, 183 (1925)).

I find none of this adherence to separation-of-powers principle in the record of Mr. Rehnquist.

Mr. Rehnquist elevates executive power not only above the liberties of the individual but above the powers of the judiciary and the Congress. For example, he has said:

> As to the merits of proposed legislative or judicial curtailment of the investigative authority of law enforcement agencies, I simply do not believe that a limitation on these investigative activities of law enforcement officials engaged in seeking the solution to crime would be either desirable or workable. ("Law Enforcement and Privacy," July 15, 1971).

Mr. Rehnquist's conception of executive power is so broad that he rejects the traditional checks and balances provided by the three branches of government. For him, executive "self-restraint" plus the popular election of the President adds up to a sufficient safeguard against government overreaching.

This reflects a fundamental misunderstanding of our constitutional system. The check of the judiciary upon executive actions is crucial to the preservation of our liberties. Nor are general elections a sufficient safeguard against unconstitutional abuses of power. Our constitutional system rests upon fundamental rules that are unwaveringly enforced by the judiciary.

For Mr. Rehnquist, the efficiency of the executive branch is a transcendent value. He has opposed "any legislation which, whether by opening the door to unnecessary and unmanageable judicial supervision of such activities—executive investigative authority—or otherwise, would effectively impair this extraordinarily important function of the Federal Government." (Quoted in CONGRESSIONAL RECORD 42139.)

In his zeal for enhancing executive power, Mr. Rehnquist seems unmindful of the basic purpose of the separation of powers, as it has been understood by judicial conservatives and liberals alike:

> The doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy. (*Myers* v. *United States, supra*, 272 U.S. at 293) (Opinion of Justice Brandeis).

Some have argued that Mr. Rehnquist's views on many questions involving the Bill of Rights were presented when he was the advocate of the administration and that they do not represent his own judicial philosophy. Mr. Rehnquist was repeatedly given a chance to differentiate his own views from those of the administration, but he declined in all but one instance, invoking the attorney-client privilege in an unprecedented manner. Both at the hearings and in

previous writings, he stressed the compatibility of his personal views with those he has advocated in office. And Mr. Rehnquist at times relied upon his official statements as accurate reflections of his own beliefs.

What emerges from this analysis of Mr. Rehnquist's legal views is the picture of a nominee to the Supreme Court with a wholly unacceptable approach to interpreting the Constitution. In broad areas of the law, Mr. Rehnquist has repeatedly argued that constitutional protections for individual rights and liberties must be subordinated or limited. In some areas of surveillance and wiretapping, he has concluded that constitutional protections do not apply at all. Whenever executive power is balanced by Mr. Rehnquist against individual liberties, those liberties are found to be less important, and the reasons given to support those liberties are often abruptly dismissed.

To me, these are not the hallmarks of a judicial conservative who would bring balance to the Supreme Court. This is the record of a man who would reshape the American constitutional system in the name of Government efficiency, despite the cost in personal freedom to his fellow citizens.

In addition to Mr. Rehnquist's failure to respect and support basic constitutional protections—even when interpreted in the Supreme Court's most conservative tradition—he has also failed to demonstrate a commitment to fundamental principles of equal protection. During the past 2 decades, one of the most far-reaching changes in this Nation has been the movement toward racial equality. Equality in social justice and the constitutional law have expanded in ways that must never be undone. As all Americans know, the Supreme Court has played a central role in that effort. But Mr. Rehnquist, judged by his statements as a private citizen, did not believe that the law should have been used to secure racial justice.

In 1964, on his own initiative, he testified before the Phoenix City Council and wrote a letter to the Arizona Republic protesting a proposed public accommodations bill, a local version of the public accommodations section of the historic Civil Rights Act of 1964. He argued that the property right of a store owner to serve customers of his own choice was more important than the right of an individual regardless of race to patronize any store open to the public. Although the subordination of a store-owner's property rights for the purposes of health and safety regulations or even zoning was quite understandable to Mr. Rehnquist, it was for him "impossible to justify the sacrifice of even a portion of our historic freedom for a purpose such as this."

In testimony before the Judiciary Committee, Mr. Rehnquist said that he would no longer oppose an open accommodation ordinance. He attributed his change of heart to a realization of "the strong concern that minorities have for the recognition of these rights". In other words, his appreciation of the constitutional rights of individuals depends upon his perception of the strength of their feelings.

In 1966, Mr. Rehnquist represented Arizona at a National Conference of Commissioners on Uniform State Laws which considered a proposed model State Anti-Discrimination Act. At the conference, Mr. Rehnquist made a motion which, in effect, removed the section of the proposed act that would have permitted employers to adopt voluntary plans to reduce racial, religious or sex imbalances in their work forces. He also opposed a section of the model law which would have prohibited "block-busting"—the vicious use of racial fears to destroy neighborhoods and reap enormous profits.

And in 1967, only 4 years ago, Mr. Rehnquist wrote a letter to the editor of the Arizona Republic opposing modest steps toward voluntary school integration. In that letter he took issue with those who wanted to achieve an integrated society and concluded.

> We are no more dedicated to an "integrated" society than we are to "segregated" society.

That is a stunning and categorical rejection of the whole thrust of the civil rights movement.

The record before us contains no pattern of action or statement that refutes the evidence before us or validates Mr. Rehnquist's claim to a strong commitment to racial justice.

These clear indications of Mr. Rehnquist's rejection of the use of law to guarantee racial equality are from a period of years during his mature life. They are not the rhetoric of a campaigner or the opinions of a young man. Even worse, they demonstrate that each time Mr. Rehnquist weighed the social and constitutional values of a proposal for racial justice, he decided against the proposal. As America moved to change its laws and its national life to end racial discrimination, Mr. Rehnquist's constellation of values put equality below superficial property rights and included no commitment to publicly enforced integration. I find this lack of adherence to one of our Constitution's most vital concepts—equal protection—unacceptable in a Justice of the Supreme Court.

For me, the ultimate standard for judging a nominee to the Court is whether he will fulfill the responsibility outlined by James Madison, the Father of our Constitution:

> If they (the Bills of Rights) are incorporated into the Constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against any assumption of powers in the Legislative or Executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the Constitution by the declaration of rights. (1 Annals of Congress 439).

A careful consideration of Mr. Rehnquist's judicial philosophy reveals a consistent lack of regard for individual liberties, an enthusiasm for unrestrained executive power, and a willingness to embrace drastic changes in our Constitution. This is the consistent record of many years, and it remains uncontradicted by evidence from the nominee or from others.

I am not satisfied that as a Supreme Court Justice, William Rehnquist would consider himself a guardian of the Bill of Rights, that he would be a bulwark against abuse or overreaching by the executive and legislative branches or that he would resist encroachments on the liberties guaranteed to all of us by the Constitution. Therefore, I shall vote against the confirmation of his nomination as an Associate Justice of the Supreme Court.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will meet at 10 a.m.

Immediately following the recognition of the two leaders under the standing order, the distinguished Senator from Maryland (Mr. BEALL) 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 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Senate will go into executive session to resume the consideration of the nomination of Mr. Lewis Powell for the office of Associate Justice of the Supreme Court of the United States.

There will be no rollcall votes tomorrow. In the event any rollcall votes should be ordered on conference reports, et cetera, such rollcall votes will be put over until Monday next.

Under the order agreed to, the vote on the nomination of Mr. Powell will occur at 4 p.m. on Monday next. That will be a rollcall vote.

ADJOURNMENT UNTIL 10 A.M.

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 10 o'clock tomorrow morning.

The motion was agreed to; and (at 7 o'clock and 46 minutes p.m.) the Senate adjourned until tomorrow, Saturday, December 4, 1971, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 3 (legislative day of November 29), 1971:

OFFICE OF ECONOMIC OPPORTUNITY

Roy E. Batchelor, of Tennessee, to be an Assistant Director of the Office of Economic Opportunity.

NATIONAL ENDOWMENT FOR THE HUMANITIES

Ronald S. Berman, of California, to be Chairman of the National Endowment for the Humanities for a term of 4 years.

NATIONAL SCIENCE FOUNDATION

H. Guyford Stever, of Pennsylvania, to be Director of the National Science Foundation for a term of 6 years.